VOLUME THREE

Appendix to the Journal of the Assembly

LEGISLATURE OF THE STATE OF CALIFORNIA
1957 REGULAR SESSION

REPORTS

First Part of Session—January 7th to 25th, inclusive
Second Part of Session—March 4th to June 12th, inclusive



HON L. H. LINCOLN
Speaker

HON. CHARLES J. CONRAD
Speaker pro Tempore

HON. RICHARD H. McCOLLISTER
Majority Floor Leader

HON. WILLIAM A. MUNNELL
Minority Floor Leader

ARTHUR A. OHNIMUS
Chief Clerk of the Assembly

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ASSEMBLY INTERIM COMMITTEE REPORTS
1955-57
VOLUME 15 NUMBER 12

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

WM. A. MUNNELL, *Chairman*

FINAL REPORT OF SUBCOMMITTEE ON GENERAL INSURANCE

MEMBERS OF SUBCOMMITTEE

JACK A. BEAVER, *Chairman*
L. M. BACKSTRAND
H. W. KELLY
THOMAS A. MALONEY
JOHN A. O'CONNELL
WANDA SANKARY

MARION KOBER, *Executive Secretary*

January, 1957

Published by the
ASSEMBLY
OF THE STATE OF CALIFORNIA

HON. L. H. LINCOLN
Speaker

HON. CHARLES J. CONRAD
Speaker pro Tempore

HON. RICHARD H. McCOLLISTER
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Chief Clerk of the Assembly

LETTER OF TRANSMITTAL

ASSEMBLY, CALIFORNIA LEGISLATURE
COMMITTEE ON FINANCE AND INSURANCE
March 6, 1957

HON. L. H. LINCOLN
Speaker of the Assembly
State Capitol, Sacramento, California

DEAR MR. LINCOLN: Pursuant to House Resolution No. 200, 1955 General Session, I am pleased to transmit to you and the Members of the Assembly the Report of the Subcommittee on General Insurance of the Assembly Committee on Finance and Insurance.

Sincerely yours,

WM. A. MUNNELL

SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY, CALIFORNIA LEGISLATURE
COMMITTEE ON FINANCE AND INSURANCE
January 22, 1957

HON. WM. A. MUNNELL
State Capital, Sacramento, California

DEAR MR. MUNNELL: I have the honor to transmit to you the Report of the Subcommittee on General Insurance covering the investigations conducted during the 1955-57 interim.

Sincerely yours,

JACK A. BEAVER

DISSENTING REPORT

In my opinion, based on the testimony heard by this subcommittee, there is a very real problem involved in the advertising methods employed by some insurance companies in the accident and health underwriting field. The Insurance Commissioner has minimized the problem by taking a position which apparently assumes that no complaint is meritorious which does not have as its foundation a strictly legal breach of contract.

For example, the commissioner testified that he did not regard an advertisement that "No medical examination is required" implies that the policy advertised does not cover physical disabilities existing prior to the date of coverage. In my opinion there is such an implication.

Likewise, the commissioner apparently feels that the advertisement that there is no age limit does not imply that the policy is noncancellable. In my opinion the public would be justifiably inclined to assume that such an offer meant that, so long as premiums were promptly paid, the insured has an absolute right to keep the policy in force.

The National Association of Insurance Commissioners, recognizing the dangers involved, and wishing to be scrupulously fair about industry advertising practices, has recommended the adoption of a code of ethics regulating this subject. It is my understanding that this code has been accepted by most of the states in this Country. As it is the opinion of the Legislative Counsel that the Insurance Commissioner does not have the authority to promulgate rules govering advertising such as those recommended in this code, I have introduced Assembly Bill No. 353 and Assembly Bill No. 354 providing that this code be made an integral part of our insurance laws.

For the foregoing reasons I am compelled to dissent from the report of this subcommittee and to file this dissenting report.

JOHN A. O'CONNELL

REPORT OF THE SUBCOMMITTEE ON GENERAL INSURANCE

OF THE

ASSEMBLY STANDING COMMITTEE ON FINANCE AND INSURANCE

The Subcommittee on General Insurance of the Assembly Interim Committee on Finance and Insurance created pursuant to House Resolution No. 200, Statutes of 1955, was authorized and directed to study and conduct public hearings on the progress and problems of accident and health insurance in California with particular reference to the present volume and nature of complaints and allegations received by the Department of Insurance concerning the purchase by California citizens of all types of accident and health insurance. Pursuant to this direction the subcommittee undertook to explore all aspects of this subject for the purpose of identifying problem areas and receiving recommendations for possible modification of the Insurance Code at the 1957 General Session of the California Legislature.

The subcommittee was composed of the following members of the Assembly:

Assemblyman Jack A. Beaver, Chairman
Assemblyman L. M. Backstrand
Assemblyman H. W. Kelly
Assemblyman Thomas A. Maloney
Assemblyman John A. O'Connell
Assemblywoman Wanda Sankary

Hearings were held by the committee on November 3 and 4, 1955, in San Francisco; March 21, 1956, in Sacramento; and November 28, 1956, in Los Angeles.

The particular study undertaken by this subcommittee was prompted by reports that there had beeen approximately 1,700 complaints received during 1955 by the State Insurance Commissioner made by persons who felt for one reason or another that they had been wronged by an insurance company with whom they had health and accident policies. This situation in turn indicated a need for study and evaluation of the causes for the complaints, including but not limited to such matters as false advertising, misrepresentation by insurance salesmen, and misunderstandings by the policyholder and the salesman. It also indicated the need to determine the incidence of such complaints and the extent to which they were directed against few or many insurance companies.

Preliminary information considered by the committee was presented by the Insurance Commissioner at a hearing held in San Francisco on November 3, 1955. This information dealt primarily with the number of complaints received.

The Insurance Commissioner indicated to the committee that because of the fact that California residents are insured under many types of

accident and health insurance contracts, both individual and group, it is difficult to classify so-called complaints received under accurate general classifications. Many of the cases classified as complaints turn out to be inquiries and when the facts are determined the parties are satisfied and have no complaint.

Many complaints are shown by investigations made by the Department of Insurance to be cases in which the insurer was clearly right in denying liability; others are bona fide controversies requiring court decision. The investigators of the department examine the insurer's files and subsequent discussion frequently leads to payment in full or compromise settlement. The commissioner indicated that cases of arbitrary and clearly unreasonable refusal to pay a just claim are practically nonexistent because the department would proceed toward suspension or revocation of the license in such a case.

The commissioner reported that approximately one-half of the complaints received at the four offices of the Department of Insurance relate to disability insurance. However, the commissioner regarded this number as remarkably small considering the large number of persons who present and receive payment of claims.

A recent survey covering a period of three months showed a total of 417 complaints relating to disability insurance. In September, 1955, the Department of Insurance disposed of 136 complaints arising out of disability insurance out of a total of 271 complaints relating to all classes of insurance. Out of the total of 417 complaints relating to disability insurance, only 50 of the complaints were classified as due to delay by the insurer in handling the claim. Only five were classified as relating to alleged misrepresentation by insurance agents. The largest number falling under a single classification in this survey was 85 complaints which were classified as cases in which the insurer denied liability because the cause of disability *pre-existed* the inception of the insurance. In disability insurance the insurer assumes liability only for contingencies and not for losses which exist at the time that the insurance is contracted for.

Numerous witnesses representing the several facets of the insurance industry appeared before the committee and presented facts and recommendations relating to the problem of accident and health insurance. The summary of these presentations was contained in the preliminary report of this subcommittee. It was the consensus of the witnesses that complaints as such were a minor problem and that the industry and the Insurance Department are cooperating harmoniously in endeavoring to minimize bona fide complaints.

STATUTORY AND ADMINISTRATIVE REGULATION OF ADVERTISING

The necessity of protecting the public interest with respect to false or misleading advertising has been recognized by the adoption of numerous sections of the Insurance Code and by notices isued by the California Insurance Commissioner to insurers and their agents calling attention to the relevant Insurance Code sections.

In 1949 all insurers licensed to transact insurance in California were notified that under California law a half-truth might be a misrepresentation and even a representation which is literally true may become a misrepresentation when used to create a false impression.

Thereafter, actions against many insurance companies and agents were instituted and the advertising material of many insurers and their agents was reviewed. From time to time actions against insurance producers have been taken. It is the opinion of the department that there has been a significant improvement in the advertising practices of insurers and their agents in California At the same time, it is the policy of the department to carefully review insurance advertising.

Pursuant to this policy and occasioned largely by the interest in complaints stimulated by this subcommittee, the Insurance Commissioner under date of July 10, 1956, issued Bulletin No. NS-3 to all admitted insurers in the State of California whether domiciled within the State or elsewhere, requesting that they maintain in California a complete file of all advertising materials pertaining to any policy or contract of insurance or to its insurance operations which it has caused or permitted to be issued, circulated, or used; (1) anywhere, if it is an insurer domiciled in California; or (2) within the State of California, if it is a foreign or alien insurer. Insurers domiciled in California were requested to maintain such a file at the home office of the company. Foreign or alien insurers were requested to maintain such file at the principal office in California. It was requested that all such advertising matter should be attached to copies of the policy contracts to which each item of such material relates so that an examination of all such material could be conveniently made in connection with the routine examinations of the Department of Insurance. It was further requested that such files should be kept with respect to the most recent four-year period.

This bulletin provided that if an insurer has authorized any agent to use its name in advertisements originating with the agent, the insurer has the responsibility of requiring each such agent to maintain such files in California or of itself maintaining within California such files as to each such agent.

The bulletin defined "advertising material" to have an all-inclusive meaning as used therein, including but not limited to proofs or clippings of newspaper and magazine advertising, publicity releases, brochures, radio scripts, throw aways, prepared speeches, statements on back of applications, ets.

Under date of November 27th, the Insurance Commissioner submitted a report to the subcommittee providing additional information concerning complaints which had been referred to the Department of Insurance by the subcommittee for its review and report, in addition to a report analyzing policy complaints and inquiries for the first six months of 1956. The commissioner also reported on the response which had been received to the issuance of Bulletin No. NS-3, referred to above, and the department's plans for administering the provisions of that bulletin. A copy of the report filed by the Insurance Commissioner is included in the Appendix as Exhibit A.

The report submitted by the commissioner on policy complaints and inquiries for the first six months of 1956 showed that the total number of complaint files closed, including all classes, was 1,665 of which 848 were disability insurance complaint files closed. Of the disability complaint files so closed, the following categories were involved. (It should

be noted that one file may contain more than one of the complaint categories.)

Pre-existing conditions	289
Cancellation and nonrenewal	76
Company advertising	8
All others	568
Total	941

The report indicated that total inquiries in this period from all offices for all classes of insurance was 9,846. These figures included a small percentage of inquiries involving matters other than claim settlements. Inquiries made of the San Francisco office of the Department of Insurance which totaled 1,297 during the period January 1 through March 31, 1956, contained only three which involved company advertising—disability insurance only.

The commissioner reported to the subcommittee that the response to the Bulletin No NS-3, issued by the Department of Insurance, was excellent and indicated that there would be full cooperation with the department. He further pointed out that the majority of the foreign and alien insurers are subject to rules and regulations of insurance departments of other states which require maintenance of files of advertising companies. He assured the subcommittee that the department would make careful review of files in its examinations.

FINDINGS AND CONCLUSIONS

The subcommittee believes that the so-called complaints which were reported to it for study and recommendations were largely routine inquiries which normally could be expected to be produced by the large number of types and varieties of insurance policies issued within the State of California. The subcommittee found that the laws within California provided the Department of Insurance with a sound basis for regulating insurance advertising to the end that it would prevent misrepresentation to the public. Action taken by the Insurance Commissioner subsequent to the first meeting of the subcommittee provides a constructive step in the direction of more effective administration in that it will provide more adequate files for periodic examination by the Department of Insurance. It was reported by the Insurance Commissioner that at the present time there are only two matters of false or deceptive advertising pending in the department of which one appears to have been inadvertent and published in direct conflict with instructions from the executive offices of the company.

RECOMMENDATIONS

The subcommittee is not proposing any specific amendments to the Insurance Code at this time since it believes that if properly administered the present law appears to be adequate to protect the public against misleading advertising and found that the complaints or inquiries registered with the department do not indicate any fundamental defect in the insurance law. It is the recommendation of the subcommittee that the Insurance Department continue its present practice

of carefully investigating all complaints and that through its examination procedure it should continue to attempt to minimize all misleading advertising.

Respectfully submitted,

JACK A. BEAVER, Chairman
L. M. BACKSTRAND
H. W. KELLY
THOMAS A. MALONEY
* JOHN A. O'CONNELL
† WANDA SANKARY

* Dissenting opinion on page 5.
† I agree with the views expressed in the dissenting opinion of John O'Connell.

EXHIBIT I

DEPARTMENT OF INSURANCE
LOS ANGELES 15, November 27, 1956

HONORABLE JACK A. BEAVER, *Chairman*
Subcommittee on General Insurance
Assembly Interim Committee on Finance and Insurance
525 Esther Way, Redlands, California

HONORABLE L. M. BACKSTRAND
HONORABLE H. W. KELLY
HONORABLE THOMAS A. MALONEY
HONORABLE JOHN A. O'CONNELL
HONORABLE WANDA SANKARY
Members, subcommittee on General Insurance

GENTLEMEN:

Re: Supplement to our Report dated March 12, 1956

In accordance with your request we are herein submitting a further report supplementing our previous written report dated March 12, 1956, which was filed at the meeting of your committee in Sacramento on March 21, 1956. Our present report also supplements discussions which occurred in the course of the hearing. We shall follow the form of our previous report by referring to each of its seven separate subdivisions.

Status and Analysis of Complaints Received by the Insurance Department From the Committee

No additional complaints have been forwarded to us by the committee since the March 21, 1956, meeting.

Records of the Department of Insurance of Complaints Received and Disposition Thereof

Attached is a two-page report entitled "An Analysis of Policy Complaints and Inquiries for the First Six Months of 1956." Our previous report discussed the difficulty of classifying what have heretofore been referred to as "complaints." We pointed out that many cases so classified are not truly of that nature. Our previous report stated that it may be that the "complaints" are of such a diversity that they are not adaptable to division into general classifications. This fact is further illustrated in the above mentioned exhibit. You will notice that all matters on which we have found it necessary to create a file have been classified in the exhibit as "complaints." This is an undesirable situation because it is deceptive and makes it possible for enemies of insurance as a private enterprise to ignore these distinctions and to represent that the figures show dissatisfaction on the part of that number of the insurance buying public. Such an assumption is false.

I know you will be gratified to learn that the interest of your subcommittee in this matter has caused our department to make a more intensive study of the subject than has ever been undertaken before. On October 24-26, 1956, our staff conducted a policy complaints conference at Millbrae. In my opinion the conference was well planned in

advance and was carried out with enthusiasm by the staff. I am confident that this conference and the constructive plans developed will be of benefit to the public and to the functions of our department.

The scope of the conference is shown by the attached four-page exhibit entitled "Agenda for Policy Complaints Conference, October 24-26, 1956."

In the monthly report for this department to the Governor in connection with the meetings of the Governor's Council, we report a statistical record on a monthly and comparative basis of "Policy Complaints." It is probable that as a result of the above mentioned conference we will be able to more accurately classify the items included in that section of our reports.

National Association of Insurance Commissioners Reports Relating to Mail Order Type Disability Insurers and Number and Character of Complaints Relating to Such Insurance

There has been no further N. A. I. C. report on this subject since March 21, 1956.

Reports Prepared for the National Association of Insurance Commissioners on the Number and Nature of Inquiries or Complaints Received by Insurance Departments From the General Public

Our department has not prepared any further reports of this character to N. A. I. C.

Present Status of Enactment of Reciprocal Statute, California Insurance Code Section 706.7

At the present time there are 16 "Reciprocal States." Insurance Code Section 706.7 requires the Insurance Commissioner to annually mail a notice to all domestic insurers specifying the states which have enacted statutes substantially the same as this California Code section. Attached is a copy of the notice issued and dated September 14, 1956

Statutory and Administrative Regulation of Advertising

Our previous report to your committee dated March 12, 1956, lists six Insurance Code sections and two Business and Professions Code sections which regulate and provide punishment for false or misleading advertising.

Attached is a copy of Bulletin No. NS-3, dated May 18, 1956, which was sent to all insurers admitted to transact insurance of any kind in California. It is entitled "*Subject: Advertising—Maintenance of Files of Advertising Copy and Materials.*" This bulletin requested all insurers to maintain in California a complete file of all advertising materials pertaining to any policy or contract of insurance or to its insurance operations which it has caused or permitted to be issued, circulated or used, (1) anywhere, if it is an insurer domiciled in California; or (2) within the State of California, if it is a foreign or alien insurer. The bulletin explains that compliance will facilitate the administration and enforcement of California statutes which regulate advertising, pointing out that the examiners consider advertising in the course of regular examinations.

Responses to this bulletin received by our department were in every instance expressions of approval and assurances of cooperation. A majority of the foreign and alien insurers are subject to rules and regulations of insurance departments of other states which require maintenance of files of advertising copy. In the administration of Bulletin No. NS-3, we have authorized some foreign and alien insurers to omit maintenance of a separate file within the State of California upon their assurance that complete files maintained by them at some central office in another state will be made available in California at any time upon written request from our department.

The above referred to California statutes and the duty and authority thereunder of the Insurance Commissioner of California apply to all advertising by insurers domiciled in California, whether published or used in California or elsewhere. Similarly, the laws of each state and the authority of its insurance commissioner apply to all advertising by its domestic insurers. As to foreign or alien insurers, the jurisdiction and authority of the California Commissioner are limited to acts within the State of California. Of general interest in connection with this matter of jurisdiction, see the attached copy of Bulletin No. NS-4, dated July 10, 1956, entitled "Advertising—Federal Trade Commission 'Trade Practice Rules for the Accident and Health Insurance Industry' ". This bulletin relates to an attempt by a federal commission to usurp the rights and duties of the State of California with respect to the subject.

I believe that at the present time there are only two matters of false or deceptive advertising pending in our department. It already has appeared that one of them may have been an inadvertence and published by an advertising agency in direct conflict with instructions from the executive offices of the company canceling orders for the publication of that copy because of the questionable contents.

General Discussion

The *San Francisco Examiner* on July 14, 1956, carried an editor's statement in the form of a box advertisement showing that during the month of June the newspaper rejected 21 advertising contracts on a diversity of subjects which would have cost the advertisers a total of $1,852.51. It was stated that this business was rejected because the ads were deemed to be "likely to disappoint or mislead." We learned from the managing editor that the paper assigns experienced employees to examine advertising copy submitted, who follow a prescribed course of inquiry and have authority to reject. None of these 21 cases related to insurance. The fact is of interest because it shows that other forces of the community are also actively combatting false and deceptive advertising.

According to an article in *The Spotlight*, published by Better Business Bureau of San Francisco, dated November 12, 1956, a United States District Court recently upheld the right of the *Washington Evening Star* to discontinue carrying advertising copy which it considered misleading. The newspaper was sued for breach of contract but the court upheld the right of the newspaper to reject advertising which it found untrue and deceptive.

The necessity of preparing these reports for your committee has caused our department to collect and review all bulletins heretofore issued by

our Insurance Commissioners on the subject of false or misleading advertising. There are six bulletins of this character (Bulletins Nos. 22, 30, 59, 64, 86 and 89). We are considering a project of editing this material and republishing it in a form readily available to members of the public and of the insurance industry interested in the subject Attorney General Opinions Nos. 2726, October 22, 1940, and O. N. S. 4836, April 30, 1943, will also be considered in this connection.

It is my opinion that our present statutes fully regulate advertising and all forms of false or misleading representations concerning the status, operations and policy contracts of insurers and their agents. These statutes make it the duty of the Insurance Commissioner to prevent such practices and give him ample authority to enforce these laws.

It is the opinion of our department that no false or misleading advertising concerning insurance is now being published or distributed in California. If anyone holds a contrary opinion, he has only to call the offense to our attention. All such matters receive immediate attention. In every case of this kind that has come to my attention, the advertiser has immediately discontinued use of the false or deceptive copy.

The experience of our department in preparing the special reports mentioned herein has demonstrated that the cost of classifying the material and preparing the reports is not justified. The purpose of the Department of Insurance is to serve the public, not to create "statistics."

Commencing January 1, 1957, the inaccurate general term "Policy Complaints" will be abandoned and these matters will be described by the more accurate term "Policy Services."

The interest of your committee in this subject has been stimulating and helpful to our department. I thank you for your courtesy and cooperation throughout the hearings.

Very truly yours,

F. BRITTON MCCONNELL
Insurance Commissioner

AN ANALYSIS OF POLICY COMPLAINTS AND INQUIRIES FOR THE FIRST SIX MONTHS OF 1956

Because of the active interest which has been shown in the extent and nature of complaints and inquiries relating to claims settlements by insurers on insurance policies (issued by them, particularly in connection with disability insurance, a special statistical analysis has been made of such matters covering the first six months of 1956. In this analysis, "complaints" are those matters of such nature as to result in the setting up of a file including correspondence, or other writings indicating contacts with persons outside of this department. The designation "Inquiries" includes all other questions to the Policy Complaints Bureau concerning rights under policies of insurance and which do not involve complaint files.

During a portion of this period, the San Francisco Office of the Policy Complaints Bureau made a special tabulation, in addition to the usual statistics, covering the number of inquiries from the public involving questions as to nonrenewal or cancellation and company

advertising of disability policies. It is believed that the San Francisco statistics on these two points are fairly indicative of the result which would have been shown in the other offices of the Policy Complaints Bureau if similar statistics had been kept there.

Such statistical analyses are summarized in the following tables:

TABLE No. 1

COMPLAINTS (ALL OFFICES)

For Period From January 1, 1956, Through June 30, 1956

Total number of complaint files closed—all classes	1,665
Total number of disability insurance complaint files closed	848
Disability complaint files so closed broken down into number of complaints involving the following categories. (Note that one file may contain more than one of the complaint categories.)	
Pre-existing conditions	289
Cancellation and nonrenewal	76
Company advertising	8
All others	568
Total	941

TABLE No. 2

INQUIRIES

For Period From January 1, 1956, Through June 30, 1956

Total inquiries—all offices—all classes of insurance	9,846
(Figures include a small percentage of inquiries involving matters other than claim settlements.)	

TABLE No. 3

INQUIRIES

(San Francisco Office Only)

Total—all classes—January 1, 1956, through March 31, 1956	1,297
Inquiries—April 1, 1956, through June 30, 1956:	
Total inquiries—all classes	1,403
Those involving cancellation and nonrenewal—disability insurance only	43
Those involving company advertising—disability insurance only	3

TABLE No. 4

WRITTEN INQUIRIES

(Los Angeles Office Only)

Total written inquiries		361
Those involving disability—total		46
Of these—involving cancellation and nonrenewal	17	
—company advertising	1	
—all others	28	

AGENDA, POLICY COMPLAINTS CONFERENCE
October 24-26, 1956

WEDNESDAY, OCTOBER 24, 1956

10.00 a.m.-10.30 a.m. Assembly and introductory remarks—Mr. Thomas

INTRABUREAU ADMINISTRATIVE PROBLEMS

10.30 a.m.-12.00 m. Leader: Mr. Fleisher

Review of form letters

1. Initial acknowledgment form.
2. Follow-up
   (a) What to do if no response from follow-up.
3. Others.

1.00 p.m.- 2.00 p.m. Leader: Mr. Linnabery
Nonadmitted insurers
1. Insurers from other states.
2. Transportation coverage by van lines.
3 U. C D. voluntary plans.
4. Others.

2.00 p m.- 3 30 p.m. Leader: Mr. Andrews
Files and records.
1. Filing methods
2. Retention of files—how long?
3. Statistical records.
4. Others.

3.30 p.m.- 5.00 p.m. Leader: Mr. Lieber
Miscellaneous
1. Handling eccentrics.
2. Field investigations.
3. Relations with company representatives.
4. Medical authorization forms, use of.
5. Others
6. General discussion of intrabureau administration problems.

THURSDAY, OCTOBER 25, 1956

CLAIMS PROBLEMS

8.30 a.m -12 00 m. Leader: Mr. Faber
Disability Insurance
1. Pre-existing conditions
2. Interpretation of language.
(a) General principles.
(b) "Hospital"
(c) "Expense incurred."
(d) "Poliomyelitis"
(e) "Hernia"
(f) "Accident" vs. "Accidental Means."
(g) Others
3. Recision as to one member only of a family group.
4. New uniform provisions.
5. Reinstatement—what coverage thereafter—reinstatement vs. waiver of lapse.
6. Others

1.00 p.m.- 3.00 p.m. Leader: Mr Herbert
Automobile Insurance.
1. Sales tax as part of material damage losses
2. Subrogation problems
3. Total loss—what return premium due?
4. Cancellation.
5. Dual coverages.
6. Others.

3.00 p m.- 5.00 p.m. Leader: Mr. Swindell
Fire Insurance.
1 New broad form policies
2. Company's rights in case of suspected arson.
3. Coercion problems—service charge for replacing—etc.
4 Others.
Other classes of insurance.

7.00 p.m.- 9.00 p m. Leader: Mr. Lieber
General discussion of claims problems.

FRIDAY, OCTOBER 26, 1956

RELATIONS OF POLICY COMPLAINT OFFICES WITH OTHER DIVISIONS OF DEPARTMENT, OTHER BUREAUS OF COMPLIANCE AND LEGAL AND POLICY COMPLAINT OFFICES IN OTHER CITIES

8.30 a.m.-10.00 a.m. Open discussion, exchange of ideas, suggestions, specific suggestions, specific examples, etc.

10.00 a.m.-12.00 m. Leader: Mr Thomas
Relations between offices
1. What should determine jurisdiction of office over complaint?
   (a) Residence of complainant?
   (b) Claims office of company handling?
   (c) Home office of office handling?
   (d) Other factors or combination of above?
2. P. B. F. procedure, legal advice to policy complaints and interoffice exchange of information in light of above.

1.00 p.m.- 3.00 p.m. Leader: Mr. Norton
Relations with other divisions of the department.
1. Examination and Financial Analysis.
2. Rating.
3. Administration.
4 License.

Relations with other bureaus of Division of Compliance and Legal.
1. Investigation.
2. Policy approval.
   (a) Questons as to interpretation.
   (b) Information as to provisions of authorized forms giving trouble.
3. Research and legal advice.
   (a) Procedure for getting advice.
   (b) P. B. F. procedure—suggestions for improvement.
   (c) Making results of legal research and P. B. F. results available to offices other than initiating one.
4. Others.

3.00 p m.- 4.00 p m. Leader: Mr. Fleisher
General discussions designed to summarize discussions and make possible the reducing to writing points of doubt or controversy and any tentative conclusions reached in order that the matters may be officially resolved.

4.00 p.m.- 5.00 p.m. Leader: Mr. Andrews
Other matters.
Summary, evaluation, and suggestions for the future.

NOTICE TO ALL DOMESTIC INSURERS

SUBJECT: TRANSACTION OF INSURANCE IN OTHER STATES

Section 706.7 of the California Insurance Code provides in substance that a domestic insurer shall not enter into a contract of insurance upon the life or person of a resident of, or property or operations located in, a reciprocal state unless it is authorized pursuant to the laws of that state to transact such insurance therein. The exceptions to the provisions of this section are the following:

(a) Contracts entered into where the prospective insurant is personally present in the state in which the insurer is authorized to transact insurance when he signs the application.

(b) The insurance of certificates under a lawfully transacted group life or group disability policy, where the master policy was entered into in a state in which the insurer was then authorized to transact insurance.

(c) A renewal or continuance in force, with or without modification, of contracts otherwise lawful and which were not originally executed in violation of this section.

As used in said section, the term "reciprocal state" means a state the laws of which prohibit an insurer domiciled therein from insuring the lives of persons or residents of, or property or operations located in, the State of California unless it then holds a valid and subsisting certificate of authority issued by the Insurance Commissioner of this State.

You will please take notice, and you are hereby notified, pursuant to the provisions of Section 706.7 of the California Insurance Code, that the following named "states" are hereby specified as "reciprocal states" within the meaning of said section:

1. Florida (F. S. A. Secs. 625.38, 625.39 and 625.40)
2. Hawaii (Sec. 8456.10, Act 277, Session Laws of Hawaii, 1955)
3. Idaho (Sec. 41-109, Idaho Code)
4. Louisiana (Title 22:1251, Louisiana Revised Statutes)
5. Maine (Ch. 60, Sec. 17, Revised Statutes of Maine, 1954)
6. Maryland (Secs. 81 and 195 of Art. 48A, Flack's Annotated Code of Maryland, 1951)
7. Michigan (Sec. 511.2(a), Compiled Laws of 1948)
8. Montana (Sec. 40-1314, Revised Codes of Montana, 1947)
9. New Hampshire (Chapter 402, Secs. 54 and 55, Revised Statutes Annotated)
10. North Dakota (North Dakota Revised Code, Title 26, Insurance, Sec. 26-0719)
11. Oregon (ORS 736.645)
12. Puerto Rico (L. P. R. A. Title 26, Sec. 911)
13. South Dakota (Ch. 118, 1943 Session Laws; S. D. C. Supp., Sec. 31.1104.1)
14. Utah (Sec. 31-7-13, Utah Code Annotated, 1953)
15. Virginia (Life and Disability Only; Sec. 38.1-433, Code of Virginia, 1950)
16. Washington (R. C. W. 48.07.150)

You will please take further notice that this department has notified the respective insurance commissioners or superintendents of the above-named states and territories that their jurisdictions constitute "reciprocal states" under the provisions of said section, and has requested such commissioners or superintendents to notify this department of any and all violations by any of our domestic insurers with respect to the above-captioned matter occurring in their respective jurisdictions.

Dated: September 14, 1956

F. BRITTON MCCONNELL
Insurance Commissioner
By J. N. ANDREWS
Deputy

BULLETINS

DEPARTMENT OF INSURANCE
SAN FRANCISCO 2

BULLETIN No. NS-3

To: All Admitted Insurers

Subject: Advertising—Maintenance of Files of Advertising Copy and Materials.

Every insurer admitted to California, whether it is domiciled in the State of California or elsewhere, is requested to maintain in California a complete file of all advertising materials pertaining to any policy or contract of insurance or to its insurance operations which it has caused or permitted to be issued, circulated or used:

(1) Anywhere, if it is an insurer domiciled in California; or
(2) Within the State of California, if it is a foreign or alien insurer.

Insurers domiciled in California should maintain such file at the home office. Foreign or alien insurers should maintain such file at the principal office in California.

All such advertising matter should be attached to copies of the policy contracts to which each item of such material relates so that an examination of all such material may be conveniently made. Such files should be complete with respect to the most recent four-year period.

If an insurer has authorized any agent to use its name in advertisements originating with the agent the insurer has the responsibility of requiring each such agent to maintain such files in this State or of itself maintaining within this State such files as to each such agent.

"Advertising materials" as used herein has an all inclusive meaning. For example, it includes, but is not limited to, proofs or clippings of newspaper and magazine advertising, publicity releases, brochures, radio scripts, throw-aways, prepared speeches, statements on back of applications, etc.

The purpose of this bulletin is to facilitate the functions of this department in the administration and enforcement of the California statutes which prohibit the issuance, circulation or use of false or misleading advertising and provide disciplinary action therefor. (The basic California statutes are Insurance Code Sections 780 through 784 and Business and Professions Code Sections 17500, 17534 and 17535.) The maintenance of complete files referred to herein should result in greater efficiency in this department's examinations with resultant economy to the companies The examiners consider advertising in relation to the above-mentioned statutes in the course of regular examinations.

Your full cooperation in this matter is earnestly solicited and will, I am sure, prove of real benefit to the public, the industry and your own company.

F. BRITTON MCCONNELL
Insurance Commissioner

San Francisco, California
May 18, 1956

BULLETIN No. NS-4

DEPARTMENT OF INSURANCE
SAN FRANCISCO, July 10, 1956

To: All Domestic (California) Insurers

Re: Advertising—Federal Trade Commission "Trade Practice Rules for the Accident and Health Insurance Industry"

The Federal Trade Commission has recently declared that it has jurisdiction to regulate the business of insurance. This assertion of power—actually a usurpation of the rights of the states—is evidenced by a document published and distributed by Federal Trade Commission entitled "Trade Practice Rules For The Accident and Health Insurance Industry."[1, 2] The pamphlet purports to be "promulgated" under the "trade practice conference procedure" and includes 16 "rules," with many subdivisions, declaring stated matters to be "unfair trade practices."

It is my opinion that Federal Trade Commission has no authority to issue or enforce such or any trade practice rules either directly or indirectly regulating the business of insurance in the State of California. Insurers organized and existing under the laws of the State of California are governed by the laws of California as to all matters covered by or referred to in the above mentioned Federal Trade Commission publication.

Federal Trade Commission is now distributing by mail in California a form letter (FTC L-4076) dated June 15, 1956, enclosing a copy of the pamphlet and requesting the addressee to sign and return a post card form "Acceptance Card." A signer would agree to "observe such rules in the conduct of our business."

It is my opinion that it would be improper for a California insurer to agree to be bound by or agree to comply with the "rules" printed and distributed by Federal Trade Commission. The laws of California adequately regulate said matters and regulate them to the complete exclusion of federal jurisdiction.

The laws of California authorize and require the Department of Insurance to prevent the use of false or misleading advertising by insurers, agents and brokers, their officers and employees. These statutes with many other laws regulating the business of insurance, enacted by the California Legislature and by the people in the Constitution of California, are designed to protect the public and in their operation and enforcement effectively accomplish that purpose.

You are therefore requested to refer to this department any and all communications you may receive from Federal Trade Commission.

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[1] The expression "The Accident and Health Insurance Industry" has no defined or definable meaning to insurers, agents, brokers and solicitors licensed to engage in the business of insurance in California.

[2] The pamphlet asserts that "* * * the National Association of Insurance Commissioners submitted proposals for Commission consideration." This statement is incorrect N. A. I. C. has never authorized any of its members or committees to cooperate with Federal Trade Commission, on the contrary, N. A. I. C. has established a "Special Committee on Preservation of State Regulation" and its special function is to oppose usurpation of state rights by federal agencies and to inform Governors, Attorneys General, Members of the Legislatures and U. S. Senators and Congressmen of all such activities of federal agencies.

This department with the assistance of the Attorney General and in consultation with the addressee of any such communication will endeavor to clarify this matter and take any actions required to protect the interests of the California public and of all of the licensees of this department.

F. BRITTON MCCONNELL
Insurance Commissioner

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ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

WM. A. MUNNELL, *Chairman*

REPORT ON SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLANS AND RELATED PROGRAMS

MEMBERS OF SUBCOMMITTEE

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JOHN A. O'CONNELL
JESSE M UNRUH

MARIAN KOBER, *Executive Secretary*

March, 1957

Published by the
ASSEMBLY
OF THE STATE OF CALIFORNIA

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LETTER OF TRANSMITTAL

ASSEMBLY, CALIFORNIA LEGISLATURE
COMMITTEE ON FINANCE AND INSURANCE
March 6, 1957

Hon. L. H. Lincoln
Speaker of the Assembly
State Capitol, Sacramento, California

DEAR MR. LINCOLN: Pursuant to House Resolution 200, 1955 General Session, I am transmitting to you and the members of the Assembly the Report of the Subcommittee on Supplemental Unemployment Benefit Plans, with the request that it be printed as a separate document.

Our report contains testimony presented at our public hearing in San Francisco on October 11, 1956, and general background information prepared by the Legislative Auditor.

Sincerely yours,

WM. A. MUNNELL, Chairman
REX M. CUNNINGHAM
LOUIS FRANCIS
AUGUSTUS F. HAWKINS
WALLACE D. HENDERSON
HAROLD K. LEVERING
THOMAS A. MALONEY
WILLIAM F. MARSH
JOHN A. O'CONNELL
JESSE M. UNRUH

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INTRODUCTION

The agreement between the Ford Motor Company and the United Automobile Workers, CIO, consummated on June 6, 1955, focused public attention on so-called "guaranteed annual wage" plans. Soon thereafter similar contracts were signed between the UAW and the General Motors and Chrysler corporations, and between the United Steelworkers Union, CIO, and the American and Continental Can companies.

It should be made clear at the outset that although these agreements have been popularly referred to as guaranteed annual wage plans, they are actually "supplementary unemployment benefit" plans, in that they provide benefits to unemployed workers which are in addition to the benefits received under state unemployment compensation programs. It would be incorrect to conclude, however, that there are no guaranteed annual wage plans in existence. Over the years experiments have been tried by a number of firms in different industries and, although some of these plans have failed, many have been operating continuously for many years.

Because guaranteed annual wage plans, state unemployment compensation programs, and agreements providing for supplementary unemployment benefits are closely related, this report contains a description of the important elements of each, and some references to their historical development, problem areas, and economic significance. For convenience the terms "guaranteed annual wage," "unemployment compensation," and supplementary unemployment benefits" are abbreviated in the remainder of the report as GAW, UC, and SUB.

The provisions of GAW, UC and SUB will be discussed in that order, since that is the sequence in which these plans were developed, moving first from private plans for regularizing employment and income to public enactment of compulsory unemployment compensation laws and then to private plans for supplementing state unemployment benefits.

The Assembly Committee on Finance and Insurance believed it was important to get this background to determine whether California's present statutes were adequate or whether further legislation was necessary. The committee contracted with the office of the Legislative Auditor for the basic research necessary, and held a public hearing in San Francisco on October 11, 1956. Testimony presented was to the effect that no legislation was needed in California to implement the supplemental unemployment benefit contracts On February 6, 1957, however, a question has been raised on the legality of these plans by a referee's decision in the claim of John R. Gartrell. A summary of this decision, prepared by the Legislative Counsel is appended Since the issue will probably be settled in the courts, the committee makes no recommendation with respect to the possible need for legislation at this time.

GUARANTEED ANNUAL WAGE PLANS

HISTORY

Industrial plans of the guaranteed wage type for stabilizing employment and income began as early as 1890. Of some 40 such arrangements instituted between 1890 and 1930, 35 were still in effect at the close of 1929. Most of these plans were limited in their benefits to employees with greatest seniority. Emphasis was placed upon guarantees of employment rather than upon unemployment benefits, with wages or employment guaranteed in most cases only by the good faith and financial ability of the employer. Almost without exception the early GAW plans were initiated by company management. Some of the factors that encouraged their adoption were the possibility of reduced turnover, with a consequent reduction in the cost of recruiting and training new workers; the belief that steady employment is conducive to good employee morale which, in turn, exerts a significant influence on plant productivity; and humanitarian considerations.

The widespread unemployment of the 1930's resulted in the adoption of guaranteed wage plans by more than 100 firms throughout the United States. Although some of the plans were discontinued, the total number in operation increased from 35 to 125 during that decade. In addition, 96 firms in Wisconsin established plans to take advantage of a provision of that state's unemployment compensation law of 1932 which granted tax advantages to those companies having private plans for guaranteed employment. However, all of these Wisconsin firms discontinued their plans in 1935 when the tax advantage was eliminated and the state act was changed to conform with the Federal Social Security Act.

At the close of 1946 there were 196 GAW plans in existence in the United States covering approximately 65,000 workers. Data for more recent years are fragmentary. Current coverage may be 150,000 persons.

SPECIFIC GAW PLANS

To illustrate the variety of GAW plans, some of the significant features of several of them are discussed briefly hereafter.

Proctor and Gamble

On August 1, 1923, W. C. Proctor, President of Proctor and Gamble, announced a plan for guaranteed full pay for full-time work of not less than 48 weeks. Coverage was limited to employees who had been with the company two or more years. Substantially the same plan remains in effect today, although the guaranteed work week has been reduced from 100 percent to 75 percent of normal.

In this case management assumed responsibility for regulating output and work load to stabilize employment. Since the purchase and use of Proctor and Gamble products are about the same the year round, it has not been especially difficult for the company to fulfill its guarantees. In actual practice, the guarantees have been met in all

the years between 1923 and the present, even though during depression periods employees were assigned tasks incidental to the production process, such as maintenance of buildings and grounds, in order to keep them busy. The firm is not unionized and the plan, therefore, is not a matter of union-management agreement.

George Hormel and Company

The meat packing industry, because of seasonal fluctuations in livestock production, does not enjoy the same degree of stability as is the case with manufacturers of soaps and edible oils. The Hormel plan, instituted in 1931, does not guarantee regular hours of work, but rather, regular pay checks for 52 weeks. Irregularity of hours of work per week is offset by guaranteeing full pay checks during periods of slack work. To offset full pay for short work weeks, the employees are expected to work extra hours during busy seasons without overtime pay. Thus, during slack periods the Hormel employee is not required to report for work at all or, when he does report, he remains at work only as long as the day's production requires. During busy seasons, on the other hand, the company reserves the right to work the employee more than an eight-hour day, without premium pay for overtime, as long as the employee does not exceed the total number of hours for which he is obligated on an annual basis. This management prerogative is limited to some extent by a provision that after an employee has worked a certain number of overtime hours on a particular day or within a particular week, he is entitled to premium pay for additional hours worked. Once a year, adjustments are made to compensate for hours worked in excess of straight time for 52 weeks. The Hormel plan provides not only for stability of income to about 95 percent of all workers, but it avoids the waste of manpower that guaranteed employment plans with standby time or make-work projects sometimes involve. Although the plan was first introduced by management, it is now incorporated in union agreements.

Nunn-Bush Shoe Company

Under the plan adopted by the Nunn-Bush Shoe Company in 1935, neither a specific annual wage nor a definite number of hours of work is guaranteed, but provision is made that most of the employees will be assured of employment as long as the plant is operating. Approximately 90 percent of the employees are covered by the plan. Whereas Proctor and Gamble obligates itself to continuous year-round production and Geo. Hormel and Company provides weekly pay checks based upon a normal work-week and going wage rates, Nunn-Bush estimates at the beginning of each year what its gross sales will be during the coming year and allocates 20 percent of that amount for the payment of wages This 20 percent figure is based upon an average of the firm's historical wage bills. The total amount available for wages is divided by 52 to determine the weekly pay roll. Thus, wage scales are tied directly to sales volume and may be adjusted either upward or downward from year to year.

Forecasts of sales by Nunn-Bush in 1937 were overly optimistic, with the result that wage payments exceeded the 20 percent figure considerably. In order to compensate for this the company for several years

held wages at a lower figure than 20 percent of gross sales. Under the current arrangement, the company builds a reserve fund for each employee to provide a cushion against the years of unfavorable sales and to prevent a recurrence of the 1937 overpayment.

The Nunn-Bush plan was promulgated by management after extensive consultation with employees. Nunn-Bush is unionized and the method of wage payment, although unorthodox, is accepted by the unions represented in the plant. Union agreements with this firm cannot be framed in terms of wages per hour or per week, since the wage scale is dependent on anticipated sales. Employees and management have come to think in terms of annual wage payments, which rise and fall from year to year with general business activity.

Brown Shoe Company

The three plans discussed above were each instituted by management, although the Nunn-Bush Company consulted with its employees in advance. By contrast, the Brown Shoe Company plan was negotiated by the International Brotherhood of Teamsters through the process of collective bargaining. According to the provisions of this plan, 2,000 hours of straight-time pay are guaranteed to the 425 union members employed by the company who had the greatest amount of seniority as of January, 1953 The Brown Shoe Company employs many workers who are not teamsters and these employees are therefore not covered by the agreement. Overtime earnings are paid in addition to the guaranteed 2,000 hours at regular pay, so that annual earnings of covered employees will not fall below the guaranteed minimum and may rise substantially above it. As with most GAW plans, the company does not contribute to a fund to create a reserve for periods of unemployment. Operation of the plan becomes a real cost factor to the firm only if there is actual unemployment or a reduction of hours for some or all of the 425 employees.

CHARACTERISTICS OF GAW PLANS

The examples that have been cited are indicative of the wide variety of GAW plans in existence. With more than 200 firms operating such plans the difficulty in generalizing about them is apparent. However, a study published by the U. S. Bureau of Labor Statistics (*Guaranteed Wage Plans in the United States*, Bulletin No. 925, U. S. Government Printing Office, 1947) identified some of the characteristics common to these plans. Although the study was made 10 years ago, these characteristics for the most part appear to have remained substantially unchanged. In making its analysis the Department of Labor included all of those arrangements, written or unwritten, by which an employer guarantees or assures to some or all of his employees, in advance, a definite period of employment equal to at least three months a year, or an equivalent amount of wages.

Within the rather wide latitude which the foregoing definition provides, the private GAW plans were characterized as follows:

1. Approximately 60 percent were in nonmanufacturing activities, with greatest representation in retail and wholesale trade and services. Of the 40 percent in manufacturing industries, most

were in food and kindred products, textile-mill products, apparel and similar products, and printing and publishing.

2. Although two-thirds of the firms employ union labor, most of the plans were initiated voluntarily by management.
3. Half of the firms allowed all employees to participate, while the rest limited eligibility to certain departments or occupations. Although a number of firms allowed employees to participate in GAW plans from the time they were hired, most of them required their employees to be employed for periods ranging up to five years in order to qualify. Because of this time factor, in only 38 of the 101 companies whose plans covered all departments and occupations were all employees actually covered.
4. While plans covered groups of employees ranging from less than 25 to over 10,000, two-thirds of all GAW plans covered less than 50 employees each; and in those instances where all employees were covered, almost 90 percent of the firms employed less than 50 persons.
5. Almost three-fourths of the plans guaranteed 52 weeks' work or wages and two-thirds provided for full pay for each week.

SUMMARY

While it is true that only a very small percentage of the total labor force is employed in firms with GAW plans, experience has shown that the plans have contributed to stabilize production and to reduce turnover and have provided greater regularity of employment and income to eligible employees. In addition, they have had a favorable effect on the economy of those communities in which GAW plans were in effect. For example, a study was made in 1941, approximately 10 years after the initiation of the Hormel plan, of the effects of the plan on Austin, Minnesota, the city in which the company's main plant was located. The Hormel Company accounted for almost all of the industrial employment in the community at the time of the study, providing jobs for 4,000 people out of a total population of 20,000. Thus, changes in the industrial relations policies of the firm affected directly or indirectly most families in the community. The effect which the GAW plan had upon the buying habits of the company's employees was indicated clearly during the 1930's. Security of employment and regularity of earnings made it less essential for the workers to maintain sizable cash balances in anticipation of low earnings or layoffs. This is indicated by the fact that total savings held in bank, credit union, and savings and loan accounts in Austin increased only 10 percent between 1932 and 1940, while population and average weekly earnings increased 50 percent. The stabilization of purchasing power permitted them to satisfy a latent demand for durable consumer goods, such as refrigerators, washing machines, and radios, and stimulated home ownership. This was due in part to their ability to make use of installment credit, encouraged by Austin merchants in response to the new policies of the Hormel Company.

In brief, most GAW plans in existence today were initiated by employers, although a majority of them have now been included in collective bargaining agreements. Eligibility requirements, amount of benefits, and duration of benefits tend to be more liberal where the

number of employees covered is small. GAW plans usually cover relatively few employees, either because total employment of the firms having such plans is small, or because coverage is limited to a small portion of the firm's employees. In terms of the total labor force in the Country, the number of employees affected by GAW plans is extremely limited, representing an estimated 150,000 out of more than 65,000,000 working people. Historically, the growth of GAW plans has been slow and has been limited to certain kinds of industries.

STATE UNEMPLOYMENT COMPENSATION

HISTORY

Contrasted historically with the few thousand persons covered by GAW were the hundreds of thousands of wages earners who were unemployed for periods ranging from a few days to many months, the unemployment arising in the majority of cases from conditions over which it appeared individual employees and employers had little or no control.

During the 1920's there was a demand for a more sweeping approach to the problem of periodic and recurring unemployment. In 1921 a bill was introduced in Wisconsin which provided for both workmen's compensation and unemployment insurance. Although it was not enacted, future efforts to establish a system of state unemployment insurance were modeled after it. Finally, in an attempt to alleviate the effects of the severe unemployment that developed in the 1930's, Wisconsin, in 1932, placed in effect the first state compulsory unemployment compensation plan. While this law is significant as a pioneering effort in the field of unemployment compensation, it was short-lived and was replaced by a new law in 1935 which was in conformity with the Federal Social Security Act of that year.

Twenty-six other states considered unemployment compensation bills in 1933 but none of the bills was passed. The chief reasons for failure of these bills were the divided opinions of their advocates, heavy unemployment which made the creation of a fund by pay roll taxes difficult, and the fear on the part of each state that its products would be handicapped in interstate commerce if any other state failed to collect similar pay roll taxes. This latter argument lost its force when Congress enacted the Social Security Act of 1935, one portion of which laid the basis for the establishment of a system of unemployment compensation throughout the Nation.

UC PROVISIONS OF THE FEDERAL SOCIAL SECURITY ACT OF 1935

In order to provide a fund from which unemployment benefits could be paid, the federal act imposed a uniform 3.0 percent pay roll tax nationwide. However, certain industries, such as agriculture, were exempted from its provisions entirely; workers in firms with less than eight employees were not covered; and employers were required to pay the tax only upon the first $3,000 of an employee's annual earnings.

Although the law provided for a federal tax, it was in reality a means of encouraging states to adopt unemployment compensation plans of their own. This was accomplished by allowing employers subject to the tax to offset 90 percent of the tax, i.e., 2.7 percent of pay rolls, by contributing to an approved state plan. This was considered generally to be a plan that: (1) would pay benefits through public employment offices; (2) would make payments from the unemployment fund to unemployed workers only; and (3) would not disqualify unemployed workers because they refused employment where there was

a labor dispute, or where wages, hours, and conditions of work were less favorable than the prevailing standard in the area, or where membership in a company union or refusal to join a bona fide union were conditions of employment. The remaining 0.3 percent collected by the Federal Government was to be returned to the states to cover administrative costs. The federal law did not specify benefit amounts or duration of benefits. All but two states adopted acceptable plans by the close of 1936, the two remaining states qualifying within the first six months of 1937.

The current attitude of one large corporation toward the state administered systems of unemployment compensation was expressed to the committee by James M. Osborne of the Ford Motor Company as follows:

> " * * * Our company, like most companies, has accepted and endorses the general principles contained in properly drawn and administered state unemployment insurance systems. We believe that such systems not only are a humane and intelligent policy for alleviating the human consequences of losing work because work is not available, but they also act as a sound contracyclical implement of economic policy. By this we mean the process of keeping some money out of the economic stream in good times and pouring it in when times are not so good. We were convinced that state benefits generally were not high enough in relation to current pay levels, a view which we shared with many economists of unimpeachable integrity. * * *
>
> "We were, and are, convinced that state systems provide the best and soundest means of providing for and administering unemployment insurance benefits It did not appear to us, however, that a majority of the states in which we operate were likely to raise their benefit structures to the levels we were prepared to accept for our own part in the immediate future.
>
> "We felt it was merely facing facts to recognize that, in our industry and our company, despite our considerable efforts to stabilize and regularize employment, there exists some substantial hazard of lay-off, both short and long term."

UC IN CALIFORNIA

California's UC plan became effective January 1, 1936, the fifth state plan to be enacted. The purpose of the Legislature in enacting this law is stated in Section 100. of the California Unemployment Insurance Code. The following are paraphrased from that section:

1. Since large numbers of persons do not enjoy permanent employment, their purchasing power is unstable This is detrimental to the general welfare of the people of California.
2. Since the final consumption of goods and services is the goal of productive activity, it is good public policy that those who produce should not be deprived of the fruits of their labor through unemployment.
3. Experience has shown that private charity and local relief alone cannot alleviate the effects of unemployment, and it is not good

policy for the State to await excessive unemployment before making plans for unemployment relief.
4. Under the police powers of the State there should be a provision for the compulsory setting aside of funds to provide benefits to persons unemployed through no fault of their own.
5. The plan should have the effect of reducing involuntary unemployment and of relieving the suffering resulting from it.
6. It is the intent of the Legislature that unemployed persons make every reasonable effort to secure employment for themselves

Thus, the concept of unemployment compensation was to assist in the stabilization of purchasing power, to reduce involuntary unemployment, to facilitate re-employment, and to relieve distress incidental to temporary unemployment.

During the 20 years the law has been in effect in California, revisions have been made in almost all of its provisions, including coverage, benefits, and method of operation. Some of the provisions of the current program are as follows:

1. Wage earners in almost every industry are covered; notable exceptions are agricultural labor and domestic help.
2. Employers of one or more workers are included and subject to unemployment taxation. The employer is taxed only on the first $3,000 of an employee's annual earnings.
3. Individual employers are taxed at different rates depending upon the amount of unemployment their firms have experienced, and separate accounts are maintained by the State for each employer. For example, an employer with a high rate of unemployment in his firm can be required to pay into the fund the maximum tax of 2.7 percent of pay roll, whereas an employer with very little unemployment can be permitted, after building up a sufficient reserve in his account, to pay a smaller tax or to stop paying it entirely. This flexible tax feature is designed to provide an incentive for employers to stabilize their production and reduce unemployment.
4. The maximum duration of benefits is 26 weeks during a year, with a one-week period of waiting required before benefits are paid.
5. Benefits range from a minimum of $10 to a maximum of $33 per week, depending upon a worker's earnings during the most remunerative quarter of his base period. Assuming a worker draws benefits for a full 26 weeks, the total amount he receives would be somewhere between a minimum of $260 and a maximum of $858. In 1954, average benefits in California were approximately 30 to 35 percent of average worker earnings. In no case may benefit payments total more than 50 percent of the worker's base period earnings.
6. For a person to be considered a regular part of the working force and entitled to benefits, he must have earned at least $600 during the year taken as his base period. If, however, over 75 percent of base period earnings were in any one quarter, total earnings for the base period must be 30 times the weekly benefit or $750, whichever is less. This provision is intended to make it more difficult for a person to work a couple of months, voluntarily leave work, and then begin collecting UC benefits.

CHARACTERISTICS OF STATE UC PLANS

State unemployment compensation plans have the following common characteristics:

1. To receive unemployment benefits workers must be ready and willing to work. This requirement is satisfied when the worker registers for employment with the state employment service. The unemployed worker is allowed to reject work which is substantially different from his normal occupation, is located an unreasonable distance from his home, or involves a labor dispute, without losing his eligibility for UC benefits.
2. The benefits to which a claimant is entitled are based, in most states, upon his earnings during that quarter of his base year when his earnings were highest.
3. Benefits are not paid until a wating period has elapsed (generally one week). The maximum duration of benefits is usually six months.
4. Funds for paying benefits are derived from pay roll taxes. In most states the employer is taxed only on the first $3,000 of an employee's earnings. The percent of pay roll subject to taxation differs from employer to employer and from time to time for any given employer. The tax which an employer must pay, not to exceed 2.7 percent, is determined by the unemployment experienced by his firm over a period of several years—the so-called experience rating.
5. State plans are coordinated with one another so that benefits can be accumulated and collected without confining employment experience to one state or limiting mobility of unemployed persons while seeking suitable work.

Although state plans have many elements in common, they differ with respect to certain specific provisions. There are wide differences in benefit amounts, duration, coverage, and eligibility despite the fact that resistance to the adoption of state plans in the 1930's, prior to federal legislation, was based primarily upon the fear that such differences would give a competitive advantage to states with no plans or with plans providing lesser benefits or greater tax contributions. Among the specific differences are minimum weekly benefits which range from $3 in Mississippi to $17 in Washington and maximum weekly benefits which range from $24 in Virginia to $45 in Alaska. Another difference which should be noted is the allowance in some states for extra benefits for unemployed persons who have dependents. Nine states and Alaska provide for such added compensation in recognition of dependency. In Connecticut, the dependency allowance adds $17 per week to ordinary maximum benefits, while in Michigan the dependency allowance can add as much as $24 per week.

SUMMARY

From the outset certain types of employment have been excluded from UC coverage Even though coverage has been broadened considerably since 1935 by adding new types of employment and by including employers with fewer employees, agricultural workers, domestic workers, and the self-employed are currently not covered. Initially

the provisions of the Federal Social Security Act of 1935 had the effect of requiring that every employer of eight or more persons in covered industries be included in a state UC plan. This has since been extended to include all employers in covered industries with four or more employees, and many states have broadened the coverage to include employers of one or more persons. Total coverage nationally under state UC plans increased from 19,900,000 in 1938, the first year that benefits were paid, to 40,700,000 on January 1, 1956.

Benefits under most state plans were not only more liberal at the outset than was recommended by the Federal Government, but funds accumulated so rapidly that benefits were increased almost immediately in most states. In recent years, however, the trend has been reversed, with average benefit payments as a percentage of average earnings tending to decline. This is indicated by the fact that average wages in the United States for all production workers in manufacturing were $22.30 per week in 1938 and average benefit payments under state UC plans were $10.94 per week By 1955, average wages had risen to $76.52 per week but average weekly benefits were only $25.55. Thus, where benefits were equal to 49.1 percent of average wages in 1938, they were only 33 4 percent in 1955 While weekly benefits have not increased at the same rate as average earnings, it should be noted, on the other hand, that the duration of benefits has increased from an average of 13-16 weeks in 1938 to approximately 26 weeks in 1955.

Because of the extension of coverage to more wage earners and the increase in allowable weekly benefits, total UC payments have followed an upward trend since the inception of the program in 1935, reaching a maximum in 1954 of $2,000,000,000 paid to 6,500,000 claimants. Within this 20-year period, however, there have been wide variations in total payments since unemployment has for the most part tended to follow a cyclical pattern.

The primary concern of the state UC system is with short-run unemployment of those who customarily work the year round, rather than with students, housewives and retired persons who may want to work only a portion of the year Benefits are purposely below normal wages to encourage the unemployed to seek alternative employment, although they are not intended to be so low as to curb too severely normal purchasing patterns. Compulsory pay roll taxes are not uniform, since they are designed to promote stability of employment by recognizing and rewarding employers who provide stable employment, the reward being given in the form of reduced tax rates.

A survey made to assess the impact of unemployment compensation insurance benefits on the general economy of a community is quoted extensively in the statement of John A. Despol, Legislative Representative of the California Industrial Union Council which is appended.[1]

[1] See page 69

SUPPLEMENTARY UNEMPLOYMENT BENEFITS

HISTORY

In 1943, the CIO for the first time included the guaranteed annual wage among its long-range objectives. Pursuant to this announced goal, the United Steelworkers in their 1944 negotiations endeavored to obtain agreement from the major steel companies to a plan which would cover every employee, be paid for by the employer, and provide 40 times the individual worker's straight-time average hourly wage for each week during the two-year life of the contract being negotiated. This proposal was made during World War II and was, therefore, subject to review by the National War Labor Board. The board turned down the plan.

In view of the interest in the plan and the lack of specific information as to its probable costs or effects, President Roosevelt requested the Advisory Board of the Office of War Mobilization and Reconversion to conduct a guaranteed wage study. A research staff under the direction of Murray W. Latimer, Chairman of the U. S. Railroad Retirement Board, published a report in 1947 which, in effect, laid the foundation for present SUB plans.

In general, the study contended that GAW plans already in operation were quite limited in many of their provisions and in the liabilities which the participating firms assumed. The report pointed out that when the relatively stable conditions typical of the consumer goods industries, in which a majority of such plans existed, were contrasted with the wide cyclical variations characteristic of the steel industry, the difficulty of extending even these limited provisions to such a basic industry became apparent. However, the study group recommended that in any future proposals the employer's liability be limited to a specified percent of pay roll, that a fund be established in good times to support benefits during periods of unemployment, and that benefits supplement state unemployment compensation.

The United Steelworkers renewed their demand for a "guaranteed annual wage" in 1951. In the plans submitted to the Wage Stabilization Board at that time, however, coverage and benefits were substantially less than those set forth in their earlier proposal. It included the following provisions:

1. Coverage to be limited to employees with three years of continuous service.
2. The employer's contribution to an unemployment trust fund not to exceed seven cents per man-hour.
3. Benefits to last a maximum of 52 weeks.
4. Weekly benefits to be fixed at 30 times the average hourly wage in the worker's primary job classification, as indicated by the previous quarter's work.
5. The worker's weekly benefit payments to include both state unemployment benefits and payments from the company's unemployment trust fund.

6. The worker drawing benefits had to be able to work and be available for suitable work.

Even though the demands were relatively limited compared to the 1944 proposal and were in line with the suggestions of the wage study group appointed by the President, the proposal was rejected by the Wage Stabilization Board and referred to the union and industry representatives for additional study.

In 1951 the United Automobile Workers Union began to press for the adoption of a guaranteed annual wage plan. The union's objectives were stated as follows:

1. "To provide the strongest practical incentives to employers to plan for regular, full-time, year-round employment for all seniority workers.
2. "To provide regular income to those seniority workers when the employer fails to provide such employment."

Among the specific items which the UAW considered essential to its proposal for a guaranteed annual wage were:

1. Employee to receive a full week's wage even though laid off part of the week.
2. If unemployed a week or more, the total payments the worker receives from the state under UC and from the company under SUB to equal his normal take-home pay.
3. Every worker, except probationary employees, to be covered by the plan.
4. Benefits to last up to 52 weeks, their duration based upon the length of time the employee worked prior to layoff.
5. The employer's liability to be limited by two factors: (1) he is not required to pay into the fund more than a fixed percentage of his payroll, and (2) if the fund reaches a specified maximum, he can discontinue paying into it temporarily.

Failing in its effort to obtain agreements which would guarantee employment or full wages for an extended period of time for all nonprobationary workers, the UAW finally accepted a plan which provided only a part of the benefits called for in their 1951 proposal.

SUB AGREEMENTS IN THE AUTOMOTIVE INDUSTRY

A basis for rejection of GAW in preference to SUB in the automotive industry was presented to the Committee by James M. Osborne of the Ford Motor Company. In testimony Mr. Osborne said:

> "When we began our negotiations in 1955, March, it was apparent to representatives of Ford Motor Company that the historic demand for a guaranteed annual wage by the unions had apparently been scheduled for resolution at the particular time and place of our 1955 negotiations The demand had been a routine unimplemented, quickly-disposed-of demand in previous bargaining. We felt, however, that the issue was going to resolve. On that basis for three years prior to 1955 the Company made a complete study of the guaranteed annual wage and all the possible alternatives. We intended that our research on the matter would be

so complete that when we came to the point of discussing with the union whether such a demand was successful, we would have all the research necessary to back up our position.

"The results of our research confirmed a conclusion which did not, of course, surprise us, and that was in our Company and in our industry a true guaranteed annual wage such as the UAW had adopted as its objective, was simply unthinkable and must be resisted at any cost. Of course, on the other hand, we had no great desire to take a long costly strike over a slogan if we could develop a sound counter-proposal that avoided any principles which might imperil the future health, growth and well-being either of our Company or of the free, private enterprise system of which we are a part. I use the word 'slogan' because when the UAW leadership first decided to make a primary bargaining game out of the guaranteed annual wage, it did so, I believe, without much thought or consideration of specifics or practicalities. The phrase made an excellent rallying cry. With this background, it was clear that whatever it might settle for, the union would, at the very least, claim that there had been recognition of guaranteed annual wage principles. It seemed to us neither practical nor wise business judgment to take on a strike for the sole purpose of preventing the union distortion of its own slogan.

"Now, there are many objections to guaranteed annual wage, but the most vital ones can perhaps be summed up as follows: First of all, it make labor a fixed rather than a variable cost. Presently labor cost is variable because a man is paid for the time he works rather than for a fixed period of time, whether he works or not A guaranteed wage plan would demand that labor costs continue whether there was work available or not. Second, it embodies the concept that the employer who once hires an employee has an obligation to keep him employed or at least paid, regardless of the need for his services and of the availability of other employment for him We were determined that no counter-proposal of ours should recognize either of these principles, and the plan which we agreed upon did not."

On June 6, 1955, the Ford Motor Company signed an agreement with the United Automobile Workers Soon after the Ford contract was negotiated, General Motors and Chrysler Corporations signed similar agreements, followed somewhat later by other firms in the automotive industry.

Since the plan adopted by Ford is representative of the SUB plans currently in effect in the automotive industry, it will be discussed briefly.[1] The plan includes the following provisions:

1. The company contributes 5 cents per man-hour into a trust fund. The fund has a stated maximum of $55,000,000 (based upon contributions totaling $400 per employee on the firm's pay roll at the time the agreement was signed), subject to fluctuations depending on employment experience. If the maximum is reached the 5-cent per man-hour contribution can be discontinued temporarily.

[1] A detailed statement of what the Ford plan is and how it is applied in California is attached hereto as Exhibit 1 This statement was prepared for the committee and submitted to it by the Ford Motor Company

2. The plan was to become effective only if contributions to the fund were ruled deductible business expenses for tax purposes by the Internal Revenue Service, the contributions were ruled by the Department of Labor to be separate and apart from regular rates of pay, and authorities in those states where two-thirds of all Ford workers were employed ruled, prior to June 1, 1957, that supplementary unemployment benefits could be received without jeopardizing state UC benefits. (All of these conditions were later satisfied. See Exhibit 2 for discussion by Irving Perluss, Assistant Attorney General, of the considerations involved in California's ruling on this point.)
3. The first payments were to be made no sooner than June 1, 1956, allowing approximately one year for the fund to accumulate after the agreement was negotiated
4. An employee with one year's seniority is eligible for SUB, providing he can qualify under an appropriate state UC plan as a person willing and able to work, and is otherwise eligible. (See Exhibit 3, testimony of Maurice McCaffrey, Chief Counsel, Department of Employment for a discussion of the administrative problems in California in connection with UC qualification for SUB benefits.)
5. The combination of UC and SUB payments is intended to provide a total of 60 percent of regular wages after taxes for a maximum period of 26 weeks, except that during the first four weeks of unemployment the worker received 65 percent of his normal wage. There is a further provision that once a fund reaches 49 percent of maximum, the worker is entitled to receive benefits at the 65 percent rate for a total of eight weeks, but for no more than four weeks of any continuous layoff.
6. The maximum SUB payment under the plan is $25 per week. Within this limit, the amount the company pays will vary from state to state depending upon the level of UC benefits. In states where UC benefits are low, it may be necessary for Ford to pay the full $25 per week in order to provide a worker with 60 percent of his normal wage; in states where UC benefits are relatively high, Ford may be able to meet its obligation by paying substantially less.
7. The duration of an employee's benefits is based upon a system of credit accumulations. During the first two years the plan is in operation, employees with ten or more years seniority accumulate credits toward SUB twice as rapidly as those employees who have been with the firm less than ten years. After May 31, 1957, however, all employees with at least one year of seniority will accumulate credits at the same rate. Seniority is recognized further in that the number of credits for which an unemployed worker is charged for each week he draws SUB is determined in part by his length of service, so that the newer worker exhausts his credits at a more rapid rate than one who has greater seniority. No employee may receive SUB for more than 26 weeks.

Since the Ford Motor Company did not begin making payments under its plan until after June 1, 1956, it is too early to attempt a detailed analysis of its operation. It is possible, however, to point out

some of the effects that have arisen thus far under this and other similar plans in the automotive industry.

One such effect concerns the duration of an employee's benefits. The number of credits an employee must expend in order to draw a weekly SUB payment depends upon his seniority and the amount of money that has been accumulated in the fund. This is based upon a sliding scale so that newer employees exhaust their credits more rapidly than older employees as long as the fund is below 85 percent of maximum. Once the fund reaches 85 percent of maximum, all employees use their credits at the same rate regardless of seniority. According to reliable estimates, the fund would normally reach its maximum at the end of approximately three years, assuming no benefits were paid during that period. However, the company began making SUB payments after June 1, 1956, at which time the fund was only about 30 percent of maximum. Under these circumstances, the amount of an employee's weekly benefit is not reduced but the duration of his benefits is limited.

Of a more temporary nature is the effect upon unemployed auto workers who have been unable to collect any benefits at all. This is explained by the fact that the employee's earnings from which his weekly benefit is computed are those during the 30 days immediately preceding layoff. Since first payments could not be received before June 1, 1956, automobile workers laid off prior to May 1, 1956, had no base period upon which to compute benefits. Because of this fact, wholesale unemployment in the auto industry prior to May 1, 1956, resulted in some 100,000 unemployed workers being ineligible for benefits. Undoubtedly the high level of business activity in the Nation made it possible for many of these employees to shift to other employment.

With respect to the future of SUB plans in the automotive industry, it appears that if production is stabilized for a period of years, the funds can be built to a maximum and full benefits can be paid. However, if there are recurring years of overproduction, with consequent heavy unemployment, the funds will probably continue to be insufficient to permit the payment of benefits for the number of weeks originally intended. It seems clear at this time that the funds will not reach their maximum by the termination date of the major contracts, i.e., June 1, 1958.

SUB AGREEMENTS NEGOTIATED BY THE UNITED STEELWORKERS UNION

While the agreements in the automotive industry have received most of the publicity, the United Steelworkers have negotiated SUB agreements with elements of the primary metal products and fabricated metal products industries.

In 1955, the steelworkers concluded SUB agreements with both the American and Continental Can Companies. The plans adopted by these two firms, while differing in certain details, are similar in most of their provisions. Since these plans are indicative of the kind of

proposal that the steelworkers are urging upon industry, the principal features of the American Can Company plan are outlined below:

1. The company contributes 5 cents per man-hour to the fund until the maximum (based upon a total contribution of $200 per employee) has been accumulated in the fund. Thereafter, the company is required to contribute only that amount necessary to maintain the fund at maximum.
2. Favorable rulings by the Internal Revenue Service and the Department of Labor were required, as in the Ford plan.
3. No SUB payments were to be made until those states in which two-thirds of American Can Company's employees work rule that an unemployed worker may receive UC and SUB simultaneously.
4. Three years' seniority are required before the worker is eligible for benefits. Benefits are paid only when the worker has averaged less than 40 hours per week during the preceding 52 weeks. Eligibility for state unemployment compensation is required, as in the automobile company plans.
5. A combination of UC and SUB payments is intended to total approximately 65 percent of regular pay after taxes.
6. Duration of benefits is based upon a system of credits which differs from the system in the automotive industry primarily in that all workers receive credits at the same rate, and credits can be accumulated sufficient to provide benefits for 52 weeks rather than 26 weeks. After state UC benefits have been exhausted (usually after 26 weeks), the company pays the entire 65 percent until the worker's SUB credits are exhausted.
7. A dependency allowance of $2 per dependent (up to a maximum of $8) is added to the weekly benefit payment. This provision is not included in the automotive industry plans.
8. If the fund is below minimum, the amount of weekly benefits is reduced for all employees. In addition, duration of weekly benefits for employees with less than 30 years' seniority is curtailed when the fund is below 50 percent of maximum.

In July, 1956, the steelworkers concluded an agreement with firms in the basic steel industry which provided for the inauguration of SUB plans to cover the industry's 650,000 employees. Other negotiations between the union and various firms in the aluminum and the metal fabricating industries could result in the extension of coverage to another 350,000 workers

SUB PLANS IN CALIFORNIA

According to information given the committee by the Division of Labor Statistics and Research, California Department of Industrial Relations (Exhibit 4), approximately 53,000 workers in California were covered by SUB plans as of October, 1956. Of this number, 36 percent (19,270) were in the motor vehicle and equipment industry, and 31 percent (16,270) were employed in the primary metal products industry.

Aside from firms in the automotive and steel industries, some of the companies with plants in California that have SUB plans are the California and Hawaiian Sugar Refining Corporation, Bendix Aviation

Corporation, International Harvester Company, Allis-Chalmers, L. A. Young Spring and Wire Corporation, Kelsey-Hayes Wheel Company, A. O Smith Corporation, Libby-Owens Ford Glass Company, and Pittsburgh Plate Glass Company.[1]

The plan adopted by the California and Hawaiian Sugar Refining Corporation is of interest because it differs in several important respects from the usual SUB plan. The company does not accumulate an unemployment trust fund, and all SUB payments are made on a pay-as-you-go basis In addition, the amount and duration of benefits are not determined by a system of credits, weighted in favor of employees with the greatest seniority. Under the sugar company's plan, any unemployed worker who has been with the firm at least a year is entitled to receive SUB payments for 25 weeks, the combined UC and SUB payments to equal approximately 65 percent of his normal wage.

ECONOMIC IMPACT OF SUB

The committee was concerned with the effect on the economy of SUB plans and whether they are a substantial factor in preserving economic stability in the areas in which they are operative. The following are excerpts from testimony in response to questions from committee members on this subject.

Testimony by James M. Osborne of the Ford Motor Company

Assemblyman Unruh: Mr. Osborne, how much weight do you attribute to the fiscal effects of this plan?

Mr. Osborne: I think the effects will be very slight. The payments that will be made under the plan will tend to hold up purchasing power for a short period of time and in certain amounts, but we do not feel that there will be any great effects on the economy.

Assemblyman Unruh: On the over-all economy?

Mr. Osborne: That is correct

Assemblyman Unruh: How about in spot situations, like your one industry towns? Do you think this might have a fairly large beneficial action upon those areas?

Mr Osborne: Well, concerning Ford Motor Company, we are not that type of company. Most of the cities where we have plants we are not the sole industry. I would just hesitate to say. It certainly is true that payments for a period as long as six months after a particular company had a severe setback in production would help to stabilize to some extent, but how much of an impact there might be, I don't know

Assemblyman Unruh. How many employees did Ford lay off in the cutback of automobile production in the Detroit area in 1956?

Mr Osborne· Are you talking about the model change?

Assemblyman Unruh: No, I am talking about the lay-off in the beginning of the year.

Mr. Osborne: I don't have the specific figures for Ford, but I think this will touch on the same thing that you are interested in. I have figures here that show unemployment in the Detroit labor civilian

[1] A comparative analysis by the Legislative Counsel of nine unemployment insurance supplemental benefit plans directed mainly to the interrelationships between the plans and the present California law pertaining to unemployment insurance is contained in Exhibit 5

force, which, of course, would include Ford and G. M. and other companies in the Detroit area. In 1956 the unemployment ranged from January to July between 150,000—well, it harbored around that mark for a period of about seven months, I would say.

Assemblyman Unruh: Now, could we hypothecate as to how much —if this plan would have been in effect long enough to have funded up to its maximum, could we hypothecate how much extra purchasing power this would have put into circulation in the Detroit area?

Mr. Osborne: Well, we have got so many variables here—we don't know how many of these 150,000 persons are under SUB plans.

Assemblyman Unruh: We could say it would be considerable?

Mr. Osborne: Yes, sir, and I have something else along that line that might be of interest to you. I can tell you how many SUB payments were made in the State of California during our model change layoffs.

Assemblyman Unruh: All right.

Assemblyman Levering: How long a time does that take to make that model change in a company?

Mr. Osborne: I can give you that at the same time.

The model change layoff in California for Ford Motor Company went roughly from August 17th to about the present time However, by the end of September all but about 5 percent of the employees were back at work.

Assemblyman Levering: Six weeks?

Mr. Osborne: That's right.

Now, here's the way it went: There were 4 percent of the employees off on August 17th, 50 percent on August 24th, 65 percent on August 31st, 60 percent on September 7th, 35 percent on September 14th, 13 percent on September 21st, and about 6 percent on September 28th. So that in summary, two-thirds of the employees were off at the peak of the model change layoff and I would say, and this is strictly without statistics to back me up, but I would say that the average model change layoff was something between 15 to 20 working days.

Now on the other portion of the payments made under SUB, the State of California in the four weeks ending September 14, 1956, which would be roughly the time of the model change layoff, $17,234 was paid in the State of California to 981 employees Nationwide there was $281,000, roughly, paid in the same four weeks.

Chairman Munnel: How much was paid in California again?

Mr. Osborne: $17,234.

Assemblyman Unruh: That would be for one week?

Mr. Osborne: No, that was for the total of four weeks.

Chairman Munnel: How many people were involved?

Mr. Osborne: 981.

Assemblyman Unruh: That is only in Ford?

Mr. Osborne: That is correct.

Assemblyman Unruh: How many plants does that involve?

Mr. Osborne: That involves Long Beach, Los Angeles, San Jose and a couple of very small parts depots.

Assemblyman Unruh: And what is the total number employed?

Mr. Osborne: Roughly, 5,000 employees that would be under the plan. Now there would be a combination of reasons why more people

did not draw, did not draw at all or did not draw more money, and that would be ineligibility because of not enough seniority or their accumulation of credit units was such that they had to trade them in so that they went off the thing after a week or so, and so forth. I would say that a year from now if the model change layoff should go about the same duration that you would see much more than the $17,000 paid out.

* * * * *

Assemblyman Unruh: Most of your products of your company are company manufactured or is there a great deal of credit involved?

Mr. Osborne: A tremendous amount of credit, sir.

Assemblyman Unruh: You company feels the responsibility here, then, for maintaining a certain amount of stable purchasing power in the economy?

Mr. Osborne: I think we recognize that responsibility, but not in terms of having people pay for our own products. I think that we feel, as most people who know economics do, that the more stable the purchasing power, the more successful the economy is going to be, and whatever we can do to preserve that stability is a step in the right direction.

Assemblyman Unruh: You feel this is a step in that direction?

Mr. Osborne: Yes, but it is a very small one, we must admit. We certainly do not want to go on record as claiming this is a panacea. We think it touches on this problem of the accelerating drive for greater employee security; it does something in that direction, but we do not feel that it is a panacea even for Ford Motor Company employees and certainly not beyond the Ford Motor Company. We do not advocate our plan for other companies. We do not recommend against the plan for other companies. We feel that every company that is faced with the kind of collective bargaining situation we had and faced with its own analysis of the UC system as it relates to that company's employees, should decide on that basis whether it wants to put any kind of a SUB plan or employee thrift plan or anything of that type into effect and do it on the basis of their own situation. We think that if companies do decide to go the Ford-type SUB route that they will go a route which we have determined to our own satisfaction to be one that is economically sound and is a step forward.

Assemblyman Unruh: You think as a by-product of this that, assuming for example that we have a prolonged period of prosperity where the funding of these particular plans such as yours reaches maximum, or near maximum, proportions, and as a consequence if there was a serious recession, would involve the payments of rather large sums, do you think that as a by-product of this that there may be attempts in other directions to stabilize employment to avoid these payments?

Mr. Osborne: Well, we won't ignore five cents an hour, talking about our own operations. If we can do something to achieve maximum funding quickly, we are going to do it. However, we feel that it is never going to be a major factor in any of the company's plans. There are so many other items that are so much more important to the company in terms of stabilization of production that this is always going to be way down the scale. I might say this, also, that one of the claims that

was made by some people shortly after our settlement was that employers would tend to stabilize their employment at a low level. However, since that time Ford Motor Company has begun construction of, I would say, a dozen new plants across the country. If that objection that was presented had any validity at all, instead of building new plants we would be doing something to cut back.

Assemblyman Levering: Well, the point that was brought up here in the committee this morning and the point that a lot of us have been thinking about is this particular one: Isn't this plan as you have it, by having the credit set up in your own group of people, going to more or less stabilize employment within your own company? Now, by that I mean, let's say there is a boring machine operator that has worked for the Ford Motor Company for a couple of years and he is laid off. While he has the same qualifications that would put him over in General Motors, he would much rather, because of the two years' credit that he has in his own account in Ford, he would be economically better off to seek temporary employment here and then come back to Ford than it would be to go over to General Motors or Chrysler. Wouldn't that stabilize it within your own particular company? That is my question. Will that present any problems for the shift of employees, as they cannot shift their credits.

Mr. Osborne: Well, first of all, there is no evidence that since the plan went into effect there has been a lowering of the turnover rate at Ford. Secondly, I think that the impact of any such plan would be very slight in comparison with such things as the operation of pension plans. Ford has a pension plan—has had a pension plan since 1949—since then we have not experienced any substantial reduction in turnover in that seven years of time, and an employee would be much more concerned about preserving his pension credit than he would unemployment credits. We cannot foresee that the plan would have that effect.

In addition, another reason we feel that the impact, if any, would be very slight, is that there are so many things in collective bargaining agreements between companies and unions that tend to immobilize employees, such as seniority rules, that are so much more important to the individual employee than the credits under an SUB plan which he can start picking up in another company after he leaves Ford. We feel that there will be only a very, very slight impact, if any at all. We do not think that it is really a legitimate concern

Assemblyman Levering: Well, my point was that if it does do that, maybe it is good for both of them.

Mr. Osborne: Well, whichever way it might go, I think the impact would be very slight.

* * * * *

Assemblyman O'Connell: Do I understand—let us take California, for example. Suppose the Legislature increased the benefit on the Unemployment Insurance from the present $33 to, let us say, two-thirds of the average weekly take-home pay. Now, the Ford Motor Company then might be relieved of paying its unemployed exemployees any benefits at all. Isn't that correct?

Mr. Osborne: That is correct.

Assemblyman O'Connell: Does the Ford Motor Company—you don't have to answer this question if you don't want to—but would you prefer the Legislature of this or any other state to take action of that kind, or would you prefer that you be left to bargain collectively as you have done on this SUB thing?

Mr. Osborne: We would prefer that there be no necessity for a SUB plan We would prefer that unemployment compensation, since it was soundly contrived and at least fairly soundly administered over the years, that it do the job of unemployment insurance.

Along those same lines, perhaps what you are also getting at, or what might be in the minds of some of the other members, what will be Ford's position on benefit increases in the future—UC benefit increases?

In that connection, we recognize that UC legislation cannot be shaped exclusively by taking the interest of any particular group. The state systems, since they directly affect every business and every community in the State, have to reflect what is best for every business and every community. We will be prepared at the time that there is any question of increasing the benefits in California or any other state—we are prepared to present our position. However, I can asure you of this, that we will not defend a position of incerased benefits just because it will take the load off our SUB plan. That is not the intent of the company.

Testimony by Leonard Lesser, Legal Counsel, Social Security Department, UAW

The question was raised as to the effect on purchasing power. I might say that the average benefit, the supplemental unemployment benefit plan by the UAW is running about $13. That is national Now, if you just take that or take an average payment of, well, about—well, we will take the $13 The question was pointed out before that there were about 150,000 people unemployed in the city of Detroit alone; in Michigan, itself, it was over 200,000. Well, assuming that each week, if all of those persons had been eligible for a supplemental benefit, that that would have been an increase in purchasing power of $2,000,000 a week in that particular community, and I think that additional purchasing power would have been welcomed by the merchants in Detroit and the small businessmen in those areas where the workers live and bought their groceries and all the other things that they needed even during periods of unemployment.

Assemblyman Unruh: If this had been in existence long enough for funding to have reached its maximum, this would have been considerably more, wouldn't it? You got hit here very shortly after you negotiated this.

Mr. Lesser: That is right.

The committee, in planning its hearing, invited participation of both management and labor. Roger Davis stated he represented "the principal employer associations in California, and specific employers who are not covered under supplemental unemployment benefit plans."

Neither Mr. Davis nor the employers he represents accept the Attorney General's opinion for they do not feel the law permits both SUB and UC payments in the same week He added, "We do not agree with the Federal Bureau of Internal Revenue's opinion which didn't even have the grace to say anything except to recite the plan and the conclusion " The employers feel themselves victimized through their inability to express their viewpoints, they feel the plan is "dangerous" to the state system, and that it "involves a determination of public policy " The employer groups opposing the SUB plans believe a proper tribunal before which this subject should be argued is the Supreme Court.

John A Despol, Legislative Representative of the California Industrial Union Council, Affiliated with AFL-CIO, whose posthearing statement is appended [1] stated it has been conclusively demonstrated during the past seven or eight years that even pension plans do not materially affect workers mobility within the industry for there are other factors involved which determine whether or not a decision is made to change employers It was his belief that SUB payments do serve to stablize purchasing power, and in that respect their value go beyond the immediate needs of individual workers. Both the company and the union have free choice in the type of benefit plan selected.

The union's position at the present time is that the law clearly permits SUB payments in conjunction with UC benefits and that no further authorization or clarification is necessary in the form of new legislation.

J A Darwin, representing the United Steel Workers of America, and Dale O Reed, representing the International Association of Machinists, shared the views of Messrs. Lesser and Despol.

Compulsory savings, thrift, or individual benefit security plans were not given major consideration at the hearing, for their development in California is too recent to permit careful analysis. Reference to provisions of the A O. Smith Corporation plan and the plumbing industry plan can be found in the testimony given by Maurice I. Gershenson, Chief of the Division of Labor Statistics and Research of the California Department of Industrial Relations which is appended.[1]

SUMMARY

SUB plans currently in effect contain certain common features: they were developed through the process of collective bargaining, in contrast to GAW plans which were initiated for the most part by management; they are limited to individual firms; a fund is created prior to the time the first benefit payments are made; benefits are designed to supplement state UC payments, although in some instances the firms pay the entire amount for an additional period of time after UC benefits are exhausted; weekly income is guaranteed at 60 to 65 percent of regular wages after taxes; all plans provide for a maximum duration of benefits of at least 26 weeks, and some of them extend this to as much as 52 weeks, the duration of an individual employee's benefits is based upon the amount of time he has been employed under the plan, his seniority, and the amount of money in the fund; and the agreements establish definite limits to the employer's liability.

[1] See page 69

Approximately 1,500,000 workers are now covered by SUB plans Most of these are in the automotive and basic steel industries, although there are plans in effect in a number of smaller industries as well. By comparison, there are approximately 150,000 persons covered by GAW plans and 40,000,000 are under state UC plans.

In spite of testimony presented at the San Francisco public hearing on October 11th that no legislation was necessary to implement the Supplemental Unemployment Benefit plans already in effect in California, a question concerning the legality of these plans was raised by a Referee's decision in the matter of the claim of John R Gartrell. The issue of legality will probably be decided in the courts, therefore, the committee makes no recommendation with respect to possible need for new or corrective legislation.

SELECTED REFERENCES

Guaranteed Annual Wage Plans

1. United States Bureau of Labor Statistics *Guaranteed Wage Plans in the United States Bulletin No 925* (Washington, D. C, United States Government Printing Office, 1947.)
   Extended study of GAW plans to 1946. Statistical analysis of provisions in some 200 plans Prepared in connection with Latimer report.
2. Chernick, Jack, and Hellickson, George C *Guaranteed Annual Wages* (Minneapolis, University of Minnesota Press, 1945.)
   Early study of GAW. Useful for background material on specific plans, especially Proctor and Gamble, George Hormel, and Nunn-Bush.

Unemployment Compensation

3. Assembly Interim Committee on Finance and Insurance *Unemployment Insurance in California.* (Sacramento: State Printing Office, 1953.)
   Study of major aspects of program.
4. California Department of Employment and Institute of Industrial Relations of University of California, Berkeley *A Sourcebook on Unemployment Insurance in California.* (Sacramento, California Department of Employment, 1953.)
   Study of basic aspects of U C in California and elsewhere
5. Reticker, Ruth "Twenty Years of Unemployment Insurance" *Social Security Bulletin* (December, 1955) pp 3-10
   Summary of U. C between 1935 and 1955
6. Social Security Administration "State Unemployment Insurance Legislation, 1955" *Social Security Bulletin* (January, 1956) pp 14-23
   Summary of 1955 U. C legislation nationally
7. United States Department of Labor, Bureau of Employment Security, "Economic and Legislative Changes Raise U. I. Tax Rates Slightly." *The Labor Market* (May, 1956) pp 16-25
   Discussion of recent U. C. changes and their effect upon employer tax payments
8. United States Department of Labor, Bureau of Employment Security "Unemployment Insurance Financial Developments through December, 1955" *The Labor Market* (June, 1956) pp. 17-26.

Supplementary Unemployment Benefit Plans

9. Chernick, Jack *A Guide to the Guaranteed Wage* (New Brunswick, N. J., Institute of Management and Labor Relations, Rutgers University, 1955.)
   Intended as a manual to assist employers and unions in formulating SUB plans
10. Garbarino, J W. *Guaranteed Wages.* (Berkeley: University of California Press, 1954.)
    Brief discussion of GAW, including early proposals of UAW and USW.
11. Unterberger, S Herbert *Guaranteed Wage and Supplementary Unemployment Pay Plans* (New York: Commerce Clearing House, Inc, 1956.)
    Recent study of background and contents of SUB plans. Includes text of Ford, American Can and Continental Can Company plans
12. Assembly Interim Committee on Finance and Insurance *Preliminary Report of Subcommittee on Unemployment Insurance and Workmen's Compensation.* (Sacramento State Printing Office, March, 1956.)
    Includes discussion of legal aspects of SUB.
13. Division of Labor Statistics and Research. "Supplemental Unemployment Benefit Plans" *California Industrial Relations Report No 10* (San Francisco: Industrial Relations Department, July, 1956.)
    Summary of SUB information in California to June, 1956.

EXHIBITS

EXHIBIT No. 1

STATEMENT SUBMITTED BY JAMES M. OSBORNE

Supervisor, Labor Relations Analysis, Industrial Relations Staff,
Ford Motor Company, Dearborn, Michigan

SAN FRANCISCO, CALIFORNIA, OCTOBER 11, 1956

WHAT IS THE FORD SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLAN?

The Ford Supplemental Unemployment Benefit Plan was established through collective bargaining with the International Union, UAW. Its purpose is to provide systematically for supplemental unemployment benefits to eligible employees laid off by the company who are unable to find suitable employment elsewhere

A laid-off employee must satisfy various eligibility conditions spelled out in the plan, including (with very limited exceptions) the fundamental requirement that he first must receive a state unemployment compensation payment for the same week.

In general, the weekly benefit payable under the plan is the difference between his state unemployment compensation benefit and 65 percent of his after-tax straight time take-home pay during the first four weeks of unemployment, or 60 percent of such pay during succeeding weeks. Supplemental benefits may not be more than $25 per week, and no benefit figuring to less than $2 is paid.

Duration of benefits depends upon the level of the trust funds and the employee's seniority and unused "credit units," but may not exceed 26 weeks in any layoff.

The plan is financed by contributions paid irrevocably by the company into trust funds to be held by independent trustees The trust funds are applied by the trustees for the sole purpose of paying supplemental unemployment benefits and expenses of administration under the plan.

More detailed information concerning the plan is contained in the printed booklet entitled, "The Ford Supplemental Unemployment Benefit Plan." The full text of the agreement concerning the plan appears at pages 119-122, and the full text of the plan itself appears at pages 123-170 of the printed booklet entitled, "Agreements between Ford Motor Company and the UAW-CIO." dated June 8, 1955.

WHAT IS SUPPLEMENTATION?

The plan defines "supplementation" in Article X, Section 5(a)(4) as follows:

> "For purposes of this section, 'supplementation' means recognition of the right of a person to receive both a state system unemployment benefit and a weekly supplemental benefit under the plan for the same week of layoff *at approximately the same time and without reduction of the state system unemployment benefit*

because of the payment of the weekly supplemental benefit under the plan." (*Italics supplied.*)

WHAT ARE THE CONDITIONS CONCERNING SUPPLEMENTATION IN THE FORD PLAN?

Article X, Section 5(a)(2) of the plan provides that:

> "No benefit shall be payable with respect to any pay period that commences prior to June 1, 1957, unless it shall have been established to the satisfaction of the company, by administrative rulings from competent state authorities, or by statutory amendments, in states in which (in the aggregate) at least two-thirds (⅔) of the employees on the active employment roll * * * are employed, that supplementation * * * is permitted."

This requirement has been satisfied and the plan is in effect in the following 16 states and the District of Columbia, covering 85 percent of Ford employees (as of August 28, 1956) eligible for the plan:

State *	Number of employees	Percent of total U. S. area
California	4,642	3.71
Florida	44	03
Georgia	1,264	1.01
Illinois	9,367	7 48
Iowa	666	.53
Kentucky	2,212	1.77
Massachusetts	1,346	1 07
Michigan	66,976	53 50
Minnesota	1,297	1 04
Missouri	3,933	3 14
New Jersey	6,918	5 53
New York	5,023	4 01
Oklahoma	46	04
Pennsylvania †	1,710	1 37
Tennessee	1,073	.86
Washington	43	03
	106,560	85 12

Action is pending on permissibility of supplementation in the following states.

State	Number of employees	Percent of total U. S. area
Colorado	46	0 04
Louisiana	45	04
Texas	2,224	1 78
Utah	30	02
	2,345	1 88

In the following states, supplementation is not permitted at the present time:

State	Number of employees	Percent of total U. S. area
North Carolina	42	0 03
Ohio	14,750	11 78
Virginia	1,490	1 19
	16,282	13 00

* Alabama, Arkansas, Connecticut, Delaware, Kansas, Maryland, and Wisconsin have also approved supplementation. Ford Motor Company has no employees covered by the plan in these states.
† Includes two Washington, D. C., employees.

The plan provides a substitute method of payment beginning June 1, 1957, in states which at that time do not permit supplementation. Under this alternative, the laid off individual applies for and receives a state check only for the first two weeks, and then does not receive a state check for the third week, but receives a substitute supplemental benefit equal to three times the supplemental benefit he would have received had supplementation been permitted in that state. (At the individual's option, substitute benefits may be paid on a four-week, rather than a three-week, cycle.)

It should be noted that this will result in smaller total benefit payments (state and supplemental payments combined) than is the case where supplementation is permitted except where the individual remains unemployed for a period sufficiently exceeding the maximum duration of his state benefits.

The plan also provides (Article X, Section 5(c)(2)) that if the required number of rulings or statutory amendments have not been obtained prior to, and are not in effect on, June 1, 1957, the plan shall terminate and the company's contributions under it shall cease. Any assets then in the trusts are to be used for paying expenses of administration and supplemental or substitute benefits until the funds are exhausted (The same result will follow if any such rulings or amendment so obtained and in effect shall be repealed or revoked after June 1, 1957, with the effect that the remaining rulings and amendments are in states in which the aggregate of company employees is less than two-thirds of those then actively employed.)

WHAT IS FORD'S POSITION ON SUPPLEMENTATION AND LEGISLATION RELATIVE THERETO?

The position of Ford Motor Company with regard to supplementation and legislative action concerning supplementation of state unemployment benefits may be summarized as follows:

A. Ford agreed to place the plan in effect if satisfied that supplementation is possible in states covering two-thirds of its employees. The criterion laid down is as follows.

> "No benefit shall be payable with respect to any pay period that commences prior to June 1, 1957, unless it shall have been established to the satisfaction of the company, by administrative rulings from competent state authorities, or by statutory amendments, in states in which (in the aggregate) at least two-thirds (⅔) of the employees on the active employment roll (including both nondefense employees and defense employees) are employed, that supplementation (as hereafter defined) is permitted"

B. Initial determinations as to the permissibility of supplementation have been made on the basis of the laws as they now stand In California and other states where Ford is satisfied that a ruling by the proper administrative agency that the law permits supplementation pursuant to its plan correctly interprets the law as it stands, it is contractually bound to accept that ruling

Ford is not at liberty to insist as a condition to operation of the plan that the law be changed simply because it may believe

a ruling might "open the door" for other plans which Ford would consider unsound

Likewise, Ford is not at liberty, when satisfactory rulings have been issued, to insist that the commencement of benefit payments be delayed until the Legislature reviews the plan and expresses its specific approval or disapproval of the supplementation it provides through appropriate legislative action. (The adoption of such a rule in the agreement would have permitted the plan to be frustrated without any legislative action at all, since private parties quite properly cannot compel the Legislature to take action where it does not see fit to do so.)

C. Ford believes that a legislative expression of specific approval of supplementation as provided for in its plan would be desirable, since it recognizes that some degree of uncertainty is inherent in any conclusion based on reasoning from general provisions, and since there have been widely publicized threats in some quarters to block or delay effectuation of the plan by litigation.

D. Ford acknowledges fully the propriety of a legislative interest in the subject of supplementation. It neither urges that state legislatures ignore the subject nor that, as a matter of public policy, any and all payments which might be labeled supplements should be permitted without regard for their effect on eligibility for or amount of state UC benefits.

E Ford believes that the legislative approach to the question of supplementation should be in terms of the recognized public concern with protecting state UC funds from excessive or indiscriminate payments.

It is suggested that a proper test would be whether the plan in question provides benefits so high that the administrators of the State's UC system could not effectively prevent a substantial volume of unjustified payments which would not otherwise occur, and whether the plan's rules governing eligibility and disqualification, or the plan's method of administering those rules, deviate from those established by the State in such manner that similar results will follow or that effective state administration of the program will otherwise be broken down.

F. The Ford Plan was carefully designed and thought through in terms of such criteria, as is explained more fully in subsequent parts of this presentation. We are confident that the Legislature will find it violates no public policy and will do no harm to the state UC system.

G. In view of some of the arguments against permitting supplementation which recently have received wide circulation, it is believed appropriate to add the following comments:

(a) Ford believes that the legislative test should not be centered around the merits of the level of benefits in terms of whether they are more or less than an unemployed person "deserves" to receive, or will maintain him at a level of subsistence higher or lower than that which the state is willing to impose as an obligation on all employers in the state. It seems doubtful

that a state would feel that public policy could justify legislating an outright prohibition of payments to unemployed persons on the basis of such considerations.

On the other hand, it is not necessary, in order to permit supplementation as provided in the Ford Plan, to decide that the levels of benefits which it provides should be adopted as compulsory under the state system.

(b) Ford does not believe that apprehension over the terms of possible future plans furnishes a proper basis for outlawing its plan. The Legislature can readily allay such fears by the provision of suitable standards and safeguards such as outlined in our subsequent discussion of legislative considerations (see page 38).

PERMISSIBILITY OF SUPPLEMENTATION UNDER THE CALIFORNIA LAW

Introduction

As previously noted, permissibility of "supplementation" may be established to the satisfaction of the company either:

1. "By administrative rulings from competent state authorities," or
2 "By statutory amendments" (Article X, Section 5(a)(2))

The "administrative rulings" contemplated in the plan are rulings by the agencies charged with the responsibilities for administering the respective state unemployment compensation laws. In California this agency is the Department of Employment.

On February 10, 1956, the Honorable Edmund G. Brown, Attorney General of California, issued an opinion to the effect that payments made to employees pursuant to the plan would not be "wages" under the Unemployment Insurance Code and that receipt of such payments would not make the recipient ineligible for state unemployment compensation benefits.

On May 9, 1956, the Honorable H. W. Stewart, Director, Department of Employment, State of California, ruled on the basis of the Attorney General's opinion that payments made pursuant to the Ford Plan would not make the recipient ineligible for state unemployment compensation benefits, and that supplementation as defined in the Ford Plan is permitted under the California Unemployment Insurance Code.

Significant Features of the Ford SUB Plan

The principal features of the Ford SUB Plan as outlined in the company's request for an administrative ruling under the California law are as follows:

1. The purpose of the plan is to supplement state unemployment compensation benefits during periods of layoff and not to replace or duplicate them (Article X, Section 5(a)(1), p. 147.)
2. The plan provides that to be eligible for a supplemental payment under the plan for any week an unemployed worker, in addition to satisfying other eligibility conditions, first must receive a state system benefit for such week. The only exceptions specified in the plan are with respect to an applicant who "was ineligible to receive a state system unemployment benefit only: (i) because

such week is the second 'waiting week' of layoff of the applicable state system; or (ii) because he did not have, prior to his layoff, a sufficient period of work in employment covered by the state system; or (iii) because of a limit under the state system of the period of time for which state system unemployment benefits are payable (except that substitute supplemental benefits may, nevertheless, be payable in accordance with Article X)."

3. The plan does not modify eligibility conditions or otherwise affect determination of benefit claims under the state system. (Article V, Sections 2(b) and 3, pp. 131-134, Article VII, Section 4, pp. 138-39; Article X, Section 5(a)(1), p. 147; Article XII, Section 5(c), pp. 164-165.)

4 Under the plan, laid-off workers are not required to hold themselves available exclusively for recall by the company, or otherwise to limit their attachment to the general labor market. They have the same right which they have had in the past to be recalled in accordance with their seniority as provided in the collective bargaining agreement, but the plan affirmatively requires laid-off workers to register at and report to state employment offices and to accept any suitable employment. (Article V, Sections 2(b)(2) and 2(b)(5), pp 131, 132.)

5. Under the plan, no contribution is made by the company to any employee. (Article II, p 126, and IV, p. 129.) The formulae which measure the company's contributions in terms of 5 cents for each hour for which covered employees receive pay are merely a means of computation The amount of the contributions ultimately will vary depending upon the level of the funds, and contributions may cease altogether when maximum funding is attained.

Although the hours worked by all covered employees are taken into account in the computation of company contributions to the trust funds, only employees who are laid off and otherwise are eligible under the plan will receive benefits.

6 Under the plan, benefits are paid by a trustee out of separate trust funds and are not paid by the company. (Article XII, Section 3(b), pp. 160-161; Article VII, Section 7, p. 140.)

7 Under the plan, neither the company's contributions nor any benefit paid shall be considered a part of any employee's wages for any purpose (Article XI, Section 9.)

8 No employee or other person has any vested interest in the contributions or in the trust funds. (Article XI, Section 6.)

As the California Attorney General has recognized in his opinion, the Ford SUB Plan clearly is consistent with public policy. Benefits paid under the plan are not "wages" and recipients of supplemental benefits are "unemployed" within the meaning of the California Unemployment Compensation Law.

The Ford Plan in no way operates to diminish that employer interest in proper administration which the California statute contemplates will

aid in the policing of the act and assuring correct benefit determinations. On the contrary, the Ford Plan increases the employer's incentive to guard against the development of abuses under the state system.

The conclusion reached by the California Attorney General that supplementation is permitted under the California law is well-founded.

WHAT LEGISLATIVE CONSIDERATIONS ARE PRESENTED?

Although the California Attorney General and the Director of the Department of Employment have ruled that supplementation is permitted under the present law, a ruling which we consider a sound interpretation, it would be desirable, as we have noted earlier, for the Legislature to give its specific approval of supplementation as provided for in the Ford-type Plan. In doing so, it is suggested that the Legislature take the following policy considerations into account.

1. A distinction should be maintained between a true supplemental unemployment benefit and other kinds of income which disqualify from or reduce the amount of state unemployment compensation

   There is a fundamental difference between a supplemental payment which is payable only to an individual who qualifies for state unemployment compensation and other types of income which are payable regardless of whether the recipient satisfied the eligibility conditions of the state unemployment compensation law. Supplemental unemployment benefits are not wages or remuneration for services and should not be treated as such in the administration of the state unemployment compensation law.

2. The supplemental unemployment benefit plan fully recognizes that statutory controls against malingering must be given effect. It requires that the claimant be attached to the general labor market, and not hold his services available only to his regular employer, as is the case under most guaranteed employment plans. (The Ford SUB Plan is not a guaranteed employment plan.) The Ford Plan, in effect, requires that the claimant register for and be seeking work and that he accept any work which is suitable under the State's standards. Moreover, its benefit levels involve a substantial reduction in the income to which the employee has been accustomed while at work. (See appendix for illustrations of benefit amounts.) In brief, it contains none of the factors which would induce uncontrollable malingering. Moreover, it assures continued and even increased employer interest in proper administration under the state system.

3. The State may legitimately recognize a distinction between the benefit levels it will permit and those which it will compel.

   As the plan itself provides in Article X, Section 5(a)(1):

   > "It is the purpose of the plan to supplement state system unemployment benefits to the levels herein provided, and not to replace or duplicate them."

   It should be recognized by the Legislature, therefore, that concurrent receipt of SUB payments will not have the adverse effect on administration of the state UC program which would be the case with respect to other types of payments such as dismissal

payments, vacation and holiday payments, back pay awards, etc., which are payable regardless of attachment to the labor market and regardless of entitlement to state unemployment compensation. Unlike all such payments, supplemental benefits under the Ford Plan do not provide an underlying layer of assured financial security upon which the unemployed person can rely regardless of his efforts to find and regardless of his acceptance of other suitable employment.

Because a recent decision by the California Supreme Court in a dismissal pay case has been referred to as raising some question about the correctness of the Attorney General's ruling that supplementation as defined in the Ford SUB Plan is permissible under the present California law, we believe it important to distinguish clearly between dismissal payments and supplemental unemployment benefits

The case in question is *Bradshaw* v. *California Employment Stabilization Commission, et al.,* CCH Calif. § 8780 (decided June 4, 1956), in which a terminated employee received payment in lieu of notice, payment in lieu of vacation and a dismissal allowance as provided in a collective bargaining agreement.

An employee who receives such dismissal allowances from his employer is entitled to such payments upon occurrence of the dismissal regardless of whether he registers for work, seeks work and otherwise qualifies for state unemployment compensation. Such payments properly can be treated as wages because they are in the nature of deferred income for services previously rendered

In the *Bradshaw* case, accordingly, the court found that the dismissal allowance was intended by the employer and employees to serve the same purpose as unemployment compensation and held that under such circumstances to allow unemployment compensation for the same period would amount to improper duplication of benefits

An employee covered by the Ford SUB Plan, however, is not entitled to any supplemental benefit merely by reason of his having been laid off Before he can qualify for a supplemental unemployment benefit he must satisfy each and every qualification under the state unemployment compensation law and, with the minor exceptions previously noted, must actually receive a state unemployment compensation benefit

Unlike the situation in the *Bradshaw* case, the intention not to duplicate state unemployment compensation is spelled out clearly and specifically in the Ford SUB Plan

Supplemental unemployment benefits, therefore, are clearly distinguishable from such payments as dismissal allowances, payments in lieu of notice and payments in lieu of vaction.

4 The Ford Plan avoids the breakdown and frustration of state administrative procedures which would follow if there were provision for private review and "secondguessing" of state administrative determinations. If the Legislature considers that future plans which might be adopted providing benefits higher than the 65-60 percent amounts recognized as proper under the Ford Plan, or

which have loose eligibility and disqualification conditions, would interfere with sound administration of the State UC law, it can provide suitable safeguards to protect the state system against such undesirable consequences. This can readily be accomplished by limiting approval of supplementation to plans whose eligibility provisions, benefit levels and administrative methods conform to standards to be specified in the law, which, like the Ford Plan, would give due recognition to the public interest in preserving a sound and effective State UC system. The State eligibility rules and system of administration should be fully recognized and preserved through enactment of requirement such as that contained in the Ford SUB Plan to the effect that a claimant must first qualify for and receive a state system unemployment compensation benefit before he is entitled to simultaneous payment of a supplemental benefit.

As we have noted earlier, there is no real basis for the apprehension which has been expressed that operation of present Ford-type SUB plans will bring about larger drains on state unemployment compensation funds or will require other employers to subsidize the cost of supplemental unemployment benefits. This will be particularly so if the essential safeguards provided in the Ford Plan are preserved to prevent abuses.

5. The Legislature can also take into account the need for preserving the status quo with respect to the nonintegration of established guaranteed employment plans of the type adopted by Procter & Gamble, Quaker Oats, etc., which were entered upon in contemplation that receipt of benefits thereunder would affect eligibility for unemployment compensation benefits. Such plans are distinguishable from the Ford SUB Plan in many ways, including the following:

   (a) The employees are required to hold themselves in readiness for recall by their regular employer;
   (b) The employees are not required to seek work elsewhere or to satisfy other requirements for receipt of state unemployment compensation;
   (c) Payment is not dependent upon qualification for state unemployment compensation;
   (d) The payments made by the guaranteeing employer are considered by the employer, the Union and employees as wages and not as supplemental unemployment benefits, and they are not intended to be supplemented.

   Supplementation can be permitted under the Ford SUB Plan without interference with the established pattern for treatment of payments under such other plans.

APPENDIX

Ford Motor Company—Unemployment Compensation Contribution Rates State of California—1936-1955

Calendar year	Tax rate	Calendar year	Tax rate
1936	0.9	1947	2.7
1937	1.8	1948	2.7
1938	2.7	1949	2.1
1939	2.7	1950	2.5
1940	2.7	1951	2.5
1941	2.7	1952	2.0
1942	2.7	1953	0.5
1943	2.7	1954	0.7
1944	2.7	1955	0.7
1945	2.7	1956	0.9
1946	2.5		

Ford Motor Company—Current Employment by Location State of California

Company locations in operation	Hourly employees on rolls *
Long Beach Assembly	1,485
Los Angeles Assembly	1,035
Los Angeles Parts Depot	67
San Francisco Parts Depot	79
San Jose Assembly	2,185
Total Employment	4,851

California Unemployment Compensation Benefits and Corresponding Payments Under the Ford SUB Plan

Earnings (40-hour week)	Family size	UC benefits	Earnings after taxes	Total special benefits including UC	SUB payment special benefit	Total regular benefit including UC	SUB payment regular benefit
$75	1	$33	$62 30	$40 50	$7 50	$37 38	$4 38
(1.875	3	33	66 90	43.49	10.49	40 14	7 14
per hr.)[1]	5	33	71 50	46 48	13.48	42.90	9.90
$80	1	33	66 34	43.12	10.12	39.80	6.80
(2.00	3	33	71.02	46.16	13 16	42 61	9 61
per hr)	5	33	75.70	49.21	16 21	45.42	12.42
$90	1	33	74 34	48.32	15.32	44 60	11.60
(2 25	3	33	79 02	51 36	18.36	47.41	14 41
per hr.)[2]	5	33	83.70	54.41	21.41	50.22	17 22
$100	1	33	82.34	53 52	20.52	49 40	16.40
(2.50	3	33	87 02	56 56	23.56	52.21	19.21
per hr)	5	33	91.70	58 00	25.00	55 02	22.02
$114 30	1	33	94.41	58.00	25 00	56 65	23 65
(2 865	3	33	99.01	58.00	25 00	58 00	25 00
per hr)[3]	5	33	103 61	58.00	25.00	58.00	25 00

* Number of hourly employees covered under the SUB plan on roll's as of September 18, 1956

[1] Lowest Ford straight-time earnings, State of California, including current cost of living allowance (11¢) (Hourly straight-time rate of $1 765 plus 11 cents cost of living allowance by 40 hours) October, 1956

[2] Average Ford straight-time earnings, State of California, month of August 1956 (most recent figures available) including current cost of living allowance (11¢) (Average hourly straight-time rate of $2 14 pus 11 cents cost of living allowance by 40 hours)

[3] Highest Ford straight-time earnings, State of California, including current cost of living allowance (11¢) (Hourly straight-time rate of $2 755 plus 11 cents cost of living allowance by 40 hours) October, 1956

NOTE No SUB payment in excess of $25 or less than $2

California Attorney General's Opinion

CALIFORNIA—NEW MATTERS
Attorney General Opinion

[¶ 8774] Payments to unemployed individuals pursuant to the Supplemental Unemployment Benefit Plan recently negotiated between the Ford Motor Company and the UAW-CIO will not make the recipients ineligible for state unemployment compensation benefits

Opinion of the Attorney General, Edmund G Brown (Irving H Perluss, Assistant Attorney General), No. 56/38, February 10, 1956

See Cal ¶ 1901, 1995

The HONORABLE JACK A. BEAVER, Assemblyman for the 73rd District, has presented the following question

> Do payments made to an individual pursuant to the so-called "Supplemental Unemployment Benefit Plan," which is a part of the current contract between the Ford Motor Company and the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), render the individual ineligible to receive unemployment compensation benefits under the California Unemployment Insurance Code?

Our conclusion may be summarized as follows:

Payments made pursuant to the plan will not make the recipient ineligible for State unemployment compensation benefits.

ANALYSIS

A so-called 'Supplemental Unemployment Benefit Plan" has been made a part of the current contract between the Ford Motor Company and the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO).

Under the plan, the company will contribute five cents for each employee hour to two independent trust funds until the funds reach certain levels. The company is not obligated to make further contributions unless the funds drop below the prescribed levels Employees with seniority of more than one year will accrue "credit units" based on weeks worked to a maximum of twenty-six 'credit units." Dependent on the position of the trust funds, the 'credit units" he has accrued and his seniority, an employee who is laid off by the company may receive from a trust fund for each of the first four weeks of eligibility as much as an amount (not in excess of twenty-five dollars) which, when added to his state unemployment insurance benefit and other compensation, will equal not more than sixty-five per cent of his "weekly after tax straight time Ford wage." For each of the employee's remaining weeks of eligibility, the limitation is sixty per cent of his 'weekly after tax straight time Ford wage" or twenty-five dollars, whichever is the lesser.

Eligibility for benefits under the plan is conditioned, *inter alia*, on the employee's eligibility for and his receipt of unemployment compensation from a state unemployment insurance system.

A serious question immediately arises, however, as to whether an individual claiming benefits under the plan would be eligible to receive State unemployment compensation benefits This is because one must be unemployed to receive State benefits and section 1252 of the California Unemployment Insurance Code provides in part

> "An individual is 'unemployed' in any week during which he performs no services and with respect to which no wages are payable to him . . ."

The language "during which he performs no services" in section 1252 would seem to present no difficulty. To receive benefits under the plan, an individual must meet State unemployment insurance eligibility requirements which include a finding by the Director of Employment that the claimant " was able to work and available for work for that week, and had made such effort to seek work on his own behalf as may be required in accordance with such regulations as the director shall prescribe" (sec 1253) (All references are to the Unemployment Insurance Code unless otherwise noted) Obviously, the performance of even "stand-by" service would be inconsistent with the fulfillment of the "able to work", 'available for work," and "seek work" requirements. An individual who demonstrates that he met such requirements could have performed no services during the week for which benefits are claimed.

The clause "with respect to which no wages are payable to him" contained in section 1252 presents a more troublesome problem

Section 1252 defines 'wages" for the purpose of that section as including ". . . any and all compensation for personal services whether performed as an employee or as an independent contractor"

It is necessary, accordingly, to determine whether payments pursuant to the plan are "compensation for personal services".

Although the plan specifies that payments made shall not be considered a part of any employee's wages for any purpose, such a characterization is not, of course, controlling in determining the application of section 1252 The plan obviously is a part of the employment contract Moreover, the duration of payments from the trust funds is correlated in part with length of employment prior to layoff and the amounts of benefits are correlated with the employee's wage Finally, it would seem that the nature of the payments is not changed by the use of a trust device

On the other hand, an employee does not have a vested interest in the trust funds[1] He may work a lifetime and thereupon retire or die and receive no payments Whether an employee will receive benefits is not dependent on whether contributions have been made by the company with respect to the hours worked by them. An employee may receive benefits although no contributions were made during his entire period of employment with the company due to the trust funds having reached and maintained the prescribed levels Conversely, an employee may not receive benefits despite his length of service if the assets of the trust funds are insufficient. In addition, the primary condition imposed of eligibility for State benefits (including the "able to work", "available for work" and "seek work" requirements of California law) is unrelated to the rendition of service to the company

A somewhat similar plan was considered by the Unemployment Insurance Appeals Board in Benefit Decision No 5569 rendered on June 9, 1950 There the claimants were members of the International Ladies Garment Workers Union which had entered into a collective bargaining agreement with their employers The agreement provided for a trust fund, known as a Vacation, Health and Welfare Fund, to be established by the employers through contributions at the rate of five per cent of wages paid Testimony at the hearing before the referee indicated that annual payments from the trust fund were made to union members in June and July to " . . provide a stabilizing influence to offset the recurrent unemployment in the industry"

In holding that the payments were not 'wages", the appeals board based its decision in part on the ground that the trustees of the fund had general authority to determine the basis upon which the payments were to be made. It also stated, however

> "Some aid in ascertaining the nature of the payments in question may be gained by examining the terms of the collective bargaining agreement by which the Trust Fund was created; for it must be assumed for our purposes that only such payments were made out of the Fund as were authorized by the agreement While the paragraph stating the purposes of the Trust set forth in the Statement of Fact above enumerates certain types of payments which conceivably could be remuneration for services rendered, such as unemployment benefits, disability and sickness insurance and vacation benefits, the possibility of any of such payments being remuneration for services is negated by other provisions of the agreement. First, the agreement provides that the workers shall not have a right, title or interest in, or claim against, the Fund. *Ordinarily a right to remuneration accrues upon the rendition of the services by virtue of the contract of hire, so that a provision that the employee has no rights in a certain fund would tend to indicate that whatever is paid the employee out of the fund is not intended as remuneration for services.*" (Italics supplied)

In a subsequent opinion dealing with payments from the same trust fund (Benefit Decision 5585, June 30, 1950), the appeals board said of Benefit Decision 5569:

> "Benefit Decision No. 5569-14078 involved payments from a Vacation, Health and Welfare Fund established pursuant to a collective bargaining agreement in which the same International Union was a party In that case we based our decision that the payments were not wages on the fact that the workers had no right, title or interest in the Fund and the trustees of the Fund had general

[1] This is an important distinction from the usual concepts of "vacation pay" or "severence pay" (See, *Jones v Calif Emp Stab Com* (1953, 120 Cal App 2d 770, *Shand v Calif Emp Stab Com* (1954), 124 Cal App 2d 54, *Gilham v Calif Emp Stab Com* (1955), 130 Cal App 2d 102)

authority to determine the basis upon which the payments in question should be made *We concluded that because the workers who had rendered the services had no assurance that they would receive payments and the employer for whom the services were rendered had no assurance that payment would be made to all who had served him the payments were not strictly remuneration for services.* The payments, not being remuneration for services, did not come within the definition of wages in Section 11 of the Act" (Italics supplied.)

The criteria utilized by the appeals board would seem equally applicable here

It is of interest to note that comparable statutes in other states have been construed to permit the payment of state benefits supplemented by this specific plan by the Attorney General of Michigan (4 CCH UNEMP INS REP (Mich) para 8522), the Attorney General of Connecticut (2 CCH UNEMP INS REP. (Conn) para 8380), the Attorney General of Massachusetts (4 CCH UNEMP INS. REP (Mass) para. 8188), the Attorney General of New York (N Y. CCH UNEMP. INS REP para 8969), the Attorney General of New Jersey (5 CCH UNEMP INS REP (N. J) para 8271), and the Delaware Unemployment Compensation Commission (2 CCH UNEMP INS. REP. (Del) para. 8088). The Michigan, New York and New Jersey rulings were based specifically on the ground that supplemental employment benefits are not "wages" or "remuneration"

We conclude that payments made to employees pursuant to the plan would not be "wages" within the meaning of section 1252 of the Unemployment Insurance Code Having reached the conclusion that the supplemental benefits are not "wages", we believe that it is not necessary to consider "with respect to" what week the benefits are payable

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EXHIBIT No. 2

CALIFORNIA ATTORNEY GENERAL'S STATEMENT CONCERNING LEGAL PROBLEMS IN SUB

Testimony by Irving Perluss, Assistant Attorney General

Mr. Chairman and members of the committee We are very happy to have the opportunity to appear before you to discuss the position we have taken with respect to supplemental unemployment benefit plans, and we wish to assure you that the committee, the Legislature, will have our complete cooperation on anything you choose to do in this field.

The legal problems relating to supplemental unemployment benefit plans in relation to unemployment insurance fall into two categories, generally The first is whether persons receiving supplemental unemployment benefits are entitled, under the California Unemployment Insurance Code, to receive state unemployment insurance benefits. The second question is what are the unemployment insurance tax consequences of these plans. That is, when payments, for example, are made into the trust fund, are these taxable; when payments are made out of the trust funds, are these taxable?

Now, for purposes of brevity, I would like to refer to the common trust fund plan that you heard about this morning, the plan that was adopted in the automobile industry as the automobile industry plan. As you will recall, that plan contemplates contributions by the employer to a trust fund until the trust fund reaches a certain level, and thereafter the employer is not obligated to make contributions until that trust fund drops below the level Employees accrue credit units based on weeks worked Dependent on the position of the trust fund, the credits he has accrued and his seniority, an employee who is laid off will receive supplemental benefits from the trust fund provided that he is eligible for state unemployment benefits.

Now, the other plan which you have referred to as the individual security benefit fund, I will refer to as the glass industry plan because that was the plan that was first adopted, as I understand it, by the glass industry in the United States. This type of plan differs from the automobile industry plan in that payments are made to individual employee accounts, and payments are made to an employee from his security benefit account when he is laid off or when he is ill or when he is injured. Upon his retirement or the termination of his employment all the balance ordinarily in a security benefit account is payable to him in a lump sum.

Upon the employee's death the balance in this employee's security account is payable to his beneficiary or to his estate. In other words, he has a definite vested interest in this individual account. As a matter of fact, in this A. O. Smith Plan, which you heard about this morning, each employee, as I understand it, actually has a pass book where semi-annual contributions are entered in his pass book so that he knows how much is in his account.

Now, whether an individual claiming benefits under either type of plan would be eligible to receive state unemployment insurance benefits under California law revolves around the interpretation of Section 1252 of the California Unemployment Insurance Code. This is because, obviously, one must be unemployed to receive state benefits, and Section 1252 provides in part.

> "An individual is unemployed in any week during which he performs no services and with respect to which no wages are payable to him. . . ."

Now, there are three factors here: The individual must perform no services, it must be with respect to a week in which he performs no services, and third, no wages must be payable to him Now, obviously if a person is unemployed or if he is not working he is performing no services.

So, the problem here really revolves around the question of whether or not these supplemental unemployment benefits are or are not wages

Now, we concluded in Opinion 56-38 with respect to the automobile industry plan, that the payment to employees were not wages within the meaning of Section 1252 and that payments made pursuant to the plan would not make the recipient ineligible for state unemployment compensation benefits

In Opinion 56-38 we considered a plan essentially similar to the glass industry plan; that is, the A. O Smith Plan. In other words, there we had a situation where deposits were made to individual employees' security account. There we concluded that because of the vested interest which the employee had in these deposits, that the payments by the employer to the employee's security account were wages, but they were wages when they were deposited in the account and, therefore, when the employee was laid off and drew from his employee security account, he was not receiving wages but he was receiving, rather, a

return of capital just as though the deposit had been made in a bank and he withdrew them when he was unemployed.

Chairman Munnell: Isn't that somewhat like the severance pay?

Mr Perluss: Well, I don't think it is.

Chairman Munnell. All right Go right ahead.

Assemblyman Levering: Can I ask one question here?

Chairman Munnell: Yes.

Assemblyman Levering: I wanted to pursue that for just a moment. If these deposits are made by the employer and credited to the individual employees' accounts to be withdrawn in accordance with the contract, does the employee in the Smith case, Smith agreement, is the employee required to pay taxes on that as taxes on wages?

Mr. Perluss: Yes.

Chairman Munnell· Both federal and state income taxes?

Mr. Perluss: Yes, at the time that these moneys are deposited.

Chairman Munnell: As part of his deduction at the time they are deposited?

Mr. Perluss. That is right They are deemed to be wages both for the purposes of unemployment insurance taxes, that is, the state tax, and they are also wages according to a federal ruling for purposes of Social Security, for purposes of federal unemployment tax and for purposes of withholding for income tax purposes at the time they are deposited in the security account by the employer.

Chairman Munnell Then both the employer and the employee are required under all of these laws to treat these as taxable items; one is the case of wages paid out and the other as wages received?

Mr. Perluss Yes, at that time. That is right with respect to the last plan.

Now, with respect to the automobile industry plan, we also considered that tax aspect in another opinion There we held that as far as the automobile industry payments into the trust fund were concerned and payments from the trust fund were concerned, neither of those were taxable wages, so that there is no tax on those. This is consistent, also, with the ruling of the Commissioner of Internal Revenue on the Ford Plan, where he held that amounts paid to the trust fund and amounts paid from the trust fund were not wages for purposes of Social Security, the federal unemployment tax or withholding

Assemblyman Levering: Could you pursue that a little further and give us your reasoning or the reasoning why there is a difference between that, because in the case where the employer pays 5 cents an hour into the fund, he pays no unemployment insurance tax on that Is that correct?

Mr. Perluss: That is right I am speaking of the automobile industry.

Assemblyman Levering· That is what I mean. But it is a cost of labor, isn't it, it is a cost of his product just as though it were wages?

Mr. Perluss· Yes

Assemblyman Levering. Now, why is that not taxable in one case and why is it taxable in the case that you just recited? I mean, what is your logic to differentiate between the two things?

Mr. Perluss: Well, let me say this, that the Commissioner of Internal Revenue has ruled that as far as the employer is concerned these payments into the trust fund are deductible expenses as an expense. Now, the basic reason, or the reasoning behind the differences in these opinions is this, that in the glass industry type plan we believe that there was a sufficient vested interest of the employee in what he was to receive to say that this was wages. In the case of the automobile plan, there were so many contingencies surrounding the receipt of these benefits that we felt it was not proper to call these wages or remuneration within the meaning of the statute In other words—well, for example, a man might work for the Ford Motor Company all his life and never receive any of this money which has been contributed on his behalf In the glass industry plan that is not possible If he works there all his life and dies, his beneficiary or his estate is going to receive that money, the balance in a security account. That is not true in the Ford Plan, in the automobile industry plan; that money is down the drain as far as he is concerned He will never receive it

Assemblyman Levering. Then can it be properly captioned this way That in the case of where the funds are earmarked, then they are taxable, because when they are earmarked we know were they are going to be dispensed, and when they are not earmarked they are not taxable; would that be a common denominator?

Mr Perluss· If you will pardon me, Mr Levering, I thing it is more than that. I think that when you say the funds are earmarked, if they are earmarked for the individual employee, yes, they are taxable, but I think there is more to this than earmarking. I think that we must look to the contingencies surrounding it. I think that if a person has no assurance that he is going to receive anything from this plan, and he may never receive anything from it and his heirs and his beneficiaries may receive nothing from it if he dies, I don't see how we can say that it is wages under the interpretation of Section 1252

Assemblyman Levering. Well, now, what about the individual that actually does receive this money, is that treated then as wages and is it taxable or nontaxable?

Mr. Perluss· It is treated as income for California personal income tax purposes and it is treated as income for federal income tax purposes, but it is not wages for the purposes of imposing the employer's tax or the employee's tax for unemployment and disability insurance purposes.

Assemblyman Levering. Thank you very much. That is fair.

Mr. Perluss· Now, we have copies of these opinions—oh, I should add this, too: We have also rendered an opinion with respect to the C & H. Sugar Company, which we believe to be a variation of the automobile industry plan. We have here copies of these opinions which we will be glad to distribute to the committee.

To date neither the automobile plan nor the glass plan has been considered by the courts of any state on the merits Our information is that rulings have been rendered by the attorneys general or administrative officials of 21 states, apart from California, holding that benefits payable under the automobile industry plan do not disqualify

the recipient from receiving state unemployment compensation benefits. The States of Indiana, North Carolina and Ohio have ruled to the contrary.

Rulings comparable to California's on the glass industry plan, that is favorable to supplementation, have been rendered in the States of Michigan, Ohio and West Virginia.

The States of Georgia and Maryland have amended their unemployment compensation laws favorable to supplementation, while it is our understanding that the Legislature of Virginia has enacted an unfavorable measure.

Mr. Chairman and members of the committee, I wish to conclude by saying this, that we believe it would be a reasonable assumption, based on our study of the law, that in a case properly presented to the California Supreme Court our rulings will be upheld

EXHIBIT No. 3

CALIFORNIA DEPARTMENT OF EMPLOYMENT'S STATEMENT CONCERNING SUB

Testimony by Maurice McCaffrey, Chief Counsel, Department of Employment

At about the same time that we had requested the opinions of the Attorney General, we were exploring this problem with respect to how we were going to integrate SUB payments and state benefits in the event the Attorney General ruled that a man was entitled to receive supplemental benefits on top of the state benefits

As a part of that study, a meeting was called by the Bureau of Employment Security in Washington and representatives of several states where the matter was pending attended the meeting There were also representatives of the automobile industry, as well as representatives of the labor unions involved So, in effect it was a tri-party group meeting with the Federal Government, the State Government, the employers and the labor representatives to discuss what problems there were, how these problems would be met and what the state agencies would do to assist in the making available to the claimant evidence of the fact that he had met state eligibility Again, all of it hinging upon how the respective Attorney Generals ruled in the particular states involved.

Subsequent to that meeting the department had group meetings with representatives of the industry and at the local level with representatives of the labor organizations It involved a certain administrative procedure which would facilitate the giving of the information that we thought we could give under our statutes to a claimant who is filing a claim for supplemental unemployment insurance benefits and who at the same time is employed by an employer having a supplemental unemployment benefit plan We then received the Attorney General's opinions The director consulted with the State Advisory Council and subsequent to meeting with that body, the director made his decision that the Attorney General's opinions would be implemented and informed the company accordingly. The plans went into effect—that is, the automotive plans, General Motors, Chrysler and Ford, went into effect on June 1st

The procedure that was adopted to handle this matter was roughly this: It was determined that the department could give to the claimant

evidence of the fact that he had filed his state claim and had been determined to have met all eligibility conditions under state law, and that we would give to the claimant a form certifying to those facts

Now, as a part of the background of that, the Bureau of Employment Security, from whom we get our administrative grants—if I can transgress just a moment so that you can see what that relationship is We are not financed insofar as unemployment insurance operations are concerned by the State Government. We are financed entirely by the Federal Government. When one of the previous speakers mentioned that employers get a credit against the federal tax by the amount they pay into the state funds, but in any event, employers of a certain number pay 0 3 of 1 percent to the Federal Government That money goes into a special fund and it is appropriated by Congress to the *United States Department of Labor*, which in turn, through its Bureaus of Employment Security grant funds to the state agency for the operation of their unemployment insurance laws

Now, they only grant us funds for the operation of unemployment insurance laws which finance those things that we are required to do under our law In other words, they will not finance us to do things that are not required by our law or some other operation that is not the same for all employers and all claimants

Coming back now to what we determined we could do under our law, we determined that we could give to a claimant evidence of the fact that he had been in a local office, that he had filed a claim for benefits, that he had been determined eligible for benefits, and then he would take that form and present it to his SUB employer, because under some of the SUB plans he must demonstrate that he has been to the employment office and has been found eligible to receive state benefits. That form is known as DE-4846, and I will furnish forms to the committee I will also furnish to the committee a copy of the Bureau of Employment Security policy in which they set forth what we can do under our law in its relationship to supplemental plans They also tell us what we cannot do in spending the grants that they have given us to operate the state law.

In order that this be a part of the transcript, at this point, if you don't mind, I would read these two paragraphs into the record and then you won't have to furnish an exhibit to tie in this discussion Reading from the Bureau of Employment Security, Unemployment Insurance Program, Letter No 420, May 3, 1956, the bureau policy is stated as follows:

> "In accordance with present policy, granted funds may be used for furnishing information to all claimants about their state unemployment insurance claims provided that this activity is necessary for the proper and efficient administration of the State Unemployment Insurance Law. Approval for granted funds may be given for this activity even though the stimulus for providing the information is the existence of supplemental unemployment benefit plans.
>
> "State agency performance of service, other than those referred to in the paragraph above, facilitate the operation of privately developed supplemental unemployment benefit plans is not required by the State Unemployment Insurance Laws and is not a

normal part of the agency's functions. Although the performance of services additional to those specified in the Unemployment Benefit Employer and Worker, such performance presents definite risks of impairing the agency's responsibility for its statutory services to all employers and all workers Pending further study by the bureau and the state agencies, therefore, state agency performance of such services will not be regarded as consistent with proper and efficient administration of the state law, even though the employer is willing to pay a fee for such services."

Now, in connection with that latter paragraph which I have just read, we received requests to do certain things that we didn't do for other employers and that we didn't do for other claimants. Now, that is what the bureau is saying, that you cannot spend your money to perform those kind of functions. We have received requests—for example, we received a request if we would do all of the claim function work that the employer would do under his contract, and they would pay us for it. So that when a man came in to draw a state benefit, we would go through our normal procedure that we are provided under our own law and then we would go through the procedure provided under their contract and then complete their form for them that they would devise, maybe in conjunction with the department, and then give the man his completed SUB form to take to the employer I gave that as an example, that the bureau said you cannot do that kind of work and use the federal funds that we granted you for the operation of the State Unemployment Insurance Laws because that is not required in the Insurance Law You do not do that for all employees and all employers, therefore, you cannot take your funds and do it for some employers and some employees. That which you are required to do are for all of your claimants and employees. You may also do it as part of the assisting of the potential SUB claimant and SUB employer.

Then they outlined as part of that policy some provisions that we could do, and this again will be part of the exhibit that I am going to turn over to you, but I will just indicate them briefly. The expenditure of granted funds for furnishing the following information or service is consistent with bureau policy, and then they enumerate four different things we can do.

Chairman Munnell: That is to administer the payment?

Mr. McCaffrey: In administering our own law but at the same time assist the supplemental benefit claimant and the supplemental benefit employer, and I will identify them that way.

Chairman Munnell: Thank you.

Mr McCaffrey: In other words, there are four different things we can do. We can do certain things with respect to the claimant's identification card We can establish the fact that he was in the office and that he was registered for work for that week, and that is a condition that you will find in some of the supplemental benefit plans. He must be registered with the State Employment Office each week. Well, how does he give evidence of that fact to the employer? Well, we do it through the identification card.

Assemblyman Maloney· Do they give you that permission through a bureau ruling because there is no congressional action on it, is there?

Mr. McCaffrey: No, it is through the bureau policy directives that they hand out, and I have it here

Assemblyman Maloney In other words, they see it coming; they want it prepared

Mr McCaffrey That's right. Then there are certain things that we can do with respect to determination notices, things we can do to give evidence that he got a benefit check or received a cash payment, and that is the main thing that we do.

Chairman Munnell· Well, has this been to act as a condition against spot depreciation or spot unemployment, or is it to keep these employees available for work under that particular function?

Mr. McCaffrey: No, these things that we are doing have nothing to do with that at all

Chairman Munnell· Well, why would the employer require them to go down to the Department of Employment and register for work?

Mr. McCaffrey. Because his collective bargaining agreement requires it.

Chairman Munnell: Because they really and truly don't want that man to get another job in some other factory during the change-over from the '56 to the '57 model when there is a lay-off in the auto industry. Do you believe that the employers of the Ford Motor Company could, for instance, or would actually want their employees to go get another job and perhaps not return to work?

Mr McCaffrey· Well, that presents another issue and I don't know whether Ford is going to present that or not

Assemblyman Maloney· Well, I think that would come to the collective bargaining

Mr McCaffrey: In other words, the union and employees agreed to put these conditions in their bargaining agreement.

Chairman Munnell· It looks like we are engaging in some sort of a fiction here, pretending like you are available, act like you are available for part-time work for a period of time.

Mr McCaffrey: Well, let me say in that connection, however, Mr. Munnell——

Chairman Munnell: In other words, you are telling the employee to go through the motions of seeking to obtain employment for the purpose of getting state benefits while really and truly we want you ready for work four weeks from this coming Monday You see, that is during the retooling period

Mr. McCaffrey: Well, as I say, I don't wish to comment what they put in their contracts because that is no concern of mine or of the department, but I do say this, that with respect to these temporary periods of unemployment, you have them in various kinds of industry You have them in not only the automotive industry but you have them in the canning industry. For some reason the crop isn't ready and the employees will be released for a couple of weeks. Now, it is true that during that two-week period they are unemployed and they come down and go through the registration process with the department. We normally under statutory authorization are not required to refer them

out to work during that two-week period because they are temporarily unemployed.

Chairman Munnell: Yes.

Mr. McCaffrey: However, if there were some emergency for that kind of labor, they would then have to accept that temporary work

Assemblyman Levering. That answers my question, that you do not actually try to place them in some permanent type of job.

Mr. McCaffrey: No, we do not take a permanently employed worker and then refer him to another permanent job. That is normally contrary to basic policy involving the Unemployment Insurance Act in severing the normal employment that exists

Assemblyman Levering: You will try to get them a temporary job?

Mr. McCaffrey: If there is temporary work available and he has the qualifications, he will be referred to it, and if he refuses, he can be disqualified.

Chairman Munnell: If the Chrysler Corporation needed auto workers on a temporary basis, you would move them over from Ford to Chrysler?

Mr. McCaffrey If Chrysler needed the workers and we had workers with us and if they could do that kind of work, yes

Chairman Munnell. It would have to fit within their range of availability?

Mr. McCaffrey: That is correct

Assemblyman Henderson: Isn't that where we get a lot of confusion in qualifications? Isn't that where a lot of problems arise? I mean, you can judge by past experience but that is where it breaks down I know you operated for a long time, of course, and you have so many people involved that it is difficult to have a formula that will take care of all those relationships It seems very suggestive, though, at times whether a person should take a job or not. I suppose that is what the office and the labor organization is for, or appeals are for, to iron that out.

Mr. McCaffrey: Many times it is suggestive, for example, to look at the man and it would appear that he could do the work, but he may have some physical condition and he cannot do the particular job For that reason there is a good reason for not requiring him to accept that particular job. He may have some physical impairment that he can do an over-all job, yes, but within that over-all job there are particular functions that he cannot perform. Therefore, it will be detrimental to his health to require him to go out and do that work, and we say he has good cause to refuse Now, on the other hand, if he was claiming that and his physical condition was sufficient, we say, "You must do it." He may say he can't, but nevertheless he is disqualified

Assemblyman Francis: I believe this the same question I directed to Mr. Perluss Could you give us a couple of examples now? Say, for example, a man is an auto worker and you had a job just as a common laborer—pick and shovel job, would that be a comparable work?

Mr. McCaffrey: No, that would not be a suitable work under Section 1258 of the code. As we have construed the code, and we have a number of appeal board decisions and there are numerous court decisions throughout the country, United States, that an individual during a period of unemployment has a right to normally expect to be referred out to work in his primary classification—let's call it that—and not

to some secondary work or on down the line. In other words, he is an aircraft assembler. Ten years ago he was a cotton picker. Now, he is unemployed today, and you have got a difference in wage scale and many other factors.

Chairman Munnell: Difference of geography, you would have to move from Los Angeles to Bakersfield.

Mr. McCaffrey: There are cotton picking jobs open, let's assume, and he is unemployed as an aircraft assembler, grade 1, 2 or 3, as the case may be. Now, he has a right for a reasonable period of time to be unemployed and claim benefits and await referral or attempt referral as an aircraft assembly. But let's just assume that the prospect for securing work as an aircraft assembler, after a reasonable period of time, is just nonexistent. Then he must accept work in his lowering classification.

Assemblyman Francis: Well, that does not seem fair There may be twice as much money, as far as wages are concerned. You take a man in a professional field, and because he may have worked his way through school as a gas station attendant or as a restaurant worker or something like that, and then he became a professional man in any field, you mean to tell me that the department of employment he is covered by would tell him, after a reasonable period of time, to take one of those lower classification jobs which he may have in his card?

Mr McCaffrey: Generally that is not done, no. I am saying that it would only be where that kind of work where his current classification is nonexistent In other words, his prospect as an aircraft assembly job is done, through Suppose all the aircraft companies moved out of California. You have literally thousands of aircraft workers Well, now, they are all going to have to get other kinds of work and retrain for other kinds of experiences So, what you would do then, you would have to integrate those people, interview them and find out what kind of work skills, other work skills they have and refer them. But if a man is unemployed five, six, seven weeks, we don't do that, and the court decisions have upheld that we are not required to do that.

Assemblyman Francis: I have one question, getting back to the extreme cases that I gave you as an auto worker and then offered a job as a common laborer, you said he would not have to accept that What jobs would he have available under the law that he would be bound to accept as an auto worker?

Mr. McCaffrey: If there were some other kinds of work—I don't have them in mind, a specific example— that required the same kind of skills as an automobile worker, has substantially the same wage scales, and provided substantially the same conditions of employment, then it in a sense is a related type of work and he could be required to accept that.

Assemblyman Maloney There are thousands of classifications.

Mr McCaffrey. Now, for example, we have had people leave Ford and go to Rheem Manufacturing that manufactures stoves, but he wouldn't have to accept unskilled labor.

Assemblyman Unruh Does this new liberalized policy present a change in the parties——

Mr. McCaffrey. There has been no change in policy I have indicated to you that we have adopted this particular procedure I am going to

furnish you the form that we give to the claimant when he comes in the office

Chairman Munnell: Generally speaking, you are following the Attorney General's Opinion?

Mr. McCaffrey: That is correct

Chairman Munnell: Are you satisfied with it?

Mr. McCaffrey: I wouldn't comment on it

Chairman Munnell: Well, would you care to comment on it? Legally are you satisfied with it?

Mr McCaffrey. That wasn't my province, to question it one way or another. We requested the Attorney General's Opinion, but by saying that I don't want to say I agree or disagree

Chairman Munnell You don't necessarily think now at this time that there is a need for legislation on that, at this time?

Mr. McCaffrey. I would prefer to have Mr Hicks comment on that

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Mr McCaffrey: Mr. Chairman and members of the committee: When we terminated at noon I had been making reference to this statement of policy that had been issued by the Bureau of Employment Security, relative to what we could do and what we couldn't do within the limitations of granted funds. I indicated there were four things we could do and three things we could not do. Rather than go into the details of these, I will furnish a copy of that to your reporter. Then I also mentioned that we had developed a form which we identified as DE-4846, and that is the form that the claimant presents when he comes into the office Although we call it a DE-4846, it is not a department form; we do not carry them in our offices. The employers are required to prepare and produce them Now, this is what you might call a facsimile, and we would like to have them use this same type of form. We do not give them to the claimant; he must get them from the employer On the left-hand side it is addressed to the Department of Employment and it must be filled out by the claimant, and in some instances pay roll clerks can fill it out It says as follows: "To the Department of Employment Please verify the information on this card During the week ended—and that would be a calendar week because we use the calendar week system—I earned—and then he puts in the amount that he earned—and have claimed unemployment insurance in the amount of— Now, he knows whether he is a $30 man, $33 or $35 man. In the event for any reason he does not put it in, our offices do put in that figure. Then the claimant signs it and puts his SSA number, and on the right-hand side is a provision for the Department of Employment stamp and the Department of Employment representative's signature there and we turn that back to the claimant and this is then the form that he presents to his employer. It shows that he has been paid a state benefit We give him this after he has completed his regular state forms in the office and gets his cash receipt that he goes to the cashier's window to draw his cash benefits. We then give him this slip which indicates that he has been paid and has met all state eligibility conditions.

Now, this form, as I say, is one we give to the claimant. There are other kinds of information that the employers wanted and we took the position that that information was available to them from other

forms that we sent out in the ordinary claim process. Then, I think to make your records complete, that those forms should be in the record; I will just call them off by number and furnish them DE-429, DE-455, DE-1080, DE-1080-A, DE-1080-M, DE-1080-E, DE-1101-A, 1190, 1545, 1545-A, 1545-C, 2368, 2402, 4454, 4581, and that does it

That, Mr. Chairman and members of the committee, completes the department's presentation.

EXHIBIT No. 4

LAYOFF BENEFIT PLANS

CALIFORNIA UNION AGREEMENTS, OCTOBER, 1956

Presentation by MAURICE I GERSHENSON, Chief, Division of Labor Statistics and Research, California Department of Industrial Relations, Before the Assembly Committee on Finance and Insurance, California State Legislature

Hearings on Supplemental Unemployment Benefit Plans

SAN FRANCISCO, CALIFORNIA, October 11, 1956

LAYOFF BENEFIT PLANS—CALIFORNIA UNION AGREEMENTS, OCTOBER, 1956

As part of its responsibility for the compilation of labor statistics for the State of California, the Division of Labor Statistics and Research has, since 1883, attempted to measure changes in collective bargaining practices as spelled out in union agreements.

In the early days, it was a good deal simpler than today. Changes were largely confined to wage rates—and from time to time, to hours of work as the work week was reduced from 60 hours to 54, to 48, to 44, and to 40 or less

In the past 25 years a wide variety of supplemental benefits have been incorporated into the structure of employee compensation.

Many of these supplementary payments and benefits were finding their way into collective bargaining agreements before the last war. But it was during the wage stabilization days of World War II that we had an acceleration of the trend toward incorporating in the terms of union agreements such items as paid vacations, paid holidays, paid sick leave, and other benefits.

The term "fringe benefits" came into use at this time as an expression for these and other benefits. As the trend continued, both employers and employees began to realize that the fringe was getting pretty long and that it was no longer a small decoration but an important part of the garment.

In place of the expression "fringe benefits" the terms "supplementary benefits" and "wage supplements" are now being increasingly used

The most recent major development in collective bargaining has been provision for layoff benefit plans of various types other than severence pay plans for permanently laid-off workers. This has come since the signing of the agreement between the United Auto Workers and Ford Motor Company in June, 1955, incorporating a supplemental unemployment benefit plan

SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLANS

In June, 1956, one year after the Ford-U. A. W. settlement, the Division of Labor Statistics and Research prepared a report on negotiated supplemental unemployment benefit plans found in California union agreements.[1] The report was confined to plans which call for the payment of layoff benefits supplementing state unemployment insurance benefits, either from a trust fund in which individual employees do not have a vested interest or from the general assets of the company. In June, such plans were found in 12 union agreements covering an estimated 28,060 California workers.

As a result of recent contract settlements in the steel and rubber industries, supplemental unemployment benefit plans of the type just described are now contained in at least 24 collective bargaining agreements covering an estimated 53,000 California workers. This represents nearly 4 percent of a total of 1,374,000 California workers covered by 1,580 union contracts reviewed.[2] An additional 2,580 California workers are covered by other types of recently negotiated layoff plans which will be described below. This makes a total of approximately 56,000 California workers covered by some type of layoff benefit plan.

In the four-month period, June 1, 1956, to October 1, 1956, SUB plans covering 25,900 California workers were established by collective bargaining. All but 750 of the 25,900 workers recently covered are employed in *primary metals* and *rubber products* manufacturing. The parties to the 12 agreements covering these workers are listed below:

Company and location	*Union*
Bethlehem Pacific Coast Steel Corporation and Bethlehem Supply Company, Alameda, Los Angeles, South San Francisco, Vernon	United Steelworkers of America
Firestone Tire & Rubber Company, Los Angeles	United Rubber, Cork, Linoleum & Plastic Workers of America
B. F. Goodrich Company, Los Angeles	United Rubber, Cork, Linoleum & Plastic Workers of America
Goodyear Tire and Rubber Company, Los Angeles	United Rubber, Cork, Linoleum & Plastic Workers of America
Kaiser Steel Corporation, Fontana	United Steelworkers of America
Rheem Manufacturing Company, South Gate	United Steelworkers of America
United States Rubber Company, Los Angeles	United Rubber, Cork, Linoleum & Plastic Workers of America
United States Steel Corporation Columbia-Geneva Steel Division, Pittsburg and Torrance (2 agreements) Consolidated Western Steel Division, Maywood Consolidated Western Steel Division, Vernon United States Steel Products Division, Los Angeles and Alameda	United Steelworkers of America

[1] See *California Industrial Relations Reports*, July, 1956, No. 10, Division of Labor Statistics and Research, Department of Industrial Relations. Contains a list of parties to agreements which established supplemental unemployment benefit plans prior to June 1, 1956, and a summary of selected provisions for most of the plans.

[2] All agreements on file with the Division of Labor Statistics and Research covering 100 or more workers were reviewed for this report. Information concerning interstate railroad agreements and recent settlements in the steel and rubber industries was obtained from newspaper reports and other secondary sources.

At the present time, about two out of three California workers covered by SUB plans are employed in the manufacture of *motor vehicles and equipment* or *primary metal products* as the table below shows:

Industry	*California workers covered by SUB plans*
All industries	53,130
Motor vehicles and equipment	19,270
Primary metal products	16,650
Rubber products	8,540
Fabricated metal products, n.e.c.	5,630
Aircraft and parts	1,640
Food and kindred products, except canning	1,200
Furniture and fixtures	200

n.e.c. Not elsewhere classified

An outline of the *principal provisions* of most of the plans negotiated prior to June of this year was included in our previous report on supplemental unemployment benefit plans. We do not have complete details concerning the plans established recently in the steel and rubber industries, but we give below such provisions as we have been able to obtain.

Steel Industry Plan

The steel settlement provides for a weekly supplemental benefit which, when added to the state unemployment insurance benefits, will result in a combined weekly benefit for laid-off employees of 65 percent of take-home pay for up to 52 weeks. The maximum supplemental payment, however, will be $25 a week plus $2 for each of not more than four dependents, for the first 26 weeks; thereafter, the maximum payment will be $47.50 a week plus $2 for each of not more than four dependents. The steel plan benefits will be funded by employer contributions of three cents an hour, plus an additional two cents if needed.

Rubber Industry Plan

The rubber industry plan is reported to call for employer contributions of three cents an hour. A worker must have at least a year's service to be eligible for layoff benefits. The weekly supplemental benefit, when added to state unemployment insurance payments, will result in a combined benefit of 65 percent of take-home pay. The maximum supplemental payment, however, which may be received by any worker who is eligible for state unemployment compensation is $25 a week plus $2 for each of not more than four dependents. The maximum duration of benefit payments will be 26 weeks.

GUARANTEED WAGE BENEFIT PLANS

In addition to the type of layoff benefit plan discussed above there are plans which call for employer contributions to individual employee accounts, held by a trustee, in which the employee has a vested interest. The employee on layoff may, at his discretion, make weekly withdrawals from his individual account. He may or may not be required to qualify for state unemployment insurance benefits before making withdrawals. The state benefit may or may not be deductible from the maximum withdrawal he is allowed to make. The balance of an employee's account is paid to him when he terminates, or to his heirs in the event

of his death. Such plans are variously referred to as "employee security plans," "thrift plans," or "compulsory savings plans."

At present, three union agreements covering an estimated 2,880 California workers are known to have established such plans. The parties to these three agreements are:

Company	*Union*
A. O. Smith Corporation, Los Angeles	United Electrical, Radio and Machine Workers, Local 1004, Independent
Associated Plumbing Contractors of San Francisco, Inc., Associated Plumbing Contractors of Marin, Sonoma, Mendocino Counties, and Mechanical Contractors Association of Northern California, Inc.	Plumbers, Local 38
Independent Plumbing, Heating and Piping Contractors of Contra Costa, Inc.	Plumbers, Local 159

A. O. Smith Corporation "Employee Security Plan"

The A. O. Smith Corporation "Employee Security Plan" became effective January 1, 1956. It calls for the payment to a third party trustee of 5 cents for each hour worked by an eligible employee, to be held as a separate security account for the exclusive benefit of the employee. Contributions are made only for regular, full-time hourly rated employees who have been continuously employed for 180 days. Employees laid off for lack of work for five or more consecutive workdays may withdraw up to $40 a week from their individual accounts. There is no requirement that laid-off employees must qualify for state unemployment compensation benefits before making withdrawals and the maximum weekly withdrawal permitted is not affected by the receipt of a state unemployment benefit. Weekly withdrawals of up to $40 are also permitted for each week of absence due to illness or disability lasting at least two full weeks. The balance in the employee's security account is paid to him upon retirement or paid to his designated beneficiary or to his estate upon his death, with interest. If an employee is discharged or resigns, the balance in his security account is paid to him three months after termination, without interest.

Plumbing Industry "Compulsory Savings Plan"

We do not have complete information concerning the two plumbing industry plans, which were established July 1, 1956.[1] According to newspaper reports, employers will pay 25 cents per manhour worked into individual employee accounts which will eventually revert to the worker or, in the event of his death, be paid to his heirs. After an individual employee's account has accumulated for one year, he may draw unemployment benefits provided he is unemployed and available for work. The maximum he can draw is $100 per week, less the amount of his state unemployment insurance benefit. If disabled, he can supplement his disability pay to the same amount.

[1] Under one of the two plumbing industry plans, employer contributions began July 1, 1956; under the other, contributions will begin July 1, 1957.

EXHIBIT No. 5

OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, December 18, 1956

COMPARATIVE ANALYSIS OF NINE UNEMPLOYMENT INSURANCE SUPPLEMENTAL BENEFIT PLANS—#3637

Chrysler Corporation—United Automobile, Aircraft, and Agricultural Implement Workers of America
Bendix Aviation Corporation—United Automobile, Aircraft, and Agricultural Implement Workers of America.
American Can Company—United Steelworkers of America.
United States Steel Corporation—United Steelworkers of America.
California and Hawaiian Sugar Refining Corporation—Sugar Refinery Employees' Union
United States Rubber Company—United Rubber, Cork, Linoleum, and Plastic Workers of America.
Firestone Tire and Rubber Company—United Rubber, Cork, Linoleum, and Plastic Workers of America
Goodyear Tire and Rubber Company—United Rubber, Cork, Linoleum, and Plastic Workers of America.
B. F Goodrich Company—United Rubber, Cork, Linoleum, and Plastic Workers of America.

I. GENERAL PURPOSE AND EFFECT OF THE SUPPLEMENTAL BENEFIT PLANS

Generally speaking, the supplemental benefit plans in question are similar in purpose and effect, are created by agreement between labor organizations and company employers, and are designed to establish a system whereby state unemployment insurance benefits may be supplemented by payments from funds set aside by the employer in cases where a union member is unemployed due to certain prescribed causes. The plans are intended to provide the unemployed person with a total benefit income, during a prescribed period of his unemployment, equal to a certain fixed percentage of his regular after-tax wage or salary—usually 60 or 65 percent

The operation of the plans is ordinarily made conditional upon the receipt, by each company, of a ruling from the Commissioner of Internal Revenue to the effect that contributions to the plans shall constitute currently deductible expenses under the Internal Revenue Code, and a ruling from the United States Department of Labor that no part of any contribution shall be included in the regular rate of any employee

In addition, the plans provide that benefits are payable to employees only in those states in which statutes have been amended or from which the companies have received rulings from competent authorities to permit the receipt of supplemental benefits without causing a reduction in the amount of the state unemployment insurance benefit to which the employee is entitled Some of the plans provide that no benefits shall be payable unless the state rulings or statutory amendments have occurred in states where a fixed proportion (usually two-thirds) of the company employees are employed.

Most of the plans create a trust fund to which employers are to make contributions and from which benefits are to be paid. A maximum amount to be placed with this fund is generally prescribed, either by specific figure or by formula A formula is provided for adjusting this "maximum funding" requirement in future months to meet changes in the number of company employees.

In administering benefit payments in plans creating trust funds, a system of credit units is established to measure the duration of benefits for each employee. The rate of accumulation of credit units by each employee is generally made to depend upon his seniority, with higher seniority employees being permitted a more rapid rate of accumulation, or being given more credit units. Relative seniority may also determine the rate at which accumulated credit units are canceled when benefits are received.

The amount and duration of benefits is made to depend upon the number of accumulated credit units and the trust fund position. The trust fund position is a percentage figure arrived at by dividing the amount in the trust fund by the amount which should be in the trust fund to give it a "maximum funding" position at any particular time. If the trust fund position is below 130 percent, amounts payable are reduced or the rate of cancellation of credit units is accelerated, all in accordance with prescribed schedules, with the effect in either case being to reduce the supplemental benefits payable.

Eligibility for supplemental benefits is conditioned upon eligibility for state unemployment insurance benefits. Some plans require that the applicant exhibit his warrant or equivalent evidence of receipt of the state benefit when reporting for his supplemental benefit. One exception to this eligibility requirement is provided in most of the trust fund plans in that an employee is eligible for supplemental benefits even though ineligible for state benefits where the ineligibility is due solely to the fact that employee had insufficient work time in employment covered by state law, or that the week in question was a second waiting week, or because of the expiration of the time for which state benefits are payable.[1] The employee must, consequently, register at and report to a state employment office, be able and available for work, and be actively seeking work as required by state law (see Sec. 1253, U. I. C.).

II. COMPARISON OF THE PLANS WITH THE CALIFORNIA UNEMPLOYMENT INSURANCE LAWS

1. Are Supplemental Benefits "Wages"?

The principal legal problem presented in connection with these plans arises from the fact that under California law a person is ineligible for state benefits unless he is "unemployed" (Sec. 1251, Unemployment Insurance Code[2]). To be unemployed a claimant for state benefits must meet two requirements, namely, he must perform no services, and he must not be in receipt of "wages" (Sec. 1252). The recipient of benefits under a supplemental benefit plan will not generally be performing services of a disqualifying nature, but his receipt of benefits under a plan might be construed to be a receipt of "wages," or compensation for personal services (Sec. 1252), since these plans are usually part of an employment contract and are developed under the collective bargaining process.

Several supplemental benefit plans have been considered individually in opinions of the Attorney General dealing with the question of

[1] Since the California law provides only one waiting week, and the time prescribed for benefit payments is the normal 26 weeks, the latter two conditions are inapplicable in this State.

[2] All section references are to the Unemployment Insurance Code.

whether receipt of benefits from the plans constitutes the receipt of wages. The principal test applied in analyzing each plan is that of determining whether the interest of the employee in his supplemental benefit was in some way "vested" in him prior to its receipt. If it is found that no vested interest existed the receipt of the benefit is not considered to be a receipt of wages. No precise definition of the term "vested" can be established from the analyses. The number and nature of the contingencies surrounding the employee's entitlement to benefits under the plan are apparently determinative in each case. Thus, in the case of a plan under which an employee might work a lifetime without receiving benefits and where no provision is made for payment to his estate at death and in which a possibility exists that no employer contribution would be required during the employee's employment with the company (where a constant "maximum funding" position is maintained), and where the employee might never receive benefits because of insufficiency of assets in the fund, it is held that the interest in benefits is not vested and that their receipt is not receipt of wages (see 27 Ops. Atty. Gen. 71).

It is indicated that if the employee's interest is an absolute one, or perhaps constitutes a more direct property interest surrounded by fewer contingencies, his interest will be considered vested, and the receipt of benefits will constitute the receipt of wages. Thus, where the plan provides that benefits accrued shall be paid to the employee on his retirement, or shall be paid to designated beneficiaries at his death, and that accrued benefits will be paid to him upon termination of employment, the employee's interest is considered to be vested in nature (see 28 Ops. Atty. Gen. 10). Interestingly enough, the funds set aside in such a situation are considered "wages paid" *at the time when contributed* by the employer and are not, consequently, again considered to be wages when received by the employee and he may receive such supplemental benefits without being disqualified for state benefits. The employer must pay state unemployment insurance tax contributions for contributions to the fund in such a case.

In the case of plans containing provisions falling somewhat between the two extremes represented by these illustrations, the problem of determining whether an employee's interest is vested or not will involve considerable complexity.

2. Comparison of Type of Unemployment Covered

One distinction between the supplemental benefit plans and the state law lies in the fact that the type of unemployment covered by the former is much narrower in scope than that covered by state statutes. Supplemental benefits are generally payable only for unemployment due to a "layoff," which term is usually given a very precise definition and otherwise narrowly limited. For example, supplemental benefits are usually not payable for layoffs caused by "act of God," while the state law is designed to provide benefits to persons covered who are unemployed "through no fault of their own" (Sec. 100).

3. The Greater the State Benefit the Smaller the Supplemental Benefit

Since the plans are designed to insure that an employee will receive 60 or 65 percent of his normal wage or salary during the period of unemployment, the higher the benefits provided by the state unemployment

system are, the lower will be the supplemental benefits necessary to reach the 65 percent figure.

III. COMPARISON OF PROVISIONS DEALING WITH SELECTED ASPECTS OF THE PLANS

A. Trust Funds

With the exception of the C. & H. Sugar Co.—S.R.E.U. plan, which requires benefit payments to be made directly by the company, all plans provide for the establishment of a separate trust fund where contributions are held and invested, and from which benefits are paid.

B. Benefit Amounts Under Plans Providing Benefits for Weeks Not Covered by State Benefit Provisions

Although a maximum supplemental benefit of $25 is prescribed by most of the plans an additional special provision is made with respect to maximum supplemental benefits in those plans which provide coverage for weeks beyond the 26 weeks covered by state law, and in those plans providing benefits despite technical ineligibility under state law.

The plans negotiated by the United Steel Workers with the American Can Company and the United States Steel Corporation provide for a maximum of 52 weeks' coverage. The maximum supplemental benefit while state benefits are being received is $25—during the first 26 weeks. Thereafter, special maximums of $46.80, and $47.50, respectively, are fixed for the remaining 26 weeks when no state benefits are payable. In each case an additional allowance of $2 for each of a maximum of four dependents is allowed.

All rubber industry plans provide a $25 maximum supplemental benefit while state benefits are being received, but provide a special maximum of $48.30 in cases where the applicant is ineligible for state benefits solely because of insufficient work in employment covered by state law. The coverage period of these plans is 26 weeks only, and a $2 additional benefit for each of a maximum of four dependents is allowed in either case.

Plans negotiated by the United Auto Workers with Chrysler Corporation and Bendix Aviation Corporation provide a coverage of 26 weeks and authorize the receipt of supplemental benefits where the employee is ineligible for state benefits solely because of insufficient time in covered employment, but provide no special maximum benefit in such a case, and the prescribed $25 maximum is applicable in all situations. No dependency benefits are included.

The C. & H. Sugar Co.—S.R E.U. plan contains no stated maximum supplemental benefit, and the amount thereof may vary in each case, but must be sufficient to equal 65 percent of the regular take-home pay. Benefits are payable for 25 weeks, with no dependency allowance.

C. Classification of Employees With Special Funds for Each Classification

Plans negotiated by the United Automobile Workers with Chrysler Corporation and Bendix Aviation Corporation provide that workers will be classified into several groups, with a separate trust fund for each. Such a provision apparently represents an effort to group employees with similar lay-off experience.

For Chrysler Corporation employees, three funds are established—the General Fund, Defense Fund, and Salary Fund, to cover general, defense, and salary employees, respectively.

None of the other seven plans contain such classification.

D. Permissibility of Supplementation Under State Law

All of the plans condition payment of supplemental benefits upon receipt of rulings from competent state officials or the enactment of legislation permitting supplementation without reduction in state benefits.

Plans requiring favorable rulings or statutory amendments in states where, in the aggregate, two-thirds of the company employees work are:

Chrysler Corporation—United Auto Workers;
Bendix Aviation Corporation—United Auto Workers;
American Can Company—United Steel Workers.

Plans providing that supplemental benefits are to be paid only in states where favorable rulings or statutory amendments occur:

All rubber industry plans;
U. S. Steel Co.—United Steel Workers.

The C. & H. Sugar Co.—Sugar Refinery Employee's Union Plan is applicable only to California. It requires that supplementation must be permitted under the state law, and both the union and management agree to use their "best efforts to urge and assist in the enactment of appropriate laws" to effect supplementation.

E. Substitute Supplemental Benefits

With the exception of the C. & H Sugar Co. Plan, each supplemental benefit plan contains provisions establishing a system of "substitute supplemental benefits" to be payable in states where the unemployment insurance laws do not permit supplementation without reduction of the state benefit. The conditions for eligibility for such benefits and the benefit amounts are the same as those prescribed for the receipt of the regular supplemental benefits, and the laid-off applicant would ordinarily be required, in California, to show that he has received state benefits for the weeks for which he is applying, or that he would otherwise have been eligible for state benefits in cases where he was found ineligible because of insufficient work in employment covered by state law, or because of the expiration of the time period for payment of state benefits.

The effect of the receipt of such benefits upon the employee's entitlement to state benefits for which he is eligible during the same period, in a state whose law does not permit supplementation, is questionable, under the "wages paid" rule. The plans generally provide that payment of the substitute suplemental benefit for a particular week is postponed until after the receipt of the state benefit for that week.

Chrysler Plan. Provides for payment of benefits at intervals of two or three weeks (at the option of the employee), with each benefit payment allocable to the prior two or three weeks, as the case may be.

American Can Plan. Provides for payment of substitute benefits in a lump sum after the termination of the layoff or termination of state benefits whichever is earlier.

Bendix Plan. Provides for payment of benefits at intervals of two or three weeks (at option of the employee), with each benefit allocable to the prior two or three weeks, as the case may be.

Gives additional option to employee to receive all substitute benefits in lump sum after termination of layoff or termination of state benefit payments whichever is earlier.

U. S. Rubber Plan. Provides for payment of benefits in lump sum after the termination of the layoff or after the termination of state benefit payments whichever is earlier.

Adds proviso that no lump sum benefit is payable if it is determined that such benefit would have the effect of reducing state benefits

Provides that if determined that lump sum payments will have the effect of reducing state benefits, periodic benefit payments at intervals of two or three weeks (at option of employee) shall become payable, with each benefit allocable to the pior two or three weeks. as the case may be

B. F. Goodrich Tire and Goodyear Tire Plan. Provide for payment of benefits in lump sum after the termination of the layoff or termination of state benefits, whichever is earlier.

Add proviso that if detemined that lump sum benefit payment would have the effect of reducing state benefits, periodic benefit payments at intervals of two or three weeks (at option of employee) shall be made, with each payment allocable to the prior two or three weeks, as the case may be.

Add proviso that no periodic benefit payments shall be made if it is determined that such payments will have the effect of reducing state benefits

Firestone Rubber Plan. Provides for payment of benefits in lump sum after the termination of the layoff or termination of state benefits, whichever is earlier.

Adds proviso that if determined that lump sum benefit payment would have the effect of reducing state benefits, periodic benefit payments at intervals of two or three weeks (at option of employee) shall be made, with each payment allocable to the prior two or three weeks, as the case may be.

Adds proviso that no periodic benefit payments shall be made if it is determined that such payments will have the effect of reducing state benefits.

Provides that if any state not permitting supplementation determines that receipt of both periodic and lump sum benefits will have the effect of reducing state benefits the parties (union and company) shall attempt to develop an alternative method to effect the plan in the state.

United States Steel Plan. Provides that the company and union will negotiate with respect to alternate arrangements in states not permitting supplementation, and such alternate arrangements shall, if possible, provide for lump sum benefit payments.

C. & H. Sugar Plan. Makes no provision for payment of substitute benefits.

RALPH N. KLEPS
Legislative Counsel
By ERNEST H. KUNZI
Deputy

SUMMARY OF EXTENT OF CONTRIBUTIONS AND BENEFITS PROVISIONS

Plan	Beginning date for company contributions	Amount of company contribution and effective date	Earliest date benefits payable	Maximum of weekly benefit and incidental income after supplementation
Chrysler-U A.W.	Within 2 months of receipt of favorable federal tax and labor rulings	5¢ per hour, from Sept 1, 1955	June 1, 1956	65% of weekly after-tax pay, for first 4 or 8 weeks, depending on fund position; 60% thereafter
Bendix-U A.W.	Within 2 months of receipt of favorable federal tax and labor rulings	5¢ per hour, from Oct. 1, 1955	Oct 1, 1956	65% of weekly after-tax pay, for first 4 or 8 weeks depending on fund position; 60% thereafter
American Can-U S W.	At once, or Co. may delay until favorable federal tax and labor rulings are received	5¢ per hour, from Oct. 1, 1955	Oct. 1, 1956	$35 10 to $66 82 per week depending on weekly straight-time wage, plus $2 per week for each of 4 dependents
United States Steel-U S.W	At once, or Co may delay until favorable federal tax and labor rulings are received	3¢ per hour, plus 2¢ per hour maximum contingent liability, from Aug 1, 1956	Sept 1, 1957	65% of after-tax straight-time wage; $47 50 plus $2 for each of 4 dependents for weeks after state benefits terminate
Firestone-U.R C L.P.	Within 2 months of receipt of favorable federal tax and labor rulings	3¢ per hour, from July 16, 1956	July 15, 1957	65% of after-tax straight-time pay; $48 30 plus $2 for each of 4 dependents where ineligible for state benefits for insufficient "covered" employment
Goodyear-U R C.L P	Within 2 months of receipt of favorable federal tax and labor rulings	3¢ per hour, from July 16, 1956	July 15, 1957	65% of after-tax straight-time pay, $48 30 plus $2 for each of 4 dependents where ineligible for state benefits for insufficient "covered" employment
B. F. Goodrich-U R C.L P	Within 2 months of receipt of favorable federal tax and labor rulings	3¢ per hour, from July 9, 1956	July 8, 1957	65% of after-tax straight-time pay; $48.30 plus $2 for each of 4 dependents where ineligible for state benefits for insufficient "covered" employment
U. S. Rubber-U.R.C L P	Within 2 months of receipt of favorable federal tax and labor rulings	3¢ per hour, from July 16, 1955	July 15, 1957	65% of after-tax straight-time pay, $48.30 plus $2 for each of 4 dependents where ineligible for state benefits for insufficient "covered" employment
C. & H. Sugar-S R.E.U.	No trust fund	No trust fund	Immediately	65% of regular take-home pay

SELECTED TIME AND BENEFIT PAYMENT PROVISIONS

Plan	Service requirement	Waiting period	Minimum and maximum supplemental benefit	Maximum duration of benefits
Chrysler-U A.W.	1 year	1 week	$2-$25	26 weeks
Bendix-U A.W.	1 year	1 week	$2-$25	26 weeks
American Can-U S.W.	3 years	1 week (plus time in excess of regular work time during prior 52 weeks)	$2-$25; and $46 80 for weeks after cessation of state benefits; plus $2 for each of 4 dependents	52 weeks
United States Steel-U.S.W.	2 years	1 week	$2-$25, and $47 50 for weeks after cessation of state benefits	52 weeks
Firestone-U.R.C.L P.	1 year	1 week	$2-$25, and $48 30 where employee is ineligible for state benefits for insufficient covered employment, plus $2 for each of 4 dependents	26 weeks
Goodyear-U R.C L P.	1 year	1 week	$2-$25, and $48 30 where employee is ineligible for state benefits for insufficient covered employment, plus $2 each of 4 dependents	26 weeks
B. F. Goodrich-U R C.L P.	1 year	1 week	$25, and $46 80 where employee is ineligible for state benefits for insufficient covered employments; plus $2 for each of 4 dependents	26 weeks
U. S. Rubber-U R C.L P	1 year	1 week	$2-$25, $48 30 where employee is ineligible for state benefits for insufficient work in covered employment, plus $2 for each of 4 dependents	26 weeks
C & H. Sugar-S.R E.U.	1 year	2 weeks	An amount sufficient to make total benefit and incidental earnings equal to 65% of regular take-home pay	25 weeks

EXHIBIT No. 6

OFFICE OF LEGISLATIVE COUNSEL

March 2, 1957

SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLANS SUMMARY OF REFEREE'S DECISION IN THE MATTER OF THE CLAIMS OF JOHN R. GARTRELL—#8441

On February 6, 1957, a decision was rendered by a referee of the Department of Employment in the matter of the claim of John R. Gartrell, holding that weekly benefits payable to the claimant were to be reduced by the amount of the weekly payments received by the claimant under a supplemental unemployment benefit plan.

In this case an employee of the Chrysler Corporation was laid off on August 22, 1956, because of a changeover in models. He filed a claim for unemployment benefits, and was determined to be eligible to receive a maximum of $858 payable at the rate of $33 a week. A former employer wrote the department stating that the claimant was in receipt of supplemental unemployment benefits from an employer supported fund for the same weeks that he was claiming unemployment benefits and contended that the receipt of such supplemental payments rendered the claimant ineligible for benefits. The department ruled that payments under supplemental unemployment benefit plans are not considered wages, and the receipt of such payments did not render a claimant ineligible for benefits. This ruling was appealed to a referee, who reversed the ruling of the department.

The referee held that certain payments may be exempt from the contributions required on wages, but nevertheless affect a claimant's eligibility for benefits. He distinguished the earlier decisions of the appeals board as applicable to a pooled type trust fund, whereas the payments in question were made from a trust fund created for employees of the Chrysler Corporation, and supported entirely by contributions of the Chrysler Corporation. He concluded that the claimant's right to payments from such fund arose as a result of his previous employment by the corporation, accrued by virtue of the union contract, and depended upon his regular reporting to this corporation without any "break in seniority," all of which indicated that the payments are remuneration for services, and as such are wages within the meaning of the unemployment insurance code requiring that the weekly benefits payable to the claimant be reduced by the amount of such weekly supplemental payments.

An appeal from the decision of the referee in the above case has been filed, and the matter is now pending before the California Unemployment Insurance Appeals Board whose decision will constitute final administrative action in the matter, subject only to judicial review in appropriate proceedings.

RALPH N. KLEPS
Legislative Counsel
By BERNARD CZESLA
Principal Deputy

EXHIBIT No. 7

POST HEARING STATEMENT OF JOHN A. DESPOL

Legislative Representative
California Industrial Union Council, Affiliated with AFL-CIO

To: WILLIAM A. MUNNELL, *Chairman*
Assembly Interim Committee on Finance and Insurance
California Legislature
State Capitol, Sacramento, California

In accordance with the privilege granted by the Subcommittee on Unemployment Insurance and Workmen's Compensation, I am herewith submitting, on behalf of the California Industrial Union Council, this statement on supplemental unemployment benefit plans and the position of our affiliated unions in regard to certain aspects of the unemployment insurance system in California.

We would appreciate this statement and the exhibits attached hereto, being included in the report of your Assembly interim committee in whole or at least in its most significant and informative parts.

For the purpose of brevity, supplemental unemployment benefit plans will be referred to in this statement as "SUB" plans. Guaranteed annual wage plans will be referred to as "GAW" plans.

The California Industrial Union Council objects to equating compulsory savings plans with SUB plans. As a matter of policy the unions affiliated with the California Industrial Union Council are generally opposed to compulsory savings plans being included in collective bargaining contracts.

SUB plans need not be limited to individual firms, and no showing has or can be made that a worker's mobility is limited by them. Quite to the contrary. The additional benefits of SUB plans make it financially feasible for a worker to spend more money and go to greater distances in his effort to secure a new job. Mobility of workers is effected by a great many factors and varies from area to area and industry to industry. Job opportunities, pay scales, geographic distance, seniority rights, pension rights, emotional attitudes, availability of retraining programs, inflation, prosperity, depression, recession, racial factors, etc , etc., etc., are just some of the factors that affect a worker's mobility. If there are two overriding factors that affect a worker's mobility more than any other they are probably the attitude of the management he has been working for towards him, and, secondly, his opportunity to get a new or better job.

THE IMPACT OF UNEMPLOYMENT COMPENSATION INSURANCE BENEFITS IN SUSTAINING OUR ECONOMY

We now wish to turn the attention of the members of the Assembly Interim Committee on Finance and Insurance to a significant survey and study made by the National Opinion Research Center, dated August, 1951, and entitled "The Role of Unemployment Compensation in Maintaining Family Income and Expenditure in an Area of Critical Unemployment." For reference purposes this survey of the National Opinion Research Center of the University of Chicago, is numbered Survey No. 274, Report No. 43.

The survey and study was conducted by Mr. Clyde W. Hart, Director, and received the generous cooperation of the businessmen in the Illinois town studied, including the secretary of the local Chamber of Commerce, the editor of the paper and the American families who contributed data on their income and expediture. Serving as consultants were the various staff members of the Bureau of Employment Security, United States Department of Labor and the Illinois Division of Unemployment Compensation.

At the outset this study points out, "During the war and the immediate postwar period of reconversion to peacetime economy, most unemployment was short lived. However, by 1949 several areas in the country were suffering from local business recessions and in some of these localities the unemployment was so prolonged that many insured workers exhausted their claims to unemployment compensation. This situation provided an opportunity to evaluate the effectiveness of the unemployment compensation program in a recession period. The present study of one such area is a first step in this direction.

"The major portion of the study is an analysis of family income and expenditure among families of unemployment compensation claimants in a rural county of Illinois which has a number of manufacturing plants in its county seat. The data were collected by a household survey in late February and early March, 1950, when the largest plant had been closed for more than six months."

The employment status during the survey period established the following facts: "Forty-three percent of the main earners of families included in the study were unemployed during the survey week; a comparable number (44 percent) had full-time work; and 13 percent had some part-time work.

"Half the families had no secondary earner to fall back on when the main earner was out of work. Furthermore, secondary earners were unemployed to almost the same extent (39 percent) as the main earners (43 percent), and less likely to have full-time work if they had any work at all. This meant that approximately half the families (48 percent) had no full-time earner, and that approximately a third of the families (31 percent) had no earned income at all during the survey week."

One of the conclusions of this study was that the employment situation among the families studied whose main earners were altogether unemployed during the survey week, shows that even multiple earner families can suffer a severe reduction in income in a period of unemployment. Although almost one-half (47 percent) of these families had a secondary earner in the labor force 80 percent had no full time earner, and more than two-thirds (68 percent) of these families whose main earners were unemployed had no earners at all during the survey week.

The following quotation from this survey must be given even greater weight when one considers the amount of inflation that has occurred since 1950, the period of the study. The survey observed, "Families with the needs, consumption habits, and expectations characteristic of the group of families studied tend to spend more than their income unless they have about $14.50 per person per week to spend. In practice this means that families rely on their savings or live on credit unless

some member is working full-time. Only 56 percent of the families reported that they had liquid assets of $50 or more either at the time of the survey or a year before. Almost two-thirds (64 percent) of those with some assets had used up some or all of their savings during the year. A temporary factor that allowed some families to spend more than their income during the survey week was the fact that about 17 percent of the families had received refunds, either from G. I. insurance or on their 1949 income tax, during the month preceding the survey.

"It is clear that the families benefiting from the unemployment compensation program urgently needed the money. The median *per capita* income for the families receiving some unemployment compensation during the survey week was $9.74 as compared with the $14.50 needed to make ends meet. Had they not been entitled to some unemployment compensation they would have had only $1.17 per person for the week."

In its summary this study points out that families with no income except for the state unemployment compensation benefit had actually spent "on the average $27.04 for food, housing and household operation alone, and $45.56 altogether during the week. Since the unemployment compensation program in Illinois makes no provision for allowances for dependents, the large families had a particularly hard time. It is sometimes claimed that industrial workers in a rural community can get along in hard times without cash benefits, and also that secondary earners do not need them." Clearly even the present maximum benefits of state unemployment compensation insurance benefits are inadequate in the kind of situation described in this study.

In this study the summary concluded, "Since the local relief office was unable to expand its program to meet the emergency, unemployed workers had no alternative but to leave the area when their savings and credit were exhausted. The local businessmen whose own economic welfare depended on the purchasing power of the workers, were concerned about the outmigration, but powerless to stem the tide. Their confidence that the local plants would reopen has been justified, but, in the meantime, many workers' families had less than a decent minimum of security and local business had suffered as a consequence, although neither the outmigration nor the restriction of business was as great as it would have been without unemployment compensation. The implication of these findings are discussed further in the concluding section of the report."

In its detailed report on the local economy of the community studied, this conclusion was reached, "Payment of these benefits, while not great enough to make up for more than a small portion of the lost purchasing power resulting from the increase in unemployment, helped prevent an even greater decline in gross sales and to that extent bolstered business and stabilized employment in other industries." "There is a marked tendency for larger families to fare worse than small ones. In our society we expect a man with a large family to sacrifice his standard of living to some extent in order to support his family, and we do not as a general rule pay him more, simply because he has more dependents. However, when industry shuts down and the head of a large family is thrown out of work through no fault of his own, it is

hard to justify our assumption that his family can subsist very long on the same unemployment compensation benefits that a single man needs."

It is the position of the California Industrial Union Council that the report and survey of the National Opinion Research Center of the University of Chicago, referred to above, simply substantiates our view that the unemployment insurance law in California, as elsewhere, fails to provide a minimum amount of protection to all workers unless it provides allowances, where necessary, for dependents. Because other studies have borne out this same contention, eleven states have faced this fact by making provisions for dependent allowances in their unemployment compensation laws.

For the benefit of those who are studying and determining policies on the rising number of SUB plans in private industry, we quote the final conclusion of this report of the National Opinion Research Center on the role of unemployment compensation in our economy:

"Despite the enthusiastic support of some business leaders, other members of the business community have been inclined to resent the tax burden imposed by the unemployment insurance program. The arguments usually advanced by those who oppose the program are: (1) that some beneficiaries are secondary earners whose earnings are not essential to the support of their families, or seasonal workers with no permanent claim on the labor market, (2) that in a rural environment, industrial workers can subsist throughout a period of unemployment by part-time farming; and (3) the receipt of unemployment insurance benefits discourages workers from seeking re-employment. There is an element of truth in each of these contentions which deserves thoughtful consideration by all concerned. Nevertheless businessmen can ill afford to ignore the findings of a study such as this—in their own self-interest. It has been shown that even in a semirural community and even though some families have more than one earner, a situation can arise where the unemployment compensation benefits are urgently needed, not only from the point of view of the beneficiaries and their families, but also from the point of view of any businessmen whose economic welfare depends, directly or indirectly, on the purchasing power of the local workers and their families.

"Since no one proposes to let American workers starve, there are only three alternatives to unemployment insurance. Theoretically, the unemployed workers could rely on outright relief in case of need, but that expedient only shifts the tax burden from employers to real estate owners. Or, if employment is expanding elsewhere, the unemployed workers can move to areas where the demand for their particular skills is greater. In the long run it is desirable that the labor force be distributed throughout the country as the labor market requires, but the dislocation involved in breaking up families or moving them during temporary unemployment involves tremendous hardship on the workers, and also makes it hard for the local industries to procure the skilled labor they need when they do resume operations. Finally, the unemployed workers can live for a while on their accumulated savings and on credit from local dealers.

"Since the funds available for relief were severely limited, what had actually happened in the community studied was a combination

of the latter two alternatives. Local merchants were obliged to extend credit to old customers, and, as the difficulty encountered in locating the families in the original sample showed, many of the unemployed workers had left the area in search of employment. Over and over again respondents mentioned the possibility of leaving as a last resort if the local unemployment continued. Many of the businessmen were concerned about the future of the town because of the outmigration. In the final analysis, the local businessman suffers whether his customers live on savings and credit or leave the area. As long as there is some assurance that the local industries will reopen—as they have in fact done in the community studied since the survey was completed—an unemployment insurance program, generous enough to provide for the essential needs of the unemployed workers and their families, is in the best interest of the local business community."

SUB PLANS

SUB plans are a direct result of collective bargaining to meet the needs of industrial workers and their families under our private enterprise system. They are simply one form of private initiative on the part of unions, union members and industrial management designed to meet certain common problems that we have been confronted with in past years. If state legislatures, and the Federal Congress were to revise the unemployment insurance system to meet some of these problems, there would probably be less need for the development of SUB plans on the part of organized labor and industry except possibly for the higher skilled and higher paid groups.

We do not believe the interim committee should recommend nor should the Legislature give serious consideration to any proposed punitive legislation to destroy the real value of existing SUB plans to the industries and employees now protected by such SUB plans.

It is our judgment that workers protected by SUB plans continue to have the same initiative to seek other jobs when unemployed as do those industrial workers who have yet to exercise their initiative in obtaining SUB plans and therefore lack such additional protection

The development of SUB plans through collective bargaining will help the American economy and business and labor. SUB plans will provide additional protection against the development of spotty recessions in areas where certain industries may suffer temporary setbacks Like the unemployment insurance system, SUB plans help build the wall of security for our people against the spiral of depressions.

It is the position of the California Industrial Union Council that the law in California clearly permits SUB payments in conjunction with unemployment compensation benefits and that no further authorization or clarification is necessary in the form of new legislation insofar as SUB plans are concerned. In the event that the opinion of the Attorney General on this subject is tested in the courts, it is our belief that the courts will uphold the Attorney General's opinion.

The California Industrial Union Council has available for distribution numerous references substantiating the position taken in this statement. Among such publications are the following:

1. "SUB Explanation of Steel Supplemental Unemployment Benefit Plan" with appended complete text, prepared by representatives of

the United States Steel Corporation, Bethlehem Steel Company, and Republic Steel Corporation.

2. "Supplemental Unemployment Benefit Plans" published by the United Steelworkers of America, containing SUB plans now in effect between the United Steelworkers of America and the American Can Company and the Continental Can Company. In addition to the text of the agreements, this includes brief summarized highlights of the agreements.

3. "The ABC of SUB," a publication of the UAW Education Department contains basic information in layman's language.

4. Reprint of article taken from March, 1955, issue of "Michigan Business Review" published by the School of Business Administration of the University of Michigan. Article is written by Nat Weinberg and is entitled, "The Thinking Behind the UAW-CIO Guaranteed Employment Plan."

5. "Questions and Answers About the UAW-CIO Guaranteed Employment Plan," prepared for the UAW-CIO Economic and Collective Bargaining Conference, November 12-13, 1954, Detroit, Michigan.

6. Article entitled, "A View of the Guaranteed Wage," by Ralph Showalter, prepared for the University of Toronto December 16, 1955.

7. Reprints from the June, 1955, issue of the UAW-CIO monthly magazine, *Ammunition,* entitled "Historic New Contracts."

8. Address by UAW Research Director Nat Weinberg, delivered at annual meeting of State Bar of Michigan in Detroit on September 14, 1955, on the future of guaranteed pay plans.

9. Copy of model SUB plan now proposed for local negotiations in plants within California and other western states by the United Steelworkers of America. Publication is entitled, "Supplemental Unemployment Benefit Plan."

10. Pamphlet entitled, "Supplemental Unemployment Benefit Agreement" for use in conjunction with No. 9 above.

11. "Supplementation of Unemployment Benefits" containing the full text of rulings, statutes, and cases. The introductory summary to this publication is so significant that it is reproduced in full.

INTRODUCTORY SUMMARY

The Nature of the Question

The rulings, cases and statutes reprinted in this booklet are all concerned, directly or indirectly, with one basic issue—whether state unemployment compensation statutes are so drawn that the payment of supplementary unemployment benefits is impossible.

Note that the issue is whether supplementation is *possible*, not whether the payment of private unemployment benefits is *lawful*. No law prevents, or can be argued to prevent, the payment of private unemployment benefits If an employer simply agreed to pay certain specific sums to its employees for each week of unemployment, there could be no possible legal question as to his right to do so. The only question which could be raised is whether an employee who received such a benefit would be disqualified, to the extent of the amounts received, from receiving state unemployment benefits.

It is this question—whether the receipt of private unemployment benefits disqualifies an employee from receiving state unemployment

benefits—which is discussed in most of the state rulings here collected. The answer to that question has overwhelmingly been that the employee is not disqualified, either wholly or in part.

Before summarizing the reasons which have been given for that answer, it may be useful to emphasize that the SUB plans so far negotiated are not simply private unemployment plans. They are *supplementary* unemployment benefit plans. The difference is important. Under SUB plans, an employee must, in most cases, be entitled to receive a state unemployment benefit. Only if he qualifies for and if he receives a state benefit may he be entitled to receive a SUB payment. And the SUB payment itself is not a flat amount but is calculated by deducting from the agreed-upon total benefit (usually 60 or 65 percent of take-home pay) the amount of the state benefit received.

Thus, under the Ford SUB plan, no employee is entitled to receive a SUB benefit in any week unless he has received a state system benefit—with certain (minor) exceptions not important in the present connection. If an employee had straight time hourly earnings of $2.20 per hour and no dependents, his total unemployment benefit for the first few weeks of unemployment would be approximately $48. But he is not entitled to a SUB payment of this amount. He must receive a state unemployment benefit. Once he has received that benefit—let us say of $33—he is then entitled to receive the difference, $15, as a supplement to the state benefit.

SUB payments, in short, are not simply unemployment benefits. They are *supplementary* unemployment benefits, intended to bring a state system benefit up to some higher agreed-upon level. They are paid only if the employee is genuinely unemployed—as defined by the state system itself—and receives a state system benefit.

This general requirement and method of computation is subject to some exceptions, it is true, to cover special disqualifications for state benefits which the parties agree should not disqualify the employees for benefits under the plan.[1] But in those special cases, the plans are not truly supplemental. They provide a private benefit for unemployment where the state system provides none. And they therefore present no question as to whether supplementation is possible. Our concern here is solely with the cases in which the employee can receive both a SUB payment and a state system benefit. And, in all of those cases, the plans require that the private benefit be supplemental—i.e., it cannot be paid unless the state system benefit is paid.

Because of this requirement, it would appear, as a matter of logic that a state, in deciding whether a state benefit is payable for a particular week, could not treat the SUB benefit as disqualifying the employee—for the simple reason that, until the decision is made to pay the state benefit, no SUB payment is due at all. Furthermore, any effort

[1] Under the Ford plans, there are three such exceptions, covering cases: (1) in which the State has a second "waiting week" of unemployment before benefits are payable, (2) in which the employee did not have sufficient service under the state system to be entitled to state benefits, (3) in which the period of time for which state benefits are payable has been exhausted. The steel plans have two additional exceptions, covering cases (4) in which the employee received wages in excess of the amount which would disqualify him for state benefits, but less than the amount of the total benefit payable to unemployed workers, and (5) in which the employee is laid off because of a vacation shutdown but is ineligible for vacation pay.
The most important of these exceptions is number (3). This exception is necessary in order to continue payments beyond the period of state benefits—an obvious necessity if the plan is to pay benefits for 52 weeks, as in steel.

by the state system to anticipate the payment of a SUB payment for a particular week, and hence to disqualify the employee for the state benefit, would have the effect of also disqualifying the employee for SUB and hence would destroy the premise on which the state disqualification rests.[1]

The logical objection to disqualification may, however, not eventuate because the final adjudication of entitlement to state benefits is not instantaneous. An employee may receive his state benefit, and therefore his supplemental benefit, and then the state, or an interested party, may claim that the state benefit should not have been paid, or should have been reduced, because of the receipt of the supplemental benefit. Logically such a claim, if successful, would also involve the further consequence that the supplemental benefit was not properly paid. But the repeated recomputations which would logically follow might not be practically possible.

To avoid this problem, all of the SUB plans so far negotiated contain a second condition for the receipt of SUB benefits in addition to the requirement that the individual receive a state system benefit. That second condition is that the State must rule, in advance, that supplementation is permitted. In the Ford plan such a ruling is defined as being recognition of the right of a person to receive both a state system benefit and a supplementary benefit for the same week without reduction of the state benefit because of payment of the supplementary benefit.

The plans themselves, in other words, pose the question of whether the receipt of a supplementary benefit would disqualify an employee from receiving the state benefit to which it is supplementary. They thus ask the states, in making their rulings, to ignore the possible logical contradiction involved in holding that an SUB payment which is payable only if a state benefit is payable can have the effect of preventing the state benefit from being paid. In so doing, of course, they reinforce the principle of supplementation. It is not only true that, in the individual case, no supplementary benefit is payable unless a state benefit is paid; it is also true that no supplementary benefits are payable to any employee unless the state has ruled, in advance of a specific case, that supplementation is permissible.

[1] The conclusion is logically the same if the SUB benefit is regarded only as reducing the state benefit, not eliminating it. Thus, in the example given, if the State anticipated that a SUB payment of $15 were going to be made and therefore offset this against its $33 benefit, the state benefit would be reduced to $18. But if it were so reduced, then the SUB benefit under the plan would not be $15. It would be $48 minus $18, or $30. But if the SUB benefit were $30, then this $30, on the same theory, should be set off against the state benefit of $33, reducing it to $3. But, again, the SUB benefit on that assumption would be $48 minus $3, or $45. And if the SUB benefit were $45, then no state benefit would be paid—and, therefore, there would be *no* supplementary benefit under the Ford plan. Under the steel plan, because of exception (4) in the previous footnote the employee would be entitled to the supplementary benefit but there would be no state benefit to supplement.

Actually, of course, this logical sequence would not be followed to this conclusion because most SUB plans have not completely followed through on the principle of supplementation to an agreed-upon gross benefits level. They have limited it by setting a maximum benefit from the SUB fund ($25 per week in the Ford plan, $25 plus $2 for each dependent in the steel plans). Because of these limitations, the sequence would terminate with the maximum SUB benefit under the particular plan, plus a small state benefit, equal to the difference between that SUB payment and the maximum state benefit (plus any amount of wages disregarded by the State in computing its benefit). This in no way, of course, affects the conclusion that it would not be logically proper to consider a supplementary unemployment benefit in computing the state benefit which it is supposed to supplement. It does make clear, however, the necessity for the further requirement, discussed in the text, that the State rule in advance that supplementation will be permitted.

This second requirement is the occasion for the rulings collected in this booklet. In those rulings, the states have overwhelmingly concluded that supplementation is permissible. Of the 29 states which have decided the question administratively, all but three have ruled that the private benefit would not affect the state system. And two of these three unfavorable responses (Ohio and Indiana) have rested almost entirely on special circumstances or special statutory language not applicable to other states.

The Favorable Rulings

As of the present moment it is the clear consensus of the authorities in all but a very small minority of the states which have concerned themselves with the question that the payment of private unemployment benefits of the kind set forth in that UAW-Ford agreement will not affect an individual's right to receive state system unemployment benefits. It may be assumed that this conclusion, which is represented in the rulings reprinted here, is equally applicable to plans negotiated by other companies and other unions having the same general characteristics.

The ruling in each state, of course, must depend upon the precise wording of the governing state statute. But there is sufficient similarity among those statutes so that the reasoning usually given can be roughly summarized.

The central question, common to all states, is whether private unemployment payments constitute wages. This question occurs in two connections; first, in the determination of whether the individual is "unemployed"; second, in the determination of whether the private unemployment payment should be set off or deducted, as "wages," from the state system benefit.

Typically, state statutes define a week of unemployment as a week in which the individual performs no services and with respect to which no wages are payable to him. A week of partial unemployment is usually defined as one with respect to which the wages payable to the individual are less than the state benefit.

It is clear that no services are performed in return for SUB payments during the period in which they are made. The applicant neither works nor performs services of a "stand-by" nature. SUB plans do require certain action by an applicant for benefits: he must apply for benefits and appear personally each week, he must register at the state unemployment office, and he must keep himself available for work. But they are not services for the employer. They are, rather, methods of implementing the plan's requirement that he be genuinely unemployed and not simply in a "stand-by" status. Since no services are performed in the week, then question of whether the applicant is "unemployed" comes down to the question of whether SUB payments are "wages."

Each state has its own definition of wages. Wages are generally defined as every form of remuneration or compensation for personal services. Some statutes also specify in detail certain kinds of payments which are to be regarded, or not regarded, as wages. In either case the question is essentially the same since the specific exclusions and inclusions largely serve to implement the general principle set forth

in the simpler definition, and in no states are supplemental unemployment benefits specifically mentioned except in the three—Georgia, Maryland and Virginia—which have amended their statutes to dispose of the issue.

Since no services are rendered during the period for which an SUB payment is made, the question considered has been whether the SUB payments are wages, not for services performed in the period for which they are paid, but for past services. Almost all of the states have ruled that they are not And, indeed, this conclusion is almost inescapable.

It is true that a condition for eligibility for SUB payments is the performance of service in the past—the employee must have a certain length of service and the required number of credit units. But it is equally true that the SUB payment is not made for, nor does it vest as a result of, such service. This is so for many reasons. First, as many of the states point out, an employee can work for years and accumulate credit units to the maximum permissible under the plan, and never receive a SUB payment. SUB is not paid for services rendered but because the applicant is unemployed. Second, the amount of the supplemental unemployment benefit, unlike a wage payment, is not related primarily to the service performed by the individual. Thus the benefit payable to two laid-off individuals who perform the same job and who receive the same wages while working, may be different. Such differences will result from the number of dependents an individual has, the amount of unemployment compensation to which he is entitled and the size of the supplemental unemployment benefit trust fund. Benefits based on factors such as these are quite different than wages, the amount of which is based solely on the amount or the value of the services performed.

Nor is the SUB payment compensation for the employer's action in making a layoff or for discharge. An employee is not entitled to SUB because he has been laid off. He is entitled to SUB because *after* he has been laid off he has remained able and available for work, has registered at his state unemployment office, has followed up referrals to other employers and has not refused suitable work from such employers and has, nevertheless, remained unemployed. Of two employees with the same work history who are laid off at the same time, one may be eligible for SUB and the other may not.

Finally, it cannot be said that because contributions to the trust fund from which SUB benefits are paid are related to hours worked, the benefits when paid should be regarded as deferred wages. Benefits paid have no relation whatsoever to the contributions made to the fund. Contributions may have been made with respect to work performed by an individual who never receives benefits—because he is not laid off, or because he is offered employment by others when he is laid off, or because the fund has been exhausted. Conversely, benefits may be paid to an employee even though no contributions to the trust fund were made at any time while he was working, because the fund had reached its prescribed level. The fact is that the concept of hours worked is simply used as a convenient way of measuring the employer's maximum rate of contribution to the SUB trust fund. This use of hours does not indicate that either the contributions or the benefits are wages

SUB payments, in short, are neither deferred wages, attributable to past service but payable later—as some states have regarded vacation pay—nor are they forms of dismissal or severance pay or other compensation for loss of employment rights or for layoff which some states classify as wages. Neither prior service, discharge or layoff is sufficient to entitle a claimant to SUB benefits. SUB is simply what it purports to be: a plan to provide unemployment benefits, benefits which, unlike wages are paid for *un*employment, not for employment. The benefits are not paid for simply standing-by. They are paid only if the applicant has affirmatively sought employment and failed to obtain it through no fault of his own.

It is this basic characteristic of the SUB plans that distinguishes them from the guaranteed annual wages plans payments under which have been held to be wages in some states. The concept, under such guaranteed annual wage plans, is that the employer agrees to pay, each year, for a certain amount of work, just as he agrees to pay for four or eight hours work under reporting or call-in pay provisions. If the work is not available the guarantee must be paid nevertheless, just as reporting or call-in pay is due when no work is available on the day on which the employee is called in to work.

Under such plans it can be argued that all payments made are wages, whether or not work was actually required during the particular week. The employer has agreed to pay wages for a year's work and the fact that part of that payment is made in a particular week in which no work was performed does not change the fact that the payments are wages—payments which the employer has agreed to make in return for work which he may require to be performed during the year.

Under SUB plans, to the contrary, it is just as clear that benefits are not wages which the employer has agreed to pay for the employee's time, whether or not it is actually used. An employee can be laid off for a whole year and receive no SUB benefits if during the period of layoff he is able to find other employment or if he fails to make himself available to other employers by registering with the state employment office and accepting suitable work. Unlike guaranteed wage plans, SUB plans do not involve any commitment to pay a year's wages. What they do involve is a commitment to pay unemployment benefits.

This distinction is emphasized by the fact that under SUB the benefits are not actually paid by the employer. They are paid, instead, from a trust fund. The fund is established, it is true, by the employer. But it is not established to pay wages on his behalf for time worked for him or reserved by him, but to pay unemployment benefits. The employer receives, in return for SUB payments, neither a guarantee that the employee will be available to work for him or any commitment by the employee to perform any amount of work in return for a guaranteed wage. Nor, on the other hand, does the employee receive any guarantee that the employer will pay for any guaranteed number of hours.

SUB payments, in sum, are no more to be considered as compensation for services than are the state unemployment benefits which they supplement.

Once these basic considerations are understood, it is easier to deal with the specific items which some state statutes have specifically included, by definition, in the concept of wages. All of them, on analysis, will be found to be either deferred compensation for work performed in prior weeks, or years, compensation for loss of employment rights or failure to give notice, or standby payments to insure that the employee will be available to his employer. All are distinct and different from SUB payments, and, in almost every state in which the statute lists such particular inclusions in the definition of "wages," the state authorities have agreed that SUB payments are, nevertheless, not "wages." [1]

That SUB payments should not be considered as wages under the various state definitions is confirmed and fortified by the conclusion of the federal government under the Federal Unemployment Tax Act, which is the basic statute pursuant to which all of the state unemployment compensation statutes were enacted. That statute imposes a tax on all "wages," which are defined, with certain exceptions not here material, as all remuneration for "employment" In order to determine whether a tax would have to be paid on SUB payments it was necessary, therefore, that the Federal Internal Revenue Service rule as to whether such payments are "wages." Also, a ruling had to be made as to whether SUB payments are wages in order to determine whether income tax should be withheld from them. If they are not wages but some other form of income, they are taxable but there need be no withholding.

After carefully considering the matter the service decided, in a ruling which is reprinted in this booklet, that supplemental benefits are not to be regarded as "wages" under either statute. In that ruling is summarized very briefly many of the considerations which have also been relied upon by the states to reach a similar result

Above and beyond the technical questions of the definition of "wages," there stands the policy of the state unemployment statutes. Many of the states which have been called upon to decide this question have looked to the policy of the statute. Almost all who have so looked have agreed that policy considerations also dictate the conclusion that SUB payments should not be considered as wages.

The basic policy underlying unemployment compensation statutes is so plain that it can almost be assumed without exposition. But, fortunately, most state statutes set out, in specific terms, the policy which the statute is intended to implement, and require that this policy be considered as a guide to the interpretation and application of the statute.

Typical of the declarations of policy found in state unemployment compensation statutes is Section 1 of the Illinois Unemployment Compensation Act. This provides in part as follows:

> "As a guide to the interpretation and application of this act the public policy of the State is declared as follows· Economic insecurity due to involuntary unemployment has become a serious menace to the health, safety, morals and welfare of the people of the State of Illinois. Involuntary unemployment is, therefore, a

[1] See, e.g., Connecticut, Delaware, Massachusetts, Minnesota, Oklahoma, Pennsylvania, Wisconsin.

subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. Poverty, distress and suffering have prevailed throughout the State because funds have not been accumulated in times of plentiful opportunities for employment for the support of unemployed workers and their families during periods of unemployment, and the taxpayers have been unfairly burdened with the cost of supporting able-bodied workers who are unable to secure employment. * * * It is the considered judgment of the General Assembly that in order to lessen the menace to the health, safety and morals of the people of Illinois, and to encourage stabilization of employment, compulsory unemployment compensation upon a state-wide scale, providing for the setting aside of reserves during periods of employment to be used to pay benefits during periods of unemployment, is necessary."

What is the impact of a SUB plan upon the effectuation of this purpose? For a number of reasons, it seems clear that SUB not only serves the same needs as those described in the statute, but also serves to augment and implement the correlative statutory purpose that benefits should not be paid except to those within the class intended to be benefited.

This conclusion is based upon three separate considerations.

1. First and foremost, of course, is the stated policy of the statute to lighten the impact of involuntary unemployment by setting aside reserves during periods of employment. SUB plans represent simply private implementation and supplementation of this basic statutory purpose. They provide simply for the accumulation of additional reserves during periods of employment so as to supplement the basic benefit provided by the State in periods of unemployment. As in the case of pensions and other social benefits, the statute provides a minimum benefit applicable to all, commensurate with the legislative judgment as to the level of benefits which, on an over-all basis, can reasonably be charged to the community. Private plans freely negotiated between employers and unions serve to supplement this basic benefit as the resources which the parties are able to agree should be devoted to this purpose permit. As in the case of pensions, this does not involve any contradiction of the legislative purpose in establishing the basic benefit but, rather, private action in aid of that purpose. In essence, SUB plans simply say to the states: You have established a system for unemployment benefits. We simply wish to add additional amounts to the minimum benefits which you provide.

2. A second basic objective of unemployment compensation legislation is to "encourage stabilization of employment" and thus to avoid unemployment, as well as to provide benefits in cases in which unemployment occurs. To this end, many states have adopted experience-rating systems so that the contributions of those employers who have a high incidence of unemployment are greater than those who maintain employment at stable levels. SUB plans do not affect this small and rather ineffective incentive for stabilization. But they add a much larger and more direct incentive for stabilization. In the long run, each

employer's contribution to the fund established by a SUB plan will depend directly on the amount of unemployment among his workers. By thus establishing a direct cost of unemployment, SUB supplies a substantial incentive for employers to make the expenditures for warehouses, inventories, etc., as well as the changes in selling and production methods, which are often necessary to avoid layoffs. Furthermore, it supplies an incentive for employers who cannot avoid layoffs to find other employment for their workers. In so doing, SUB not only helps to achieve the statutory purpose of preventing unemployment, it also reduces the potential drain on state unemployment compensation funds.

3. The final consideration, and perhaps the most telling one, is that the effect of a ruling that SUB payments are to be regarded as wages or disqualifying compensation will not have the effect of conserving one single penny of the state's unemployment compensation funds.

In almost every other case in which it is ruled that a certain kind of individual income is to be treated as wages or as otherwise disqualifying the recipient from receiving state benefits, the net effect of the ruling is to conserve in the fund, and for the benefit of those who must contribute to the fund, the unemployment compensation benefits that would otherwise be paid. In a sense, the usual determination of whether income is to be regarded as disqualifying the applicant represents a balance of the interests of the individual in obtaining the unemployment benefit and the interests of all others who must, in the end, contribute to the fund from which unemployment benefit is to be paid.

This is not true of SUB plans. Because SUB plans are supplementary a ruling that SUB payments are wages does not prevent one single penny from being paid in state unemployment compensation benefits. The result, instead, is that the SUB payments are not made. The individual worker who is laid off, and who is qualified will continue to apply for and receive his state system benefits. The only effect of the adverse ruling will be to prevent him from receiving any supplemental benefits.

This conclusion is not true with respect to severance pay, dismissal pay, pay in lieu of notice, vacation pay, or any of the other forms of payment which have been held in some states to disqualify the applicant from receiving unemployment compensation. In all of those cases, the payments are not conditioned on the unemployment compensation ruling. But, in the case of SUB plans, the payments themselves are conditioned upon the approval of the principle of supplementation, and failure to approve the principle results in no SUB payment being made.

In sum, when we look at the technical definitions in the various state statutes, it seems reasonablly clear that the receipt of SUB payments should not properly disqualify an employee from receiving state unemployment benefits. This conclusion is fortified by consideration of the broad statutory purposes and policies. And finally, the fact that SUB plans contain, as a condition, the requirement that the benefits be supplementary makes it evident that the only effect of treating SUB payments as disqualifying the applicant for state benefits will be to take away the SUB payment, not the state benefit. And surely a ruling should not be made, in applying a state unemployment compensation

statute, which will not affect the benefits paid under that statute but will prevent other benefits from being paid to the state's unemployed.

The Exceptional States

In view of all of these considerations it is not surprising that almost all of the states have concluded that supplementation of state benefits is not forbidden. There still remains the fact, however, that three states —Indiana, Ohio and North Carolina—have ruled to the contrary. Why?

The Indiana ruling is most easily explained. Indiana's statute, unlike that of any other state, has a separate classification of "deductible income" which is much broader than "wages." The Attorney General ruled that SUB payments were included within the concept of "deductible income" although he also ruled that they were not "wages" upon which contributions to the unemployment compensation fund must be paid.

Despite the special statutory language, we nevertheless believe the Indiana ruling to be erroneous. SUB payments are basically different than the various kinds of income which are listed, in addition to remuneration for services, as constituting "deductible income." Furthermore, the Indiana Attorney General's ruling relies on considerations which plainly misconceive the nature of SUB plans. Thus, he concludes that SUB payments "must be deducted from any unemployment benefits to be paid by the state. However, the state will supplement any such 'deductible income' in order to bring the total income received by an unemployed person up to the maximum amount to which he is entitled under the Indiana Act."

This is plainly impossible under SUB plans. Furthermore, he construes the provision with respect to "deductible income" as expressing the state's policy as to the share of an unemployed person's benefits which should be paid by the state. But the application of this provision to SUB payments does not reduce the share of such benefits which the state must pay. It does not affect the state's benefit payments at all. It simply prevents the supplemental benefit from being paid.

Ohio does not have any special statutory language. It does, however, have a special legislative history which was primarily relied upon by the Administrator of the Ohio Bureau of Unemployment Compensation in forbidding supplementation. In 1955, an initiative proposal which would have enlarged state unemployment compensation benefits generally was placed on the Ohio ballot, after it had been defeated in the legislature. This proposal also included a provision expressly permitting payments under guaranteed annual wage plans. The entire proposal was defeated in the 1955 election. This history was heavily relied upon by the administrator. Equating SUB with guaranteed wage plans, he said that this history required that SUB payments be regarded as wages unless supplementation was "clearly authorized" by the statute.

The use of postenactment history as a basis for interpretation of a statute is always dubious. Where this kind of history consists of rejection of a comprehensive amendment, only one small part of which related to the question at issue, the inference which can be drawn as to the meaning of the original statute is even less to be relied upon. And where it is at least arguable that the intent of the rejected amendment

was to clarify the law's application to a different kind of plan, its use as a basis for interpretation of the existing statute seems completely tenuous Nevertheless, the Ohio ruling does rest on this basis and it does not, therefore, represent any precedent for states in which there is no similar history.

The North Carolina ruling, then, is the only one—state or federal—which in the absence of special factors, really contradicts the thesis of the other states, herein summarized, that SUB payments are not to be regarded as wages and, therefore, that supplementation is permissible. And whatever the validity of other arguments against supplementation, the theory of the North Carolina ruling seems plainly, and demonstrably, wrong.

The North Carolina statute specifically lists, as an item to be included in the concept of wages, sums paid "pursuant to an order of the National Labor Relations Board or by private agreement, consent or arbitration for loss of pay by reason of discharge * * *." The North Carolina Employment Security Commission ruled that SUB payments came within this category as payments "by reason of discharge." The statutory language plainly suggests, however, that this was intended to cover awards of back pay by the National Labor Relations Board or an arbitrator or agreement, without arbitration, to pay compensation for wrongful discharge. Plainly, SUB payments are not compensation for loss of pay by reason of wrongful discharge. SUB is not payable in discharge cases at all, whether rightful or wrongful, by explicit provision in both the Ford and Steel Plans [1] And, even if the elementary distinction between a layoff and a discharge is ignored, and all layoffs are considered to come within the statutory term "discharge" still SUB does not come within the statutory definition, because SUB is *not* a payment for loss of pay because of layoff. No right to SUB arises from a layoff itself. As already pointed out, SUB is payable only because an employee is involuntarily unemployed following a layoff, not because he was laid off.

Legislation

In addition to the administrative rulings already discussed, there have been legislative attempts to resolve the supplementation question. As already noted, a proposal to expressly permit supplementation was included in the series of amendments to the Ohio statute which were defeated in 1955. In Maryland and Georgia, amendments permitting supplementation were adopted by the legislature with very little controversy. In Virginia, on the other hand, the state statute was amended so as to include within the concept of disqualifying wages "unemployment payments financed in whole or in part by an employer."

Litigation

The rulings here reprinted are all administrative There have been, as of this writing, no judicial determinations as to whether supplementation is permissible under the various state statutes The reason lies primarily in the requirement, common to all SUB plans, that supplementation be approved before SUB payments can be made. For this

[1] The Ford Plan expressly excludes layoffs "for disciplinary reasons" and the Steel Plan excludes layoffs constituting "suspension or discharge" Other plans have the same or similar language.

reason, no SUB payments are made in the states which have refused such approval. Hence, no state benefit claims have been denied in those states and no cases exist which can be taken to court for review. In the states which have approved supplementation, on the other hand, neither the employer who agreed to the SUB plan nor the employee who receives the state benefit can be expected to challenge the administrative ruling that state benefits can be supplemented.

There have been attempts by other employers in Connecticut and Illinois to enjoin the payment of state benefits to persons receiving supplemental benefits. Such attempts so far, however, have foundered on the lack of legal interest of the plaintiffs in the question of whether state benefits are improperly being paid to employees of other employers as well as on the fact, noted above in connection with the administrative rulings, that a denial of supplementation would not have the effect of saving one penny for the state fund but would, instead, simply prevent the supplemental benefit from being paid.

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ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

WM. A. MUNNELL, *Chairman*

REPORT OF THE SUBCOMMITTEE ON THE PLACEMENT OF INSURANCE BY THE STATE

MEMBERS OF SUBCOMMITTEE

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March, 1957

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LETTER OF TRANSMITTAL

ASSEMBLY, CALIFORNIA LEGISLATURE
COMMITTEE ON FINANCE AND INSURANCE
March 6, 1957

HON. L. H. LINCOLN
Speaker of the Assembly
State Capitol, Sacramento, California

DEAR MR. LINCOLN: Pursuant to House Resolution No. 200, 1955 General Session, I am transmitting to you and the members of the Assembly the Report of the Subcommittee on the Placement of Insurance by the State, with the request that it be printed as a separate document.

We urge the enactment of the proposed legislation, Assembly Bill Nos. 1214 and 1215, and call attention to item 6 of our findings which recommends a comprehensive survey and analysis of the State's total insurance program with a report to the Legislature for careful evaluation and review

Sincerely yours,

WM. A MUNNELL, Chairman
FRANK LANTERMAN (not signed)
HAROLD K. LEVERING (not signed)
ALLEN MILLER
JESSE M. UNRUH

SCOPE OF REPORT

The objectives of the Subcommittee on Placement of the State's insurance were to determine:

1. Whether political favoritism played a part in the designation of brokers and carriers to handle the State's insurance purchases;
2. Whether it is necessary for the State to pay commissions to brokers where no services are performed by them;
3. Whether there is conflict of interest involved when legislators and other public officials receive insurance commissions on business placed by the State;
4. Whether the administration of the insurance program of the State was, and is, being conducted in the most efficient possible manner from the standpoint of the public interest;
5. Whether there is a need for corrective legislation in the area of insurance administration by the Department of Finance.

FINDINGS

The subcommittee found, on the basis of substantial documentary and oral evidence, that the placement of the State's insurance had been conducted in a manner that would not be tolerated by any large private corporation. Administration of the insurance program within the Department of Finance has been loose and inefficient and not calculated to inspire public confidence in the way in which public funds have been expended. More specifically, the subcommittee found:

1. That political favoritism was the primary consideration in the allocation of commissions on insurance placed by the State

2. Most brokers who received commissions on state business performed no services whatsoever, not even to the extent of countersigning policies Furthermore, the payment of such commissions was dictated by the Governor and the Director of Finance, inasmuch as there is no legal requirement that such commissions be paid. The Insurance Adviser determined the commission rate to be applied to all state insurance.

3. There is no legal conflict of interest involved when persons in public office receive commissions on business placed by the State but the record indicates the fears and anxieties aroused in the Director of Finance by virtue of the fact that he could not freely make necessary policy decisions relating to the discharge of his insurance responsibilities without incurring charges of "unfair discrimination" and there is a threat to constitutional government

4 The administration of the insurance buying program of the State of California has been conducted in a disorderly and confused manner. The full report of the subcommittee cites ample evidence of a lack of centralized responsibility for insurance matters, inadequate staffing, the absence of any manual of procedures, a failure to conduct surveys of the insurance exposures of the State, a disregard for open-bid purchasing procedures, a lack of rate analyses or studies of procedures in other jurisdictions, a total absence of any periodic reports during the past 20 years and a neglect of recommendations by the Office of the Legislative Auditor and the Audits Division of the Department of Finance, relating to affairs of the Insurance Adviser's Office

5 There is a pressing need for corrective legislation in the area of insurance administration by the Department of Finance. Such legislation should cover two major areas of weakness:

a. The problem of payment of insurance commissions to public officials who are brokers, and
b. The management of the insurance purchase program of the State, within the Department of Finance.

6 There is need for a comprehensive survey and analysis of the State's total insurance program, and it is recommended that the findings be reported to the Legislature for careful evaluation and review.

FULL REPORT

1. SCOPE OF REPORT

The administration of the State of California's insurance program was the subject of extensive unfavorable publicity during 1956 as a result of press disclosures of favoritism in the placement of insurance. Daily newspaper articles[1] developed the theme that a small group of politically favored brokers were on a "gravy train" sharing a "$50,000-a-year state 'insurance pie'." The San Francisco *Chronicle* broke the story on November 20, 1956, that politics was the basis for the gift of unearned insurance commissions. Allegations were made charging the State Department of Finance with permitting brokers to receive "lush commissions for doing practically nothing." Many of the parties involved, including brokers and public officials, issued statements to the press which cast serious doubts upon the manner in which the State purchased its insurance. In the light of these charges, the Subcommittee on the Placement of Insurance by the State was established to determine:

1. Whether political favoritism played a part in the designation of the brokers and carriers to handle the State's insurance purchases;
2. Whether it is necessary for the State to pay commissions to brokers where no services are performed by them;
3. Whether there is a conflict of interest involved when legislators and other public officials receive insurance commissions on business placed by the State;
4. Whether the administration of the insurance program of the State was, and is, being conducted in the most efficient possible manner from the standpoint of the public interest;
5. Whether there is a need for corrective legislation in the area of insurance administration by the Department of Finance.

2. SOURCES

The Subcommittee on the Placement of Insurance by the State held public hearings on December 17, 1956, and January 3 and 4, 1957, in Sacramento for the purpose of obtaining testimony from officials responsible for administering the insurance program. In addition, representatives from the insurance industry, including a number of brokers who had received commissions arising out of the insurance placed by the State, were requested to testify in order to provide a factual basis for the findings and recommendations of the subcommittee. Extensive use was also made of various interdepartmental reports, memoranda and letters, as well as opinions of the Legislative Counsel and the Attorney General. Only a small portion of the evidence submitted has been included in the present report.

[1] Typical newspaper headlines asserted "Fee Sharing by Politicos, State's Insurance 'Pie' Investigated, Knight, Others to Study Give-away to Brokers, Nothing Illegal, It's Said," San Francisco *Chronicle*, November 26, 1956; "State Insurance Payments Raise Serious Questions," Sacramento *Bee*, November 23, 1956; "State Insurance $50,000 Paid Out Yearly to 'Friends'," Los Angeles *Examiner*, November 23, 1956.

3. THE ISSUE OF POLITICAL FAVORITISM

(a) Background

The State of California, because of the great diversity and scope of its operations maintains an insurance program whose total annual premium cost is well in excess of $600,000. The public liability attached to the operation and maintenance of more than 17,000 motor vehicles, the public official bonds for some hundreds of government employees, and the insurance of the San Francisco-Oakland Bay Bridge which is valued at more than $100,000,000 are examples of the more important coverages purchased by the State Where the provision of insurance by the State is authorized by statute, it has been the policy of the administration to maintain generous limits of coverage. The inventory of insurance policies supervised by the Department of Finance alone is as large and complex as that of the largest corporate insurance buyers in the country. The primary responsibility for administering the insurance affairs of the State of California is vested in the Department of Finance by authority of the Government Code. Within that department the position of Insurance Adviser has evolved over a period of more than 20 years with Mr John F Brady as the sole incumbent Mr. Brady's functions are to "advise regarding, and arrange for insurance and public official bonds "[1] The California State Personnel Board established the position of Insurance Adviser in 1936 and defined his duties in the following terms:[2]

> "Under general direction, to be responsible for the work involved in procuring surety bonds on state officers and employees, insurance on all state-owned automotive equipment and privately owned permitted motor vehicles, and fire, burglary, robbery, forgery, aviation, general liability and other types of insurance where authorized by law; and to do other work as required."

Over the years the custom developed whereby the Insurance Adviser negotiated insurance directly with the insurance carriers who handle the State's risks rather than by competitive bidding. The Insurance Adviser makes this clear in his reply to a letter from Mr. Sam Samson of the Samson Insurance Agency of Los Angeles, in which Mr. Brady states, "We do not find it necessary to call for bids or obtain open market quotations through insurance brokers. Our practice for many years has been to deal with the companies direct. * * *"[3] The conventional practice among the carriers with whom the State did business was to adhere to the American Agency System. Under this system, commissions are paid to agents or brokers of record regardless of whether services are provided to the buyer on policies issued by the insurance companies In keeping with this custom adopted by the insurance carriers, it was inevitable that someone would have the responsibility for designating the agents or brokers to receive these commissions. The question whether there was an obligation on the part of these brokers to perform services for the State as a consideration for

[1] California State Department of Finance, *Organization and Personnel,* effective July 1, 1956
[2] See Job Specification for the Class of Insurance Adviser, page 36
[3] See page 57.

these commission payments was not raised by the State Administration.[1]

It was the practice of the Department of Finance when preparing specifications to stipulate the amount of commission to be paid by the the companies[2] and to designate the broker or brokers who were to receive these commissions even though as a matter of law, no obligation existed to pay such commissions.

The following testimony was taken from the transcript of the public hearing on January 4, 1957:

"Mr. Methmann: My name is Hugo Methmann. I am Assistant Vice President of Fireman's Fund Indemnity Company, Fireman's Fund Insurance Company. . . . . .

Chairman Munnell: All right. Will you tell us how the Fireman's Insurance Fund came to get state insurance?

Mr. Methmann: We were asked to bid for automobile insurance, for example.

Chairman Munnell: Did you give a bid?

Mr. Methmann: Yes.

Chairman Munnell: Anything said about the commissions paid?

Mr. Methmann: Oh, yes. This is arranged by Mr. Brady; brokers usually tell us what commission is involved, what they want to pay.

Chairman Munnell. Was there any negotiation for the commission?

Mr. Methmann: No.

Chairman Munnell. Nothing was said about commission—just the price of the premium paid on the policy?

Mr. Methmann: Oh, no—the commission was arranged. You make a bid, and you say, 'We want your bid made on the basis of X percent commission.'

Chairman Munnell: Now, is there anything that would prevent your organization from negotiating for the policy less the commission, or at a reduced commission?

Mr. Methmann: It was negotiated at a reduced commission, substantially reduced.

Chairman Munnell: And what was the commission on it?

Mr. Methman: I believe on the automobile, the large automobile policy, it was 5 percent.

Chairman Munnell: Five percent. What is the normal commission?

Mr. Methmann: Anywhere from $17\frac{1}{2}$ to 25 percent.

Chairman Munnell: All right. Now why was there a commission of 5 percent paid? Did some of the brokers render a service to earn the commission? What is the theory back of the payment of the commission where no service is rendered?

Mr. Methmann: Well, as far as we are concerned, there was no—the brokerage was designated subsequent to the time the policy was negotiated by the State. In other words, Mr. Brady made the negotiations with the company, or various companies.

Chairman Munnell: With respect to the total premiums and the commissions to be paid on the policy?

Mr. Methmann: What was that?

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[1] See letter from John Peirce to Chairman Munnell, page 60.

[2] See Transcript Public Hearing, Friday, January 4, 1957, testimony of Mr. Methmann, page 352.

Chairman Munnell: With respect to the total premium and the commissions to be paid on the policy?

Mr Methmann: Mr. Brady comes in, and he says, 'We want you to figure liability insurance for the State of California automobile fleet at a 5 percent commission.'

Chairman Munnell: Mr. Brady told you what the commission would be?

Mr. Methmann: Well, they figured the lowest possible commission, and that is about it.

Chairman Munnell: Well, the lowest possible commission is what your contract is, isn't it? I mean, suppose that Mr. Brady had said, 'Figure your premium on a basis of a 1 percent commission,' what would you have done?

Mr. Methmann: We might not have done anything. We might have said, 'Well, we just don't want to figure on a basis of that low a commission.'

Chairman Munnell: You don't know what you would have done on a 2 percent commission, or 3 percent?

Mr. Methmann: No.

Chairman Munnell: But he said, 'Figure the premium based upon a 5 percent commission?'

Mr. Methmann: Yes.

Chairman Munnell: So here we have the State telling the insurance company what the commission on the policy is going to be, rather than the insurance company telling the State what they will require.

Mr. Methmann: No, that isn't entirely true. It is customary when dealing with brokers for them to name the commission on large, substantial pieces of business, and casualty insurance business.''

(b) The Evidence

The issue of political favoritism may be tested by focusing upon the method of selection of the brokers who actually received commissions on the State's insurance.

From the testimony presented it is evident that the administration maintains a list of favored brokers who are designated to receive commissions.[1] Membership on this list of favored brokers appears to be governed by recommendations emanating from both the Offices of the Governor and the Director of Finance. Ample evidence was accumulated that Governor Goodwin J. Knight and the Director of Finance, John M. Peirce, made numerous recommendations for names to be added to this list Information made available to the subcommittee indicates that in each such case, the favored broker received commissions Conflicting testimony, however, was received.

For example:

In reply to questions from committee members, Mr. Brady asserted [2] that he had not had any recommendations directly to him from the Governor of the State with reference to brokers or agents nor from anyone from the Governor's Office. He stated that he had never had any

[1] See Transcript Public Hearing, Monday, December 17, 1956, testimony of Mr John F Brady, page 44

[2] See Transcript Public Hearing, Monday, December 17, 1956, testimony of Mr John F Brady, pages 44-47.

instructions direct from the Governor or any representatives, secretaries or attaches. Mr Brady denied that any Governor or any secretary of any Governor since he has been in the employ of the Department of Finance "has brought messages suggesting or naming any particular agent or broker to be designated to receive commissions."

However, several files of memoranda from secretaries of the Governor to the Director of Finance were read into the record, e.g., "The Governor (Knight) would appreciate your consideration of Mr. Ruf for a *very minor amount* of insurance."[1]

At page 96 of Transcript I, Mr. Brady testified that when the Governorship changed, the list of preferred brokers underwent a gradual change

Mr. Newton Stearns, Secretary to the Governor, testified at page 146 of Transcript I, "The policy of the Governor is entirely to leave it in the hands of the Director of Finance" At page 148, Mr Stearns stated that Mr Peirce, and he alone, was the only person who had anything to do with the allocation of the insurance commissions.

The testimony of Robert Alderman, formerly Executive Secretary to Governor Knight, *directly conflicts* with evidence presented by some other witnesses. In Transcript Number III, at pages 206 ff., Mr. Alderman stated "To the best of my recollection, within two or three months after Lieutenant Governor Knight became Governor, I received a telephone call from John Peirce saying that he had some insurance commissions to take care of, and asked if the Governor had designated any brokers. I said to the best of my knowledge he had not but I would ask him * * * which I did. * * *I talked to the Governor the same day and he gave me the names of four brokers which I relayed to Mr. Peirce by telephone and as far as I know that ended it.* I don't recall any written memos but if you have one on file, I would be glad to verify my signature, if there is such." The transcript continues at page 207:

"Chairman Munnell. Q. You had an oral conversation with the Governor about the designation of four brokers who received commissions?

A. That's right.

Q Do you recall who those brokers were?

A. Yes, very well One was Herbert Hanley of San Francisco; the other, Glenn R. Baker of San Jose, Albert Kleinberger of Los Angeles; and Edward I. Beck of Los Angeles.

Q. Do you know any of these men?

A. Very well.

Assemblyman Levering: I know them all.

Q Chairman Munnell: Can you tell us who Mr. Hanley is?

A. Insurance broker in San Francisco at 210 Post Street, former Chairman of the San Francisco County Republican Central Committee

Q. Did you have a conversation with the Governor about why Mr. Hanley was being designated to receive a commission?

A. Not at that time, no.

Q. At any later date did you?

A. No.

[1] See "Memoranda From the Office of Governor Knight to the Director of Finance Relating to the Designation of Brokers," page 38

Q Do you recall any conversations as to the reason for the designation of a broker by the Governor?

A. Well, I may say that long before Governor Knight became Governor, we had discussed the State's insurance business at various times It was certainly no secret that there were these commissions to be paid, and that prior Governors had picked out the brokers to receive these commissions. So as I recall, at various times, as I say, we talked about the matter, and if, as, when he became Governor he should figure out the men that he wished to designate as brokers for the State's business ''

In response to a question [1] as to what the four brokers named by Governor Knight represented or did to earn membership on the list, Mr Alderman replied. ''Well, Mr Kleinberger for example, was campaign manager for Governor Knight when he first ran for Lieutenant Governor, in 1946 They were old schoolmates, dates back to high school days And Mr. Kleinberger has an insurance broker's business in Los Angeles. And Mr. Beck also in Los Angeles, had been quite actively interested in Knight's various campaigns * * * As far as I am aware, he was helpful in raising funds for campaigns in past years * * * among his friends in Los Angeles * * * Mr Hanley * * was chairman of the committee in San Francisco, and was quite active in Knight's campaigns there. Whether he raised funds or not I wouldn't know; but I know he was out in front in the campaign. * * Mr. Baker was also quite active, going back to the first campaign in 1946, during which period he accompanied Knight on his trips around the State ''

Mr Alderman identified a memorandum from the Governor's office signed by him stating ''The Governor has asked me to give you the names of the following brokers for consideration in connection with state business '' [2]

Mr. Edwin M. Wilson, Vice President of Thompkins and Company, General Insurance Brokers, testified [3] that ''conceivably'' his friendship with the Governor's private secretary, John Synon, was the factor in his being the sole invitee to bid on the insurance placed by the Board of Harbor Commissioners

Interoffice memos, signed by John Synon, addressed to John Peirce, Director of Finance, stating, ''Governor Knight has requested that the following name be added to the insurance list * * *'' and another, ''The Governor (Knight) would like the name of James J. Sullivan of San Francisco added to the insurance list.'' [4]

John J. Synon, appointed member of the State Industrial Accident Commission by Governor Knight, attempted to explain his role in the placement of insurance with the State Board of Harbor Commissioners. He stated that he served Governor Knight as private secretary rather than executive secretary because, ''After Mr Alderman left, the Governor told me he didn't think he liked that title any more, so he didn't use it thereafter.'' Prior to his service in Governor Knight's office, Mr.

[1] See Transcript Public Hearing, Thursday, January 3, 1957, testimony of Mr Robert G Alderman, pages 210-211

[2] See Memorandum from Robert Alderman to John Peirce in confirmation of his testimony, page 46

[3] See Transcript Public Hearing, Thursday, January 3, 1957, testimony of Mr Edwin M Wilson, page 278

[4] See page 46

Synon served as political campaign manager for Edwin M. Wilson, Vice President of the insurance firm of Thompkins and Company of San Francisco, when Mr. Wilson was a candidate for Congress.

Governor Knight gave Mr. Synon the assignment of helping Mr. Ward Walkup, President of the State Harbor Board, obtain an analysis of insurance policies that needed renewal. Mr. Walkup refused to authorize the renewal of the policies without expert assurance that the policies were good. When Mr. Synon determined that such assurance could not be obtained from the Insurance Adviser, he telephoned his friend, Mr. Wilson, and asked him to get in touch with Mr. Walkup. Mr. Walkup gave Mr Wilson the policies that needed to be renewed, Mr. Wilson made an investigation, and concluded that his firm could write comparable insurance at a saving in premium to the State of $13,000.

Chairman Munnell asked, "What happened then? Who got the policy?"

Mr. Synon replied, "Well, bear in mind this is only because it was told to me, either by Walkup or Mr. Wilson. * * * Mr. Walkup suspected that there was a leak * * * on the staff of the Harbor Board. * * *

The testimony continued:

"Q There was a leak?

A. An information leak.

Q With respect to what type of information?

A. Well, I really don't know.

Q. Aren't the meetings conducted openly, publicly?

A Oh, I suppose they are. I have never attended one in my life. I don't know how they are conducted.

Q. I was curious how you could have a leak of public business.

A. I am reporting this, that Mr. Walkup suspected there was an information leak in the staff of his Harbor Board * * * there were personality clashes on the board * * * word got out that Mr. Walkup was having that policy analyzed, the people who carried—who were presently carrying the insurance requested that they be given an opportunity to bid a second time. * * * And Mr. Walkup called me, and asked me what did I think about that? So I, in turn, called John Peirce, and I said, 'John, what about that?' John Peirce said, 'I wouldn't give them a second chance. It is to be assumed that when a reputable firm makes a bid to the State of California, that is its best bid.'

Q. Did they say why they wanted to make the second bid? * * *

A. I don't recall that they said any more. * * *

Q. How many other brokers bid on that job? Do you remember that?

A. No, I don't think any others did. * * * But Mr. Walkup is not the same type of cat that Mr. Peirce is. He was not bothered about the niceties as was Mr. Peirce. Mr. Walkup said, 'I'll let them bid a dozen times if they will bring me back a lower bid every time they bid Let 'em bid ' Mr Walkup did let them bid.

Q The second time?

A Yes, sir. But Mr. Walkup is a pretty shrewd old boy. So Mr. Walkup let this little leak he had on the board know, or ostensibly

know, what the bid was going to be from Wilson's Company, and the second bid, as it came in was $400 above Wilson's bid—or what they thought it would be.

Q. Wilson still got the job?

A. But actually Wilson's bid was lower, so Wilson got it."

(c) Conclusion

From the sworn testimony of Mr. Alderman and Mr. Edwin M. Wilson, as well as extensive files of memoranda and correspondence between Governor Knight, Director of Finance John Peirce, and Insurance Adviser John Brady, which came into the committee's possession, political favoritism clearly emerges as the principal criterion in the selection of agents and brokers to receive commissions on the State's business. While testimony was presented by various witnesses to the effect that these practices were also indulged in under former administrations, the following exchange [1] is significant:

"Chairman Munnell: All that we have is the recommendations from Governor Knight's office. Now with respect to this, we don't have either Governor Olsen or Governor Warren directly tied in to the designation of insurance brokers

"Mr. Brady: I am under the impression that ex-Governor Warren never took any active interest in the matter.

"Chairman Munnell: Then you have no interoffice communications from Governor Olsen either?

"Mr. Brady: That is correct."

(d) Basis for Selecting Insurance Carriers

There are two systems of writing insurance in California: (1) the American Agency System which grants commissions to brokers; and (2) the direct writers who employ their own salesmen and pay no commissions. While there is evidence that the direct writing insurance carriers (mutuals and reciprocals) sought unsuccessfully to obtain insurance on which no commissions would have been payable, it must be pointed out that only through the American Agency System could the practice of designating political "friends" as agents or brokers to receive commissions have been possible. It was therefore mandatory that the American Agency System be used.

Evidence demonstrating the lengths to which the administration was willing to go in designating "friends" to receive commissions is indicated in the efforts made by the Insurance Adviser to obtain the necessary lists of agency connections for the favored individuals. Attention is directed to copies of correspondence appended relating to insurance commissions for Helen Hollenbeck of the firm of Edwards, Geil & Turner of Quincy, and with Robert K. Jardine, Jr. of Ukiah.[2]

The primary concern in the placement of this insurance was to benefit the agent rather than giving consideration to the best interests of the State.

[1] See Transcript Public Hearing, Thursday, January 3, 1957, testimony of Mr Brady, page 202

[2] See pages 40 and 53

4. PAYMENT OF COMMISSIONS WHERE NO SERVICE WAS RENDERED

(a) Departmental Confusion About the Law

There appears to have been a considerable degree of confusion in the Department of Finance with regard to the question of whether it is necessary for the State to designate brokers or agents to receive commissions [1] even though no services were performed. For example, the Director of Finance, Mr. John M. Peirce, stated in a letter to the chairman of this subcommittee dated December 17, 1956: [2]

"It was my understanding that the state law prohibits insurance companies from granting rebates, discounts, or other preferential treatment to any of their insured, including the State of California, and that it was the long established practice of the insurance industry to pay commissions to its agents and brokers, regardless of the degree to which such agents or brokers participate in the actual handling of such business."

The California Association of Insurance Agents in a letter filed with the committee stated, "*There is no law, to our knowledge, that prohibits direct purchasing of insurance* from insurance carriers that operate as direct writers and whose coverages are not sold or serviced by independent agents or brokers. Likewise, there is no law, to our knowledge, that would forbid a carrier that has chosen to operate only through independent agents and brokers from selling its insurance contracts to the State without paying commissions to any agent or broker." [3] Commissioner McConnell, at another point in his testimony, said with reference to nonpayment of a commission on state business that it "cannot be assumed that that would be a violation of law." [4]

The following opinions make it obvious that no state law could be found to exist requiring that commissions be paid.

(b) Opinions of Legislative Counsel

At the request of the subcommittee, an opinion was rendered by the Office of Legislative Counsel on the question, "Whether there is any law which prohibits the State from dealing directly with an insurer in the negotiation and placement of insurance, or which would require the payment of broker's commission on all such insurance regardless of whether or not the insurance is placed with a broker." In his opinion of November 29, 1956, the Legislative Counsel stated, "*That the State is not required by statute to utilize the services of a broker in negotiating for the placement of insurance, and is not required by statute to pay a broker's commission on the insurance it purchases regardless of whether the services of a broken are utilized.*" [5]

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[1] See letter from John Peirce to Chairman Munnell, page 60

[2] In this same letter the Director of Finance indicates his belief that he has been "following the practice of complying with the wishes of insurance companies by designating the names of brokers and agents to receive *standard* commissions on insurance and public official bonds purchased through the State Department of Finance."

[3] See letter from California Association of Insurance Agents, page 62

[4] See Transcript Public Hearing, Thursday, January 3, 1957, pages 162-163

[5] See Opinion of Legislative Counsel in the Matter of Payment of Broker's Commissions, page 70

In his opinion of November 23, 1956, the Attorney General said,[1] "*there is no reason why insurance companies cannot do business directly with the State and its agencies furnishing insurance contracts as required at rates which do not include the usual fees paid to brokers who render services in connection with the writing of such insurance.*"

Mr. Louis Heinzer, Administrative Adviser to the Department of Finance, testifying on December 17th, replied to a question from the chairman whether there was a law which required the payment of commissions as follows:

"Chairman Munnell Is that a matter of law or a matter of policy?

"Mr. Heinzer: That is a matter of custom.

* * * * *

"Chairman Munnell. The Governor has said he doesn't care for this system Nobody seems to like it, but we * * * say the law makes us, or requires us to do it The truth of the matter is, on the basis of your opinion, there is nothing that requires the payment of a brokerage commission or fee, for that payment has been based upon custom and usage.

"Mr Heinzer· That is right, in my opinion "

(c) Gratuitous Commission Payments

That there was almost a complete absence of services performed on behalf of the State by favored brokers is abundantly documented in the testimony presented before the subcommittee and further indicates the part politics played in the designation of politically favored brokers and agents. A number of brokers testified that they had performed no insurance services for the State but, nevertheless, had received commissions over a period of many years. The pattern of commission payments whereby groups of brokers would receive identical commissions indicates that there was no relationship between services rendered and commissions received For example· The master motor vehicle policy carried by the Zurich Insurance Company for the policy period July 1, 1954, to July 1, 1955, provided that each member of a group of five brokers receive a commission of $2,804 31; another set of seven brokers each receive $946 77 Later, this policy was placed with the Fireman's Fund Insurance Company and a group of 10 brokers each received exactly $2,118 69. Currently this same coverage has been replaced with the Zurich Insurance Company and a group of 15 brokers had each received $500 as of December 3, 1956

(d) Conclusion

In the light of opinions expressed both by the Administrative Adviser to the Department of Finance and of Legislative Counsel, it is apparent that there is no legal requirement which stipulates that the State must pay commissions to brokers when it purchases insurance The practice of paying such commissions based upon political considerations, where no services are rendered is particularly reprehensible.[2]

[1] See Opinion of Attorney General in the Matter of Payment of Broker s Commissions, page 74

[2] A number of associations of insurance agents and brokers expressed themselves emphatically as being opposed to the practice of '*passing around the commissions on the State's insurance without the performance of services*"

The distribution of commissions under such circumstances constitutes a gratuitous and immoral waste of the assets of the State of California

5. RECIPROCALS AND MUTUALS VERSUS STOCK COMPANIES

(a) Confusion About the Law

Among the leading companies in the field of direct writing of insurance, that is, that deal directly with the insurance buyer without requiring that their policies be sold or serviced through independent agents or brokers, are the reciprocal and mutual insurance companies. There is, of course, a fundamental difference in the form of organization of a reciprocal or a mutual insurance company from that of a stock company. A stock company is organized as a corporation where the "ownership" of the company is in the stockholders who elect a board of directors to manage the affairs of the corporation, and which sells insurance to policyholders at a premium which will produce a profit for the stockholders.

A reciprocal insurance exchange is a means of insuring, authorized by law, whereby each subscriber exchanges reciprocal or inter-insurance agreements with each other subscriber providing insurance among themselves against any loss which may be insured against under other provisions of law.

A mutual insurance company is generally defined as a cooperative enterprise wherein the members constitute both insurers and insured, where the members all contribute, by a system of premiums and assessments, to the creation of a fund from which losses and liabilities are paid, and the profits are divided among themselves in proportion to their interests

Thus, in both the reciprocal and mutual type of company there is theoretically a sharing of the loss of the individual policyholders by all policyholders, thus reducing the cost of such insurance for each policyholder.

A number of witnesses testified to the effect that there was a genuine issue of the legality of the State's placing its insurance with either reciprocal or mutual insurers There was no evidence, however, that the responsible state officials ever solicited a legal opinion on this question from the Attorney General

Mr. Brady indicated serious reservations about whether the Director of Finance would have the legal authorization to enter into a contract with a direct writing company.[1] Mr F. Britton McConnell, Commissioner of Insurance, expressed similar uncertainties on this matter In reply to questions, he stated, "I am asking whether a sovereign state can be truly in mutuality with its subjects who are policyholders I don't know. I am not expressing an opinion." "I think of the situation that, let's say, the destiny of the mutual insurance company is to be controlled by the vote upon some action or change of management, and it happens that the State has the casting vote. Who, under what law, acts for the State in casting the vote?"[2]

Mr. Roy Ploss, Manager of the Insurance and Retirement Systems of the University of California, explained that in his view, placing insur-

[1] See Transcript Public Hearing, Monday, December 17, 1956, testimony Mr Brady, page 106

[2] See Transcript Public Hearing, Thursday, January 3, 1957, page 192

ance with a reciprocal would be questionable from a legal standpoint [1] A number of witnesses testified that in their view and, indeed, in their practice, mutuals and reciprocals were eligible to receive state business regardless of the commission question.

The following extract from the testimony of Mr Methmann similarly expresses doubt about the legality and propriety of the State doing business with reciprocals or mutuals.[2] The subcommittee chairman asked whether there was any legal prohibition upon the State dealing with such carriers:

"Mr Methmann. I have always understood that when you buy insurance from reciprocals, you have to sign a power of attorney—I know that—and I don't know whether it is legal for the State to do that. If you buy from a mutual carrier, you are really part of the insurance carrier itself.

Chairman Munnell: Does that make you liable on the policy?

Mr Methmann It might.

Chairman Munnell: Do you know whether it does or not?

Mr. Methmann: No.

Chairman Munnell: You don't know whether there is any assessment attached?

Mr. Methmann: There may be an assessment attached

Chairman Munnell Would that be true—do you think that also might be true with respect to reciprocals?

Mr. Methmann: Yes.

Chairman Munnell: That there would be an assessment, may be an assessment?

Mr. Methmann: Possible assessment.

Chairman Munnell: Then there are hundreds of thousands of people who are presently insured by reciprocals and mutuals, who might be in jeopardy?

Mr Methmann: They have been in jeopardy in the past; it's cost 'em money.

Chairman Munnell. And they are today?

Mr. Methmann: I don't know

Chairman Munnell: I mean, they could be?

Mr Methmann: They might be"

(b) The Use of Mutuals and Reciprocals by State Agencies

The extent to which confusion has reigned within the insurance administration of the State with regard to the legality of placing insurance with various types of carriers is indicated by the conflicting practices of different purchasing agencies

Mr. Meroney, of the Department of Veterans Affairs, testified [3] that his department never designated the broker to receive commissions on fire insurance on the homes which are purchased under the veterans' program; however, mutuals and reciprocals are excluded from eligibility for such insurance. Mr Howard of the State Compensation Insurance Fund told the committee [4] that his organization places a substantial reinsurance treaty through a mutual company without the

[1] See Transcript Public Hearing, Friday, January 4, 1957, page 427
[2] See Transcript Public Hearing, Friday, January 4, 1957, pages 372-373
[3] See Transcript Public Hearing, Friday, January 4, 1957, pages 395-396
[4] See Transcript Public Hearing, Friday, January 4, 1957, page 413

use of a broker and without the payment of any commissions. Finally, Mr. Higgins, of the Department of Public Works, stated [1] that a number of mutuals and reciprocals carried insurance on the San Francisco-Oakland Bay Bridge.

(c) The Legal Problem

The Legislative Counsel in his opinion of January 11, 1957, indicated to the committee that "the State could enter into a contract of insurance with a mutual company or with a reciprocal exchange which would subject the State to a contingent liability for assessment if the amount of such liability was limited by law or contract." [2]

The General Counsel of the Farmers Insurance Group in a letter to the committee dated February 15, 1957, stated,[3] "It is our opinion that certain parts of the testimony were misleading and inconsistent insofar as applied to the qualifications of a reciprocal or mutual insurer to insure the State or its political subdivisions. It was inferred that these types of organizations were not legally qualified, and this reason was advanced to explain why none of these organizations had been contacted to bid on the State's insurance."

"There is no question that the State of California can insure in any insurance company licensed to do business in the State. Both by California Statutes and by opinions of the Attorney General, it has been clearly established for many years that the organizations comprising the Farmers Insurance Group may insure political subdivisions of the State At the present time approximately twelve cities, two counties, and one hundred school districts and a few other political subdivisions such as irrigation districts and water districts, are insured in reciprocals of the Farmers Insurance Group. In other states in which our group operates a similar group of political subdivisions are insured in reciprocals, and from time to time we have insured several state governments "

A letter from Charles A Brown, Western Manager of the American Mutual Alliance, dated January 10, 1957,[4] states, " * * * there are no legal objections to the purchase of mutual insurance by public bodies * * * It is nearly 100 years ago that the United States Supreme Court held that without any statutory authority whatsoever, a mutual insurance company has the power to issue nonassessable policies and in so doing there is no violation of the mutual insurance principle. * * * " This letter cited some of the leading cases upholding this right.

6. THE CONFLICT OF INTEREST PROBLEM

(a) Public Officials Get Commissions

Fourteen public officials were identified by the Insurance Adviser as recipients of commissions on the State's insurance business.[5] While there was no legal violation of the statutes in the designation of these public officials to receive such commissions, considerable uneasiness was

[1] See Transcript Public Hearing, Friday, January 4, 1957, page 44S ff
[2] See Opinion of Legislative Counsel in the Matter of Insurance Placement With Mutuals and Reciprocals, page 71
[3] Letter from General Counsel of Farmers Insurance Group, page 77
[4] See page 78
[5] See List of Public Officials Who Received Commissions on State Insurance, page 80

expressed by the Insurance Commissioner, the Director of Finance, and others, about the propriety of placing such officials in a situation which might create serious conflicts of interest between the legislative and executive branches of the State Government.

Mr. Louis Heinzer stated [1] that when Mr. Peirce first took office, an opinion was rendered to the effect that there was no law which prohibited the Legislators from doing business with the State and that there were some Attorney General opinions to that effect. In an Attorney General's opinion dated September 8, 1949, No. 491761, given by Abbott Goldberg, Deputy for Attorney General Fred Howser, the question was "may a Member of the Legislature engaged [2] in the merchandising business, properly enter into a contract for the sale of goods to the State of California." The conclusion was as follows: "The fact that a person is a legislator does not prevent his entering into contracts with the State of California or its agencies except that he may not enter into a contract with the Legislature itself."

Opinion No. NS2052, dated October 18, 1939, given by Neil Cunningham, Deputy for Earl Warren, Attorney General, to Assemblyman Henry P Meehan, replies to the question whether the Assemblyman's insurance firm would be prohibited "from acting as agent or broker in procuring an official bond for a state officer." The opinion concludes, "Suppose the Legislature passed an act appropriating a sum of money to a committee for investigating a specific matter pertaining to proposed legislation, and that you were made the chairman of such committee and required to furnish bond for the faithful expenditure of the moneys entrusted to your care. You would not as a licensed insurance agent or broker, under such circumstances, be permitted to write a surety bond or act as agent for a company writing such bond in your official capacity as a member of such committee However, I do not believe the above cited section applies to you or your firm in the ordinary transaction of business or in the writing of other official bonds in which your position as an Assemblyman does not in any way affect the writing of such bond." [3]

Mr. Glenn Baker, one of the brokers who received commissions, testified that the Insurance Commissioner's Office in San Francisco advised him that there would be no conflict of interest in his taking commissions,[4] despite his position on the State Personnel Board.

(b) Condemnation by Insurance Commissioner

Perhaps the strongest statement condemning the conflict of interest, implications of public officials receiving insurance commissions on state business, was made by Commissioner F Britton McConnell, who said "our freedom depends upon a separation of these three governmental powers, and the Legislature is the only representative of the people. The Governor has his duties to perform the laws and the provisions of the Constitution, and the courts have theirs. But the members of the Legislature represent the people. And if the executive department which is the worst threat to our freedom—I am generalizing now—

[1] See Transcript Public Hearing, December 17, 1956, page 154
[2] See Attorney General's Opinion in the Matter of Legislators Doing Business With the State, September 8, 1949, page 75, and Attorney General's Opinion of October 18, 1939, page 76
[3] See page 76
[4] See Transcript Public Hearing, December 17, 1956, page 129.

can accumulate power so as to dominate either the Legislature or the Judiciary, or both, then we have got dictatorship and our freedom is gone. *Now if the Executive Department, whether federal, or this State, or another state, or a city or a county, or however, in this republican situation of our nation, can give or withhold favors so as to influence enough votes to pass or to defeat a bill by either direct recognized influence, or that subconscious influence, that is an evil thing, and no one can deny it, in my opinion."* [1]

(c) Relief Expressed by Peirce

Mr. Peirce expressed his gratitude [2] "that this inquiry is in process, because it brings to a head something that has caused me considerable anxiety * * * and I am sure that your inquiry will bring forth recommendations which will lead us out of the wilderness, if I may describe it as such, and straighten out this matter and restore confidence in the minds of those individuals who have wondered about this. There have been no irregular practices or dishonesty involved so far as I know, but people may suspect that." "*These members of the Legislature in the insurance business might have accused me of discriminating against them as members of the Legislature.*" And now that this matter is the subject of inquiry, I believe all will understand that it is in the best interest of the dignity of the State, reputation of the State, for legislators not to participate in this business." [3] The need for clarifying legislation was, therefore, apparent.

(d) Need for Amending Section 1090

While the committee found no legal conflict of interest involved, there is an insidious threat to constitutional government in the political power and influence the chief executive may acquire over public officials by the gift of insurance commissions which may induce the recipients to vote in a manner favorable to the administration. Such practices have political implications which are justifiably destructive of public confidence, and while this is not strictly speaking illegal, the Director of Finance agreed to terminate it. Assembly Bill No. 1214 would enable the Legislature to establish this policy to prevent future Directors of Finance from the embarrassment reported by Mr. Peirce.

7. EFFICIENCY OF THE STATE INSURANCE PROGRAM

(a) Antiquated Systems and Procedures

The insurance program of the State of California has never before been subjected to an examination from the standpoint of the efficiency of its administration. The staff is small, and the problems confronting the Insurance Adviser have multiplied and grown increasingly complex over the years. The heavy burden of day-to-day activity has led to an

[1] See Transcript Public Hearing, January 3, 1957, pages 173-174
[2] See Transcript Public Hearing, January 4, 1957, pages 334-340
[3] According to the testimony of Mr Brady (Item I, pages 97-98) in at least one instance a Senator was sought out by Mr Brady and asked whether he had a broker's license "But I was doing it at the request of the director * * * I think I mentioned that the director * * * may have had in mind giving him some business * * * but the main purpose was to find out if he had a broker's license" (Item I, page 109) Mr Brady testified that to his own knowledge none of the members of the Legislature who were currently listed as recipients of these commissions *personally solicited* any such commissions

utter neglect of long-term planning The systems and procedures employed by the Insurance Adviser's office would not be tolerated by any private corporation In the words of the Director of Finance,[1] "I think that * * * there are opportunities to improve the methods of handling the State's insurance. Mr. Brady and his assistant, Mr Coblentz, and one stenographer handle this office They may be undermanned. It may be that the procedure that has been followed for the last 25 years is slightly antiquated"

Testimony given by Eric McLachlan, Chief of the Audits Division of the Department of Finance[2] on the need for improved procedures follows:

"Mr. Munnell: Now I would like to ask you with respect to the recommendations that you made, were they ever adopted?

Mr McLachlan: As to consideration of carrying their own insurance, I believe there has been considerable consideration of that matter over a period of years. Actually, the reason why they have not been adopted are not a matter of our records It is a purely discretionary matter with the Director of Finance It is our understanding and we have some notes in our files that one of the considerations against an adoption of self-insurance in connection with liability is the consideration of the cost of providing adjustors and attorneys to handle claims Beyond that I have no further information.

Mr. Munnell: Do you believe the present procedure employed by the Department of Finance in the placement of its insurance is adequate? That's a tough question for you, but as an auditor maybe you can give us an honest answer.

Mr. McLachlan: I believe there is some room for improvement, sir, but, of course, I am not an insurance agent.

Mr Munnell. No, we realize that. But as an auditor you feel that there is room for improvement What recommendations would you have, if any? Other than self-insurance On the surety bonds.

Mr. McLachlan: Mr. Munnell, I would probably like to consider that a little more. There might be such a thing as a wider participation in discussions of insurance coverage, with insurance carriers. There might be some improvement in respect to providing in the contract that we could make an audit of the insurance carriers' records, a power which we do not now have.

Mr. Munnell: For the loss ratio experience that I believe the Department of Finance has now showing a loss ratio exceeding 100 percent for several of the years, * * * those figures would mean little or nothing unless you knew what figures they were based upon

Mr. McLachlan Well, that would be necessary to go into the insurance company records to develop, sir, as we do not have that power It might be possible to provide that either by law or through the contract with the insurance carrier * * *

Mr Miller: I've tried to follow this very closely while you were reading your audit reports. I got something out of it with respect to the surety loss ratio to premiums paid to the surety bonds issued that led you to the conclusion that the differential was too great and the possibilities of eliminating the acquiring of surety bonds—I got that

[1] See Transcript of Public Hearing, January 4, 1957, page 310
[2] See Transcript of Morning Session of January 3d Hearing.

from your report. Now, it seems that the biggest premium cost to the State for those periods that you covered were in the automobile liability field. And if any one of those periods that you seek to determine the loss ratio as against premium on those periods, could you put it in the form of percentage for any of those periods?

Mr McLachlan: Anything we would have based on that would be based on the insurance company's calculation of their statement showing the calculation of their premium which shows the losses that they have recorded including a reserve for the losses in process. They do not have any aggregate figures on that thing other than that.

Mr Miller: Didn't you indicate in one of these reports that there wasn't sufficient records available at the Department of Finance in order to determine this from their records? Do you feel that it is possible to keep a current accurate record of claim settlements by the Insurance Adviser of the Department of Finance so that that would be available from year to year?

Mr McLachlan: *I believe that could easily be provided, sir.*

Mr. Miller: Making a request to the company itself to furnish that data so that periodically it could be evaluated as to the ratio between premium and claim

Mr. McLachlan: My understanding at the present time the company forwards a copy of the claim settlements and this could be incorporated into a register of claims in the office. *It would be rather comparatively easy with some clerical help.*

Mr Miller You think, from an auditing standpoint, it would be justified because of the possibility of re-evaluating periodically the cost of the insurance as against the risks?

Mr McLachlan: It would enable us to provide the information on that type of losses such as we have on the others.

Mr Miller: You recommend that such records be kept, do you?

Mr McLachlan. We haven't officially recommended it. I believe we could intimate it——

Mr. Miller: You feel that it would be to the best interests of the State to have those records kept?

Mr. McLachlan: Yes.[1] ''

A. Alan Post, Legislative Auditor, discussed a report on Comprehensive Liability Insurance he prepared on January 7, 1953.[2]

A portion of Mr. Post's testimony follows:

"Chairman Munnell: Is there any central authority in the State other than the Director of Finance for supervising the insurance program of the State?

Mr. Post: The Department of Finance does practically all of it, either directly or, for those agencies as Mr Brady has pointed out that are exceptions, on a service basis The other state agencies, either the Department of Public Works and they have the toll bridge coverage which is the only coverage which they do have.

Chairman Munnell: Do you believe there should be a state central authority maybe composed of a small board of some kind to supervise the placement of the policies?

[1] Copies of Audit Reports 1576, 2268, 2494, 2808, and 3023 are appended See pages 91-95

[2] See page 85.

Mr Post. I think it would be wise for the Director of Finance to approve the public works coverage I have no reason to believe there has not been an adequate administrative program so far as the Department of Public Works is concerned, but I have the feeling it is desirable to put the Department of Finance in the position where they make final approval on any such contracts or where there should be centralized records on all of these

Chairman Munnell· The State with respect to risk, the State assumes certain risks?

Mr Post· Yes.

Chairman Munnell· For instance on earthquakes, we carry the risk of loss which might result from earthquakes to our buildings?

Mr. Post: Yes.

Chairman Munnell And to some extent, fire?

Mr Post· Mostly fire. Only where we have a public fund situation or in the case of proprietary activities.

Chairman Munnell· Has your office ever made a survey with respect to what additional risks, if any, the State might profitably carry itself? I am thinking of surety bonds for state employees.

Mr Post We did make a survey of that in 1952 or 1953, the feeling being it might be well to have a blanket policy We have correspondence in the files that, as I recall, indicated that it was the opinion of the Department of Finance at that time this was not practical or feasible and a later letter from Mr. Brady which said perhaps this might be feasible and we did consider it but we have not gone on since that time, but I think we do have a file on that Senator Hatfield pursued it at that time before the Senate Finance Committee and we made some investigation of it

Chairman Munnell Do you have any recommendations to make for improving the method of placing the state insurance?

Mr Post: *In 1953 I was concerned about the fact that there were not the usual competitive bidding procedures on the part of the insurance that the State carries.* I didn't really know the answer. It was my understanding in discussing it with the Director of Finance that this was the way the State had to do business so far as not bidding an ordinary competitive bidding process and I did make a recommendation at that time that there should be an annual report made by the Department of Finance which showed all the policies, premiums and insurers, feeling that the annual report on all these facts would go a long way toward keeping track of this matter, which is not subject to usual procedures on a proper basis. We do that in other respects in State Government. You have personnel open hearings where everyone is entitled to come and see what is done and where decisions are made openly and there is no question but what all of the usual arrangements, processes that go with negotiations are conducted in those, and if you had this kind of annual reporting there would be no questions that people could not properly ask and get a proper answer.

I recommended this in the absence of having any solution to the competitive bidding procedure that is usually followed in respect to state transactions, and I still think that there is an area here that might be researched further as to whether or not the State could set up a bidding

procedure and those brokers who wished to comply with those state standards and requirements could do business with the State.

I am not, at this point, completely satisfied that the State maybe should not be a self insurer in some other areas. We have not as yet, as I pointed out, received what in our opinion is an adequate answer from the Department of Finance as to how it determines whether or not the State is a self-insurer or should purchase insurance

We simply tried to point out policy questions where we thought they should be considered in that respect for legislative review. Certainly it is a subject which appropriately might receive some very careful study from an over-all policy standpoint "

(b) Basic Ingredients of an Efficient Program of Insurance Buying

The basic ingredients of an efficient insurance buying program include:

1. **Centralized Responsibility.** In order to avoid duplication of services, to gain the economies arising from a unified purchasing program, and to eliminate a diversity of insurance buying practices, the authority to purchase and administer the insurance program should be centralized in a single division.

2. **Adequate Staffing.** The complexity of the insurance problems of a large organization demands a collection of legal, actuarial, and administrative skills beyond the capacity of any single individual An adequate staff is essential if the insurance division is to meet and surmount all of the problems presented to it

3. **Manual of Procedures.** In order that policies which are established may be readily communicated to all parties concerned, and to insure consistent and uniform practice, a manual of procedures should be developed and revised from time to time as occasion warrants.

4 **Insurance Surveys.** Periodic comprehensive surveys of the exposures and insurable values of the State must be made in order to determine the continuing need for existing coverages and the necessity or desirability of new coverages.

5. **Open Bid Purchasing Procedures.** A procedure should be established and maintained for purchasing new insurance and renewing existing contracts which permits the free forces of market competition to operate to the benefit of the insurance program. Where access to the set of bid specifications and experience statistics of the risk are available, there is a strong likelihood that effective competitive pricing will prevail. *It is not sufficient that the State receive a better rate on its contracts than that which formerly prevailed; rather the State should receive the very best rate possible in the current insurance market.*

6. **Contract Analysis.** A continuing program of analysis and study of existing insurance policies should be conducted in order to determine the appropriateness of such contracts in terms of current conditions.

7. **Rate Analysis.** Actuarial studies should be conducted in order to determine whether the rates in effect on the insurance policies held by the State are the most economical in terms of changing conditions Such studies should quickly reveal situations in which, due to changes in experience, rates established at the inception of policies may be excessive at subsequent dates.

8. **Market Studies.** A continuing study of insurance markets and current developments both within the State and elsewhere should be pursued The technique of public bidding on state insurance is one method of ascertaining periodically the nature of the market for particular kinds of insurance.

9. **Annual Reports.** The preparation of annual or more frequent reports is absolutely essential for the appraisal of the over-all insurance program. Such reports should present the basic statistical-actuarial data pertaining to the experience of the program and its component parts. In the case of a state government, the report should be a public document and should provide sufficient information about bidding procedures so that any qualified insurance firm may have an opportunity to offer its services to the State. It is absolutely essential that the State's business be conducted in broad daylight, in full public view, to prevent a relapse into the political system currently employed. Annual reports would insure a sound and practical appraisal of the over-all insurance program.

10. **Independent Audit.** The over-all insurance program of the State should be subjected to a periodic independent audit in order to determine that the best insurance practice is being followed Ideally, such an audit should be conducted by an independent firm of insurance consultants.

(c) Conclusion

A review of the evidence presented to the Subcommittee on the Placement of Insurance by the State demonstrates the utter inadequacy of the prevailing program and practice from the standpoint of these conventional criteria

8. A CRITIQUE OF THE EXISTING PROGRAM

a. Lack of Centralized Authority

In his testimony [1] in response to the question whether there is any coordinated insurance program for the State, Mr. Brady made reference to Section 11007 of the Government Code which provides that the Department of Finance must approve the procurement of insurance by any state agency with the exception of: "(a) insurance procured by the Department of Public Works for the California Toll Bridge Authority under Section 100.7 and 30450 to 30453, inclusive, Streets and Highways Code; (b) workmen's compensation insurance procured under Section 11870 Insurance Code; (c) insurance procured by the State Treasurer under Section 12305, of this code; (d) insurance procured by the Department of Veteran's Affairs under Division 4 of the Military and Veteran's Code. * * * Section 1902 of the Harbors and Navigation Code authorizes the Board of State Harbor Commissioners to procure any insurance they need. * * *" In reply to the question "Has any recommendation ever been made that all insurance placed by the State be placed under one central administrative head or authority?" Mr. Brady answered [2] "The matter has been discussed from time to time, but inasmuch as the Legislature imposed the obligation on the Public Works Department with respect

[1] See Transcript Public Hearing, December 17, 1956, page 39
[2] See Transcript Public Hearing, December 17, 1956, page 41

to bridge insurance, personally, I did not recommend it." Mr. Brady made it clear that he did not have any of the documents relating to the insurance carried by the Department of Public Works.

A number of witnesses were interrogated on this question of centralized responsibility, and it was apparent that the lack of such centralization had resulted in misunderstanding and possible inefficiency and diseconomies In the words of the Legislative Auditor, "generally speaking, the states where they do have a more nearly centralized operation have had more efficient and more economical operation."[1]

The experience of the State Treasurer, Mr Ronald Button, indicates some of the consequences of a lack of centralized responsibility. He stated[2] "I might add something that might be of interest to you —I know it was of considerable interest to me. Not knowing too much about State Government at the time I was appointed, I learned that the Treasurer was required to have a $100,000 bond And Mr Danielson, the Deputy Treasurer, advised me that the law provided that the Treasurer would place his own insurance, and I said, 'With whom?' and he said, 'It doesn't matter.' So I did what I thought was the logical thing—I ordered a $100,000 fidelity bond on myself from a broker that I have done business with some 35 years in Los Angeles, and received the bond, and received the statement for $500. Subsequently, someone from the department—or I was talking to someone in connection with the Department of Finance prior to taking my oath of office, and they advised me that while it was perfectly proper for me under the statute to place my own insurance, that the premium if I placed it would undoubtedly be a little bit higher than if it were placed through the Department of Finance. And I asked them to check it, and advise me exactly what the difference would be; and *for reasons I don't understand, because I don't know too much about insurance, there was a saving to the State of $95 by placing it not myself, through my broker, but rather letting the Department of Finance handle it* So I canceled. * * *"

Another example of the consequences of decentralized responsibility is the Synon-Wilson incident. In this case, the Private Secretary of the Governor conferred with a personal friend about the principal insurance policy of the State Board of Harbor Commissioners with the result that the firm of Thompkins and Company was enabled to underbid the current carrier, Johnson and Higgins. No invitations were sent to other firms to bid for this $90,000 premium contract. The unusual and questionable procedure followed in this case arose in large part because of the lack of a coordinated insurance buying program on the part of the State.

b. *Inadequate Staffing*

The Insurance Adviser stated in reply to a question by a committee member that if he had the authority to engage technical assistance he did not think that it would be helpful to him in administering his office except in certain instances[3] Nevertheless, his department was unable to provide an adequate classification of risks for the Legislative

[1] See Transcript Public Hearing, December 17, 1956, page 145
[2] See Transcript Public Hearing, January 4, 1957, pages 399-400
[3] See Transcript Public Hearing, December 17, 1956, page 74

Auditor,[1] nor an annual report,[2] nor a complete survey of the state insurance policy,[3] nor accurate records as to the amount of premiums paid,[4] nor any formal accounting records.[5] Mr. Synon testified [6] "Mr. Brady took a look, casual look, at the insurance policy, and he said he had no staff nor other facilities adequate to analyze the policy to determine if it were a good policy, or a bad policy." Later, *Mr Synon said "Mr. Brady told me 'We haven't anyone here, we don't have any staff—we have nothing We can't look into this thing, because I have no one to do it,'" Mr Synon added that if they had had a staff, this thing (the Synon-Wilson incident) "would never have happened."*

Throughout the testimony presented before the committee there was no evidence of any awareness on the part of the Director of Finance or the Insurance Adviser of inadequacies in the State's insurance program.

Assemblyman Miller tried to obtain Mr. Synon's opinion on the handling of insurance through the present administration. Testimony taken from the transcript of the January 3d hearing follows.

"Assemblyman Miller: On this insurance problem, to get your opinion, if you have one, concerning the adequate staffing of *some* department in the State, some division of it, that would be able to review these policies and analyze them Do you think that would be a good suggestion?

Mr. Synon: Oh, yes I think that they should be. I don't think there is any question about it. This one that I got hold of, as the record will show, in substance, we saved $13,000, and this only came about in a most—well, I won't say 'casual' manner, but a most unique manner."

c. *Lack of Manual of Procedures*

There is no manual of procedures with respect to insurance purchased by the State of California The closest approximation is a Department of Finance Administrative Manual of which the Insurance Adviser stated [7] "* * * and there may be some material in that which would be helpful * * *" In the absence of a manual bearing on all aspects of the insurance program of the State, it was almost inevitable that confusion and uncertainty should arise about such questions as the legality of placing insurance with mutuals, or reciprocals, or direct writers, or public officials Indeed, most of the unfavorable publicity which has befallen the State's insurance program, and which has cast a cloud of suspicion upon the adequacy of the insurance policies obtained, would have been averted had there been a standard manual of insurance operating procedures as a guide for state employees to follow.

d. *Absence of Insurance Surveys*

There has never been a comprehensive survey made of the risk exposures of the State According to the testimony of Mr. Brady, the only attempt at a survey was a brief memorandum on the subject of

[1] See Transcript Public Hearing, December 17, 1956, page 131
[2] See Transcript Public Hearing, December 17, 1956, page 140
[3] See Transcript Public Hearing, December 17, 1956, page 145
[4] See Transcript Public Hearing, morning of January 3, 1957, page 32
[5] See Transcript Public Hearing, morning of January 3, 1957, page 34
[6] See Transcript Public Hearing, January 3, 1957, page 229.
[7] See Transcript Public Hearing, December 17, 1956, page 49

Comprehensive Liability Insurance prepared for the Joint Legislative Budget Committee [1] which was characterized as "inadequate" by the Legislative Auditor This document which purports to be a classification of risk exposures and a statement of the principles for measuring exposures is remarkable for its obtuseness. It establishes, by inference, six classifications of risk but neglects to describe Class II. The Legislative Auditor, Mr Alan Post, stated [2] "I do know that in the other states where a complete survey had been made of the state insurance policy, very substantial savings have been secured, particularly municipalities, where it was found in some states they were paying four times as much as they should be."

It would be difficult to appraise what savings the State might have realized had a competitive bidding procedure been used rather than using the insurance program for political purposes.

Testimony given by Fred C. Hutchinson, City Attorney for the City of Berkeley at the December 17th public hearing revealed that public liability and property damage insurance has been placed with the Farmers Insurance Group for the past nine years.

Mr Hutchinson stated, "The policy we have insures all the legal liabilities * * * and also insures the employees in the police department for false arrest and malicious prosecution, and we have a very broad comprehensive policy which insures the city and all employees against everything, as far as I know, except compensation, bonds, and falsification of records. * * *"

Chairman Munnell asked: "Do you feel this has saved the City of Berkeley money?"

Mr Hutchinson replied. "In comparison with other bids we have received * * * (there was a difference of) nearly 50 percent, that was six or eight years ago "

Chairman Munnell: "At that particular time, the city saved 50 percent, approximately on their premiums, for casualty insurance. * * * Do you solicit and advertise for bids?"

Mr Hutchinson: "We sent out over 50 notices to everyone that could be found. We sent to everyone that we could think of that would be interested or not. * * *"

e. *Lack of Open Bid Procedure*

The Department of Finance does not, as a matter of procedure, place any of its insurance contracts on an open public bid basis.

The December 31, 1955 issue of *Spectator* listed the five leading carriers of automobile liability and bodily injury insurance by premium volume as follows: Farmers Insurance Exchange $15,572,000, Standard Accident Insurance Co. $14,117,000, State Farm Mutual Auto Insurance Co. $12,616,000. Allstate Insurance $11,976,000, and California State Auto Association $7,716,000. The five largest automobile insurance carriers in the State of California were never invited to bid on the master Motor Vehicle Policy; nor were bids invited for the placement of surety bonds, and there is some question whether the Insurance Adviser is even aware of the significance of competitive bidding in the

[1] See The Survey of Comprehensive Liability Insurance prepared by Mr Brady, page 81

[2] See Transcript Public Hearing, December 17, 1956, page 145

insurance market. For example,[1] when asked why fire insurance was placed by privately negotiated contract, rather than competitive bid, he indicated that in his view, bidding would not result in different costs because the Pacific Fire Rating Bureau sets the rates and there is no competition as far as rates are concerned. This view conflicts entirely with the testimony of the Insurance Commissioner:[2]

"Chairman Munnell: Now, I have a notation that the Pacific Fire Rating Bureau sets the rates on fire insurance. That there is no competition on rates.

Mr. McConnell: Untrue.

Chairman Munnell: That is untrue?

Mr. McConnell: Yes sir * * * quite the contrary. Individual insurance companies frequently come out with new rate schedules or extensions of coverages * * * that's the nature of competition and that's what we have"

The market for insurance in the State of California is perhaps the most highly competitive in the United States because of the philosophy of regulation which is unique in this State as contrasted with all others. Competition, rather than an Insurance Commissioner's fiat establishes the price of the product, and the testimony of many witnesses bears out the fact of keen price competition.

f. Contract Analysis

No contract analysis was made by the committee or the committee staff, but because the State's insurance business was placed on a political basis, the committee recommends that a thorough contract analysis be made to determine whether policies give the maximum coverage for the premium dollar.

g. Lack of Rate Analysis

There is no evidence that the officials responsible for the administration of the insurance program have an awareness of the nature, purpose and value of actuarial or statistical studies of loss experience. The Insurance Adviser according to several reports by the Audits Division of the Department of Finance does not maintain any formal accounting records relating to insurance claims, recoveries, etc. No records have been maintained on any systematic basis of the loss ratios under the various lines of insurance. No study has been made of the possibility of self-insuring some of the hazards where the catastrophe feature was absent The refusal to use wide open bidding and the insistence upon the payment of commissions to brokers suggests a lack of responsiveness to the most favorable possible purchase price.

h. Absence of Market Studies

The attention of the subcommittee was drawn to the question whether there were any studies available on the problems and practices of state insurance administration. A number of excellent studies were readily available in the library of the Bureau of Public Administration of the University of California No attempt had been made by the officials responsible to seek information from such sources. In his testimony[3]

[1] See Transcript Public Hearing, December 17, 1956, page 58
[2] See Transcript Public Hearing, morning of January 3, 1957, page 44.
[3] See Transcript Public Hearing, December 17, 1956, page 49.

Mr. Brady stated that his department had not made any study of systems employed by other states in the placement of insurance. He indicated that he had spoken to officials in the State of New York in 1952 about these matters but that was all.

i. No Annual Reports

There have never been any formal annual or other periodic reports covering the operations of the office of the Insurance Adviser despite recommendations made by the Legislative Auditor[1] that "there should be an annual report made by the Department of Finance which shows all the policies, premiums and insurers * * * such an annual report of all these facts would go a long way toward keeping track of this matter which is not subject to usual procedures on a proper basis." The Legislative Auditor complained about "the lack of statistics for formulation of a sound policy on the part of the State."[2]

j. No Independent Audit

There has never been an independent audit of the insurance program of the State from the standpoint of evaluating its over-all performance. While lists are maintained of insurance policies under the supervision of the Insurance Adviser, these lists do not provide a basis for appraising either the adequacy of coverage or the reasonableness of the rate.

k. Summary

The evidence described above is indicative of the inefficient and unbusinesslike manner in which the insurance affairs of the State of California are being conducted. This the subcommittee feels is the result of the political manner in which the State's insurance business was conducted. The blame rests squarely with the administrators of the insurance program.

Mr. Brady, the Insurance Adviser, condoned the practice of paying unearned commissions to public officials on the ground that the responsibility rested solely with the Director of Finance and it, "Wasn't my job to try to tell him how to run his job. * * * I thought I would be infringing on his prerogatives if I did so."[3] By the same token, Mr. Peirce indicated that he was afraid to change the existing practice because he felt discontinuance would result in charges of discrimination by those politically powerful individuals on the list of favored brokers.

A very careful survey should be made to determine whether it would be in the best interest of the State to engage in a greater degree of self-insurance. Many of our large corporations do assume their own risks as self-insurers. The motor vehicle fleet coverage, which contains the greatest risk and hazard to the State, in its present form, is a limited type of self-insurance. The primary concern should be the placement of the State's insurance business for the best interest of the State as a whole rather than to benefit a few political "friends."

[1] See Transcript Public Hearing, December 17, 1956, page 140
[2] See Transcript Public Hearing, December 17, 1956, page 131
[3] See Transcript Public Hearing, December 17, 1956, page 53.

9. THE NEED FOR CORRECTIVE LEGISLATION

The overwhelming proof of the existence of political favoritism in the selection of brokers to receive commissions on insurance, and fear on the part of the administration of offending politically powerful individuals inhibited improvement in the administration of the insurance program and made it apparent that there is a need for corrective legislation in the area of insurance administration by the Department of Finance.

Assembly Bill No. 1214 should be enacted to preclude the possibility of public officials receiving commissions on insurance placed by the State even though no conflict of interest was found to exist.

Assembly Bill No. 1215 should be enacted to reorganize the insurance buying program of the State on a basis which will achieve the maximum efficiency from the standpoint of the general welfare. This entails a procedure whereby through a system of public reporting and open-bidding, the irregular practices of the past can be eliminated.

APPENDIX I

CALIFORNIA STATE PERSONNEL BOARD SPECIFICATION FOR THE CLASS OF INSURANCE ADVISER, DEPARTMENT OF FINANCE

Definition

Under general direction, to be responsible for the work involved in procuring surety bonds on state officers and employees, insurance on all state-owned automotive equipment and privately owned permitted motor vehicles, and fire, burglary, robbery, forgery, aviation, comprehensive, general liability and other types of insurance where authorized by law; and to do other work as required.

Typical Tasks

Procures liability insurance coverage on all state-owned automotive equipment; supervises the issuance of permits and insurance contracts on privately owned vehicles used for state business; analyzes and investigates accident reports and determines the legal liability of the State; confers and corresponds with insurance carriers, claimants, and state agencies; prepares and presents claims to insurance companies; works out claim adjustments with claimants or their attorneys; supervises the settlement of claims against those legally liable and responsible and collects damages for the State; holds necessary informal fact-finding hearings and represents the Department of Finance on boards of inquiry into accidents; reviews and passes upon permit cancellations and reinstatements; issues bulletins interpreting rules and regulations regarding surety bonds, motor vehicle insurance, and general liability insurance matters; advises the Director of Finance on proposed legislation involving state insurance; drafts forms for master public official, financial guarantee, blanket, and position schedule bonds; conducts negotiations with bonding companies, and approves bonds as to form and content; procures general liability insurance; drafts specifications for and approves policy forms and premium rates for fire, burglary, robbery and forgery insurance; places insurance coverage; and makes recommendations to the Director of Finance on insurance matters; supervises the work of a technical assistant, dictates correspondence and prepares reports.

Minimum Qualifications

Either I

One year of experience as an Assistant Insurance Adviser, Department of Finance.

Or II

Experience: Five years of full-time paid experience in work requiring a technical knowledge of surety bonds and liability insurance underwriting, and casualty and surety claim adjudication with duties involving the examining, evaluating, or adjusting of property damage or personal liability claims; *and*

Education: Equivalent to graduation from college. (Additional qualifying experience may be substituted for the required education on a year-for-year basis.)

and

Knowledges and abilities: Thorough knowledge of the law of contracts, suretyship, and torts, including the law of negligence; thorough knowledge of insurance underwriting with respect to automobile liability claims and general liability claims; thorough knowledge of the provisions of the Vehicle Code and Government Code relating to state liability and responsibility regarding state-owned and permitted vehicles; thorough knowledge of the provisions of the Government Code relating to public official surety bonds; wide knowledge of the problems involved in obtaining public official surety bonds, and in insuring state-owned and privately owned permitted vehicles; wide knowledge of the relative standings of bonding companies and casualty insurance companies; ability to analyze insurance policies and surety bonds and to interpret and apply related court decisions; ability to supervise the work of clerical assistants; ability to establish and maintain cooperative relationships with those contacted in line of work; ability to use good English and write effective letters; ability to analyze situations accurately, and to adopt an effective course of action.

Monthly Compensation:	$613	644	676	710	745

Work Week Group: 4C

NOTE Salary information for this class was correct on 3/5/53. Any subsequent salary changes have not been recorded.

APPENDIX II

MEMORANDA FROM THE OFFICE OF THE GOVERNOR TO THE DIRECTOR OF FINANCE

1

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

To: HONORABLE JOHN M. PEIRCE
Director of Finance
State Capitol, Sacramento, California

File No.
Date: October 17, 1956
Subject: Insurance

From: Governor's Office

Governor Knight would like to have the E. J. Carey Company of Emeryville and Lafayette given favorable consideration in the placement of state insurance.

NEWTON A. STEARNS
Executive Secretary

2

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

To: HONORABLE JOHN M. PEIRCE
Director of Finance
State Capitol, Sacramento, California

File No.
Date: May 21, 1956
Subject:

From: Governor's Office

The Governor would appreciate your giving consideration to the firm of McSherry & Hudson, 9 E. 3rd Street, Watsonville, in the placing of state insurance.

NEWTON A. STEARNS
Executive Secretary

3

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

To: HONORABLE JOHN M. PEIRCE
Director of Finance
State Capitol, Sacramento, California

File No.
Date: May 2, 1956
Subject:

From: Governor's Office

The Governor would like consideration given to Mr. William Leonard, 434 Court Street, San Bernardino, California, in the placing of state insurance.

NEWTON A. STEARNS
Executive Secretary

William Leonard—partial records indicate he received insurance on bonds beginning May 1, 1956, for premiums totaling $2,915 62, carrying a 20 percent commission.

4

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

To: HONORABLE JOHN M. PEIRCE
Director of Finance
State Capitol, Sacramento, California

File No.
Date: May 2, 1956
Subject:

From: Governor's Office

The Governor would appreciate your giving consideration to Mr. R. Lynn Colomb, 454 Montgomery Street, San Francisco, California, in the placing of state insurance.

NEWTON A. STEARNS
Executive Secretary

R. Lynn Colomb—partial records indicate he was placed on list of brokers receiving motor vehicle fleet insurance commissions, beginning July 1, 1956 Amount designated was shown as $500.

Also received insurance on bonds, beginning July 1, 1956, for premiums totaling $2,746.87, carrying 15 percent commission.

5

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

To: HONORABLE JOHN M. PEIRCE
Director of Finance
State Capitol, Sacramento, California

File No.
Date: May 2, 1956
Subject:

From: Governor's Office

The Governor would appreciate your giving consideration to Mr. George F. Watrous, President of Watrous-McClory-Speich, Incorporated, in the placing of state insurance.

NEWTON A. STEARNS
Executive Secretary

Watrous-McClory-Speich—Have corporation licenses for agent and broker beginning March 1, 1955.
Partial records indicate this firm received bond insurance premiums totaling $3,937.53 carrying commission of approximately 20 percent.

6

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

To: HONORABLE JOHN M. PEIRCE
Department of Finance
State Capitol, Sacramento, California

File No.
Date: February 6, 1956
Subject: Helen Hollenbeck

From: Governor's Office

The Governor would like to recommend *Helen Hollenbeck* of the insurance firm of Edwards, Geil & Turner, Quincy, for the consideration of your department, for the placing of a small amount of insurance.

NEWTON A. STEARNS
Executive Secretary

6a

STATE CAPITOL
February 16, 1956

EDWARDS, GEIL & TURNER
Quincy, California

Attention: *Helen Hollenbeck*

GENTLEMEN: Will you be so good as to transmit to us a list of the insurers whom your firm represents as agent?

We do not find your name listed in the "List of Persons, Partnerships and Corporations Licensed as Insurance Brokers in California." Therefore, it is necessary for us to know the names of the insurers in order to give consideration in respect to any state insurance that has not heretofore been allocated.

Very truly yours,

J. F. BRADY
Insurance Adviser

7

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

To: Honorable John M. Peirce File No.
Director, Department of Finance Date: February 1, 1956
State Capitol, Sacramento, California

Subject: Mr. Robert Ruf

From: Governor's Office

The Governor would appreciate your consideration of Mr. Ruf for a very minor amount of insurance.

NEWTON A. STEARNS
Executive Secretary

7a

STATE CAPITOL, February 16, 1956

MR. ROBERT E. RUF, *Agent*
933 Schiele Avenue
San Jose, California

DEAR MR. RUF: The Director of Finance has requested that I communicate with you and request that you send to us a list of the insurers whom you represent as agent.

We do not find your name listed as an insurance broker; therefore, it is necessary that we have the list of companies whom you represent as agent in order to give consideration to your request.

Very truly yours,

J. F. BRADY
Insurance Adviser

7b

ROBERT E. RUF, AGENT
San Jose, California

December 11, 1955

THE HONORABLE GOODWIN J. KNIGHT
Governor of California
Sacramento, California

MY DEAR GOVERNOR KNIGHT: In your letter of November 9, 1953, acknowledging my small contribution for your campaign fund, you referred of advising the Department of Finance in regards to our interest in securing some of the State's business.

Our letter to John M. Peirce December 7, 1954, was acknowledged by J. F. Brady, insurance adviser with the Department of Finance, stating Mr. Peirce would keep us in mind We have received no further word in connection with this subject, we should have a Director of Finance that would give the wishes of his superior better attention.

The excitement of the coming election is steadily growing, we are all hoping and wishing our Senate leader William F. Knowland will declare his presidential candidacy and the defeat of Vice President Richard M. Nixon is a must.

Hoping you and yours happy and pleasant holidays.

Very truly yours,

ROBERT RUF

8

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

To: HON. JOHN M. PEIRCE
Director of Finance
State Capitol
Sacramento, California

File No.
Date: October 26, 1955

Subject: Insurance

From: Governor's Office

In view of the attached correspondence the Governor would appreciate Mrs. J. M. Eshleman being given consideration in the placing of insurance.

NEWTON A. STEARNS
Executive Secretary

8a

TINNING & DE LAP
ATTORNEYS AT LAW
RICHMOND 5, CALIFORNIA

October 4, 1955

HON. JOHN M. PEIRCE
Director of Finance
State Capitol Building
Sacramento 14, California

Re: Mrs. J. M. Eshleman

DEAR JOHN: On April 18, 1955, I wrote Mr. Brady, Insurance Adviser, stating in substance that beginning with the administration of Governor Young and thereafter Mrs Eshleman was credited as a licensed insurance broker for some of the fire insurance on the State Printing Plant and that since Governor Knight's election, this credit has been canceled.

Mrs. Eshleman is the widow of the late John M. Eshleman, and she is dependent on her commissions and earnings for her own support. Her son, Robert, is a partner in this firm.

She has a host of friends throughout the Bay area and the State and it would please all of them very much if she could obtain some of the state insurance in place of that above mentioned.

If you can do anything about this, it will be personally appreciated by me.

Kind regards.

Yours sincerely,

T. H. DE LAP

8b

MRS. JOHN M. ESHLEMAN
BERKELEY 7, CALIFORNIA

December 17, 1955

MR. J. F. BRADY
Department of Finance
Sacramento, California

MY DEAR MR. BRADY: In November you wrote that I had been designated to share in the commission on Policy CE 23283 which was written through Landis, Pelletier and Parish. I am pleased to report to you that a commission has been received and I wish to thank you and to ask you to convey my thanks to the Director of Finance for his interest in this matter.

Yours truly,

MRS. JOHN M. ESHLEMAN

9

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

July 28, 1954

To: HONORABLE JOHN PEIRCE
Director of Finance
From: Governor's Office

The following is the information you requested concerning several insurance brokers who have been seeking state business:

Sinclair-Dwyer: If this bond has been placed with another broker, do not change it, but it would be well to put them in line for future business.

Riise of Modesto: No.

Warner Cockrill: No.

JOHN J. SYNON
Private Secretary

Sinclair-Dwyer and C. S. Sinclair & Co. operate out of same address. Received commissions on both names.

9a

C. S. SINCLAIR & CO., INSURANCE
SAN FRANCISCO 4, CALIFORNIA

September 3, 1952

MR. JAMES DEAN
Director of Finance
State of California
Sacramento, California

DEAR MR. DEAN: Sometime ago, I spoke with Mr. Jack Brady in your office relative to the consideration of placing the name of C. S. Sinclair & Co. Insurance Brokers on your panel for state insurance.

Mr. Brady seemed quite enthusiastic about this at the time of our conversation when I told him of my personal association with Earl Warren at the University of California and of the effort of both Mrs. Sinclair and myself in the Dewey-Warren campaign and my friendly association with Earl Washburn, all good members of the Exchange Club.

I am operating a very substantial business at 519 California Street, San Francisco, having been established in the insurance business for 31 years.

I would appreciate any action that you might take along this line in my behalf, as it is my sincere desire to aid and abet Earl Warren in any or all of his activities.

Sincerely,

C. S. SINCLAIR

9b

SINCLAIR-DWYER & CO, INSURANCE
SAN FRANCISCO 4, CALIF.

August 11, 1953

MR. J. F. BRADY, Insurance Advisor
State of California, Dept. of Finance
State Capitol, Sacramento 14, California

Re: Dominic Papagno

DEAR MR. BRADY: Enclosed please find notice of renewal and premium invoice's for Mr. Papagno as follows: Bond No. 5313722, Fidelity and Deposit Company of Maryland—fuel bond effective October 20, 1953, premium $5, Bond No. 5313723, Fidelity and Deposit Company of Maryland, Motor Vehicle License Tax effective October 20, 1953, premium $10.

Also enclosed you will find financial statements to be completed by the applicant These may be returned to our office or direct to the Fidelity and Deposit Company, at 405 Montgomery Street, San Francisco.

Please accept our thanks for having designated our office to share in the commission under Bonds No. 1797059 and 1797059A Department of Fish and Game, however, to date we have not heard from the company writing this bond Please advise us the name of the company writing these bonds if you think we should contact the company direct.

We thank you for favoring our office with these courtesies, hope to get together for another visit in the near future.

Very truly yours,

SINCLAIR-DWYER & Co.
CY SINCLAIR

10

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

File No.
Date: April 19, 1954

Subject:

To: HONORABLE JOHN PEIRCE
Director of Finance

From: Governor's Office

DEAR JOHN: Governor Knight has requested that the following name be added to the insurance list:

Mr. Ralph J. McGill
840 Ulloa Street,
San Francisco 27, California
Phone: LO mbard 6-8208

Cordially,

JOHN J. SYNON
Private Secretary

11

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

File No.
Date: March 17, 1954

Subject:

To: HONORABLE JOHN PEIRCE
Director of Finance

From: Governor's Office

The Governor would like the name of James J. Sullivan of San Francisco added to the insurance list.

JOHN J. SYNON
Private Secretary

James J. Sullivan received commissions on motor vehicle fleet and comprehensive liability insurance, beginning February 1, 1954. Partial records available from Insurance Adviser indicate these commissions total $4,336.32.

Partial reports also indicate he received premiums on bonds, beginning February 15, 1955, totaling $8,974.13 at 20 percent commission.

12

STATE OF CALIFORNIA
SACRAMENTO 14

INTER-DEPARTMENTAL COMMUNICATION

File No.
Date: November 20, 1953

Subject: Insurance Brokers

To: HONORABLE JOHN M. PEIRCE, *Director*
Department of Finance
State Capitol

From: Governor's Office

The Governor has asked me to give you the names of the following insurance brokers for consideration in connection with state business

Glenn R. Baker, American Trust Building, San Jose;
Herbert Hanley, 210 Post Street, San Francisco 2;
Edward I. Beck, 210 West 7th Street, Los Angeles 13;
Albert Kleinberger, 1302 N. Sweetzer Avenue, Los Angeles 46.

ROBERT G. ALDERMAN
Executive Secretary

Glenn Baker—Partial records indicate he has been carried on motor vehicle fleet insurance and has received commissions totaling $9,470.03, dating back to July 1, 1947. There are minor amounts of insurance included for comprehensive liability, aviation, and depositor forgery.

Herbert Hanley—Partial records show he has been drawing commissions beginning November 1, 1953, mostly for motor vehicle fleet insurance which total $2,791.75, although there is some comprehensive liability included. Has also received insurance on bonds for premiums totaling $12,226 22 at commissions of 15 percent and 20 percent.

Edward I. Beck—Partial records show he has been receiving commissions on motor vehicle fleet insurance since November 1, 1953, totaling $4,150 89 Has also received insurance on bonds for premiums totaling $4,713.84, carrying 15 percent and 20 percent commissions.

Albert Kleinberger (Western States Insurance Brokers)—Partial records show he was placed on list to receive commissions dating back to July 1, 1953, and has received commissions totaling $7,548.07, mostly for motor vehicle fleet insurance, although there is some comprehensive liability, money and securities, and aviation insurance shown. Also received insurance on bonds for premiums totaling $2,301.03, carrying 20 percent commission.

12a

GLENN R. BAKER CO., INSURANCE
SAN JOSE, CALIFORNIA

February 16, 1948

MR. J. F. BRADY, *Insurance Adviser*
Department of Finance
Sacramento, California

DEAR MR. BRADY: Thank you so much for recently naming me as the broker on a series of bonds totaling $32,500 I sincerely appreciate your remembering me, and if the opportunity presents itself, I shall certainly reciprocate.

I had planned on being in Sacramento tomorrow, but I am afraid my plans will have to be changed.

The Lieutenant Governor was up and spent the day with me last Wednesday, and we had quite a time. They had a breakfast for him, 32 business people for lunch, a cocktail party at Palo Alto in the afternoon, and about 800 people for a Lincoln Day Dinner that evening. I had to put him on the train at 10 o'clock so that he could join Governor Warren the following day in Los Angeles.

How is Mr. Dean? If you see him, remember me to him

With kindest personal regards,

Yours sincerely,

GLENN R. BAKER

13

STATE OF CALIFORNIA
SACRAMENTO 14

INTER-DEPARTMENTAL COMMUNICATION

File No.
Date: September 25, 1951

Subject: John F. Mullins

To: HONORABLE JAMES S. DEAN
Director, Department of Finance

From: Governor's Office

Mr. John F. Mullins, 415 Bellevue Avenue, Oakland 10, California, representing the Pacific Indemnity Company, has written to the Governor as follows:

"Mr. Robert Jackson with whom I brokered the state insurance that you so kindly allotted to me, passed away the other day."

"I would greatly appreciate it if you would ask Mr. James Dean to now recognize me as the broker."

"This business means a great deal to me, especially since losing my nice job at the City Hall."

I believe that you know of the relationship between Mr. Mullins and the Governor. The Governor would not want to influence this matter, but I am sure that whatever can be done consistent with the policies of your department would be in order and appreciated.

M. F. SMALL
Departmental Secretary

13a

WILLIAM REICHEL & CO., INSURANCE
OAKLAND 12, CALIFORNIA

September 6, 1950

Personal and Confidential

MR. JOHN BRADY
817 10th St., Sacramento, California

DEAR JACK: I checked on Robert Jackson, the broker you asked me about yesterday. Robert Jackson is the brother of Sam Jackson, who for many years was the Pacific Indemnity Oakland Manager of Swett and Crawford.

Sam Jackson had an unusual set-up with Swett and Crawford in that he had a participation deal and over the years I understand, he made considerable money. They bought him out two or three years ago and he is now walnut farming in Contra Costa County

For many years Robert Jackson was a Pacific Indemnity Company employee who some time ago went into the brokerage business He has a general business in Oakland, not too large, but is well regarded in every way. He is a fairly old man, I believe in his late sixties and is possibly not too active on that account.

I trust this is the information you desired on Mr Jackson. If you want anything further let me know and I will be glad to obtain it for you.

I told Bill you were in town and we hoped that we would hear from you today but I presume you had to get back to Sacramento

Best regards.

Very truly yours,

WILLIAM REICHEL & CO.
JIM ROBERTS, *Manager*

14

TRANSMITTAL OF CORRESPONDENCE

August 22, 1949

To: DIRECTOR DEAN
Department of Finance

From: Governor's Office

This office has received the following:

Letter from Frank Bartlett of San Mateo requesting consideration as insurance agent for state cars in his area.

Enclosures:

His letter and copy of our acknowledgment.

☐ Please prepare a suggested reply, with supporting memorandum, and submit it to us as promptly as possible, returning the correspondence at the same time.

☒ Please reply to the correspondent, with copy to this office for our files.

☐ This is transmitted to you for such attention as in your judgment it may require or merit.

☐ This is transmitted to you for your information.

Remarks:

M. F. SMALL
Secretary to Governor

14a

STATE OF CALIFORNIA
GOVERNOR'S OFFICE
SACRAMENTO 14

August 22, 1949

MR FRANK M. BARTLETT, *Real Estate Broker*
10 Third Avenue at El Camino Real
San Mateo, California

DEAR MR. BARTLETT. In Governor Warren's absence, this will acknowledge your letter of August 18th asking to be included among the agents handling the insurance of state-owned automobiles.

I am taking the liberty of referring your letter to Director James Dean of the Department of Finance, who will be able to reply to you more fully regarding insurance on state automobiles.

With best wishes, I am

Sincerely,

M. F. SMALL
Secretary to Governor

APPENDIX III

CORRESPONDENCE WITH BROKERS

1

M. W. "BILL" BAILEY
SAN JOSE, CALIFORNIA

July 25, 1955

State of California
Director of Finance
Capitol Bldg., Sacramento, California

DEAR SIR: I would like to take this opportunity to request that my name be considered as a possible recipient for commissions on part of the insurance premiums written for the State of California.

I am both a broker and an agent operating as a partnership with Mr. M. W. Bailey doing business as M. W. "Bill" Bailey.

I am a former member of the San Francisco County Republican Control Committee, the California State Republican Central Committee, the San Francisco Republican Assembly, the San Francisco Young Republicans and the California Congress of Republican Clubs.

Sincerely,

PHILIP R. MORGAN, JR.

2

HINCHMAN-ROLPH & LANDIS
IN ASSOCIATION WITH
CHAPMAN & CO.

SUPERVISING GENERAL AGENTS INSURANCE
SAN FRANCISCO 4, CALIFORNIA

July 7, 1948

MR. J. F. BRADY, *Insurance Adviser*
Department of Finance
State of California
Sacramento, California

DEAR MR. BRADY:

Re: Charles Barnum

Pursuant to your request I checked on the status of Charles Barnum of Eureka, both in our office and in the Insurance Commissioner's Office, and find that he is licensed as an agent only and does not, according to the records, hold a broker's license.

Through our office we have him registered as an agent for the American Bonding Company.

If there is any business to be designated to him through another company whose business we supervise, immediate arrangements can be made for his proper appointment upon your request.

Very truly yours,

S. D. HUBBARD

2a

CHARLES R. BARNUM
EUREKA, CALIFORNIA

August 18, 1950

J. F. BRADY
Department of Finance, State of California
817 10th Street, Sacramento 14, California

DEAR MR. BRADY: Thank you very much for your letter of the 16th instant, informing us that we had been selected to receive a portion of the commission on the State of California Motor Vehicle Liability Insurance Policy issued by the Founders Fire and Marine Insurance Company.

This letter was addressed to my father, and he has referred it to me. We would like for you to know that your favor is sincerely appreciated.

Very truly yours,

CHARLES R. BARNUM & ASSOCIATES
C. ROBERT BARNUM, JR.

3

IVAN A. BOURDINE COMPANY
LOS ANGELES 57, CALIFORNIA

February 3, 1955

MR. NEWTON STERNS
Secretary to the Governor
State Capitol, Sacramento, California

DEAR SIR: I have known Mrs E. B. Hershberger and Mrs. Virginia Knight for some time and my admiration goes to both ladies for their social work.

Mrs. E. B. Hershberger suggested that I write you this letter.

Republicans of Russian origin in Southern California elected me as chairman of the organization. We supported the election of Governor Goodwin J. Knight.

My imagination goes as far as the picture of the Governor presented to him for Christmas—if you remember, there are a couple of steps to make in order to complete a lifetime ambition of any man in the United States.

It is a privilege to support Governor Goodwin J. Knight.

I am not asking any kindness or an exception—but would appreciate an equal chance for business in Real Estate.

Very cordially yours,

IVAN A. BOURDINE

P S. Would like to meet you personally in Los Angeles.

4

LULU BRUNTON, INSURANCE
SACRAMENTO 14, CALIFORNIA

April 23, 1952

MR. J. F. BRADY, *Insurance Adviser*
State of California, Department of Finance
Sacramento 14, California

DEAR MR. BRADY: You gave me a very pleasant surprise when I received the copies of the requests for bonds for Henry E. North, Angus M. Cohan, and Twyman Burrows.

That was mighty nice of you, and thanks a million.

Sincerely yours,

(MRS.) LULU BRUNTON
Insurance Broker

5

REG DAVIS, BROKER
SACRAMENTO, CALIFORNIA

DEAR FRIEND:

Questions—Have you seen this letterhead before? Why are you receiving this letter?

Answer—The answer to the first question is "No" and you may have guessed the answer to the second.

Announcement—Most of my working life has been devoted to sales, service or administration in insurance and real estate, and I am now pleased to announce my association as broker with the Hipp Realty, 2427 J Street, GI 3-5743.

Let me serve you in your insurance as well as your real estate needs.

Self-Service Insurance Survey—Have you seen a self-service insurance survey? I want to give you something tangible with this letter so one is enclosed. It takes only a moment of your time and may save you money.

Service—Overlapping policies or "gaps" in coverage are often costly. Why take a chance? Drop this survey in the mail (it needs no postage). I will review and discuss it with you. Or have you any questions? Just phone GI 3-5743.

Thank you,

REG DAVIS

6

REG DAVIS, Insurance, Real Estate
SACRAMENTO, CALIFORNIA

September 5, 1953

MR. JACK BRADY,
Insurance Adviser, Department of Finance
State Capitol, Sacramento, California

DEAR JACK: Sorry I missed you when I called recently, but will call again. However, I want to express my appreciation for your interest and efforts in allocating to me the bond of the Department of Mental Hygiene.

It is particularly appreciated this year as I have opened my own office as indicated by this letterhead, and such a commission looms unusually large at such a time.

I'll drop by soon and say hello and thank you.

Yours truly,

REG

7

THE AETNA CASUALTY AND SURETY COMPANY
HARTFORD 15, CONNECTICUT

570 NORTH STATE STREET
UKIAH, CALIFORNIA, October 27, 1952

MR. J F. BRADY, *Insurance Adviser*
Department of Finance
Sacramento, California

DEAR SIR: On September 17th, the writer addressed you with regard to participation in commission on state insurance by qualified agents.

The letter to you was suggested by Secretary of State Frank M. Jordan who stated: "I am sure that Mr. Brady will try to favor you with some business in your locality."

It is probable that any allocations of such business are made at a particular time of the year, but it would be interesting to have a word from you as to whether there can be any anticipation of a share of this income.

With appreciation of any data that can be given at this time,

Very truly yours,

JARDINE INSURANCE
By ROBERT K. JARDINE, JR

7a

SECURITY INSURANCE COMPANY OF NEW HAVEN
THE CONNECTICUT INDEMNITY COMPANY
JARDINE INSURANCE, Ukiah, California

570 NORTH STATE STREET
November 14, 1952

MR. J. F. BRADY, *Insurance Adviser*
Department of Finance, State of California
Sacramento 14, California

DEAR MR. BRADY: The information contained in your letter of October 31st is greatly appreciated, and in accordance with the request contained therein, you will find below the several companies represented in this office:

Home Insurance Co. of New York, The Travelers Indemnity Co., Aetna Casualty & Surety Co., Standard Fire Insurance Co., Security Insurance Co. of New Haven, Niagara Fire Insurance Co., Great American Insurance Co, Pacific National Fire Insurance Co., Zenith National Insurance Co., California Union Insurance Co., The Century Insurance Co. Ltd, Pacific Indemnity Company, California Compensation Insurance Co., Lincoln National Life Insurance Co., Provident

Accident & Life Insurance Co., Equitable Life Insurance Society of the United States, Aetna Life Insurance Co., Hartford Accident & Indemnity Company, Hartford Fire Insurance Company, Standard Marine Insurance Company, Pacific Marine Insurance Company.

If the matter of being insurance brokers has a bearing on the participation of an office in the premium return, we cannot qualify at the present time but if required, that can be expeditiously arranged. As agents, we can render an equality of service through any of the companies which we represent.

Very truly yours,

JARDINE INSURANCE
By ROBERT K. JARDINE, JR.

7b

STATE CAPITOL, October 31, 1952

JARDINE INSURANCE
Ukiah, California
Attention: ROBERT K. JARDINE, JR.

GENTLEMEN: This will acknowledge your communication of September 17, and October 27, 1952 First, I would like to apologize for not having responded to your September communication. The delay has been occasioned by reason of the absence of the writer from the office on official business.

I showed both of your communications to Mr. Dean yesterday and he instructed me to inform you that all of our insurance which is in force presently, has been allocated; however, we shall be glad to keep you in mind with respect to any new coverage.

We do not find your firm listed in the Insurance Department's List of Persons, Partnerships, Corporations Licensed as Insurance Brokers in California. It would be helpful to us if you would send us a list of casualty and surety companies whom you represent as agent in order that we may give this matter further consideration.

Very truly yours

J. F. BRADY
Insurance Adviser

8

CLIFFORD A MOTT, BONDS AND INSURANCE
SACRAMENTO, CALIFORNIA

April 29, 1954

MR. JOHN M. PEIRCE, *Director*
Department of Finance,
State Capitol Building, Sacramento, California

DEAR MR. PEIRCE: For some time I have been on the list of insurance agents to whom a portion of the commission on state business has been allocated This year the usual commission checks have not been received by me as in the previous years.

No doubt, since you have taken over the Office of Director of Finance, you have agents whom you feel should receive this commission, which of course is the rightful privilege of your office.

As I have never had the pleasure of knowing you, and you never having heard of me, I would like for you to know I have for many years been very active with the Republican Committees; working with Mr. Harold Leavy, Everett Sween and Dudley Fortin, with my contributions and many hours of work in the solicitations of funds for our cause. I suppose this has been the reason I was put on the list of agents to share in these commission checks for which I am very grateful If this information seems worth while to you and if you can, without inconveniencing yourself, I would appreciate very much being replaced on the list of agents sharing commissions.

I also want you to know we greatly appreciate your accepting this very important position in our State Government, particularly as I have been given to understand it means a financial reduction in your income. Please accept our thanks and may you enjoy your assignment as much as we appreciate your accepting it.

Very sincerely yours,

CLIFFORD A. MOTT

Clifford A. Mott has received commissions largely from motor vehicle fleet insurance dating back to 1946, totaling $8,948.07, although there is some comprehensive liability included. Has also received insurance on bonds for premiums totaling $4,582.16 carrying commissions of 20 percent. These records are partial.

9

RAYBOULD AND BARTLETT
REAL ESTATE BROKERS
10 THIRD AVENUE AT EL CAMINO REAL
SAN MATEO, CALIFORNIA

August 18, 1949

THE HONORABLE EARL WARREN
Governor, State of California
Sacramento, California

DEAR GOVERNOR: General Ralph Cousins, my old friend and commanding officer, visited me shortly after the end of the war. As a result of that visit, we were proud to be designated the first agents in this community for the Founders' Fire & Marine Insurance Company. Our firm has been established in San Mateo for over 35 years and our insurance department is now being managed by a former officer of our efficient Western Flying Training Command Staff.

Recently, we were advised by Preston Hotchkis, President of Founders' Fire & Marine, that his company had been awarded the contract for insuring all of the California state motor vehicles.

We are now writing a sizable volume with Mr. Hotchkis' company, and would like to be named for inclusion on the list of insurance agents who participate in the State's business. We are advised at this time that there is no state's representative in this area.

Will appreciate every consideration being given this request in keeping with the State's policy in this matter.

With kind personal regards, I remain

Sincerely,

FRANK M. BARTLETT

Raybould and Bartlett—Apparently this firm was placed on list to receive commission on motor vehicle fleet insurance dating back to July 1, 1949, in spite of memorandum from Mr. Brady that no record could be found that this firm was licensed as brokers. Corporation broker's license went into effect for period April 12, 1954, to July 1, 1955.

9a

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

File No.
Date: August 29, 1949

To: JAMES S. DEAN
Director of Finance

Subject:

From: Department of Finance—Administration

Here is a suggested form of communication to Raybould and Bartlett for your consideration. We shall be glad to revise it as you may desire

We have checked the Insurance Department list of insurance brokers in California and do not find where the firm in question is licensed as brokers.

You may wish to consider the firm in question at the time that the first interim premium payment is made on the Founders' Fire & Marine present policy.

J. F. B.

10

WILLIAM F. REICHEL
OAKLAND 12, CALIFORNIA

December 15, 1948

MR J. F. BRADY, *Insurance Adviser*
Sacramento, California

MY DEAR JOHN: I am in receipt of your letter of November 23 notifying me of my participation in the commission on the state motor vehicle insurance.

I do appreciate receiving this business, particularly at this time, in view of the fact that I spent six months away from the office on the recent national campaign.

The results of the election were discouraging and the only thing we can be happy about, is the fact that we still have Governor Warren as Governor of the State of California.

On your next trip to the city, I will appreciate it if you will call me as I would like to see you personally and discuss several things I have in mind.

With kindest regards, I am,

Very truly yours,

WILLIAM F REICHEL

William F. Reichel, Tribune Tower, Oakland—Member of Republican State Central Committee. Partial records show he has received commissions dating back to 1942, totaling $13,782 92 for motor vehicle fleet, comprehensive liability, and money and securities. In addition, received insurance on bonds for premiums totaling $21,957.36, carrying commissions of 20 percent

11

SAMSON INSURANCE AGENCY, INSURANCE & BONDS
LOS ANGELES 21, CALIFORNIA

June 17, 1954

State of California
Department of Finance
Sacramento 14, California

GENTLEMEN We would like to know if the State of California purchases any forms of insurance such as· fire, casualty, fidelity and surety bonds, inland marine or ocean marine insurance.

If they do, we would like to be put on a list to receive bids or open market quotations for any of your insurance needs.

If we are writing to the wrong party regarding this, please advise who we should write to.

Thanking you very much for your cooperation in this matter, and we would appreciate you acknowledging receipt of this letter, I remain

Very truly yours,

SAMSON INSURANCE AGENCY
SAM SAMSON

11a

STATE CAPITOL, June 22, 1954

MR. SAM SAMSON
Samson Insurance Agency
Los Angeles 21, California

DEAR MR. SAMSON: We acknowledge your letter of June 17, 1954.

Responding to your questions, we procure substantially no fire insurance for the reason that generally the law prohibits the procurement of fire insurance on state property. We do procure some casualty insurance and official bonds. The coverage is rather highly specialized and in some instances must meet the requirements of the statutes.

We do not find it necessary to call for bids or obtain open market quotations through insurance brokers Our practice for many years has been to deal with the companies direct. It would not be feasible to attempt to deal through all of the brokers and agents in California which, as you probably know, number in excess of 100,000.

Very truly yours,

J. F. BRADY
Insurance Adviser

12

CITY OF OAKLAND, CALIFORNIA
OFFICE OF CITY MANAGER

March 28, 1950

MR. EARL WASHBURN
Deputy Director of Finance
State Capitol, Sacramento, California

DEAR EARL: As you know, Councilman Frank B. Shattuck just recently passed away. Frank had a small volume of insurance from your department and the checks have always been payable to him personally. However, the firm name is Shattuck & Doyle and is, of course, continuing in business with Mrs. Shattuck taking the place of her late husband.

I would appreciate your help in seeing that the Insurance Department forwards checks in the future made payable to Shattuck & Doyle, Central Bank Building, Oakland 12, California. In this way Mrs. Shattuck will receive the commissions which were accruing to Frank.

Appreciating your help and my very best wishes,

Sincerely,

J. F. HASSLER
City Manager

12a

March 31, 1950

MR. J. F. HASSLER
Office of City Manager
Oakland 12, California

DEAR JACK: Your letter Earl Washburn, dated March 28, 1950, was handed to me by Mr. Washburn I, in turn, called it to the attention of James Dean.

I am, indeed, sorry to hear of the passing of Council Frank B. Shattuck. I remember meeting him at your office some years ago when I had the pleasure of seeing you at the bank before they called you back into the public service.

We shall, indeed, be happy to cooperate in listing the firm of Shattuck & Doyle, Central Bank Building, Oakland, and assist in any way in which we can.

The next time I am in Oakland, I will make it a point to telephone you and if you are not too busy, possibly I will have a chance to have a short visit with you.

Very truly yours,

J. F. BRADY
Insurance Adviser

12b

CITY OF OAKLAND, CALIFORNIA
COUNCIL CHAMBERS

April 3, 1950

J. F. BRADY, *Insurance Adviser*
Department of Finance, State of California
Sacramento, California

DEAR JACK: Thank you very much for your gracious letter of March 31st

I am pleased to know that the firm of Shattuck and Doyle will now be recognized in place of our good friend, Frank Shattuck, who passed away a few weeks ago

Next time you are in Oakland make it a point to have lunch with me.

Very truly yours,

J. F. HASSLER
City Manager

13

THOMPKINS & COMPANY, INSURANCE BROKERS
SAN FRANCISCO 4

June 8, 1954

MR. J F. BRADY, *Insurance Adviser*
Department of Finance, State of California
Sacramento 14, California

DEAR MR. BRADY: Your letter of June 4, 1954, addressed to the attention of our Mr. Edwin M. Wilson advising that our firm has been designated to share in the commission payable on various fire insurance policies covering San Quentin Prison has been brought to my attention.

I am hastening to write you to tell you how very much we appreciate this.

I note from your letter that you are contemplating being in San Francisco about the middle of the month, and I do hope that it will be possible for you to find time to drop into our office. I should like very much to make your acquaintance and also to have you see our operation.

Again, thank you very much for including us in this important piece of business

Yours sincerely,

THOMPKINS & COMPANY
STUART C. THOMPKINS

APPENDIX IV

LETTER FROM JOHN PEIRCE TO CHAIRMAN MUNNELL

DEPARTMENT OF FINANCE
SACRAMENTO, CALIFORNIA

December 17, 1956

HONORABLE WILLIAM A. MUNNELL, *Chairman*
Committee on Finance and Insurance
State Capitol, Sacramento, California

DEAR MR. MUNNELL: Shortly after I took office as Director of the State Department of Finance on November 1, 1953, it was called to my attention that it had been the custom for at least 25 years for insurance companies to request the State to designate the names of brokers or agents to receive commissions on insurance and public official bonds purchased for the various agencies of State Government, although in many instances the State deals directly with such companies.

It was my understanding that the state law prohibits insurance companies from granting rebates, discounts, or other preferential treatment to any of their insured, including the State of California, and that it was the long-established practice of the insurance industry to pay commissions to its agents and brokers, regardless of the degree to which such agents or brokers participate in the actual handling of such business.

Accordingly, I carried on where my predecessor left off, and have since been following the practice of complying with the wishes of insurance companies by designating the names of brokers and agents to receive standard commissions on insurance and public official bonds purchased through the State Department of Finance.

Several of the brokers and agents who have so been designated were continued by me from a list used by my predecessor, Mr. James S. Dean, who served as Director of Finance under Governor Earl Warren.

In the case of brokers and agents not previously participating in state business, I used care to select individuals and firms whose reputation for integrity and dependability was well established, and an effort was made to select them on a geographical basis so that this business would not be concentrated in a single area.

In practically all instances, the brokers and agents who have been selected to receive commissions on state business have requested either directly or indirectly to participate in this business. There have been instances where we have sought the services of particular firms whose skills in special fields of insurance underwriting were deemed to be of special advantage to the State, and I have found these firms very glad to offer their assistance.

Insurance companies, brokers, and agents naturally have sought state business just as have concerns in other lines of endeavor who have goods or services required by the State Government. All offers to serve the State which have come to my attention have been on a bona fide basis.

Fundamentally we feel that the Department of Finance has followed sound business practices in the procurement of insurance. Although the law does not require competitive bidding, we, nevertheless, obtain

competitive quotations where practical: e.g., in respect to our motor vehicle liability insurance on the state automotive fleet, which is the State's largest policy.

In some instances, we have found it necessary to seek out companies to take care of special problems wherein established rate schedules would not apply, and where the premiums charged were the result of negotiation related to our loss experience.

Early publicity with respect to the handling of the State's insurance coverage stated that commissions paid to brokers handling such business aggregated approximately $50,000 annually. This figure apparently included commissions paid on state harbor insurance which is not handled by the Department of Finance.

According to our computations, the Department of Finance handled state insurance which involved the payment of commissions by insurers in the amount of $27,491 in 1954-55. For the Fiscal Year 1955-56, the estimated brokers' commissions were $28,352 For the period 1956-57, to date, commissions have amounted to $15,143. The above figures do not include the commissions on all classes of bonds The annual commission on blanket bonds, individual bonds, and statutory bonds amounts to $10,400 04.

Again I want to make it clear that commissions on state insurance and public official bonds are paid by individual insurance companies, and not by the State of California. Whether or not we designate brokers or agents to receive commissions, it is my understanding that the companies would pay these commissions to someone, and if we fail to designate names, the companies would assume this responsibility.

Because of the misunderstanding that has developed with respect to the payment of commissions on state insurance and public official bonds, particularly the belief in some instances that these commissions are paid directly out of the State Treasury, I welcome a complete inquiry into this subject, and I hope that as a result thereof steps can be taken to remove the basis of any further misunderstanding in regard to this matter.

I have already transmitted to members of your committee certain statistical and other information dealing with the State's handling of its insurance and surety bonds, and may I assure you that the Department of Finance stands ready to cooperate with you in every way possible.

Yours sincerely,

JOHN M. PEIRCE
Director of Finance

APPENDIX V

LETTERS FROM CALIFORNIA ASSOCIATION OF INSURANCE AGENTS TO CHAIRMAN MUNNELL

CALIFORNIA ASSOCIATION OF INSURANCE AGENTS
OAKLAND 12, CALIFORNIA

OFFICE OF THE PRESIDENT, January 2, 1957

HONORABLE WILLIAM A. MUNNELL, *Chairman*
Assembly Interim Committee on Finance and Insurance
State Capitol, Sacramento, California

Re: State Insurance Program

MY DEAR ASSEMBLYMAN MUNNELL: The California Association of Insurance Agents has followed with great interest and concern the various newspaper reports with respect to the procedures followed by the State of California in securing insurance protection for its various exposures While certain practices in connection with the State's insurance program seemingly may have been less than ideal, this association believes little useful purpose would be served in merely criticizing what has been done in the past, apparently for many years. Rather, our association agrees that the time is propitious for a re-evaluation of the State's insurance practices and for the development of constructive suggestions concerning those practices.

With that basic objective in mind, our association observed with keen interest the hearings conducted by the Subcommittee of the Assembly Interim Committee on Finance and Insurance on December 17th in Sacramento. At that meeting, and in the press reports about the State's insurance program generally, a number of misconceptions about the insurance industry have been voiced Therefore, before proceeding to offer what we believe to be constructive suggestions for improvements in the State's insurance buying procedures, we would like to review briefly certain basic characteristics of the insurance industry so the subcommittee, which you head, will have an accurate frame of reference for the conduct of its investigation.

There has been considerable conjecture about just what services licensed insurance producers have rendered for the commissions they have received on the State's insurance business. We were very pleased to have the record show, as it does, that in many cases the State has received exceptionally competent service from the insurance agents and brokers who have participated in handling the State's business On the other hand, it has been apparent that some producers receiving commissions on portions of this business have not performed, or (and we believe this to be important) have not been called upon to perform specific services with respect to the policies on which they were paid commissions. As the committee is well aware, insurance agents and brokers "transact" insurance and act as intermediaries between the public and the insurance companies. Section 35 of the California Insurance Code provides that "transact," as applied to insurance, includes any of the following:

(a) Solicitation;
(b) Negotiations preliminary to execution;

(c) Execution of a contract of insurance;
(d) Transaction of matters subsequent to execution of the contract and arising out of it.

Commissions on an insurance policy paid to a licensed insurance agent or broker are not limited, in the services contemplated thereby, to services of the nature of (a), (b) and (c), but also contemplate services, or the availability and readiness to perform services, of the nature of (d), and are not fully earned until the policy has expired.

In this respect, the commission is also in the nature of a retainer, similar to the retainer paid to a lawyer. As agent or broker of record, the producer holds himself in readiness to perform services when called upon, subsequent to execution of the policy—for example, whenever some circumstance such as a change in exposures requires alterations in coverage, or particularly when a claim arises. While an agent or broker may not "adjust" claims in the technical sense, his functions include participation in the adjustment of claims, toward the end that the contract provisions are fulfilled and the rights of the policyholder are fully protected. That he might not be called upon to render such services in respect to a given policy does not necessarily mean that he did not earn the commission.

While the commission paid to an insurance producer on a specific policy contemplates the performance of, or availability to perform, services in respect to that policy, as a practical matter there can be no scientifically accurate measure of the relationship of the commission on a specific policy to the services on that policy. In some cases, the services performed may be slight, while in many cases the services are so extensive that the commission does not adequately cover the cost thereof to the producer. Insurance is a business of averages, and the margin of profit arising out of the commission on one policy offsets the financial loss to the producer arising out of the services performed on another policy.

There have been repeated comments that the commissions on the State's insurance business have been paid by the State. Such comments are not accurate. The commissions have been paid by the insurers. As in any other business, the various items of cost in the insurance business, including the producers' commissions, are ultimately borne by the consumers or policyholders. But it is not wholly accurate to conclude that, because a commission on a specific policy is expressed as a percentage of the premium paid on that policy by the policyholder, such commission is therefore paid by that policyholder. Again, insurance is a business of averages. Insurance companies daily pay losses on specific policies that far exceed the premiums paid thereon by the holders of such policies. Obviously, it cannot be said that such policyholders pay the commissions on their policies any more than they pay the losses and other expenses in excess of their premiums. The most that can be said is that, through premiums, they contribute to payment of the insurance company's losses and expenses (including commissions) in the aggregate.

There has been some question expressed on the record concerning both the legality and feasibility of the State's purchasing insurance direct from insurance carriers. There is no law, to our knowledge, that prohibits direct purchasing of insurance from insurance carriers that

operate as direct writers and whose coverages are not sold or serviced by independent insurance agents or brokers. Likewise, there is no law, to our knowledge, that would forbid a carrier that has chosen to operate only through independent agents and brokers from selling its insurance contracts to the State without paying commissions to any agent or broker. However, we believe that, if such were done, the carrier could not take the next seemingly obvious step, i.e., reduce the amount of the State's insurance premium by the amount of commission not paid, without exposing itself to possible violation of the provision of the California Rate Regulatory Law prohibiting unfairly discriminatory rates.

Rating necessarily involves classification of risks and it is recognized that, under the existing Rate Regulatory Law, the state conceivably might be placed in a classification of its own without violating the prohibition against unfair discrimination. The propriety of such action would depend upon whether there exist sufficient differences in its risks and exposures to justify special rate treatment. But separate classification, if legally justifiable, would work both ways and could very well result in the State's paying higher insurance rates than other purchasers of insurance. This is particularly significant in the light of the disclosures in the record that last year's incurred losses alone (disregarding expenses and commissions) under what is perhaps the largest of the State's liability insurance contracts, exceeded the premium paid thereon by the State.

There has been some conjecture as to just what is embraced by the term American Agency System. In brief, that term, which is recognized in various court decisions and statutory laws throughout the United States, describes a method of distributing and servicing insurance contracts issued by insurance carriers—whether stock, mutual or reciprocal—through licensed insurance agents and brokers who are independent businessmen remunerated on a commission basis. Ownership rights to insurance policies produced through independent agents and brokers are vested in such agents and brokers, not in the insurance carrier that issues the policy under the American Agency System. This association believes the insurance-buying public is best served by the distribution and servicing of insurance through the American Agency System. Insurance is an important but highly technical field in which the competent independent businessman-agent or broker is a specialist. He is, in our opinion, best qualified by training, experience and independent status to ascertain objectively and skillfully the insurance needs of the buyer, find and develop the best available market for placement thereof at reasonable cost, and fully protect the interests of the buyer in all dealings with the insurer throughout the term of the insurance coverage. His recognition as a vital factor in the fulfillment of the insurance requirements of the American public is attested by the fact that by far the majority of all insurance in every part of the United States is sold and serviced under the American Agency System.

Inasmuch as a large part of the discussion about the State's insurance buying program thus far has centered around its liability and surety exposures, we believe it would be very helpful to your committee

to review a liability insurance manual for political subdivisions published almost two years ago by this association in cooperation with various segments of the insurance industry and with representatives of the League of California Cities. Five copies are enclosed. We particularly call your attention to the initial section of this manual, which discusses recommended insurance procedures. You will note therein that this association believes a first essential in the handling of any insurance program is the rendering of complete and full service by the insurance agent or broker selected to handle that program

With the preceding background, we would now like to offer suggestions concerning the way we believe the State's insurance program should be handled in the future:

First, we believe the state administration should purchase its insurance in the same manner as any prudent large buyer of insurance Most large buyers of insurance employ an insurance manager or an insurance buyer whose function it is to analyze the various offerings of the insurance industry, and to work closely with an insurance agent or broker in the development and securing of insurance contracts designed to indemnify the firm against its many and varied exposures to loss. Just as with a large business, adequate supervision and control in respect to the State's insurance needs and the ascertainment, development and selection of markets to meet those needs can only be performed, we believe, by competent independent insurance agents or brokers. Therefore, we believe the State's administration should carefully select one or more independent insurance agency or brokerage firms to handle the placing and servicing of its insurance requirements. With respect to the administration's choice of insurance producer or producers for this purpose, we believe such a selection is not basically different from selection by the administration of the heads of executive departments Presumably, the administration will select only insurance agents or brokers whom it deems competent and in whom it has confidence.

Second, once one or more competent insurance agents or brokers have been selected to service the State's insurance program, we believe a thorough survey and analysis of the State's insurance needs should be conducted by such firm or firms in cooperation with the Department of Finance Only when the State's exposures are known and understood will it be possible for the State to purchase, on the best terms available, the precise coverages needed to protect it from economic loss caused by insurable perils.

Third, we believe the Department of Finance, the State's insurance agents or brokers, and the carriers writing the State's business should join together in a comprehensive loss prevention program in order to minimize wherever possible the loss of life, limb and property that occurs from preventable occurrences.

The California Association of Insurance Agents is the largest state organization of independent insurance agents and brokers in the United States At present it has a voluntary membership of more than 2,600 separate firms of agents and brokers, with more than 10,000 licensed producers members of those firms There are at present 106 local and county associations affiliated with the California Association of Insurance Agents. This association wishes to record its willingness

to assist your committee and any other interested branch of State Government in any proper way to accomplish the objectives outlined above, and to cooperate fully toward the end that the State at all times receives the maximum protection and service it can secure from the expenditure of funds for insurance premiums. To that end the full facilities of our association and its technical committees are available for whatever assistance it is within our power to give your committee.

Respectfully submitted,

JAMES P. BENNETT, President

CALIFORNIA ASSOCIATION OF INSURANCE AGENTS
OAKLAND 12, CALIFORNIA

OFFICE OF THE PRESIDENT, January 28, 1957

HONORABLE WILLIAM A MUNNELL, *Chairman*
Assembly Committee on Finance and Insurance
State Capitol, Sacramento, California

Re State Insurance Program

MY DEAR MR. MUNNELL: At the January 3d and 4th hearings of the Subcommittee of the Assembly Interim Committee on Finance and Insurance, members of your subcommittee requested our representative, Executive Secretary Trev A. Burrow, to develop more information for your consideration. First, the subcommittee requested our association to prepare a more complete explanation of the California Rate Regulatory Law prohibitions against the use of unfairly discriminatory rates by insurance carriers. Second, the subcommittee asked that our association attempt to develop a system or procedure that would completely remove any possibility of political favoritism influencing the selection of insurance agent, broker or carrier by the state administration.

Our association's counsel in this matter, John R Maloney of Weinstock, Anderson, Maloney & Chase, San Francisco, was requested by us to prepare a more complete explanation of the Rate Regulatory Law question You will recall that in our association's formal statement to your subcommittee, we made the following observation:

> "There has been some question expressed on the record concerning both the legality and feasibility of the State's purchasing insurance direct from insurance carriers. There is no law, to our knowledge, that prohibits direct purchasing of insurance from insurance carriers that operate as direct writers and whose coverages are not sold or serviced by independent insurance agents or brokers Likewise, there is no law, to our knowledge, that would forbid a carrier that has chosen to operate only through independent agents and brokers from selling its insurance contracts to the State without paying commissions to any agent or broker However, we believe that, if such were done, the carrier could not take the next seemingly obvious step, i e., reduce the amount of the State's insurance premium by the amount of commission not paid, without exposing itself to possible violation of the provision of the

California Rate Regulatory Law prohibiting unfairly discriminatory rates."

* * * * *

In Mr. Maloney's report to us, he said

"The Rate Regulatory Law referred to in the above quoted portion of the Association's formal statement to the subcommittee is embodied in Chapter 9, Part 2, Division 1 of the California Insurance Code, comprising Sections 1850 to 1860.3 inclusive, and is applicable to fire and casualty insurance rates in general.

"Section 1852 specifies the standards which 'shall apply to the making and use of rates pertaining to the classes of insurance to which the provisions of this chapter are applicable' and expressly provides, in paragraph (a) thereof, that 'Rates shall not be excessive or inadequate as herein defined, nor shall they be unfairly discriminatory.' Paragraph (d) of Section 1852 provides as follows:

> "'(d) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with *rating plans* which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that have a probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations. Such classifications and modifications shall apply to all risks under the same or substantially the same circumstances or conditions.'

"The rating law thus prohibits unqualifiedly 'unfairly discriminatory' rates, but it does not define the term 'unfairly discriminatory.' As so ably pointed out by Insurance Commissioner McConnell in his testimony before the subcommittee, an unfair discrimination is more than a difference. Underlying the meaning of the term is 'the idea that some relationship exists between the parties to the discrimination which entitles them to equal treatment whereby the difference to one casts some burden or disadvantage upon the other * * *' (80 Congressional Record 94016 [1936] reporting debate on Federal Robinson-Patman anti-discrimination act.)

"In an address on the subject 'Discrimination,' given on October 25, 1950, before the California Association of Insurance Agents, Honorable Wallace K. Downey, who was the first Insurance Commissioner of California to administer the rating law, stated:

> "'* * * it may fairly be said in a few words that the requirement that insurance rates be not unfairly discriminatory is the requirement that an insurer must treat like like like.'

"As respects insurers which otherwise operate under the American Agency System, the impliedly suggested procedure that they pay no commissions to agents and brokers on insurance covering the State of California or its agencies *and* reduce the rate and

amount of the premium charged to the State by the amount of commission not paid would patently seem to be unfairly discriminatory in relation to other policyholders to whom insurance is not afford on an equal basis. Commissioner Downey made known his views on the principle involved in no uncertain language when, in the address hereinabove referred to, he stated:

> "'Philosophers often speak of the fallacy of attempting to make a distinction without a difference A few people who have been unwittingly guilty of this sophistry have presented their problems to the department from time to time Very recently we were asked by an insurer's representative whether it would be a violation of the rating law for it to have a lower set of rates for business placed with it by one agent who had agreed to take only a 10 percent commission, and a higher set of rates on business placed with it by its other agents who were getting a 30 percent commission Mind you, there was no difference in the risks. The only difference as between different insureds was that one would take insurance through an agent getting 10 percent commission and the other would take insurance through the agent that received a higher commission. I am certain there is no one in this room who does not immediately know the answer to this question, and yet it was put to our Rating Division by several insurance people of above average intelligence and with straight faces, I might add.'
>
> "If such insurers were to afford insurance on the suggested basis, at the option of the policyholder, not only to the State but also to 'all risks under the same or substantially the same circumstances or conditions,' it would, of course, be abandoning the American Agency System of operation, but even so, serious question would remain whether such a rating structure is not unfairly discriminatory in violation of the rating law, since otherwise identical risks would be charged different rates and premiums Commissioner Downey's emphatic words leave no doubt as to his views, but, as we see it, resolution of this question is somewhat academic for your purposes, since the point made in your formal statement to the subcommittee, upon which elaboration was requested, contemplates a factual situation whereby the State of California is given a special rate or premium that is net of any commission-loading by insurers which otherwise operate under the American Agency System. As previously indicated, that such would result in unfairly discriminatory rates as between the State and other policyholders not similarly treated would seem to be patent, and to similarly treat all policyholders is to cease to operate under the American Agency System and become a direct writer."

* * * * *

Our association has given searching study to your subcommittee's request that we attempt to devise a method that would remove completely any possibility of political favoritism playing a part in the State's selection of insurance agent, broker or carrier We have considered a number of possible systems or methods but have consistently

returned to one which we believe would have the practical effect you desire. In his admirably forthright testimony before the Assembly Subcommittee, State Director of Finance John M Peirce, quite ably pointed out that, in the final analysis, the elimination of political favoritism in the handling of state insurance placements is a matter of the integrity and business judgment of the Director of Finance as the state office responsible for such insurance placements. With this observation we quite agree. No one other than a person of unquestioned integrity and sound business judgment should hold the position of Director of Finance, and so long as the responsibility for placing state insurance rests with the director, his integrity and business judgment of necessity must be relied upon to execute that responsibility, including the selection of insurance agents and brokers in whom he has confidence and who have the facilities to service the State's insurance needs, on a nonpolitical basis and in the best interests of the State. Any policy framework set by the Legislature within which the responsibility for selecting qualified insurance agents and brokers is to be exercised, whether by the Director of Finance or any other person or body, should, it seems to us, be confined to the statement of basic principles, such as that the selection shall be on a nonpolitical basis and that only such licensed insurance agents or brokers shall be selected as are qualified by training or experience, or both, and who possess the facilities to adequately service the particular insurance needs of the State

We believe that a satisfactory solution to the problem was contained in remarks made by Legislative Auditor Alan Post in his testimony before your subcommittee. Mr. Post stated that in the past he had made several recommendations to the Department of Finance in connection with insurance placements, one of which was the complete summarization thereof, to be made a matter of public record. Our association feels there is a great deal of merit to this approach, and we are convinced that such a record, by its very nature, would, as a practical matter, eliminate any practices or procedures that might be questionable.

We are very pleased at your request that our association offer its recommendations in this matter and we hope that we have been of genuine assistance to you and your subcommittee. If we can cooperate with you further in the future, we will be most happy to do so.

Respectfully submitted,

JAMES P. BENNETT, President

APPENDIX VI

OPINIONS OF THE LEGISLATIVE COUNSEL

OFFICE OF LEGISLATIVE COUNSEL

SACRAMENTO, CALIFORNIA, November 29, 1956

HONORABLE WILLIAM A. MUNNELL
Los Angeles 22, California

State Insurance—#3597

DEAR MR. MUNNELL:

QUESTION

You ask whether there is any law which prohibits the State from dealing directly with an insurer in the negotiation and placement of insurance, or which would require the payment of broker's commission on all such insurance, regardless of whether or not the insurance is placed through a broker.

OPINION

In our opinion there is no such statutory requirement

ANALYSIS

We are advised that this question arises by reason of the fact that the State now pays a brokerage commission on insurance which it places even though the State negotiates directly with the licensed insurer for the particular coverage it seeks and does not utilize the services of a broker The State is charged or required to pay a commission fee, to be paid by the insurer to a broker selected by the State

There is no provision of law which would require such a practice

There is no provision of law which would preclude an insurer from doing business through salaried officers and employees It is only required that such individuals be licensed insurance agents. (Ins. C. 1642 et seq.) Thus, the insurer, through its licensed agents, may negotiate directly with the State or any other applicant for insurance

The Constitution of California prohibits the gift of public funds (Art. IV, Secs. 22, 31). To constitute a gift there must be a gratuitous transfer of state property, made voluntarily and without consideration (*Yosemite Stage etc Co. v Dunn*, 83 Cal. 264). Thus any statute which authorized the payment of a fee by the State to a broker, where the broker performs no service, would appear to constitute a gift of public funds in violation of the constitutional provisions

The business of insurance is competitive and each insurer is free to determine its own premium rate or charge for the risk it insures * Presumably such factors as the cost of acquiring the business, the cost of management and operation, and other cost factors are considered in fixing the rate There is no regulation of the rate by statute or rule which would require an insurer to add a charge for a brokerage service which is not performed in arriving at the price to be charged for any particular policy.

* See Ins C 1852, subd (a).

Insurance Code Section 1852 provides that rates † shall not be excessive, inadequate, nor unfairly discriminatory This section also prescribes rate standards and permits classification of risks for establishment of rates and minimum premiums However, this section does not require that the rates be fixed to include a commission to be paid to the third party broker who has performed no services. It provides that·

> "(d) Risks may be grouped by classifications for the establishment of rates and minimum premiums Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both Such standards may measure any difference among risks that have a probable effect upon losses or expenses Classifications or modifications of classifications of risks may be established based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations Such classifications and modifications shall apply to all risks under the same or substantially the same circumstances or conditions"

There appears to be ample basis in fact for the classification of policies insuring state property or officers separately from other risks, within the meaning of the above quoted provision.

It is therefore our opinion that the State is not required by statute to utilize the services of a broker in negotiating for the placement of insurance, and is not required by statute to pay a broker's commission on the insurance it purchases regardless of whether the services of a broker are utilized.

Very truly yours,

RALPH N. KLEPS
Legislative Counsel

By BERNARD CZESLA
Deputy

OFFICE OF LEGISLATIVE COUNSEL

SACRAMENTO, CALIFORNIA, January 11, 1957

HONORABLE WILLIAM A. MUNNELL
Assembly Chamber

Purchase of Mutual Insurance by the State—#4642

DEAR MR. MUNNELL: At the hearings of the subcommittee on placement of state insurance of the Assembly Interim Committee on Finance and Insurance the contention was made that policyholders of mutual insurance companies and reciprocal exchanges are liable for assessments to meet losses of other policyholders and therefore the State could not enter into a contract of insurance with such type of insurers You ask whether this is correct.

† This section applies to all insurance except life, marine (other than inland marine), title, disability, workmen's compensation and employer's liability in connection therewith, credit, mortgage, and insurance transacted by county mutual fire insurers or county mutual fire reinsurers, not to reinsurance other than joint reinsurance (Ins C. 1851).

In our opinion the State cannot enter into a contract of insurance which would subject the State to an unlimited contingent liability, however the State could enter into a contract of insurance with a mutual company or with a reciprocal exchange which would subject the State to a contingent liability for assessment if the amount of such liability was limited by law or contract.

A mutual insurance company is generally defined as a cooperative enterprise wherein the members constitute both insurers and insured, where the members all contribute, by a system of premiums or assessments, to the creation of a fund from which losses and liabilities are paid, and the profits are divided among themselves in proportion to their interests. (27 Cal Jur 2d 564, 29 Am. Jur. 86).

A reciprocal insurance exchange is a means of insuring, authorized by law whereby each subscriber exchanges reciprocal or interinsurance contracts with each other subscriber providing insurance other than life or surety, among themselves against any loss which may be insured against under other provisions of law. (Insurance Code Sec. 1300, et seq.). This type of organization has no stock and no capital as such. Its operating funds consist of the premiums paid for its policies and the earnings on any investment of these premiums The subscribers appear to delegate their duty of fixing rates to an attorney-in-fact who manages the organization, and if such rates are inadequate to pay all losses, the subscribers are liable to assessment for such losses.

While it would appear that a policyholder in either type of organization would be assuming a contingent liability for an unlimited amount, it is possible that such liability may be limited in any particular case The law of the state in which the insurer is organized may place a limit on such liability. For example, Insurance Code Section 7015 provides that a County Mutual Fire Insurer may not levy an assessment upon any policy in excess of three times the amount of the premium named therein. Similarly the policy or contract executed between the insurer and the policyholder may place a limit on such liability. For example, Insurance Code Section 1307 provides that with respect to a reciprocal insurance organization, the power of attorney and contracts made thereunder may "provide for and limit the maximum amount to be paid by subscribers * * * "

The validity of the assumption of such a contingent liability by the State or a political subdivision of the State involves the application of Section 31 of Article IV and of Section 13 of Article XII of the State Constitution. Section 31 of Article IV prohibits the gift of public funds, and the pledging of the credit of the State in any manner for the payment of the liabilities of any person or corporation Section 13 of Article XII provides:

> "Sec 13. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation."

The application of these provisions to the assumption of contingent liability through the purchase of insurance from a mutual insurer was considered by the court in *Miller* v. *Johnson* (4 Cal 2d 265). In this case a taxpayer sought to enjoin the payment of a premium by a

school district for a policy of fire insurance purchased from a mutual insurer The insurance was purchased pursuant to a statute, in effect at that time, authorizing school districts to insure property "in any mutual insurance company organized under the laws of this State" (School Code Sec. 6.2) The court held:

> "Appellant, however, contends that section 6.2 of the School Code is unconstitutional in purporting to authorize a political subdivision to become a stockholder in an insurance corporation, and to lend its credit to a corporation, in violation of article 4, section 31, and article 12, § 13, of the California Constitution We cannot agree with this view. The mutual fire insurance company issues no stock, and the position of a member is not analogous to that of a stockholder in an ordinary private corporation. As to the pledging of credit, this precise question has received the attention of a few courts, and an important distinction has been recognized. If the statute or policy subjects the political subdivision to a possible unlimited assessment to meet losses, it is objectionable under such constitutional provisions *School Dist.* v. *Twin Falls County Mutual Fire Ins. Co.*, 30 Idaho, 400, 164 P. 1174. But where the assessments are limited, as here, to some such sum as five times the original premium, there is no pledging of credit by the political subdivision. It is simply an arrangement where there is a maximum contingent liability by way of premium, but only one-fifth thereof need ordinarily be paid, and the balance is never collected unless some extraordinary losses occur. The lending of credit, if any, is by the insurance company to the public body; and neither the letter nor the spirit of the Constitution is violated by the transaction."

We believe that the holding of the court in the above case would be determinative of any question concerning the validity of mutual or reciprocal insurance by the State which might be presented to the court That is, that no provision of the Constitution is violated if the contingent liability assumed by the State through the purchase of such insurance is limited by law or contract.

Very truly yours,

RALPH N. KLEPS
Legislative Counsel

By BERNARD CZESLA
Principal Deputy

APPENDIX VII

OPINION OF THE ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
SAN FRANCISCO, November 23, 1956

HONORABLE WILLIAM A. MUNNELL
Assembly, 51st District
Montebello, California

DEAR MR. MUNNELL: You have requested the opinion of this office in response to the following question:

> "Is there any legal requirement that insurance companies duly licensed by the State of California to transact insurance business in this state and selling insurance to the state, must do so through the medium of licensed insurance agents or brokers, and, if so, whether such agents or brokers must be compensated by means of commissions?"

It would seem that the solicitation, negotiation, and execution of contracts of insurance must be performed in such cases, by licensed brokers or agents (Ins. Code §§ 1640, 1642). Most fire and casualty insurance companies also require the counter-signature of a resident agent (Ins. Code §§ 800, et seq.). However, there is nothing in the law that requires companies writing insurance to reimburse, by commissions, the licensees who execute such policies of insurance. Some insurers have done in the past, and now do, their business in this state, through salaried officers and employees who are licensed insurance agents. Of course, they cannot be licensed as brokers for that purpose (Ins. Code § 1648.6).

It therefore appears that there is no reason why such insurance companies, acting through their salaried officers and employees who are licensed as insurance agents, cannot do business directly with the state and its agencies, furnishing insurance contracts as required at rates which do not include the usual fees paid to brokers who render services in connection with the writing of such insurance.

Yours very truly,

EDMUND G. BROWN
Attorney General

By CLARENCE A LINN
Assistant Attorney General

Opinion No. 49-161

September 8, 1949

Subject: LEGISLATORS: Members of Legislature in Merchandising Business May Enter into Contract for Sale of Goods to State.

Requested by: SENATOR, Twenty-first Senatorial District

Opinion by: FRED N. HOWSER, Attorney General.
B. Abbott Goldberg, Deputy.

The Senator from the twenty-first senatorial district has asked a question to the following effect

May a member of the Legislature engaged in a merchandising business properly enter into contracts for the sale of goods to the State of California?

Our conclusion is as follows.

The fact that a person is a legislator does not prevent his entry into contracts of sale with the State of California or its agencies, except that he may not enter into a contract with the Legislature itself.

ANALYSIS

Government Code section 1090 provides:

"Members of the Legislature * * * shall not be interested in any contract made by them in their official capacity, or by any body or board of which they are members."

Government Code section 1091 provides:

"State * * * officers shall not be purchasers at any sale nor vendors at any purchase made by them in their official capacity."

The purpose of these statutes is obviously to prevent persons from acting in a dual capacity. The most familiar example of the type of situation contemplated is that a board charged with making a purchase or sale cannot enter into a contract with one of its own members. Salada Beach Utility District v. Anderson, 50 Cal App. 2d 306.

Contracts for the sales of goods and services to the State are ordinarily entered into through the Department of Finance (Gov't. Code, Secs. 13370-13400), or require the approval of that Department (Gov't. Code, sec. 13325). Since a member of the Legislature merely by virtue of his status as such, has no official connection with the Department of Finance, or any other State agency, in entering a contract with that Department for usual sales, or with another agency for emergency sales (Gov't. Code Sec. 13371), he is not occupying the position of dealing with himself in the dual capacity of private citizen and State official. The prohibitions of Government Code sections 1090 and 1091 are, therefore, inapplicable. See Op N.S. 2052 (Oct 1, 1939), holding a member of the legislature may act as agent or broker to procure a state officer's official bond. Cf. 3 Ops. Cal. Atty. Gen 188 holding a county officer may sell goods to a county through the county purchasing agent

Of course, if the Legislature were to enter into a contract of purchase or sale directly, it could not contract with a legislator. Gov't. Code, secs. 1090 and 1091; Salada Beach Utility District v. Anderson, 50 Cal. App. 2d 306.

Opinion NS2052

SAN FRANCISCO, October 18, 1939

HONORABLE HENRY P. MEEHAN,
Assemblyman, 17th District,
1727 Webster Street, Oakland, California

DEAR SIR. On September 21 you orally requested me by telephone to advise you whether you or your firm of Gerard and Meehan are prohibited from acting as agent or broker in procuring an official bond for a State officer.

Section 920 of the Political Code provides that members of the Legislature, State, county, city and township officers must not be interested in any contract made by them in their official capacity, or by any body or board of which they are members. This section would not apply to you as an insurance agent or broker in procuring an official bond for a State officer, nor would it apply to you as an agent in such transaction.

In 21 Cal. Jr., page 886, it is said that

> "The rule has long been recognized that any contract by an officer which interferes with the unbiased discharge of his duty to the public in the exercise of his office, is against public policy and void. Acting upon the principle that no person can, at one and the same time, faithfully serve two masters representing diverse or inconsistent interests with respect to the service to be performed, the legislature has declared * * * *"

Thereafter follows the above mentioned section of the Political Code. And again it is stated, at page 888:

> "* * * It is not the character of the contract itself, but the manner in which it is created that renders it violative of sound public policy. The personal interest of an officer in a contract made by him in his official capacity may be indirect only and still such interest may be sufficient to taint the contract with illegality. * * *"

I might cite one instance in which the above quoted statutory provision would be applicable to you as a member of the Assembly. Suppose the Legislature passed an act appropriating a sum of money to a committee for investigating a specific matter pertaining to proposed legislation, and that you were made the chairman of such committee and required to furnish bond for the faithful expenditure of the monies entrusted to your care You would not as a licensed insurance agent or broker, under such circumstances, be permitted to write a surety bond or act as agent for a company writing such bond in your official capacity as a member of such committee. However, I do not believe the above cited section applies to you or your firm in the ordinary transaction of business or in the writing of other official bonds in which your position as an assemblyman does not in any way affect the writing of such bond.

Very truly yours,

EARL WARREN, Attorney General
By NEIL CUNNINGHAM, Deputy.

APPENDIX VIII

LETTER FROM GENERAL COUNSEL OF FARMERS INSURANCE GROUP

FARMERS INSURANCE GROUP
LOS ANGELES 54, CALIFORNIA

February 15, 1957

HONORABLE WILLIAM MUNNELL
Chairman of California Assembly
Committee on Insurance
Sacramento, California

DEAR MR CHAIRMAN: We have read the transcript of the hearings before your committee, and, after giving consideration to the evidence brought to your attention, we feel we should make a few comments with respect thereto, followed by certain definite recommendations.

It is our opinion that certain parts of the testimony were misleading and inconsistent insofar as applied to the qualifications of a reciprocal or mutual insurer to insure the State or its political subdivisions. It was inferred that these types of organizations were not legally qualified, and this reason was advanced to explain why none of these organizations had been contacted to bid on the State's insurance.

There is no question that the State of California can insure in any insurance company licensed to do business in the State. Both by California statutes and by opinions of the Attorney General, it has been clearly established for many years that the organizations comprising the Farmers Insurance Group may insure political subdivisions of the State. At the present time approximately 12 cities, two counties, 100 school districts and a few other political subdivisions, such as irrigation districts and water districts, are insured in reciprocals of the Farmers Insurance Group. In other states in which our group operates a similar group of political subdivisions are insured in reciprocals, and from time to time we have insured several state governments.

It is not the legal form of the organization of an insurer that establishes its strength; it is the quality of management and the financial soundness of the organization that must be looked to to determine the strength of an insurer and its ability to render the services it undertakes when it issues a policy. All insurance companies doing business in California are strictly supervised by the Insurance Department of California.

Our organization conducts business through commissioned agents; however, we see no sound business reason why the State should not purchase insurance through agents who belong to the American Agency System or brokers, or through companies who employ salaried representatives. The fact that a particular salesman may be called agent, broker or representative should be immaterial as far as the State of California is concerned.

In conclusion, we make the following recommendations:

(1) We believe that the purchase of insurance for the State of California should be separated from political considerations.

(2) We believe that the responsibility for purchasing insurance should be placed in a division or department and administered on a nonpolitical basis for the purposes of securing insurance from all insurance companies licensed by the State of California to write such insurance

(3) We believe that insurance for the State of California should be open to competitive bidding, after public notice, on a basis of specifications drafted by independent and impartial insurance consultants

We think that your committee has performed a valuable service that cannot help but result in eliminating many of the questionable practices that have existed in the past

Respectfully,

FARMERS INSURANCE GROUP
ROBERT E. EARLY
Administrative Vice President
and General Counsel

APPENDIX IX

LETTER FROM AMERICAN MUTUAL ALLIANCE

AMERICAN MUTUAL ALLIANCE
CHICAGO 6, ILLINOIS

January 10, 1957

WILLIAM A MUNNELL, *Chairman*
Assembly Interim Committee on Finance and Insurance
State Capitol, Sacramento, California

DEAR ASSEMBLYMAN MUNNELL: During the course of your committee's current investigation of the purchase of insurance by the State Department of Finance and other public bodies, the question has been asked as to whether there are legal objections to the purchase of mutual insurance by public bodies in California.

On the rare occasions in recent years when this question has arisen, it is usually prompted by the existence of constitutional provisions prohibiting the lending of the money or credit of the State to any private corporation or individual. Article 4, Section 31, of the Constitution of the State of California contains such a provision which is applicable as well to the lending of the money or credit of any municipality.

The short answer is that there are no legal objections to the purchase of mutual insurance by public bodies.

Probably there are few out of the way corners of the law upon which there is so much authority directly in point The cases over the years, including those in the California courts, have decided every phase of the question Should you feel it necessary, we will be glad to furnish your committee with a comprehensive brief on the subject but in view of the fact that the question is so well settled, we are simply attaching a sheet citing some of the leading cases on the constitutional question, and leading cases upholding the right of mutual insurance companies to limit or eliminate the liability of policyholders to assessment.

So far as we know, all state-wide and national mutual fire and casualty insurance companies doing business in California are issuing nonassessable policies. It is nearly 100 years ago that the United States Supreme Court held that without any statutory authority whatsoever, a mutual insurance company has the power to issue nonassessable policies and in so doing there is no violation of the mutual insurance principle.

Nonassessable mutual fire and casualty insurance policies contain a specific provision in the policy itself to the effect that the liability of each policyholder is limited to the amount of the premiums specified in the policy. Again, the cases and authorities uphold the legality of such a provision in the mutual insurance policy.

Some mutual insurance is sold by salaried company representatives and some is sold by independent agents and brokers. The fundamental plan of mutual insurance is not affected by the method by which the business is secured by the company.

In our opinion, comparisons, in the last analysis, should be based upon the insurance companies which are actually under consideration. Security should be the first essential, whether stock or mutual. Given sound competing companies, any public official or board of trustees is competent to make a fair comparison and draw accurate conclusions, giving attention to the elements of contract, price, and service.

Cordially,

CHAS. A. BROWN
Western Manager

Cases Upholding the Right of Mutual Insurance Companies to Limit or Eliminate the Liability of Policyholders to Assessment

Union Ins. Co. v. Hoge, 62 U. S. (21 How.) 35, 16 L. Ed. 61 (1859).
Mygatt v. N. Y. Protection Ins. Co., 21 N. Y. 52 (1860).
Lyon v. Rathbone, 164 N. Y. 10, 58 N.E. 29 (1900).
Hammond v. Knox, 109 N. Y. S. 367, 125 App. Div. 9 (1908), aff'd 194 N. Y. 555, 87 N.E. 1120 (1909).
Davis v. Parcher et al., 82 Wis. 488, 52 N.W. 771 (1892).
In re Minneapolis Mutual Fire Ins. Co., 49 Minn. 291, 51 N.W. 921 (1892).
Dwinnell v. Kramer, 87 Minn. 392, 92 N.W. 227 (1902).
Dwinnell v. Felt, 90 Minn. 9, 95 N.W. 579 (1903).
Swing v. Humbird, 94 Minn. 1, 101 N.W. 938 (1904).
Patron's Mutual Fire Ins. Co. of Michigan v. Brinker, 236 Mich. 367, 210 N.W. 329 (1926).
Ionia E. & B. Farmers Mutual Fire Ins. Co. v. Otto, 97 Mich. 522, 56 N.W. 755 (1893).
Wardle, Receiver of Home Mutual Fire Ins. Co. v. Hudson, 96 Mich. 432, 55 N.W. 992 (1893).
Federal Union Surety Co. v. Flemister, 95 Ark. 389, 130 S.W. 574 (1910).
Sprulance v. Farmers & Merchants Ins. Co., 9 Colo. 73, 10 Pac. 285 (1886).
Integrity Mutual Ins. Co. v. Boys, 293 Ill. 307, 127 N.E. 748 (1920).
Smith v. Sherman, 113 Iowa 601, 85 N.W. 747 (1901).
Darnell v. Equity Life Ins. Co.'s Receivers, 179 Ky. 465, 200 S.W. 967 (1918).
State v. Manufacturers Mutual Ins. Co., 91 Mo. 311, 3 S.W. 383 (1886).
Burke v. Scheer, 89 Nebr. 80, 130 N.W. 962 (1911).
Ohio Mutual Ins. Co. v. The Marietta Woolen Factory, 3 Ohio St. 348 (1854).
Beaver State Ins. Assn. v. Smith, 97 Ore. 579, 192 Pac. 798 (1920).
Johnson v. School Dist. No. 1 of Multnomah County, 128 Ore. 9, 18, 270 Pac. 764, 273 Pac. 386 (1928).

Schimpf & Son v. Lehigh Valley Mutual Ins Co, 86 Pa 373 (1878).
Given v Rettew, 162 Pa. 638, 29 Atl 703 (1894).
Wetmore v McElroy, 96 S C. 182, 80 S.E 266, Ann. Cas. 1916B 79 (1913).
Buck v. Ross, 59 S D. 492, 240 N W. 858 (1932).
Continental Fire Assn. v. Masonic Temple Co, 26 Tex Civ. App. 139, 62 S.W. 930 (1901).

Cases Upholding the Right of Mutual Insurance Companies to Insure Public Property

Downing v School District of City of Erie, 297 Pa 347, 147 Atl. 239 (1929).
Miller v. Johnson et al, 4 Cal 2d 265, 48 Pac 2d 610 (1935).
Burton v School District No. 19, 47 Wyo. 462, 38 Pac 2d 610 (1934).
Fuller v. Lockhart, 209 N C 61, 182 S E. 733 (1935)
Clifton v School District No. 14, 192 Ark. 140, 90 S.W. 2d 508 (1936).
Johnson v. School District No. 1, 128 Ore. 9, 270 Pac. 764, reh den, 128 Ore. 18, 273 Pac. 386 (1928).
People ex rel Northwestern Mutual Fire Assn v. Stanley, 193 Cal. 428, 225 Pac 1 (1924).
McMahon v. Cooney, 95 Mont 138, 25 Pac. 2d 131 (1933).
French v. Mayor of Millville, 66 N. J L. 392, 49 Atl. 465 (1901), Aff'd. 67 N. J. L. 349, 15 Atl 1109 (1902).
City of Macon v Benson, 175 Ga. 502, 166 S E 26 (1932).
Dalzell v Bourbon County Board of Education, 193 Ky 171, 235 S.W. 360 (1921).

APPENDIX X

LIST OF PUBLIC OFFICIALS WHO RECEIVED INSURANCE COMMISSIONS ON STATE BUSINESS

Glenn Baker
Jack Beaver
Edward I. Beck
Paul Byrne
Hugh P. Donnelly
Walter Dahl
Donald D. Doyle
Edward M. Gaffney
Tom Maloney
G Delbert Morris
James J McBride
Ralph McGill
Jerry Seawall
James J Sullivan

APPENDIX XI

SURVEY OF COMPREHENSIVE LIABILITY INSURANCE

STATE OF CALIFORNIA
SACRAMENTO 14

February 25, 1953

Joint Legislative Budget Committee
State Capitol
Department of Finance—Administration

Subject: Comprehensive Liability Insurance

Pursuant to our department's agreement with you of February 8, 1953, we submit herewith supplemental information designed to clarify the problem in respect to comprehensive liability insurance authorized by Section 1956, Government Code.

Each policy covers as insured the state officers and employees, and the State of California acting by and through the agency mentioned, except as otherwise noted in the insuring agreement The insurer agrees as to Coverage A, bodily injury liability, to pay on behalf of the insured all sums which the insured shall become obligated to pay by reason of the liability imposed upon him by law for damages, including damages for care and loss of services because of bodily injury, sickness, or disease, including death at any time resulting therefrom sustained by any person or persons. Under Coverage B, property damage liability, the insurer also agrees to pay on behalf of the insured all sums which the insured shall become obligated to pay by reason of the liability imposed upon him by law for damages because of injury to or destruction of property including the loss of use thereof, subject to policy limits. The coverage herein mentioned does not apply to motor vehicles which is authorized to be insured by Section 400 of the Vehicle Code, and the policy does not apply to liability in respect to aircraft.

In order that you may better understand the means by which we measure the exposure in determining our classification of risk, consideration is given to the nature and character of the activities of the state agencies as to whether their activities are:

A. Proprietary
B. Governmental
C. Combination of both

Experience

Frequency and severity of accidents or occurrences

Catastrophe Exposure

Physical hazards and exposure in relation to the number of citizens in contact with the state agencies.

Reference is made to Exhibit 1, attached hereto, which contains the name of the agency, policy period, amount of coverage, premium, and the name of the insurer.

The first policy is limited to the Adjutant General and State of California, the Assistant Adjutant General, the Supervisor of Armories, superintendents or custodians of armories, and seven named positions

in regards to the California Cadet Corps. This coverage was obtained to suit the needs of the Office of the Adjutant General, and for purposes of comparison we place this policy in classification IV.

Next policy shown on Exhibit 1 is State Controller. The Office of the State Controller has taken the position that because of the responsibilities in connection with tax deeded lands where property is leased and rented by the Controller, there is a likelihood that the courts would hold that he is acting in a proprietary capacity insofar as the management of the tax deeded lands are concerned and that, therefore, there is a potential liability as against the State of California as well as the Controller and the officers and employees of that agency. We place this risk in classification IV.

California Vocational Institution. This policy was procured primarily because of the potential proprietary activity of the Institution in connection with a housing unit at Lancaster in the belief that the State and the officers and employees of the agency would be construed as a landlord and, therefore, acting in a proprietary capacity. We place this in classification III.

Education. This policy covers all officers and employees of the Department of Education, including all state colleges and the State of California. The Department of Education has several housing units where the department is acting as landlord and, therefore, has potential exposure of the proprietary type as distinguished from governmental activity. In addition, the department has a number of doctors with potential malpractice exposure, and the California Maritime Academy maintains and operates a ship known as the "Golden Bear." The principal activity of the Department of Education is governmental, and we put it in classification V.

Employment. We consider the activities of the Department of Employment purely governmental. The department, its officers and employees, deal with a very large number of citizens. The department leases most of its offices, and therefore, some of the exposure is carried by the owners of the leased premises. We place this department in classification VI.

Finance. Most of the activities are purely governmental; however, there is some proprietary exposure. We place this risk in classification IV.

District Agricultural Associations and State Agricultural Society. Because of the large number of people who attend district fairs and the State Fair, there is a potential catastrophe exposure. In addition, the property of the District Agricultural Association and the State Agricultural Society is made available to groups of citizens for all manner of activities including horse racing and auto racing, as well as rodeos, with the possibility that some of the activity may be classified by the courts as being proprietary. We place this policy in classification III.

The Board of State Harbor Commissioners is placed in classification I. The Supreme Court in the case of *People* v. *Superior Court*, 29 Cal. 2d 754, definitely placed the State Belt Railway, which is under the jurisdiction of the Board of State Harbor Commissioners, on the industrial or proprietary activity and held that the State was liable for the

negligence of the officers and employees. It is entirely possible that the courts would hold that all of the activities of the Board of State Harbor Commissioners fall in the proprietary class as distinguished from governmental. You will note from Exhibit 1 that the amount of coverage as to both bodily injury liability and property damage is $500,000 and $500,000. In this connection it is pertinent to set forth Section 1902 of Harbors and Navigation Code, authority to insure: "The board may insure against any or all loss or damage in respect of any or all property or operations of every character whatsoever under its control or supervision."

Public Works. We place this risk in classification III. While almost all of the exposure insofar as the Department of Public Works is concerned is in the governmental field there is some proprietary activity where the department acts in the capacity of landlord as to some property under its control and supervision.

State Compensation Insurance Fund. We place this risk in classification III. Under the ruling in the case of *People* v *Superior Court,* supra, the activity of the State Compensation Insurance Fund is clearly proprietary.

Since our meeting with you on February 8, 1953, we have requested insurance quotations from several liability insurance companies in respect to the procurement of a blanket comprehensive policy for the 34,733 employees of those agencies not presently covered by comprehensive liability insurance policies. (See Exhibit 2.)

As a result, we have a quotation to cover this group in a blanket policy for an annual premium of $53,836, which is on the basis of $1.55 per employee, with bodily injury liability limits of $50,000 $100,000, and property damage liability limits of $5,000/$25,000.

At the present time we do not believe it is practicable to obtain a blanket policy covering all of the State agencies, including those now covered, in a blanket policy. The principal reason is that none of the companies that we have communicated with care to accept that much exposure. Another arises out of the provisions of Section 1902 of the Harbors and Navigation Code.

We recommend for your consideration the procurement of a blanket comprehensive liability insurance policy for those agencies not presently covered, thereby extending coverage to all officers and employees of the State.

APPROVED

(Signed) JAMES S. DEAN

(Signed) J. F. BRADY
Insurance Adviser

EXHIBIT 1

Agency	*Policy period*	*Amount of coverage* *Bodily injury*	*Property damage*	*Annual premium*	*Company*
Adjutant General (Ltd.)	1/1/53-1/1/54	$100,000/$200,000	$50,000	$1,220.22	Fireman's Fund Ind. Co.
Controller	5/28/52-5/28/53	100,000/ 200,000	25,000	1,003.88	London Guar. & Acc. Co.
California Vocational Institution (Ltd.) (Corrections)	5/28/52-5/28/53	50,000/ 100,000	5,000	82.41	Pacific Indemnity Co.
Education	11/1/52-11/1/53	50,000/ 100,000	$25,000/100,000	8,500.00	London Guar. & Acc. Co.
Employment	8/15/52-8/15/53	50,000/ 100,000	10,000/ 25,000	2,331.67	London Guar. & Acc. Co.
Finance	10/28/52-10/28/53	50,000/ 100,000	25,000	2,500 00	London Guar. & Acc. Co.
District Agricultural Associations, and State Agricultural Society	2/1/53-2/1/54	100,000/ 300,000	50,000/300,000	20,000.00‡	London Guar. & Acc. Co.
Harbor Commissioners	11/1/51-11/1/54*	500,000/ 500,000	500,000/500,000	29,163.00	Pacific Indemnity Co.
Public Works	3/10/52-3/10/53†	200,000/ 400,000	50,000	18,000.00	Zurich Insurance Co.
State Compensation Insurance Fund	7/11/52-7/11/55*	250,000/ 500,000	100,000	2,587.22	Pac. Employers Ins. Co.

* Three-year policy
† Retrospective rating plan.
‡ Deposit premium.

APPENDIX XII

COMPREHENSIVE LIABILITY INSURANCE

Prepared by the Legislative Auditor
January 7, 1953

This is a report on the State's policy with respect to providing comprehensive liability insurance for state employees for the purpose of protecting such employees from suits by third persons arising out of their employment by the State. This report was requested by the Senate Finance Committee for presentation to the 1953 Session of the Legislature.

For approximately 12 years, the State has carried some comprehensive liability insurance for certain of its officers and employees. The first limited comprehensive liability insurance policy which was procured for the protection of the officers and employees of the District Agricultural Associations and the State Agricultural Society was obtained by the Department of Finance following the receipt of an Attorney General's opinion dated May 2, 1941, to the effect that it was legal to procure liability insurance pursuant to the Statutes of 1931. The Attorney General's opinion stated that the coverage should be limited to the liability of officers in connection with the defective or dangerous condition of public streets, highways, bridges, buildings, works, or property. This opinion also noted that in 1933 the Legislature had endeavored to broaden the act to cover negligence of officers and employees of the State and political subdivisions generally, but that the amendment was held unconstitutional for the reason that the title failed to express the subject of the amendment to the act. In 1937, a second legislative amendment to the act was held defective for the same reason. However, Chapter 557, Statutes of 1943, provided that the State may insure the officers and employees for general liability. In 1944 the Department of Finance acquired comprehensive liability coverage for officers and employees of the Department of Public Works pursuant to the authority contained in Section 1956 of the Government Code and upon the request of the Director of Public Works. That department has had similar insurance coverage since that time. Subsequently, comprehensive liability insurance policies were obtained for the Board of State Harbor Commissioners, including the State Belt Railway, the Department of Employment, the Department of Finance, District Agricultural Associations, State Agricultural Society, Department of Education, State Compensation Insurance Fund, a limited policy for the Adjutant General and certain named officers, and a policy for the California Vocational Institution (Housing Unit) under the Department of Corrections.

Table I shows the departments, policy numbers, premiums, and claim experience for all departments insured by the State.

Table II shows the number of officers and employees by state agencies protected by liability insurance at the present time The per capita premium cost for the 28,742 officers and employers now covered is approximately $3.

It is obvious that the limited experience which the State has had to date with providing comprehensive liability insurance for the protection of a portion of its employees cannot, in itself, provide a firm basis for determining whether it would be in the State's interest to act as a self-insurer or, on the other hand, to extend the coverage of the existing policies to all state employees This is because the experience does not reveal which of the claims would have been paid had the State acted as a self-insurer, nor does it show which of the groups of state employees covered are those which present an unusual risk. The present state policy as stated by the Insurance Adviser of the Department of Finance is to arrange for comprehensive liability insurance for those agencies which request policies and, although there may have been some consideration given to those groups of employees who encounter the greatest risk of suit in their state employment, there has not been made a complete classification of employees in accordance with such risk. Such a study, we believe, is essential before an accurate determination can be made as to the proper policy for the State to follow in providing insurance coverage or the minimum cost for reasonable protection to the employees who need to be protected

From the standpoint of the State, the principal benefit from such policies is in respect to added productivity which can be expected from employees who are fully protected from third party suits in the course of their employment A second possible benefit to the State would come about from the fact that it would be relying upon the processes used by insurance companies in defraying the cost of such suits rather than requiring that the State Board of Control should make a determination in favor of the state employee against whom a judgement had been rendered. Such determination is both time consuming and difficult for the State Board of Control, and it is possible that the absence of adequate legal assistance to the state employee in those cases where the State does not carry insurance would bring about larger judgements than would be the case where insurance companies were defending their position in relation to the policy carried on such a state employee. On the other hand, the experience of other governmental jurisdictions who carry liability insurance tends to indicate that to some extent the presence of an insurance policy may cause larger judgments against the insured employee This, in turn, however raises the point that it is in the public interest to secure equity in claims against persons who have caused injury to individuals in society and the full and prompt payment to such individuals is a factor which should be considered in this question on whether to purchase insurance or permit the state employee to be uninsured.

In the budget submitted last year, two major items of new coverage by liability insurance were included These were for the Department of Mental Hygiene costing $16,000 and for the Department of Corrections costing $3,520 These are not included in the Budget for 1953-54, and it is the opinion of the Department of Finance that the agencies now covered include the more hazardous risks in the state service.

RECOMMENDATIONS

1. Before the Legislature can be expected to act intelligently upon the matter of appropriations for liability insurance, we believe that it should have the benefit of administrative determinations by the Department of Finance through its insurance adviser which would show.

(a) Which departments and which types of employments within departments are subject to risks of claims for damages and a relative rating of these risks

(b) An analysis of claims experience before the Board of Control to indicate which claims would be covered by the common type of liability insurance policy, and the extent to which the Board of Control and the Attorney General would be relieved of work by the existence of liability insurance policies

(c) Whether there is a liability on the part of the State for acts resulting from proprietary activities and, if so, which functions performed by the State are proprietary and which governmental.

2. We recommend that insurance be carried only on those officers and employees who are subject to an unusual degree of such risk

3. We believe that since the Board of Control is not staffed to provide review of claims of this nature equivalent to the review which would be provided by insurance companies and since the prompt payment of judgments would be facilitated, to the benefit of both the injured party and the state employee, the State should purchase insurance rather than act as a self-insurer. Were it not for these factors it would appear to be as cheap or cheaper for the State to act as self-insurer.

4. Because of the difficulty of applying usual competitive bidding procedures in the arrangement of coverage for liability insurance, we further recommend that an annual report be made by the Department of Finance showing all policies, premiums and insurers.

A report by the Department of Finance with additional comments as to liability insurance is attached as Appendix A

TABLE I

STATEMENT OF PREMIUMS, CLAIMS, AND LOSSES, UNDER LIABILITY INSURANCE POLICIES, BY DEPARTMENT

Department	*Policy Number*	*Premium*	*Number of claims*	*Loss outstanding*	*Policy period*
District Agricultural Associations and State Agricultural Society	LGC 101321	$18,221 00	31	$5,425 00	1/1/51-2/1/52
	LGC 101287	9,747 00	20	18,691 00	7/18/50-1/1/51
	CE 13728	20,000 00	23	2,650.00	2/1/52-2/1/53
Finance	CE 13661	2,500 00	6	1,500.00	10/28/51-10/28/52
	CE 11267	2,500 00	1	781 00	10/28/50-10/28/51
Adjutant General (Ltd)	LGC 101478	1,049 00	1	1,500 00	1/1/52-1/1/53
	LGC 101322	1,049.00	1	7,500 00	1/1/51-1/1/52
Board of State Harbor Commissioners	L 86883	88,800.75	25	990 00	11/1/51-11/1/54
	L 58903	41,010 60	81	93,479 00	11/1/48-11/1/51*
State Compensation Insurance Fund	MLP 11971	910 61	2		7/11/49-7/11/52
	31G 41466	2,587 00	–	--	7/11/52-7/11/55*
Education	CE 13666	8,500 00	18	1,055.67	11/1/51-11/1/52
	CE 13551	8,500.00	16	685.00	11/1/50-11/1/51
Employment	CE 13645	1,195.68	15	800.00	8/15/51-8/15/52
	CE 11264	1,195.68	27	500.00	8/15/50-8/15/51
	CE 11082	1,195 68	20	150 00	8/15/49-8/15/50
Public Works	LGC 101321	11,600 00†	8	4,750.00	3/10/51-3/10/52
	CG S311300	18,000 00†	5	3,000 00	3/10/52-3/10/53

* Three-year policy
† Retrospective

TABLE II

NUMBER OF EMPLOYEES COVERED BY LIABILITY INSURANCE, BY DEPARTMENT

State agency	*Number of employees*	*Annual premium*
Department of Public Works	10,500	$18,000.00
Board of State Harbor Commissioners	482	29,000.00
District Agricultural Associations and State Agricultural Society	3,500	20,000.00
Department of Employment	5,000	2,400 00
Department of Education	6,000	8,500.00
Department of Finance	2,000	2,500.00
Adjutant General (Ltd)	50	1,050.00
State Controller	450	1,000.00
California Vocational Institution (Housing Unit)	10	82.00
State Compensation Insurance Fund	750	862.00
Total	28,742	$83,394.00

APPENDIX A

STATE OF CALIFORNIA
SACRAMENTO 14

INTERDEPARTMENTAL COMMUNICATION

To: MR. A. ALAN POST
Legislative Auditor
Legislative Budget Committee
Room 306, State Capitol

Date: December 16, 1952

Subject: Facts and comments concerning comprehensive liability insurance.

From: Department of Finance—Administration

Pursuant to request of your office and in line with conferences with representatives of your office, we offer the following facts and comments for the purpose of assisting you in preparing report to the Senate Finance Committee at the next general session of the Legislature.

The first limited comprehensive liability insurance policy, which was procured for the protection of the officers and employees of the District Agricultural Associations and the State Agricultural Society, was obtained by this department subsequent to Opinion NS 3472, dated May 2, 1941. The Attorney General held in that opinion in effect that it was legal to procure liability insurance pursuant to California Statutes of 1931, page 2476, Deerings General Laws 5150. The Attorney General pointed out that the coverage should be limited to the liability of *officers* in connection with the defective or dangerous condition of public streets, highways, bridges, buildings, works, or property. He further pointed out that in 1933, the Legislature endeavored to amend the act so that it would cover negligence of officers and employees of the State and political subdivisions generally and that the amendment was held unconstitutional for the reason that the title failed to express the subject of the amendment to the act in conformity with requirements of Article 4, Section 24, of the Constitution. (*Jackson* v. *City of Santa Monica,* 13 Cal. App. 2d 376.)

In 1937, the Legislature again attempted to amend the act, but the title to the amendatory act was again held defective for the same reason (*Jackman* v. *Patterson,* 1 Cal. Dec. 540 decided December 30, 1940.)

By the adoption of Chapter 557, Statutes of 1943, which is now codified as Section 1956, Section 1980, and Section 1981, Government Code, the Legislature at last succeeded in amending the law, which meant that the State may insure the officers and employees for general liability.

In considering the procurement of liability insurance for officers and employees, the Director of Finance gave consideration to the case of *People* v. *Standard Accident Insurance Company,* 42 Cal. App. 2d 409, where the court stated "I conclude that defraying the cost of insurance to protect a state officer against a potential liability as such officer is a public expenditure and not prohibited by the Constitution." In the case above cited, the court quoted Justice Cardoza as follows: "The readjustment of these burdens along the lines of equality and equity is a legitimate function of the State as long as justice to its citizens remains its chief concern."

Early in 1944, the Director of Public Works requested our department to obtain a comprehensive liability policy protecting the officers and employees of the Department of Public Works pursuant to the authority contained in Section 1956, Government Code. This was done by competitive bids with result that the cost of the policy was approximately $7,600 (or $1.50 per capita employee). The department has had similar insurance coverage since that time.

Later in 1944, at the request of the Board of State Harbor Commissioners, a comprehensive liability policy was obtained for the officers and employees of the Board of State Harbor Commissioners including the State Belt Railway.

Subsequently comprehensive liability insurance policies were obtained under the authority of Section 1956, Government Code, for the following departments: Department of Employment, Department of Finance, District Agricultural Associations and State Agricultural Society, Department of Education, State Compensation Insurance Fund, and a limited policy for the Adjutant General and certain named officers, also a policy for the California Vocational Institution (Housing Unit) under the Department of Corrections.

We, in this department, felt that there was a good and valid reason for the procurement of these policies at the very moderate premium cost, in order that we may deal intelligently with legitimate claims as well as stale and groundless claims. We took the position that the claims could be investigated more expeditiously by insurers having facilities for investigating and adjusting these claims, and, in addition, the number of claims processed by the insurance companies would lessen the load of claims before the State Board of Control.

It is pertinent to mention at this point that in 1947, the Supreme Court in the case of *People* v. *Superior Court,* 29 C. 2d 754, held that a suit brought against the State for its negligence in carrying on a business or proprietary activity (in this case the State Belt Railroad in San Francisco) could be held liable because of the proprietary activity as distinguished from governmental activity. Immediately fol-

lowing the decision, the Office of the Attorney General recommended that the policy then in force for the protection of the officers and employees of the Board of State Harbor Commissioners be endorsed to include the State of California as an insured. This was done without any additional premium cost. Subsequently similar comprehensive policies were endorsed in the same manner.

Notwithstanding the fact that we recognized that there was no specific statutory authority for insuring the State of California, we felt that as a practical proposition, if we were going to have a policy it would be wise to cover the State of California in the policies as well as the officers and employees, primarily because of the reasoning of the case of *People* v. *Superior Court* supra

We attach herewith as Exhibit 1, a chart designed to show the experience on the policies by state agencies for the periods as shown.

Exhibit 2 shows the number of officers and employees by state agencies presently protected by liability insurance. The premium cost on a per capita employee basis of the 28,260 officers and employees now covered is approximately $3.

It is our view that the agencies now covered include the more hazardous risks and if all officers and employees of all state agencies were covered, the per capita cost would be approximately $2.50, or a total of $140,000 annual premium

In attempting to balance the cost of a self-insurance plan against insurance protection, it is important to realize the nature and extent of the state agencies' operations and the fact that the insurance companies are already set up to service liability claims whereas the state is not.

In considering the problem as a whole, we feel that the procurement of liability insurance coverage is preferable to the establishing of a self-insurance liability fund as the law now stands.

(Signed) J. F. BRADY
Insurance Adviser

APPROVED
(Signed) JAMES S. DEAN

APPENDIX XIII

AUDIT REPORTS PREPARED BY AUDITS DIVISION OF DEPARTMENT OF FINANCE

DEPARTMENT OF FINANCE AUDIT REPORT 1576

PERIOD: JULY 1, 1947, TO JUNE 30, 1949

CHAPTER III—INSURANCE

The insurance adviser is responsible, under general direction of the Director of Finance, for handling all matters in connection with surety bonds, insurance against liability on all state owned motor vehicles and all other types of insurance authorized by law

The records of the insurance adviser indicate that the State is currently paying premiums totaling about $375,000 per year, excluding insurance carried by the University of California and the California Toll Bridge Authority.

A summary of premium expense by types is shown below:

Motor vehicle liability	$262,050
Bonds of officers and employees	60,000
Comprehensive liability for damage claims against the State and state employees	39,325
Fire insurance	10,350
Burglary and hold-up	2,850
Forgery	425
Total	$375,000

The records of the insurance adviser do not contain accurate or comprehensive data as to the amount of premiums paid and recoveries received by all agencies of the State under surety bond coverage of officers and employees The work of developing this information from other sources would be prohibitive; however, from available data it may be estimated that the total annual current premium cost for such coverage is close to $60,000. Recoveries, so far as can be determined without excessive effort, have not exceeded $60,000 in the aggregate in the entire period since the coverage has been carried by the State. This indicated experience parallels the findings of the Hoover Commission pertaining to the Federal Government. The commission points out that in view of the experience that average annual recoveries average less than 10 percent of premiums paid, it would appear that the government should find it profitable to establish a surety insurance fund of its own

We recommend that consideration be given to the advisability of the establishment of a similar arrangement by the State of California

We have observed that the insurance adviser places nearly all insurance coverage by negotiation, and that where bids are called for all insurance carriers are not invited to bid. We recommend that consideration be given to the advisability of establishing a policy for placing all insurance on a bid basis to the fullest extent found to be feasible.

DEPARTMENT OF FINANCE AUDIT REPORT 226S
PERIOD, JULY 1, 1951, TO JUNE 30, 1952

INSURANCE

The insurance adviser is responsible, under the general direction of the Director of Finance, for handling all matters pertaining to surety bonds and all types of insurance as authorized by law.

Our examination of the records of the insurance advisor revealed that the types of policies carried and the costs of premiums for the fiscal year 1951-52 were as follows:

Liability:		
Comprehensive, aircraft, motor vehicle		$347,839.78
Fire insurance		10,214 52
Money and securities		5,802.03
Depositors forgery bonds		289 06
Surety bonds:		
Blanket	$49,799.66	
Individual	6,298.74	56,098.40
		$420,243.79

The figures on costs of premiums were developed from data available in the insurance adviser's office. In cases where the period of coverage of the policy was more than one year, only the prorated share of the premium for the fiscal year was taken into consideration in our calculations of premium costs.

Due to the fact that no formal accounting records are kept by the insurance adviser's office relating to insurance claims, recoveries, etc., the information in the following paragraphs was compiled at our request by the insurance adviser.

We are informed by the Insurance Adviser that excluding payments made by the insurer under the master motor vehicle liability policy, there were 51 claims filed against insurance and bonding companies during the 1951-52 Fiscal Year where the State was the insured or obligee. The recoveries on various losses were as follows:

Fire losses	$41,767.31
Burglary losses	4,948.38
Bond losses	5,981.10
Accident cases	25,967.05
	$78,663.84

Six cases filed during the fiscal year are still pending, subject to futher audit and investigation by the insurance carrier before the outcome may be determined.

In the case of the motor vehicle liability insurance policy, payments made and expected to be made on claims against the State and state officers and employees by the insurance company for the 1951-52 Fiscal Year totaled $370,000.

DEPARTMENT OF FINANCE AUDIT REPORT 2494

PERIOD: JULY 1, 1952 TO JUNE 30, 1953

INSURANCE

Under the general direction of the Director of Finance, the Insurance Adviser is responsible for handling all matters pertaining to surety bonds and all types of insurance as authorized by law.

The types of policies carried and the costs of premiums for the 1952-53 Fiscal Year compare with the 1951-52 Fiscal Year as follows:

	1952-53 Fiscal Year	*1951-52 Fiscal Year*	*Increase or decrease* *
Surety bonds:			
Blanket	$56,153.22	$49,799.66	$6,353.56
Individual	6,522.32	6,298.74	223 58
Total surety bonds	$62,675.54	$56,098.40	$6,577.14
Liability:			
Comprehensive, aircraft, motor vehicle	$517,778.98	$347,839.78	$169,939 20
Fire Insurance	10,190.92	10,214 52	23.60 *
Money and securities	3,541.00	5,802.03	2,261.03 *
Depositors forgery bonds	289.04	289.06	.02 *
License agents blanket bond	5,965 00	----	5,965.00 *
	$600,440.48	$420,243.79	$180,196.69

The increase of $169,939.20 in liability premium costs is mainly attributable to the increase in premium rate per vehicle from $24.75 to $33.50.

The figures on costs of premiums were developed from data available in the Insurance Adviser's Office. In instances where the period of coverage of the policy was more than one year, only the prorated share of the premium for one fiscal year was taken into consideration in our calculations of premium costs.

It was noted that in some cases, individual surety bond premiums varied although the amount of coverage was the same.

Inasmuch as no formal accounting records are kept by the Insurance Adviser's Office relating to recoveries from losses, the information in the following paragraphs was compiled by the Insurance Adviser at our request.

We are informed that recoveries on various losses for the 1952-53 Fiscal Year were as follows:

Burglary losses	$3,351 85
Fire losses	105.00
Bond losses	6,390.03
Accident cases	26,919.14

The return on bond and policy premiums for the 1952-53 Fiscal Year amounted to $4,081.75. In the case of the motor vehicle liability insurance policy, payments made by the insurance company on claims against the State and state officers and employees for the first nine months of the fiscal year, the latest figures available, totaled $232,876.

DEPARTMENT OF FINANCE AUDIT REPORT 2808

PERIOD JULY 1, 1953 TO JUNE 30, 1954

INSURANCE

The Insurance Adviser is responsible, under the general direction of the Director of Finance, for handling all matters pertaining to surety bonds and all types of insurance as authorized by law.

A summary of the types of policies carried and a comparison of the costs of premiums for the 1953-54 and 1952-53 Fiscal Years is as follows:

	1953-54 Fiscal Year	*1952-53 Fiscal Year*	*Increase or decrease* *
Surety Bonds:			
Blanket	$51,581.07	$56,153.22	$4,572.15 *
Individual	6,037 98	6,522 32	484.34 *
Total surety bonds	$57,619 05	$62,675.54	$5,056.49 *
Liability:			
Comprehensive, aircraft, motor vehicle	$569.990 83	$517,778.98	$52,211.85
Fire insurance	16,876 82	10,190.92	6,685.90
Money and securities	4,668 67	3,541.00	1,127.67
Depositors forgery bonds	385.37	289 04	96.33
License agents blanket bond	6,283.37	5,965.00	318.37
	$655,824.11	$600,440 48	$55,383.63

The increase of $52,211.85 in liability premium costs is mainly attributable to the increase in number of vehicles covered under the motor

vehicle liability policy as the premium rate of $33 50 per vehicle was the same for both fiscal years.

The above figures on costs of premiums were developed from information available in the Insurance Adviser's Office. On policies where the period of coverage was in excess of one year, only the prorated share of the premium for one fiscal year was taken into consideration in our calculations of premium costs.

It was noted that in some instances individual surety bond premiums varied although the amount of coverage was the same.

Inasmuch as the Insurance Adviser's office does not maintain formal accounting records pertaining to recoveries from losses, we requested the Insurance Adviser to furnish us with the information contained in the following paragraphs.

We are informed that the number and amount of recoveries for the 1953-54 Fiscal Year were as follows:

1 Burglary loss	$159.00
1 Fire loss	225.00
1 Aviation policy loss	10,000.00
14 Bond losses	1,782.56
248 Accident cases (from adverse parties)	22,283.61
	$34,450.17

The refund on bond and policy premiums for the 1953-54 Fiscal Year totaled $1,270 83 Payments made by the insurance company on claims against the State and state officers and employees in the case of the motor vehicle liability insurance policy totaled $332,163 for the fiscal year. The figure is subject to adjustment pending the outcome of claims which have not been settled.

DEPARTMENT OF FINANCE REPORT 3023
Period · July 1, 1954 to June 30, 1955

INSURANCE

Under the general direction of the direction of the Director of Finance, the Insurance Adviser is responsible for handling all matters relating to surety bonds and all types of insurance as authorized by law. A summary of the types of policies carried and a comparison of the costs of the premiums for the 1954-55 and 1953-54 Fiscal Years is as follows:

	1954-55	*1953-54*
Surety bonds		
Individual	$7,098.42	$6,037 98
Blanket	54,375.62	51,581.07
Total	$61,474 04	$57,619.05
Comprehensive liability	523,085.45	588,909.86
Marine	41,471.89	27,166.66
Fire	5,316.84	16,876.82
Use and occupancy	44.40	--
Money and securities	4,184.49	4,668.67
Depositor's forgery bonds	1,632 80	385.37
License agents blanket bonds	6,947.87	6,283.37
Total Premiums	$644,157.78	$701,909.80

The largest single policy was for automobile insurance which offered state-wide coverage for all state-owned vehicles. Standard earned premium for this third year of the three-year policy was $411,630.57. The favorable loss experience during the first two years operation under the policy resulted in an initial return premium of $40,066.54 based on actual and estimated losses to March 31, 1955 for the 1952-53 and 1953-54 policy years. In this third year, the State reinsured itself against the possibilityof being assessed for any amount in excess of the standard earned premium through the procurement of a special policy with another insurer involving a premium payment of $7,615.17.

The reduced cost of comprehensive liability insurance resulted from a reduction in payments for automobile insurance of approximately $57,000 after applying the related portion of the return premium referred to above.

The reduction in fire insurance premiums is due primarily to the dropping of fire insurance on the old State Printing Plant after the Printing Division moved into its new plant

The office of the Insurance Adviser has furnished us with the following information concerning recoveries from losses during the 1954-55 Fiscal Year:

Type	*Number*	*Amount*
Burglary	5	$2,807.57
Fire loss	1	808.23
Bond loss	12	3,077.25
Accident loss (Adverse Party)	278	22,715.66
Total recoveries		$29,408.71

A comparison of recoveries on bonds with premium payments for the current and three preceding fiscal years is shown in the following table:

Fiscal year	*Recovered on bonds*	*Bond premiums*	*Premium cost per $1 recovered*
1951-52	$5,981.10	$56,098.40	$9.379
1952-53	6,390.03	62,675.54	9.808
1953-54	1,782.50	57,619.05	32.325
1954-55	3,077.25	67,474.04	19.977

In the current year, $3,622.51 or 5.9 percent of the premium payments of $61,474.04 were for statutory bonds which are required by law. Sections 1480-1482, Government Code, covering bonds not required by statute make the procurement of individual surety or blanket position bonds permissive. In view of the fact that the demonstrable risk appears to be small and widely distributed, we suggest that consideration be given to confining blanket and individual surety bonds to statutory requirements and those instances where unusual risk can be demonstrated which cannot be alleviated by modification of internal controls, administrative procedures, physical facilities, or other means.

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ASSEMBLY INTERIM COMMITTEE REPORTS
1955-1957
VOLUME 15 NUMBER 15

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

WM. A. MUNNELL, *Chairman*

REPORT ON YOUTH EMPLOYMENT

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March, 1957

Published by the
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OF THE STATE OF CALIFORNIA

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LETTER OF TRANSMITTAL

ASSEMBLY, CALIFORNIA LEGISLATURE
COMMITTEE ON FINANCE AND INSURANCE
March 6, 1957

Hon. L. H. Lincoln
Speaker of the Assembly
State Capitol, Sacramento, California

DEAR MR. LINCOLN: Pursuant to House Resolution No. 200, 1955 General Session, I am transmitting to you and the members of the Assembly the Report on Youth Employment, with the request that it be printed as a separate document.

Our report makes the conclusion that the need for more employment opportunities for our young people is so great that encouragement should be given to all groups now attempting to find solutions. The subcommittee found no duplication of effort by these groups. It was the consensus of opinion that the virtual absence of work opportunities for young people below the age of sixteen makes the Rumford proposals necessary. The subcommittee, therefore, supports the passage of Assembly Bills Nos. 1826, 1825, and 1824.

Sincerely yours,

WM. A. MUNNELL, Chairman
L. M. BACKSTRAND (unsigned)
DONALD D. DOYLE
ERNEST R. GEDDES
JOHN McFALL
WANDA SANKARY

2—L-4981

INTRODUCTION

During the 1955 Regular Session of the California Legislature, Assemblyman William Byron Rumford introduced Assembly Bill No. 662. This measure was assigned to the Assembly Committee on Finance and Insurance where it was amended and referred to the Assembly Rules Committee for interim investigation. The Assembly Rules Committee turned the bill back to the Assembly Committee on Finance and Insurance.

Assembly Bill No. 662 proposed the establishment of a state-wide pilot program of "workreation" based on the experiment conducted by the Berkeley Workreation Camp Committee, a copy of whose report is appended.[1]

The City of Berkeley, in 1952 recognized a need for the employment of high school students during summer vacations from school. In spite of diligent effort on the part of students, interested parents, employers, and civic groups, relatively no jobs were found to be available to enterprising young people who wanted to make use of the summer vacations to gain practical work experience and earn some money. The Berkeley City Council met the local problem by appropriating a sum of money to be used as salaries for payment to young people who were employed to make necessary improvements to the city parks and school property.

The chairman requested his Subcommittee on Unemployment Insurance and Workmen's Compensation to conduct the investigation.

A public hearing was scheduled on March 26, 1956, in Sacramento to receive background on all methods available for solution of the problem. Testimony was obtained from the Berkeley Workreation Camp Committee, the City of Sacramento's voluntary citizens effort through a community Youth Employment Organization (YEO), and the Department of Education's experiment in Santa Barbara in developing "work experience" as a learning program under the jurisdiction of the public schools and junior colleges.

It became apparent that more information was necessary before the size of the problem could be assessed properly. In cooperation with the Berkeley Workreation Camp Committee, a questionnaire was formulated and distributed to the following people in 89 communities:

1. The mayor
2. The superintendent of schools
3. The director of recreation
4. The manager of the local Chamber of Commerce
5. The executive secretary of the local community welfare council
6 The president of the local PTA council
7. The local manager of the Department of Employment

[1] See page 44

A copy of the summary of the March 26th meeting, a sample of the questionnaire, and a summary of the results are appended.[1]

An informal meeting with civic leaders was held in San Diego on June 26, 1956. Invitation to participate was extended to representatives of City Hall, the Board of Supervisors, the Chamber of Commerce, labor, civic organizations, and elected legislators. The following individuals attended:

1. Wanda Sankary, member of Committee on Finance and Insurance;
2. Frank Luckel, Assemblyman;
3. Jack Schrade, Assemblyman;
4. Don Keller, District Attorney;
5. Walter Christian, Manager of San Diego Branch of State Department of Employment;
6. Chas. Patrick, Chairman of Community Committee on Youth Employment, also representing the San Diego City Schools;
7. John Wimmer, Coordinator of Junior Employment Service for the San Diego City Schools;
8. Chapman Bone, representative from City Hall;
9. John A Pennock, Assistant Director of Coordinating Councils;
10. Mrs. A. E. Walter, President, Federation of Women's Clubs;
11. Mrs. I. A. Hegerles, Youth Conservation Chairman of Federation of Women's Clubs;
12. Mrs. Rohlf, representing the PTA Council, 9th District;
13. Mrs. Mary Bryant, San Diego Women's Civic Club.

In addition, the San Diego *Tribune* sent its reporter, Alden Godfrey. Richard Nelson, Chairman of the Citizens Committee on Youth Employment expressed his personal interest.

Mrs. Sankary gave the group a report on the public hearing scheduled in Sacramento during March. Copies of the questionnaire and the revised copy of Assembly Bill No. 662 were distributed.

Chas Patrick and Walter Christian agreed that the situation in San Diego proper was different from other areas in the State because there is a lack of applicants for work. There are more jobs available than people to fill them and older teen-agers have little or no difficulty being placed.

John Pennock stressed that the majority of the people meeting for discussion represented the City of San Diego. His organization was familiar with the situation in the outlying County of San Diego where there is a serious problem because jobs are not as plentiful.

Don Keller urged impartial consideration of the subject for he felt it might bring to light information that might be helpful if there was a reversal in the economy and the community found itself faced with a situation where there might be more applicants than jobs.

All present agreed there was a considerable problem in the placement of the younger teen-agers but all preferred to await results that might be achieved through the Citizens Committee on Youth Employment, organized in the spring of 1956. The work of this group has received good cooperation from local newspapers, radio, and TV stations in

[1] See page 59.

publicizing the need for jobs. The subcommittee was unanimously invited to hold a public hearing in San Diego for it was felt such a meeting might serve to spur local effort.

The workreation proposal presented administrative problems affecting several state agencies. A conference was scheduled in Los Angeles on August 29, 1956, primarily to bring together representatives from these agencies for an exchange of views A summary of this meeting is appended.[1]

The subcommittee worked closely with the Assembly Committee on Industrial Relations in its related inquiry, and accumulated considerable material on the work of the California Coordinating Councils.

[1] See page 64.

FINDINGS

It was found that there was no duplication in the effort of the various groups attempting to assist youth find employment Major emphasis, however, seems to be divided as follows:

1. The State Department of Employment, working through its branch offices in communities throughout the State, seeks to serve and adjust to the needs of the local communities Emphasis is on placement.

2. The State Department of Education, although operating active placement centers in various areas, places its major emphasis on the necessary preparation for employment or the learning experience derived through practical work experience.

3. The Berkeley Workreation Camp Committee apparently is the only group in the State that has mobilized to assist the younger teenagers—14, 15, and 16 years of age—whose placement in the labor market is exceedingly difficult.

4. California coordinating councils view the problem of employment as only *one* segment in the total development of youth. In areas where councils are established there seems to be more active participation by youth, itself, in the total community effort.

5. Citizen groups, operating in various areas through youth employment organizations (YEO) or youth employment services (YES) bring together essentially the same people as do the coordinating councils, but the effort is limited to finding employment.

Civic groups are becoming increasingly cognizant of the need for work experience, and spontaneous effort is being made throughout the entire State to give positive assistance. Best results, however, are obtained in helping the older teen-agers—17, 18, and 19 years of age—find employment. Apart from the obvious need for coordination of effort, there is desperate need for communication. A surprising amount of misinformation is prevalent on legal restrictions against employment of minors. The subcommittee could find nothing to substantiate opinions that workmen's compensation rates are increased by commercial insurance carriers if employers use the services of young people under 16. No real information is available on the use made of work permits issued by the public schools.

CONCLUSIONS

The subcommittee concluded that encouragement should be given to the work of all groups now attempting to find solutions. The California State Legislature will have an opportunity to vote on the following legislation, copies of which are appended: [1]

Assembly Bill No. 1826 provides that the Department of Employment shall serve as information center for the distribution of material on the activities of all groups attempting to assist youth find employment.

Assembly Bill No. 1825 incorporates recommended revisions to the original Rumford proposal. It omits the requirement that programs be a combination of work and recreation, and enables cities or counties to develop employment projects for the younger teen-agers.

Assembly Bill No. 1824 is the companion appropriation measure to Assembly Bill No. 1825 above, providing for the sum of $1,000,000 to establish a state-wide pilot program.

Assembly Bill No. 967, introduced at the request of the Department of Education, permits high schools and junior colleges to provide "work experience education."

Assembly Bill No. 2754 provides needed staff and funds to the California Coordinating Councils for field work and provides for the publication of a bulletin to establish communication among the various councils.

In addition, it is strongly recommended that the Department of Education voluntarily conduct its own survey to discover the use made of work permits issued to students.

It was the consensus of opinion among subcommittee members that the virtual absence of employment opportunities for young people below the age of 16 makes the Rumford proposals necessary. It, therefore, supports the passage of Assembly Bill No. 1826, 1825, and 1824.

[1] See pages 11 through 18.

PROPOSED LEGISLATION

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL No. 1826

Introduced by Messrs. Rumford, Munnell, Miss Donahoe, Messrs. Winton, Crown, Bee, Britschgi, Burton, Caldecott, Chapel, Cunningham, Dahl, Mrs. Davis, Messrs. Dills, Francis, Ernest R. Geddes, Samuel R. Geddes, Grant, Holmes, Marsh, Miller, and Wilson

January 18, 1957

REFERRED TO COMMITTEE ON EDUCATION

An act to add Section 2058 to the Unemployment Insurance Code, relating to youth employment programs.

The people of the State of California do enact as follows:

SECTION 1.. Section 2058 is added to the Unemployment Insurance Code. to read:

2058. The department shall cooperate with other departments, agencies, and institutions both public and private in providing youth placement services and in the development of youth employment programs.

The department shall maintain current information on all types of youth employment programs such as the Youth Employment Service (Y E. S.) and the Youth Employment Organization (Y. E. O.) plans, the work erperience experimental program of the Department of Education, the Berkeley Workreation program, the effort by the coordinating councils, and other similar programs. Upon request the department shall distribute to public and private agencies and groups comprehensive information concerning any or all recognized plans for developing youth employment programs, the cooperative services offered by the various state and other public agencies in the field of youth employment, and the methods of initiating and developing such programs.

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL No. 1825

Introduced by Messrs. Rumford, Munnell, Miss Donahoe, Messrs. Winton, Crown, Bee, Britschgi, Burton, Caldecott, Chapel, Cunningham, Dahl, Mrs. Davis, Messrs. Dills, Francis, Ernest R. Geddes, Samuel R. Geddes, Grant, Holmes, Marsh, Miller, and Wilson

January 18, 1957

REFERRED TO COMMITTEE ON EDUCATION

An act to add Article 9, commencing with Section 13245 to Chapter 2, Part 3, Division 3, Title 2 of the Government Code, relating to state assistance for youth employment programs.

The people of the State of California do enact as follows:

SECTION 1. Article 9, commencing with Section 13245 is added to Chapter 2, Part 3, Division 3, Title 2 of the Government Code, to read:

Article 9. State Assistance for Youth Employment Programs

13245 The Legislature hereby declares that it is in the interest of the State and of the people thereof for the State to foster, aid and assist the youth of the State in seeking gainful employment to the fullest extent of their capabilities in order that their time away from home and school will be employed in productive enterprises, through which they will receive wages or income and have an actual work experience In addition this productive activity would be a definite deterrent to juvenile delinquency, which in addition to other things, is fostered by inactivity and lack of pocket money

In adopting this act, it is the intent of the Legislature to establish a pilot program to develop through practical experience in the operation of the program a sound, practical and effective means of meeting this urgent need. The Legislature recognizes the great need for the complete cooperation of all agencies of the State, both public and private, in order effectively to establish a program that provides remunerative work experiences for the youth of the State and the Legislature requests all such agencies to give whatever assistance they can in initiating, planning, promoting and evaluating such work experience programs that are posisble and practical in various cities, communities, or geographical units throughout the State.

It is therefore declared to be the public policy of the State to encourage, aid and assist the youth of the State to have summer work experiences of remunerative nature and under the best possible supervision that the greatest possible learning experience may be achieved.

13246. As used in this article "Local Agency," means a city, county, or city and county, and "director" means the Director of Finance.

13247. Any program for the employment of youth established by a local agency may qualify for state assistance under this article where all of the following conditions are met:

(a) The program is created by formal action of the legislative body of the local agency.

(b) The program provides for employment opportunities restricted to youth who are 14 years of age and who have not reached their 18th birthday, and who are eligible for work permits under the provisions of Chapters 4 and 5 of Division 8 of the Education Code.

(c) The program provides for the expenditure of State assistance funds in direct payments to youth employed under the program.

(d) Sufficient funds are made available for the program from local sources to assure the successful operation of the program.

13248. (a) From any money appropriated for the purposes of this article an allocation in an amount determined pursuant to subdivision (b) hereof, shall be made to each local agency which establishes a program for the employment of youth in accordance with the provisions of this article. An allocation shall be made to each local agency on the basis of the relative needs of the several local agencies making application as determined by the economic conditions in the communities respectively; provided, however, that not more than three thousand dollars ($3,000) shall be allocated for each 10,000 units of population or fraction thereof in any area Applications shall be in such form as the director may prescribe.

(b) The allocation made to each local agency shall equal one-third of the amount of funds available for such program from all local sources.

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL No. 1824

Introduced by Messrs. Rumford, Munnell, Miss Donahoe, Messrs. Winton, Crown, Bee, Britschgi, Burton, Caldecott, Chapel, Cunningham, Dahl, Mrs. Davis, Messrs. Dills, Francis, Ernest R. Geddes, Samuel R. Geddes, Grant, Holmes, Marsh, Miller, and Wilson

January 18, 1957

REFERRED TO COMMITTEE ON EDUCATION

An act making an appropriation to provide state assistance to local youth employment programs

The people of the State of California do enact as follows:

SECTION 1. There is hereby appropriated the sum of one million dollars ($1,000,000) or so much thereof as may be necessary, to the Director of Finance for allocation to local agencies to provide state assistance to youth employment programs in accordance with the provisions of Article 9 of Chapter 2, Part 3, Division 3, Title 2 of the Government Code, provided that not more than 10 percent of the

money appropriated herein shall be available to the Director for the costs of administration of this act.

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL No. 967

Introduced by Messrs. Munnell, Rumford, Bee, Mrs. Davis, Messrs. Chapel, Coolidge, Crown, Cunningham, Miss Donahoe, Messrs. Ernest R. Geddes, Hegland, Holmes, House, Johnson, Miller, Shell, and Unruh

(At the request of Department of Education)

January 16, 1957

REFERRED TO COMMITTEE ON EDUCATION

An act to add Article 13 to Chapter 1 of Division 5 of, to add Sections 16672.1 and 6904.1 to, and to amend Section 16711 of, the Education Code, relating to work experience education.

The people of the State of California do enact as follows:

SECTION 1. Article 13 is added to Chapter 1 of Division 5 of the Education Code, to read:

Article 13. Work Experience Education

10231. The governing board of any district maintaining a high school or junior college may:

(a) Provide for the training of pupils in the skills, attitudes, and understandings necessary to success in employment by means of courses of work experience education as provided in this article, including part-time placement of students in businesses, industries, professions, or institutions as a part of the educational program.

(b) Provide for guidance and supervision procedures designed to insure maximum educational benefit to students from placement in suitable work experience education courses.

(c) Provide for arranging, approving, coordinating, and awarding credit for work experience education courses, and for those purposes employ instructors, coordinators, and other necessary personnel.

10232. The State Board of Education shall establish standards for work experience education, including but not limited to, the following:

(a) Selection and approval of work stations.

(b) Supervision of pupils and their employment.

(c) Credit allowance for work experiences.

(d) Guidance procedures related to work experience education.

10233. The Department of Education shall adopt such rules and regulations as are necessary to implement the standards set by the State Board of Education, so as to maintain the educational purpose and character of work experience education.

10234. All laws or rules applicable to minors in employment relationships are applicable to students in work experience education courses, except as provided in this article.

10235. Work experience education as authorized by this article includes:

(a) The employment of pupils in part-time jobs selected or approved as having educational value for the students employed therein and pursued under normal conditions of employment except for coordination by school employees.

(b) Assignment of pupils to observe and assist in business, industrial, or professional establishments and institutions, under the close supervision of a person approved pursuant to rules and regulations of the State Board of Education and charged with aiding the pupils to understand the nature of the business, industry, profession, or institution and the qualities necessary to success therein

10236 Work experience education shall be exempted from the provisions of the minimum wage orders of the Industrial Welfare Commission of the State of California when the work of the student is rendered less than normally productive by reasons of special arrangements made for the pupil's educational benefit. No exemption from the minimum wage order shall be made, except pursuant to the rules of the State Board of Education and where the following conditions prevail:

(a) The educational needs of the pupil are better served by a nonpaid or subminimum paid experience.

(b) There is no exploitation of the labor of the pupil.

(c) The work of the pupil is not in competition with paid employees, and no paid employee is replaced or reduced in status because of the pupil's work.

(d) The pupil's observation and participation, as defined in Section 10235 (b) of the Education Code, takes place within the hours of the regular school day.

10237. Work experience education that has been exempted from the minimum wage order, pursuant to Section 10236, shall be deemed to be an "employment" for the purposes of the Workmen's Compensation Laws of this State.

10238 Except as provided in Section 10236 (d) of the Education Code, work experience education, as provided in this article, may be arranged within or without the hours of the regular school day or week.

10239. The governing board of any school district which maintains one or more high schools may provide for the establishment and supervision of work experience education programs in contiguous areas outside the district.

SEC. 2. Section 16672.1 is added to said code, to read:

16672.1. A permit to work may be issued to a minor who is 16 or 17 years of age who is regularly enrolled in a high school or junior college and who will work part-time as a properly enrolled pupil in a work experience education course that meets all the requirements of such course as provided in Article 13, Chapter 1, Division 5, of this code.

SEC. 3. Section 6904.1 is added to said code, to read:

6904.1. The verified employment hours of a junior college student properly enrolled in a work experience education course approved by

the Department of Education in accordance with regulations that the State Department of Education is hereby authorized to adopt may be reported as attendance for apportionment purposes on the basis of three attendance hours for each unit of work experience education laboratory credit for which enrolled to a maximum of five such credit units per semester.

SEC. 4. Section 16711 of said code is amended to read:

16711. The person authorized to issue permits to work may issue to any employer a permit to employ any minor who has been granted a permit to work, or, who has been assigned to a vocational course in a place of employment, *or to a work experience education course, as provided in Sections 10231 to 10238, inclusive, of this code.*

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL **No. 2754**

Introduced by Messrs. Munnell, Miller, Porter, and Eilliott

January 22, 1957

REFERRED TO COMMITTEE ON GOVERNMENTAL EFFICIENCY AND ECONOMY

An act to add Article 6 (commencing at Section 1800) to Division 2.5 of the Welfare and Institutions Code, relating to the powers and duties of the Youth Authority, creating a Community Council Bureau, and prescribing its powers and duties.

The people of the State of California do enact as follows:

SECTION 1. Article 6 is added to Division 2.5 of the Welfare and Institutions Code, to read:

Article 6. Community Council Bureau

1800. The Youth Authority, through the director, shall establish a bureau in the department to be known as the Community Council Bureau, which shall exercise the powers vested in the director by Section 1752.5 and as provided by this article. The bureau shall be in the charge of a supervisor. An assistant supervisor shall be employed for the northern counties of the State and one for the southern counties. The supervisor may employ such technical and clerical employees as may be necessary, including a field staff.

1801. The supervisor and the bureau shall cooperate with or participate in the work of public councils or communities or other organizations which have as their objects the prevention or decrease of delinquency among youths, including such fields as health, welfare, recreation, education, employment, and mental health, as they affect children, youth, their families, and communities.

The supervisor shall coordinate the community organization aspects of the functions of other state agencies and consult with and assist in cooperative and coordinating processes among state and local agencies, and community groups.

1802. The bureau may publish a periodical as a means of communication between state and local agencies and community groups and to promote community organization among the general public. The bureau shall maintain a library and distribution center for community organization materials and may publish material and devise audio-visual aids to assist in the organization of community councils

1803. The supervisor and the bureau shall have such other powers and perform such other duties as are necessary to effectuate the provisions of Section 1752.5 and of this article.

BERKELEY WORKREATION CAMP PROGRAM

The original Rumford proposal for the establishment of a state-wide pilot program was based on the successful experiment conducted by the City of Berkeley.

The Berkeley program provided four hours supervised employment during the morning for which the young people were paid at the rate of 80 cents per hour, plus two hours supervised recreation in the afternoon for which they received no compensation The program covered a six-week period—the last two weeks in July and the full month of August. Each young person who completed the program worked 100 hours and received $80 in earnings. Students in the workreation program were fully covered by workmen's compensation both for the period of work and recreation.

Students made application for the work through the Berkeley office of the State Department of Employment, and various factors were taken into consideration by the adult committee which made the selection. Those students accepted were required to undergo a thorough physical examination, and then became temporary, part-time city employees.

Opinions were obtained from the Office of the Legislative Counsel on the placement powers of existing state agencies, and the subject of work permits and financial need as a requisite for work. Opinions No. 2053 on youth placement, and No 2952 on work permits are appended [1]

The Rumford proposal was submitted to 89 communities with the request that each community assess its local problem and offer comment. Replies were received from the following 73 communities, and summaries of their replies are given:

Alameda—Size of problem ranged from minimum to moderate, with placement easier for girls. The Social Service Board stated, "gainful employment is an urgent need that is not being met * * *" No community organization.

Auburn—Problem maximum for boys, minimum for girls. Fruit shed managers hire girls, but employers are reluctant to hire young people under 18. YEO established.

Bakersfield—Problem maximum for boys, minimum for girls. No community organization. Leaders in community would approve the proposal, but city and county government not properly organized to support it.

Berkeley—Workreation program in effect.

Bishop—Size of problem ranges from minimum to maximum. No community organization. Limited labor market with employers reluctant to use younger teenagers.

Burbank—Coordinating council trying to establish employment program. Problem ranges from minimum to maximum.

Chico—Problem is "appreciable" in size. YEO being organized.

[1] See pages 74 through 79

Compton and vicinity, including Lynwood, Paramount, Willowbrook, etc.—Maximum problem. "* * * dire need of coordinated effort. * * * in the placement of youths in the 14- to 17-year age groups."

Crescent City and vicinity—"Maximum employment problem in the matter of boys 14 and 15, and of girls under 18 simply because of the lack of suitable work. * * * If we are to assist young people to accept responsibility and help them to earn their own spending money, and thus help them to take an active part in society, we must make it possible for them to secure employment. * * * obviously the State has some responsibility in this regard."

Culver City—"Jobs for Juniors" program established. Workreation idea excellent. "Young people should have an opportunity to work during the summer."

East Los Angeles—Maximum problem. Coordinating council attempting to meet need.

El Centro—Coordinating council assists employers and teenagers. Moderate problem.

Eureka—Maximum problem. No community organization. "The idea of developing such a program is good, and this type of experience, we feel, would be valuable in combating delinquency in the State. This program would serve the young people who are not financially able to attend summer camps."

Fort Bragg—Minimum problem. No community organization.

Gilroy—Minimum or no problem.

Glendale—Sertoma Club sponsors YEO. No problem for boys, minimum for girls. Recreation program excellent.

Grass Valley—Maximum problem. Local PTA set up employment center. Scores of youngsters registered, but had only three jobs available.

Hanford—One reported no problem and believed cost of administration would be greater than benefits received. Another reported maximum problem with no community organization.

Hollister and vicinity—Minimum problem. Schools assume major responsibility.

Hayward—One reported no problem but indicated increasing population may produce one; therefore, proposal worthwhile.

Indio—Minimum problem with keen local interest in assisting youth find employment.

Lancaster and Apple Valley—Maximum problem with no community organization. Liked both this proposal and school work experience program.

Long Beach—Maximum problem. Following Berkeley's example in establishing workreation program. No registration at present time for employment for young people under 16. "We have needed such legislation for some time."

Los Angeles—Size of problem ranges from minimum to maximum. Coordinating Councils attempting to meet need.

Madera—Maximum problem. "Present local organizations are only scratching the surface."

Merced—One reply minimum problem and comment, "programs of this sort are necessary *only* in times of depression." Two replies maximum problem. American Legion and Community Youth Council attempt to arouse interest.

Modesto—Minimum problem. Good community organization. "Local control should be retained."

Montebello—Minimum problem for boys. No problem for girls. Good community organization, with schools, Coordinating Council, and City Recreation Department working together.

Monterey—Minimum problem. Proposal not required in area.

Napa—Minimum to maximum problem. Recreation program good but "it does not meet the employment needs of the young people." Proposal needed but local funds should be available.

Oceanside—Maximum problem. Mayor's committee primarily interested in methods to prevent delinquency.

Ontario—Minimum problem.

Palo Alto—Minimum problem. Excellent community organization. Palo Alto *Times* accepts free want-ads Coordinating Council and schools work with other interested groups. One comment, "excellent idea." Another, "Our community is attempting to meet this problem through its own efforts. We believe other communities can do the same. * * *"

Pasadena—Minimum problem. Excellent community organization, with unusually good integration of program by schools, Department of Employment and other groups. One comment, "another step in helping the general over-all problem." Second comment. "It continues a trend towards further state and governmental intrusion into society" Third comment, "an area where some good planning is needed. * * * For the 14- and 15-years-olds several attempts have been made in recent years by community organizations to furnish some good work experience. A great many people feel that 14- and 15-year-old boys and girls should have more opportunities to work during the summer vacation But, there just aren't enough jobs to make a dent in the number who should have such opportunity. Whenever a volunteer organization has attempted to handle this problem, it has literally been swamped. There were many, many applicants but very, very few jobs."

Petaluma—Maximum problem. Approve the proposal without reservation. Able to find work for about 10 percent of applicants.

Pittsburg—Maximum problem for boys, minimum for girls. Daily newspaper runs free ads for teenagers in May. "A good bill * * * should be favorably considered."

Pomona—Maximum problem for boys, moderate for girls. Coordinating Council inaugurating program

Porterville—Minimum problem Good community organization with Coordinating Council working with schools and Department of Employment. Suggest formula for matching funds be improved to assist communities with limited resources.

Quincy—Intermediate problem. PTA trying to organize a program.

Red Bluff—Minimum problem. Good community organization and support for a YEO. "This community, * * * should be able to take care of the work needs of our teen-agers. * * * the main problem is to get the employers and workers together."

Redding—Maximum problem. No formalized program although the need is recognized. Proposal "a step in the right direction in the development of our youth as our citizens of tomorrow."

Redwood City—Maximum problem. "Practically no program for teenagers." "Interested in the Berkeley program and would like to see it made available to other communities." Proposal "inadequate for communities of our size" but "there's a growing awareness that we *must* do something for this teen-age group."

Richmond and vicinity—Maximum problem. "The Chamber of Commerce and various service clubs are studying the problem, and are intensely interested in the proposed state recreation employment program." "The results of the Berkeley program warrant a trial of this program on a state-wide basis." "Basic problem is that little remunerative activity exists for the 14-17 age group."

Riverside—Maximum problem "Sounds workable and worthwhile." "Something we have needed for a long time. I'm for it 100 percent." No organized local effort and "they can't begin to fill the need."

Sacramento—Minimum problem. Good community organization and effort through YEO. "Proposal is good." Another comment stated the proposal was not "any permanent solution of the youth employment problem. Basically employers and labor unions and citizens generally must be made to realize that the youth of a community should be provided a normal opportunity to work." Do not favor "manufactured" jobs and fear another "CCC program which in prosperous times like these should not be necessary or wise."

Salinas—Maximum problem. Good community organization and effort. Further information necessary on minimum wage provisions, workmen's compensation coverage, and "only established boards or commissions in the various communities should serve to operate the plan so that it would not be necessary to establish a separate committee for this purpose."

San Bernardino—Maximum problem. Very little local effort

San Diego—Mnimum problem for 16-17-year-olds Maximum problem for 14-15 group. Good community organization. "Committees in local community groups should be working toward job opportunities for youth without state subsidy." "In spite of the summer session program and the community efforts to promote more jobs for youth, there are still more applicants than there are available jobs. We hope to close this gap through intensified community efforts, utilizing existing agencies and organizations."

San Fernando—Maximum problem.

San Francisco—Maximum problem, especially for boys. Civil service standards do not permit employment below the age of 19. Recreation and Park Department use a small number of boys in the 14-17 age group as locker boys. "From 1945-49 a special service for students *under* 16 years of age was operated during the school vacation. The service was discontinued finally because there were so very few jobs available. * * * During the summer of 1956 * * * two Youth Employment Centers have again been established to serve the under 16 age group * * * Hundreds of boys and girls have filed their applications, but * * * in spite of considerable publicity * * * it has not been possible to develop many jobs for this age group."

San Jose—Intermediate to maximum problem. *Mercury-News* initiated a free "Kids Classified" section, but "there is no over-all program

for this age group. Proposal helpful toward "sparking local initiative, but program should be controlled locally." Proposal "very constructive." Opposed to a CCC or NYA program as not being "dynamically consistent with the dominant social philosophy nor with the existing economy."

San Luis Obispo—Minimum problem. Good community organization.

San Mateo—Minimum problem for girls, maximum for boys. "We try to fill their time with recreational activity, but some of this time would be better spent in gainful employment." "Berkeley has done an excellent job, and this is a step in the right direction on a statewide basis."

San Rafael and vicinity—Moderate to maximum problem. Good community organization "Idea is excellent."

Santa Ana—Maximum problem.

Santa Barbara—No problem for 16- and 17-year-old groups. Maximum problem for 14-15-year-old group. Excellent community organization. "A fine move toward meeting a definite need." Question the recreational aspects and the need for state subsidy. Trying to develop special test study to "determine the level at which the aptitudes of young people mature sufficiently to permit their being tested for vocational choice. * * *"

Santa Cruz—Minimum to maximum problem. Proposal "received enthusiastically."

Santa Maria—Maximum problem for boys, minimum for girls.

Santa Monica—Minimum problem. "There should be a year-round placement and referral agency to help place children between the ages 16 and 18 in jobs—either part or full time. * * *" "Problem most critical during school year. * * *"

Santa Rosa—Maximum problem, especially for boys. Good community organization Cautions against proposal becoming a "dumping ground" for delinquents Good community organization. *Press-Democrat* offers free classified service to juniors. "Harvest provides jobs for most of the teenagers willing to do this work. * * * harvesting is paid on a piece-work rate, and many persons not used to the work become discouraged and unhappy. * * *"

South San Francisco—Minimum to maximum problem. PTA initiated service in 1956. 224 registered for work, including 56 15-year-olds, 65 16-year-olds, and 65 17-year-olds. 99 openings were received and 76 were filled.

Stockton—Maximum problem, especially for boys. Good community organization.

Torrance—Moderate to maximum problem. Good community organization. There's just nowhere nearly enough jobs to go around for our teenagers." "It might save more than it cost, and also do some good."

Turlock—Minimum problem. Parents should be given opportunity to vote on proposal as parents know best whether young people should work.

Ukiah—Minimum problem. "If the jobs are here the youngsters get them, mostly on their own."

Ventura—Maximum problem. No community organization.

Vallejo—Minimum to maximum problem. Good community organization.

Van Nuys—Minimum problem. Coordinating council provides service through local agencies.

Visalia—Minimum problem. Good community organization. "Individual communities and business and professional people should work on this problem without tax funds."

Watsonville—Minimum problem. Good community organization. "On the job training for all high school seniors for a one day a year in job of student's choice." "Nearly all who want to work can do so."

Whittier—Minimum problem for boys, maximum for girls. Suggestion that proposal be administered by Department of Education. High school employment bureau has jobs during school year, "but very little is done during the school vacation."

Woodland—Minimum problem for boys, maximum for girls. Good community organization, with a YEO established in 1956. "Unless the State can contribute 75 percent of the cost, the matter * * * should be handled by local officials utilizing local funds."

Yreka—Maximum problem. No community organization. Work permits should be made available to younger group, and wages should be based on ability rather than minimum set by law to avoid "forcing employers to hire older more experienced persons."

It will be noted that several communities indicated local newspapers offered a free classified service to teenagers. A copy of the June 18, 1956, issue of the Santa Rosa *Press-Democrat* was submitted, and as a matter of interest the following tabulation was made to identify the age groups seeking work:

Age	*Number of ads placed*	
	Boys	*Girls*
12	0	0
13	31	29
14	35	33
15	42	39
16	42	44
17	20	39
18	10	19
19	2	4
No age shown	22	22
Total ads	204	229

It is immediately apparent that there is a sharp decline in the number of job applicants 18 and 19 years of age.

THE DEPARTMENT OF EMPLOYMENT

The proposal, in its original version, recommended administration by the State Department of Employment. This agency has taken the lead in many communities to stimulate organization for positive action. As the heaviest demands for employment by young people develop during the summer vacations from school, the regular interviewing staff of the branch offices has been able to devote major effort to counseling and placement services One person in the headquarters administrative office in Sacramento is in charge of all phases of this work, including testing.

The following is taken from a report prepared by the department describing activities included in the placement operation:

"1. Job placement;
2. Job counseling;
3. Job analysis;
4. Occupational job testing;
5. Collection and dissemination of labor market information;
6. Job finding, development and stabilization of employment;
7. Job placement services between labor market areas.

These major employment services are to be made available to: (1) all employers; and (2) all groups of job-seekers legally qualified to work. In addition, public policy calls for special emphasis on the furnishing of employment services to certain job-seeker groups such as:

1. Veterans;
2. Parolees;
3. The physically handicapped;
4. Youths;
5. Recipients of public assistance;
6. Older workers.

Finally, the department holds to the public policy that these services be furnished to employers and job-seekers, without regard to the race, creed, color or national origin of the individuals seeking or receiving these services."

The source of funds for the work of the department, and an evaluation of the present and anticipated future needs is described in the following excerpt from the department's report to the chairman dated February 27, 1956:

"Historically, our public employment service in California has received from the Secretary of Labor about 10 percent of funds available for distribution to the states for employment service administration. In relation to grants made to other states this has been a reasonable share of the funds available. In terms, however, of a placement operation expanded to meet potential needs, this

allocation of funds falls considerably short of these needs. The need for the operation of a comprehensive public employment service system in California can best be seen from a consideration of the number of job changes which occur in the business and industrial activity of our labor market areas.

In California, in 1952, it was estimated there were 8,000,000 job changes of all types including promotions from within, call-backs and new hires. Removing from this estimate those job changes such as promotions from within, call-backs and hires which are made under controlled agreements between the employer and the union there were left an estimated 4,000,000 job changes in which there was a potential need for the assistance of the public employment service in screening qualified job seekers from the labor supply.

With the growth of our economy, since 1952, it is estimated there are currently over 5,000,000 job changes a year in California in which there is a potential need for our assistance and participation in the hiring process. From funds currently made available to the department for employment service operations, by the Secretary of Labor, we are staffed to make about 500,000 placements to business and industry. In other words we are currently staffed to participate in about 10 percent of the nonfarm job changes per year, for which there is a potential need for our assistance.

Because we are operating in a free labor market and because there are a number of other facilities in communities such as school and fraternal placement bureaus and unions which enable the jobseeker and the employer to get together promptly, we do not plan that it will ever be necessary for the public employment service to participate in all of the hiring in the community. However, it is our considered judgment that our participation should be somewhat higher than 10 percent of the potential.

Our participation in the hiring processes strengthens our economy by promptly bringing the job and the worker together. This has the effect of: (1) cutting the period of wage loss; (2) reducing the loss of productive time; and (3) relieving the drain on unemployment insurance reserves and influencing lower tax rates. We, therefore, feel that a rate of participation in the hiring processes of 40 percent by our local offices would have a very significant impact on the maintenance of a healthy economy in California."

* * * * *

"California's youth constitutes approximately 9 percent of our labor force according to recent estimates based on Bureau of Budget reports. The "youth" segment of our labor force will undergo a substantial increase in the next 10 years. The State Department of Finance reports that 107,000 youths will be graduated from California's high schools in the 1955-1956 Fiscal Year. They estimate that 218,000 youths will be graduated from our high schools in 1966.

Since approximately 50 percent of our high school graduates enter the labor market and become candidates for full-time employment, over 50,000 youths will enter our labor market during the 1955-1956 period.

"Informed estimates indicate that by 1966, youths will be entering the labor market at the rate of 108,000 annually.

As a measure of the substantial increase in the number of youths who are candidates for jobs, it is pointed out that in the 10-year period from 1956 to 1966, the number of youths entering the labor market will increase by over 103 percent.

This growth of the youth population in our labor force gives an indication as to the extent to which this department must expand its youth placement facilities if it is to properly discharge its responsibilities under the public policy of this State. Our plans should not only provide increasing our present limited facilities to handle current needs but should include provisions for expansion of facilities which can meet the projected demands for youth placement services.

Because of current budget allocations, our facilities for the placement and counseling of youths are limited. For example, we are currently operating three specialized junior placement offices, one in San Francisco, a second in Oakland, and a third in Sacramento. In 25 additional communities our local offices participate with schools and civic groups in a planned youth employment program. In the remaining communities served by our local offices, youths are served along with other segments of our adult job-seeker groups with occasional specialized attention as the needs arises and time can be found to meet this need. Yet, experience in our specialized junior placement offices shows that where specialized treatment is possible, significant success is achieved in meeting the counseling and placement needs of youths and in assuring that they make satisfactory job choices and adjustments in entering the labor market.

Based on current and projected needs for specialized attention, we would propose the following expanded youth placement service as follows:

1. A full-time Supervisor of Youth Placement Services, in our central office headquarters.

2. Special youth placement offices, in addition to those in San Francisco, Oakland and Sacramento to be established in downtown Los Angeles, Long Beach, San Diego, Fresno and Richmond. These specialized offices should be staffed at a minimum with at least one supervisor, two trained professional placement interviewers and one clerk.

3. At least one full-time specialist in youth placement service should be provided in each of 45 of our large and medium-sized offices in addition to those facilities specified in paragraph (2) above.

4. To insure that the efforts of all local offices to provide adequate placement services to youths receive continuous attention and operate with a minimum of duplication, a Youth Placement Coordinator should be provided in each of our administrative area offices, i.e., Southern Area, Coastal Area, and Interior Area. This expanded youth placement operation would call for an additional $361,374 in personnel service funds including professional and clerical staff and $108,412 in overhead costs including retirement, travel, premises equipment, communication, supplies and so forth. In total, this expanded program would cost $469,786 annually.

APPRENTICES

"It is felt the above expansion of youth placement facilities will permit us to more fully meet our responsibilities to recruit and select candidates for apprenticeships to California's skilled and craft pursuits. Under such an expanded youth operation this department would give major attention to California's apprenticeship program because:

1. Continuous flow of an adequate number of apprentices into the labor market is essential to the maintenance of a competent, skilled work force.

2. The maintenance of a competent skilled work force is essential to the economic growth of the State and to the effectiveness of the State's and Nation's defense in time of peace or war.

3. An effective apprentice program is essential to the proper utilization of California's human resources.

Currently the Division of Apprenticeship Standards estimates California needs a replacement of 28,000 journeyman craftsmen a year together with 41,450 to fill new jobs or a total of 69,150 annually to meet our skilled labor needs. Presently we are training 18,000 apprentices annually. This department cooperates with the Division of Apprenticeship Standards to recruit and select candidates for apprenticeship from our youth population. Under the expanded youth program outlined above, we could do much to improve the program to strengthen California's skilled labor resources by expanding our activities related to the recruitment and selection of apprentices and by helping to encourage employers and unions to more fully use these resources."

Testimony was received from a number of individuals to the effect that the problem exists because of the limitations of job opportunities. The role of the Job Development Section of the department can be appreciated from the following portion of the February 27th report:

PROPOSED EXPANDED JOB DEVELOPMENT PROGRAM

The Problem

"The development of new jobs is an absolute necessity if California is to avoid grave dangers to her economy. If we stand still in the creation of new jobs we go backward. Each month, year in and year out, we need 15,000 more jobs than the last month, to take care of the employment needs of our expanding population and work force.

This includes all kinds of jobs. But if California's job structure is to develop along sound lines, at least *half* of these 15,000 jobs must be in the extractive and manufacturing industries which in turn generate *other* jobs. It is toward aiding in the creation of these new jobs that we have pointed the major work of job development.

Activities

Our participation in job development work takes a variety of forms Much of it is of a long-range nature, and individual projects often take months or even years to materialize. Most of the work is confidential with the prospective employer, or with cooperating agencies, and premature disclosure of plans (or even inquiries) would be fatal to effective relationships.

Generally, job development work takes one of five forms, which are described below. A few examples of each are listed as illustrations:

1. **Plant Location Work.** Employers are becoming increasingly aware of the importance of labor market factors when they are locating a new plant. They frequently seek the assistance of local offices or of the Job Development Section in finding that location which will best serve their needs. We are able to give such inquiries careful attention, and give the employer valuable aid in making his selection of a site, at the same time respecting fully the confidential nature of his inquiry. Often this involves working closely with Chambers of Commerce and other organizations to whom similiar inquiries are also directed.

Examples

California Walnut Growers Association—Stockton
Wrigley Corporation—Santa Cruz;
North American Aviation—Fresno;
Convair—Pomona Guided Missile Plant;
Columbia Carbon and Ribbon Company—Culver City;
Shirt Maufacturing Plant—Taft;
Electronics Manufacturer—San Joaquin Valley;
Jacuzzi Pump—Tulare;
Battery Manufacturer—Antioch;
Major insurance companies—Santa Barbara and Palo Alto;
Various apparel manufacturers.

2. **Industrial Solicitation.** There are several industrial fields in which California's job economy could benefit by expansion, and in which it is desirable to encourage new industry. We are now directing our attention toward soliciting new plants for California in these industries where we know there are good opportunities for profitable operation. An example is in the manufacture of cotton textiles. California is the second ranking producer of raw cotton, and probably the second ranking consumer. Yet, we do not have a cotton processing industry An analysis of the economic factors involved in this operation was made, and all the principle manufacturers of cotton yarn and goods were contacted to attempt to interest some of them in the establishment of branch plant operations here. Similar work is possible for other industries where opportunities appear promising. Because of the heavy capital investments required, decisions on matters such as these are often slow in coming, and may take months to mature. Yet, we are hopeful that activities such as these will help to broaden the job base of our economy.

Examples

a. Local capital was sought out and interested in establishing a yarn mill in the San Joaquin Valley. Used equipment was located, a site identified, and advisory contacts made for the new business with strong eastern textile manufacturers. The plant is now on a full-time, three-shift operation, with a major expansion planned. It can process either cotton or rayon acetate fiber. It promises to be the forerunner of a major new textile industry in California.

"b. An analysis of materials, supplies and market potentials for a flat glass industry in California was made and submitted to a large European manufacturer who is considering a West Coast installation. Negotiations are still confidential.

3. **Work With Communities.** We have found that many communities do not have the wide range of data about the resources they can offer to an employer seeking a prospective industrial location, and that frequently their facts will not stand up under the searching inquiry which the employer must make. In past years, we have helped many such communities to prepare material for such use, but without a comprehensive plan or format. For the past year, we have been collaborating with the research staff of the State Chamber of Commerce to develop "Standard Industrial Survey Summary Reports" which present important data about each community in an orderly and authoritative form. We have assisted many of the several hundred communities in California to prepare these broachures, which have since been distributed to more than 300 offices and organizations who receive the large majority of industrial inquiries over the State. This material permits each community to compete on its merits for the industrial expansions which continually come to California.

Examples

Full community surveys	*Aid on special studies*
Napa	Total of probably 45 to 50
San Jose	California communities
Mountain View	
San Mateo	
Marysville	
Santa Barbara	
Fresno	
Santa Cruz	
Riverside-San Bernardino	
San Luis Obispo	

4. **Cooperation With Other Agencies.** There are scores of agencies, both public and private, in California which are competing in the work of soliciting new plants and other industrial expansion. Since none of them has a monopoly on work in this field, we are trying to build the kind of cooperative relationships with them which will produce jobs, rather than "credit." Our efforts are toward the end that the facilities of the state government are made available to help communities and agencies to build our job economy to the most favorable levels possible. The activities of government in fields such as this are often viewed with suspicion; we are trying to dispel this suspicion by offering them constructive help toward a common objective.

Examples

"Plant Site Location Committee, State Chamber of Commerce;
All major railroads;
Local Chambers of Commerce;
Various public utilities;
Major banking interests;
Federal agencies;
Military procurement agencies;
Industrial realtors;
City and County Zoning Commissions;
Research organizations, including universities;
Labor organizations;
Major employers;
Other state departments

5. **Miscellaneous Services.** Many miscellaneous services are performed on request of government agencies, community groups, or private employers where no other facility of government is readily available to serve them. These include:

a. Aid in developing community employment committees;
b. Assist groups to hold the work of processing California products in California;
c. Supply labor market information to Department of Defense for contract award purposes;
d. Intervene to assist communities to secure release of unused facilities held under the War Reserve Clause;
e. Assist in plans for development of organized industrial sites owned and operated by community groups;
f. Assist at Small Business Clinics, etc.;
g. Locate authoritative sources of information for communities on industrial problems, such as freight rates, zoning, etc.;
h. Assist industry groups to plan for industry-wide expansions.

Staffing

The function was organized in the Department of Employment as a result of recommendations made by the Governor's Conference on Employment in December 1949. Peak staffing was about 17 persons, of whom about 13 were professional and four clerical.

Budget problems in 1952-53 forced its reduction to its present level of four professional persons, with necessary clerical staff furnished by the area offices. These persons are located in Sacramento, Fresno, Los Angeles, and San Francisco. It is recommended that two staff persons be added in Los Angeles. This area is too large and too diverse, and has too many expanding communities to be served effectively by only one person. Addition of these units of staff would permit a level of service more nearly comparable with that in other areas of the State, and would make possible a workable geographic division of the Southern Area. It is also recommended that one professional staff person be added in the San Francisco Bay Area, for similar reasons."

THE DEPARTMENT OF EDUCATION

It was recognized that clarification was necessary to distinguish between the area of activity of the Department of Employment and the Department of Education. Mr. Jay Davis Conner, Associate Superintendent of the Department of Education, prepared a statement for the subcommittee on March 20, 1956. A portion of statement follows:

"With the growth in technology which has taken place throughout the past few decades of American life, it has become increasingly difficult for youth to have an opportunity to gain some knowledge of the various occupational fields through actual employment. Many of our school people feel that something of a systematic nature should be done to replace this kind of opportunity which in an earlier period of American life was readily available to youth in most communities.

As we see the situation, there are two general types of work experience involved, and we have a concern for both types, although a responsibility for only one type.

The first type is identified by the public school pupil who seeks and finds employment because of financial need, regardless of whether it has any direct or indirect instructional relationship to the education he is acquiring in the public schools. It is our feeling that the priority of both concern and responsibility for this type of public employment belongs to the Department of Employment. The Department of Education's principal concern in this type of work experience is limited to the physical effects such employment will have upon school attendance and the pupil's ability to carry the required program of education without harmful effects.

The second general type of work experience is the one to which, in our opinion, the Department of Education and the public schools must continue to give primary concern and to accept primary responsibility for such developments as may take place. This is the kind of employment in which the school is the initiator because of the fact that the nature of the employment is such as to make a direct contribution to the program of instruction which the pupil is following, or the vocational choices he has made as the basis for selecting his school program. In this type of work experience program the school provides school credit and school supervision. It is this type which we call "work experience education" which has as its purpose the extension of school supervision and facilities to promote and advance the student's educational plan and preparation.

The interest and involvement of the Department of Education and the public schools in this latter type of work experience program is of long duration. Thousands of students are today involved in this type of program."

The subcommittee was impressed with the results achieved particularly by the effort in Santa Barbara County. It was felt, however, that any evaluation of this program should be made by the Assembly Com-

mittee on Education. The subcommittee, therefore, limited its investigation to the inter-relationship of the work of the two departments. A report on the Work Education Program of Santa Barbara, prepared by Charlotte D. Elmott, in March, 1956, is appended.[1]

It is estimated that in the spring of 1956, 693 students of the Santa Barbara schools were holding jobs, 411 on a paid basis receiving a minimum of 75 cents an hour; and 282 on an unpaid basis as observers.

No information was available on the use of work permits issued, nor on the number of requests for permits that were rejected. Although ordinarily issued by the local schools, during the summer this work is undertaken by offices of county superintendents of schools. An analysis of the work permits issued during 1954-55 and 1955-56 follows:

WORK PERMITS ISSUED

Vacation and days that schools are *not* in session
Ages 12-17, inclusive
1954-1955 -- 159,231
1955-1956 -- 184,707 (Gain 16%)
Before and/or after school hours
Ages 14-17, inclusive
1954-1955 -- 37,602
1955-1956 -- 45,498 (Gain 21%)

Full-time work and part-time school
Ages 14-17, inclusive
1954-1955 -- 14,921
1955-1956 -- 16,860 (Gain 13%)
Total
Ages 12-17, inclusive
1954-1955 --- 211,754
1955-1956 --- 247,065 (Gain 15%)

Enrollment in grades 7-12, inclusive	797,969	868,213
Percentage of work permits issued compared to enrollment	26.5%	28.5%
Percentages with grade 7-8 enrollment and the 12-13 age group deleted	34.5%	36.6%

James York of the Youth Authority, testifying before the Henderson Committee on Industrial Relations, stated, "When we talk about employment for this mid-teen group generally, we are not talking about baby-sitting and mowing lawns or running errands, etc. More importantly, the youth of this age think it is not "* * * we have to be looking for employment that is purposeful, that has some value in helping youth determine what their vocational adjustment is going to be later on. * * *"

A. Lamont Smith, Executive Officer of the State Board of Corrections, testifying at the above hearing in Fresno on July 30, 1956, spoke of the need for an employment census showing where youth was working. He stated, "And that seems to me to divide itself into knowing whether it is the intermittent job, where they register and they get a call, and they go out and wash windows, and that is called a placement and is tallied as one of the 500 placements. * * * or whether it results in a vacation job where it is 10 hours every week for the full summer * * *. There ought to be some distinction * * * whether it is maintenance-type work or whether it is a purposeful job experience. * * * We shouldn't give the same score to the two. They are not equal in the results we are looking for."

The subcommittee knows of no better agency for conducting such a census of youth employment and arriving at an evaluation of the use made of work permits issued than the State Department of Education. It, therefore, recommends that this agency perform this service voluntarily, and make its findings available to be used as a guide by the Department of Employment and various citizen groups and coordinating councils.

[1] See page 80.

CITIZEN-SPONSORED YOUTH EMPLOYMENT SERVICES

Foremost among the citizen-sponsored efforts of communities to cope with the problem of youth employment is that of Sacramento where a Youth Employment Organization (YEO) was incorporated early in 1954. The Sacramento District Council of the American Legion worked with representatives of labor, management, the PTA, the schools, and the Department of Employment in establishing the program.

The Sacramento City Superintendent of Schools distributed questionnaires to all junior and senior high school students registered both in the city and private schools. Representatives of the PTA and the American Association of University Women tabulated the replies. The following results were obtained:

6,040 boys and girls completed the questionnaires;
5,560 or 92 percent wanted work;
4,462 or 80 percent wanted summer work.

Job preferences included:

Girls	*Boys*
1. Salesclerk	1. Stock boy
2. Baby sitting	2. Service station attendant
3. Office work	3. Box boy or delivery boy

The subcommittee requested the Department of Employment to prepare an analysis of all placements made since the inception of the program in May, 1954. The following report was made available by E. W. Wyman, Manager of the local office on April 3, 1956:

Job title	*No. of hires*
Yard work	625
Includes spading, weeding, lawn work, ditching, trimming, raking.	
Child care	598
Care for child (or children) in home, take to zoo, take to movies, take swimming, read to children, put to bed and prepare light meals for children.	
Mother's helper	194
Clean shelves and replace paper; ironing, housework.	
Clerical	117
Take inventory, type, file, address envelopes by hand; cashier, lettering, drafting, stenographic.	
Housework—general	41
Wash windows, wax and clean floors, wash woodwork, walls, ceilings.	
Display work	65
Hand out literature, costume display, decorate hotel.	
Sales—gift	58
Gift wrapping, salesclerk (part-time), make corsages, sell on floor.	
Service station	54
Move cars, lubricate cars, pump gas.	
Stock clerk and messenger	51

Job title	*No. of hires*
Handyman	42
Scrape paint on windows, clean up garage, clean up yard after construction finished.	
Soda fountain	39
Telephone operator trainees	39
Newsboys	32
Tack up advertising, deliver papers and collect.	
Janitor	26
Move furniture and sweep, wash cars and clean up.	
Catalog assembler	12
Truck delivery	5
Car wash and cleaning.	
Chauffeur	3
Tutor (Spanish)	2
Miscellaneous	94
Laundry car hop; climb to roof to check for rips and tears in roofing; stay nights in pet shop; gather eggs on ranch, plumber's helper; surveyor's helper (hold chain and pegs); clean used refrigerator; dismantle school clothes lockers; picnic soda jerk; hop pickers; playground director; carpenter apprentice; lay carpet and take up old carpet; assist fence building; boat building; clean typewriters; blow up balloons with gas; assemble school chairs; pick up money (collections); polish 21-foot aluminum trailer house; feed and clean birds and pens on pheasant farm, stand on street corner and count passengers on each bus; swimming instructor; copy police court accident reports by hand; gum labels to advertising; play Santa Claus; knock almonds; assist dressmaker with seaming.	

Thank you for the opportunity of submitting the placement figures for YEO which total 2,097 for the period May, 1954, through March 31, 1956, the date of this tabulation.

The above figures do not include rehires when the teenager works on more than one job for the same employer or jobs obtained due to personal contact through a previous YEO employer. In one instance a single lawn job led to continual care of the lawn during the summer and as the work was done well the boy was hired by several neighbors. The original YEO job led to several others not cleared through this office, therefore, only one hire was shown.

COMMUNITY COORDINATING COUNCILS

A wealth of material was made available on the work of the California Coordinating Councils. This effort has had an interesting history dating back to 1919 when the first council was organized in Berkeley. It consisted exclusively of professional people and was concerned with juvenile delinquency. The first attempt to bring together representatives of citizen groups, public services, and private social agencies was in 1932 when the Los Angeles County Council was established. In 1943 Governor Warren gave encouragement to the formation of more councils by making staff members of the California Youth Authority available.

An excellent description of the work done by these groups can be found in the May, 1956, publication of the County of Los Angeles Community Coordinating Councils. "Manual on Organization and Procedure." The following is a quotation from that publication:

> The community coordinating council is a process whereby a community discovers and meets its needs. These include improving family life; promoting good citizenship; providing protection against bodily harm, moral hazards and disease; and meeting physical, recreational, cultural and social problems on a local level.
>
> The success of the council approach has been attributed in part to the fact that:
>
> 1. It utilizes the participation and knowledge of those who live and work in the community;
> 2. It enables groups using different techniques to agree on mutual goals;
> 3. It assures a plan for action reached through group agreement;
> 4. It provides a means whereby a community can clearly define its needs and redefine its goals;
> 5. It provides the common ground on which citizen concern, professional skill, and administrative authority meet to achieve action.

Purpose of a Council

The purposes of a community coordinating council are generally conceded to be five-fold in number:

1. To promote *cooperation* among all organizations and individuals interested in the welfare of children and youth, and in making the community a better place in which to live
2. To effect the *coordination* of community efforts in the development of wholesome family life and good citizenship.
3. To *study* resources, conditions, and needs affecting the welfare of children and youth and of the community itself.
4. To advance the *education* of all regarding physical, mental, social, and spiritual needs, as well as available resources.

5. To secure effective democratic *action* in improving community conditions and in eliminating basic causes of delinquency and crime.

As the investigation of this subcommittee was confined to the subject of youth employment, it was especially interested in youth groups functioning in this field. Part VI of the above publication is devoted entirely to youth coordinating councils, and is quoted below:

"Since a community coordinating council spends a good deal of its energy working on matters related to youth in the community, it is only natural that youth themselves should be involved in the process in some way. Councils have attempted to obtain this involvement in various ways including direct representation at council meetings by high school student leaders, or having youth members on council committees.

Thus far, however, the most frequent and probably most successful solution to this problem has been the development of a youth coordinating council. This approach offers several advantages. *The youth can meet separately where they do not feel restricted by the presence of too many adults; yet they are working cooperatively with the adult community.* It is an organization which focuses the attention of young people on the entire community—whereas their other activities focus mainly on one institution such as school or church. It provides education through a real experience in community development. And it provides an opportunity to coordinate the activities of youth groups.

Once the youth get the idea of a Y. C. C., their enthusiasm and energy can result in real accomplishments—provided they are given good adult backing. Youth council projects have included:

1. Elimination of party crashing and school and theater vandalism;
2. Promotion of community interest in projects affecting youth;
3. Teen-age centers; Jobs for Juniors' Program;
4. Community youth dances and activities;
5. Christmas, Easter, Halloween and other special events;
6. Cooperation with adult groups in safety campaigns, community cleanups, etc.

A coordinating council which is planning sponsorship of a Y. C. C. should be thoroughly convinced that this would be a worthwhile project. Once there is assurance that they will follow through, there should also be agreement of a representative group of youth that it is a good idea. From this point on, it should become a cooperative project involving both adults and youth."

A copy of a mimeographed announcement on Youth Employment Service, written by the Youth Employment Committee of the Youth Coordinating Councils is appended.[1]

Throughout the years, the coordinating councils have been functioning with the assistance of the California Youth Authority. Statutory authorization for this service is found in the Welfare and Institutions Code in the following sections:

[1] See page 84.

Section 606. Establishment of preventive councils: Participation in work by others.

The juvenile court and the probation committee or department of any county may establish, or assist in the establishment of, any public council or committee having as its object the prevention of juvenile delinquency, and may cooperate with or participate in the work of any such councils or committees for the purpose of preventing or decreasing juvenile delinquency, including the improving of recreational, health, and other conditions in the community affecting juvenile welfare.

LEGISLATIVE HISTORY

Enacted 1937. Based on Statutes 1915, Chapter 631, Section 21a, as added by Statutes 1935, Chapter 34, Section 1, page 358

Section 1752.5. Establishment of public councils or committees: Cooperation with existing agencies.

The director may establish or assist in the establishment of any public council or committee, and may assist and cooperate with any existing agency, having as its object the prevention or decrease of delinquency among youths; and the director may cooperate with or participate in the work of any such councils, or any existing councils, including the improving of recreational, health and other conditions in the community affecting youths.

LEGISLATIVE HISTORY

1. Added by Statutes 1941, Chapter 937, Section 1, page 2528.
2. Amended by Statutes 1945, Chapter 639, Section 8, page 1179, substituting "director" for "authority" each time.

Section 1760.5. Requiring persons committed to perform work to be done by certain governmental agencies: Contracts with federal and state officials and departments: Disposition of moneys received.

The director may require persons committed to the authority to perform work necessary and proper to be done by the Division of Forestry, the Division of Beaches and Parks, and the Division of Fish and Game in the Department of Natural Resources, by the Division of State Lands in the Department of Finance, by the United States Department of Agriculture, and by the federal officials and departments in charge of national forests and parks within this State. For the purposes of this section, the director, with the approval of the Department of Finance, may enter into contracts with federal and state officials and departments. All moneys received by the director pursuant to any such contract shall be paid into the State Treasury to the credit and in augmentation of the current appropriation for the support of the authority.

LEGISLATIVE HISTORY

1. Added by Statutes 1943, Chapter 30, Section 1, page 159, effective February 9, 1943.
2. Amended by Statutes 1945, Chapter 639, Section 15, page 1181, substituting "the director" for "the authority" at the beginning of the section and in the second and third sentences.

Authorization is also found in the Penal Code, Section 1203.13:

Section 1203.13. (Establishment of council or committee to prevent crime: Cooperation or participation by probation officer.)

The probation officer of any county may establish, or assist in the establishment of, any public council or commitee having as its object the prevention of crime, and may cooperate with or participate in the work of any such councils or committees for the purpose of preventing or decreasing crime, including the improving of recreational, health, and other conditions in the community. (Added by Statutes 1947, Chapter 876, Section 1.)

The coordinating councils have long experienced the need for communication to enable them to share experience and exchange information on methods used by various communities. The coordinating councils' request for funds and personnel can be found in Assembly Bill No. 2754.

OTHER AGENCIES

The State Recreation Commission and local recreation departments in communities throughout the State make maximum use of their facilities and personnel in an attempt to help cope with the problem. In a few areas, the only organized effort in the community stems from the Recreation Department. Sterling S. Winans, Director, in his report to the committee dated August 29, 1956, calls attention to the need for additional recreational services. The following is a quotation from that report:

Insufficiency in Number of Local Public Recreation Park Agencies and Local Funds

Approximately one-half of the incorporated cities—primarily smaller cities—do not have an established recreation park agency. Of the 58 counties, 37 have not established an appropriate agency to administer recreation park services in county government. Hundreds of unincorporated communities are without personnel and facilities to provide organized recreation opportunities for youth or to provide direction to youth who would work on recreation projects as proposed in Assembly Bill No. 662.

Public recreation park services in local communities, where these services exist, are financed entirely from local tax funds of cities, counties, school districts and special districts. These funds are nominal in the amount available. The capacity of a local jurisdiction to set aside funds for capital purposes to acquire land and water sites and facilities for future development is limited. Table 3 indicates the minimum and maximum operating budgets of 232 local public recreation agencies for 1954-55 by population range.

Additional funds would be needed by existing local recreation park agencies if youth were to be engaged for productive and meaningful work projects. Funds in an increased amount may be needed by cities and counties which have not already organized a recreation agency and have not been allocating funds for public recreation park services.

Recreation Park Agencies Can Provide Constructive Work Experience

Boys and girls could be employed by local recreation park agencies in work which would be challenging and which gives youth an opportunity to explore the professional recreation field as a possible vocation. With proper staff time for work supervision and education, youth could be used in many construction and maintenance jobs.

In addition, supervised experience could be provided in many classifications found in public recreation agencies; e.g., apprentice

recreation leader, group activity leader, community center or swimming pool attendant, and junior activity leader in arts and crafts, dance, drama or sports.

ANALYSIS OF ORGANIZATION FOR RECREATION AND/OR PARK SERVICES

SELECTED CALIFORNIA COUNTIES

County	Commission Established	Administrator Employed for			Services Provided		Allocates Funds to Cities/School Districts
		Recreation	Parks	Recreation and Parks	Recreation	Parks	
Contra Costa	X	--	--	--	--	--	--
Del Norte	X	X	--	--	X	--	--
Fresno	X	--	--	--	--	X	--
Kern	X	--	--	X	X	X	X
Los Angeles	X	--	--	X	X	X	X
Madera	X	--	--	--	--	--	--
Mariposa	X	--	--	--	--	--	--
Merced	X	--	--	X	X	X	X (Also provides personnel)
Monterey	--	--	--	--	--	--	X
Orange	--	--	X	--	--	--	X (For lifeguard service only)
Riverside	--	--	X	--	--	X	--
San Diego	X	X	X	--	X	X	--
San Joaquin	--	--	X	--	--	X	X
San Luis Obispo	--	--	X	--	--	X	--
San Mateo	X	--	--	X	X	X	--
Santa Barbara	X	--	X	--	--	X	X
Santa Clara	X	--	X	--	--	X	--
Stanislaus	X	--	--	X	X	X	X

Compiled by State of California Recreation Commission (XI-A-2), June, 1956

The Division of Labor Law Enforcement of the Department of Industrial Relations administers the child labor laws and is especially interested in disabling injuries to young workers. The Labor Commissioner, Edward P. Park, worked closely both with this subcommittee and the Assembly Committee on Industrial Relations which gave careful examination to the oft-repeated claim that our child labor laws are too restrictive. This subcommittee shares the conclusions reached by the Henderson Committee on Industrial Relations that no change is indicated in our child labor laws for they serve to shield young workers from hazardous employment. No verification whatsoever could be made for the claim these laws prevent nonhazardous employment. The following statistics are of interest in this regard:

Year and age group	*All disabling injuries* [a]			*Fatal injuries*
	Total	*Boys*	*Girls*	
1955—Total under 18 years	2,179	1,943	236	4
Under 14 years	97	83	14	--
14-15	321	285	36	1
16-17	1,761	1,575	186	3

[a] Disability causing absence from work beyond the day of the accident

"Between 1954 and 1955, the total number of disabling injuries to workers under 18 years of age increased by 20 percent from 1,815 to 2,179.

The number of injuries to minors under 16 years of age increased by 31 percent from 319 in 1954 to 418 in 1955.

The number of young workers killed on the job decreased from seven in 1954 to four in 1955."

The Governor's Conference on Children and Youth, in its last session, gave major consideration to the need for employment, the need to develop more employment opportunities for youth, and the need for more vocational counseling and training.

The California Youth Authority gave the subcommittee enthusiastic support and very helpful guidance in its search for facts. Based on their own experience, the staff members of the Youth Authority have an unusual sympathy for the actual need for employment of young people to guide active energies along constructive lines. The subcommittee commends the Director of the Youth Authority, Hemen G. Stark, for his personal interest in the total problem of youth. It is especially grateful to Norman Nevraumont for his thoughtful and courteous assistance.

Employer groups are cooperating, and are making available sundry services to state agencies. An example of the work in this field is the publication by the Safety Engineering Department of the Industrial Indemnity Company entitled, "Employment of Minors" which graphically portrays the laws affecting the employment of young people between the ages 12 to 18.

This subcommittee was in touch with several employers in an effort to learn their experience. One packing firm replied:

> The work is too strenuous for adolescents still undergoing physical development. * * * and state laws prohibit the employment of minors under 18 years of age for more than eight hours a day.

A firm employing a great many salespeople replied:

> There are no legal restrictions which prevent us from employing a few 14- and 15-year-olds

A manufacturer frankly admitted:

> There is the risk of incurring the ill will of people who *believe* it is against the law to employ minors under 16

JUVENILE DELINQUENCY

This subcommittee is properly proud of the estimated 98 percent who are well-adjusted youngsters and do not make the headlines as "delinquents," yet the need for an effective preventive program was clearly demonstrated in the testimony given by C. R. Byrne of the California Youth Authority at the August 29, 1956 conference. In reply to a question from the chairman, Mr. Byrne stated it costs the State and the taxpayers more money to send someone to the Youth Authority than it does to send a boy for a full year to Notre Dame. The cost of care furnished by the Youth Authority ranges from $2,500 to $4,400, depending on the size of the institutions. The smaller institutions, and those caring for girls operate at a higher cost, but the average is $3,600 per year per person. It was concluded that if a proper youth employment program could effectively prevent 10 youngsters from becoming wards of the Youth Authority, the saving to the State would be $36,000. If this number could be increased to 100, the savings would go to $360,000, etc.

The subcommittee pays tribute to the 98 percent by joining the City of Modesto in emphasizing the positive. In its search for an appropriate name by which to designate the 98 percent who conform to our laws and society, Modesto selected Dianne Storch as its sweepstakes winner. Dianne, a 14-year-old student of Downey High School, received a wristwatch for her entry which is quoted below:

> "My choice for a name for teen-agers is 'HI-FI's.' It is short and snappy. It is an expression we all know and understand as we love hi-fi musical recordings. It is really contemporary with our time. Hi-Fi is an abbreviation of high fidelity, and while it is complimentary, it doesn't sound 'goody-goody' enough to be embarrassing.
>
> "High refers to our age level—junior high and high school.
>
> "Fidelity is defined as: 'loyalty, or faithful devotion to duty or to one's obligations.' It also means: 'accuracy of reproduction.'
>
> "Most of us would be happy to be reproductions of the fine qualities that make our parents such good citizens, such as:
>
> *H*onesty
> *I*ntegrity
> *F*aith
> *I*ndustry
>
> the heritage upon which our country is built. All that adds up to High Fidelity and should make any teen-ager proud to be called a 'HI-FI'."

APPENDICES



Workreation!

It's a *new word* in the teen-agers' vocabulary all over Berkeley, California. It means just what it says: four hours work for which he or she is paid, two hours supervised recreation five days a week for five summer vacation weeks.

Workreation Camp provides a work and recreation program for 14-17-year-old boys and girls who, because of their youth and inexperience, would not be able to procure summer jobs. Designed to give youngsters work experience as well as an opportunity to earn their own money, Workreation Camp is Berkeley's answer to "All play and no work can make Jack (and Jill) a problem to himself, his family and his community." Providing gainful occupation during the summer has proved a very positive means of curbing juvenile delinquency, though the program stands on its own feet and does not attempt to "do good" in this respect.

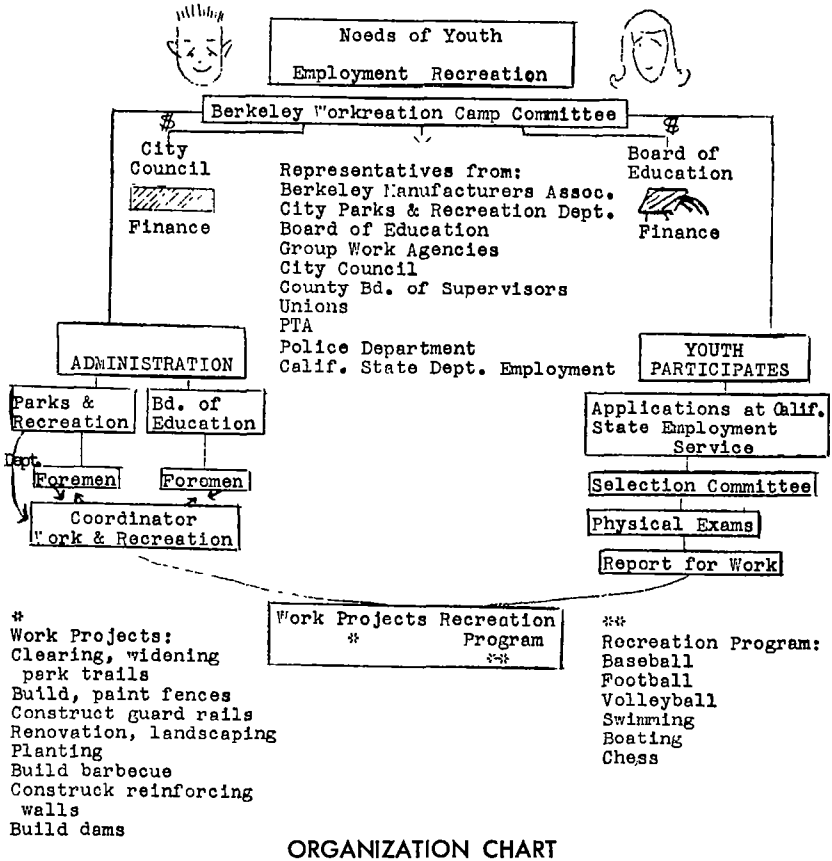
How did Workreation start? The background or "reason for" fits most communities' economic picture. Hundreds of boys and girls besiege employers for summer work which does not exist. Knowing that teen-agers' interests and needs require physical work and fair wages for work done, Berkeley employers could not realistically absorb the youth of the community every year between June and September.

Prompted by concern for these teen-age children, a group of Berkeley citizens faced up to the problem four years ago. They asked the president of one of the heavy industries characteristic of the city and typical of the plant unsafe and unsuitable for teen-age labor, to serve as chairman for a city-wide committee to work on the problem. The manager of the California State Department of Employment, an executive of the Y. M. C. A., members of the City Council and the Board of Education and representatives of the city playgrounds, the Park Department and P. T. A. met to do something about a work experience for teen-agers. Thus the Workreation Camp Committee was formed.

What Is It?

A budget was drawn up and work projects were set up and submitted to the city council. Details of workmen's compensation, public liability, social security, income tax deduction, work permits, payment at end of program, clearance with labor commission, contracts of hire were all worked out. When the summer of 1952 arrived, for the first time there was a program waiting for teen-agers financed by the city and the board of education. The program was administered by the Berkeley Workreation Camp Committee.

How Does It Operate?



ORGANIZATION CHART

Charts Confuse You?

The plan for 1955 is for 45 boys and ten girls to be employed; the same number of alternates will be selected in case some drop out during camp.

From over 200 applications the Selection Committee, headed by the manager of the Berkeley office of the California State Department of Employment, will choose the workers as well as the alternates.

Selection of the boys and girls is determined by their age (14-17 years old), their social need of work experience carrying as much weight as their economic need. All races and religious groups are included. Selection is also made on an equal neighborhood basis. This last rule assures inclusion of teen-agers from various social and economic areas of the city.

Herrick Memorial Hospital staff personnel will give physical exams to all the youngsters to assure their fitness for the work.

The lucky teen-agers will be given contracts of hire which they and their parents must sign. Reporting to work, the boys are assigned to work units in city parks, on school grounds, at the model yacht harbor, or wherever there is work teen-agers can do.

They work under the supervision of regular park and board of education foremen. An orientation meeting is held for the foremen to prepare them for supervising teen-age workers.

A coordinator visits work projects during work hours on a spot check basis for the purpose of observing youngsters at work, discussing any problems the foremen may have with the boys, either from standpoint of discipline or work. The coordinator is also in charge of the afternoon recreation program.

Workreation youth carry their own lunches The boys will meet after lunch for two hours of baseball, swimming, volleyball, checkers, chess, etc.

What Are the Results?

Berkeley and the boys and girls help each other!

In an informal briefing given them on their first day on the job, the youngsters are told that the 115,000 people of Berkeley will be their bosses and will be extremely interested sidewalk superintendents. *And they will be!*

Since 1952 Workreation Camp boys have completed these work projects:

1. General renovation of the Model Yacht area in Aquatic Park preparatory to landscaping, path repairs, sea wall repairs, removal of old shrubs and replanting. Model Yacht representatives from all over United States and Canada expressed satisfaction with work done.
2. Built barbecues (materials for these projects were donated by service organizations such as garden clubs, Exchange Club, etc.).
3. Built and painted fences.
4. Cleared park trails and widened hundreds of feet of side trails.
5. Built redwood steps and constructed guard rails.

6. Planted trees and shrubs.
7. Built retaining walls.
8. Logging crew cleared 9½ acres of park land.
9. Felled trees resulting in five cords of sawed wood.
10. Brushed out seven miles of new trails, put them in condition and "signed" them.
11. Built four bridges.
12. Built forest nursery.
13. Demolished old army barracks, used good wood to build model ranch house.
14. Built stone shelter with fireplace, now used by countless hikers.
15. Built cement and stone creek dams.

Asked to comment on the *quality of work done*, the parks superintendent and the "big boss," wrote in part, "All work accomplished was of a top or No. 1 variety which would have eventually been done by the Park Department men themselves. The boys worked well and followed orders willingly. It is my honest belief that this has been a very constructive program which has been of great benefit, not only to the boys, but to the city itself."

Excerpts from the park foremen's reports follow:

"Workreation boys worked diligently * * * were taught the use of snubbers, saws, and other necessary tools used in this work. The boys gained information on the use of cement by reinforcing a retaining wall * * * also cemented rocks in the fireplace to form a firebox. They did a splendid job in putting the park in first-class condition." One of the boys developed such an interest in the job that the boy has applied for a steady job with the city park department.

Another foreman who worked with boys assigned to excavate, build steps and walks in a uniquely designed playground comprising several levels and located on a steep hill slope, wrote: "We are frankly proud of the boys. My group not only had a desire to work, but were eager to learn and enthusiastic toward doing their job well. And it was a tough one!"

A Berkeley juvenile officer stated: "One of the finest summer programs Berkeley has ever had for boys."

Characteristic of the parents' comments about the program:

"This program has given my son an opportunity to learn and do useful service, build up his own self-esteem, add to his friends, and enhance his college savings * * * definitely constructive and beneficial."

"We couldn't afford to send him to camp, and the work he did at Tilden Park was almost like a vacation to him. It's hard for a boy 14 years old to stay home and not have anything to do, and he was so proud to have the chance to earn his own money."

"Bob wasn't too interested when he first started, but his attitude certainly changed after he had worked a few days. He liked the work very much. He's rather hard to get up in the mornings but got up

readily each morning while working for Workreation. I feel he really gained so much in the few weeks that he worked."

"I think the Workreation camp is a wonderful thing. It keeps the youngsters out of trouble, and also keeps them out of the streets. It is a means of keeping their minds occupied, because they have to think to master their jobs."

Another parent thanked all concerned "for taking an interest in teen-age boys and for having such a well-rounded program, also for giving us, the parents, such peace of mind during these five weeks."

As to a Few Pertinent Statistics

Each teen-ager earned $80. With this money 21 planned to buy their own school clothes, 18 banked their earnings toward college tuition, one bought car insurance, nine planned to use their earnings as spending money. They all gained an average of five pounds; one gained 12½. Park foremen frequently spot an "Alumnus" showing his work to a friend or member of his family whom he has especially brought into the park to show off his Workreation camp project.

This could happen in any city, and Berkeley's Workreation Camp Committee and the teen-agers hope it will.

For suggested forms, turn page:

THIS IS A COPY OF THE INSTRUCTION SHEET, ON WORKREATION STATIONERY, GIVEN TO EACH APPLICANT

INSTRUCTION SHEET

(Read this carefully and do exactly what it says)

Several hundred boys and girls have registered for the Berkeley Workreation camp. We are sorry that we only have enough money to hire a small percentage of those who are interested. You may or may not be selected.

1. You will be notified by mail, by July 18th, *if* you have been selected.
2. If you receive a notice, do exactly what it says.
3. If your plans change and you are no longer interested in working for the Berkeley Workreation camp, or if you feel that you cannot abide by the rules below, telephone the Employment Office —TH ornwall 3-1389—so that someone else may be selected in your place.

RULES

1. Workers will meet at a designated place at 8.00 a.m. Mondays through Fridays.
2. Boys will go to and from work projects in transportation provided. No privately owned cars will be allowed.
3. Workers will bring their own lunches. All workers will eat together at the same place.
4. No smoking during the Workreation program.

5. Workers must participate in both work and recreation program for the entire program.
6. Infringement of any of these rules will be cause for instant dismissal.

THIS IS A COPY OF THE BULLETIN SENT OUT ON WORKREATION STATIONERY TO EACH BOY WHO HAS BEEN SELECTED FOR THE PROGRAM

VERY IMPORTANT
(Do exactly what this says)

Congratulations!

1. You have been selected to participate in the Berkeley Workreation Camp!
2. Report to Herrick Hospital (Out-patient clinic), Haste Street, at 1 p.m., Wednesday, July 20th. (If you do *not* pass the physical examination, you will be notified.)
3. Please sign the enclosed contract and have your parent or guardian also sign it.
4. Get your work permit at _____.
5. Bring your signed contract and work permit to the employment office on Wednesday, July 27th. There will be some one from the City of Berkeley to help you fill out the necessary papers.

NOTE

1 Work starts Monday morning, August 1st. Be at _____ Street, Berkeley, at 8 a.m.
2. Bring your lunch.
3. If your plans change and you are no longer interested in working for the Berkeley Workreation Camp, telephone the Employment Service, Thornwall 3-1389, *at once*, so that someone else may be selected in your place.

COPY OF BULLETIN SENT TO BOYS CHOSEN AS "ALTERNATES"

IMPORTANT

1. Because of limited funds only 45 boys could be chosen as "regulars" for the Berkeley Workreation Camp. You have been selected, however, as an "alternate." In the event some of the boys quit, change their plans, or are separated, we will get in touch with you.
2 So that you will be all set to go, in case you are called, *please report to* Herrick Memorial Hospital at *1 p.m.*, on *Wednesday, July 20th.* The physical examination will be at no expense to you.

COPY OF BULLETIN SENT TO ALL APPLICANTS FOR THE WORKREATION PROGRAM

IMPORTANT

All boys and girls who applied for the Berkeley Workreation Camp will be interviewed by the Selection Committee. Please report to the State Employment Service, 1375 University Avenue, on July _____, at _____ ___m.

MARJORIE WALKER, Chairman
Selection Committee

P. S. If you have found other work, or are no longer interested, please so notify the Employment Office, Thornwall 3-1389.

THIS COPY IS SENT OUT ON WORKREATION STATIONERY

To the parents or guardians of boys who participated in the Berkeley Workreation Camp

The committee who sponsored the *Berkeley Workreation Camp* in which your son participated is interested in knowing how you, as a parent, feel about the program. This is the third year the program has operated, and in order to plan for next year we are anxious to have your cooperation

Last year, as well as this year, the program was financed by the City of Berkeley and the Board of Education, hence the work was all done in the city's park, playgrounds, and school property.

Over 300 boys registered at the Employment Service, of which only 45 were selected, plus the alternates. These boys were chosen from all sections of Berkeley. Incidentally, the boys chosen were considered by the Selection Committee to be best qualified for the program.

We wish you could see what the boys accomplished. We think a monumental job was done. We also think to a great extent that this was due to the adult supervision the boys received. In addition the projects the boys worked on were excellent —not too hard, not too easy—just right; plus the boys could see with their own eyes each day's accomplishments.

After lunch, the boys participated in a planned recreation program—swimming, baseball, volleyball, and other activities were included.

We shall appreciate your sending back the enclosed questionnaire in the self-addressed envelope. We would particularly appreciate comments as to what value you think the program has for the younger teen-age boy.

Sincerely yours,

MARJORIE WALKER, Secretary
Berkeley Workreation Camp Committee

To the Parents or Guardian of the Boys of the Berkeley Workreation Camp:

As a parent or guardian:

1. How do you feel about the *Berkeley Workreation camp plan?*_____ _____
   I approve I do not approve
2. Do you feel that your son benefited from the experience? __ __ If "yes," how?
   Yes No
   _____
3. Do you feel the work he did was worthwhile? ____ ____
   Yes No
4. Do you feel he learned anything useful? ____ ____
   Yes No
5. Do you think the work he did was too hard physically for him? ____ ____
   Yes No
6. Do you think your son feels a personal pride or interest in the work he did?
   ____ ____
   Yes No
7. Do you approve of the recreation program? ____ ____
   Yes No
8. If your son had not worked on the Workreation Camp, what approximate time would he have gotten up in the morning? _____
9. During the five-week program, what approximate time did he go to bed? _____
10. If he had not worked during the program, what approximate time would he have gone to bed? _____
11. Do you think your son gained or lost weight during the five-week period?
    _____ _____
    Gained (approximately how many pounds) Lost (approximately how many pounds)
    _____
    Stayed the same

12 Do you know what your son plans to do with the money he earned?

_____ _____ _____ _____

Buy clothes Spending money Bank Don't know

13 Do you think an attempt should be made to repeat the program next year?

_____ _____

Yes No

14. If we have another program next year, and your son does not get another job elsewhere, would you like him to be considered? ____ ____

Yes No

15. Did your son make friends with boys he might not have met if it weren't for the camp? _____ _____

Yes No

16 Do you feel that your son feels a personal interest in the City of Berkeley or the Board of Education now that he has worked there? _____ _____

Yes No

We would appreciate it if you would write your suggestions, criticisms, or comments on the back of this sheet.

_____

Sign your name only if you want to

CONTRACT

DATE_____

I, _____, in consideration of the opportunity provided me for experience in working and enjoying recreational activities at the Berkeley Workreation Camp to be held in Berkeley parks, playgrounds, and school grounds, from July 26 to August 27, 1954, accept this agreement under the following considerations:

1 It is understood that this program will include a work period from 8 a m to 12 M Following the lunch period there will be a program of recreational activities to 3 p m for a five-day week, Monday through Friday, inclusive.

2 It is understood that I will provide my own means of getting to any designated location in Berkeley.

3 It is understood that my services for the four-hour working period will be compensated at 80 cents per hour

4. I agree to furnish my own lunch

5. It is understood that my acceptance as a member of the group is based on my ability to pass a physical examination which will be provided at no expense to me.

6. I agree to provide a work permit.

7. I understand that during the time of my employment I will be covered by Workmen's Compensation Laws.

8 I understand that the City of Berkeley or the Berkeley Board of Education may withhold Federal Income Tax where this is required under the law.

9 It is understood that for lack of interest on my part, infraction of the rules during work or recreation period, or inability to do the work assigned, the Recreation and Parks Department of the City of Berkeley or the Berkeley Board of Education reserves the right to dismiss me

10 In signing this agreement, I do so with the understanding that payment for my services will be made at the termination of the camp period, or at such time as my work may be terminated prior to this time for just cause

_____ (Signature of Employee)

Approval for my son or ward to participate in Berkeley Workreation Camp for the summer season of 1954 as outlined above is hereby granted

_____ (Signature of guardian)



SUMMARY OF PUBLIC HEARING MARCH 26, 1956

A public hearing on Assemblyman Rumford's Assembly Bill No. 662, 1955 General Session, and alternative proposals for youth experience programs was convened by the subcommittee chairman, Assemblyman William A. Munnell, at 3.45 p m with the following members present: L. M. Backstrand, Ernest R. Geddes, William A. Munnell, chairman.

Assemblymen Donald Doyle and John McFall were unable to attend. Others present included Mrs. Marian Kober, executive secretary, and Bernard Czesla, deputy legislative counsel A verbatim transcript of the hearing was prepared by Margaret O'Connor, certified shorthand reporter, and is available for examination in the committee files.

Chairman Munnell called upon Assemblyman Rumford to discuss Assembly Bill No 662 and introduce witnesses who made the trip to Sacramento to give the subcommittee the benefit of their observations and experience. Assemblyman Rumford submitted recommendations for amendment of Assembly Bill No. 662 as proposed by the Berkeley Workreation group. Neither the original bill nor the new amendments were offered as a rigid formula for it was recognized that further changes may be necessary to effect widespread support for the project The premise behind the proposal was the urgent need for providing work experience for 14-, 15-, and 16-year-old boys and girls. The experiment on which Assembly Bill No. 662 was based was highly successful in the Berkeley, Albany, and Oakland area, and it was considered desirable to expand the program to a state-wide basis.

Marjorie Walker, manager of the Berkeley office of the Department of Employment, spoke as a member of the Berkeley Workreation Camp Committee She traced the development of the idea during the past 5½ years. When it was acknowledged that there were no jobs available for the younger teenagers, the Berkeley City Council appropriated $3,000 and the Board of Education furnished a sum of money. During the past year employment was furnished to 45 boys and 10 girls. The young people were paid 80 cents an hour or $3 20 per day and then reported for two hours of planned recreation in the afternoon They worked under supervision at tasks that needed to be done, and all the money appropriated went for salaries.

Harold V. Lucas, member of the Berkeley Workreation Camp Committee, submitted a copy of a study made of the number of communities with population of 4,000 and up that might benefit from a workreation program It was found there were 198 such communities throughout the State If each community appropriated two-thirds of the cost, $522,500 would be available on a matching basis with the State contributing the remaining one-third or $175,000, totaling almost three-quarters of a million dollars that could be used as salaries for an estimated 6,967 young people. The Berkeley program covers a five-week period, and it was hoped that some means might be devised to utilize the facilities of state and federal parks to expand the program further.

Assemblyman Backstrand asked, "* * * do you feel that you get out of this 80 cents an hour 80 cents worth of work? Does the city actually gain in the matter of economic worth, or is it a give-away program? * * *." Mr. Lucas replied the city received full value on its expenditure.

Jacqueline Watkins, representing the Recreation Department of the City of Berkeley, distributed copies of a report which explained the project and listed the type of work accomplished and the results achieved The young people were selected by the Department of Employment, and were given free physical examinations at a local hospital. Young men cleared trails, built stone huts or shelters, constructed barbecue pits, planted shrubbery, etc. Their recreation was supervised by a trained physical education instructor.

Assemblyman Backstrand expressed sympathy for this type of project and made comparison with the Twin Pines Camp in Riverside

County which Mr. Backstrand helped organize and which is now internationally famous for its work with youngsters who have some record of difficulty in the community

Fred Carpenter, President of the Berkeley Workreation Camp Committee and also president of the Advance Pump Company, emphasized the need to provide young people with work experience in addition to school instruction He stated that none of the work was "made" work; that the city could use three times as many young people if it had the money to pay them While only 45 young people were selected last year, more than 400 applicants were interviewed. No effort was made to base selection on a means test. Community support for the program was considered important, and applicants were accepted from all areas of the city Selection was made on the basis of the young person who might make the best showing. The program was deliberately scheduled late in the summer to give maximum opportunity for the young people to find work elsewhere and thus eliminate those who could be placed in other work.

Bruce West, participant in the Berkeley Workreation Camp Committee, came to Berkeley two years ago from Seattle. He was accepted a year ago when he was 14, and worked in a city park. He earned the full $80, spent $30 on clothes, and put the balance in the bank. He could not find work elsewhere

Kristen Palmquist, participant in the Berkeley Workreation Camp Committee, came to Berkeley from Washington, D. C., a year ago, and worked as a junior counselor in the Berkeley Day Camp She is the eldest of six children, had never previously had work experience, and wanted to earn some money to apply on her tuition to Mills College which she is now attending. She worked with children of many nationalities, and felt that her work experience was invaluable as leadership training.

Forrest Ammons, participant in the Berkeley Workreation Camp Committee, now 17 years old, is a resident of Berkeley and a member of the Berkeley High varsity basketball team this year. He worked at Cragmont Elementary School and did general landscaping work. He earned the full $80, spent part of his money on clothes, and put the balance in the bank. He is one of five children and appreciated the opportunity to earn money as well as help the community. He intends to continue his education and go on to college.

Charles Josephs, participant in the Berkeley Workreation Camp Committee, is now 16 years old. He worked in the city parks, earned the full $80 and spent it all on clothes. He liked the work and the experience it gave him. His friends considered him very fortunate to be accepted and would like to be participants also.

John C. Longaker, member of the Albany Board of Education, also manager of the Heinz plant in Berkeley, advocated reconsideration of the current laws prohibiting young people under 16 years of age from working around moving machinery. Heinz employes young people between the ages of 16 and 18, but the law prevents them from hiring young people under 16.

He stated, "* * * I don't think a youngster's self-respect starts at age 19 or 20 * * * I think there is something called ego satisfaction. * * * And I think those as well as the monetary needs are vital and

necessary to children. * * * I think they want to be divorced from their parents for their entire needs. * * * I think the youngsters have to have something that belongs to them, some real satisfaction, some creative needs, some constructive employment."

He continued, "And I think there are certain human values. If I were to sit on a city council, and I have sat on budget committees, I would weigh the finances as opposed to the values to these youngsters We are spending millions on our jails Medicine, certainly, many years ago spent most of its time trying to cure the ills after the ills happened. Now they are doing what they call preventive medicine. Certainly if there is any real obligation that can be absorbed by adults, we in the State of California can absorb part of that responsibility. * * *

"I think that possibly if the youngsters could satisfy some of their own economic needs, maybe we could have more parents staying home with their children. The needs today certainly are commensurate with the way we are living. I think parents are vitally necessary to children, and by the same method of thinking that children have to be recognized in society. They've got to show the people with whom they associate that they are a part of society, can be creative on their own, can produce on their own, whether it's monetary or a question of human values. * * *

"I don't know of any better way that we, as parents and adults in the State of California, can share our real faith in the youngsters today than to invest in the future of our youth, and I say that from the bottom of my heart. What kind of a nation we have tomorrow is going to depend on what we do with our youth today."

Shirley Hastings, policewoman of the Berkeley Police Department, working with the Juvenile Bureau, endorsed the project as giving youngsters "an opportunity to combine work with healthful activity." Some of the youngsters selected had been in minor difficulties previously, but she had no statistics to report on the results experienced, except to state the opinion that all participants benefited.

Ed T. Merritt, business representative of the I. A. M. of Berkeley, also a member of the Alameda Central Labor Council and the Contra Costa Central Labor Council, gave the viewpoint of labor. He gave his hearty endorsement of the project as being a "joint effort between all segments of the community," to solve the problem. He, too, recognized that some changes may be desirable in the current law which prohibits industry from employing young people under the age of 16. He felt such employment would in no way interfere with the regular apprenticeship program now underway.

Robert McNary, President of the Berkeley Council of Social Welfare, expressed the pride his organization felt in the work achieved in the past. They are recommending expansion to include more young people.

Adele Gruenig, past president of the P. T. A. of Berkeley and volunteer worker in the Workreation Committee, praised the extra values derived from the program. The P. T. A. thought so highly of the program that they contributed a small sum of money, and wrote a report of the achievements in the P. T. A. magazine.

Pierce H. Fazel, Chief Administrative Analyst of the Department of Finance, appeared to discuss his report entitled, "Organizational Aspects of a Youth Work Experience Program," which was made a part of the record of this hearing. This was supplemented by a letter dated January 19, 1956, addressed to Mr. Rumford, giving additional information. Chairman Munnell requested that Mr. Fazel make any necessary revision of his earlier report to cover the amendments presented at this hearing.

Mrs. P. B. Bevil, Vice Chairman of the Governor's Advisory Committee on Children and Youth, appeared at the request of Dr. Charlotte Elmott of Santa Barbara, who was unable to attend. A letter addressed to the chairman by Doctor Elmott was made a part of the record for it gave a report of the Santa Barbara activities. Mrs. Bevil stated that the Governor's committee has been interested both in the Santa Barbara and the Berkeley experiments because one was not exclusive of the other. The Santa Barbara program was integrated into the total educational training for young people while the Berkeley experiment is a summer or vacation-type program.

The Santa Barbara people are withholding their own recommendation for expansion of their effort on a state-wide basis until after they have submitted their proposals for amendments of the Education Code for consideration by the State Legislature. The Governor's committee approves both the Santa Barbara and the Berkeley programs.

E. R. Deering, President of the Sacramento Youth Employment Organization, traced the development of this group. It is incorporated as a private community nonprofit organization with the express purpose of promoting jobs for young people as constructive training for adult responsibilities. The organization is two years old. It circulated questionnaires among students at the junior and senior high school levels to determine how many were interested in finding employment. It has been successful in placing approximately 2,000.

The Department of Employment was able to expand its junior employment service to permit it to do all the necessary work entailed in classifying, indexing, and filing registrations as well as in making the actual placements. It is estimated that approximately 10,000 young people will register for work this summer, and plans are now underway to try to locate jobs for at least half of them. No effort is made to integrate the placements with the ongoing training in school; however, young people preparing for clerical work can sometimes be placed in offices.

Chairman Munnell requested that the Department of Employment provide a tabulation of the breakdown of the placements made in the past, showing the nature of the work and the number placed in each category.

George E. Hogan, Deputy Superintendent of the Department of Education, presented a statement prepared by Doctor Connor; however, he commented that the revisions made in the new amendments to Assembly Bill No. 662 change the situation. They limit the program to 14-, 15-, and 16-year-olds, and also restrict it to the summer vacation period. The schools have traditionally assumed responsibility for a work experience program that was coordinated with training for a

career. Mr. Hogan commended Mr. Rumford and the Berkeley group for their concern with the problem of finding work for young people.

Mr. Hogan asked for clarification of the term "workshop" as used in the amended version of Assembly Bill No 662. Mr. Lucas replied that the word "conference" may be more correct terminology for it was felt there was need for orientation and discussion among the various groups affected by the program.

Assemblyman Geddes referred to work done at Camp Guyamaca in San Diego County where the city and county schools make use of a former CCC camp The students live at the camp for a one-week period during which they are taught practical application of their classroom instruction of conservation and nature studies. He asked whether there might be any conflict between such a program and the Berkeley experiment. Mr. Hogan replied there was no conflict

Chairman Munnell requested that Mr. Hogan study the amended version of Assembly Bill No. 662 more carefully and submit a supplemental statement to that prepared by Doctor Connor

Sterling Winans, Director of the Recreation Commission, commended the Berkeley people for their project, approved the recommendation that an advisory committee be established to coordinate the effort of all state agencies, and called attention to the insufficient recreation facilities in areas where people live. He offered to assist, and raised the question of defining the group or jurisdiction to which a state grant could be made.

H. W. Stewart, Director of the Department of Employment, expressed the interest of his office in the Rumford proposal as evidenced by the fact that he was accompanied to the meeting by Messrs. McCaffrey, Hicks, and Campbell. He praised the quality of service performed by Mrs. Walker, Manager of the Berkeley office of the Department of Employment, and stated she was representative "of the fine people we have in the department."

Maurice McCaffrey, Principal Counsel of the Department of Employment, stated that both he and Mr. Campbell, Chief of the Division of Public Employment Offices, were available to answer questions The official statement filed with the committee was based on Assembly Bill No. 662 as amended in the Assembly on April 13, 1955, and did not cover the new revisions.

"The problem," he said, "is basically a legislative one It does represent an extension over some of the type of work we are doing now, and, of course, whatever legislation the committee enacts the department would be glad to administer the best it can. * * * There are certain problems relative to definitions and terms, and some of the terminology used in the bill. At a more appropriate time * * * we will be glad to sit with the committee and discuss them and offer them our technical assistance."

Chairman Munnell made the official statement of the Department of Employment, dated February 27th, a part of the record, but gave the department the privilege of amending it to cover revisions submitted at this hearing.

Mrs. J. Frank Snowden, Legislative Advocate of the California Congress of Parents and Teachers, stated her group had not taken a position on Assembly Bill No. 662 because the members had not had an opportunity to study it; however, they approved any effort to enact legislation to "solve some of our problems and give our young people more of an opportunity for work experience."

Assemblyman Geddes advocated a broader approach to the total problem. He acknowledged the values of summer work in the parks and schoolgrounds, but felt a solution limited to such a program might be too narrow. He preferred that it be made a part of the ongoing training for a career to provide students with practical experience for actual employers rather than have them receive their compensation from an impersonal "fund." This would necessitate a re-evaluation of the laws now affecting employment of students under 16 in industry. The separate reports should be coordinated an analyzed to enable the committee to make its recommendation for legislation.

Assemblyman Backstrand also expressed the need for further study to determine the appropriate state agency to administer the Rumford proposal. His attention was called to the report prepared by Mr. Fazel of the Department of Finance; however, he suggested that it might be well for the Legislative Counsel to prepare an opinion.

Assemblyman Rumford cautioned against loading the pilot program with administrative costs so heavy that it would discourage approval by the Legislature. The need for work experience for the younger teen-agers is immediate, and interest in the Berkeley experiment has been manifested not only from other parts of this State but also from other states throughout the Country. He acknowledged the importance of the work conducted by the Department of Employment with limited funds. It was the purpose of his proposal to augment this service. He, therefore, asked that the subcommittee give favorable consideration to his measure and keep him apprised of any further hearings.

Chairman Munnell stated it probably will be necessary to have a supplemental hearing on this proposal, possibly to be scheduled concurrently with another subject. At that time the subcommittee will review the information gathered and make its recommendations which Chairman Munnell hoped would prove "beneficial and helpful to the youth of the State."

Chairman Munnell entered into this record copies of letters received from Helen R. MacGregor, member of the California Youth Authority, addressed to the chairman, and from Mr. Richard Walpole, General Manager of the East Bay Regional Park District. Both letters endorsed the Rumford proposal.

The hearing adjourned at 6.10 p.m.

Respectfully submitted,

MRS. CHAS. B. KOBER,
Executive Secretary

QUESTIONNAIRE ON YOUTH EMPLOYMENT

1. What is the total population of your city? _____
   a What is the teen-age population between the ages of 14 and 17 inclusive? Boys_____ Girls_____

2. How do you rate your employment problem for the younger teen-agers between the ages of 14 and 17 inclusive?

	No problem	*Minimum problem*	*Maximum problem*
Boys:	_____	_____	_____
Girls:	_____	_____	_____

3. What is your community doing to meet the employment needs of these young people through such organizations as employment service, Chamber of Commerce, community committees, service clubs, etc? (Use more space if necessary.)

4. Do you have an organized recreation department? Yes_____ No_____

5. Do you think there is need for a summer paid employment program for these young people in your city? Yes_____ No_____

6. Do you think your community needs legislation as proposed in Assembly Bill No. 662?
   a. Would you be interested in setting up a committee to plan a workreation program? Yes_____ No_____
   b. Do you approve the provision of matching state funds with local appropriations to provide wages for participating youth ($100 in state subsidy for each $300 from local funds)? Yes_____ No_____

7. Approximately what appropriation do you think your community would provide for a program of this kind? $_____
   a. Would this program include both boys and girls? Yes_____ No_____
   b. If limited, would you serve boys?_____ girls?_____

8. Please give your critical evaluation of Assembly Bill No. 662, including suggestions for further revision if you care to make any

Name of organization_____

Address_____ City_____

Name of individual completing questionnaire_____

Title _____

Please return completed questionnaire to Mrs. Marian Kober, Executive Secretary, 2019 Linden Street, Riverside, California.

If more information is desired, please address your inquiries directly to Mrs. Kober.

WILLIAM A. MUNNELL, Chairman

REPORT ON REPLIES TO QUESTIONNAIRE ON YOUTH EMPLOYMENT

BACKGROUND AND DISTRIBUTION OF THE QUESTIONNAIRE

The Committee on Finance and Insurance initiated its investigation on youth employment in June, 1955, when the Assembly Rules Committee referred to it Assembly Bill No. 662 for further study. This measure, introduced and considered during the 1955 Regular Session of the State Legislature, was based on an experiment in Berkeley. The author, Assemblyman Wm. Byron Rumford, was contacted, and at his suggestion the subcommittee worked closely with the Berkeley Workreation Committee in planning its efforts. The questionnaire on youth employment was prepared by the Berkeley Workreation Committee. Only minor revisions were made by the subcommittee staff. The revised

copy of Assembly Bill No. 662 which accompanied the questionnaire was also prepared by the Berkeley Workreation Committee.

The questionnaire was mailed the third week in June of 1956 to the following people in 89 communities throughout the State of California:

1. The mayor
2. The superintendent of schools
3. The director of recreation
4. The manager of the local chamber of commerce
5. The executive secretary of the local community welfare council
6. The president of the local P. T. A. council
7. The local manager of the Department of Employment

ANALYSIS OF REPLIES

Acknowledgments were received from some communities which expressed regret that the responsible people in a position to provide the requested information were away during the summer.

In some instances replies were consolidated and one questionnaire was returned incorporating the views of all civic leaders. Frequently, the person replying indicated that the opinions expressed were purely personal and no careful survey had been made to determine prevailing views.

There was almost unanimous concern with the problem of finding employment for young people. It was reported there was somewhat more jobs available for teen-agers over 16. Young people 14 and 15 years old represented the major problem. Various efforts are being made to find solutions, but almost all have proven inadequate. It was abundantly recognized that there is need for community sponsored citizen action; that there is merit in the experiment of providing work experience as a part of the training program of the public schools; but it was also indicated that there were gaps that might be supplemented by a measure such as Assembly Bill No. 662, although numerous recommendations were made for revision of its provisions.

Replies were received from 77 percent or 69 of the 89 communities. The question was asked: How do you rate your employment problem for the younger teen-agers between the ages 14 and 17, inclusive, and the following is a percentage breakdown of the replies received:

	Boys Percent	*Girls Percent*
No problem	6	6
Minimum problem	43	48
Moderate or appreciable problem	6	7
Maximum problem	45	39

A great variety of replies were received to the question: What is your community doing to meet the employment needs of these young people? Newspapers in Palo Alto, Pittsburg, San Jose, and Santa Rosa offered free space in the classified ads section for teen-agers. Local chambers of commerce ranked close to the top along with local offices of the Department of Employment in trying to stimulate community interest and action. Twenty-five communities reported citizen organizations, although most of these were established since this investigation

was inaugurated and there has not yet been sufficient time to evaluate results. The Recreation Commission in a few communities took the initiative to help locate jobs, and the schools also offer placement services, although criticism was expressed that the effort of the schools was discontinued during the summer when the need was greatest. Comment was made on the limitations of activity by the Department of Employment in serving largely urban areas.

The program of work experience conducted by the public schools received favorable acceptance in those communities where it is being used, although one reply indicated the work experience consists only of one day a year per student. It was felt that this program was directed to the fortunate students who could continue their education beyond high school. Young people 14 and 15 years old apparently are not included, nor students 16 and 17 years old whose financial circumstances force them to hunt full-time employment upon graduation from high school.

In addition to churches and local chambers of commerce mentioned above, praise was expressed for the interest and assistance of the following groups: The American Legion, the Boys Club, the Coordinating Councils, the Exchange Clubs, the Junior Chambers of Commerce, Kiwanis, Lions Club, Rotary Club, Sertoma Service Clubs, Soroptomists, the YMCA, and the YWCA.

Comments ranged from the terse statement, "There's just nowhere near enough jobs for our teenagers," to the opinion from a rural area, "There is lack of suitable work through lack of suitable industry." One man stated, "There are few jobs available except lawn mowing," and another said, "Our present effort is only scratching the surface." Perhaps the most typical reply was, "Jobs for 14 and 15 year olds is an area where some good planning is needed There just aren't enough jobs to make a dent in the number who should have such opportunity Whenever a volunteer organization has attempted to handle this problem it has literally been swamped. There are many applicants but very, very few jobs."

Only Monterey reported the unusual situation where there was little interest among the students. A questionnaire was distributed to the student body in a local high school of 1,308 students. Only 91 or 7 percent completed the questionnaire. All 52 male students indicating interest in work were contacted for employment, but only 28 reported for referral to possible job openings Monterey has therefore concluded its problem does not warrant community action.

The question: Do you think there is need for a summer paid-employment program in your city, elicited replies from 88 percent saying *yes* and 12 percent saying *no*. A comparable division in opinion was also shown in response to the question: Do you think your community needs legislation as proposed in Assembly Bill No. 662, but the question of appropriation brought forth wide differences. Seventy-two percent of those favoring the legislation approved the formula suggested The balance or 28 percent suggested alterations indicating they would be unable to meet the 1-3 ratio. Some indicated it should be reversed 3-1, others felt it should be 2-3, 1-2, or 1-1. One small community stated, "Unless the State can contribute 75 percent of the cost, the problem can be handled by local officials with local funds."

Another community stated, "State allocation should not be based on amount of money raised by a locality but should rather be distributed on need The present plan would provide most money for wealthy communities when it should be the reverse."

The following are just a few of the comments made on the Rumford proposal:

"The new term, workreation, is very good."

"Community leaders approve."

"The idea is excellent Young people should have opportunity to work during the summer."

"We try to fill their time with recreational activity but some of this time would be better spent in gainful employment."

"We have needed a program like Assembly Bill No. 662 for a long time"

"It is a step in the right direction in the development of citizens of tomorrow."

"The Berkeley results warrant a trial on a state-wide basis."

"It is a much needed plan for the benefit of young people and the community."

"It might save more than it costs."

"The cost of administering would be greater than the benefits received."

"Although we have no need now, the program should be established to prepare for possible future need"

"We think such a program is necessary only in time of depression."

"We should provide other types of jobs also."

"It is too limited—reaches too few young people."

"It should not be a 'make work' program."

"It should be the responsibility of local citizens rather than the government."

"Some young people might not like the recreational aspects of the proposal but would want to work full time."

"We do not believe it is a permanent solution to the problem Basically employers, labor unions, and citizens generally should be made to realize that the youth of a community should be provided with normal opportunity to work."

Replies were not limited to the Rumford proposal They evidenced over-all concern with the problem of helping *normal* young people achieve acceptance through employment in their respective communities. Prior to the "age of conflict"—14 to 17—it was felt the parents had the major responsibility. The early teens presented problems of adjustment to the larger community outside the family that could be met by the assumption of responsibility by the community itself.

The most frequent recommendation for revision of the proposal came from the northern counties which protested that the bill, as presently drafted, would require that cities where the schools or the park districts have headquarters put up the money to finance the program even though the majority of the people who would benefit by it live in outlying areas. It was, therefore, recommended that the language be changed to permit projects to be established on a county basis as well as by cities.

In line with criticism of the appropriation feature, several communities made the recommendation that the legislation be permissive, declaring it to be the policy of the Legislature to give encouragement to effort by citizen groups to provide employment, and lay the foundation for local jurisdictions to employ youth in any appropriate capacity, rather than place any limitations on the program. It was pointed out, for instance, that civil service restrictions discriminate against youth by preventing municipalities from employing teen-agers under 16, 19, or 21, as the case may be.

Concern was expressed that money for the program might be taken from school funds. It was also considered very important that local control be retained. A number of communities recommended that present language be deleted so that the project would be "divorced from the stigma of preventing juvenile delinquency."

All agreed there was "dire need for coordinated effort." A few recommended that the program be administered by the Department of Education or the Recreation Commission. Some made the suggestion that the Governor be required to establish a special Commission on Youth which would permit facilities of the Departments of Employment, Education, Recreation, etc., to be utilized, and the commission could serve as a clearing house for information to help communities in their local effort.

It was felt that clarification was needed to establish minimum wages to insure "reasonable return in labor for money spent," workmen's compensation coverage, and work permits under the child labor laws. One community made the appeal that it be permitted to integrate the program into the work of existing boards "so that it would not be necessary to establish a separate committee" to operate the plan. Considerable misunderstanding seemed to be evident about provisions of work permits and workmen's compensation, and frequent comment was received that employment would be easier if the over-all laws were amended.

Specific recommendations for revision included the problem of securing jobs for teen-agers who are members of families receiving ANC for the earnings of the young people were deductible from the ANC aid granted the family. This sometimes serves as a reduction of incentive to work on the part of the welfare-supported teen-ager.

The following are further specific recommendations:

"I question the feasibility of this fund paying total cost as stated in Section 3727. I feel it would be best to keep this section of the program on the 3 to 1 matching basis"

"Article 2, Section 3716, line 5, for the purpose of establishing in the Department of Education operating workshops"

"Article 2, Section 3717, line 2, supervisor, such professional and other personnel subject to the provision of the State Civil Service."

"Article 2, Section 3719, line 1, the supervisor shall consider the recommendations and studies made by the Division of Parks and Grounds and the Division of Youth Authority for the purpose of determining whether the locations recommended met specifications."

SUMMARY OF PUBLIC CONFERENCE, AUGUST 29, 1956

A working conference to receive recommendations for revision of the language of Assembly Bill No. 662 was convened by Chairman Wm. A. Munnell at 9.30 a m. Subcommittee members present included Messrs. Lee Backstrand and John McFall. Assemblymen Louis Francis and William Marsh attended as representatives of the full committee. Legislative personnel present were Bernard Czesla, Deputy Legislative Counsel, Dr. Rolf Ordal, Research Director for the Assembly Interim Committee on Industrial Relations, and Marian Kober, Executive Secretary.

Chairman welcomed the participants and emphasized that the subcommittee had not yet arrived at any conclusions with respect to this measure.

The Department of Employment—H. W. Stewart, Director, cited as one of the results of the subcommittee's investigation the stimulation of state-wide interest in the subject of youth employment and the development of many new community groups in various areas. He stated, "Even if we don't accomplish anything more than we have up to this moment, I think much has been accomplished in the publicity that's been given to the problem and the progress we have made. * * *"

Maurice P. McCaffrey, Principal Counsel, submitted a written statement incorporating specific recommendations for changes in the language of the bill. He distinguished between an entrant into the labor market and a youth seeking a "learning" experience in a program that carried a provision for supervised play. Federal funds are made available under the Wagner-Peyser Act for the placement of young people who want vacation work, after-school work, or weekend work. A young person placed in a "workreation" program would not be considered an entrant into the labor market, and federal funds would not be granted for the administration of this activity.

The department is cooperating in the development of local programs in 40 communities, and during the last fiscal year placed in excess of 57,000 youths. The department is also cooperating in the work of the Department of Education, and if Assembly Bill No. 662 were channeled as an extension of the work of the local schools, it would not present as many administrating problems. The appropriation feature of the revised version of the bill would require substantive changes in present law. It would not be possible for the State to make a grant of money to a local community without assuming responsibility for the auditing of those funds to insure proper expenditure, and under the present statutes the Department of Employment does not perform that function.

Paul W. Little, Chief of the Employment Service Technical Services, replied to questions from Messrs. McFall and Munnell on the size of the staff that takes care of youth placement. He estimated that there might be between 40 and 45 people employed in local offices who spend most of their time interviewing and placing youths. At the headquarters office there is one person in the capacity of program supervisor who has several functions related to youth employment including testing, job analysis, and counseling.

Deputy Director Jimmie Hicks attended the conference but made no comments.

The Department of Education—Wesley P. Smith, Director of Vocational Education, reported on the number of work permits issued. For the school year ending June, 1956, there were 184,000 work permits issued for Saturday or vacation work, 45,000 permits issued for part-time work while school was in session, and 16,860 young people between the ages 14 and 17 working full time and attending continuation classes. The total of all three categories, 247,065 represents 36 percent of the total school enrollment for the ages 14 to 17. Comparison with figures for the previous year indicated a gain of 16 percent for the first category, 21 percent for the second category, and 13 percent for the third. All three categories represent a gain of 15 percent over the figure of 211,000 for the previous year.

Mr. Smith recommended a change in the language of Section 3716 of the revised version of the bill which would eliminate the provision for the operation of workshops or training centers by the Department of Employment, and would rather define the purpose as "assisting in the establishment of summer work programs for youth."

He made available copies of a "Report of the Study of Work Experience Programs in California High Schools and Junior Colleges" and asked for legislative support for the recommendations made for the revision of the Education Code in connection with the issuance of work permits. The Department of Education is requesting positive authorization to make work experience education a part of the curriculum of the school.

He envisaged the work placement program as three-fold: (a) a guidance program where the student gets work experience on an unpaid basis; (b) a general program designed to provide experience on a paid basis which has little or no relationship to future vocations; and (c) actual vocational experience, also on a paid basis.

He expressed his personal views that state funds might be more helpful to a great many more young people if the cost of the proposed workreation program were made available for an extension of present effort both by the Department of Employment and the Department of Education. He estimated that 285 people could be employed at salaries of $7,000, that each of the 285 people could be expected to help place at least 200 young people, which would mean that 57,000 youths could be served and placed in work where their earnings could be expected to be more than $100. He favored "productive work paid by private employers" rather than "a subsidized payment by the State of California."

He recognized the need for greater coordination between the work of the Department of Employment and the Department of Education, but had no specific recommendations for legislation to facilitate that. It was his opinion that the investigation conducted by this subcommittee sharpened attention by all state agencies upon the over-all problem of youth employment and that "existing laws, existing organizations and regulations * * * are sufficient to solve the problem. * * *"

Department of Industrial Relations—Edward P. Park, Labor Commissioner and Chief of the Division of Labor Law Enforcement, submitted copies of a "Digest of the California Child Labor Laws" with

the unequivocal statement, "There is nothing restrictive about our present child labor laws They do not hinder any minor from being employed." He also made available a report showing that during the year 1955 there were 2,179 disabling injuries to young people under 18 years of age.

Probably the biggest problem faced, particularly in the school program as conducted in Santa Barbara where students are assigned to private employers without being paid for their work, was proper coverage by workmen's compensation insurance. The school authorities were informed that such employers would very likely be held responsible in the event of an injury. The uninsured employer represents a considerable problem as the division finds approximately 1,000 a month in the State of California.

The chairman asked whether similar problems were encountered in coverage by unemployment and disability insurance. Mr. McCaffrey replied there was no problem here for young people attending school rarely earn sufficient money to qualify for payments, but in any case, they would not be eligible for payments on the basis that they were not available for regular work.

State Compensation Insurance Fund—Mr. Earl Howard, Manager, agreed with the contention of Mr. Park that there should be no restriction of child labor laws and added, "We should studiously and carefully avoid exposing children to hazardous employment." There is no problem of coverage of minors as policies written by the State Fund raise no question whether or not a worker or a child is employed legally or illegally. Protection is not denied to the employer because of illegal employment. There also is no problem through possible increase of rates for the employment of minors as rates are based on the nature and type of work involved.

Under the Berkeley program the accident experience has been minimal The program has been covered for five years and has presented no problems.

Mr. Donald Gallagher, Chief Counsel, agreed with Mr. Howard's views, and added that there is an underwriting problem in the recreation aspect of the Berkeley program for it is one-third of the program, is unremunerative, yet would be deemed employment and would be subject to coverage.

The chief problem under the proposed legislation would be the proper identification of the employer who then would be required to obtain a blanket policy covering the entire group. The Santa Barbara situation is entirely different, however, for unless there is a payment relationship it may be considered as one individual using the services of another without actually being termed employment.

U. S. Department of the Interior—Raymond E. Hoyt, gave encouragement to the proposal. At the present time the national park service is prohibited from employing anyone younger than 18, but if a state agency were to establish camps within national parks, supervisory personnel would be provided. There are four national parks within the State It would be advisable for individual groups to consist of 25 youths. A minimum of four such groups could be set up in any camp in order to make it worthwhile to provide a cook and personnel for

general camp administration. Each park could take care of two or three camps of 100 each.

The advantages of providing a good education in conservation, together with the healthful mountain life would provide a very fine experience for the young people. There is considerable essential work that needs to be done in blister rust control, trail work, etc. Adults are employed to do some of this work but there is much more work than the adults are able to take care of. Such camps could be established under the auspices of the State Department of Education, the Department of Natural Resources, or the Beaches and Parks program.

Department of Natural Resources—John L. Swanson reported that the Division of Forestry employed 1,800 forest fire fighters last year with a bout 225 in the group 17 years of age, over 500 in the 18-year group, and more than half over 19. The minimum age is 16 but in actual practice it was found that the younger age group requires very close supervision and has limitations on the type of work the young people are physically able to do.

The Division of Beaches and Parks employed one 17-year-old, 68 in the 18 and 19 age group, and 23 in the 20 and 21 age group. Here again it was found that the younger applicants require closer supervision than regular employees are trained to give. When employed the young people are not treated as a special class of teen-agers but are considered fire fighters or park aides and are expected to meet established standards in the performance of their duties. If an effort were especially made to provide jobs for the younger teen-agers, it would require a different type of program with additional supervisory staff which their budget could not cover at the present time.

State Personnel Board—Roy Stephens, Assistant Secretary, stated that if the proposed program were enacted it could function under the temporary appointing authority without involving civil service procedures. At the present time there are no age limits in state service but as a practical matter very few are employed below the age of 18. A study of permanent employees made in 1953 revealed that there were only 34 employees under the age of 18, and these were 17-year-olds who had graduated from high school.

Mr. Stephens said, "* * * the demand for jobs exceeds our supply of those jobs. As a practical matter, if we were to attempt to extend our clerical hiring in the summertime down below the * * * high school graduation level, it would mean displacing someone else who had already graduated from high school * * *." If, however, at some time in the future special projects were authorized to provide work for young people 13, 14, and 15 years old, the flexibilities of civil service are such that no change would be required in the law to accomplish this.

He made the recommendation that the language of the proposed bill be revised to eliminate the designation of "supervisor" for it has been found undesirable to have legislation delegate specific responsibilities and name titles for classes of employment. Such a practice tends to create conflicts within state agencies.

East Los Angeles Youth Council—Eileen Siedman, Advisor, and Chairman of the Youth Coordinating Councils for the Los Angeles County Federation of Coordinating Councils, made a plea for greater participation by young people in youth placement programs and the

lowering of the age level for that participation. She described the work now in progress in her community where the young people, themselves, actually run their own Youth Employment Service. The chairman of the Youth Employment Service Committee for the Youth Council, Bob Mendozo, age 17, is now office manager. They have been assigned a special window within the offices of the local Department of Employment branch. This window carries the sign "Youth Employment Service" and is manned by teen-age volunteer workers who serve from 1 to 5 p m. Applicants are welcomed, given an application blank and directed to other teen-age volunteers who do the interviewing. These workers are rotated so that there is a different crew working every day.

The assistant manager, Mrs. Purcell, gives a two-hour training period to the volunteer teen-agers and supervises their work. She introduces them to the rules, the forms, the codes, and the use of the files. Adult employees normally receive 16 or 18 hours of training before they are placed on the job as interviewers, yet it has been found that the young people have good coordination, catch on quickly, and do an outstanding job.

A committee of youngsters, with adult assistance, calls on prospective employers and addresses service clubs. The young people prepare their own publicity and have received good cooperation from the local newspapers, radio and television stations to publicize the program. Telephone expense has been assumed by the East Los Angeles Rotary Club.

When the program was first initiated two and one-half years ago, they were unable to enlist the cooperation of the Department of Employment. They had to raise the money to hire an adult supervisor, and they opened an office independently. Now the relationship with the Department of Employment is very good, but they have not yet been able to achieve adequate cooperation from the schools They believe it is the logical place for young people to get job training within the school system. Aptitude tests and guidance should be provided, for most of the young people really have no idea what work they want to do or what their talents or abilities are. They recommend that schools give credit for work done by volunteers in the local youth employment service offices.

In East Los Angeles there are a great many recreational facilities, therefore there is little interest in the recreation aspect of the proposed bill. It was considered inadvisable to enact state-wide legislation that would establish a program of four hours work and two hours play. She said, "The great need of our youngsters is for employment. We have youngsters who come from very low and middle class income brackets, and when these kids are looking for a job they are not looking to play for two hours and work for four hours They're looking for a job to earn money, to buy clothes, to contribute to the family income, or to meet their own needs so they will not be a drain on the family income."

When youngsters are consulted directly, they give the greatest priority to the need for employment. She continued, "Generally kids are kids. They have certain needs and wants and employment to a great many of them is need number one. There are a great many youngsters who do not look to recreation and dancing as a sole means

of amusing themselves. They don't look to employment as a source of keeping idle hands out of mischief. They want to do something productive. They want to earn money because in many cases they need it. We have a great many youngsters whose income is contributed to the general pot. They help to pay the rent and meet the grocery bill. And I think we mustn't forget that."

Mrs. Siedman welcomed the attention given to the problem by this committee for she felt it is easy to lose touch with the practical needs of the people at the grass roots level She recommended legislation to strengthen the work now being done by the Departments of Employment and Education as well as to give impetus. encouragement, and assist in the development of greater coordination in local community effort.

Berkeley Workreation Camp Committee—Marjorie Walker, Secretary, brought with her copies of a brochure entitled, "Workreation, What It Is, How Does It Operate, What Are the Results." Copies of suggested further revisions of the language of the bill were distributed, and attention was called to the fact that the word "workshops" was deleted in the new version. The Berkeley group recognizes that there is room for further change.

In actual operation, the Berkeley program can be considered supplemental to community programs such as YEO or YES as well as to the school work experience program as conducted in Santa Barbara. While the program was originally established to provide work opportunities for the age group from 14 through 17, it has been found that young people over 16 find it easier to locate work and employers seem to be unable to provide work for the 15- and 16-year group.

The program is administered by the workreation camp committee rather than by the Department of Employment. and there are no youth volunteers assisting the committee in its work. The program has been in existence for five years, but it is still considered a pilot program The sum of $3,000 is budgeted for this work by the city council and the board of education, and while outside contributions are accepted no effort is made to obtain them In the past materials used in the projects have been contributed by local service clubs. At the present time 30 boys are used by the City of Berkeley in local parks and 15 boys are used by the board of education. Approximately 15 girls have been accepted, and an effort is now being made to arrange for the use of girls by the city library. The selection of these young people was made from approximately 350 applicants.

There are four necessary ingredients for a good program · (1) money, (2) the young people, (3) good projects, and (4) supervision The program must of necessity be limited by the funds available In Berkeley there would be no limitations as far as the number of applicants for the work or for the actual work that needs to be done In no sense is it a "made" work program. If unlimited funds were available, the program would still be limited by the number of supervisors required. At the present time the supervisors are regular city employees. Prior to the inauguration of the program each year the supervisors are given a brief orientation session. Each supervisor has responsibility for 10 youngsters.

Replying to questions from participants, Mrs Walker stated that the program was not established to deter delinquency although they have experienced highly salutary results. Youngsters are not selected on the basis of a "means" test for it was felt there were psychological needs as well as economic and that all youngsters should be given an equal opportunity to participate. She emphasized that the department would in no way be required to create jobs for the jobs would be provided by the agencies seeking participation in the program. The responsibility of the Department of Employment would be that of administering the program, and the new revisions would limit the participating agencies to governmental jurisdictions so that there would be no direct benefit to private employers. Young people accepted in the program are given a choice in the type of recreation but the group is kept together and is not absorbed in the regular recreation activities. The recreation is supervised by the city director of athletics who also serves as coordinator of the program.

She cautioned against drawing the conclusion that all young people who have successfully obtained work permits are able to be placed in jobs. It was her belief that there are many youngsters with work permits who are unable to locate work. She also explained that the statistics presented on the number of youths placed by the Department of Employment included anyone under the age of 21 Placement is difficult for members of minority groups when an entrant into the labor market is a high school graduate, but there is little difficulty experienced in placing other available applicants for full-time work. The maximum problem is in providing work—any type of work—for young people 14 and 15 years of age.

Department of Finance—Pierce H Fazel, Chief Administrative Analyst, called attention to administrative problems posed by the revised version of the bill Normally administrative costs of any program run around 30 percent of the cost of the total program, at least for the first year. On a 3 to 1 ratio the administrative expense for the proposed $2,000,000 program would be approximately $600,000 rather than the $25,000 provided by the bill.

He added, "My experience in operations both private and public is you can't spend $2,000,000 for $25,000 administrative expense. It just isn't possible. There isn't any machine, even in our electronic age, that will do that; particularly when it is going out in such small items as under $100.

Other state agencies would be involved in a measure of this type These would include the Recreation Commission and the Youth Authority. The subject matter is also of interest to the Governor's Advisory Committee on Youth which is working in this field too The Department of Finance, however, has taken no official position as yet on the measure as it is still too much of a fluid situation with further amendments yet to be considered.

California Youth Authority—C. R Byrne, Parole Specialist on Employment, stated that youth on parole are generally older than the group under discussion. The average age is 19 years and 3 months There are 6,700 boys and girls on parole but only 4.3 percent of that number are between the ages 14 and 15. The number between the ages 16 and 17 comprise 16.5 percent. The Youth Authority is cooperating

with the Department of Employment in a specialized program to place these young people. As is generally the case, those having specialized training are easier to place than the unskilled.

The proposal now under discussion was of interest largely in its possibilities for prevention of delinquency. In reply to a question from the chairman, Mr. Byrne stated it costs more money to send someone to the Youth Authority than it does for him to send his son for a full year to Notre Dame. The cost per year ranges from $2,500 to $4,400 depending upon the size of the institution. The smaller institutions and the girls' institutions operate at a higher cost. The average is $3,600 per year per person. Mr. Swanson stated that the Division of Forestry calculated the cost of maintenance of a camp program at $5.84 per day on a 365 day basis.

Assemblyman McFall concluded that if we could prevent 10 youngsters from becoming charges of the Youth Authority it would mean a saving to the State of $36,000, and if this were extended to 100 the saving would be $360,000, etc.

City of Montebello—Louis Hutinet spoke for the Coordinating Councils of the East Los Angeles, Belvedere, Wabash, City Terrace, Hollenbeck, and Montebello areas. The group favored the bill for it would help solve some of the problems faced by many areas. The recommendation was made that the appropriation feature be based on the economic need of the community involved rather than on an arbitrary matching basis according to population area. Furthermore, funds for workreation camps should be made available directly to the community for local administration with a minimum amount of State supervision.

Herbert G. Tovey of the Department of Human Relations reported on a survey he made among employers. Those employers he interviewed favored the purposes of the bill.

V. E. Gene Rotsch, Recreation Director, reported on the Montebello Youth Association, organized by the recreational agency 10 months ago. The M. Y. A. has its own constitution patterned along the lines of the national constitution. Young people between the ages 12 to 18 pay 25 cents membership per month, and at the present time there are 700 active members. During the month of July individual recreation attendance was over 11,000 persons. The young people have their own center building which they maintain themselves Youths are employed at the snack bar and salaries are paid from their own funds. If the proposed bill could be enacted it would be of benefit to the M. Y. A.

Douglas Spears, Councilman, favored the bill but regretted the limitations on the number of young people that would have the opportunity to participate in such a program. He estimated that Montebello had two or three thousand young people between the ages 14 and 18. Financial limitations would cause the percentage actually served to be so small that there was some question about the practicality of going to this great effort.

M. L. Peek, Chief of Police, supported the bill without reservations for he felt it was a step in the right direction. He agreed with the position taken by the chairman and Assemblyman McFall in the dollars and cents savings possible in a positive program for prevention of delinquency.

City of Lakewood—Donald Singer endorsed the bill for his city envisages a problem of maximum proportions when the current crop of children grow older.

California State Employees Association—Walter Sutherland, agreed with the position taken by Mr. Stephens of the State Personnel Board that it is not advisable to designate a specific title such as ' supervisor'' in drafting legislation. He did not anticipate that any amendments would be required to state civil service law if such a measure were enacted. In reply to a question from Assemblyman Francis, he stated it was contrary to the association's policy to take an official position on matters pertaining to the establishment of a state agency or the transfer of funcions between agencies. Individual members of the association would doubtless support the program for they have children of their own and have personal problems of adequate work opportunities If the present proposal were enacted, however, it might have the effect of increasing the number of jobs available for permanent employees rather than decreasing that number.

Assembly Interim Committee on Industrial Relations—Dr. Rolf Ordal, research director, brought a message from Chairman Wallace Henderson endorsing any decision reached by this subcommittee that would expand job opportunities for our young people.

Chairman Munnell read into the record comments written on registration slips signed by people attending the conference. Several comments had already been made, personally Mr Archie Turrell commented, ''If such a bill as Assembly Bill No. 662 is enacted, I believe that more of the supervision of the recreational and educational aspects of the program should be in the hands of the local school authorities.''

Jack R. Chelew, representing the Merchants and Manufacturers Association, wrote, ''This legislation in our opinion is unnecessary. Will not produce any results, and is a step towards socialism.''

Los Angeles City Schools—Lawrence E Houston shared the views of Mr. Smith of the Department of Education, but called attention to special problems faced by urban centers as large as Los Angeles where there are more than 100,000 youngsters within this age group. Possibly before a project of this nature were attempted more information should be obtained on whether or not jobs could be made available through private industry.

J. L. Merkley, supervisor of youth services, questioned the value of youth getting work experience in view of the shortened work week. He urged that if the program had any value that it be incorporated into the school's recreation activities, but he doubted that it was necessary to create something new since school busses can take youngsters on trips to farms, to Yosemite, or the mountains if it were felt there was value to be derived from such experiences

A Mr. Reeder who did not identify the group he represented differed with the views expressed by Mr. Merkley. He felt it was not possible to make proper adjustments simply by going on a vacation camp trip He reported on facts he had been able to gather: East Los Angeles from the Los Angeles River to Montebello has a population of 10,620 per square mile as compared to the average for Los Angeles County of 1,020—or 10 times as many per square mile. The average rental paid

today is $35 per month. The per family income is less than $4,000 a year with only 14 percent over $5,000 while in Montebello it is $6,200. He, too, agreed with Mr. Hutinet that appropriation should be made on the basis of community need rather than on a matching basis.

City of Pasadena—Mrs. Stanley Decker congratulated the committee on the open-minded manner in which the conference was conducted. The meeting provided an opportunity for an exchange of ideas touching upon all aspects of the problem. She stated she was not enthusiastic about the workreation idea "for the simple reason that I think work is work * * * and play is play."

She continued, "I would like to see a program established by the State something like the CCC camps, only with a higher evaluation placed on education This could be expanded in the summer time to take over more youth employment. * * * If our boys and girls build our parks, reforest our mountains * * * they'll take a pride in these public possessions, will cherish them, and want to take care of them; and goodness knows we certainly need conservation practices today if we're going to have any resources left in our Country."

She concluded, "I still am a little bit angry that we can have millions and millions of dollars from our oil wells, one of our resources, why some of that can't be spent to save the most precious resource we have, our boys and girls. * * * I don't know why we should cry around for funds."

W. W. Lees, supervisor of guidance and counseling, joined Mrs. Decker in complimenting the committee for scheduling the conference if only to point up the size of the problem. It was apparent to him that the proposal needs considerable revision, but it does draw attention to the need for work for the younger teen-agers

Assemblyman Backstrand responded that this meeting is an example of the importance and necessity of interim investigations by the Legislature He views the actual legislative session in the nature of "a final examination after a semester's work."

Youth Employment Service—Gerald Richardson, Advisor, summarized the current work in Southern California. At one time Mr. Richardson served as a volunteer worker. He is now employed to assist various communities establish their own programs The Youth Employment Service was established a year ago. The first step was to set up a Youth Employment Committee, and Mr. Richardson stressed the importance of having youth participation on such committees. Youth serves in a volunteer capacity in the branches of the Department of Employment as was reported for the East Los Angeles area. In the Van Nuys area only 127 youths were placed last year. Now there are two locations and to date there have been 500 youths placed with over 1,600 applying for jobs. Likewise, the total number of programs in Southern California have increased from 11 last year to 51 today. It is estimated that 6,000 placements have been made through the Youth Employment Service from 15,000 applicants.

He added, "I heard the comment given that youth are not particularly interested in work, and perhaps they don't even want to work, or they shouldn't work. I can tell you from the figures we have here that youth does want to work. I know that we need book education or

book learning, as it is sometimes called, but we need the famous thing of practical education. And there is no better type of practical education, in my opinion, than actual work. And youth wants to work—I can guarantee you that much."

Mrs. Walker asked what success was experienced in the placement of young people 14 and 15 years of age. Mr. Richardson replied that is the hardest group to place, that it is difficult to find work other than lawn mowing, domestic help or casual work, and that this group represents the largest single unit applying for work.

Alex Zambrano supported the measure but agreed that appropriation should be made on the basis of community need rather than on a straight matching basis.

Assemblyman Francis asked both Mr. Zambrano and Mrs Walker about the attitude taken by labor organizations toward this proposal. Both replied they had received complete cooperation and interest.

The conference was originally scheduled for two days but all testimoney was completed and the meeting was adjourned at 4 10 p.m.

Respectfully submitted,

MRS. CHAS. B. KOBER
Executive Secretary

LEGISLATIVE COUNCIL OPINION No. 2053 ON YOUTH PLACEMENT

OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, June 11, 1956

HONORABLE WILLIAM A. MUNNELL
908 South Atlantic Boulevard
Los Angeles 22, California

YOUTH PLACEMENT—#2053

DEAR MR. MUNNELL: You have requested an analysis of the existing powers of respective state agencies, particularly the Department of Education, the Department of Employment and the Recreation Commission, with respect to youth placements and work experiences.

1. With respect to such subject matter we have found certain powers existing in the Department of Education, the Department of Employment, the Youth Authority, and the State Forester.

I. *The Department of Education.* We have been unable to find any provision giving the Department of Education any direct power with respect to the subject of youth placement. However, certain authority concerning the subject matter exists in the State Board of Education and it is set forth below Some local school boards and districts have powers concerning the placement of certain minors, the issuance of work permits to qualified students, and the placing of certain students in vocational courses and these are also set forth below.

Section 9031 of the Education Code requires the governing board of each high school district to establish and maintain a program of guidance, placement, and followup for all minors within the district subject to compulsory continuation education. Section 17001 of the Education Code sets forth the persons subject to compulsory continuation

education.[1] Section 9036 of the Education Code requires the State Board of Education to prescribe and enforce standards and regulations for the organization and administration of programs of guidance, placement and follow-up, for programs of coordination and instruction in continuation education, for the special reimbursement thereof, and for the certification of teachers and coordinators for continuation education.

The superintendent of schools of any county, city, or of any city and county in which a minor resides, or a person authorized by the superintendent in writing, may issue permits to work to duly qualified minors (Ed. C., Secs. 16671, 16681, 16685).[2] In such cases the school department is only concerned with the physical effects that such employment will have upon the pupil's school attendance and his ability to carry the required program of education without harmful effects (Ed. C., Secs. 16678, 16687, 17065). So long as the pupil's health or education is not impaired and other statutory provisions are complied with, the issuing authority cannot revoke the permit (Ed. C., Secs. 16678, 16687, 17065). Permits shall be issued upon forms provided by and under directions issued by the State Superintendent of Public Instruction (Ed. C., Sec. 16685) and all permits to work are subject to cancellation at any time by the Superintendent of Public Instruction or the person issuing the permit whenever it is determined that the conditions for the legal issuance of the permit do not exist or did not exist at the time the permit was issued (Ed. C., Secs. 16687 and 17065).

Upon the recommendation of the principal of the school which any minor over the age of 14 years is attending, the supervisor of attendance or, if no supervisor, the proper superintendent of schools may assign the minor to a vocational course in a place of employment. (The assignment shall not be made until the principal's recommendation has been approved by the Superintendent of Public Instruction and a permit to work has been properly issued to the minor. Ed. C., Sec. 16637.) The employment is in lieu of the regular school course which the minor is pursuing. (Ed. C., Sec. 16636.) In addition to the vocational work the minor must attend a specified number of part-time continuation classes. The minor receives school credit and school supervision in this type of work experience program and he may also receive some compensation for his services. In this type of work experience the school places the child in an employment the nature of which has a direct relationship to the program of instruction that the pupil is following.

[1] Sec. 17001, Ed C, provides "All persons under 18 years of age who are too old to be subject to the provisions of Chapter 4 of this division, who have not been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who have not had an equal amount of education in a private school or by private tuition, who are not disqualified for attendance upon these classes because of their physical or mental condition, or because of personal services that must be rendered to their dependents, and who are not in attendance upon a public or private full-time day school, or satisfactory part-time classes maintained by other agencies, shall attend upon special continuation education classes maintained by the governing board of the high school district in which they reside, or by the governing board of a neighboring high school district, for not less than four 60-minute hours per week for the regularly established annual school term."

[2] The governing board of each high school district is required to designate an officer of the board to issue in its name a permit to work to each minor in continuation education classes (Ed C, Sec 17061) The form for this permit shall be prescribed by the State Department of Education (Ed C, Sec 17062).

II. *The Department of Employment.* Section 2054 of the Unemployment Insurance Code directs the Director of Employment to establish, maintain, and operate a youth placement department for the placement of youth in suitable fields of employment.

Under the provisions of Section 2054 the Department of Employment operates a youth placement department by which it places a youth in a job position so that he may receive remuneration for his services.

III. *Recreation Commission.* The Recreation Commission has no express authority with respect to youth placement and work experiences.[3] The commission is merely authorized to aid and encourage, but not conduct, public recreation activities[4] with respect to the study and consideration of the whole problem of recreation as it affects and may affect the welfare of the people and especially the children and youth of California[5]

IV. *State Forester.* Section 4428 of the Public Resources Code provides:

> "Whenever it is deemed advisable and advantageous, the board may enter into agreement with the Department of Corrections, and the Youth Authority for employment of inmates of these institutions in work on state forests."

With respect to youth placement and work experience, this section authorizes the State Forester to agree with the Youth Authority in the employment of inmates of the Authority.

V. *The Youth Authority.* Juvenile Forestry Camps.[6] The Youth Authority is authorized to establish juvenile forestry camps for wards of court to present a better opportunity for reform and encouragement of self-discipline. These camps concern youth who are in confinement by the Youth Authority for disciplinary reasons.

2. You also ask us to indicate any overlap of such powers in the respective agencies. As both the Department of Education and the Department of Employment are operated there does not appear to be an overlap. One department's operation in this field is exclusive of the other.

Neither does there appear to be any overlap with the provisions concerning the Youth Authority and the State Forester. The Youth Authority provisions concerning juvenile forestry camps concern youth who are wards of the court and are not available due to confinement for use of the services of the Department of Education or Department of Employment with respect to youth placement The provision concerning the State Forester merely authorizes him to employ inmates of the Youth Authority.

The provisions concerning the Recreation Commission do not create any conflict as such commission has no express authority with respect to youth placement and work experiences.

It should be noted that with respect to minors subject to compulsory continuation education there appears to be an overlap of the powers of the Department of Employment and the governing boards

[3] Secs 8603-8703, Public Resources Code
[4] Sec 8606, P R C
[5] Sec 8604, P R C
[6] Secs 900, 905-911, W & I C Similar provisions authorize the county boards of supervisors to establish juvenile forestry camps (Secs 901-904, W & I C)

of high school districts. The governing board of each high school district is authorized to set up programs for the placement of such minors, as indicated above,[7] and it appears that such minors, possessing a proper work permit, also could be placed in employment by the Department of Employment under the department's youth placement program.

Very truly yours,

RALPH N. KLEPS
Legislative Counsel
By RYAN M. POLSTRA
Deputy

ATTORNEY GENERAL'S OPINION No. 2952

OFFICE OF LEGISLATIVE COUNSEL
Sacramento, California, August 17, 1956

HONORABLE WILLIAM A. MUNNELL
908 South Atlantic Boulevard
Los Angeles 22, California

WORK PERMITS—#2952

DEAR MR. MUNNELL:

Question No. 1

You have asked whether work permits would be required for 14- and 15-year-old minors who are employed pursuant to a state-wide work creation program such as that proposed by Assembly Bill No. 662 of the 1955 Session; and, if so, what qualifications such minor would have to meet.

Opinion No. 1

In our opinion work permits would be required for such minors in most cases. The qualifications will be discussed in the analysis below.

Analysis No. 1

Assembly Bill No. 662 would have provided for the administration by the Department of Employment of a program for the referral of youth to private industry for employment. In our opinion the fact that the employment of these minors in private industry would be pursuant to a state administered program would not alter the express requirement of the law as it now stands. Consequently all minors who would ordinarily be required by law to obtain work permits, would also have to obtain them for employment under this type of program.

With certain limited exceptions, minors between the ages of 8 and 16 years must attend full-time school (Ed. C. 16601). Such minors may not be employed or permitted to work unless they have permits to work issued by the proper school officials (Ed. C. 16731, 17081; Lab. C. 1290), except in certain instances (which will be discussed later) in which a work permit is not required.

A permit to work during school hours may be issued to a 15-year-old minor who has completed the equivalent of a seventh grade education (Ed. C. 16672), and to a 14- or 15-year-old minor who has graduated from the eighth grade and whose family is in extreme financial need

[7] Sec. 9031, Ed. C.

because of the death, disability, or desertion of the minor's father (Ed. C. 16673). No permit to work during school hours may be issued to a 14- or 15-year-old minor unless it is shown that he has a promise of definite employment and that he is physically fit to undertake the work specified (Ed. C. 16675), and such minors must attend part-time classes for at least four hours a week (Ed. C. 16679, 17001).

It might also be mentioned that employers employing such a 14- or 15-year-old minor must obtain a permit to employ from the proper school officials (Ed. C. 16731).

A permit to work outside of school hours may be issued to a minor over 14 years of age (Ed. C. 16678), and a permit to work during school vacations and holidays (which would include Saturdays and Sundays) may be issued to a minor over 12 and under 16 years of age (Ed. C. 16680).

There are certain exceptions to the requirement that a minor under 16 years of age must hold a work permit in order to work.

A. *Work for Parents or Guardians.* One of the important exceptions is that a minor is not required to hold a work permit for agricultural or domestic labor performed outside of school hours for his parent or guardian, and performed upon or in connection with the premises owned, operated, or controlled by the parent or guardian (Ed. C. 16683; Lab. C. 1394(b)).

B. *Noncommercial Entertainment.* Furthermore, no permit is required for the appearance of a minor of any age in any church, school, or community entertainment; in any school entertainment or entertainment for charity or for children for which no admission fee is charged; or in any radio or television broadcasting exhibition where the minor receives no compensation and no admission fee is charged, and where the engagement is limited to a single performance lasting not more than one hour (Lab. C. 1394.5).

C. *Entertainment Work with Consent of Labor Commissioner.* Another partial exception is that a minor of any age, with the written consent of the Labor Commissioner, may be employed in the presentation of any drama or legitimate play; in any radio or television studio; in the making of phonograph records; or as an advertising or photographic model; or may appear in any entertainment which is noncommercial in nature; or may be employed or appear pursuant to any contract approved by the superior court under the provisions of Section 36 of the Civil Code (these are contracts of minors employed as dramatic performers or as participants in professional sports, which are approved by the superior court and which may not be disaffirmed by the minor) (Lab. C. 1395(a), (e), (f), (g), and (h)). Also, with the written consent of the Labor Commissioner, a minor 12 years of age or over may be employed in any other performance, concert, or entertainment (Lab. C. 1395(b)), and minors over the age of eight years may appear in any performance, concert, or entertainment during the school vacation (Lab. C. 1395(c)).

Before giving consent to any such employments or appearances, the Labor Commissioner must be satisfied that the environment in which the performance, concert, or entertainment is to be produced is proper for the minor; that the conditions of employment are not detrimental

to the health of the minor; and that the minor's education will not be neglected or hampered by his participation in such performance, concert, or entertainment (Lab. C. 1396).

Minors who are subject to compulsory school attendance requirements and who are given written consent by the Labor Commissioner to appear or perform in the described activities must still attend school as required. Of course, those who are eligible may obtain work permits from the proper school officials, as explained earlier.

Question No. 2

You have asked whether the provisions in the codes relating to financial need as a requisite for certain types of work permits was added in order to comply with the federal statutes.

Opinion and Analysis No. 2

The only provision relating to financial need as to child labor or work permits is Section 16673 of the Education Code, which reads:

> "A permit to work may be issued to a minor under the age of 16 years and over the age of 14 years who holds a diploma of graduation from the prescribed elementary school course. A permit of this class shall be issued only when the parent, or foster parent, or guardian of the minor child presents a sworn statement that the parent or foster parent, or guardian of the minor is incapacitated for labor through illness or injury, *or that through the death or desertion of the father of the minor the family is in need of the earnings of the minor and that sufficient aid cannot be secured in any other manner.* In no case shall the permit be issued for a period of time to exceed six months from the date of issuance.
>
> "The person issuing the permit shall make a signed statement that he, or a competent person designated by him, has investigated the conditions under which the application for the permit has been made and has found that, in his judgment, the earnings of the minor are necessary for the family to support the minor and that sufficient aid can not be secured in any other manner." (Emphasis added.)

The federal child labor provisions are contained in the Fair Labor Standards Act of 1938 (29 U. S C., Ch. 8, commencing at Sec. 201). There is no mention of financial need in the act, or, to our knowledge, in the regulations issued pursuant thereto by the secretary of labor (29 C. F. R., Subtitle A, Part 4, commencing at Sec. 4.1).

We are informed by the Department of Education that they understand that the provision was included simply to take care of particular hardship cases. Approximately 100 permits were issued on the ground last year.

Very truly yours,

RALPH N. KLEPS
Legislative Counsel
By RAY H. WHITAKER
Deputy

WORK EDUCATION PROGRAM
SANTA BARBARA COUNTY HIGH SCHOOLS
March, 1956

A BRIEF REPORT OF THE SANTA BARBARA WORK EDUCATION PROGRAM

The Santa Barbara County Work Education Program represents a cooperative effort by the five high school districts of the county and the citizens of the separate communities to provide youth with a realistic opportunity to study the world of work, to discover the skills, aptitudes, and interests that are necessary for successful occupational adjustment, and to make decisions concerning themselves in relation to needed training and vocational placement.

This program, begun in February, 1953, with a generous grant from the Rosenberg Foundation to support the first two years of study, has become an integral part of the schools and since February, 1955, has been supported by the five school districts included in the activity. A County Citizens' Advisory Committee, originally organized to accept the special funds, to establish policies, employ research staff, etc., has continued in an advisory capacity and has provided for effective community understanding and support of the activity.

The program was developed in answer to recommendations made at several great conferences where thousands of citizens met to explore the needs of children and youth. At the 1948 Governor's Conference on Youth and the Mid-Century Governor's Conference on Children and Youth, many citizens noted a serious lack in the lives of our young people—teen agers unable to find the employment without which they could not develop fully as responsible citizens. School administrators and leading citizens in Santa Barbara felt the challenge of this criticism and joined together to provide better opportunities for three types of work opportunity.

1. EXPLORATORY WORK EXPERIENCE EDUCATION

This type of work education opportunity developed early in our program and provided a whole new field of opportunity for both boys and girls in areas never before open to them. It is a program of work on school time, with school supervision and with school credit, in a business, professional, or industrial establishment *without pay,* for the purpose of ascertaining one's suitability for the occupation thus explored. It is entered into only after careful agreement of employer, student, parent, and school counselor concerning the learning situations that must be provided by the employer, and the school provides close supervision to ensure that youth are not exploited and do not replace paid employees.

This type of work has opened up opportunities in hospitals, clinics, schools, laboratories, governmental offices, etc., which were never before available, and youth have risen to the challenge, have been able to accept responsibilities far beyond those that adults have considered possible for them. They have served in the district attorney's office, as teacher aides in the elementary and junior high schools, as assistants in medical laboratories. They have been assigned to banks and business

establishments and have moved from station to station within these organizations, learning about the various departments, the standards of training and behavior demanded in them. The entire county has become their laboratory for studying the world of work and matching themselves against the standards which it sets for the worker.

2. GENERAL WORK EXPERIENCE EDUCATION

The controlling purpose of this type of work experience is to give "teen agers" experiences through which they will enter into part time *paid* employment. We believe that an essential part of the maturing process of young people is an experience in the working world in which they must meet standards, develop increasingly good work habits, learn the importance of responsible behavior, and learn the value of money through working for it and making use of it. This type of experience need not be directly related to the work that the student is preparing for, but it must be *real* work at which he must meet *real* standards. It may be performed part time during school hours or after school hours. It is supervised by the school, and credit is granted for work successfully performed.

The great value of this type of work results from the school supervision, the conferences between student and coordinator when work is evaluated, the information that teachers have as to needed changes in the school curriculum to prepare the student better for the demands of the working world.

3. VOCATIONAL WORK EXPERIENCE EDUCATION

This type of work is directly related to the occupation that the student expects to enter and may be considered a practical laboratory for his in-school occupational education. Santa Barbara County Schools have long had experience with this type of work education and feel that it is an essential part of vocational education Major assignments are in such recognized fields as office occupations, vocational agriculture, trade and industrial occupations, distributive education, etc

Special Values of the Program

This organized approach to work education has been received with great favor by the citizens of this county. Youth have given evidence of responsibility that may be drawn upon when *really important work* is made available to them. Testifying at the Santa Barbara Town Meeting on Juvenile Delinquency on March 20, 1956, several young people reported that they were not particularly interested in *recreation* to solve youth's problems but in an extension of *work opportunities* such as those that they had enjoyed. This, they believed, would really provide for all youth the meaningful activity which meant that they would not get into trouble. The district attorney seconded their recommendations, drawing upon his own experience with youth assigned to his office and saying that he planned to employ all his secretarial staff from the group that had had school work education and that he hoped those who had "explored" the legal profession while working under his direction would return some years from now to seek placement on his legal staff at the conclusion of their university work.

Those of us who have worked closely with the program feel that a special psychological value results from the fact that youth and adults are working closely together in a way which has not been possible before, that "teen-agers" are finding real acceptance—an acceptance which is making it possible for them to function as far more mature individuals. As one boy said, "We have to grow up fast to meet these expectations."

Organization of the Program

This program depends for success on the development of a close working relationship between school, employment service, and employers. In this county each school district has employed a coordinator —either full or part time—to supervise the placement of students, to work with parents and employers, and to report to school counselors and teachers on the needs of each individual worker. Members of the school staff have had excellent support from the local office of the California Employment Service which has provided record forms, testing services, special reports of placement opportunities, etc. The manager of the Santa Barbara office has served as chairman of the local advisory committee and has assigned members of his staff to work closely with the high school placement service. This means that students completing their high school work are already aware of the employment service and have a work record which may be transferred to the adult employment service. It provides the community also with ready access to a source of student labor which is valuable, not only in the day by day work of the community, but also during periods of special employment such as the Christmas period, the Fiesta, etc.

In organization, therefore, the program may be said to be school-centered as part of the educational program for each student, but it is closely tied in with employment service for the community in general.

Some Special Needs for the Future

The program is growing rapidly in the Santa Barbara area as many more students "elect" to take work education as part of their general education program. The fine contributions that our high school students have made to date have opened up many new "work stations" for other young people in offices, agencies, etc., that were at first doubtful of the contribution of adolescents and fearful that they might prove "more trouble than they are worth." This means that a number of developments should take place in the next few years to ensure further sound expansion of the program:

1. There is need for legislative action to fix responsibility more clearly in relation to the program. Those of us who have worked in the Santa Barbara County program feel that extension of the program on a state-wide basis is probably not desirable until this legislation has been enacted. The study by Dr. Henry T. Tyler, "Report of the Study of Work Experience Programs in California High Schools and Junior Colleges," made under the direction of the State Department of Education admirably outlines the needs in relation to education:

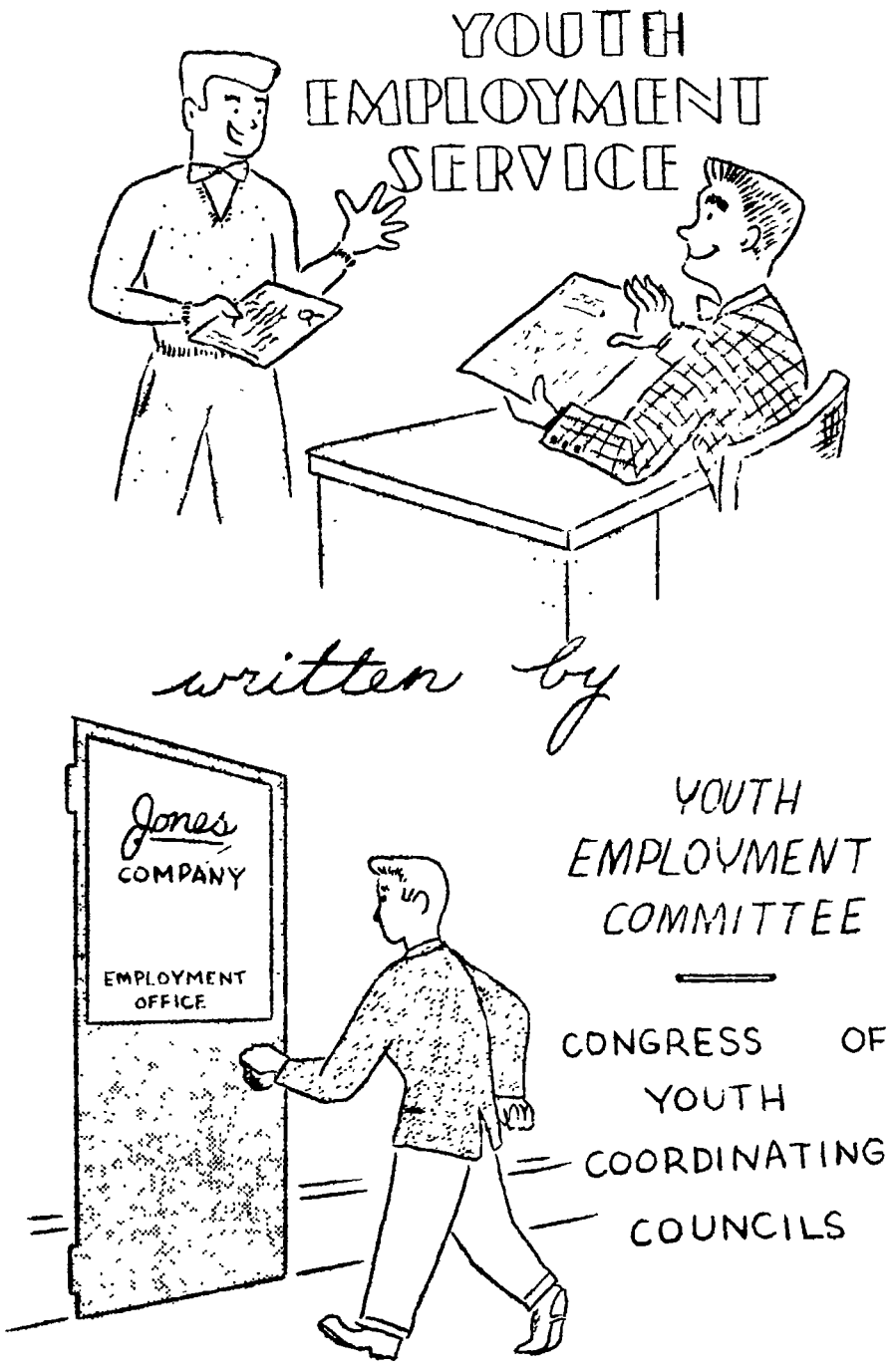
a. Legislation to give specific authority to the State Board of Education, the State Department of Education, and local governing boards for the conducting of work experience education courses as a part of secondary education.
b. Legislation to clarify provisions for permits to work and to employ in work education assignments.
c. Legislation to ensure sufficient state support of work experience education courses as will foster the operation of programs of high quality.

Similarly, there is need to establish legislation in relation to the California Employment Service which should be considered a partner with the State Department of Education in this program. Assembly Bill No. 662 with its provision for leadership would seem to be the type of legislation that would be most valuable.

2. There is need for further use of the community as a laboratory since the development of automation makes imperative the development of a citizenry with a higher type of skill than ever before. The enormous expansion required of our school systems to meet the population increase necessitates the expenditure of huge sums of money. If schools attempt to provide within their shops and classrooms the kind of equipment necessary to train for a world in which automation is extended widely, the financial resources of every community will be still more severely taxed. It seems imperative, therefore, that we work closely with the business and industrial community to determine which skills are to be taught in school and which may be better learned in the community where equipment is constantly improved to meet the competitive demands of business. Already far too many schools are providing training in relatively new shops rather recently equipped with machinery that is already obsolete. We must recognize clearly that teachers, parents, and employers must take a new look at vocational education to re-evaluate the role that each must play if our young people are to be adequately trained for the future. The work education program provides such a joint endeavor by means of which we may truly work cooperatively to find for every boy and girl his proper place as a member of California's world of work.

CHARLOTTE D. ELMOTT, Director
Guidance and Secondary Education
Santa Barbara City Schools

Secretary, County Advisory Committee
Santa Barbara County Senior High School
Work Education Program, 1235 Chapala
Street, Santa Barbara, California


YOUTH
EMPLOYMENT
SERVICE
written by
Jones
COMPANY
EMPLOYMENT
OFFICE
YOUTH
EMPLOYMENT
COMMITTEE
CONGRESS OF
YOUTH
COORDINATING
COUNCILS

PURPOSE AND BACKGROUND

Youth Employment programs have grown up in a number of communities in response to an increasingly recognized need. Different areas have had differing approaches to this need Some programs have been run by adults, others by youth themselves; some have had paid employees, while others have used volunteer help. But all programs have had a common aim * * * *Getting jobs for the youth of the community!*

Youth employment has many values. It helps curb delinquency and provides a means for building tomorrow's citizens It is a "living" aptitude test for teenagers who will be among your community leaders in less than a decade.

What started as a series of isolated Youth Employment programs now seems to be developing into a coordinated program at the county-wide and perhaps at the state-wide level. The need for overcoming the present hurdles of public opinion and legal restriction seem to require a broader approach As a result, a group of youth representing some of these communities have already made a trip to Sacramento to meet with representatives of the State Department of Employment, Youth Authority and Education. Plans being worked out may include the formation of a state committee as well as state help with office space and supplies at local employment offices

Meanwhile, a joint committee of the Federation of Community Coordinating Councils and the Congress of Youth Coordinating Councils is being formed Its purpose will be to stimulate the development of programs in Los Angeles County, and to work for the solution of some of the problems confronting Youth Employment programs.

EXAMPLES OF PROGRAMS

Youth Employment Service takes various forms. Here are some examples of services already in action:

East Los Angeles

The East Los Angeles Youth Employment Service began about two years ago. It wasn't until about a year and a half ago that it really went into action. They knocked on many doors for help until the Indiana Street Branch State Employment Office came through They had panel discussions to promote jobs for youth. They hope to have more and to have hand-out, informative "throw-aways." Their biggest problem has been publicity. If the Y. E. S. is brought to the attention of the community, job listings will start coming in.

They plan to have youth running the Y. E S. in the future. Though youth may have trouble running the offices during the school year, summer management seems feasible.

Lynwood

The Lynwood Youth Employment Agency, which has been in operation for about three years, is completely run by youth. It is sponsored by the Lynwood Kiwanis Club and was originated by the youth and adult coordinating councils. The youth manager in the office is paid an hourly wage, which came to a total of $893.33 for the year 1955. A

total of expenses showed $1,174.26 for the year with 299 youth being placed and 528 applications being taken. These figures show that 56.6 percent of the applications received were placed in jobs. The cost per placement was about $3.93 per person. Almost half the jobs were permanent.

The Lynwood Agency is a full-time program which has been making tremendous gains in the past few months. This is one of the programs that has been organized through the community with the backing of police, service groups, local business and industrial firms, and civic minded citizens interested in youth. They feel that this project is an example of what any community, large or small, can do if it has people willing to work in close harmony for the betterment of their youth and youth services.

Glendale

The Glendale Youth Employment program has been operating for several years in a very successful manner. The program works all year 'round under the direction of a paid adult who is trained to work with youth. Thus the program has offered, in addition to job placements, the chance for young people to discuss their problems with a professional advisor. The budget of the program has averaged about $3,000 per year which is inexpensive compared to the very fine work it has done. It was developed, and is supported, by the Sertoma Club, a national service group.

Van Nuys

The Van Nuys Youth Employment program was originated a year ago by the Youth Coordinating Council. It was successful although there was little publicity. There were 450 applicants despite the short planning period, and many of them were successfully placed. Facilities of the local office of the State Department of Employment were used. Interviewing and placement personnel were supplied by the youth promoting the program. The only actual expense was a very small telephone bill paid by the Panorama City Lions Club Of course, the low expense budget was due to the cooperation and help of the adults.

The Congress of Youth Coordinating Councils is sponsored by the Federation of Community Coordinating Councils of Los Angeles County. It is made up of representatives of local Youth Coordinating Councils from communities all over the county. Consultant service and information may be obtained from:

Department of Community Services
1851 South Westmorland Avenue
Los Angeles 6, California
Phone: RIchmond 9-7081

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ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

WM. A. MUNNELL, *Chairman*

REPORT BY SUBCOMMITTEE ON LENDING AGENCIES

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March, 1957

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LETTER OF TRANSMITTAL

ASSEMBLY, CALIFORNIA LEGISLATURE
COMMITTEE ON FINANCE AND INSURANCE
March 6, 1957

HON. L. H. LINCOLN
Speaker of the Assembly
State Capitol, Sacramento, California

DEAR MR. LINCOLN: Pursuant to House Resolution 200, 1955 General Session, I am pleased to transmit to you and the Members of the Assembly the Report of the Subcommittee on Lending Agencies, with the request that it be printed as a separate document.

Sincerely yours,

WM. A. MUNNELL

SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE
SUBCOMMITTEE ON LENDING AGENCIES
March 6, 1957

HON. WM. A. MUNNELL, *Chairman*
Assembly Interim Committee on Finance and Insurance
State Capitol, Sacramento, California

DEAR MR. MUNNELL: We transmit to you the Report of the Subcommittee on Lending Agencies covering its findings as a result of investigations into the activities of mortgage loan brokers.

The subcommittee is indebted to countless individuals and organizations for the encouragement and assistance they gave to our effort. It is fully recognized that while the violators are few in number that more legislative protection needs to be provided for their defenseless victims.

The subcommittee is deeply appreciative of the quality of service given by Marvin Holen, Staff Investigator, Fred Lewe from the office of the Legislative Auditor, and Bernard Czesla, Principal Deputy Legislative Counsel.

Sincerely yours,

JESSE M. UNRUH, *Chairman*
FRANK LANTERMAN
RICHARD H. MCCOLLISTER
WANDA SANKARY
*CHARLES EDWARD CHAPEL
REX M. CUNNINGHAM
AUGUSTUS F. HAWKINS (Unsigned)

* Signed with reservations and without complete concurrence

FINDINGS AND CONCLUSIONS

During the past two years the Subcommittee on Lending Agencies conducted an extensive investigation into the activities and practices of those persons engaged in the business of negotiating loans secured by real estate who call themselves "mortgage loan brokers" Their service entails finding a lender, willing to loan money on a real estate security to a borrower. In the process of this transaction the mortgage loan broker makes his profit directly, by the assessment of a brokerage fee, and indirectly, by the ballooning of those costs necessary to the transaction such as escrow fees, appraisals, credit investigations, etc.

Our committee held one three-day meeting in December, 1955, which exposed practices in this profession prior to the enactment of regulatory legislation at the 1955 Session of the Legislature. The results and findings of that hearing are set forth in the Preliminary Report of this subcommittee, Volume 15, Number 9, dated March, 1956.

In the 1956 interim the committee held two conferences—one in Los Angeles and a second in San Francisco The purpose of these conferences was to whip together legislation designed to plug loopholes discovered in the 1955 legislation. The committee chairman and staff met with representatives of all interested state agencies at these work sessions. In addition, three public hearings were conducted: two in Los Angeles and one in San Francisco.

The committee invited participation by all groups interested in or affected by proposed regulatory legislation Such groups include the California Real Estate Association, the California Land Title Association, the California Savings and Loan League, the Escrow Institute of California, the Legal Aid Foundation, the National Association for the Advancement of the Colored People, etc Testimony given by representatives of these groups is summarized and is appended to this report

The Division of Real Estate contracted with the Department of Finance for auditors to examine the books of a number of mortgage loan brokers both in Northern and Southern California Independent investigations were also conducted by the committee, itself, to supplement its findings. These investigations were confined to the Los Angeles area and sought information on the treatment accorded borrowers as well as general practices prevalent among mortgage loan brokers.

These investigations and hearings exposed further glaring deficiencies in the protection of the public which the 1955 legislation could not regulate. These are set forth as follows.

1 **High brokerage fees** which the 1955 legislation purported to limit to 15 percent are in reality nearly 20 percent of the amount realized by the borrower

2 **Balloon payments** are still extant in more than 50 percent of the loans arranged. These balloons range from 25 percent to 70 percent of the principal amount of the note.

3. **Panacea-type advertising** which purports to cure all the debtor's financial ills is still a common practice, although there has been some attempt made by the various media to tone this down.

4. **Maximum costs** permitted by present law are almost universally invoked in the Los Angeles area regardless of whether or not the costs were actually incurred.

5. **Misrepresentation, omission, and bad advice to borrowers** still exists.

6. **The source of funds** made available to the borrower is withheld.

7. **Identification of mortgage loan brokers** is impossible for the enforcing agency since they are now licensed along with the many thousands of regular real estate brokers.

8. **Restitution and responsibility to the borrower** may be impossible even if borrowers obtain favorable court action.

9. **New devices** have been developing to circumvent current legislation.

10. **Overlapping corporations** operating out of one place of business present difficulties in the auditing of their records. In some cases such overlapping of multiple corporations results in extremely unsatisfactory and sloppy accounting by the mortgage loan broker.

EXPLANATION OF FINDINGS AND PROPOSED LEGISLATION TO CORRECT DEFICIENCIES

1. *High Brokerage Fees*

The 1955 Legislature limited these fees to 5 percent for mortgages of one year, 10 percent for two years, and 15 percent for three years. It was the committee's feeling that the intent of the Legislature was to apply these percentages to the amount realized by the borrower; however, this is not the present practice. What actually happens can be illustrated as follows. A borrower may desire a loan of $1,000. He states this to the mortgage loan broker—who immediately adds the maximum $120 costs allowable by law for making this loan, which would increase the needed loan to $1,120. This, then, is considered as 85 percent of the total loan. The amount of the note necessary for the borrower to sign in order to realize his requested $1,000 then becomes roughly $1,317 of which $197 is the brokerage fee. This is evidently 19.7 percent of the amount realized by the borrower which means that the broker has extracted 15 percent on 15 percent.

Mortgage loan brokers have offered no substantial evidence that such high brokerage fees are necessary for the continuance of their business. There has been, instead, a reluctance on the part of these operators even to discuss this problem. A number of smaller companies, covered by the survey of committee staff members, indicated a lower brokerage fee was desirable, and Mr. B. J. Levinson, who runs a relatively large firm indicated strong support for a lowering of these fees. One broker went so far as to say this is desirable because it would preclude kickbacks from the broker to the lender which he contends is now a common practice.

Assembly Bill No. 3440 purports to place the brokerage fee at that level which the 1955 Legislature apparently felt was adequate, or a true 15 percent for a three-year loan. Since investigation demonstrated that virtually all loans in the Los Angeles area are now being made for three years in order to take advantage of the highest possible brokerage fee, we have concerned ourselves largely with this level of operation; however, the bill would also decrease brokerage fees for shorter loans proportionately. Basically, the committee feels that the 1955 legislation has had a salutary effect by lengthening out the terms of loans and providing some additional breathing spell for repayment. The proposed legislation would continue the basic principle of rewarding the broker for making longer term loans by allowing a somewhat higher fee.

2. *Balloon Payments*

These have come to be almost a standard feature of second mortgages and deeds of trust. They are found in both purchase money and straight loan transactions. There may be some justification for such an arrangement in purchase money deeds where a buyer of a home may be sufficiently solvent to meet the balloon payment when it is due. Even in this area, however, it has resulted in inflating the cost of a home to

the buyer with attendant high profits to the ultimate purchaser of the trust deed for such trust deeds are usually promptly sold at a considerable discount.

In an actual loan transaction where there is no exchange of property, there is good reason to question whether a balloon payment has any legitimate place whatsoever. This question is based upon the fact that most borrowers who are driven to securing money on their homes are persons who work for wages, and, as a consequence, have a limited source of income with no prospects of variation, and certainly with little chance of building up enough money to meet a heavy balloon payment. It is the feeling of the committee that in a straight loan transaction one of the most important services that could be rendered a necessitous borrower would be to require the amortization of the loan. This would serve two functions: first, it would provide the borrower with a tool to repay the loan; and secondly, it would be a further discouragement against his entering into such a loan transaction except in dire emergency. Cases investigated showed that the average note is $2,103 and after three years duration carries an average balloon of $1,161. Interpreted, this means the borrower is still faced with a final payment of about 55 percent, after having paid on the loan for three years. The committee questions how a necessitous borrower can possibly manage to extricate himself from the morass of debt which prompted him to seek such an uneconomic loan in the first place to enable him to meet his huge obligation.

Balloon payments were found to be prevalent in 70 percent of the transactions, and while they averaged 55 percent of the principal sum of the note, this quite often amounted to 65 or 70 percent of the amount the borrower originally desired. Many persons were not advised of this fact, and, indeed, were unaware of the existence of the balloon payment until some time after the transaction had gone into effect Others appeared to have been lured into a sense of false security by the broker's vague promises that refinancing would be arranged. Since a broker, if he extracts a brokerage fee, cannot also properly be a lender, this gives rise to grave questions. If the broker can actually fulfill this promise, one would be justified to question whether it were indeed his own money he was lending, and whether his action as a broker was purely to secure profit beyond allowable 10 percent interest. If he cannot fulfill his promise, then it can only mean that he had resorted to the grossest kind of misrepresentation.

Current legislation permits balloon payments if the loan is written for 37 months. This has become almost a universal practice in the Los Angeles area. As a matter of fact, brokers apparently could go one step beyond this, write contracts for 37 months, and provide for a balloon payment at any time within the term of the loan even before the 36-month period has been passed. Assembly Bill No. 3440 would completely ban balloon payments. We believe this would have two salutary effects: (1) it would provide automatic amortization thus ending the very likely possibility of loss of homes through inability to meet the huge balloon; and (2) it would, perhaps, discourage the borrower from making an uneconomic loan except when absolutely necessary In the entire field of consumer loans, this type of loan remains the only one which is not fully amortized.

3. *Panacea-type Advertising*

The larger operators in the Los Angeles area do an immense amount of advertising. This includes newspapers, radio, and television. The common approach is to assure the borrower that once he has come in to the mortgage broker all his financial troubles are at an end. One company, for example, the Gould Investment Company, which sponsors boxing matches on television, used the old line of a "well established firm" which will "take care of all your financial problems even if you are so deeply in debt that no one else can help you." The Union Mortgage Company also uses this type of advertising. The prospective borrower is led to believe that these companies are the source of the money which the borrower will receive.

It is the committee's feeling that this type of advertising, coupled with the high pressure salesmanship exerted on the prospect when he responds, contributes greatly to many complaints of bad treatment. Assembly Bill No. 3440 would require that all advertising copy be submitted to the Real Estate Commissioner for approval prior to its public use We believe that this provision alone would eliminate many of the evils in this field.

4. *Maximum Costs*

The 1955 legislation limited costs of making a loan by a mortgage loan broker to 4 percent of the principal amount of the note or $120, whichever is greater; however, these costs were intended to be upper limits to allow enough latitude to cover adequately costs of the unusual loan. In other cases, only actual costs were to be assessed against the borrower In actual practice, however, those firms against which the first corrective legislation was directed assess the $120 maximum almost universally. This is achieved by padding allowable costs such as credit investigations, which sometimes would run as high as $10, appraisal fees which vary as much as $10 to $50 for comparable property and escrow fees where there is a wide variance

A specific example is that obtained during the investigation conducted into one of the Los Angeles companies by the Department of Finance auditors in 1956 as reported in the summary of the October hearings appended.

Two examples were given to show how costs were inflated to take advantage of the maximum $120 charge On one loan of $1,325 there were outside costs of $39 10 Charges for inside services included $35 for appraisal, $10 for credit investigation, $10 for drawing documents, $2 for other escrow costs, $40 for escrow fee, making a total of $80.90 and an overage of $16.10.

On second loan for $850 outside charges totaled $9.10 for it was negotiated in conjunction with the purchase of property by the borrower through an independent escrow company and savings were realized because of concurrent sale escrow Company D paid $5 for a copy of the policy of title insurance and $4.10 for recording fees. Inside charges to bring the amount up to the $120 maximum were recorded as follows: appraisal fee $35, credit investigation $10, drawing of documents $20, other escrow costs $2, escrow fee $50, making a total of $110 90 with an overage of $6.10 The escrow fee of $50 on the $850 loan was compared with that of $40 on the loan of $1,325. The cost to

the borrower on the $850 loan was $247 50 in addition to the 10 percent interest The borrower received $602.50

Our questionnaire and investigation indicates that a large number of smaller brokers make loans and charges considerably under the maximum now permitted—charges of $65, $70, or $80 were considered sufficient. The Department of Finance also found in the Northern California area that with the exception of one company the practice is to charge considerably less than the $120 assessed by sharp practitioners in Los Angeles.

Assembly Bill No. 3440, we believe, would correct this situation by limiting costs to those actually incurred in making the loan, by requiring escrow companies servicing mortgage loan brokerage transactions to maintain adequate records, and by giving the Real Estate Commissioner authority to investigate their records This, we believe, will make it more difficult to hide the true costs of the transaction and will put the burden of proof on the broker to substantiate his charges.

5. Misrepresentation, Omission, and Bad Advice to Borrowers

This is perhaps the central evil existent in the field of mortgage loan brokerage today. The fact that it still exists indicates that despite their protestations, the industry, or at least that segment of the industry which deals almost exclusively in lending money secured by real estate, without the exchange of title, has not vigorously attempted to clean its own house. Our survey, for example, indicated that 63 percent of the borrowers in our sample felt they had been misled or that essential facts had been omitted or misrepresented to them in the transaction. Our staff investigator, Mr. Fred Lewe, said, "There are ethical and legal considerations involved in the assurances made to the borrower that the loan could be refinanced when the balloon payment became due. Apart from giving the borrower a false sense of security, it would appear that the broker was unable legally to bind the lender to refinance the original loan "

Mr. Lewe also said, "I would say that as to * * * misleading statements, the situation is about the same as at the time we conducted our original investigation in the Los Angeles area We found that there were essential omissions by the broker even on the required mortgage loan broker's statement. In 31 percent of our sample cases, the statement was signed in blank The borrower received the statement prior to assuming the obligation for the loan in only 26 percent of the cases, and the borrower did not receive the statement in the broker's office in 21 percent of the cases

"Estimated amounts of interest payable on the note was left blank on the mortgage loan broker's statement in 100 percent—repeat 100 percent—of our sample cases, and this led 73 percent of the borrowers to believe the interest was actually included in the charges and commission.

> "The borrower received only 66 percent of the amount originally requested which in some cases left him very little better off than he was before making the loan."

Sometimes this misrepresentation results in the borrower's signing the papers and later discovering that the loan is so greatly to his disadvantage that he does not wish to go through with it. In the past,

borrowers in such cases have found that the broker insisted that the full amount of the fee be paid even though little or no service was provided.

Included among the violations of the fiduciary trust were instances where the broker had made loans to the recipients of public aid. This resulted in some cases in the aid recipient being forced off the public rolls because of the cash he had secured from the loan. In one case, it also complicated the recovery by the county of its money when the owner of the mortgaged property was forced out of her premises. In this particular case the property was never foreclosed.

Further evidence of these violations includes cases where the borrower may want only a small amount of cash which might be obtained by a correspondingly small second deed of trust, but the broker persuaded the borrower to refinance a perfectly good first trust deed, often at a higher rate of interest, in order to exact maximum brokerage fee

Assembly Bill No 3440 attacks this problem from several different angles. We believe the most important single feature which would improve this situation is the three-day waiting period which the bill imposes. Not every instance of signing documents in blank, misrepresentation, omission, and other shady practices, can be eliminated by legislation, it is true, but we have found in case after case if the borrower had been given ample time away from the high-pressure salesmanship of the broker's office to look at the deal he was making, to talk it over with his wife, or to ask the advice of a friend or an attorney, he would not have made the loan to begin with. We believe that when the security of a man's home is involved the home owner is entitled to have time to give serious logical thought to determine whether he wants to take a chance on losing his home by becoming involved in a bad or uneconomic loan. Assembly Bill No. 3440 would also make it illegal for any document in the transaction to be signed in blank, this amounts to a broadening of the present prohibition against signing the mortgage loan broker's statement in blank We also feel that the provision which makes the collusion of the borrower no defense for the broker adds greatly to the possibility of successful prosecution of cases where documents have been signed in blank.

6. *Source of Funds*

Rarely does the borrower know where the funds for his loan are coming from. As a matter of fact, after two years of investigation, the committee itself is dubious about the real source of much of the money involved in these tri-partite agreements One of the principal offenders in Los Angeles, for example, lends his wife's money. Another has a separate corporation, with almost the same offices, set up to provide intermediate funds. Others apparently have a pool of money out of which loans requested are financed. The confusion is compounded by the fact that in their advertising, most brokers deliberately create the impression that they, themselves, are money lenders. In fact, the name of the association which represents most of the worst offenders in the Los Angeles area is the Independent Mortgage Bankers Association. Certainly we have reason to question the sincerity of this group when they assume for their association's name the word "bankers." It is quite normal for borrowers to assume the brokers are the source of the funds they seek. This enhances and furthers the misrepresentation

so many brokers make about refinancing a loan at its expiration. Since most of these loans are repaid by the borrower to the broker directly, it places the borrower in the position of not being able to deal with the lender in resolving any problem which may arise out of the loan.

Assembly Bill No. 3440 would make it illegal for any broker to collect a fee for lending money over which he exercises any personal control whatsoever. This would include money put up by members of his immediate family This, plus safeguards inherent in the loan transaction, would provide more protection for the borrower.

7. *Identification of Mortgage Loan Brokers for Purposes of Enforcement*

It is currently impossible for the Real Estate Commissioner's Office to determine who is a mortgage loan broker and who is not The present law requires only that mortgage loan brokers be licensed real estate brokers. Since there are thousands of these, it is patent that the enforcing agency cannot really enforce regulatory legislation because it does not know who the principals are. What this really means is that no preventive policing is possible, and that the only way the Real Estate Commissioner can take action is after the violation has occurred. He cannot even, as a matter of fact, see that each mortgage loan broker is familiar with the administrative regulations adopted by his office. This question was posed when the Department of Finance auditors began their investigation In the Los Angeles area they had to rely almost exclusively on complaint files to determine who the mortgage loan brokers were Because of this situation we feel that ancillary licensing is absolutely essential.

Assembly Bill 3440 would provide for this with a minimum of inconvenience to the broker. The bill specifically exempts those real estate brokers who may arrange a loan in connection with a transfer of property without brokerage fees. Since many real estate brokers provide this service free of charge to purchasers to expedite the exchange of property and earn their real estate broker's fee, we feel that the ancillary license would inconvenience them not at all When a fee is charged, however, the ancillary license would be required. It would then merely entail the filing of an application since a real estate broker would automatically qualify for a mortgage loan broker's license. The other inconvenience is the expense of the license. This provision would enable the Real Estate Commissioner to ascertain readily who is a practicing mortgage loan broker

8. *Restitution and Responsibility to the Borrower*

Many cases of misrepresentation in this field are traceable to agents of the mortgage loan broker Some persons engaged in the business would apparently be incapable of satisfying a judgment a borrower might obtain in court This has not yet happened to any large extent, but we feel that the enactment of stricter legislation would result in more judgments being obtained Consequently, we believe that both mortgage loan brokers and their agents who are in direct contact with the public, should be responsible and responsive. Assembly Bill No 3440 would establish this by requiring bonds not only for the real estate broker but for his agents as well.

9. New Devices

Blocked off from fabulous profits by the 1955 legislation, some brokers seem to have deliberately set about to find new ways of ballooning their earnings The most novel of these is a closed option plan instituted by one firm in Palo Alto. This works in this manner. The borrower is asked to select a specific repayment plan. If $1,000 is borrowed to be fully amortized over a 52-month period, the borrower could elect a 37-month prepayment period Then, if he chose to pay off the note within the first year, he would still have to pay interest for the remaining two years. If, however, he went beyond the 37 months without paying off the note, he would be obligated to pay interest for the full 52 months, even though he might be able to pay the note off at an earlier date. Some people accept a zero prepayment period which requires them to pay off the note within two months after the loan is written Most loans are paid off to this particular company before the due date which makes this plan attractive to investors because of the additional interest it commands.

Borrowers are charged interest from the date the application for the loan is signed in spite of the fact that there may be a lapse of from 4 to 30 days or longer before funds are actually deposited in escrow The Department of Finance auditors found literally hundreds of these cases. Assembly Bill No. 3440 would correct this by requiring that interest be payable only from the date the funds are actually made available to the borrower.

Other devices include compulsory insurance (other than fire, such as health and life insurance) and heavy prepayment penalties. Part of this should be covered by a recent ruling of the Attorney General that insurance incidental to the acquisition of the loan must be considered as a cost of making that loan and hence must fall within the $120 limitation. Assembly Bill No. 3440 would go a step further by the addition of Section 10790 which states:

> "A broker shall not charge, collect, or receive any fee, charge, or payment of any kind from a borrower as a condition to the prepayment of a loan negotiated by such broker, nor shall any penalty be exacted by the broker by reason of such payment "

It would also by the addition of Section 10789 prohibit the broker from charging the borrower for the collection of any payment on the loan negotiated by that broker

10. Overlapping Corporations

This can best be exemplified by the case of the Union Mortgage Company which under the same roof and with almost identical offices operates three separate corporations. the Union Mortgage Company, itself. the mortgage broker firm, the Secured Investment Corporation, which insures the lenders money, and Public Investment Corporation, which apparently provides a pool of money for intermediate use in financing loans. A detailed audit of this company showed such unusual bookkeeping transactions as a $4,500 "plug." This was described by the officers of the corporation as a bookkeeping insertion to make the accounts balance. This company also follows the practice of partially offsetting payables and receivables on the books of the other

two firms Employees of this company maintain the official books and records of the other two corporations Licensed brokers on the staff of this company, were participants in the financial affairs of the other two corporations Records of all three firms were in very poor condition and very difficult to examine Overdrafts, not actually in existence were indicated Figures for the trust cash in the bank were considerably at variance with the amount shown as liability therefor. Reciprocal loans payable on the books of the two corporations showed a discrepancy of $10,277.91. No attempt was made to determine the distribution of overhead expense among the three companies.

Records of other mortgage brokers audited by the Department of Finance showed many discrepancies in their accounts and a general sloppiness of procedure. Some firms on the contrary, had exceptionally good auditing procedures. Assembly Bill No. 3440 would allow the Real Estate Commissioner to correct these deficiencies by regular inspection of the books and by adoption of the necessary rules and regulations to insure adequate and basic bookkeeping and accounting practices.

GENERAL STATEMENT AND OBSERVATIONS

The field of credit has come today to mean a great deal in the lives of all our people. With some it has a direct influence; with others more indirect but nonetheless important. Roughly, about two out of every three families use credit in their economic lives. Those who do not are, of course, affected by its use by others and its impact upon the over-all economy. Consumer debt continues to rise in the United States It rises even more rapidly in California.

Much of our advertising psychology today is aimed at enticing the prospective buyer into broader use of credit Short of actual consumer credit control, it appears doubtful that there will be any drastic curtailment of this in the near future. The purpose of this report is not to analyze the effect of this expansion of consumer credit on the economy, or to evaluate the necessity for any type of over-all control. It is the committee's feeling that since credit does mean so much to our economy it is essential for all levels of government to guard its use as zealously as possible. This is necessary for two reasons: the first and most important is the necessity to maintain a healthy economic structure; the second is to avoid as much individual hardship and heartbreak as we can.

This protection can best be accorded at the state level by assuring the borrower fair and equitable treatment. In the field of credit, and particularly where there is a necessitous borrower involved, the business transaction between the lender and/or the broker, and the borrower does not always see parties of equal status or abilities involved. Because of this, the general feeling exists that it is obligatory upon the State Government to provide additional checkmates. Nowhere is this more true or more necessary than in the field of loans secured by real property. The general borrower who must resort to placing multiple mortgages on his home in order to obtain money is in poorer than average circumstances. Quite often this includes education and ability as well as finances. Such a borrower, consequently, is ill equipped to cope with the type of operator he finds in many Los Angeles mortgage brokerage firms.

The real estate loan represents perhaps the poorest bargain for the borrower of almost any other type. Even where there is a legitimate and principled broker involved, or, indeed, in those transactions where there is no broker, it is an uneconomic arrangement particularly when a relatively small amount of money—an amount under $1,000—is sought. This is caused by the legal necessity for a title search, title insurance, appraisal, and recording fees.

When a sharp operating broker inserts himself between the borrower and the lender, the situation becomes unbelievably burdensome to many borrowers. One may well ask whether a $1,000 loan is even worth the $1,500 total cost to the borrower. When we add to this question the fact that many such loans are not amortized, and provide for a huge balloon payment at the end of a relatively short period of

time, the deal for the borrower becomes even worse. Illuminating testimony to this effect was rendered to the committee by Mr. Michael Howard at the December 10th hearing in Los Angeles. Mr. Howard is peculiarly fitted to be an expert witness in this field. He has worked for the Ideal, Reliable, Superior, and Fred Klein Mortgage Companies Included in this group are a couple of firms with the most notorious reputation in Southern California. Mr. Howard stated in response to questions, "I know very few (borrowers), personally, that have ever paid off (loans arranged by mortgage brokers). Actually, I can't recall any. I never ran into anybody who said, 'I finally made the last payment.'"

While this is certainly far from enough evidence to conclude that mortgage loans do not serve any sound economic purpose, it is sufficient to indicate that no disservice would be done to borrowers in general if these loans were made somewhat more difficult to obtain. We have reference here only to those loans which are not made to expedite the exchange of property. Actually, the committee has introduced no legislation which directly makes such loans more difficult to obtain, but, of course, some of that effect will be obtained by sections of our bill which would cut excessive profits extant.

The following chart indicates the higher costs of mortgage loans arranged by brokers contrasted with the cost of loans obtained from personal finance companies.

(The chart on page 19 was prepared on the basis of 15 percent brokerage fee which the committee found few instances in its investigation where less than this amount was charged by the large operators in Southern California.)

Undoubtedly, Assembly Bill No. 3440, if enacted, will cause some inconvenience to those real estate brokers who are also engaged as mortgage loan brokers. The separate licensing will represent some additional cost and effort. In many cases, it will cause inconvenience despite the fact that a particular broker may be operating in a legitimate manner and with complete responsibility to his clients; however, we know of no way in which we can regulate the evil without also inconveniencing the good. It is our feeling that the situation is so rife with possibilities that practices may become for worse than those followed at the present time that the Legislature would be remiss in its responsibilities to the credit system in general, and the borrower in particular, if it did not impose further regulations. Moreover, in every situation where evil must be controlled, there is corresponding inconvenience to the innocent. Beyond the licensing feature, we can see no ill effects of the bill on the real estate profession or the home-buying public. Most real estate loans, negotiated to expedite property exchanges, are completely legitimate and carry only a very small fee or none at all. As a result, such transactions will easily fall within the scope of our bill and will not be disturbed by its major features.

We are well aware that most violations result from the activities of a relatively small number of operators. The real estate profession and realtors engaged as mortgage loan brokers are largely honest, responsible members of their communities, performing outstanding jobs, and making a real contribution to the welfare of our economy. It is our

COST OF LOANS

Net amount of loan	Personal property brokers		Mortgage loan brokers*				
	1 year	2 years	Basis of rates	1 year	2 years	3 years	4 years
$500 00			10782(a)	$120 00	$120 00	$120 00	$120 00
			(b) 2—(5%)	25 00 (7½%)	37 50 (10%)	50 00 (10%)	50 00
			(c) 10% on gross	35 47	70 67	108 28	145.67
	$74 10	$147 90		$180 47	$228 17	$278 28	$315 67
750 00			10782(a)	$120 00	$120 00	$120 00	$120 00
			(b) 2 —(5%)	37 50 (7½%)	56 25 (10%)	75 00 (10%)	75 00
			(c) —	49 91	99 55	152 72	205.47
	99 83	198 63		$207 41	$275 80	$347 72	$400 47
1,000 00			(a)	$120 00	$120 00	$120 00	$120 00
			(b) 2 (5%)	50 00 (7½%)	75 00 (10%)	100 00 (10%)	100 00
			(c)	64 34	128 44	197 17	265 26
	119 38	236 32		$234 34	$323 44	$417 17	$485 26
2,000 00			(a)	$120 00	$120 00	$120 00	$120.00
			(b) 2 (5%)	100 00 (7½%)	150 00 (10%)	200 00 (10%)	200 00
			(c)	122 08	243 98	374 94	504 42
	183 24	360 10		$342 08	$513 98	$694 94	$824 42
3,000 00			(a)	$120 00	$120 00	$120 00	$120 00
			(b) 2 (5%)	150 00 (7½%)	225 00 (10%)	300 00 (10%)	300.00
			(c)	179 82	359 52	552 71	743.59
	241 65	473 86		$449 82	$704 52	$972 71	$1,163 59
4,000 00			(a) (4%)	160 00 (4%)	$160 00 (4%)	$160 00 (4%)	$160 00
			(b) 2 (5%)	200 00 (7½%)	300 00 (10%)	400 00 (10%)	400 00
			(c)	239 77	479 36	736 95	991 45
	298 38	585 22		$599 77	$939 36	$1,296 95	$1,551 45
5,000 00			(a) (4%)	$200 00 (4%)	$200 00 (4%)	$200 00 (4%)	$200 00
			(b) 2 (5%)	250 00 (7½%)	375 00 (10%)	500 00 (10%)	500.00
			(c)	299 71	599 20	921 19	1,239 32
	355.11	695 64		$749 71	$1,174 20	$1,621 19	$1,939 32

* Brokerage fee has been figured on amount of money received by borrower The prevailing practice, however, has been to add the regular costs to this amount, then consider that these two amounts represent 85 percent of the face amount of the note which allows an additional brokerage fee of 4 to 5 percent

hope that the proposed stringent regulation will end violations of the small group whose activities have brought discredit to a great profession.

The statement has been made, and will be repeated during hearings on Assembly Bill No. 3440, that complaints in this field have dwindled greatly during the past year and a half. This argument will be set forth as illustrative of the fact that the situation has been cleaned up by existing legislation. In evaluating this contention, however, two things should be kept firmly in mind: first, the rash of complaints which were received prior to the enactment of the 1955 legislation were generally touched off when the borrower was faced by the balloon payment. Since the common practice now is to write most loans for a 37-month period, it is reasonable to expect the volume of complaints to increase drastically within 18 to 24 months. Secondly, there is little room for doubt that the sharpies have been restrained greatly by the presence of an aggressive committee and the constant threat of bad publicity from public hearings. The housebreaker never practices his profession in the presence of a policeman. The fact that the committee found so many questionable practices still extant indicates how much worse the situation might have been. The committee, therefore, feels continuing studies and investigation by the Legislature are both necessary and desirable in this sphere.

During our October hearings, particularly, and to a lesser extent, in the December hearings, witnesses before the committee made many suggestions for changes in the bill then under consideration. The copy of Assembly Bill No. 3440 which is appended hereto contains a great many of those suggestions. The committee incorporated what it felt was advisable and deleted provisions from the original draft which appeared to be too stringent or impractical.

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL No. 3440

Introduced by Messrs. Unruh and Munnell

January 24, 1957

REFERRED TO COMMITTEE ON GOVERNMENTAL EFFICIENCY AND ECONOMY

An act to repeal Chapter 8 of Title 14, Part 4, Division 3 of the Civil Code, and Sections 10131.1, 10132.1, 10134.1, 10176.1, 10176.2, 10176.3, and 10176.4 of the Business and Professions Code, to amend Sections 25006.1 and 25102.1 of the Corporations Code, to add Part 1.5 (comprising Sections 10700 to 10837, inclusive) to Division 4 of

the Business and Professions Code, to amend Sections 10131 of that code, and to amend Section 17006 of and add Section 17405.1 to the Financial Code, relating to loans secured by real property, and providing for the licensing and regulation of those engaged in the negotiation or servicing thereof.

The people of the State of California do enact as follows:

SECTION 1. Part 15 is added to Division 4 of the Business and Professions Code, to read:

PART 15. MORTGAGE LOAN BROKERS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Definitions

10700. Unless the provision or the context otherwise requires, the definitions given in this article govern the construction of this part.

10701. "Commissioner" means the Real Estate Commissioner of the State of California.

10702. "Licensee" means any mortgage loan broker or mortgage loan agent who receives a license in accordance with this part.

10703. "Mortgage loan broker," includes every person other than a lender who for compensation payable by a borrower either directly or from the proceeds of a loan, negotiates a loan to be secured by real property, and taking in the name of the lender, or in any other name, in whole or in part, as security for such loan, any mortgage, deed of trust or other lien upon forfeiture of rights in or to real property.

10704. "Mortgage loan agent" includes every employee, agent or representative of a licensed mortgage loan broker who on behalf of the broker contacts, interviews or in any manner discusses a loan or prospective loan with a borrower or prospective borrower either before or after the loan is made.

10705. "Broker" means a mortgage loan broker.

10706. "Agent" means a mortgage loan agent.

10707. "Charges" means the remuneration contracted for or to be received by any person for negotiating, procuring, arranging or servicing a loan secured by real property and includes bonuses, brokerage commissions, and fees of any kind whether received from a borrower, a lender or any other person.

10708. "Person" includes any individual, association, organization, partnership, business trust, or corporation

10709. This part may be known as the "Mortgage Loan Brokers Law."

Article 2 Application

10715. The provisions of this part do not apply to the following:

(a) Any person doing business under any law of this State, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies authorized to do business in this

State, or to any person acting as an authorized representative, agent or loan correspondent of such institution in the negotiating of any loan made for or sold to such institution

(b) Any loan guaranteed or insured by an agency of the Federal Government or for which a commitment to so guarantee or insure has been made by such agency.

(c) Any nonprofit cooperative association organized under Chapter 4 of Division 6 of the Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(d) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business.

(e) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(f) The services of a person licensed to practice law in this State, not actively engaged in the business of negotiating loans secured by real property, when such person renders services in the course of his practice as an attorney at law, and the disbursements of such person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of this part; provided, such fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender.

(g) Any person licensed as a personal property broker when acting under the authority of such license.

10716. The provisions of this part do not apply to any bona fide loan secured in whole or in part by a first mortgage or first trust deed, the principal sum of which amounts to more than ten thousand dollars ($10,000) or to any bona fide loan secured in whole or in part by a second mortgage or second trust deed, or any lien junior thereto, the principal sum of which amounts to more than five thousand dollars ($5,000).

10717. One act, for a compensation, of negotiating a loan on real estate or of selling or offering to sell, buying or offering to buy, or negotiating the purchase or sale or exchange of a promissory note secured by a lien on real property, and when such note is not sold to an underwriter or is not one of a series of notes, constitutes the person making such offer, sale, purchase or exchange a mortgage loan broker or mortgage loan agent within the meaning of this part.

10718. No person engaged in the business or acting in the capacity of a mortgage loan broker or a mortgage loan agent within this State shall bring or maintain any action in the courts of this State for the collection of compensation for the performance of any of the acts within the scope of this part without alleging and proving that he was a licensed mortgage loan broker in good standing at the time the alleged cause of action arose.

CHAPTER 2. LICENSING

Article 1. Mortgage Loan Brokers

10720. No person shall engage in the business of a mortgage loan broker without obtaining a license as a mortgage loan broker from the commissioner under this chapter.

10721. Applications for a license as a mortgage loan broker shall be in writing, under oath, in the form prescribed by the commissioner, and shall contain the following and such further information as the commissioner requires:

(a) The name of the applicant, and if a partnership or association, the names of the members; or if a corporation, the names of each officer and director.

(b) The names of all of the agents who are to be employed or otherwise engaged or associated with the broker and the names of the persons who are to be in charge of the place of business of the applicant.

(c) The residence, business addresses and telephone numbers of each person named in subdivisions (a) and (b) of this section.

(d) The county and municipality, with the street and telephone number, if any, where the principal place of business and also any branches or agencies are to be conducted.

(e) The source of all funds, to be used by applicant in negotiating loans or advances against loans which he negotiates, and the terms of all agreements with respect to the furnishing or use of funds or hypothecation of property or assets for such purposes.

10722. At the time of making the application, the applicant shall pay to the commissioner the sum of one hundred dollars ($100) as a fee for investigating the application and the additional sum of eight hundred dollars ($800) as a license fee for a four-year period.

10723. The applicant shall file with the application a surety bond in the sum of five thousand dollars ($5,000), approved by the commissioner, in which the applicant is the obligor, with one or more sureties approved by the commissioners whose liability as sureties need not exceed that amount in the aggregate.

10724. The bond shall run to the State for the use of the State and of any person who has a cause of action against the obligor of the bond under the provisions of this part. The bond shall be conditioned that the obligor and his employees and representatives will faithfully conform to and abide by the provisions of this part and of all rules and regulations made by the commissioner pursuant to this part, and will pay to the State and to any person all money that becomes due or owing to the State or to such person from the obligor under the provisions of this part.

10725. If the commissioner finds at any time that a bond is insecure or exhausted, in whole or in part, or otherwise doubtful, the licensee shall file an additional bond in the sum of not more than five thousand dollars ($5,000), approved by the commissioner, with one or more sureties approved by the commissioner, and of the character specified in this article for an original bond. The bond shall be filed within 10 days after written demand upon the licensee by the commissioner

10726. No person shall be licensed under this article unless the commissioner is satisfied that the applicant is honest, truthful and of good reputation.

10727. The commissioner may require such proof as he may deem advisable concerning (a) the honesty, truthfulness and good reputation of any applicant for a mortgage loan broker's license, or of any mortgage loan agent he may employ, or of the officers, shareholders or directors of any corporation, or of the members of any copartnership or association making such application, and (b) of the fiscal relationship between such parties and any lenders or lending agents. For such purpose the commissioner may call a hearing in accordance with the provisions of this part.

10728. The commissioner shall ascertain by written examination that the applicant, and in the case of a copartnership, association or corporation applicant, that each officer, agent or member thereof through whom is proposes to act as a mortgage loan broker has:

(a) Appropriate knowledge of the English language, including reading, writing and spelling and of elementary arithmetic.

(b) A fair understanding of the rudimentary principles of real estate conveyancing, the general purposes and general legal effect of deeds, mortgages, land contracts of sale and leases, and of the elementary principles of land economics and appraisals.

(c) A general and fair understanding of the obligations between principal and agent, of the principles of real estate practice and the canons of business ethics pertaining thereto, as well as of the provisions of Part 1 and Chapter 1 of Part 2 of this division relating to real estate.

10729. The commissioner may waive the examination of any applicant for a mortgage loan broker's license who at the time of application is the holder of a valid unrevoked and unrestricted real estate broker's license in good standing.

10730. Upon the filing of the application and the payment of the fees, the approval of the surety bond, and the successful passing of the qualifying examination, the commissioner shall investigate the facts, and if he finds that the financial responsibility, experience, character, and general fitness of the applicant, and its members if the applicant is a copartnership or association and its officers and directors if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this part, he shall issue and deliver a license to the applicant to engage in business in accordance with the provisions of this part, at the location specified in the application.

10731. The license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a copartnership or association, the names of its members, and if a corporation, the date and place of its incorporation, its principal place of business, and the names and residence addresses of its officers.

10732. Each licensed broker shall pay to the commissioner on or before the expiration date of his license, the sum of eight hundred dollars ($800) as a renewal license fee for the next succeeding four-year period and shall at the same time file with the commissioner a surety bond in the same amount and of the same character as required by this article for an original surety bond.

10733. Licenses issued under this article expire at noon on the expiration date stated on the face of the license if, on or before such date, the licensee fails to file an application to renew it, to post the surety bond, and to pay the renewal license fee.

10734. If the commissioner finds that any applicant does not possess the requirements specified in this article, he shall, upon reasonable opportunity to be heard, deny the application and return to the applicant the bond and the sum paid by the applicant as a license fee, retaining the one hundred dollars ($100) investigation fee to cover the costs of investigating the application. The commissioner shall approve or deny each application for a license within 30 days from the date the application with the fees and the approved bond is filed. Such denial shall be subject to administrative and judicial review.

10735. A petition for review of the denial of an original application for a license may be filed within 30 days of the date thereof. The proceedings for review of a denial of a license shall be conducted in accordance with Chapter 5, Part 1, Division 3, Title 2, of the Government Code, and the commissioner has all the powers granted therein.

10736. All money paid or collected under this part shall be deposited in the State Treasury to the credit of the General Fund. The administration of this part shall be supported out of the General Fund.

Article 2. Office Personnel

10741. No person shall perform services as a mortgage loan agent unless he is the holder of a valid unrevoked license as a mortgage loan agent issued by the commissioner pursuant to this article.

10742. Applications for a license as a mortgage loan agent shall be in writing, under oath, and in the form prescribed by the commissioner. The application shall be accompanied by the recommendation of a mortgage loan broker who has agreed to employ the applicant, certifying that the applicant is honest, truthful, of good reputation, and has no financial interest or ownership in moneys a borrower will receive from a lender, together with a fidelity bond payable to the broker who is to employ him in the sum of one thousand dollars ($1,000), approved by the commission The applicant shall pay a license fee as fixed and determined by the commissioner, not to exceed four hundred dollars ($400) for a four-year period.

10743. No person shall be licensed under this article unless the commissioner is satisfied that the applicant is honest, truthful, of good reputation and has no financial interest or ownership in the moneys a borrower will receive from the lender.

10744. The commissioner may require such proof as he may deem advisable concerning the honesty, truthfulness, good reputation and financial relationship with lenders or lenders agents of any applicant for a mortgage loan agent's license, and for such purpose may call a hearing in accordance with the provisions of this part.

10745. The commissioner shall ascertain by written examination that the applicant has:

(a) Appropriate knowledge of the English language, including reading, writing and spelling and of elementary arithmetic.

(b) A fair understanding of the rudimentary principles of real estate conveyancing, the general purposes and general legal effect of deeds, mortgages, land contracts of sale and leases, and of the elementary principles of land economics and appraisals.

(c) A general and fair understanding of the obligations between principal and agent of the principles of real estate practice and the canons of business ethics pertaining thereto, as well as of the provisions of Part 1 and Chapter 1 of Part 2 of the division relating to real estate.

10746. The commissioner may waive the examination of any applicant for a mortgage loan agent's license who at the time of application is the holder of a valid unrevoked and unrestricted real estate salesman's license in good standing.

10747. All licenses under this article shall be issued for a period of four years and shall be renewable upon payment of the fee prescribed for the issuance of an original license of the same kind.

10748. All licenses issued under this article are subject to suspension or revocation. The commissioner may at any time require the removal of any employee or official employed by any licensee hereunder in any case where he has reason to believe that the employee or official has been guilty of any dishonest practice in connection with the loan business and has failed to comply with any condition of such licensee's license, or has violated any law or regulation of the commissioner.

Chapter 3. Regulations

Article 1. General Regulations

10751. The commissioner may adopt regulations and make specific rulings, demands, and findings for the enforcement of this part, in addition to, and within the general purposes of this part. In the administration of this part the commissioner may conduct investigations and hearings pursuant to the provisions of Article 2, of Chapter 2, Part 1, Division 3, Title 2 of the Government Code, and he shall have all the powers granted therein.

10752. A mortgage loan broker shall not employ nor permit any person to act in a position in which the individual in any manner deals or communicates directly with a borrower or a prospective borrower either before or after the loan is made, unless such person is licensed by the commissioner pursuant to this part.

10753. A licensed broker shall maintain only one place of business under the same license. The commissioner may issue more than one broker's license to the same licensee upon compliance with all the provisions of this part governing an original issuance of such a license. Such licenses shall be conspicuously posted in the place of business of the licensee and are not transferable nor assignable.

10754. If a licensed broker desires to change his place of business to a street address other than that designated in his license, he shall give written notice to the commissioner, who shall attach to the license in writing his approval of the change and the date of approval.

10755. No licensed broker shall conduct the business of negotiating for loans as a broker under this part within any office, room, or place of business in which any other business is solicited or engaged in, or

in association or conjunction therewith, except as is authorized in writing by the commissioner upon the commissioner's finding that the character of the other business is such that the granting of the authority would not facilitate evasions of this part or of the rules and regulations made pursuant to this part. An authorization once granted remains in effect until revoked by the commissioner.

10756. No licensed broker shall transact the business licensed or make or negotiate any loan within the scope of this part under any other name or at any other place of business than that named in the license.

10757. Licensed brokers shall keep and use in their business, books, accounts, and records which will enable the commissioner to determine if they are complying with the provisions of this part and with the regulations adopted by the commissioner. The commissioner may prescribe the form and content of such books, accounts and records.

10758. Licensed brokers shall preserve their books, accounts, and records, including cards used in the card system, if any, for at least three years after making the final entry on any loan recorded therein.

10759. Each licensed broker shall file a report with the commissioner annually on or before the fifteenth day of March, giving such relevant information as the commissioner reasonably requires concerning the business and operations during the preceding calendar year of each licensed place of business within the State conducted by such licensee.

10760 No person shall advertise, print, display, publish, distribute, telecast or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, televised or broadcast, in any manner any statement or representation wtih regard to the rates, terms, or conditions for making or negotiating loans, which is false, misleading, or deceptive, or which omits to state material information or, in the case of a licensed broker, which refers to the supervision of such business by the State or any department or official of the State

10761 The commissioner may require that rates of charge, if stated by a licensed broker, be stated fully and clearly in such manner as the commissioner deems necessary to prevent misunderstanding by prospective borrowers.

10762. If any person engaged in the business regulated by this part refers in any advertising to rates of interest, charges, or cost of loans, the commissioner shall require that they are stated fully and clearly in such manner as he deems necessary to give adequate information to prospective borrowers If the rates or costs advertised do not apply to loans of all classes made or negotiated by such person, this fact shall be clearly indicated in the advertisement.

10763 No advertising copy, including scripts used in radio broadcasting or telecasting shall be used without prior approval thereof by the commissioner.

10764. The commissioner may at any time inquire into the source of funds used or handled by a licensed broker arranging loans secured by real property, and the arrangements or agreements respecting the use of funds, and the fiscal relationship between such licensee and lenders or lending agencies.

10765. For the purpose of discovering violations of this part or securing information required by him in the administration and enforcement of this part, the commissioner may at any time investigate (a) the loans and business and examine the books, accounts, records, documents, and files used in the business, of every person engaged in the business of a mortgage loan broker, whether such person acts or claims to act as principal or agent, or under or without the authority of this part, and (b) all such books, accounts, records, files and documents of every escrow agent which pertain to any transactions negotiated by a mortgage loan broker. For the purpose of examination the commissioner and his representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons.

10766. In making any examination or investigation the commissioner may, for a reasonable time, not exceeding 30 days, take possession of the books, records, accounts, and other papers pertaining to the business and place a keeper in exclusive charge and custody of the books, records, accounts, and other papers in the office or place where they are usually kept. During such possession no person shall remove or attempt to remove any of the books, accounts, papers, records, files, safes, and vaults, or any part thereof, except in compliance with a court order or written consent of the commissioner.

10767. The officers, employees, partners, directors and stockholders may inspect and examine the books, accounts, papers, records, files, safes and vaults while they are in the custody of the commissioner and any such persons may make entries therein reflecting current operations or transactions.

10768. The power of investigation and examination by the commissioner is not terminated by the surrender, expiration, suspension, or revocation of any license isued by him.

10769 Whenever the commissioner deems it necessary for the general welfare of the public, he has continuous authority to exercise the powers set forth in this part whether or not an application for a license has been filed with the commissioner, any license has been issued, or if issued, has been suspended, revoked, or has expired.

10770. The commissioner may require the attendance of witnesses and examine under oath all persons whose testimony he requires relative to loans or business regulated by this part or to the subject matter of any examination, investigation, or hearing.

10771 The commissioner shall make an examination of the affairs, business, office, and records of each licensed broker at least once in each year.

10772. The actual cost of each examination shall be paid to the commissioner by each licensee examined, and the commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction.

10773. After an examination, investigation or hearing under this part, if the commissioner deems it of public interest or advantage, he may certify a record to the proper prosecuting official of the county or city in which the act compained of, examined, or investigated, occurred.

10774 The commissioner may require the production for examination in this State of all books, records and supporting data used by the licensee in the preparation of reports to the commissioner. The books, records, and supporting data shall be made available for examination by the commissioner in this State within 10 days after written demand

10775. No licensed broker shall do business under any firm name which asserts, implies, or suggests that he is a lender.

Article 2. Loan Regulations

10780. A licensed mortgage loan broker shall not negotiate a loan to be secured by real property unless he has at least three days prior thereto, delivered to the prospective borrower a statement in writing, containing all the information required by Section 10781. Such statement and any other compensation agreement with the borrower shall be executed at the place of business of such licensee as specified in his license. It shall be personally signed by the borrower, and by the broker or the person negotiating the loan on behalf of the broker. The broker shall certify under penalty of perjury in said statement that the loan is being made in compliance with the provisions of this part. When so executed, an exact copy thereof shall be delivered to the borrower. The person negotiating the loan shall retain on file for a period of three years after the date fixed for termination of the note a true and correct copy of such statement as signed by the borrower.

10781. The statement required by Section 10780, the form of which shall be approved by the commissioner, shall set forth separately the following items:

(a) An itemization of the estimated maximum costs and expenses of making the loan, which are to be paid by the borrower, including but not limited to:

(1) Any premium or other charges for insurance, other than fire insurance.

(2) Appraisal fees.

(3) Escrow fees.

(4) Notary and recording fees.

(5) Credit investigation fees.

(6) Terms of prepayment penalty, if any.

If such person performs or is to perform any of the services provided for in this section, such person shall enumerate the amount thereof as required by this section and such person shall be entitled to said costs and expenses in addition to the charges provided for in subdivision (b) of this section.

(b) The total amount of the charges, which shall include any fees other than those provided in (a) above, bonuses, brokerage, or commissions contracted for or to be received by any person for negotiating, procuring, arranging, or servicing such a loan.

(c) Any liens against the property, as disclosed by the borrower, and the estimated amount thereof.

(d) The estimated balance of the loan funds after deducting the total of items (a) and (b), which is to be paid to persons on his order,

and the names and addresses of persons to be so paid, if any, and the balance which is to be delivered to the borrower.

(e) The principal sum of the note.

(f) The rate of interest or the total amount of interest.

(g) The term of the note, the number of installments, and the amount of each installment.

(h) The name of the broker and the agent if any negotiating the loan, their license numbers and the address of the licensed place of business.

(i) A statement that the broker is not the lender.

(j) A statement of the maximum loan limits, if any, imposed by the broker.

10782. The maximum amount of total costs and expenses, charges, and interest to be paid on any note executed under this chapter shall be as follows:

(a) The total amount of all costs and expenses referred to in paragraph (a) of Section 10781 which are to be paid by the borrower shall not exceed the actual costs thereof paid on behalf of the borrower which shall not exceed four percent (4%) of the principal amount of the note or one hundred twenty dollars ($120), whichever is greater, but in no event to exceed two hundred fifty dollars ($250). If the total amount of the costs and expenses exceeds the estimated amount in the statement furnished to the borrower, the person negotiating the loan shall so inform the borrower in writing and the borrower may withdraw from the transaction, subject, however, to the borrower's obligation for actual out of pocket costs and expenses theretofore incurred or paid to persons other than the person negotiating the loan.

(b) The total amount of the charges referred to in paragraph (b) of Section 10781 shall not exceed the maximum limits as provided in this subdivision less any amount received by the broker from the lender or any other source with respect to such loan:

1. In the case of a loan secured in whole or in part by a first mortgage or first trust deed, three percent (3%) of the principal amount of the note referred to in paragraph (e) of Section 10781 where the term of the loan is for a period of less than three (3) years or seven percent (7%) where the said period is for three (3) years or more.

2. In the case of a loan secured in whole or in part by a mortgage or trust deed, other than a first mortgage or first trust deed, one-half of one percent (½%) per month on the principal amount of the note referred to in paragraph (e) of Section 10781 where the term is for a period of less than one year but not to exceed five percent (5%) of such principal amount for any period of one year or less. Five percent (5%) where the term of the loan is for a period of one (1) year but less than two (2) years, seven and one-half percent (7½%) where the term of the loan is for a period of two (2) years but less than three (3) years, and ten percent (10%) where the term of the loan is for a period of three (3) years or more.

3. If before the date of maturity of the loan, the borrower obtains an additional sum or advance of money on the note, the allowable charges on such additional sum shall not exceed the charges applicable to a new loan for the remainder of the term of the note or any extension thereof.

(c) No loan secured by real property shall be made which provides for payment of interest in excess of ten percent (10%) per year as provided by Section 22 of Article XX of the California Constitution, and as implemented by the Statutes of 1919, page LXXXIII, known as the "Usury Law."

10783. If, due to the failure of the borrower to disclose to the person negotiating the loan, as provided by paragraph (c) of Section 10781, the outstanding liens upon the real property, the loan is not consummated, the borrower shall be liable for the actual costs and expenses provided in paragraph (a) of Section 10781 which have been paid or incurred and shall be liable for the payment of charges in an amount not to exceed one-half of the charges as provided in paragraph (b) of said section.

10784. Any loan, made after the effective date of this act, which provides for installment payments shall require substantially equal installment payments over the period of the loan, and no installment including the final one shall be greater than twice the amount of the smallest installment.

If any loan made after the effective date of this act, is renewed or refinanced, the total amount of charges to be paid on both the original obligation and the balance of such obligation, as renewed or refinanced, shall not in the aggregate exceed the amount of charges as provided in Section 10782, and if such a loan is renewed or refinanced through the person who negotiated the original loan, the total amount of costs and expenses to be paid on both the original obligation and the renewed or refinanced obligation shall not exceed in the aggregate the amount of costs and expenses authorized in paragraph (a) of said section; excepting that the renewal or refinancing of such a loan made prior to the effective date of this act shall be considered as an original loan for the purpose of this section.

10785 If the property which secures a promissory note subject to the provisions of Section 10784 is sold at foreclosure or otherwise forfeited and the same is acquired by the lender or the person who negotiated or arranged the loan, and the said property is resold to the borrower, the purchase price shall not exceed the amount due at foreclosure plus accrued interest, together with reasonable costs of foreclosure.

10786. A licensed broker shall not directly or indirectly charge, contract for, or receive any interest or charge of any nature unless a loan is made except as provided by Section 10783.

10787. Neither a licensed broker, his licensed agent, nor the officers, directors or shareholders of any corporation licensed as a broker, nor the members of an association or copartnership licensed as a broker, nor any person shall charge, collect, deduct, withhold from money loaned, or receive any money provided by paragraph (b) of Section 10781 of this part, when any of said persons has directly or indirectly any ownership or interest in the money or the source of the money received by the borrower as a loan, or has received any fee, benefit or gratuity from the lender or lender's agent for finding the borrower or negotiating the loan.

The provisions of this article pertaining to maximum costs and expenses, charges, and interest, together with the penalties stated in this part, shall apply to any transaction involving a third party as a pur-

ported lender or any other transaction which is used as a subterfuge or means of avoiding or evading the provisions of this part.

10788. No document relating to a loan transaction or to real property which is pledged as security in a loan transaction shall be recorded until the proceeds of the loan are made available to the borrower and he is notified of such fact.

10789. No fee, charge or payment of any kind shall be charged or exacted by a broker from the borrower for the collection of any payment of a loan negotiated by such broker.

10790. A broker shall not charge, collect, or receive any fee, charge, or payment of any kind from a borrower as a condition to the prepayment of a loan negotiated by such broker, nor shall any penalty be exacted by the broker by reason of such payment.

10791. No amount in excess of that allowed by this article shall be directly or indirectly charged, contracted for, or received by any person, and the total charges of the mortgage loan broker and any other person in the aggregate shall not exceed the maximum rate provided for in this article.

10792. No person in connection with or incidental to the making of any loan regulated by this part may require the borrower to contract for, purchase, or agree to purchase any other thing in connection with the loan. A policy of insurance of the type specified in Section 10794 is not prohibited by this section.

10793. No person in connection with or incidental to the making of a loan regulated by this part shall require the borrower to enter into any collateral sales agreements or contracts, other than a mortgage or deed of trust with respect to the real property which is to be security for the repayment of the loan and charges thereon.

10794. Insurance on real property offered as security shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Sections 10792 or 10793, when all the following are met:

(a) The insurance is sold at standard rates through licensed insurance agents.

(b) The policy is written to cover the property offered as security for a loan.

(c) The property is reasonably insured against loss for a reasonable term considering the circumstances of the loan.

(d) The policy is made payable to the borrower or any member of his family even though the customary mortgagee clause is attached or the mortgagee is a co-assured.

10795. Any person who contracts for or negotiates in this State a loan to be made outside the State for the purpose of evading or avoiding this part is subject to the provisions of this part.

10796. Every broker shall display prominently in each licensed place of business a full and accurate schedule of the charges to be made and the method of computing the charges. The schedule is subject to the approval of the commissioner.

10797. A broker shall not induce or permit any borrower to split up or divide any loan.

10798. A broker shall not induce or permit any person, nor any husband and wife jointly or severally, to become obligated, directly or contingently or both, under more than one contract of loan at the same

time, with the result of obtaining a higher rate of charge than would otherwise be permitted by this article.

10799. A broker shall not take any note, promise to pay, or security that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge.

10800. A broker shall not take any instrument or document in connection with a loan transaction in which blanks are left to be filled in after execution.

10801. A mortgage loan broker shall not negotiate a loan for or on behalf of a recipient of public assistance unless and until written approval of the terms of the transaction is endorsed on the statement required by Section 10780 by the agency administering the public assistance.

Chapter 4. Revocation and Penalties

Article 1. Revocation and Suspension of Licenses

10810. Licenses issued under this part remain in force and effect until they are surrendered, revoked, suspended or until they expire.

10811. The commissioner may upon three days' notice and a hearing, suspend any license for a period not exceeding 30 days, pending investigation.

10812. Any licensee may surrender any license by delivering to the commissioner written notice that he surrenders his license, but surrender of the license does not affect the licensee's civil, disciplinary, or criminal liability for acts committed prior to surrender of the license.

10813. Whenever in the commissioner's opinion the business of a licensee, or a portion of the business, is not being operated honestly, fairly, and efficiently within the purposes of this part, the commissioner may order the licensee to desist and refrain from any acts or omissions to act which result in such unfairness, dishonesty, or inefficiency. If, after the order is made, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded.

10814. Whenever the commissioner believes from evidence satisfactory to him that any person has violated or is about to violate any provision of this part, or any provision of any rule, regulation, order, license, decision, demand, or requirement adopted thereunder, the commissioner may bring an action, or cross-complaint in special proceedings, in the name of the people against that person, to enjoin him from continuing such violation or engaging therein or doing any act in furtherance thereof. In the action the court may enter an order or judgment awarding such preliminary or final injunction as is proper.

10815. The commissioner shall revoke or suspend any license, upon notice and reasonable opportunity to be heard, if he finds any of the following:

(a) That the licensee has failed to pay the annual license fee, to maintain in effect the bonds required under this part, or to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this part.

(b) That the licensee has violated any provision of this part or any rule or regulation made by the commissioner under and within the authority of this part.

(c) That any fact or condition exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the commissioner in refusing originally to issue the license.

10816. The commissioner shall revoke or suspend any license, upon notice and reasonable opportunity to be heard, if he finds the licensee in performing or attempting to perform any of the acts within the scope of this part has been guilty of any of the following:

(a) Making any substantial misrepresentation.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) A continued and flagrant course of misrepresentation or making of false promises directly or through agents.

(d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.

(e) Commingling with his own money or property the money or other property of others which is received and held by him.

(f) The claiming or taking by a licensee of any secret or undisclosed amount of compensation, commission or profit or the failure of a licensee to reveal to his employer the full amount of his compensation, commission or profit under any agreement authorizing or employing him to do any acts for which a license is required under this part for compensation or commission prior to or coincident with the signing of an agreement evidencing the meeting of the minds of the contracting parties, regardless of the form of such agreement, whether evidenced by documents in an escrow or by any other or different procedure.

(g) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

10817. The revocation or suspension of a real estate broker's license or of a real estate salesman's license pursuant to Chapter 3, Part 1, of this division shall constitute cause for revocation or suspension of any mortgage loan broker's license or mortgage loan agent's license which is held by the same person.

10818 Where the holder of a mortgage loan broker's license or of a mortgage loan agent's license under this part is the holder of a license under Part 1 of this division, the commissioner may consolidate any disciplinary proceeding authorized by this part with disciplinary proceedings brought against such person pursuant to Part 1 of this division, upon service of notice of such consolidation upon the person.

10819. The commissioner may suspend or revoke the license of any mortgage loan broker or agent, or may deny the issuance of a license to an applicant, who has done any of the following:

(a) Procured, or attempted to procure, a license under this part for himself or any agent, by fraud, misrepresentation or deceit, or by making any material misstatement of fact in an application for a license.

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203.4 of the Penal Code allowing such licensee to withdraw his plea of guilty

and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation or information.

(c) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business.

(d) Wilfully used the term "realtor" or any trade name or insignia of membership in any real estate organization of which the licensee is not a member.

(e) Demonstrated negligence or incompetence in performing any act for which he is required to hold a license.

(f) If, as a broker licensee, failed to exercise reasonable supervision over the activities of his agents.

(g) Failed to pay when due a monetary penalty or forfeiture assessed by the commissioner.

(h) Violated any of the provisions of this part relating to maximum costs and expenses, and charges in connection with loans secured by real property.

(i) Has used his employment by a governmental agency in a capacity giving access to records, other than public records, in such manner as to violate the confidential nature of such records.

10820. When a final judgment is obtained in a civil action against any mortgage loan broker or agent upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required under this part, the commissioner may suspend or revoke the license of such individuals.

10821. The commissioner may deny, suspend or revoke the mortgage loan broker license of a corporation as to any officer or agent acting under its license, and the mortgage loan broker's license of a copartnership as to any member acting under its license without revoking the license of the corporation or of the copartnership.

10822. The commissioner may revoke or suspend the license of any mortgage loan broker or agent who is committed or adjudged insane, mentally ill or incompetent under the provisions of Division 6 of the Welfare and Institutions Code or Division 4 of the Probate Code or by any federal court of competent jurisdiction, at any time until a subsequent adjudication of competence or restoration to capacity.

10823. When any mortgage loan agent is discharged by his employer for a violation of any of the provisions of this part prescribing a ground for disciplinary action, a certified written statement of the fact with reference thereto shall be filed forthwith with the commissioner by the employer and if the employer fails to notify the commissioner as required by this section the commissioner may temporarily suspend or permanently revoke the mortgage loan broker license of the employer.

10824. No violation of any provision of this part by a mortgage loan agent shall cause the revocation or suspension of the license of the licensee employing the agent unless it appears upon a hearing by the commissioner that the employer had guilty knowledge of such violation.

10825. The revocation, suspension, or surrender of any license does not impair or affect the obligation or any preexisting lawful contract between the licensee and any borrower.

10826. Except in cases in which the time for setting the hearing is shortened as provided in this part, the proceedings under this article shall be conducted in accordance with Chapter 5, Part 1, Division 3, Title 2, of the Government Code, and in all cases the commissioner has all the powers granted therein

10827. Every order, decision, license, or other official act of the commissioner is subject to judicial review in accordance with law; provided, that there shall be no stay of the order or decision of the commissioner pending entry of judgment by the court in any proceeding for review or on appeal unless the licensee shall file a surety bond in an amount fixed by the court but not less than five thousand dollars ($5,000) running to the State and conditioned upon compliance by the licensee with the specific conditions imposed upon him by the commissioner's order or decision, and the provisions of this part.

10828. The commissioner may adopt and enforce such regulations as are reasonable or necessary to carry out the purposes and provisions of this part.

Article 2. Penalties

10831. No loan made within this State by a mortgage loan broker, for which a greater rate of interest, consideration, brokerage, and charges than is permitted by this part has been charged, contracted for, or received, shall be enforced in this State, and every person participating in the making, contracting, or collecting of such loan in this State is subject to the provisions of this part

10832. Any person, including the several members, officers, directors, agents, and employees of licensees, who violates or participates in the violation of any provision of the rules, orders, and regulations of the commissioner, or the provisions of this part is guilty of a misdemeanor, except that a violation of any provision of this part by a licensee or his agent which results in the money obligation of the borrower exceeding the amount permitted by the provisions of this part shall constitute the crime of theft as defined in Section 484 of the Penal Code

10833. If any amount in excess of the charges referred to in paragraph (b) of Section 10781 and limited by paragraph (b) of Section 10782 is charged, contracted for, negotiated, or received, except as the result of an accidental and bona fide error, the borrower may recover in a civil action against the person who shall have taken or received the same, three times the amount of any portion of the entire charge which has been paid, and the borrower shall be entitled to be awarded a reasonable attorney's fee; provided, however, that any such action shall be brought within two (2) years from the date of the last payment on the contract.

10834. In any action or proceeding against a licensee under this part, the collusion of the borrower shall not constitute a defense, nor bar recovery by the borrower as provided in this part.

SEC. 2 Section 25006.1 of the Corporations Code is amended to read:

25006.1. "Broker" does not include a *mortgage loan* broker licensed by the Real Estate Commissioner in selling securities described in Section 25102.1 of this code.

SEC. 3. Section 25102 1 of the Corporations Code is amended to read:

25102.1. Except as expressly provided in this division, the Corporate Securities Law does not apply to the sale of a promissory note secured by a lien on real property, when sold by a ~~real estate~~ *mortage loan* broker licensed by the Real Estate Commissioner and when such note is not sold to an underwriter or is not one of a series of notes.

SEC. 4. Chapter 8 of Title 14, Part 4, Division 3 of the Civil Code and Sections 10131.1, 10132.1, 10134.1, 10176 1, 10176.2, 10176 3, and 10176 4 of the Business and Professions Code are repealed.

SEC. 5. Section 17006 of the Financial Code is amended to read:

17006 This division does not apply to.

(a) Any person doing business under any law of this State or the United States relating to banks, trust companies, building and loan or savings and loan associations, or insurance companies.

(b) Any person licensed to practice law in California who is not actively engaged in conducting an escrow agency

(c) Any person or persons whose principal business is that of preparing abstracts or making searches of title that are used as a basis for the issuance of a policy of title insurance by a company doing business under any law of this State relating to insurance companies.

(d) Any company, broker, or agent subject to the jurisdiction of the Real Estate Commissioner while performing acts in the course of or incidental to the real estate business, *except mortgage loan brokers and their agents*.

(e) Any transaction in which money or other property is paid to, deposited with, or transferred to a joint control agent for disbursal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in the construction of improvements upon real property.

SEC. 6. Section 17405.1 is added to the Financial Code, to read:

17405 1. The books, accounts, records and documents pertaining to a transaction negotiated by a mortgage loan broker which are in the possession or custody of an escrow agent shall be subject to inspection and examination by the Real Estate Commissioner pursuant to Section 10765 of the Business and Professions Code whether the terms of the escrow agreement are completed or not

SEC. 7 Section 10131 of the Business and Professions Code is amended to read:

10131. A real estate broker within the meaning of this part is a person who, for a compensation or in expectation of a compensation, sells or offers for sale, buys or offers to buy, lists or solicits for prospective purchasers, or negotiates the purchase or sale or exchange of real estate, or who, for a compensation or in expectation of a compensation, ~~negotiates loans on real estate,~~ leases or offers to lease, or negotiates the sale, purchase, or exchange of leases, rents or places for rent, or collects rent from real estate, or improvements thereon for another or others, *or who engages in the purchase, sale, or exchange of mortgages or trust deeds or notes secured by mortgages or trust deeds to real property*.

SEC. 8. If any provision of this act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provisions to persons

or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 9. The Legislature finds that in many parts of the State, citizens of small means who are in need of borrowing money through loans secured by liens on real estate, especially, but not entirely, on deeds of trust, representing equities on their home property, are being required and induced to pay exorbitant and excessive fees and charges to persons negotiating said loans in the form of brokerage commissions and costs and expenses in great disproportion to the amount of money actually received.

Many of such borrowers are unfamiliar with the involved and costly process of negotiating security transactions involving real property and would not jeopardize their equity in their home if they were properly and fully advised in the matter. An increasingly large number of individuals are engaging in the business of acting as such brokers to secure loans for borrowers on the security of real property. The sharp business practices which have been employed in the conduct of many of such businesses and the failure of such brokers to assume the duties and responsibilities of a fiduciary to their borrower clients as well as their lender clients have contributed to the problem. In view of such facts and to better control what could be an easy means of avoiding the usury laws and the constitutional limitations on interest, the public good and general welfare require the enactment of this measure.

APPENDICES

SUMMARY OF CONFERENCE HELD MAY 7, 1956

in Board of Directors Room, State Museum of Science and Industry, Los Angeles, at 10 a m

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

SUBCOMMITTEE ON LENDING AGENCIES

Chairman Jesse M. Unruh convened an executive conference limited to representatives of State agencies directly concerned with regulatory legislation for mortgage loan brokers. Present were. Jesse M. Unruh, Subcommittee Chairman; Bernard Czesla, Deputy Legislative Counsel; P H. Fazel, Chief Administrative Analyst of the Department of Finance; Fred Lewe, Office of the Legislative Auditor; Donald McClure, Assistant Real Estate Commissioner; Donald A. Pearce, Assistant Corporations Commissioner; H. A. Smith, Assistant Corporations Commissioner; Lee B. Stanton, Deputy Attorney General; Herbert E. Wenig, Assistant Attorney General; Marian Kober, Executive Secretary.

Chairman Unruh explained that the tentative bill now under consideration was based on recommendations received at the public hearings and through investigation. A number of public officers and private attorneys were concerned with the fact that the operations of the mortgage loan brokers were in the nature of a banking service, and might, therefore, more properly be administered by the Commissioner of Corporations. The bill was drafted as a vehicle to provoke discussion and was not intended to embarrass anyone. It was also feared that the small group of 40 or 50 mortgage loan brokers might become lost among the larger group of 100,000 real estate licensees, and that the Real Estate Commissioner might experience difficulty in enforcing regulatory legislation or detecting violations. It was considered imperative to apply well defined regulations to the mortgage loan brokers without inconveniencing real estate brokers.

Mr. McClure reported on the findings of the current audit being made of the operations of mortgage loan brokers. The audit was undertaken with the objective of determining whether there was compliance with the law and also to assist the mortgage loan brokers to understand the provisions of the law. It was found that the practice of having borrowers sign notes and other documents in blank is continuing, together with excessive charges for appraisal fees and escrow fees, particularly when firms maintain private escrow departments. It was difficult to establish whether the effective date for the interest was the date that the money went into escrow or when the borrower actually received the money. Prepayment penalties present a problem for the limit seems to be nebulous, and there appears to be the practice of granting kickbacks to lenders in order to get the business.

An effort will be made in the near future to determine the value of the audit to learn whether a request should be made of the Legislature for authorization to employ auditors on a regular basis. It was found that almost without variation the charges were being brought to the maximum level of $120, but Mr. McClure did not have the information on whether or not a comparison had been made between charges on loans prior to the effective date of the current statute with those made since the first of October, 1955

Mr. Fazel complimented the chairman on the results of his initial investigation, but explained that the Department of Investment functions as a statutory department and is not as closely integrated as regular departments. It is a loose gathering of financial agencies, each of which stands on its own feet from a budgetary standpoint The Division of Banking and the Division of Savings and Loan are wedded to the Division of Real Estate and the Division of Corporations in a fictitious paper department.

The Legislature has to determine policy, but from an organizational viewpoint it appears that the mortgage loan business is an integral part of the job of the real estate licensee. The knowledge of the complexity of real estate transactions would seem to be an important qualification of a mortgage loan broker, and from a technical standpoint it would seem advisable to require mortgage loan brokers to pass the examination for real estate licensees.

Recognizing the need to set the mortgage loan brokers apart from the real estate licensees, separate qualifications could be developed for this specialty for an auxiliary license as an adjunct to the regular real estate license. The authority and responsibility for the administration of this specialty license could be fixed directly upon the Real Estate Commissioner, himself, as his sole responsibility, apart from the functions of the State Real Estate Board

Messrs. Smith and Pearce agreed with the remarks made by Mr. Fazel and cited their experience in the administration of the Personal Property Loan Act and the Small Loan Act. Mr Wenig reviewed the evolution of the current statute and the reasons for placing its administration under the Real Estate Commissioner. The present act represents the only acceptable compromise in an attempt to plug the loophole through which the mortgage loan brokers formerly escaped regulation. It was fully recognized that it would need strengthening by amendment, and Mr. Wenig lauded the subcommittee's efforts in investigating this subject fully.

The problem of separating the mortgage loan brokers in a special class provoked discussion by all participants. Mr. Czesla compared the similarity of the technical problem of requiring special licensing whether under the administration of the Corporation Commissioner or the Real Estate Commissioner. Messrs Wenig and Stanton concurred that the distinction should not be made the responsibility of the commissioner for the courts might hold that it is a device to delegate legislative authority to an administrative officer Mr. Lewe recommended that definition be made in terms of the minimum number of transactions, the dollar volume, and the gross income of the business based on this activity Mr Wenig urged consultation with someone thoroughly

familiar with the operations of the mortgage loan business before an attempt is made to arrive at a reasonable distinction.

All agreed that one of the chief advantages of the current law was that it was all-inclusive and imposed maximum limits of costs and charges on all real estate brokers without exception. Abuse of the borrower could be practiced in a single transaction, and any exception would create a loophole in the law that would permit violation. It was concluded that the approach to further regulation should begin with strengthening the statute now in force. This would eliminate the requirement that real estate brokers secure licenses from two state agencies It was recognized as essential, however, to fix administrative responsibility solely on the commissioner to remove enforcement of further regulation from undue influence by the industry. The commissioner could be given authority to employ adequate personnel for annual inspection of the records of brokers licensed for mortgage loan activities. Chairman Unruh requested Messrs. Czesla, McClure, and Wenig to confer together to formulate proper terminology for the specific regulation desired.

Mr. Czesla asked whether all approved the limitation defined in Section 19051 on page 4 of the tentative bill. It was agreed that the purpose of further regulation was to provide better protection to poor people; therefore, the limitation should be retained.

The advisability of increasing the amount of the bond provided for in Section 19153 on page 5 of the tentative measure was discussed. It was recognized that $5,000 might be considered a floor required as a condition of doing business, and that some formula be devised for increasing the amount of the bond depending upon the volume of business, but this would introduce more problems of enforcement. It was agreed to retain the amount at $5,000; however, it was suggested that the amount of bond required in Section 19155 be increased from $1,000 to $5,000.

Section 19200 was examined, and it was agreed that the definitions could be revised to include cashiers or employees handling escrows for the brokers. It was recognized that telephone operators sometimes gave information on loans Mr. Smith suggested that it might be well to require that the agent of the broker be bonded but that the bond might run to the broker which would fix responsibility for default by the agent upon the broker and enable the suit to be brought against the broker. Mr. Smith further suggested that the words "suspension or" be added to Section 19205 before the last word of the first sentence to read, "subject to suspension or revocation."

Section 19301 was changed to read as follows: A mortgage loan broker shall not employ nor permit any person to act in a position in which the individual in any manner deals directly with a borrower or a prospective borrower either before or after such loan is made, unless such person is licensed by the commissioner pursuant to this division. Mr. Czesla agreed to revise the definitions of employees to make them sufficiently broad to cover the possible employment by the broker of a muscle man to intimidate the borrower.

Section 19306 was changed by adding the words "as required by the commissioner" following the words "books, accounts, and records" on the second line.

Mr. McClure pointed to conflicting provisions of Section 19307 with Section 19400 and it was agreed to change Section 19307 from two years to three years to conform to Section 19400. It was suggested that Sections 19306 and 19307 could be revised simply to require the brokers to retain all records. Chairman Unruh urged that the language require that the records be preserved for a period of three years following termination of the loan.

Section 19310 was changed by adding the words "or which omits to state material information" following the words "false, misleading, or deceptive."

Mr. Smith suggested that Section 19309 be omitted as preparation of annual public records is costly and it serves no useful purpose. It was also suggested that Section 19314 be omitted and that Section 19313 be changed to provide for prior approval by the commissioner.

Section 19400 was discussed and it was agreed that the language should be revised to remove the onus from the borrower. It was agreed that it was important to retain the provision that documents be executed at the place of business of the licensee to eliminate fly-by-night operators who advertise on television or radio that they will come to the prospective borrower's home any time of the day or night. If the borrower were ill and unable to come to the place of business of the broker, the borrower could sign a power of attorney.

Section 19401 was reviewed. Mr. Lewe urged that provision be made for itemization of all costs including such items as termite inspection, appraisal fees, etc. Subsection "b" should be changed to provide for prepayment penalty. Subsection "h" should be changed to read: The name of the broker and agent negotiating the loan, their license number and the licensed place of business.

Chairman Unruh accepted Mr. Smith's suggestion that the language of the present act be followed in providing for brokerage fees; however, he requested that it be changed from 5-10-15 percent to 5-7½-10 percent. It was also agreed that it might be well to provide for short-term loans by allowing a brokerage of one-half of 1 percent per month for each month up to a maximum of 5 percent for the first year. It was felt that provision probably should be made for refinancing to prevent foreclosures. The broker should be encouraged to make loans for a period longer than three years, but it was recognized that it might be more difficult to secure lenders for such loans.

Mr. Wenig suggested that possibly one of the most important things the subcommittee might do would be to try to obtain a comparison of charges made by banks and building and loan associations for comparable transactions. Mr. Fazel urged that representatives of the banks and the building and loan associations be invited to present testimony at subsequent public hearings, and he agreed to make available a list of suggested people the subcommittee might contact. Mr. Stanton suggested that the title companies also be included and recommended that Mr. Floyd Cerini, attorney for the Land Title Insurance Company of Los Angeles be contacted.

Mr. McClure agreed to make available to Chairman Unruh the results of the audit of the records of the mortgage loan brokers. He also agreed to give Chairman Unruh a copy of the questions and answers on some 30-odd points raised by the Real Estate Commissioner for determination by the Attorney General.

Chairman Unruh thanked the participants for their assistance. He urged everyone present to act upon Bernard Czesla's invitation to submit further recommendations for consideration. He stated he would plan to meet with Messrs. Czesla, McClure, and Wenig sometime before the end of this month for a critical review of a new draft of a regulatory bill.

The conference adjourned at 4.45 p.m.

Respectfully submitted,

MRS. CHAS. B. KOBER,
Executive Secretary

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE
SUBCOMMITTEE ON LENDING AGENCIES

SUMMARY OF PUBLIC HEARING ON MORTGAGE LOAN BROKERS HELD OCTOBER 1, 2, AND 3, 1956

Mortgage Brokers
- Continental Mortgage Co.
  - B. J. Levinson
- Independent Mortgage Bankers Association
  - Jefferson E. Peyser, General Counsel
  - George L. Randall, Executive Director

Los Angeles County Agencies
- District Attorney
  - Edward L. McLarty, Deputy
- Public Defender
  - Charles A. Maple, Deputy

State Agencies
- Attorney General
  - Lee Stanton, Deputy
  - Herbert Wenig, Assistant Attorney General
- Department of Finance
  - P. H. Fazel, Chief Administrative Analyst
  - Carl Hurlbut, Auditor
  - Glenn Kaufman, Auditor
- Division of Banking
  - G. A. Schnieders, Chief Examiner
- Division of Corporations
  - J. A. Metzler, Chief of the Finance Companies Bureau
  - Donald A. Pearce, Assistant Commissioner
- Division of Real Estate
  - Donald McClure, Assistant Commissioner
- Division of Savings and Loan
  - Derwood S. Krause, Deputy Commissioner
- Legislative Counsel
  - Bernard Czesla, Deputy

Staff Investigator
- Marvin Holen

Others
- California Land Title Association
  - Martin M. Ostrow
- California Savings and Loan League
  - Franklin Hardinge, Jr., Staff Vice President
- Escrow Institute of California
  - R. L. Waters, President
- Legal Aid Foundation
  - Edwin F. Franke
- National Association for the Advancement of the Colored People, Los Angeles Branch, Thomas G. Newsom, President
- Small Property Owners Association of America
  - Margaret Wheeler Hess, President
- Paul Hill
- Sylia Rieff

The chairman called the hearing to order at 10:15 a.m. on October 1, 1956, in Room 115 of the Los Angeles State Building. The hearing was continued on subsequent days on October 2d, in Room 115 and on October 3d in Room 709. Members present were: Charles Edward Chapel, Rex M. Cunningham, Augustus F. Hawkins, Frank Lanterman, Jess M. Unruh, Chairman.

Messrs. Chapel, Cunningham, Hawkins and Lanterman attended the sessions on October 1st only. Richard McCollister and Wanda Sankary were unable to attend. Others participating included Bernard Czesla, Deputy Legislative Counsel, and Marian Kober, Executive Secretary. Assemblyman Lester McMillan visited the hearing on October 3d.

Chairman Unruh reviewed activities of his subcommittee since the December, 1955, hearings. He expressed regret for the conflict of dates with the state-wide meeting of the California Real Estate Association as this organization had assisted in the work done prior to the enactment of current regulatory legislation.

The preliminary report printed in March, 1955, by the California Legislature contained a detailed record of initial findings together with the conclusion that the law which became effective October 1, 1955, was in need of further revision. The subcommittee was granted an augmentation of its original appropriation for the continuation of its work.

An early draft of the regulatory measure incorporated into the preliminary report was given wide circulation even though the report stated the bill was "tentative," "in no way final," and set forth only "to incorporate suggestions for revision to insure better treatment for borrowers." In addition, this subcommittee gave encouragement to a request by the Real Estate Commissioner for staff auditors from the Department of Finance to examine the records of mortgage brokers.

Conferences with representatives of state agencies were held in Los Angeles and San Francisco following the budget session to review the first draft of the proposed bill. The need for special licensing for the 40 or 50 mortgage loan brokers was acknowledged to separate them from the 100,000 real estate licensees as well defined regulation to enable the administrative agency to detect violations and enforce provisions of the act. It was recognized as essential to fix responsibility solely on the commissioner to prevent undue influence by the industry. Bernard Czesla drafted a second tentative bill and the current hearing was called with the primary purpose of receiving further suggestions for revision.

A letter from Assemblyman McCollister was made a part of the record. He expressed objection to blanketing all real estate operators under the proposed bill and discussed the problem of finders' fees for some life insurance companies. Mr. McCollister's letter stated "* * * with these notable exceptions I certainly join with you in the restrictive remedies proposed in your bill" * * * and " * * * I am prepared to support your committee findings. * * *"

A letter from the Division of Real Estate, dated May 22, 1956, was also made a part of the record. It contained a partial summary of the findings of the auditors and stated mortgage loan brokers were found to be engaging in the following practices:

1. Kickbacks, brokers to lenders;
2. Borrowers signing notes and other documents in blank;
3. Excessive appraisal charges;
4. Prepayment penalties—these vary considerably;
5. Interest being charged before escrow of funds, before they are available to the borrower;
6. Husband or wife signing statement without the other's signature;
7. Charge of an application fee for processing loan applications and mortgage documents;
8. In some instances loans are being made on existing papers.

Bernard Czesla, Deputy Legislative Counsel, reviewed the tentative measure under discussion. Since copies of this bill were given wide distribution in advance of the hearing, no attempt is being made to make detailed explanation in this summary. Mr. Czesla prepared his own digest of the provisions of the bill which follows:

> Mortgage loan brokers are now required to be licensed real estate brokers. This bill would provide for their licensing and regulation as a separate class of licensees under the jurisdiction of the Real Estate Commissioner.
>
> In addition to the present requirements for a license they would have to pay an investigation fee of $100; an annual license fee of $200; post a $5,000 bond; and disclose any financial arrangements they might have with lenders.
>
> The bill would require that all mortgage loan agents employed by a broker be licensed, similar to the present requirement for the licensing of salesmen employed by real estate brokers. In addition to the present requirements for a real estate salesman's license, an applicant for a mortgage loan agent's license must post a fidelity bond of $1,000 payable to the employing broker.
>
> The broker must have a separate license for each place of business; must keep and preserve adequate business records; file an annual report; and keep an accurate schedule of charges posted.
>
> False and misleading advertising is prohibited and the prior approval of the commissioner is required of all advertising copy.
>
> A three-day waiting period before a loan is completed will be required. The act provides that a loan cannot be made until three days after delivery of the statement containing the list of charges and costs which the broker is now required to give the applicant for a loan. Instead of permitting costs to be charged at a flat 4 percent of the loan or a flat $120, the act limits such charges to the actual cost of the services performed. Brokerage fees are reduced on first mortgage loans from a maximum of 10 percent to 7 percent; and on second mortgage loans from a maximum of 15 percent to 10 percent.
>
> The broker is prohibited from having documents signed in blank by borrowers, and from having documents recorded until the cash is delivered to the borrower. The broker is also prohibited from charging or collecting a prepayment fee or a collection fee from the borrower.

Broker's licenses may be suspended and revoked as now provided for real estate licenses, and the Real Estate Commissioner is empowered to issue desist orders and to bring suit to enjoin violations.

If excess charges are made the loan would be unenforceable and void and the borrower could have the mortgage or deed of trust declared void. The borrower could also recover, in such cases, triple the amount paid by the borrower plus attorneys' fees.

A violation of the act would be a misdemeanor, and the receipt of excess charges would constitute the crime of theft. Collusion of the borrower would be no defense to a broker in any action of violation of the act.

Mortgage loan brokers would be excepted from the exemption to the escrow law which is now applicable to real estate brokers.

The Real Estate Commissioner would be given the authority to adopt rules governing the administration of the act, and to conduct investigations and examinations in its enforcement.

Chairman Unruh called attention to the definition of mortgage loan broker in the requirement for special licensing as a person who negotiates a loan *for compensation*, and pointed out that in effect this provides an exclusion for loans transacted in connection with an exchange of title when no brokerage charge is made.

Assemblyman Chapel commented on legislation enacted recently requiring that real estate licensees make advance payment for a four-year licensing period, and asked whether similar provisions were being incorporated in the measure under discussion. Messrs McClure and Czesla replied that the special license being contemplated was an annual license, but that it could be converted to coincide with the four-year licenses of regular real estate brokers if that was desired

Assemblyman Hawkins asked that the provision for disciplinary action by the commissioner against any employee be checked to insure that a proper hearing be required He also was interested in the provision pertaining to false or misleading advertising and spoke of ads with repayment amounts so small that they could not include repayment of the principal. Mr. Pearce joined with Mr. Czesla in affirming that omissions of material facts in advertising can be construed as being misleading. Mr. Pearce stated, "A partial truth is sometimes far more dangerous than an actual false statement. Many laymen can unmask a false statement but they are unskilled in * * * the techniques of loans." It was the opinion of Mr. Pearce that the language of the proposed bill was sufficiently broad to enable the commissioner to check on omissions, and that the section pertaining to advertising may be weakened if an attempt were made to make it more specific. Mr. McClure also agreed that the language of the proposed section would grant the commissioner sufficient administrative authority. Mr. Czesla added that all advertising copy would be included—scripts used in radio broadcasting or telecasting as well as direct mail advertising. Chairman Unruh made reference to samples of letters and postcards received in the mail encouraging people to obtain loans of $1,000 to be repaid at $15 per month.

Assemblyman Chapel referred to his own findings that brokers sometimes use the funds of close relatives as lenders and pointed out that

the proposed legislation would not prevent such activity. Chairman Unruh agreed that the subcommittee was fully aware of many remaining loopholes and stated, "We have not ruled out the possibility of legislation which would eliminate the brokerage setup completely. * * * If we find these kind of violations rampant in the industry, this may well be the direction in which this committee may want to move. * * *"

Assemblyman Chapel was of the opinion that canny mortgage loan brokers could circumvent provisions requiring actual costs by establishing dummy organizations to perform services for which they could produce receipts. To avoid such subterfuge he recommended further amendment to state that "actual costs shall not include amounts paid to any person or organization owned, controlled, or employed directly or indirectly" by mortgage loan brokers. Chairman Unruh agreed to consider this suggestion but acknowledged there were difficulties involved in such a provision. Mr. Czesla explained another alternative in the possibility of limiting the type of charges to be made and permitting only escrow and title insurance fees payable to other licensed agencies. Both Chairman Unruh and Mr. McClure agreed that the basic responsibility will rest upon the commissioner and his administration of the act.

Comparison was made of charges permitted as brokerage fees. Present law permits 5 percent if the period is less than two years while the proposed law would permit a charge of one-half of 1 percent per month or a limit of 5 percent on any loan up to one year. Present law permits a charge of 10 percent where the terminal period of the loan is for a period of two years, while the proposed law would reduce this to 7½ percent. Present law permits a charge of 15 percent on loans for a period of three years or more while the proposed law would reduce this to 10 percent. This was done partly because it was felt that the Legislature intended a maximum charge of 15 percent to be levied and investigation revealed that it is a common practice for brokers to consider the amount of the loan plus costs as 85 percent of the face value of the note. Through this device the brokers manage to collect 19.8 percent of what the borrower receives. Mr. Chapel explained it was recognized that personal property loans, automobile loans, and various industrial loans make charges in excess of amounts permitted under the usury law, and while this practice was condoned, it was felt the mortgage loan brokers should be permitted to make charges approximating those permitted for other licensees.

Chairman Unruh discussed the provision prohibiting the writing of more than one contract or loan at the same time to achieve a higher rate of interest than would otherwise be permitted. It was decided that this section would not prevent a broker from inducing a borrower to refinance a loan at a higher rate of interest simply to obtain maximum commission. Such legislation might be considered at a later date.

Chairman Unruh called upon Lee Stanton to discuss the provision that there shall be no stay of the commissioner's order pending judicial review unless the licensee files a surety bond in an amount not less than $5,000. Mr. Stanton stated this provision was similar to a requirement in the contractor's state license law to protect the public since some of these cases are held pending by the courts for periods of two or three years. There have been cases where a person considered to be unfit to

continue his business could nevertheless continue his operations until the courts handed down a decision

Section 10835, providing for civil action to recover amounts paid on a loan to be brought within two years of the date of such loan, was questioned by Chairman Unruh who feared that it might be interpreted as being the date the charges were paid. Such charges are usually taken out before the borrower receives his money. That may restrict the period during which the borrower could file suit. He requested that the language be clarified to provide clearly that suit may be filed at any time during the life of the contract, or two years from the date the last payment was made.

The provision requiring mortgage loan brokers to come under the escrow law prompted a question from Chairman Unruh whether this would apply to real estate brokers who make no charge for services given in connection with negotiating a loan. Mr. Czesla replied, "If he was making no charge, it would not constitute an act of a mortgage loan broker, which is defined by its definition as for compensation. He therefore would be only acting as a real estate broker, and he would be exempt."

Assemblyman Cunningham asked about Section 10704 which defines mortgage loan agent as including "every employee agent, or representative of a licensed mortgage loan broker who on behalf of the broker contacts, interviews or in any manner discusses a loan or prospective loan with a borrower or prospective borrower either before or after the loan is made." He asked whether that definition would include a telephone operator who might answer a question affirmatively on whether or not there was a possibility of a loan being made Mr. Czesla replied that the operator would be in violation of this section if she gave an affirmative reply without being licensed; that she would either have to refer the inquiry to someone who was licensed or not give the information.

Assemblyman Cunningham also asked about Section 10748 which provides that the commissioner "may at any time require the removal of any employee or official employed by any licensee hereunder in any case where he has reason to believe that the employee or official has been guilty of any dishonest practice in connection with the loan business and has failed to comply with any condition of such licensee's license, or has violated any law or regulation of the commissioner." He wanted to know whether there was a comparable provision applicable to real estate brokers. Mr. McClure replied this is a new provision; however, it would be standard procedure for the commissioner either to call a hearing to ascertain whether there was sound reason to believe the employee had actually violated the law, or for the information to be brought to the commissioner in such a way where the charge could be supported by some record to avoid the commissioner's injecting himself into the business of a broker.

Mr. Cunningham said he was disturbed at the provision of Section 10772 which provides that the cost for the examination of the records of the mortgage loan broker "shall be paid to the commissioner by each licensee examined, and the commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction." As a public accountant he was concerned about the length of time such an

examination might require for he felt it might work a hardship on a small broker. Mr. Czesla replied this provision was taken from the savings and loan law in effect at the present time.

P. H. Fazel, Chief Administrative Analyst of the Department of Finance, spoke in support of the proposed legislation. He stated, "We have reviewed the bill in its entirety. We feel that it is a very good bill, and we hope that all of the features of it will be maintained, and that the Real Estate Commissioner will be able to operate and administer the mortgage loan law more effectively under this bill."

He strongly approved the proposal to fix administrative responsibility with the Real Estate Commissioner for it was his opinion standard information required of real estate brokers should be mandatory background for people negotiating real estate loans. If, therefore, an attempt were made to separate mortgage loan brokers by requiring them to be licensed under the Corporations Commissioner it would cause administrative complexity in the enforcement of rules and regulations and might lead to the necessity for joint hearings in order to determine in which area an individual was working

He endorsed the provision of a separate class of license for mortgage loan brokers for he felt they should be identified in a separate category. While it is assumed that mortgage loan brokers would stem largely from people familiar with real estate transactions, the bill does not prevent other people from qualifying, and there are distinct advantages in requiring all applicants to have the basic knowledge now required of real estate agents and brokers.

He also approved the accounting and financial provisions. It is unknown at the present time whether 50 or 300 people will qualify for the special licensing; therefore the amount of anticipated revenue is impossible to estimate. Such revenue would be made a part of the General Fund, and would be subject to budgetary review each year, but the Department of Finance, working with the Real Estate Commissioner, can establish policies and provide the appropriation necessary to administer the fund.

He suggested changes in Sections 10723, 10725, and 10766 It was his opinion that the $5,000 bond required is inadequate in consideration of the amount of business the mortgage loan brokers do. The amount required for bond should be increased from $5,000 to a minimum of $25,000, likewise the bond for a mortgage loan agent should be increased to $5,000. The provision for replacement of a depleted or exhausted bond is not realistic as in general practice when a bond becomes depleted the holder is no longer eligible for bond Also, the period of time specified for the retention of books and records for investigational audit purposes should be increased from 30 days to 60 or 90 days for financial investigations have ramifications such as payments in the mail, and validation of amounts owed which would make a 30-day period too short.

Chairman Unruh asked whether an exemption should be made for real estate loans negotiated in connection with an exchange of property. Mr. Fazel replied, "I wouldn't see any grounds for exemption; whether there is an actual exchange of ownership of the property doesn't seem to me to be significant. The category is set up to govern the obtaining of loans rather than related to exchange of ownership of

property. I think it should cover all transactions in which a third party is involved for compensation in the arrangement of a loan."

Lee Stanton, Deputy Attorney General, made reference to an opinion recently rendered by the Attorney General in which he ruled the law to be applicable to the lender as well as the broker. It was considered similar to personal property brokers or pawn brokers. Although the term "broker" is used, in actual effect the service is that of a lender. It was recognized that the function of broker is merely a device to evade the usury law. He recommended that the Attorney General's opinion be strengthened by appropriate amendments as follows:

The last line of the title of the act should be amended to read "regulation of those engaged in the negotiation and servicing thereof."

Section 10703, line two, the words "other than lender" should be deleted.

Section 10715, subsection (f), the words "and principally" should be deleted.

Section 10720, amend the definition of mortgage loan brokers to make it clear lenders are included.

Section 10721, subsection (d) should be amended to read, "where the principal place of business and also any branches or agencies are to be conducted."

Section 10723, the amount of the bond should be increased either to $25,000 or possibly to 5 percent of the gross loans negotiated during a certain period.

Section 10724 should be amended to include employees or representatives of the obligator of the bond.

Section 10734 should provide for immediate suspension unless a bond is provided to protect those with whom business is conducted during the period the case is pending awaiting hearings for under the Administrative Procedure Act there can be delays of two or three years from the time the commissioner issues an order and the time the court makes a final determination. The bond should be flexible to cover each transaction. Provision should also be made that the commissioner be given summary powers to issue a cease and desist order with no stay by the court unless adequate bond be provided to protect each person with whom business is conducted.

Section 10748 should be amended to conform to Section 10734.

Section 10781, subsection (a) (3) should indicate the escrow fees can be charged only when the service is rendered by a licensed escrow service.

Section 10812 should be amended to read, "surrender of the license does not affect the licensee's civil, disciplinary, or criminal liability" etc.

Section 10814 should be amended to read, "any person has violated or is about to violate any provisions of this part, or of the rules or regulations adopted thereunder, or is about to violate" etc.

In addition, a section should be inserted similar to provisions of the Real Estate Brokerage Law, requiring that brokers shall not represent both sides without informing each of them. It should also state that the broker owes a fiduciary duty to both sides.

Perhaps the most important provision is the enabling clause. The language should be clarified so that in case of constitutional attack

it would be clear that commission or brokerage practices are being used to circumvent usury statutes, that interim lenders have been used as a guise for the broker in supplying his own money to collect the commission, and that private lenders are then attracted through ads to buy the trust deeds and collect the 10 percent interest.

He also called attention to the problem of trust deed exchanges. These organizations advertise that they render services similar to that of a bank. They make collections on trust deeds, and after the trust deeds are paid off the money is invested in other trust deeds. At the present time such activities are not under the regulation of the Corporation Commissioner even though an opinion given sometime ago held that such transactions constituted dealing in securities and that a broker's license should be required.

Edward L. McLarty, deputy district attorney, stated that he reviewed the proposed legislation in cooperation with Howard Hurd, Chief of the Complaint Department and Adolph Alexander, Chief Deputy. They thought it was "a very good act" but made the following recommendations for changes to strengthen it.

They found no definite separation of the broker and the lender to prevent someone who was brokering a loan and who also has in interest in the money lent, from collecting a broker's fee; there was no positive prohibition against the broker also being the lender. In addition, it was felt that the word "company" should be included along with partnerships and corporations to prevent any exclusions.

Section 10708 should be amended by inserting the word "company" between the words "business trust" and "corporation."

Section 10721, subsection (a) should also have the word "company" inserted after the word "partnership" and before the words "or association."

Section 10721, subsection (c) should have the words "and telephone numbers" added after the word "addresses" and before the words "of each." The word "and" should be stricken after the word "residence."

Section 10721, subsection (d) should be amended to add the words "and telephone" between the words "street" and "number."

Section 10721, subsection (e) should be changed to read as follows, "The source of all funds to be used by applicant in negotiating loans" etc.

Section 10722 would be improved if the word "filed" were changed to "granted". A 60-day period is permitted for investigation of an application, and if the word "filed" were used the applicant would have only four months during which he could use his license.

Section 10727, line 4, should be amended after the words "broker's license" to read "or any mortgage loan agent he may employ, or of the officers, shareholders or directors of any corporation, or of any copartnership, association or company making such application, and (b) of the fiscal relationship between said parties and the lenders or lending agents." This recommendation was made because it was found in special trials that the easiest way to avoid the law is for a person to form a corporation, become a shareholder, and set up three dummies to act as brokers. In this way the person is both broker and lender and gets all the profits. Under the suggested amendment the commissioner would

be authorized to look through the corporation to the officers to the shareholders to the directors.

Section 10728 should have the word "company" inserted between the words "copartnership" and "corporation."

Section 10730 should likewise have the word "company" inserted between the words "copartnership" and "corporation."

Section 10731 should add the word "company" as above.

Section 10734 should be amended by deleting the words "upon reasonable opportunity" and inserting the word "cause," This would provide for a hearing before an application is denied.

Section 10742 should be changed after the word "truthful" to read "of good reputation, and has no financial interest or ownership in moneys a borrower will receive from a lender."

Section 10743 should likewise be changed as above after the word "truthful."

Section 10744 should be amended following the word "truthfulness" to read "good reputation and financial relationship with lenders or lenders' agents of any applicant."

Section 10748 doesn't prohibit brokerage being collected if the money lent is that of the broker.

Section 10755 should be amended to change the words "making loan" to read "negotiation for loans as a broker."

Section 10756 should be amended as Section 10755.

Section 10764 does not prohibit the taking of a broker's fee by one who lends the money or is interested in the money lent.

Section 10781 also does not express positive prohibition.

Section 10782, subsection (b) would be strengthened if a new subsection could be added before (1) to read as follows, "Neither a licensed broker, his licensed agent, nor the officers, directors or shareholders of any corporation licensed as a broker, nor the members of an association, copartnership or company licensed as a broker, nor any person, shall charge, collect, deduct, withhold from money loaned, or receive any money provided for by paragraph (b) of Section 10781 of this part, when any of said persons has, directly or indirectly, any ownership or interest in the money or the source of the money received by the borrower as a loan, or has received any fee, benefit or gratuity from the lender or lender's agent for finding the borrower or negotiating the loan."

The addition of a section of this nature would assist an attorney in a criminal prosecution to refer to the one section rather than entire act.

Section 10786 does not express positive prohibition against a brokerage fee being taken by the lender.

Section 10787 might be preferred as the location of the suggested addition to Section 10782 above.

Section 10834 in its present form serves to limit the effectiveness of Section 10836. It was therefore recommended that the two sections be linked by the phrase "except that" and that Section 10836 be placed within Section 10834.

Chairman Unruh asked at what point complaints from borrowers usually come to the attention of the district attorney's office. Mr. McLarty replied at the expiration of the loan when the balloon payment

hits them. It was agreed, therefore, that there has not been sufficient time to assess possible effects of the current law as all loans written after October 1, 1955, have a term of three years

Edwin F. Franke, Chief Counsel of the Legal Aid Foundation, listed new practices that seem to have appeared since the enactment of the current law and which serve to increase the charges to the disadvantage of the borrower. There is an increasing tendency to rewrite first mortgages at a much higher rate of interest, than adding a second and possibly third mortgage. This is decidely to the disadvantage of borrowers whose first mortgages are GI loans originally written for a rate of interest of 4 to 5 percent. The rate of interest is increased one or two and a fraction points.

Prepayment penalties have increased considerably and carry a six months payoff provision. Borrowers have been pressed to refinance old loans maturing within the year prior to the maturity date. Brokers and lenders are now insisting on a demand fee of $15 if a loan is refinanced through a bank or another escrow company. This fee is higher than the customary demand fee when a beneficiary's statement is required.

The character of the newspaper advertisements have improved somewhat; however, it is still the practice to publish lower rates without including information on charges. Newspapers now follow the practice of printing their requirements in the column where such ads usually appear.

The proposed act would not adequately cover the situation where the lending firm and the brokerage firm have both been incorporated although they are under the same ownership, and the fees have been split between them. The escrow charge is made and the dummy lender-corporation is used as beneficiary of the trust deed which is then reassigned to the actual lender and additional fees charged. This is a regular means of operation where four parties are involved in one transaction. The escrow is also controlled by the brokerage firm. There are other situations where the husband is the broker and operates with funds owned by his wife which permits the collection of sums larger than those normally allowed. Suggestions made earlier at this hearing might correct both of these situations.

He called attention to the fact that the requirement in the proposed legislation for substantially equal installment payments might work a hardship on construction loans valued under $10,000. There might also be a problem of a third party who purchases a trust deed in good faith and then finds that a violation has caused the note to be invalidated. It might be well to insert a provision of recourse to protect such people, for the language now used is so broad that it permits several interpretations.

Donald A. Pearce, Assistant Corporations Commissioner, agreed with the position taken by Mr. Fazel that mortgage loans are closely affiliated with the real estate business, and that the Real Estate Commissioner could more appropriately handle the special licensing requirement rather than establish dual licensing by two different agencies.

The corporations commissioner's office, in administering the small loans and personal property brokers, found that it was licensing hundreds of brokers between the period 1931 to 1939. It was acknowledged

that the primary problem was that of placing a ceiling on the cost to the borrower as the only means of giving him adequate protection. The enactment of the 1939 law caused the disappearance of all the brokers, and there has been none since that time. Approximately 700 lenders are licensed but no brokers. This seems to prove the assumption that there aren't very many genuine brokers. Several entities are established whether between a man and a corporation, a partnership and a corporation, or some similar combination which brings close affiliation between the broker and the lender. Unless, therefore, legislation regulates both brokers and lenders it could not be effective.

He favored the recommendation made by Mr. McLarty for pinpointing a particular section to strengthen the criminal penalty provisions, and suggested that the committee may want to obtain the advice of the Attorney General in this regard, for he has to represent district attorneys in criminal appeals. He added that he did not understand Mr. McLarty's reference to the word "company" for he could not attach to it any legal significance.

Mr. Lanterman asked whether it might be desirable to insert a definition of the word "company" in the proposed legislation to prevent subterfuge. Mr. Pearce replied that there could be no objection to button it up more tightly to state that in the opinion of the Legislature the word "company" is a meaningless word and that the Legislature does not intend to permit anyone to hide under it.

Chairman Unruh gave Mr. Donald McClure an opportunity to comment He stated that from the standpoint of administrative economy there would be advantages in providing for a four-year term for the licensing of mortgage loan brokers to coincide with the real estate brokers It was his opinion that the revocation and suspension powers were sufficiently strong to permit adequate control under a four-year license.

Mr. McClure asked for clarification of the discussion of the application of the proposed law to real estate brokers who secure loans for their clients in connection with the sale of property. Mr Czesla replied the real estate broker would be excluded only if he negotiated the loan without collecting a brokerage commission for securing the loan.

Assemblyman Lanterman requested that the proposed legislation include a flat prohibition against the negotiation of loans by mortgage brokers on the security of real estate in cases where the applicant is a recipient of public welfare without prior approval of the responsible public agency involved In instances where public credit or funds are involved, the legislation should provide that such loans should not be renegotiated without a conference between the broker, an officer of the government, and the borrower so that full disclosure of the terms and the costs of the loan could be made and all parties involved could be fully informed.

Mr. Czesla asked whether Mr. Lanterman had reference to FHA financing in addition to veteran loans. Mr. Lanterman replied that he would permit that determinaion to be made by the chairman and his staff.

Charles A. Maple, Deputy Public Defender for Los Angeles County, stated that the proposed bill would "in large measure overcome many

of the problems that have proved vexing to small borrowers in this field" since most of the complaints deal with the size of the charges on relatively small loans.

He recommended that the $10,000 limitation be removed for a borrower might want to obtain a $2,000 loan but find that he had to refinance an existing $9,000 loan which would place the case beyond the application of the proposed law. It was the feeling of his associates in the Public Defender's office that there should be no loan limit whatsoever for it was considered to be just as lamentable a practice whether a person were borrowing $1,000, $10,000 or $1,000,000

Several of his associates questioned the limited applicability of the proposed law and feared there might be some question of its constitutionality on the basis that it violated equal protection provisions. It was therefore recommended that all lending agencies be blanketed into the new law and that no exemptions be given to banks, savings and loan, and similar institutions. Such agencies could be exempted from the policing provisions of the law, but since the legislation is declaratory of a state policy it should apply to everyone, require them to follow the spirit of the law, and be subject to the same penalties in case of violation.

Mr. Maple was very gratified to find that criminal sanctions were included and recommended that a similar provision be added to Section 2982 of the Civil Code where it could apply to conditional sales contracts. A requirement should also be made that a copy of the contract signed should be delivered to the person at the time the document is executed. He was particularly pleased with the requirement for a three-day waiting period to permit perusal of the document prior to the consummation of the loan.

R. L. Waters, President, Escrow Institute of California, did not receive an advance copy of the proposed legislation, therefore could make no comments on it. Possibly 10 or 12 members of the Institute engage in the type of business now under consideration by this subcommittee; therefore, a very small percentage of the members of the Escrow Institute would be concerned with the regulatory legislation. Chairman Unruh said a copy would be made available for review by their attorney and invited the Escrow Institute to submit its evaluation of the measure.

Mr. Waters gave the subcommittee a copy of a "Schedule of Minimum Escrow Fees" effective January 1, 1956 prepared by the Title Insurance & Trust Company and followed by most licensed escrow firms in Los Angeles County. There is no regulation of escrow fees and there is a good deal of variance in charges from one company to another. Normally the fee would be determined by the amount of work involved and the amount of liability. The basic fee would include the preparation of loan escrow instructions, securing a title report, recording the documents, and rendering a closing statement. The basic fee on a $2,000 loan would be approximately $21 with total charges probably not over $75. The basic fee of $21 would be increased approximately $1 per $1,000 of additional liability making the basic fee on a $10,000 loan $29. It is the practice among mortgage loan brokers to double this basic fee although there appears to be no justification for it.

Franklin Hardinge, Jr., Staff Vice President of the California Savings and Loan League, stated that savings and loan associations make loans secured by first liens and are rarely asked to make a loan below $5,000. All loans are fully amortized with monthly payments established to retire the indebtedness completely without refinancing except at the request of the borrower, himself. Escrow work that does not involve the sale of property is generally done by the association Charges for the servicing of loans are generally standardized for all sizes of loans which makes the smaller loans less economic as the charges on a lower loan are at a higher percentage than on a large loan.

Using a $3,000 loan as an example he gave the following approximate charges showing the range from a high fee to a low: title insurance from $36 to $21, recording fees from $3 to $1; a tax service contract from $7.50 to $6; credit report on the borrower from $5 to $3; making a total ranging from $51.50 to $38.80. In addition charges made by the association for its own work ranging from a high fee to a low would include the following: appraisal fee from $15 to $5; loan escrow fee from $35 to $25; plus sometimes a loan fee of 1 percent on existing property which would bring these totals from $80 to $30.

Chairman Unruh asked whether there would be any reason for a differential in these charges between a first and second trust deed. Mr. Hardinge replied that as far as the work is involved there would be no reason for a differential.

Chairman Unruh and Mr Czesla asked about the relationship of the finder to the association. Mr. Hardinge replied that some finders are licensed agents of the associations, while others are licensed real estate brokers who usually operate at a fee paid by the lending institution of one-half of 1 percent or 1 percent. Sometimes this fee is absorbed by the institution sometimes it is charged to the borrower. Usually there is an understanding that the finder should not make any additional charges to the borrower for having negotiated the loan, although in the sale of property the seller will sometimes pay the finder one-half of 1 percent for finding the lending institution to make the loan. The relationship between the finder and the association is a management decision of the particular lending institution involved, but the people responsible for the management are not in sympathy with any type of transaction which is to the detriment of the borrower so that if a borrower feels he has been abused by a finder it is unlikely that the association would continue to use that finder's services.

Mr. Hardinge added, "The savings and loan association sees the end result of the borrower's dilemma when he has negotiated a loan which has had some low down payments, but has a balloon payment, with the resultant balance on his loan that has to be refinanced which he just cannot handle. Historically, the laws have been developed to prevent the lender from taking unfair advantage of borrowers * * * you do no borrower a favor to let him, either voluntarily or involuntarily, take a loan with a low monthly payment for a number of months only to be confronted with a large balance due which he cannot pay off except by repeating the process that he had to go through when he originally got his loan which may or may not have included some very high financing charges." He emphasized the importance of eliminating the balloon payments with the resultant need for refinancing.

Chairman Unruh asked about the provision of a three-day waiting period provided in the proposed legislation. Mr. Hardinge replied, " * * * I think it has some merit. Obviously any time that you allow for a waiting period you give a person a chance not to be pressured into something." It was agreed that there could be no such thing as a quick handling of an application for a loan that involved a tripartite relationship and a trust deed.

G. A. Schnieders, Chief Examiner of the State Banking Department, stated that banks or trust companies very seldom make real estate loans for an amount under $2,000. He added, "They do not do this because of the excessive costs involved to their customer. They are in a position to write other types of loans which would be to the customer's advantage * * * and they usually do make every attempt to write another type of loan say an installment loan, if the amount involved is as small as $2,000 or under."

Banks do not pay commissions as they don't require the services of finders. Usually the escrow fee embraces all other fees such as the loan fee, the appraisal fee, the fees for drawing up the documents, etc. Reconveyance fees vary averaging from $5 for a full reconveyance to as high as $25 for a partial. Recording fees are actual costs paid to the county recorder. Loan or escrow fees on existing construction usually are 1 percent with a minimum between $20 and $50.

On the basis of a $2,000 loan on real estate the loan or escrow fee would average $25, recording fees would average $2, and if an additional charge is made for preparing the documents this would average $3. The title insurance policy would average $27.20 as indicated on a schedule submitted to the subcommittee which was prepared by the Title Insurance and Trust Company. Appraisal fees are usually included in the loan fee unless there is extraordinary expense involved. Credit reports are rarely obtained, for the loan is based strictly on the value of the real estate, but if they are obtained the charge would range from $2.50 to $5. This would make a total charge to the borrower of approximately $63.20 on a $2,000 loan.

Derwood S. Krause, Deputy Commissioner of the Division of Savings and Loan, agreed with the testimony given by Mr. Hardinge, and at the chairman's request he estimated costs on a $2,000 loan as follows: appraisal fee $12, escrow fee $25, recording fee $3, reconveyance $3.50, tax service $6, and if a credit report were obtained, $3, totaling $48 without title insurance which might be an additional $30 or full cost of $75.

The median appraisal fee was estimated at $10 with many associations paying only $7.50. Chairman Unruh asked if he could conceive of any reason why an appraisal of a single dwelling valued at $10,000 or $12,000 should cost as much as $35. Mr. Krause replied, "No, sir, it would be unheard of."

Mr. Czesla asked about the relationship between the association and the finder. Mr. Krause replied, "* * * If a broker is brokering loans to and association on a consistent and more or less full-time basis, he must be licensed as an agent of the association. Of course the licensing process requires letters of recommendation. * * * The association issues a certificate of authority to these agents, and, of course, their practices are very, very well controlled by both the association and our division."

If a nonassociation licensed finder is used he may not claim to be representing the association Mr. Czesla then asked whether any associations have exclusive arrangements with agents, require applicants for loans to make their applications only through the agent, and do not accept applications if they are made with the agency directly. Mr. Krause replied, "Oh, no, that would be an additional means of acquiring loans. * * *"

J. A. Metzler, Chief of the Finance Companies Bureau of the Division of Corporations, submitted a tabulation of costs of loans in amounts ranging from $500 to $5,000 comparing total charges possible by personal property brokers and estimated charges by mortgage loan brokers computed at the rates in the proposed legislation.

Personal property brokers are permitted to make charges of 2½ percent per month on the first $100, 2 percent per month on the next $400 unpaid balance, and five-sixths of 1 percent per month on any amount up to $5,000. Charges on a $500 loan for a one-year period would therefore be $74.10, and for a two-year period $147.90. These figures were taken from a standard table published by John Dickenson Schneider of Chicago.

A comparable $500 loan would carry mortgage loan brokers' processing charges of $120, a brokerage fee of 5 percent for the first year of $25, plus 10 percent interest on the gross amount of the loan or $35.47, making a total of $180.47. For a two-year period the $120 processing charge would remain the same, the brokerage fee would be increased to 7½ percent or $37.50, and the 10 percent interest would be $70.67 making a total of $228.17.

Chairman Unruh asked whether the brokerage fee was figured on $500, and Mr. Metzler agreed that it was. Chairman Unruh then pointed out that it is the prevailing practice to add the processing charges of $120 to the amount of the loan, increasing that amount to $620, then considering that the $620 represents 85 percent of the face amount of the note which allows an additional brokerage of 4 to 5 percent. The charges estimated for mortgage loan brokers should therefore be increased an additional 4 or 5 percent. Charman Unruh also pointed out that the proposed legislation represents a reduction in the brokerage fee of approximately one-third under the amount permitted by current law

Mr. Metzler stated that industrial loan companies are empowered to make both first and second trust deed loans, but such loans must be fully amortized within a two-year period On a $500 one-year loan the charges would be $60, while on a two-year period they would be $119. A $1,000 loan would carry charges of $95 for one year and $185 for two years.

Chairman Unruh asked that Mr. Metzler review the background of the personal property brokers law and its effect. Mr. Metzler stated that the personal property brokers act was enacted in 1909 providing for an interest rate of 5 percent per month. This was reduced in 1911 to 2 or 3 percent where it remained until 1918 when the initiative usury law was passed. Thereafter the Supreme Court held that a charge in excess of 12 percent per annum was improper and the broker-lender set up came into being as there was no ceiling on costs that could be exacted from borrowers. The 1939 law put the ceiling on both costs

and interest. At the time it was contended that if the broker were eliminated it would lead to the curtailment of funds available for necessitous borrowers. Instead the face value of loans increased to $86,000,000 in 1945 and $317,000,000 in 1954.

Chairman Unruh asked about the nature and number of complaints received on the activities of personal property brokers. Mr. Metzler replied that most of the contacts pertain to conditional sales contracts and the mark-up permitted for time price differential. His office receives five such inquiries to every one that relates to loan transactions. There may be two loan complaints a month while three or four complaints are received every day relating to automobile transactions. There were 756,000 loans made in 1954 and the number of complaints were considerably below 1 percent.

Chairman Unruh asked whether there was an industry commission that served in an advisory capacity in the administration of the act. Mr. Metzler replied there was not.

Chairman Unruh asked if information was available on the percentage of profit earned by the industry. Mr. Metzler replied that it was not. This could be computed either on the invested capital or upon the face amount of the loans, but no attempt has been made to do so.

Chairman Unruh asked whether regulation of advertising included direct mail. Mr. Metzler replied it includes direct mail, radio, television, car cards, and newspaper advertising. Mr. Unruh then cited a hypothetical case where a broker advertised a $1,000 loan could be repaid at $15 per month without disclosing that at the end of the repayment period there would still remain an unpaid balloon balance of $500 or $600. He asked whether such omission would be considered misleading. Mr. Metzler replied it would

Mr. Czesla asked whether the costs given for industrial loans covered loans secured by real estate, and if so whether title insurance and escrow costs are added to the charges. Mr Metzler replied that the charges of 2½ percent per month on the first $100, 2 percent on the next $300 and five-sixths of 1 percent above that apply whether or not the loan was secured by real estate. No additional charges for title insurance or escrow costs are permitted; however, most industrial loan companies that make real estate loans of $1,000 or $1,500 do not make a title search nor do they have escrows. They make a preliminary title search themselves and rely upon credit investigations.

The industrial loan law differs from the personal property brokers law in that it permits court costs and attorney fees to be charged if a judgment is sought on a delinquent balance in an amount over $300 or collection costs not exceeding 10 percent in the same case. Such charges are not permitted to personal property brokers.

Mr. Metzler called attention to the problem of trust deed exchanges that are currently operating without regulation, and pointed out that the activities of such firms would not be covered in the proposed legislation.

The trust deed exchanges, instead of acting as agent in the purchase of trust deeds, function as principal. They buy notes secured by real property and offer them for sale to the public. Sections 25102, 25102.1, and 25006.1 of the Corporate Securities law represent amendments enacted during the 1955 session of the State Legislature which give

exemption to transactions handled by real estate brokers yet such transactions are not covered in Section 10131 1 of the Business and Professions Code which relates only to agency operations.

These firms advertise to attract investments by the public that will pay 10 percent interest The prospective purchaser of the notes offers $1,000, $1,500, or $2,000 for investment. The firms buy the trust deeds in their own names, then resell them to their customer If they were acting as an agent in buying the notes in the name of their customer they would require a license under the real estate law, but to escape this provision they act as principal even though they sometimes take the money from the purchaser and use that money to buy the notes in their own name and then resell them. They are performing the same function as a dealer in securities when he buys stock to fill an order and then resells the stock at a profit.

There are three such firms operating at the present time in the Los Angeles area; the Los Angeles Trust Deed and Mortgage Exchange, the Beverly Hills Trust Deed and Mortgage Exchange, and the San Fernando Trust Deed and Mortgage Exchange. They are separate corporations owned by separate people, but they work closely together and are affiliated in some way. Chairman Unruh asked for the names of the principal owners and the amount of their capital investment. Mr. Metzler said this information was contained in the files and that the files would be made available to the Chairman.

Thomas G. Newsom, President of the Los Angeles Branch of the National Association for the Advancement of the Colored People, urged enactment of the proposed legislation to rectify problems not covered under present law. Members of minority groups frequently find themselves in situations where they have to borrow money, they find it difficult to obtain loans, and are frequently victimized.

He approved three provisions in the proposed bill: (1) the three-day waiting period to enable the borrower to study the charges he would incur if the loan were completed; (2) the requirement for equal installments to eliminate balloon payments at the end of the repayment period; and (3) the prohibition against recording documents before the money is actually made available to the borrower for there have been instances where papers were recorded long before the money was made available. This pressured a borrower into accepting a loan which he considered to his disadvantage and prevented him from trying to obtain money elsewhere.

Complaints are brought to the attention of private attorneys at various periods in connection with loans if a borrower is not fully informed of the charges, the complaint comes when he receives the money and finds that the amount applied for has been substantially reduced; when he receives his payment book and discovers that the monthly payments are greater than he can handle; or when he is hit by the balloon payment.

Martin M. Ostrow of the California Land Title Association, opened his remarks with the statement, "I'd like to state that the California Land Title Association is heartily in accord with what you are trying to achieve by this bill, and I would very much appreciate the opportunity when you again meet on it in November of testifying on the bill itself." Chairman Unruh replied that Mr Ostrow would be notified in ample time to enable him to do research and come properly prepared.

Mr. Ostrow limited his remarks to the cost of title insurance. He stated that the cost would vary from county to county but that in Los Angeles County the work was done by two firms: Title Insurance and Trust Company, and the Land Title Insurance Company, both of whose schedules are almost identical He quoted costs from *Title Insurance*. He added, "There are other companies whose heads are in Los Angeles, but they issue titles of insurance outside of the Los Angeles area"

Costs would depend on whether a straight loan policy were requested which is subject to the items on record or an ATA policy which guarantees complete title whether it is in or outside of the record. He cited the following costs as examples:

Amount	*Straight loan*	*ATA policy*
$1,000	$22.40	$28
2,000	25 60	32
3,000	28 80	36
4,000	32.00	40

Chairman Unruh noted that the increases followed a regular stair-step pattern per thousand dollars of liability.

Jefferson E. Peyser, General Counsel for the Independent Mortgage Bankers Association, rejected the necessity for further legislation and the proposed bill under discussion He reviewed provisions of the current law which he stated was "enthusiastically supported" by substantially the same group of brokers who are now members of IMBA. It was his interpretation that present law "definitely fixes the maximum amount of total costs and expenses charged," "eliminates balloon payments," "stops subterfuge by lenders being brokers or brokers being lenders," and that "it was contemplated that this law would stay in effect for four years." He also reviewed the preliminary report of this subcommittee and concluded that the "findings could not possibly have been found to exist subsequent to the enactment of the legislation"

The IMBA has been in touch with the law enforcement agencies and is making a concerted effort to raise the levels of operation It does not condone violations of the law, has established its own advertising code of ethics, and has been invited by the Real Estate Commissioner to nominate a group of men to serve on an industry advisory board It agrees with the view of Professor Case of the University of California at Los Angeles that "junior financing * * * is a much needed field, the economics of which and the operation of which is yet little understood and * * * undeveloped."

Mr. Peyser stated, "It is also important to recognize that in any discussion of compensation to be paid to brokers, it is erroneous to include the compensation by way of interest paid to the lender. In fact, we sit here and constantly hear what the total cost to the borrower is, and in that total cost there is always included the percentage of interest which is paid to the lender, which of course is misleading. It is unsound and untrue Because the broker gets no portion of that money." He continued, "The money that is paid to a title company, escrow company, recording charges, certainly can't be considered. The

only thing that we are concerned with is what is the broker entitled to for his charges."

The group would be willing to consider amendments to the present law and would be willing to accept the recommendation of the district attorney for increasing the penal provisions. It would also approve an increase in the size of the bond, providing the increase is reasonable, but it objects strenuously in setting mortgage loan brokers apart in a special class, and would oppose any attempt to exclude real estate brokers who negotiate loans in connection with the sale of property. It disclaims any comparability of the activities of the mortgage loan broker with that of the personal property broker, and, therefore, rejects application of the proposed law to the lender.

Mr. Peyser said he would prepare a written memorandum giving his views on the majority of the provisions of the proposed act, but made comments on a number of sections, as follows:

Section 10704—the meaning of the word "discusses" is not clear and would seem to require that clerical employees be licensed.

Section 10734—the 60-day period provided for the approval or denial of a license should be reduced, if possible. The provision for "reasonable opportunity to be heard" should be retained.

Section 10748—"I don't believe that any official should have the authority or the reason to believe that he can demand that a person be removed and dismissed from his employment"

Section 10753—duplicate licenses should be available for branch offices to avoid restriction of free enterprise.

Section 10755—recommended the word "negotiating" in place of "making," but stated the language would seem to imply prohibition against offices being shared by a notary, an escrow department, or appraisers

Section 10757—authorization should be permissive rather than mandatory for the commissioner to examine the books for it is "confiscation of business" for "the average small man can't stand the cost of a certified audit that would be made by the State each year."

Section 10760—it should be mandatory for a broker to advertise that he is licensed by the State, and he would be precluded from doing so. Further more it is impractical to require advance approval of advertising copy. "There is no objection to the principal involved."

Section 10766—30 days is an unreasonable length of time to provide for the taking possession of books, records, etc. "They can pretty well audit one of these broker's books probably in two, three, or five days."

Section 10767—provision should be made for the officers or partners to make entries in the books in addition to the employees.

Section 10780—the three-day waiting period would be harmful to the borrower.

Section 10782—can't understand the reason for deleting the word "estimated" with reference to maximum costs. The word "actual" with reference to costs would seem to prohibit reasonable charges for escrows or appraisal. The percentage permitted for brokerage fee should not be reduced until an opportunity has been available to determine whether exorbitant profits are being made.

Section 10783—objects to the limitation to "actual" expenses.

Section 10784—the elimination of the provision for "having a maturity period of less than three years" would not increase protection for the necessitous borrower.

Section 10786—doesn't understand the provisions.

Section 10788—"absolutely * * * an impossible provision. * * * " "Technically they always record the document before they pass out the money."

Section 10789—needs clarification.

Section 10790—the broker does not collect prepayments and lenders should have the same opportunities for requiring prepayments as banks, insurance companies, or savings and loan companies.

Section 10791—if it became necessary to employ an attorney for such things as clearing a title the attorney's charge of $100 would be in violation.

Section 10792—brokers should be permitted to require health and accident insurance policies.

Section 10796—fees for many services are not standard and the provisions of this section are impossible to comply with.

Section 10797—would prevent the splitting of a loan between a first trust deed at a lower rate of interest and a second to the advantage of the borrower.

Section 10798—"It is really an unnecessary provision because it never could happen * * * no one * * * takes the signature of any one person on a loan alone."

Section 10799—completely unnecessary.

Section 10800—also unnecessary.

Mr. Peyser made available to the subcommittee a copy of a report prepared by C. C. Crawford under the direction of the IMBA. Material contained in the report was taken from replies to questionnaires formulated by the IMBA and returned anonymously. Mr. Peyser made reference to a purported finding that the average percentage of net profit made by these brokers was 3.27 which he stated was based on the amount of the loans. He also called attention to the statement that the average number of lenders a broker uses is 93. Chairman Unruh asked whether the net profit figure was taken from an audit of the books, and Mr. Peyser replied he didn't know but would assume it was taken from annual or semiannual audits.

Chairman Unruh asked whether Irving Shayne of the Service Mortgage Company belonged to the IMBA. Neither Mr. Peyser nor Mr. Randall could give this information. Mr. Randall stated, " * * * the yardstick at the present of members in good standing" * * * is whether or not a member "had paid in the voluntary assessment voted unanimously last January." It was subsequently determined that Service Mortgage Company was carried on a list of members made available to the chairman dated April 2, 1956, but was dropped from a list dated August 28, 1956. Chairman Unruh then introduced into the record a copy of a letter received from Eugene McPherson, attorney, dated October 1, 1956 stating that Irving Shayne was "convicted in the federal court and he is in custody in the Los Angeles County Jail." Chairman Unruh added he was convicted for false statements under FHA loan applications.

Chairman Unruh requested explanation of the selection of the name for the IMBA. Mr. Peyser replied it was used by the National Mortgage Bankers Association and that the local group had the approval of the Secretary of State. Subsequent to the meeting a copy of the authorization for the use of the name given by the Superintendent of Banks was made available.

Chairman Unruh made reference to the report prepared for the IMBA where it was stated that the average length of time required between the loan application and the disbursement of funds was 11.9 days. He asked how an extra three days provided as a waiting period in the proposed legislation would result in hardship, particularly when four firms indicated their average time was between 20 and 24 days. Mr Peyser replied the processing of the loan would be delayed.

Mr Peyser called special attention to the finding of the IMBA report that only 29 percent of all applications for loans are actually completed, and that the average amount of money made available by individual lenders was $6,646.

Mr. Czesla was interested in the IMBA report on the relationship between lenders and brokers on losses from foreclosures. Mr. Peyser replied, "As I understand it, there is no written agreement of any collateral * * *." but the broker does assure the lender "that he will help him work it out so he won't end up in a loss for which he receives no compensation. * * * "

George L. Randall, Executive Director of the IMBA, replied to a question from the Chairman by stating the advertising committee consisted of Donald Knoblock of Benton Mortgage, James Fuller, Irving Tushner of Union Mortgage, and Mr. Randall. He added, "We are trying * * * to achieve voluntarily what perhaps the committee feels can only be legislated. It is my own personal philosophy that there is no amount of legislation that can replace responsible performance, that has been arrived at through persuasion and education, and we are trying to function as a trade association in the best American manner to make this a reputable business. And I have been told by those who should know that there may be an analogy between this industry and the small loan business as of 30 years ago; that there were efforts by banks and others, perhaps, to keep small loan business from getting a foothold; but by voluntary efforts they matured and became responsible and now render a real service to the community. We are undertaking the same type of responsible service."

Marvin Holen, Committee investigator, reported on his own interviews with brokers and the replies received to a questionnaire he circulated. It was found that a large number of smaller brokers can make loans at charges considerably under the $120 now permitted; charges of $65, $70, or $75 were considered sufficient It was also found that a brokerage commission of 15 percent for a three-year loan was excessive for more than one-half of those replying indicated they operated profitably with fees ranging from 7 percent, 9 percent, 10 percent to 12½ percent. On the other hand, members of IMBA and the larger brokers consistently charge the maximum, $120 and take the maximum 15 percent commission. Net profits seem to have remained unchanged under present legislation.

The objection most frequently expressed to the law was the provision requiring the borrower to come to the loan broker's office to sign statements. It was recommended that borrowers be required to sign the broker's statement at branch office close to the borrower's home or at the escrow office, but it was felt that there were decided advantages to the borrower not to permit such signatures to be affixed in the borrower's home. Regulatory legislation was acknowledged as necessary to "clean up" the mortgage loan broker's business and to keep a few sharp operators from giving the whole business a black eye.

Chairman Unruh announced that subpoenas had been prepared for service on B. J. Zimmerman of Mortgage Refinance Co., Murray Gould of the Gould Investment Co., Robert Bergman of Ideal Mortgage Co., John Gluskin of Klein Mortgage Co., and Robert Calhoun of Superior Mortgage Co. This was done, not because it was felt that these people might not agree to testify voluntarily, but only because it is a method ordinarily used with witnesses outside of state agencies. Neither Mr. Gould nor Mr. Calhoun could be reached. Since service was made, however, on Messrs. Zimmerman, Bergman, and Gluskin, the chairman was informed by the Real Estate Commissioner that legal proceedings are pending which may lead to the revocation of the license of some of these individuals, and that testimony before the subcommittee may furnish immunity from prosecution. The Chairman, therefore, decided to excuse these witnesses from testifying; however, he pointed out that legal action was not contemplated against all of the above individuals as audits were not conducted on all the firms.

Donald McClure, Assistant Real Estate Commissioner, reported that the Real Estate Commissioner contracted with the Department of Finance for the employment of two teams of auditors—one to work in Northern California, and the second in Southern California. A total of 14 firms were investigated in Northern California and a total of five in Southern California over a period of five months at a cost of $8,000.

Minor infractions were discussed with the brokers in an effort to explain the purpose of the law and the methods to be used in attaining compliance. In addition, rules and regulations are now being processed through regular channels under the Administrative Procedure Act and will be reviewed by the Attorney General before being put into effect. These proposed rules are as follows:

#2842.5—it was found that brokers require borrowers to sign agreements to pay compensation before the borrower is required to sign the mortgage loan broker's statement. This rule would prohibit such a practice for it was felt that the intent of the law was to disclose to the borrower all costs entailed in a loan and the amount of money he can expect to receive.

#2842.7—it was found that brokers sometimes require borrowers to sign statements not permitted under the act under the misguided impression that the act does not forbid them from doing so. This rule would clarify that point.

#2443—loan brokers consistently make maximum charges, inflating appraisal and escrow fees payable to themselves to take up any slack. This rule would require support for the charges and would

provide that charges could not "exceed similar charges made for similar services in the community where such services are rendered."

#2846—it was found that a number of mortgage loan brokers use their own funds to advance to the borrower for which the borrower is charged a broker's commission Mr. McClure stated, "This means that the licensee is purporting to act as the borrower's agent, and is getting paid for doing so, while in fact he would be acting on behalf of the lender, that is, himself. Some of these licensees do not seem to understand that they cannot act as both principal and agent or work for their own benefit while an agent for another." This rule would specifically prohibit brokers or salesmen to advance their own funds.

#2848—it was found that those mortgage loan brokers who handle their own escrows make interest charges to the borrowers long in advance of the date the borrower actually receives the money or before the lender makes the money available. This rule would prohibit interest being charged prior to the time the borrower receives the money or the money is placed in escrow.

#2852—brokers persist in requiring the borrower to sign documents in blank. These include notes and escrow instructions. Borrowers are told the blank places will be filled in one way and they are later filled in differently. This rule would prohibit signatures to blank documents and would require, "An exact copy of each paper or writing, signed by a prospective borrower shall be given by the broker or his authorized representative to such prospective borrower at the time of the signing."

#2854—loan companies maintain improper records which makes it difficult to trace suspected instances of usury. It seems to be the practice to pay lump sums to persons who act as licensees in some transactions and lenders in others. This rule would require payments of any form of compensation to be recorded with specific reference to the particular loan transaction concerned.

Another regulation is being considered pertaining to escrows which would prohibit signing the papers in blank, making revisions in the instructions unless such revisions are signed by all parties, failure to deliver copies to all parties, failure to maintain proper records, failure to keep such records accessible for inspection, failure to deposit all money received before the close of the next full working day, withdrawing money deposited in an escrow account without written instructions from the parties paying the money, and failure to advise all parties in writing if a licensee has any interest of the escrow holder.

Chairman Unruh pledged full assistance to the Real Estate Commissioner in securing adequate funds and personnel to permit these audits to continue.

Mr. McClure submitted information on customary charges made in various parts of the State for title insurance, escrows, etc. on loans ranging from $250 to $10,000. In Los Angeles County, using a $2,000 loan as an example, title insurance rates would range from $25.60 to $32 for an ATA policy, and escrow fees might range from $15 to $20. In San Diego County title insurance on a $2,000 loan would range from $25 to $36 on an ATA loan policy, and escrow fees would be approximately $26. In the Counties of Fresno, Riverside, San Bernardino, and San Luis Obispo title insurance rates would range from $28.80 on

a $2,000 loan to $32.40 on an ATA policy. In Santa Clara County the range for a $2,000 loan would be from $26.25 to $33.75 for an ATA policy.

Margaret Wheeler Hess, President of the Small Property Owners Association of America, made a plea that nothing be done by this subcommittee to restrict the availability of money for second mortgage loans to elderly people living in homes frequently condemned by Los Angeles County as being unsafe without expensive improvements. Mrs Hess was aware that costs are high on such loans but it was her feeling that these elderly people had no other alternative for there was no other source of money available to them. Chairman Unruh explained that the proposed law would in no way affect the lenders of money as present usury laws do not permit them to receive more than 10 percent interest, but said that if the City of Los Angeles, through its practices, was forcing these people to make loans that were to their own disadvantage, that the problem should be attacked from another angle, and he promised to do everything he could to assist in correcting this situation.

B. J. Levinson of the Continental Mortgage Company voluntarily testified on his experience in the operation of his own business. The chairman stated that no complaints had been received on Mr Levinson's operation and that as far as the subcommittee is aware his activities are entirely legitimate.

Mr. Levinson does a gross volume of approximately one half million dollars worth of business per year and consummates about 175 loans. He employs a full time appraiser who divides his time giving service to two firms Mr. Levinson is associated with, and appraisals cost less than $10 each. This $10 cost includes the salary of the appraiser, automobile expense and mileage. He does not require credit investigations as money is loaned on the security of real estate rather than on personal credit references. He uses banks and bonded companies for his escrows.

He estimated that all charges on a $2,500 loan would total $75 or $85 exclusive of commission. The brokerage fee on a three-year loan ranges between 5 and 10 percent with an average of 7½ percent even though the law permits 15 percent. He has been in business five years and Continental Mortgage Company deals 100 percent with second trust deeds. A collection cost of 75 cents is made to the lender and this amount is considered adequate.

Mr. Peyser accepted Chairman Unruh's invitation to question Mr. Levinson, but the chairman advised Mr. Levinson that he was under no compulsion to give replies if he did not choose to do so. Mr. Levinson replied to Mr. Peyser's questions that he had between 50 and 75 lenders but couldn't estimate what the average amount was that each lender invested. He is conservative in the operation of his business and does not make loans on marginal property. Most of the business comes to him through referrals although he does advertise in newspapers, and he accepts 90 percent of the applications for loans.

Mr. Peyser insisted on drawing the conclusion that Mr. Levinson merged the funds and expenses of the two places of business with which he was associated in spite of Mr. Levinson's emphatic denials. Mr. Levinson's second business is real estate and he buys properties. Both businesses operate from one location There are six employees but each company pays its own expenses, gross receipts are not lumped

together nor expenses intermingled. Mr. Levinson refused to estimate his percentage of profit but stated he was not going broke.

Mr. Levinson did not understand the implication of a question asked by Mr. Peyser on whether or not he used funds from members of his family. He clarified his affirmative reply subsequent to the hearing in a letter dated October 4, 1956 in which he stated, "* * * I do not use any funds of any relative with whom I have community property. I use no one's funds over which I, personally, have control. I do not operate in the dual capacity of broker and lender."

Chairman Unruh asked Mr. Czesla to read to Mr. Levinson the provision in the proposed bill requiring a three-day waiting period after the mortgage loan statement has been signed, and then asked whether that provision could affect business adversely. Mr. Levinson replied he does not require borrowers to sign a note, that he does not handle his own escrows, and the three-day waiting period would make no difference to him.

Chairman Unruh asked Mr. Peyser what he was trying to establish with his question. Mr. Peyser replied that Mr. Levinson was unusually fortunate, that there were very few brokers who could claim to complete 90 percent of their applications for loans, and that the work entailed in investigating applications not accepted increased the expense of doing business, increased overhead expense, therefore, a higher brokerage commission was required in order to operate profitably.

Herbert Wenig, Assistant Attorney General, stated he worked closely in the preparation of the statute now in effect, and that it was felt to be desirable to have a continuing study made by a legislative committee to determine whether the charges and brokerage fees authorized were justified, therefore, he endorsed the word of this subcommittee in gathering such information.

The ultimate goal must be to arrive at a maximum charge for necessitous borrowers as in personal property loans. The provisions for amortizing all loans regardless of maturity date is very desirable for it would eliminate the current practice of writing loans for three years plus one month to enable brokers to continue the balloon payments upon maturity.

The problem of pre-payments deserves further study on methods of limiting the amount of the penalty rather than prohibiting the practice entirely. Section 10781 should possibly provide for the itemization of the estimated maximum costs and expenses of the loan. If health and accident insurance is considered essential, the costs for such insurance should come under the ceiling established.

He recommended obtaining further information about the practice of charging the borrower for the expense of the services of an attorney. He stated, "I think it is a highly questionable practice for an attorney to act for one client and to have his fees paid by the opposite party." Further investigation should also be made on the current practice by lenders of exacting the maximum 10 percent interest yet requiring several months advance of payment of interest to increase the return. This is probably usurious.

The problem of mortgage brokers exchanges could be handled by bringing them under the regulation of the proposed bill. The two-year statute of limitations, found in Section 3081.9 runs two years from the

date of the loan or the time when it is paid which is at the very beginning of the loan. This requires further thought. It might also be well to consider limiting licensing provisions to non-purchase money mortgages as investigations have not disclosed many exactions of exorbitant brokerage fees in connection with such transactions.

Carl Hurlbut and Glenn Kaufman, Department of Finance auditors, discussed the five audits made in Southern California.

Company A made charges in excess of the $120 maximum provided by law for forwarding fees, outside escrow fees, service fees, reconveyances, etc. Examination was made of approximately 50 percent of the loans written during the period October 1, 1955, to March 31, 1956 and 20 cases were found where charges exceeded those permitted under Section 3081.3.

The broker in Company A maintained his own escrow desk and used a fictitious escrow account which was titled "reserve for reconveyance." During the month of October amounts entered varied in order to build the total expenses to the maximum charges permitted. Subsequent to November 1st a flat $6 charge was made for drawing document. The customary charges for loans under $3,000 included $35 for appraisals, and $45 for escrows in spite of the fact that comparison with escrow fees published by a Los Angeles bank for loans under $5,000 were found to be $23.

Appraisal fees varied for each loan, and were apparently designed to build the charges up to the maximum permitted. As examples the following were cited:

Amount of Loan	*Appraisal charge*
$9,750	$67.50
5,250	62.50
4,325	55.00
4,950	75.00
8,075	95.00
3,500	45.00
2,900	50.00
4,950	85.00
6,295	95.00

Both charges and brokerage fees were the maximum permitted with relatively few exceptions. Only 2 out of 12 loans were fully amortized. Loans were always written for a three-year period, and most of the loans carried balloon payments which varied in size. He gave the following examples:

Amount of loan	*Amount of balloon payment*
$4,250	$2,800
2,500	1,281
1,575	870

Company B operates with two other concerns out of the same address. Much of the primary financing was obtained from one of the other concerns, usually on a temporary basis. One of the other companies serviced loans handled by Company B, guaranteed lenders against loss in writing, and required transfer of foreclosure rights to itself in the event of default by the borrower. It also maintained its own escrow desk.

Company B followed the practice of partially offsetting payables and receivables on the books of the other two firms which indicated close financial ties. Employees of Company B maintained the official books and records of the other two corporations.

Licensed brokers on the staff of Company B as well as relatives of one of the partners were participants in the financial affairs of the other two corporations. The records of all three firms were in very poor condition and very difficult to examine. Overdrafts not actually in existence were indicated. Figures for the trust cash in the bank were considerably at variance with the amount shown as liability therefore. An amount of $4,523.15 was inserted as a "plug" in one of the other companies to make the books appear to be in balance. This is very poor auditing practice. In addition reciprocal loans payable on the books of the two corporations showed a discrepancy of $10,277.91. No attempt was made to determine the distribution of overhead expense among the three companies.

The borrower was charged interest from the date he signed the application for the loan in spite of the fact that there was a lapse of from 14 to 30 days or longer before funds were deposited in escrow. A selection was made of 42 examples of this practice but this by no means includes all such cases.

In some instances there were no signed lender's escrow instructions. There was never a date beside the lender's signature. There also was no indication of the date when the borrower signed the escrow form. There were a number of cases where the mortgage loan broker's statement was not signed by the borrower, or was not dated, or failed to show the amount of the balloon payment, or was left completely blank.

The employees of Company B did not know when any of the bank accounts had last been reconciled in spite of the fact that good business practice requires monthly reconciliations. Furthermore, in escrow accounts reconciliations must be made for each individual escrow with the total cash. Balances were outstanding on some loans that were unknown to any of the employees, and payments were made in excess of funds deposited in individual escrows, and very little detailed information was shown in connection with the payoff of prior liens.

A regular appraisal fee of $27.50 was credited to one of the other companies in spite of the fact that the appraiser actually was paid $7.50. A charge of $15 was made for credit investigation. The maximum $120 was always charged, in addition to which reconveyance fees were charged. Instances were found where loans had been made by one of the owners of the business, by employees who were licensed brokers, as well as by other employees some of whom were relatives of the owners. In one instance the broker was both lender and broker and received commission on the loan in addition to the full 10 percent interest. In another case a relative was the lender. In a third case an affiliated broker with office space in Company B was both lender and broker. It was the customary practice to make a gift of money to finders. Company B made aproximately 175 loans per month.

Company C was relatively clean. It dealt with a licensed escrow company which was 50 percent owned by the owner, but the escrow records were in good condition. Charges averaged $88.90. No charge was made for appraisals which were made by an employee. Very complete

appraisal reports were prepared including pictures of the houses on which loans were requested This was the only firm that did not charge the maximum permitted. It made approximately 50 loans per month.

Company D did not maintain its records in satisfactory condition. The liability for deposit was less than the cash available in the trust and escrow and mortgage collection accounts, and reconciliations were not made. Charges always totaled $120. In early November 1955 appraisals were carried at $35, credit investigations at $10, and escrows at $75. Later this was changed to appraisals $87.50, credit $5, and escrows $97.50, still totaling $120. Company D maintained its own escrow service.

Two examples were given to show how costs were inflated to take advantage of the maximum $120 charge. On one loan of $1,325 there were outside costs of $39.10. Charges for inside services included $35 for appraisal, $10 for credit investigation, $10 for drawing documents, $2 for other escrow costs, $40 for escrow fee, making a total of $80.90 and an overage of $16.10

On a second loan for $850 outside charges totaled $9.10 for it was negotiated in conjunction with the purchase of property by the borrower through an independent escrow company and savings were realized because of concurrent sale escrow. Compayn D paid $5 for a copy of the policy of title insurance and $4.10 for recording fees. Inside charge to bring the amount up to the $120 maximum were recorded as follows: appraisal fee $35, credit investigation $10, drawing of documents $20, other escrow costs $2, escrow fee $50, making a total of $110 90 with an overage of $6 10. The escrow fee of $50 on the $850 loan was compared with that of $40 on the loan of $1,325. The cost to the borrower on the $850 loan was $247.50 in addition to the 10 percent interest. The borrower received $602.50

Company E sometimes dated the mortgage loan broker's statement considerably after the negotiations for the loan were begun. In one instance escrow instructions were dated November 3d while the statement was dated November 30th. The official of the company believed that it was only necessary for the statement to be signed prior to the disbursement of funds.

The work in Southern California was done by three auditors. Need was found for considerable regulation of escrows along the lines now required of licensed escrow companies and bonds should be required. It was also found that brokers do not understand the meaning of trust accounts. Amounts carried in the liability account should be required to equal the amount of cash on hand.

Mr. Kaufman made available a table widely used by the brokers. It is entitled "Payment Schedules for First and Second Trust Deeds." It was prepared by Harold M. Alpert, Public Accountant and bound in a cover which carried the imprinted name of the firm Friedman, Blumenfeld, Weiser & Co., 6399 Wilshire Boulevard, Los Angeles 48, California. This table was prepared since the enactment of the regulatory legislation and showed an effective date of October 1, 1955.

The table served as a guide to brokers. Charges were carried at the maximum of $120 throughout. The minimum term was 36 months, and the broker's commission was carried at the maximum 15 percent of the face of the note. The size of the loans ranged from a minimum of

$500 to a maximum of $5,250 on second trust deeds. Balloon payments were indicated for all amounts over the minimum $500 loan.

The popular loan is for $1,000. The borrower would be required to sign a note for $1,325 on which there would be charges of $120 and commission of $198.75. The borrower would receive $1,006.25, and if he were able to make monthly payments of $42.75 over a three-year period to amortize that amount, he would end up by paying $1,500 for the $1,000 cash he received.

Using the table prepared for brokers, an effort was made by the staff to determine how a borrower would fare if he were unable to make the required $42.75 monthly payments to amortize the loan of $1,000 cash he sought. If his payments were $25 per month at the end of the three-year period he would be left with a balloon payment of $741.79. The borrower would be required to refinance to obtain this money and would be required to sign a note for $1,025 which would again include charges of $120 and commission of $153.75. If he continued to make his monthly payments of $25 for three years he would be left with a balloon payment of $337.34 He would then be required to refinance a third time if he were unable to meet this payment and would have to sign a note for $575. This would include the charges of $120 and the commission of $86.25 but his monthly payments would be reduced to $18.55 and after nine years his original loan for $1,000 would be fully amortized. He would have paid charges of $360 for three consecutive loans, plus commissions of $438.75, totaling $798.75, excluding 10 percent interest for the nine-year period.

Mr. Kaufman concluded his remarks by stating he did not believe it was possible to determine earnings of a firm on the basis of gross loans. That would be similar to trying to compute the earnings of a bank on the basis of a percentage of the total deposits in the bank.

Sylvia Rieff told the subcommittee about the experience of Mrs. Theresa Wheeler who was dispossessed of her home by Superior Mortgage and Guarantee Corporation of America on a loan of $900 when Mrs. Wheeler's investment was approximately $17,000. This case is in litigation and at the present time, it was considered inadvisable to discuss it in detail. Mr. Paul Hill urged the enactment of legislation to permit a court to have sufficient discretionary power to grant a stay of an eviction suit without requiring the creation of a stay bond beyond the means of the ordinary borrower.

Chairman Unruh thanked all participants and announced his intention to conduct a supplementary hearing possibly in San Francisco later in the year. The hearing was adjourned at 4.15 p.m. on October 3, 1956.

Respectfully submitted.

MRS CHAS. B. KOBER,
Executive Secretary

SUMMARY OF PUBLIC HEARINGS ON MORTGAGE LOAN BROKERS HELD DECEMBER 10 AND 13, 1956

Hearings were scheduled to begin at 10 a.m. in Room 115 of the State Building in Los Angeles on December 10th and in Room 606 of the State Building in San Francisco on December 13th Chairman Jesse M. Unruh called both hearings to order. Present were: Charles Edward Chapel (December 10th only), Rex Cunningham (December 13th only), Frank Lanterman (December 10th only), Richard H McCollister (December 13th only), Jesse M. Unruh, Chairman.

Others attending included Bernard Czesla, Principal Deputy Legislative Counsel, Fred R. Lewe, Principal Administrative Analyst for the Legislative Auditor, and Marian Kober, Executive Secretary

Chairman Unruh announced the hearings were called to provide opportunity for testimony from interested persons who could not attend previously scheduled hearings.

David Farrell, President of the Los Angeles Trust Deed and Mortgage Exchange, testified on December 10th, explained the service his firm offers which he said was comparable to that of a stock exchange. Over 200,000,000 worth of trust deeds come into existence every month in Los Angeles County, and a need was recognized for a facility where these trust deeds can be bought and sold. The Trust Deed and Mortgage Exchange was established 2½ years ago. It functioned as an agent until the effective date of current legislation regulating mortgage loan brokers when it was felt to be "wiser to act only in the position of principal."

Mr. Farrell stated, "We are in the securities business of selling the deed of trust note as a security; we are licensed under the securities law. We don't mind being licensed also under the real estate law, but we don't want to be classified as a mortgage loan broker when we do not negotiate any loans or sell any real estate, nor do anything involving real estate licenses. * * *" Current legislation contains a provision, upon recommendation from the Attorney General, that all real estate trust deeds and all real estate transactions be administered by the Real Estate Commissioner.

Mr. Farrell asked for clarification of Section 10717 in the proposed legislation which reads:

> "One act, for a compensation, of negotiating a loan on real estate or of selling or offering to sell, buying or offering to buy, or negotiating the purchase or sale or exchange of a promissory note secured by a lien on real property, and when such note is not sold to an underwriter or is not one of a series of notes constitutes the person making such offer, sale, purchase or exchange a mortgage loan broker or mortgage loan agent within the meaning of this part."

It was Mr. Farrell's interpretation that this language would blanket in every individual who buys deeds of trust. Upon request from the chairman, Mr. Czesla stated Mr. Farrell's interpretation might be correct, for the language of the proposed measure gives no exception to people who buy trust deeds at discounts. Compensation received in the form of discounts could possibly be construed to be compensation under the meaning of the proposed act.

The Los Angeles Trust Deed and Mortgage Exchange does approximately 60 percent of its business in second trust deeds and about 40 percent in first trust deeds. About one-half of the second trust deeds come into the exchange from small builders who take the deeds from home buyers to permit homes to be sold with low down payments. It was Mr. Farrell's opinion that the proposed bill "will put such a builder out of business because that builder won't be able to sell the seconds * * * without being a mortgage loan broker" * * * Commenting on the volume of this business, he stated, "There are more trust deeds and mortgages in existence throughout the Nation than there are stocks and bonds, speaking dollarwise. * * * "

Mr. Lanterman suggested there may be need for defining the terms to explain accurately the intent of the law.

Fred R. Lewe, Principal Administrative Analyst for the Legislative Auditor testified both on December 10th and 13th and reported his findings from an analysis of 75 loan transactions made in the Los Angeles area within the past five months. Three loans were examined for each month from five different loan brokers. All 75 loans were made subsequent to the effective date of A B. 3192.

1. Loans were divided as follows:

5 percent first trust deeds
90 percent second trust deeds
0 percent third trust deeds
5 percent fourth trust deeds

2. The mortgage loan broker's statement was signed in blank in 31 percent of the cases. The borrower received the statement prior to assuming the obligation for the loan in only 26 percent of the cases, and the borrower did not receive the statement in the broker's office in 21 percent of the cases.

3. Estimated amount of interest payable on the note was left blank on the mortgage loan broker's statement in 100 percent of the cases, and 73 percent of the borrowers believed the interest was actually included in the charges and commission.

4. The borrower received only 66 percent of the amount originally requested The principal sum of the note now averages $2,103 and carries an average balloon of $1,161 and an average broker's fee of $277.09.

5. Balloon payments were prevalent in 70 percent of the transactions. Balloons averaged 55 percent of the principal sum of the note—not the amount of cash the borrower received In 5 percent of the cases the borrower did not know the loan carried a balloon payment. After a three-year period the balloon is 65 percent to 70 percent of the amount the borrower wanted originally.

6. Verbal guarantees were given by the broker to the borrower in 55 percent of the cases that the balloon would be refinanced when the loan reached maturity.

7. Borrowers believed the broker actually advanced the money himself in 73 percent of the cases and were unaware there was a third party lender involved.

8. A shorter term for the note was requested by 5 percent of the borrowers, but these people were informed the law made three years mandatory.

9. Borrowers felt there had been misrepresentation or that they had been misled in 63 percent of the cases.

It is the general practice to require the borrower to sign all papers connected with the loan simultaneously. Current law does not require that the mortgage loan broker's statement be made available to the borrower in advance of his committing himself to the loan proper. It would be desirable to consider an amendment that would give the borrower an opportunity to review the details of his obligation before he signed the note.

It was also Mr. Lewe's conclusion that the format of the statement itself could be improved.

There are ethical and legal considerations involved in the assurances made to the borrower that the loan could be refinanced when the balloon payment became due. Apart from giving he borrower a false sense of security, it would appear that the broker was unable legally to bind the lender to refinance the original loan.

Messrs. Lanterman, Chapel, and Unruh discussed the difficulties involved in trying to arrive at a ceiling for possible balloon payments in ratio to the principal sum of the loan It was found that the maximum charges permitted became prevailing charges. If any attempt were made to set a ceiling, the effect would be automatically to insure a balloon payment in each and every transaction. Proposed legislation would eliminate all such balloon payments

Chairman Unruh and Mr Jefferson Peyser asked in how many cases the maximum $120 was charged. Mr. Lewe replied there were only 10 where the full $120 was not shown in the mortgage loan statement.

Chairman Unruh asked whether the fundamental evil, the misrepresentation to the borrower, had been corrected since the enactment of the current statute. Mr. Lewe replied, "No. I would say that as to * * * misleading statements, the situation is about the same as at the time we conducted our original investigation in the Los Angeles area."

Mr McCollister asked whether the situation was comparable between the North and the South Mr. Lewe replied his own investigation was confined to the Los Angeles area, but from information made available through the Department of Finance auditors, it would appear that "San Francisco is lily white in comparison with the Los Angeles area."

Mr. McCollister commented, "When the broker does not complete his statement of charges, and sends a copy of it with the proceeds check, he has withheld proper disclosure of his charges, and has misled his client into making a bona fide loan without the borrower knowing what it will cost him; is that right?"

Mr. Lewe replied, "That's right."

Mr. McCollister continued, "And the 10 percent interest in this arrangement is perhaps the least of the evil; it is the charge of the brokerage for placing the loan and the other things that are added on there that the customer doesn't know are going to be charged against him; is that right?"

Mr. Lewe replied, "Well, that is a part of it From the borrower's standpoint, it is the total cost and other incidental costs. The interest is the standard factor, but nevertheless, percentage-wise, it represents a sizable cost of the total package of charges, and the borrower is not aware of that cost. The borrower receives a statement showing a broker-

age commission and title insurance, etc. The broker adds those costs up and asks the borrower if that is correct or satisfactory, and the borrower usually says, 'Yes.' Then after the borrower receives his payment book in the mail, multiplies out the number of monthly installments, adds the balloon payment, and subtracts the amount of money he received—then, and only then, does he become aware of the total cost of the loan."

Harold M. Alpert, public accountant, was summoned by subpena to testify on December 10th, and give his explanation of a payment schedule for first and second trust deeds he prepared Upon being called to the stand Mr. Alpert stated he represented the Union Mortgage Company and was duly sworn. Mr. Irving Tushner, Vice President of the Union Mortgage Company, consulted with the witness and asked permission to participate in giving testimony. The chairman replied the witness was entitled to legal counsel, but since Mr. Tushner was not an attorney, this request was not granted.

Mr. Alpert was asked to identify a payment schedule, bound in a folder on which was imprinted the name of Friedman, Blumenfeld, Weiser and Company, Certified Public Accountants. Mr. Alpert replied he prepared the first portion of the schedule covering first and second trust deeds for a 36 months' period. He disclaimed any responsibility for the preparation of the schedule covering payments over 48 or 60 months.

When asked why he prepared the schedule, Mr. Alpert replied, "When the new regulation came into effect, October 1, 1955, I started searching for any financial books that might have tables which reflected the needs of the regulations in that the amount of the payment and balloon payments as set up by the new act, and found that there were no books on the market that gave this specific information. Since this was lacking, I felt the next best thing was to try to prepare one, which I proceeded to do. After quite some research I was able to formulate this type of scheduling which falls in line with the regulation as of October 1, 1955."

The chairman asked to whom the payment schedule was distributed. Mr. Alpert replied, "When I made it up originally, after completing it, I, of course, felt quite proud of it and brought it down to Mr. Tushner. There was some question as to putting it on the market and selling it, or just giving it to them, and I felt that since I couldn't copyright something like this because it is a factual thing, I gave it to Union Mortgage Company to use. They, in turn, had the charts mimeographed, and this is of their own doing. Now, I didn't insist upon this. They paid for the expense. They gave these out to members and nonmembers of the I. M. B. A. I found out subsequently that the State had started using it also. * * * I understand the state auditors are using it throughout the State now."

(Subsequent to the hearing, inquiry was made of the Department of Finance and the Real Estate Commissioner, and it was learned that the State is *not* using Mr Alpert's schedule The State assumes no responsibility for duplicating or distributing this schedule.)

Mr. Alpert serves the Union Mortgage Company as an auditor. He also audits the records of the two other firms that share the same

address: Public Investment Company and Secured Investment Company. He functions as independent contractor, is not a partner in any of these three firms, and determines policy only insofar as records and income tax reports are concerned. He replied reluctantly to a request from Mr. Chapel that he identify the owners of Union Mortgage Company, and gave the name of Louis Ragins as well as Mr. Irving Tushner.

Chairman Unruh asked why the schedule shows no balloon payment for a minimum loan of $500, but a balloon of $148.48 after three years on a loan of $575 with monthly payments of $15. Mr. Alpert replied, "I personally felt that a $500 loan should be liquidated over a period of three years, and that anything greater than that, since the law was set up to allow for balloon payments, there should be some arrangement made so that there could be a balloon payment, or to show a payment lesser than that which would liquidate the entire loan to indicate what a balloon payment would be at the end of three years. That was my only thinking on the preparation of this thing, and that is why I set it up that way. I didn't go below $500 because I felt that it would be getting a little ridiculous."

Later in the day Mr. Alpert requested permission to give his personal views on the subject of this hearing The chairman agreed to permit Mr. Alpert to testify further; however, Mr. Alpert limited his remarks to questions on the accuracy of the figures cited by the committee investigator, Fred Lewe. Mr. Alpert stated that he was "statistically inclined" and felt the need for further clarification.

Chairman Unruh challenged Mr. Alpert's qualification as an expert with figures by reading the following paragraph taken from the report of the Department of Finance auditors on the operation of the Union Mortgage Company and its affiliates, Secured Investment and Public Investment:

"The book figures for trust cash in bank for both corporations varied considerably from amounts shown as liability therefor. One asset account on the books of Secured Investment Company in the amount of $4,523.15 was labeled 'exchange' An inquiry made of the public accountant as to the nature of this account evoked the explanation that it was merely a 'plug' to make the books balance."

Mr. Alpert's testimony follows:

"Mr. Alpert: This refers to me, I presume.

"Chairman Unruh: This refers to whoever does the auditing of the books of these three particular corporations, Mr. Alpert.

"Mr. Alpert: Well, in the first place, I was never asked that question, and secondly, as an accountant, I certainly would be sticking my neck out by telling any auditor of any public agency I was plugging a set of books.

"Chairman Unruh: Sir, I don't know what else to say, who else to attribute this to. Would you wish to make a guess as to whom this remark should be attributed to?

"Mr. Alpert: I would have no idea.

"Chairman Unruh: Do you suppose it was Mr. Tushner?

"Mr. Alpert: I doubt it very much.

"Chairman Unruh: Who is the bookkeeper?

"Mr. Alpert: Who is the bookkeeper? We have one, two bookkeepers there * * * Jack Ruggio and Sid Priegel, I think it is. I don't know their addresses.

"Chairman Unruh: They are at Union Mortgage, though.

"Mr. Alpert: However, I should really take affront at this statement, because in the first place I don't remember the auditor asking me about that particular point, and secondly, I repeat, I certainly would be sticking my neck out as a public accountant in making the statement about a plug figure.

"Chairman Unruh: Would you say now, under oath, that you had not made this statement?

"Mr. Alpert: Yes, I would.

"Chairman Unruh: Did you set up the books at Union Mortgage Company? * * *.

"Mr. Alpert: No. The firm was in business before I came to ——

"Chairman Unruh: And you would not claim this responsibility for their methods of bookkeeping?

"Mr. Alpert: I claim responsibility for certain—for auditing the records and making changes wherever changes were necessary to comply or follow proper accounting practices.

"Chairman Unruh: Did you ever figure in them where there was an unexplained discrepancy of $4,283 which would require a change?

"Mr. Alpert: It would require a change to this extent, it would require an audit of that account to find out exactly what the difference is composed of, if such a difference exists, then through, in the vernacular in the accounting industry, through journal entries, correct that difference so that such a difference does not actually appear on any set of books * * *.

"Chairman Unruh: Did you talk to Mr. Kaufman or Mr. Hurlbut when they were making the audit of Union Mortgage Company, or did they talk to you, rather?

"Mr. Alpert: Yes, I spoke to Mr. Kaufman, and I forget the other gentleman's name."

Mr. Tushner requested and was granted permission to make the following statement, "First of all, I would like to compliment Mr. Chapel for instituting this new law. I know since it has gone into effect it has eliminated 99 percent of the complaints in the industry, and on behalf of our company, on behalf of Union Mortgage Company, I think that your innuendoes are unfair. I would like to have this on record. I think they should be clarified in that the people who made the audit abstracted certain documents and certain figures which appeared to be, on the surface one thing, and if they had digged a little deeper they would have been cleared up by himself. Without knowing what he was looking for, with all due respect to the auditors that were in the office, they extracted what appeared to be on the surface, and that was it. The man himself didn't know what he was looking for, and there are some remarks in there are definitely uncalled for. As far as my organization, and speaking for myself, we do not plug anything; we don't intend to, and never did and never will."

Donald McClure, Assistant Real Estate Commissioner, presented each member with a copy of a pamphlet entitled, "California Real

Estate Law—Rules and Regulations of the Real Estate Commissioner—Real Property Loan Brokerage Law" dated July 5, 1956.

He called attention to Page 96 and the provisions of Section 3081.2 dealing with the mortgage loan broker's statement, and to Page 93, Section 2840 dealing with the approved form, together with the sample form as shown on Pages 94 and 95.

Chairman Unruh and Mr. Chapel asked for Mr. McClure's opinion on the reported practice of requiring borrowers either to sign such a statement totally in blank or the fact that the line provided for estimated interest was not filled in. Mr McClure replied, "* * * if they are still not having the form filled out properly, it would be a violation of the regulation promulgated by the Real Estate Commissioner, and therefore would be, as you know, contrary to law, and the person would be subject * * * to disciplinary action * * * it would depend on the evidence, sir, and the seriousness of the offense." He concluded, "We have the power to revoke and suspend licenses."

Michael Howard, associated with Foster and Howard as an independent broker, appeared on December 10th and was sworn by Chairman Unruh. In the past he has been associated with various mortgage companies, including, Ideal, Reliable, Superior, and Fred Klein. At the present time 80 or 90 percent of his business is in mortgage loans.

Mr. Howard discussed provisions of current law. It was his opinion that there isn't much "fat" in the $120 now permitted to cover costs. He had no recommendations for estimating costs on a percentage basis of the amount of the loan. He felt that a "10 percent base on a second trust deed loan can be lived with right now." He recommended against eliminating the balloon for it might peg the monthly payments at a level so high that the borrower would be forced into default and foreclosure

Chairman Unruh asked whether it is ever possible for a broker to refinance a loan without charge to the borrower. Mr. Howard replied, "* * * the broker doesn't represent the lender after that particular transaction is over. He can't say that he can do it. I don't know how he could do it, other than if he just makes a no-charge refinance and sells it off to another lender. * * * It wouldn't be a matter of good business I see it advertised, of course * * *" He admitted that such ads served as enticement to bring the borrower in to make a loan.

Chairman Unruh asked about appraisal fees Mr. Howard replied appraisers are usually employees of the broker. He commented, "* * * I thought it would be a real deal to be an appraiser if the companies paid the appraisers the fee that was being charged. But they pay a man $460 a month and he appraises, let us say, 150 houses. * * *" He could see no reason why varying amounts should be charged to appraise comparable pieces of property in the same geographical area It was his opinion that good appraisal would require a fee of $10 or $15

He discussed the pressure on the mortgage broker from the high cost of advertising "A man spends a considerable amount of money in radio and TV advertising, so he is going to have to get deals to pay for it." In 1954 Superior spent from $5,000 to $7,000 a month for such advertising

Mr. Chapel called attention to specific proposals contained in the proposed measure Commenting on the requirement for a $5,000 bond, Mr.

Howard stated, "I would say that the amount of $5,000 is fair * * * it almost seems like if you are big, you must be honest * * * if you made it $100,000, naturally, you would eliminate quite a few people from being in business, and you might be doing that unfairly but that might not be your intent I would say that $5,000 bond is sufficient if the man qualifies for it * * * over that it is just premium payment, isn't it?"

Mr. Howard's views on the requirement for a three-day waiting period follow: "I would say that the three days is more or less a cooling off period * * * but it works a hardship, actually, in many, many cases * * * on the borrower, because he has deliberated to the last minute before he comes in for a loan You have to remember this, sir, that many of these people, to them it is yesterday's money; they really needed it yesterday. It is delayed to the last minute Now, I can visualize this working for the advantage of lots of people in saving them maybe from going into something they don't want, but how about the man who actually needs the money immediately, I mean to save his home or save another piece of property he has, or save some equity that he has established that he is liable to pass up that particular opportunity if the house is going to foreclosure or is in default.

"Mr. Chapel: How much cooling off time would you allow, then, if three days is excessive? * * *

"Mr. Howard: I would say he should be able to make up his mind by the following day.

"Mr. Chapel: You mean within 24 hours?

"Mr. Howard: Within 24 hours, sir. I think it would serve the same purpose."

Mr. Howard agreed with Mr. Chapel that charges are more apt to be made for actual cost if the mortgage company does not own or control the escrow service

Mr. Chapel asked, "By owning or controlling directly or indirectly an escrow company, they can, to a large extent fix their own costs, can't they? Isn't that true, obviously?"

Mr. Howard replied, "It is an obvious truth"

Both Chairman Unruh and Mr Chapel were interested in learning whether a borrower ever became free from a mortgage loan company after a second mortgage real estate loan had been made Mr Howard qualified his reply by explaining that the evil did not stem entirely from the second mortgage, for people become heavily involved in debt, but most mortgages are prepaid by refinancing. He concluded, "I know very few, personally, that have ever paid off. Actually, I can't recall any I never ran into anybody that said, 'I finally made the last payment.'"

Joseph Miller, owner of the Paramount Mortgage Company, appeared on December 10th and was sworn He acts as agent for a life insurance company in obtaining first trust deeds where his broker's commission is 1 percent or 2 percent of the amount of the loan. He also averages 150 second trust deeds a year with each loan approximating $2,000, or does about $300,000 worth of business a year. He gives a 10 percent discount on the broker's fee to union members and receives referrals from the A. F. of L. Buyers League. He estimates that approximately 10 percent of his business comes to him from this source.

It was his opinion that balloon payments were necessary to enable the borrower to make monthly payments within his means. He compared the rate of interest charged by banks and finance companies with the 10 percent rate charged by mortgage loan brokers and pointed out that when interest is charged on a compound basis the rate is raised to 22 or 23 percent.

It is his practice to use the $120 now permitted under the law, in his estimate of costs, then if actual costs fall below this amount he credits the difference to the borrower at the time the transaction is closed. If charges for services for which the broker receives no fee could be controlled or standardized through legislation, it would be of service to the borrower He submitted as an exhibit an *unsigned* form from the Southland Federal Savings and Loan Association, dated September 28, 1955, showing a forwarding fee of $25, an appraisal fee of $30, $7.50 for tax service, $5 for credit report, and $5 for recording trust deed. He particularly called attention to the appraisal and forwarding fees as being considerably higher than those reported as customary at a previous hearing. There is considerable variance in the amount of such fees, but he could see no reason for the variance. He uses the services of a bonded escrow firm and the borrower pays actual charges.

Prepayments are required by title companies and trust companies as well as by firms writing first trust deeds, but the amount received when a loan is paid off ahead of time goes to the investor rather than the broker He suggested that revision be made in the amount of money charged the borrower for making late payments. At the present time penalties may be as much as $8 a month on a payment of $100 which represents about 75 percent interest on the monthly payment. He recommended that such penalties be computed at the actual rate of interest provided in the note.

Paramount Mortgage spends approximately $250 per month in advertising. In answer to Chairman Unruh's question whether "advertising * * * by mortgage loan companies today is of a high ethical nature," Mr. Miller replied, "No, sir, I think it is inclined to be misleading."

He disagreed with Mr. Howard that no borrower ever became clear of his second trust deed indebtedness and stated he did know of several cases where the debtor paid off the loan in full, but added, "It is never indicated the source of how he got free and clear."

His views on the proposed requirement for bonds and separate licensing follow: "I am not so much concerned with the bonds, which I have no bone of contention with, but * * * the investigation fees and the licensing fees * * * may put a strain on the small independent mortgage loan broker as against the larger companies who have no trouble in meeting this kind of expense. I think if there were a ratio of some kind for licensing based on perhaps their volume, it would be a good factor."

Benjamin C. Katz, Associate Professor in Marketing of the School of Business Administration at U. C. L. A., appeared on December 10th and was sworn. Prior to his employment at U. C. L. A., he served as Executive Director of the Independent Mortgage Bankers Association which gave him entree to the confidential records of the mortgage loan

companies. On the basis of his observation, he chose the Union Mortgage Company, and for the past three months has been serving them in a consulting capacity.

He referred to the work of Dr. Case at U. C. L. A. in the field of second mortgage financing, and was critical of the practice of discontinuing second mortgages as much as 50 percent for he felt "this tends to undermine the entire secondary mortgage financing field." He noted the need for further cost reductions to "attract private money into this kind of marginal financing * * * through lowering the cost of acquisition of this business, and * * * helping build a reputation * * *"

Chairman Unruh quoted from a doctorate thesis prepared by Clayton Tidyman who worked with Dr. Case and read portions of his paper dealing with the characteristics of conventional junior mortgages. The quotation follows:

> "Typically the conventional junior mortgage in the United States in 1950 was made or assumed in 1949. The loan was for less than $2,000, and had a term of from five to nine years. The loan was fully amortized and the payments were up to date. Payments on the principal and interest were made monthly in one amount and the amount of the monthly payment was less than $20. The stated rates of interest were from 5 6 to 6 percent. The holder of the mortgage was the originator of the loan, usually an individual."

He continued the quotation and read the comparison with junior mortgages in Los Angeles:

"More of the junior mortgages in Los Angeles were fully amortized than in the United States, 82 percent of the total as compared with 69 percent for the United States. Median interest rates were the same for both areas, but the modal point of 5.6 or 6 percent represented only about 49 percent of the total junior mortgages for the United States, but about 92 percent for Los Angeles."

Mr. Katz explained the drastic change that has occurred within the past few years by stating, "* * * the purchase money mortgage * * * is a different kind of mortgage than the second mortgage loan with which you are here concerned. I think, as a matter of fact, this is one of the things I would like to assess. Dr. Case is aware that this difference exists. He is taking some statistical samples currently. * * *"

Mr Katz called attention to what he termed "progress" made since the enactment of the current legislation in the reduction of complaints that have been brought to the attention of the Real Estate Commissioner and the Better Business Bureau, and gave credit both to the subcommittee and the Independent Mortgage Bankers Association.

The following discussion between Mr Chapel and Mr Katz is an excerpt from the verbatim transcript:

"Mr. Chapel: You started off by saying you were disinterested and objective, and were talking with the University viewpoint. Is that right, did you say that?

"Mr. Katz: I identified my position as that being my prime responsibility. I also wanted to let the committee know I was working part-time for Union Mortgage.

"Mr. Chapel: You said you are disinterested and objective didn't you?

"Mr Katz: Yes.

"Mr. Chapel. Now, you tell me you are on the payroll of the Union Mortgage How can you be on the payroll of Union Mortgage and still be disinterested and objective? How can you reconcile your two capacities? * * * It sounds to me like a publicity gag.

"Mr. Katz. No, that is not my purpose, sir.

"Chairman Unruh. Are you being paid for being here?

"Mr. Katz: No, sir.

"Chairman Unruh· You are on the payroll of Union Mortgage, aren't you?

"Mr. Katz: Yes, obviously.

"Mr. Chapel: This is an extra, added benefit for Union Mortgage, is that right?

"Mr. Katz I think the point of reference there is that I am currently engaged in the study of secondary mortgage business, and from that point of view I try to obtain a detached viewpoint.

"Mr. Chapel: And yet at the same time being on the pay roll of Union Mortgage?

"Mr. Katz Yes, My work at the university is hardly on the pay roll of Union Mortgage.

"Chairman Unruh: But would you not have a responsibility to Union Mortgage?

"Mr. Katz: The Union Mortgage is not my master. They are a part-time employer

"Mr. Chapel: Then they are your part-time master?

"Mr. Katz: I should say part-time retainer.

"Mr Chapel· A part-time retainer? I just wanted the record to show you are not disinterested and you are not objective. The servant hears his master's voice and speaks therefor

"Mr. Katz: To an extent I am employed, that may be correct."

Richard Roddis, Deputy Attorney General, welcomed the members to San Francisco on December 13th and expressed the regrets of Herbert Wenig, Assistant Attorney General, at his inability to attend. He summarized the comments and recommendations made by Mr. Wenig at the October hearings and offered the continued assistance of the office of the Attorney General to the subcommittee.

B. W Rhodes, Chairman of the Mortgage Loan Brokers group of the California Real Estate Association, and Mr. Walter Kaitz appeared on December 13th and testified in place of Mr. Pontius who was unable to get off the ground in Los Angeles because of heavy fog Mr Rhodes said that current legislation was enacted in 1955 primarily "to eliminate the practice of the one-year loan * * * there are some small items that will need clarification and adjustment, but I think basically it is a good bill. * * * It should be permitted to operate long enough to gain experience before proposing any substantial revision."

Commenting on the proposed legislation, Mr. Rhodes stated that his group was opposed to it, and added, " * * * if due caution is not given, we are going to be legislated out of business "

When Mr. Rhodes replied in the affirmative to Chairman Unruh's question whether he operated in the bay area, Chairman Unruh asked whether it was his practice to charge the maximum 15 percent commis-

sion on three-year loans or the maximum $120 for costs. Mr. Rhodes replied that he does not do so for he makes his charges on the basis of actual costs. He added he didn't know of mortgage loan brokers in the bay area who have adopted the maximum legal ceiling to apply to all loans. It was recognized long ago that most of the abuses came from the southern part of the State, and that there was not nearly as much of a problem in the north.

Mr. Kaitz agreed, and emphasized, "We certainly condemn the use of the $120 as a minimum, and also condemn its use where it is not actually paid out. * * * "Current law should be strengthened to clarify this and to insure that the borrower was charged only for *actual* expenses.

Mr. Rhodes cautioned against confusing interest charges with the broker's commission He used as an example one of his investors, a doctor, who is taking second mortgage loans in order to get the 10 percent return on his money. The broker should be entitled to his brokerage for his services.

Chairman Unruh asked, "Who pays the brokerage commission?" Mr. Rhodes replied it was the borrower. Chairman Unruh then asked, "Who pays the interest * * * and the cost of securing the loan?" Mr. Rhodes replied, "The borrower."

L. J. Vetter of San Mateo appeared on December 13th and spoke of the problem of arranging a $500 loan from the standpoint of the mortgage loan broker. He expressed sympathy for the borrower who finds himself in circumstances where he is in need of $500, but explained such business is not profitable and the average broker will turn it away.

Mr. Vetter stated, "I'm a member of the California Real Estate Association, and I * * * do my business honestly and decently. I do not gouge anybody * * * but at the same time I cannot give people loans and go out of business doing it * * * either it is going to be profitable for me so that I can make a living at it, or else I will turn them down. As a matter of fact, I turned down a great many of them. I started out with the practice that I would not take a loan below $2,000, and I pretty well stuck to that because it just does not pay you to do it. * * * "

Chairman Unruh asked why the borrower needs the $500 loan so desperately. Mr Vetter replied he was heavily in debt, or "in some cases they have hospital bills, doctor bills, etc. * * * " Chairman Unruh then pointed out that a $500 loan would not prevent foreclosure but would only forestall it. Added to the $500 loan would be the minimum charges of $120 to bring the total to $620, plus another $100 as the broker's commission to raise the total to $720 or increase the amount of the indebtedness by this sum. He asked how this would actually serve to help the borrower, and concluded that a $500 real estate loan was economically unsound.

Mr Vetter protested that the automobile industry makes excessive charges yet such financial arrangements are not judged to be unsound. Chairman Unruh explained the committee attempted to obtain information on comparable costs from other sources and received evidence that the borrower was receiving "a far worse deal" from mortgage loan brokers than from "any other institute of credit in the State of California" particularly with reference to small loans.

Jefferson Peyser, General Counsel for the Independent Mortgage Bankers Association, appeared on December 13th and submitted a reprint from the March, 1956, issue of *The Mortgage Banker,* entitled "What it Costs to Operate a Mortgage Loan Business," by Edward J. DeYoung. He called attention that the statistical tables shown applied to first loans and that it was found that "the average cost of originating a single loan is approximately $245. The cost of service on the average loan per month is roughly $1 37. * * * and the average mortgage company spends about 75 percent of total expense moneys for salaries and interest costs."

Mr. Peyser commented on testimony given by Mr. Fred Lewe by pointing out that current law provides that no installment shall be twice the size of the average installment. Chairman Unruh explained that the mortgage loan brokers escape the law by writing the loans for a period longer than three years, and it was believed that this should be prevented. Mr. Peyser repeated views he expressed at the October hearings and reiterated, "I think it is going on false pretenses when we say a law needs a change, when, in effect, all a law needs is enforcement."

Mr. McCollister summarized Mr. Peyser's comments by asking, "Isn't the nub of your testimony in defense of the present law, and with the suggestion to us that no new legislation is needed?" Mr. Peyser agreed.

Eric McLachlan, Chief of the Audits Division of the Department of Finance, and William C. Mullin, accountant, appeared on December 13th and reported on their findings based on an audit of the records of selected mortgage loan brokers under contract with the Real Estate Commissioner. In Northern California 15 such brokers were visited, and in Southern California the records of six firms were audited.

Mr. McLachlan read the following letter, dated October 3, 1956, which he wrote to the Real Estate Commissioner containing recommendations for revision of procedures:

AUDIT PROGRAM

The audit examinations conducted by this office disclosed certain areas of violations by mortgage loan brokers that require corrective action either by regulations adopted by the Real Estate Commission or by legislation. Suggestions in this respect are contained later in this report.

The audit examinations conducted by the Department of Finance were to a large extent technically correct in that we performed all of the audit functions normally expected in pioneer examinations of this type. It is our opinion that future examinations of mortgage loan brokers may be pinpointed to cover the areas of violation disclosed by the prior examinations so that the time expended on any given examination will be considerably reduced. Experience in the pioneer examination disclosed that time expended ran from 100 hours to 550 hours for each operation depending on the size and the condition of the records. It is proposed that the Audits Division of the Department of Finance rewrite the program for investigational examinations concentrating on the areas needing particular attention. This rewrite to be done under a contract with your office.

The Budget Division of the Department of Finance has agreed to provide during the current year two auditors on your staff to continue the investigation started under contract last year. The aforementioned revised program should be used by the auditors attached to your Division and amended as experience dictates the need for amplification of certain types of checking and the minimizing of other types of checking. If, during the course of the examinations conducted by your staff, more help is needed to develop new procedures, it is suggested that you call on the Audits Division, Department of Finance, to aid and assist in developing such areas. It is believed that this approach will provide the necessary flexibility in your staff and provide assistance as you run into problems where our past experience will be of value

In order to determine the extent of the problem involved in coverage in the mortgage loan brokerage field, it is suggested that your office issue a questionnaire to all real estate brokers covering the extent of their activities in the mortgage loan brokerage field and from this information a file be prepared that will lend itself to selective determination as to the necessity of coverage by your staff. It may be possible in the future to provide a separate type of brokerage license that will enable the division to have an inventory of the problem to enable it to make selective determination of particular brokerage firms to be examined.

It is recommended that an annual statement be required from each real estate broker engaged in the mortgage loan field setting forth the extent of his activities in this field, together with a financial statement covering his operations in that respect The development of this type of annual report will require some experimentation, consultations with brokerage firms, and other organizations interested in the problem. We believe that such an annual report can be developed and suggest that the Audits Division of the Department of Finance proceed to do this under contract with the Real Estate Division as soon as staff can be made available. Such a form of financial statement would lend itself to an annual office review and enable the division to select particular brokers requiring field examination.

When this type of financial statement has been prepared, it is further suggested that we explore the possibilities of having such financial reports certified by certified public accountants or public accountants in order to minimize the coverage required by the division. The development of this type of certificate will require contact with organizations of public accountants and possible development of suggested audit programs for use by public accountants in their examinations Such examinations to be paid for by the mortgage loan brokers. It is possible that future legislation may require such an annual report certified by a public accountant, but in the meantime, it would be well to be in a position to accept certificates where they are voluntarily made by the mortgage loan brokers and to be in a position to immediately put into effect any mandatory requirements in this respect.

'SUGGESTED CHANGES IN REGULATIONS AND/OR LEGISLATION'

'During the course of our examinations, we found that mortgage loan brokers files were frequently dispersed and we were delayed in securing necessary information. It is suggested that the California Administrative Code be amended to provide an additional section as follows:

'Every broker who negotiates a loan subject to Chapter 8, Title 14, Part 4, Division 3 of the Civil Code shall maintain a file for each such loan containing at least the following:

'(a) Mortgage loan broker statement.
'(b) Copy of Preliminary Report ordered from title company.
'(c) Copy of borrower's escrow instructions.
'(d) Copy of lender's escrow instructions.
'(e) Copy of note.
'(f) Closing statements of escrow or title company to borrower and lender.
'(g) Copy of any compensation agreement between the broker and the borrower.'

The adoption of this regulation and publicity properly disseminated through real estate organizations together with your monthly bulletins would make future investigations more efficient.

Our examinations disclosed that there is a wide variation in the time interest begins in connection with mortgage loans. It would appear that unless the interest begins at the time the money becomes available to the borrower that usury may result. It is our experience that very few brokers realize this. It is therefore suggested that the following regulations be adopted.

"All notes subject to Chapter 8, Title 14, Part 4, Division 3 of the Civil Code shall be dated on the date that funds become subject to the borrower's control or order."

The general application of the above two provisions would be further implemented by adoption of the following suggested regulation:

"Within one month after a broker has negotiated a loan he shall deliver to the borrower a statement showing the amount of the loan, the actual costs, expenses, and funds to lien holders and creditors, and the net loan proceeds given to the borrower. If the transaction was closed through escrow and the escrow holder rendered a closing statement which reveals such information such statement shall be deemed compliance with this section on the part of the broker."

It was noted that many brokers charged maximum fees for services referred to in paragraph (a) of Section 3081.2 and have supplemented their brokerage fees. It is suggested that adoption of the following regulation would prevent this type of additional charge and would be fair to all parties concerned.

"If the persons negotiating a loan either directly or indirectly performs any of the services referred to in paragraph (a) of Section 3081.2, except services rendered in writing policies of insurance, the total amount of costs and expenses received by

such person either directly, or indirectly, for performing such services shall not be more than fifty dollars provided that such services shall be limited to and the separate items of cost not more than those on the following schedule:

Appraisal fees	$25
Escrow fees	30
Notary fees	3
Credit investigation fees	5"

It appeared that in many cases excessive prepayment privilege charges were being included in loan contracts. Consideration should be given to a regulation substantially as follows:

"The terms of prepayment privilege referred to paragraph (b) of Section 3081.2 shall not provide for any fee, charge or payment as a condition to the prepayment of a loan after six months interest has been paid on the loan."

Section 3081.1 Civil Code provides that statements and compensation agreements shall be executed in the place of business of the person negotiating the loan. In some instances this results in a definite hardship on the borrower where he resides in another city or is in a hospital or for some other reason is unable to visit the brokerage firm's place of business. It is, therefore, suggested that the following sentence be deleted from this section of the code·

"Such statement and any other compensation agreement with the borrower shall be executed at the place of business of the person negotiating the loan as specified in his license "

Section 3081.2 Civil Code should be amended as follows:

"If the person negotiating a loan performs or is to perform any of the services provided for in this section, he shall enumerate the amount thereof as required by this section and he shall be entitled to said costs and expenses in addition to the charges provided for in Section 3081.2 (b)."

The problem of balloon payments requires some study inasmuch as they tend to work hardship and injustices on the borrower. It is suggested that consideration be given to amending Section 3081.5 substantially as follows:

"Any loan made after the effective date of this act shall require substantially equal instalment payments over the period of the loan with the final payment not payable until the maturity date thereof; provided, that no instalment including the final one shall be greater than twice the amount of the smallest instalment."

During the course of our examination there were two instances noted where a lender's attorney charged a borrower $100 for professional services rendered to the attorney's client. Even though this charge caused total costs to be much in excess of $120 it appeared that nothing could be done about it due to the limitations of paragraphs (f) and (g) of Section 3081.7 of the Civil Code. It is suggested that consideration be given to repealing these sections.

Section 3081.921 does not appear to protect the borrower in any way and in this respect is inconsistent with the rest of the act. Consideration should be given to repealing this section.

Examinations conducted by this office were made under the provisions of a regulation. It is suggested that the following section added to the Business and Professions Code would remove all doubt as to the ability of the commissioner to examine all brokers subject to his license:

> "The commissioner may at any time examine the books, accounts, records, and files used in the business of every person licensed by him. For the purpose of such examination the commissioner and his representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons."

Chairman Unruh asked what method was used to select the firms to be audited. Mr. McLachlan replied that there was no way to identify firms engaged in the business of mortgage loan brokers; therefore, they had to depend upon information brought to the attention of the Real Estate Commissioner from complaints received on alleged violations of the law. This question was referred to Mr Donald McClure who agreed that there was no way for his office to determine who is engaged in this business. Mr McClure added that after these recommendations were made, it was decided the Real Estate Commissioner should have a specialist on his staff who would be able to advise the commissioner on proper procedures.

Mr Cunningham asked whether it was recognized that there would inevitably be times when actual costs for credit reports or appraisals would have to be higher than the maximum cited Mr. McLachlan agreed, and explained that this was merely a suggestion, and not a definite conclusion.

Mr. Mullin described differences found to exist between the North and the South. Generally, in the Bay area, brokers do not engage exclusively in the mortgage loan business. In this area if a person negotiates 20 loans a month he is a "substantial" operator. Also, loans are generally tailor-made to meet the needs of the borrower.

There are variances in costs from $67.50 at Pacific Homes which includes $25 for appraisal, $5 for credit investigation, and $37.50 for escrow fees to a flat charge of $10 from Mortgage Service Company for basically the same kind of work. Interstate Mortgage charges $61. Most brokers include prepayment penalties which permit six months' interest, although some require 2 percent of the unpaid balance of the note.

Pacific Homes asks the borrower to select a specific plan. If $1,000 were borrowed to be fully amortized over a 52-month period, the borrower could elect a 37-month prepayment period. Then if he paid off the note within the first year, he would still have to pay interest for the remaining two years. If, however, he went beyond the 37 months without paying off the note, he would be committed to paying interest for the full 52 months. Some people accept a zero prepayment period which would require them to pay off the note within two months after the

loan was written. Most loans are paid off before the due date, which makes this plan attractive to investors because of the additional interest it commands.

Second mortgages written in the Bay area generally have a term of four or five years, are fully amortized, do not assess the maximum $120 in charges, and carry no balloon payment. Ideal Mortgage Company is the notable exception. This firm opened its branch office in this area in February of this year. It writes loans for a three year term, charges the maximum $120 costs, and about one-half of its loans provide for a balloon payment. It, also, is the only firm that uses the services of an escrow company. All others use the title insurance companies.

Service Escrow operates out of the same address as Ideal Mortgage, is owned by the same people who own Ideal, and the officers and directors for the two firms are the same. A standard fee for credit investigation is shown as $5, an appraisal fee of $25 to $30, but the escrow fee is variable and represents the difference between those two items and $120. It would be unheard of for a title insurance company to manipulate its charges in that manner.

The following is a selection of some of the loans made by Ideal, showng the size of the balloon payment:

Amount of loan	*Amount of balloon*
$2,950	$2,055
2,500	865
2,250	1,480
3,200	1,793
2,150	798

All of the above loans were written for a term of three years. The size of the balloon generally averages about 50 percent of the principal amount of the note, although the borrower actually receives substantially less than that amount, as for example, a note for $2,500 would net to the borrower approximately $2,000.

In a few instances it was found that an arrangement was made where the mortgage broker would agree to buy back the note, if a borrower defaulted. The brokerage fee is never figured as 15 percent of the amount of money the borrower actually gets. In practice this fee is figured as 15 percent on 15 percent. There are a few brokers who charge the borrower no costs whatsoever. Some charge a $10 application fee which covers the cost of appraisal and credit investigation. These firms generally charge a total of $40 for all costs rather than the $120 permitted under current law. Three firms: Ideal Mortgage, Interstate Mortgage, and Pacific Homes charge substantial fees for appraisals, the lowest being $25.

The records of practically every broker audited showed a time lag between the date the money was placed in escrow and the date the borrower actually received the loan. Sometimes it was six weeks or longer. Usually it was five or six working days, or about 10 calendar days. In practically every case interest was charged to the borrower from the date the money was placed in escrow rather than from the date the borrower received his funds.

Mr. Cunningham asked for confirmation that the loans described were made subsequent to the effective date of Assembly Bill No. 3192. Mr. Mullin replied that the audits were made to test compliance to this statute.

Mr. McCollister asked whether the proposed legislation provided exemption to life insurance companies. Mr. Czesla replied it did. Mr. McCollister then asked whether it also excluded real estate brokers who might earn only one-half of 1 percent brokerage for arranging a loan. Chairman Unruh replied if no brokerage fee whatsoever was collected, he is automatically eliminated.

There is the problem of whether or not the proposed act would be constitutional if it gave exemptions to real estate brokers. If purchase money loans for transfer of title were excluded, it would create a large loophole in the statute. A third problem was that of identifying mortgage loan brokers through separate licensing.

Mr. McCollister suggested that possibly the special licensing could be handled similar to that of the business opportunity brokers to protect legitimate real estate brokers from receiving unwarranted adverse publicity. Mr. Unruh agreed this was the biggest problem in the drafting of the proposed bill He added, "I am at a loss to suggest how I can do this without some further inconvenience to the real estate profession as a whole. In my own thinking I have almost reached a point where I think some of our provisions in our proposed legislation are too burdensome. * * * I hope we can reach some satisfactory conclusion in this area because certainly we do not want to drive out any small operator who is borrowing legitimately, and the vast majority of the people in this field are certainly clean and legitimate operators. * * *"

Respectfully submitted,

MRS. CHAS. B. KOBER
Executive Secretary

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ASSEMBLY INTERIM COMMITTEE REPORTS
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ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

WM. A. MUNNELL, *Chairman*

REPORT BY SUBCOMMITTEE ON FISCAL AGENCIES

MEMBERS OF SUBCOMMITTEE

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HAROLD K. LEVERING
WILLIAM F. MARSH
ALLEN MILLER
H. ALLEN SMITH
JESSE M. UNRUH

MARIAN KOBER, *Executive Secretary*

March, 1957

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ASSEMBLY
OF THE STATE OF CALIFORNIA

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Majority Floor Leader

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Minority Floor Leader

ARTHUR A. OHNIMUS
Chief Clerk of the Assembly

LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, March 8, 1957

HON. LUTHER H. LINCOLN
Speaker of the Assembly; and
MEMBERS OF THE ASSEMBLY
Assembly Chamber, Sacramento, California

GENTLEMEN: Pursuant to House Resolution No. 263, adopted June 8, 1955, the Assembly Interim Committee on Finance and Insurance herewith submits its final report of the Subcommittee on Fiscal Agencies.

Respectfully submitted,

WM. A. MUNNELL

SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, March 8, 1957

HON. WILLIAM H. MUNNELL
Chairman, Assembly Interim Committee on Finance and Insurance
Assembly Chamber, Sacramento, California

DEAR MR. MUNNELL: Pursuant to your general authority and the authority granted by House Resolution No. 263, adopted June 8, 1955, you appointed the Subcommittee on Fiscal Agencies to study the matters pertaining to debt adjusters or "pro-raters" in California.

In anticipation that the Proclamation by the Governor convening the Legislature in Extraordinary Session in 1956 [might authorize legislation in this field], this subcommittee rendered a comprehensive report at that session, which rather fully set forth the problems attending the practices of debt adjusting as a business.

Since that time there have been no further hearings conducted, but other matters bearing on the subject have come to light which form the basis for this final report.

Respectfully submitted,

ERNEST R. GEDDES, Chairman
WALLACE HENDERSON
HAROLD LEVERING
WILLIAM MARSH
JESSE UNRUH

SCOPE OF REPORT

The scope of this report is narrowed down to making a matter of record in California the text of the opinion of the Massachusetts Supreme Court respecting the unauthorized practice of law by proraters and collection agents performing pro-rate services.

Legislation has been introduced in this 1957 Session of the Legislature dealing with the subject. This proposed legislation deals with prohibition of the practice, regulation and substitution of court referees for private operators. The authors of the various bills did not have before them any recommendations of this committee, and we do not feel it incumbent upon us to recommend any particular course of action but, rather, to let the Assembly judge the matter when the bill it deems proper is before it.

We do believe, however, that the implications of the case before the Massachusetts Supreme Court should be considered before this industry is given legislative sanction.

In order that the matter may be more readily grasped by those interested, we present first a digest of the opinion followed by the complete text. The text recites the operations of the Massachusetts firms which tested the validity of the law of that state and parallels to California operations may easily be recognized.

REPORT FROM THE UNITED STATES LAW WEEK
Volume 25, No. 30, February 5, 1957, Pages 2327 and 2328

"ATTORNEYS

"Unauthorized Practice—

"Massachusetts statute making operation of debt pooling plans equivalent to practice of law is valid.

"The plan operators' conduct presents features of the practice of law and viewed as a whole amounts substantially to that. An important difference between their conduct and that of lawyers is in the inception of the relationship, which arises in a manner not permitted to the legal profession. The distressed debtor unable to look out for his financial affairs is importuned through the public press to engage for a consideration the service of a skilled handler. If he responds, there then comes into being a basic relationship of trust and confidence.

"[*Text*] 'To the hired negotiator the debtor makes a complete disclosure of his financial secrets, his income, and an account of his indebtedness to the last detail. Entrusted with such information, the debt pooler evolves a program which it advises the debtor to accept as one which under its administration might free him from financial embarrassment. Authorized in writing, the debt pooler enters into direct negotiation at the sources of the debtors distress, dealing indiscriminately with creditors or their attorneys, undeterred by judgments, pending suits, or attachments. Indeed the greater the pressure, legal and otherwise, the greater the percentage of the entrusted fund the debt pooler

will in its own discretion allocate to the reduction of a given claim. In a situation of insolvency—the debt pooler is engaged to develop and carry out a series of compromises, which, irrespective of litigation, will ward off bankruptcy.

" 'The antagonists may be members of the bar subject to the ethical standards and discipline of their profession. The [operators], according to their own contention, are not subject to similar regulation, because they are businessmen engaged in arm's length dealings in the commercial arena. That the debt pooler neither enters the court room nor prepares legal documents does not save its conduct from classification as the practice of law. Nor is there escape in the fact that it does not advise as to the validity of claims; for, quite to the contrary, its omission to do so may be a surrender to some demands which a member of the bar perhaps ought to question and advise the debtor to contest. The debt pooler's plan and its administration thus excludes the debtor from skilled professional legal advice. So, where there is a conditional sale contract, the creditor may be paid, even in full, notwithstanding that there may have been no compliance with the applicable statutes. In this field the rules of law are most stringent, and the condition of the sale may be lost because of some departure in the contract from the prescribed statutory language.'

"This analysis makes it apparent that the plan operators have extended their operation beyond the legitimate field of lay business and into the field which public policy requires should be reserved for the professional practitioner. Debt pooling as here practiced differs from mere bill collecting by a law agent named by a creditor to present a claim to a debtor and to receive payment.

"Mass. Sup. Jud. Ct. (Wilkins, Ch. J.); *Home Budget Service, Inc.* v. *Boston Bar Assn.*, 1-7-57."

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

Suffolk County November Sitting, 1956

No. 5580

HOME BUDGET SERVICE, INC., FAMILY BUDGET CORPORATION OF NEW ENGLAND, and RUTH GOLDHABER,
Complainants
vs.
BOSTON BAR ASSOCIATION, and MASSACHUSETTS BAR ASSOCIATION
Respondents

OPINION OF THE COURT

Charles B. Rugg
Robert D. Hartshorne, Jr.
Champe A. Fisher
Attorneys for Boston Bar Association and Massachusetts Bar Association

Edward O. Proctor
Robert K. Lamere
Attorneys for Home Budget Service, Inc. et al.

HOME BUDGET SERVICE, INC. & others vs. BOSTON BAR ASSOCIATION & another.
Suf. Jan. 7, 1957

WILKINS, C. J. The plaintiffs, two Massachusetts corporations and an individual resident in the Commonwealth, bring this bill of complaint against Boston Bar Association and Massachusetts Bar Association and seek a declaratory decree as to the constitutionality of St. 1955, c. 697, entitled "An Act relative to debt pooling plans." The defendants counterclaim asking injunctive relief against the plaintiffs. See Growers Outlet, Inc. v. Stone, 333 Mass. 437, 441.[1] The facts are agreed. A judge of the Superior Court with the consent of the parties reported the case without decision. G. L. (Ter. Ed.) c. 214, s. 30.

Statute 1955, c. 697, has two sections. Section 1 inserts in G. L. (Ter. Ed.) c. 221, the following new s. 460; "The furnishing of advice or services for and in behalf of a debtor in connection with any debt pooling plan, whereby such debtor deposits any funds for the purposes of making pro rata payments or other distributions to his creditors, shall be deemed to be the practice of law within the provisions of sections forty-six and forty-six A. Any person who, not being a member of the bar of the Commonwealth, furnishes or offers to furnish any such advice or services, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months or both." Section 2 brings s. 460 within the scope of G. L. (Ter. Ed.) c. 221, s

[1] Mass. Adv. Sh. (1956) 49, 51

46B, as amended by St. 1947, c. 75, thereby causing s. 46B to read: "The Supreme judicial court and the superior court shall have concurrent jurisdiction in equity, upon petition of any bar association within the commonwealth, or of three or more members of the bar of the commonwealth, or of the attorney general, or of the district attorney within his district, to restrain violations of section forty-six, forty-six A or forty-six C."

Neither the individual plaintiff nor any officer, director, or employee of the corporate plaintiffs is a member of the bar of the Commonwealth. All three plaintiffs are engaged, within the meaning of St. 1955, c. 697, in furnishing advice or services for and in behalf of debtors in connection with debt pooling plans whereby debtors deposit funds for the purpose of making pro rata payments or other distributions to their creditors.

Each plaintiff runs newspaper advertisements aimed at debtors who find themselves in such financial distress that they cannot meet their obligations with their creditors. A debtor who gets in touch with a plaintiff is requested to disclose his total income, basic living expenses, total indebtedness, the nature and balance of each creditor's claims and the steps any creditor has taken to collect. The debt pooler works out a plan or budget under which a certain amount is to be deposited each week or month with the debt pooler for distribution. The amount each creditor will receive weekly or monthly depends upon the nature and amount of his claim, the amount of any security, and the extent of pressure exerted for payment. Creditors in the strongest positions receive the largest payment proportionately. Thus, a conditional vendor may receive the full payments called for by his contract.

A debtor engaging the services of a debt pooler enters into a written agreement whereby he undertakes to make the weekly or monthly deposits; and the debt pooler undertakes to use its best efforts to persuade creditors to accept payments according to the plan, and if successful, to distribute such payments. The agreement states the amount of the debt pooler's service fee, normally not more than six per cent of the total indebtedness, to be collected from deposits made by the debtor. There is also an administration charge of from ten to fifteen cents per creditor per week. The agreement may be terminated by the debtor at any time, but by the debt pooler only if the debtor fails to make the agreed deposits. Debtors are instructed to refer all communications from creditors or their attorneys to the debt pooler, which will endeavor to work out satisfactory terms of adjustment.

After an agreement is signed, the debt pooler writes the creditors or their attorneys, stating that it has been engaged to assist the debtor in the adjustment and liquidation of his debts; that the debtor is anxious to meet his obligations but is unable to do so upon the terms contracted for; and that under the proposed new plan of payment the debt pooler will forward to a particular creditor or his attorney a stated amount weekly or monthly which represents the maximum which the debtor can pay on that creditor's claim consistently with the orderly liquidation of all his obligations. The letter points out the advantages of the plan, urges cooperation, and advises that the debt pooler will commence and continue to make payments under the plan unless it hears from the creditor or his attorney.

In cases where creditors or their attorneys refuse to agree to accept payment on the proposed terms, the debt pooler attempts a compromise of the amount of the weekly or monthly payments. It is not the practice of the debt pooler to contest the validity of claims or amounts except as to the extension of time for payment. If a creditor or his attorney agrees with the debt pooler to a compromise figure of weekly or monthly payments higher than originally proposed, the plan and the amount of the debtor's deposits are revised accordingly.

After the plan is in operation, debtors refer dunning letters, telephone calls, complaints, threats, and other communications from their creditors or their creditors' attorneys to the debt pooler, which then negotiates in an effort to persuade a creditor not to attempt to collect his claim independently of the plan. Among the situations in which the debt pooler so acts are where a creditor refuses to agree to the plan or becomes dissatisfied and demands payment on the original terms; or, being secured, threatens to foreclose his lien; or threatens to approach the debtor's employer; or institutes legal proceedings; or, holding a judgment, seeks to enforce it. In negotiating in any of these situations the debt pooler again attempts to persuade the creditor to accept payments under the plan, or offers to increase payments, or even to pay a claim in full. In some instances the plaintiffs have continued to negotiate after suit has been brought. If the debt pooler is unable to reach an agreement with a creditor as to the terms of payment, the debtor is informed of the creditor's attitude, and is told to deal direct, or, if he prefers, to withdraw from the plan. He is also told if necessary to engage an attorney of his own choosing or, in an appropriate case, to go to a legal aid society. The debt poolers do not make court appearances or prepare legal documents.

The conduct of the plaintiffs presents features of the practice of law, and viewed as a whole amounts substantially to that. An important difference between their conduct and that of lawyers is in the inception of the relationship, which arises in a manner not permitted to the legal profession. The distressed debtor unable to look out for his financial affairs is importuned through the public press to engage for a consideration the services of a skilled handler. If he responds, there then comes into being a basic relationship of trust and confidence. To the hired negotiator the debtor makes a complete disclosure of his financial status, his income, and an account of his indebtedness to the last detail. Entrusted with such information, the debt pooler evolves a program which it advises the debtor to accept as one which under its administration might free him from financial embarrassment. Authorized in writing, the debt pooler enters into direct negotiation at the sources of the debtor's distress, dealing indiscriminately with creditors or their attorneys, undeterred by judgments, pending suits, or attachments. Indeed the greater the pressure, legal and otherwise, the greater the percentage of the entrusted fund the debt pooler will in its own discretion allocate to the reduction of a given claim. In a situation of insolvency—for the debtor is unable to pay his debts as they mature—the debt pooler is engaged to develop and carry out a series of compromises, which, irrespective of litigation, will ward off bankruptcy. The antagonists may be members of the bar subject to the ethical standards and discipline of their profession. The plaintiffs,

according to their own contention, are not subject to similar regulation, because they are businessmen engaged in arm's length dealings in the commercial arena. That the debt pooler neither enters the courtroom nor prepares legal documents does not save its conduct from classification as the practice of law. Nor is there escape in the fact that it does not advise as to the validity of claims; for, quite to the contrary, its omission to do so may be a surrender to some demands which a member of the bar perhaps ought to question and advise the debtor to contest. The debt pooler's plan and its administration thus exclude the debtor from skilled professional legal advice. So, where there is a conditional sale contract, the creditor may be paid, even in full, notwithstanding that they may have been no compliance with the applicable statutes. In this field the rules of law are most stringent, and the condition of the sale may be lost because of some departure in the contract from the prescribed statutory language. See, for example, Gehan v. North Main Street Garage, Inc. 312 Mass. 547; Mogul v. Boston Acceptance Co. Inc. 328 Mass. 424; Clark v. A & J Transportation Co. Inc. 330 Mass. 327; Clark & White, Inc. v. Fitzgerald, 332 Mass. 603; Nickerson v. Zeoli, 332 Mass. 738.

From this analysis of the plaintiffs' methods it is apparent that they have "extended . . . operations beyond the legitimate field of lay business and into the field which public policy requires should be reserved for the professional practitioner." Matter of Shoe Manufacturers Protective Association, Inc. 295 Mass. 369, 372. Debt pooling as set forth in the agreed facts differs from mere bill collecting by a lay agent named by a creditor to present a claim to a debtor and to receive payment.

The statute here assailed is not unconstitutional as an interference with the purely judicial function to determine who may practice law but is a valid enactment in aid of the court's power to make such a determination Opinion of the Justices, 279 Mass. 607, 611. Opinion of the Justices, 289 Mass. 607, 612. Keenan, petitioner, 310 Mass. 166, 177. Matter of Keenan, 313 Mass. 186, 196, 212. Lowell Bar Association v. Loeb, 315 Mass. 176, 179. Creditors' Service Corp. v. Cummings, 57 R. I. 291, 300.

The defendants' counterclaim seeks relief expressly authorized by St. 1955, c. 697, s 2. Board of Survey of Lexington v. Suburban Land Co. 235 Mass. 108, 113. Commonwealth v. Stratton Finance Co. 310 Mass. 469, 474. Malden v. Flynn, 318 Mass. 276, 282.

A final decree will be entered declaring that St. 1955, c. 697, is constitutional as applied to the plaintiffs and their debt pooling operations; enjoining the plaintiffs from violation of G. L (Ter. Ed.) c 221, s 460, inserted by St. 1955, c. 697, s 1, and of G. L. (Ter. Ed.) c. 221, s. 46A, inserted by St. 1935, c. 346, s. 2; and enjoining the corporate plaintiffs from violation of G. L. (Ter. Ed.) c. 221, s 46, as appearing in St. 1935, c. 346, s. 1.

So ordered.

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SUBCOMMITTEE ON THE PLACEMENT OF INSURANCE BY THE STATE

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ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE

March, 1957

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HON L H. LINCOLN
Speaker

HON CHARLES J CONRAD
Speaker pro Tempore

HON RICHARD H McCOLLISTER
Majority Floor Leader

HON WILLIAM A. MUNNELL
Minority Floor Leader

ARTHUR A. OHNIMUS
Chief Clerk

LETTER OF TRANSMITTAL

ASSEMBLY, CALIFORNIA LEGISLATURE, April 3, 1957

Hon. L. H. Lincoln
Speaker of the Assembly
Members of the Assembly
Assembly Chamber, Sacramento, California

GENTLEMEN: On March 6, 1957, Assemblyman William A. Munnell, Chairman, Assemblyman Jesse M. Unruh, and Assemblyman Allen Miller presented to your honorable body a Majority Report of the Subcommittee on the Placement of Insurance by the State of California.

We, the undersigned, refused to sign the majority statement and submitted a statement of protest which was subsequently printed in the Journal. We asked for, and were granted, unanimous consent to be permitted to file a Minority Report.

We herewith submit that Minority Report with attachments.

Sincerely yours,

HAROLD K. LEVERING
Assemblyman, 60th District
FRANK LANTERMAN
Assemblyman, 48th District

(Enclosures)

MINORITY REPORT

ASSEMBLY INTERIM COMMITTEE ON FINANCE AND INSURANCE, SUBCOMMITTEE ON THE PLACEMENT OF INSURANCE BY THE STATE

We, the undersigned members of the subcommittee, declined to sign the draft of a report which was prepared at the direction of and presented to us by the Subcommittee Chairman, Assemblyman William A. Munnell.

One of the principal reasons for our declining to append our signatures to this document is the fact that there is considerable evidence within the text to indicate it was prepared by Assemblyman Munnell in his capacity as Democrat Minority Floor Leader of the Assembly rather than as chairman of what was expected to be a deliberative, analytical and judicious committee of the California State Assembly.

Perusal of Assemblyman Munnell's prehearing statements to the press, the manner in which he presumed to speak for the subcommittee in its relations with the press prior to the hearings and taking of testimony, together with his conduct during the hearings all tend toward the conclusion that he was *less concerned with conducting an objective hearing* than he was with *substantiating certain preconceived conclusions* which he had *personally determined upon* before he had consulted with *or even designated the members* of the subcommittee.

At the outset of this minority report we want to be clearly on record. We do not offer apology for anyone nor for any pratice in the conduct of state business where it has been established that such person or practice has operated in a manner detrimental to the best interests of the people of California

While the five points raised are far from all-inclusive, we have no difference with the section of the majority report entitled "Scope of Report" (page 7 of the draft).

We find that many of the explicit statements and inferences found in the "findings" sections of the majority report (pages 8-9) are not based on direct testimony nor specific exhibits. Their basis appears to be in *predetermination* of the chairman and upon his *biased* and *partisan interpretation* of facts and opinions developed during the hearings.

This conclusion is borne out by the fact that the majority report contains extensive excerpts from the transcript, virtually all of which are confined exclusively to statements and leading lines of questioning conducted by the chairman personally. This is in spite of the fact that much of the testimony sought and developed was brought out by the other four Assemblymen serving on the subcommittee, frequently in the face of *antagonism* and *obstructive tactics* on the part of the *chairman.*

For the purposes of this report, we have analyzed the "findings" of the majority report in detail and present our reasons for agreement or dissent, based on the record which was developed by the subcommittee.

We will pass over the preamble statement to the "findings" of the majority report, except to note that the biased presumption contained in the statement that "the placement of the State's insurance had been conducted in a manner that would not be tolerated by any large private corporation" cannot be based upon the transcript, testimony or corollary evidence presented to the subcommittee. As a matter of fact, no specific comparison was drawn and the issue was not included in the "Scope of Report." *We cite this example of injudicious language as evidence that the majority report was designed for political purposes and made statements of fact not supported by evidence*

We make the point that the conclusion stated was not proved nor, for that matter, even considered directly during the deliberations of the subcommittee.

Granting a need for improvement, advocated by members of the present administration and by Governor Knight himself, we cite the testimony of Mr. Willis Harpster, Manager of the San Francisco Office of the Associated Aviation Underwriters, in reference to current practices based on law and custom, as found on page 392:

Chairman Munnell: Can you think of a better system to recommend to this committee for negotiation of the State's insurance?

Mr. Harpster (Manager, Associated Aviation Underwriters): I cannot * * * I frankly believe that the system that is presently used is certainly satisfactory until some better system comes along that is proven better. I couldn't say now that I have an idea as to how it might be handled any differently.

While we agree that some political considerations may have entered into the allocation of insurance commissions, we question the use of the language used in "Finding" No. 1 of the Majority Report that "political favoritism was the *primary* consideration" in the allocation of commissions on insurance placed by the State.

In their anxiety to place the present Governor and his administration in a bad light politically, the three Democrat members of the committee have directed *unjustified and distorted criticism against the entire insurance industry in California.*

As a matter of fact, the record will show that Governor Knight and the officers of his administration were most cooperative with the subcommittee in its work. In a like manner, the representatives of the insurance industry also provided the committee with a vast amount of useful information—which evidently was sorely needed and is still imperfectly understood by many—as well as many valuable, constructive suggestions based on their experience and specialized knowledge.

In strictest justice, we believe the committee must recognize the validity of Governor Knight's statement in his Message to the Legislature on January 7, 1957, when he said:

"The State of California has consistently enjoyed excellent and favorable insurance coverage. At all times, we have had a maximum protection in relation to premiums paid. The companies dealt with are reliable, long-established and of exceptionally fine reputation."

The officers of the present administration, both civil service and executive, were at all times most frank and cooperative with the committee. In seeking a definition of policy and procedure in general, we cite the following excerpts from testimony and exhibits before the subcommittee:

Chairman Munnell: Have you had any recommendations directly to you from the Governor of the State with reference to brokers or agents?

J. F. Brady: No.

Q. With anyone from the Governor's Office?

A. No, I know of none.

Assemblyman Lanterman: May I ask in relation to those questions you asked, whether or not that may be made into a broad statement relating to *all governors?*

Chairman Munnell: *I was limiting it to the present Governor.*

Assemblyman Lanterman: *Let's make it broad and say has he had any experiences under any Governor.*

Chairman Munnell: *All right.*

Assemblyman Levering: Will you * * * bring with you your best memory, because you have been here since 1934, as to the agents and brokers who were public officials during the period that *Olson was Governor and Warren was Governor* up to the present time If we are going into this we ought to go into it completely and also how long it has been the policy of the State, to your knowledge, that this kind of arrangement with these agents has been going on. Will you do that this afternoon?

Mr. Brady: I can answer that right now with respect to the length of time that this general procedure has been going on and that is that it was in existence when I came here. * * *

Chairman Munnell: * * * You don't have to do this for this afternoon, but *at some future date*, I would like to have you go back and get other data for us if we decide it would serve any useful purpose, but what we are really interested in is current events (pp. 45, 46, 47).

Mr. Peirce: Governor Knight has never on any occasion to my knowledge—and I am trusting my memory—talked to me about designating any broker or group of brokers, or any brokerage firm to handle the State's insurance. * * * He has not contacted me directly with respect to this matter, in person or on the telephone or, so far as I can remember, in writing. I have had close contact with the Governor's executive secretaries * * * . I seek information with respect to the reliability of these (insurance) firms. * * * I am not seeking firms because they have made campaign contributions, or because they are expected to do something that will be advantageous to the administration now in office.

* * * The Governor promised me that I would manage the affairs of the Department of Finance without interference from his office insofar as you ordinarily concede politics to be, wherein favoritism is in the picture. He has kept that pledge from the day I entered office to this moment.

The record shows that Mr. Peirce received the cooperation *he sought* from the Governor's secretaries.

We refer to page 206, the testimony of Mr. Robert Alderman, who said, in response to question by the chairman, "After Lieutenant Governor Knight became Governor, I received a telephone call from John Peirce saying that he had some insurance commissions to take care of, and asked if the Governor had designated any brokers. I said to the best of my knowledge he had not but I would ask him. * * * I talked to the Governor the same day and he gave me the names of four brokers which I relayed to Mr. Peirce by telephone, and as far as I know, that ended it."

It was in confirmation of this that Mr. Alderman sent a memorandum to Mr. Peirce stating: "The Governor has asked me to give you the names of the following insurance brokers for consideration in connection with state business."

Based on the testimony, it is our *opinion this did not constitute "instruction" from the Governor, nor did it preclude others from equal consideration by the Director of Finance.*

* * * * *

Considerable space is given in the majority report to testimony concerning a certain policy negotiated by the State Harbor Board of Harbor Commissioners for the Port of San Francisco. In abbreviating the transcript for purposes of the report, the majority, apparently with design, tailored out a most significant portion of the testimony.

As a matter of fact, a situation bordering on an emergency existed and it is our opinion that the results testify to the efficacy of the method employed. As standard practice, perhaps the procedure used was not ideal but it was certainly justified by the unique circumstances.

Ward Walkup, then only recently named chairman of the board in question, had called on the Governor with a problem unfamiliar to him and on which he solicited assistance.

According to testimony, the Governor then called in his private secretary, Mr. John Synon, and thereafter was not directly involved. Mr. Synon frankly outlined the situation to the committee as follows:

"The Governor told me that Mr. Walkup had a problem, and would I see if I could help him. I said, 'Certainly,' and Mr. Walkup and I returned to my office.

"He (Walkup) said he had * * * an insurance policy that had been given him to sign, and he was concerned about it. * * * He said that it was approximately three weeks before the expiration date of the policy, and that it was so heavy in detail, so complex, and he being a business man and rather concerned about what he put his name to, he wanted to have determined for him what the insurance policy contained, to determine if it were a good policy or a bad policy. * * * We went to the Director of Finance, and he called in Mr. Brady. * * * Mr. Brady took a look * * * and said that he had not staff nor other facilities adequate to analyze the policy to determine if it were a good policy or a bad policy."

At this point, Mr. Synon indicated Mr. Walkup left but returned in a few days with his problem still unresolved. Again we refer to the transcript of Mr. Synon's testimony:

"I called Ed Wilson and I asked him to analyze such a policy. When it was described to him, he told me that it was a pretty rough job to do

it, particularly in the time that he had to, would have at his disposal, but that he thought that if his firm were given the policy immediately that perhaps he could give an answer. I asked him if he would get in touch with Mr. Walkup, which I understand he did."

Later Mr. Synon stated, "I was told that his (Wilson's) firm put a phalanx of engineers and analysts to work on that policy, that they patrolled one end of that Embarcadero to the other, and shortly before deadline Mr. Wilson told Mr. Walkup that in the opinion of his firm the State was being charged approximately $13,000 too much, or more than his firm would charge for it."

Even after it was established that in the transaction the State was saved $13,000, the chairman persisted in slanting his questions to this witness in an obviously antagonistic fashion. We cite this exchange as a case in point:

Chairman Munnell: Now you wouldn't say that Wilson received this insurance policy because of your connection in the Governor's office?

Mr. Synon: Absolutely not. Mr. Wilson's company received that policy because between 15 and 20 experts worked like dogs.

Chairman Munnell: Do you think Mr. Wilson would have gotten in to see Mr. Walkup * * * without your recommendation, without your introduction? * * * Did that give him a little edge over any other broker?

Mr. Synon: Mr. Walkup is a very approachable person; anybody could get in to see Mr. Walkup.

The urgency of the time element, which evidently did not seem important to the author of the majority report, was emphasized by Assemblyman Levering in an exchange with Mr. Synon.

Assemblyman Levering. You said you knew the time that this certain policy had yet to run, which was about two weeks?

A. Originally it was three weeks, but by the time——

Q Let's cut it off—only two or three weeks. This policy had been written before by another broker at the behest of the Harbor Board; is that correct * * *

A When I came into the picture, there it was.

Q. * * * You don't know, then whether the Harbor Board, when this policy was written, had any idea what they were buying, do you?

A. I can't answer that at all, any more than you can, Mr Levering; because this was a fait accompli when I came into it.

Q You just got a hot potato, and you did the best you could.

A That's right. * * *

In a line of questioning introduced by Assemblyman Miller, we feel this witness evolved a significant point in this manner:

Assemblyman Miller: Do you feel that probably—you have a high regard for Mr Brady as an individual—in the performance of his job, but do you feel he is inadequately staffed to do a job like the one done by Mr. Wilson?

Mr. Synon: I don't know that that is Mr. Brady's job, don't you see, Mr. Miller?

Q. * * * You have been in this picture sufficiently, I suppose, to form some opinions on the basis of good government.

A. Yes, sir.

Q. On this insurance problem, to get your opinion, if you have one, concerning the adequate staffing of some department in the State, some division of it, that would be able to review these policies and analyze them. Do you think that would be a good suggestion?

A. Oh, yes; I think that they should be. I don't think there is any question of it. This one that I got hold of, as the record will show, in substance we saved $13,000, and this only came about in a most—well, I won't say "casual" manner, but a most unique manner.

That the conclusion on this phase of the hearings reached in the majority report was predetermined without reference to testimony or subsequent information is attested by the following excerpt from the transcript:

Assemblyman Unruh: Did he (Wilson) render an analysis of the existing policy? I assume from your testimony this is why you called him, was to get an idea of what present coverage was—whether it was adequate, whether it was priced right, and so on.

Mr. Synon: To answer your question, I have never seen an analysis, but I cannot conceive of his not having arrived at one in order to achieve the ultimate bid figure.

Q. In other words, you saw none of the figures thereafter, and you don't know what the conclusions were?

A. After once I recommended——

Q. Once you set the deal up, it was all over again——

A * * * That was a pretty crude thing for you to say. I take exception to it.

Q. What else would you call it?

A. Perhaps in your vernacular, it is "setting a deal up." In mine, it isn't.

Chairman Munnell: In mine, it is. I think it is a little improper for a person in a Governor's Office to recommend a person who has been—with whom he had been formerly associated.

A. We went over this once before, Mr. Munnell. I didn't recommend anybody. I told you so, specifically, and I tell you so again.

Q. Didn't you introduce Mr. Wilson, at least over the phone, according to your testimony, to Mr. Walkup?

A. I didn't testify to any such thing.

Q. Well it is in the record whether you did or not.

A. The record will show that I told Mr. Wilson to get in touch with Mr. Walkup. * * *

Q. Did you telephone Mr. Walkup?

A. When? For what purpose? At what time?

Q. To introduce Mr. Wilson.

A Indeed not.

Assemblyman Levering: He didn't testify to that.

During the course of this testimony, Assemblyman Lanterman made a most pertinent observation for the record when he said:

"I think that this is another example here where Mr. Synon himself was called in by the Governor—'Take this thing and see if you can get some help.' He went to the Department of Finance. They said they couldn't help him. What did he do? He turned to whom he knew, and

the man put out an investigating team, and did a job, and saved the State $13,000 I don't see there is anything improper at all in the manner in which this thing was handled.

"I do say that there is perfect justification for our committee to find ways and means to find more order, to find more continuity, to find more reasonable processes by which the State can meet some of these hundreds of thousands of dollars in commissions, and insurance policies, and that is our business—not to take a man and tie him into a knot. * * * I resent your implication that 'He's set up a deal,' that it is improper, or anything connected with it. That is my opinion."

On taking the stand, Mr. Edwin M. Wilson, vice president of Tompkins and Company, substantially verified Mr. Synon's testimony concerning his—Wilson's—contact with Mr Walkup His testimony established that renewal of the policy presented him for study would have cost the State $90,000.75, whereas a proposal he subsequently submitted placed the cost to the State for the policy at $76,127.31—representing a saving of $13,873.44 to the State on the transaction.

Even after these facts were brought to light, Assemblyman Munnell asked Mr. Wilson:

Chairman Munnell: Will you admit that politics assisted you in getting this policy?

Mr. Wilson: Well, I would say politics assists one, if you want to call it personal relations, in anything. In other words, we are occasionally called in because of our reputation, because people know us and trust us and have confidence in us. And I would say that it was because of that, and the confidence that Mr. Synon had in myself as an individual, and what he had heard about the firm. I would say that he made a pretty wise choice from the standpoint of the results that have been given

Q. Without that friendship, you might not have the policy.

A That is conceivable.

Assemblyman Lanterman: And the State might not have saved $13,000.

* * * * *

Chairman Munnell: We are trying to find out what the policy of the Governor was with respect to the placement of state insurance. * * * We see from interdepartmental communications here addressed to John Peirce's office and to John Peirce personally and signed by yourself stating that the Governor would appreciate your giving consideration to the firm of so and so in the placement of state insurance. * * * What is the policy of the Governor's Office in the placing of this insurance?

Mr. Stearns (Executive Secretary to Governor Knight): The policy of the Governor is entirely to leave it in the hands of the Director of Finance. * * * The policy has been to refer *any* inquiry we get to Mr. Peirce. * * * On some occasions the Governor would have callers who had asked for an appointment and they would come in and turn out to be soliciting insurance and he would bring them in to me and say to refer this gentleman to Mr. Peirce and that is what we did.

Q. He would ask you to have John Peirce put him on the list?

A. No, he never put it in those terms. He said to ask John Peirce to give this gentleman consideration and in every case, I believe you will find it was put that way.

Q. In each instance they were considered?

A. I don't know exactly. I never got a report back from Mr. Peirce on the disposition of them.

Assemblyman Levering: Mr. Brady testified * * * to the effect that Mr. Peirce, the Director of Finance, was the sole and only person that had anything to do with the allocation of these insurance commissions. Do you have any knowledge of any other person that has anything to do with it other than Mr. Peirce?

Mr. Stearns. I do not. That was the Governor's policy.

Q. For all of these things Mr. Peirce and Mr. Peirce alone could make the decision?

A. That is right and it has been an affirmative policy because to have any other policy would be to encourage applications of this kind and it was not the Governor's desire to handle it that way. It was his desire that they all be handled by John Peirce and he has so referred everyone that has come in.

Chairman Munnell: Does the Governor favor today this present policy of favoring certain brokers?

A. The Governor has said publicly he would be happy to have the Legislature put into effect a better system.

Chairman Munnell: * * * You received communications from the Governor's Office signed by the Governor's Executive Secretaries. Now when you received those, did you consider them to be official communications from the Governor or, how can we separate when a communication comes from the Governor's Office, whether it is from the Governor or whether it is some third person who has an independent suggestion of his own with respect to what he thinks the Governor might like? Where do we escape from this dilemma, or how do we do it?

Mr. Peirce: The final answer to your question, Mr Chairman, rests upon the integrity of the Chief Executive who is elected by the people, and the integrity of the men and women he appoints to fill positions such as I occupy. These communiques that have come from the Governor's Office I have interpreted to be informative and not directive. I receive every month literally hundreds of communiques from the Governor's Office that he has received from citizens in all walks of life. These communiques are invariably referred to the Director of Finance without any directive from the Governor. * * * There may have been an instance or two where the Executive Secretary in the Governor's Office has taken advantage of the situation by bringing the Governor into the picture with undue prominence. I have interpreted those not as directives, but rather as advice to me concerning a problem, and I have endeavored to use my judgment in working them out.

Any *primary political consideration* charge is mitigated by analysis of the typically "pro forma" memoranda from the Governor's Executive Secretary to the Director of Finance. In this connection, study of documents attached to a memorandum from Newton A. Stearns to John M. Peirce, dated October 26, 1955, transmitting the name of Mrs. J. M. Eshleman for consideration reveals that "*beginning with the*

*administration of Governor Young and thereafter Mrs. Eshleman was credited as a licensed broker for some of the fire insurance on the State Printing Plant * * *"*

With these things before us, we can only conclude that the language adopted by the Majority Report in its finding No. 1 was *deliberately phrased* to support the *prehearing press statements of the chairman* We do not believe that, reviewing the entire testimony of Mr. J. F. Brady and Mr. John Peirce, the "*primary consideration*" in allocation of commissions was political favoritism.

We know that, through many past administrations, *political factors* have *as a matter of tradition* entered into these matters. *This we do not condone* but in seeking remedies and alternatives, we believe that the language of the Majority Report *is less than accurate*, tending more to *partisan propaganda* than to an objective statement of the problem with which we must deal.

The language of item No. 2 in the "Findings" particularly is *misleading, slanted* and *exaggerated,* to substantiate a *preconception* which was evident on the part of the Chairman both before and throughout the hearing.

While no specific instances were cited, we feel that there may have been occasional instances of unearned commissions in the broad sense of the term. However, to state in the language of finding No 2 of the Majority Report that "most brokers who received commissions on state business performed no services whatsoever" *is a distortion* of the *facts* and *if not malicious* can at least be characterized as *a deliberate and calculated* insult.

To have signed a report containing such statements would in our judgment, have laid us open to the charge that we did not understand the function of an insurance broker and that we discounted substantial evidence of long and active service to the State by those in the insurance brokerage business.

In the statement of Finance Director Peirce (page 298) we call your attention to the assertion that, "in no instance to my knowledge has any broker spoken to me directly or indirectly in terms of receiving a handout. They have come to me directly or indirectly in terms of being of assistance to the State. Now the fact that they have not always been of material assistance does not imply that they have not desired to be of assistance, or that they are not in a position to stand by when assistance is called for in the handling of our various insurance problems."

We will comment on the practice of legislators participating in the state insurance business later in this report. For purposes of illustration we quote further from the testimony of Mr. Peirce: "Several legislators are on the list, as you know, and in all instances, to my knowledge, these legislators have offered to be of assistance in advising the State on its insurance problems."

* * * * *

In defining accepted practice, not only in California but throughout the Nation, numerous representatives of the insurance industry defined the proper role of the insurance broker and, within their definition, it

would appear that most brokers designated to handle state business did, in fact, render service—many of them *valuable service, saving the State considerable sums of money.*

In the testimony of Mr. Hugo Methmann, Assistant Vice President, Fireman's Fund Insurance, we cite the following exchange of question and answer with Assemblyman Unruh, which was deliberately omitted from the Majority Report:

Q. What would have been the position of your company, if instead of Mr. Brady saying to figure on a basis of 5 percent commission, if he had just asked you to submit a bid?

A We wouldn't have bid. Our business, our custom is such that we do business through intermediaries, brokers and agents.

Later in his testimony, Mr. Methmann again explained his company's policy in this matter thus:

Assemblyman Lanterman: You do not seek directly the business unless you go through a broker, yet if the bid is brought to you, you feel privileged to make a bid?

Mr. Methmann: Right.

Q. But you do not seek the business as a company?

A. No, we are not direct writers. We do business through intermediaries, brokers or agents.

Assemblyman Unruh: You would not do the business if there was no broker involved at all?

Mr. Methmann: Not under our procedure * * * .

Assemblyman Unruh: Do you feel this was jeopardizing your relationship with the brokers?

Mr. Methmann: Yes. You can't carry water on two shoulders.

It was in the midst of Mr. Methmann's appearance that Chairman Munnell stated a conclusion which is found in the majority report long before much of the substantial and clarifying testimony was in the record. We refer you to the statement of the chairman on page 361 of the transcript where he stated: "You will admit, and we admit that the brokers who have heretofore received these commissions for the most part performed no service whatsoever"

Mr. Philip Rainey, President of the Society of Insurance Brokers, in his appearance before the committee, expressed our views succinctly when he stated: "In the first hearing (December 17), it was obvious that some members of the committee * * * have a layman's misunderstanding of the fundamental differences between companies with salaried salesmen, and companies paying commission to agents and brokers."

Mr. Rainey, in explanation, stated on page 454: "The broker, like the lawyer, is being compensated in a large measure for readiness to serve, as well as actual service. He must provide the personnel and facilities for service on a standby basis, available at all times to his clients, whether called upon or not. In some instances, the broker's services for a given policyholder in a given year may be relatively slight; in other years, he may be called to perform so many services for his client that the commission he received will not begin to cover his costs."

Earlier, Mr. Rainey said, "Brokers' services just begin with solicitations, negotiations and execution of the contract."

At another point, he explained: "When we examine closely the nature, the scope and purpose of insurance brokers' compensation, it cannot be said that any insurance commissions at any time under any circumstances are unearned, so long as the brokers stand ready to perform any service which may be required after the contract is executed. * * * Apparently a substantial portion of the State's insurance business is very well handled through brokers and agents."

In fairness, it must be pointed out that Mr. Rainey offered constructive criticism and suggestions on *long-established methods used in handling portions of the State's insurance coverage.* We feel his testimony, with that of other members of the insurance profession, was valuable and most helpful to a better understanding of the problems we face.

Mr. Walter Simi, representing the Insurance Brokers' Exchange of California, responded to a question by Assemblyman Unruh with this statement (page 288): "The common practice and usage of all insurance companies is to pay a commission to brokers, and we support that system, together with the American Agency System. That is the way our organization operates."

Further explaining the services and functions of an insurance broker, Mr Burrow, appearing on behalf of James P. Bennett, President of the California Association of Insurance Agents, presented the following information to the committee: "The commission is * * * in the nature of a retainer, *similar to the retainer paid to a lawyer.* As agent, or broker of record, the producer holds himself in readiness to perform services when called upon, subsequent to execution of the policy. * * * That he might not be called upon to render such services in respect to a given policy does not necessarily mean that he did not earn the commission." This, the two attorney members of the committee, Mr. Munnell and Mr. Miller, apparently did not comprehend.

Mr Burrow also makes a most important point when he says: "There have been repeated comments that commissions on the State's insurance business have been paid by the State. Such comments are not accurate. The commissions are paid by the insurers."

In a recommendation to the committee, Mr Burrow stated. "We believe the State's administration should carefully select one or more independent insurance agency or brokerage firms to handle the placing and servicing of its insurance requirements. With respect to the administration's choice of insurance producer or producers for this purpose, we believe that such a selection is not basically different from selection by the administration of heads of executive departments. Presumably, the administration will select only insurance agents or brokers whom it deems competent and in whom it has confidence "

In questioning Mr. Burrow, the committee developed the following pertinent testimony:

Chairman Munnell: Do you believe a commission should be paid that is not earned?

Mr Burrow: Our association consistently from its inception believes that agency and brokerage commissions should be fully earned.

Q. Do you believe that the commissions which have heretofore been paid under the policy formerly followed or presently being followed in the placement of insurance and the payment of fees are earned commissions?.

A. We believe that there are gradations of earnings there * * * we think that in some cases the commissions have been more than earned. From the testimony at these hearings it was apparent that some persons had not earned commissions, in the accustomed use of that word.

Later in his own testimony, Mr. Burrow developed an additional point overlooked by the sweeping statements of the majority report when he said: "We have not at this moment a precise formula which we could recommend to your committee. * * * However, if that is the committee's wish, we would attempt to develop some kind of system, although as with anything that could be developed, it may have certain weaknesses that are simply impossible to overcome."

We were impressed by the candor of Mr. Burrow when he responded to a series of leading questions by the chairman with this statement: "I think these hearings and the attention that these hearings are focusing upon the State's insurance buying practices, that *that* will tend to mitigate any political influence on the selection of agent or broker or the handling of the State's insurance business. I don't know how you can take politics out of any aspect of our daily lives; I don't know that you would want to." Again we interpolate that even Mr. Munnell should be sensitive to such a statement.

Attempting to clarify questions directed at this witness, Assemblyman Levering posed this question: "From your remarks this morning, I think the Committee could probably interpret them to mean that your association feels that the State should continue to purchase insurance through the agencies system, through the brokers, * * * and that they should be selected so that they would perform the maximum amount of insurance service that they were capable of performing to the State of California—to the people of California and not to any political parties of the State of California or political or office holders of the State of California. You understand what I mean now?

Mr. Burrow: Yes, sir. You are correct.

Assemblyman Levering: Do your people agree generally with that thought?

Mr. Burrow. Yes, sir, right down the line.

Assemblyman Levering: Now, will you then * * * between now and sometime before the Legislature adjourns * * * come up here with some specific, concrete recommendations to stop the things that the members of this committee have pointed and the members of your association have so violently criticized?

Mr. Burrow: We'll do our very best, Mr. Levering, but it would be less than realistic if I didn't tell you that it is somewhat difficult to draw standards for the selection which will absolutely eliminate any potential. We will do our best to come up with a realistic program which will enable you to accomplish what I assume is the goal of the committee.

To illustrate the problem to which the committee was requesting Mr. Burrow to assist in finding a solution, Mr. Levering quoted extensively from a letter written by *an official of the Olson Administration to the Director of Finance, Mr. George Killion.* In part the letter described the broker recommended thus:

*"He is a lifelong Democrat During the past three years since I began the Olson campaign, he has cooperated with me 100 percent. * * * He has never had any recognition for his services to date, nor has he asked for any. For these reasons and more I believe he is entitled to this business. I know that he has earned it by his many kind acts towards us."*

In expanding his line of questioning, Assemblyman Levering emphasized that this letter was only one example and said "it's happened in not only Democrat but Republican administrations."*

Mr. Levering then suggested that, in addition to Mr. Peirce, the committee might ask for the appearance of Directors of Finance of former administrations to testify as to their experience in these matters, pointing out that present *methods have been in force "for at least 25 years" if not more*

The chairman inadvertently indicated the direction in which he was *attempting to steer the hearings* with the following response to Mr. Levering's suggestion.

Chairman Munnell: "Don't you agree that if that is desirable—and it may be—that we find out everything that we can about the *present system* and then once we've completed that task, then take the next step and go back * * * *Let's work forward and as we uncover evidence of misfeasance, malfeasance or nonfeasance in office*——"

At this point, Assemblyman Levering was constrained to remind the chairman that "I don't know whether you are going to uncover malfeasance in office——." It is our opinion that Chairman Munnell's statement is evidence of his intent to make the majority report a political indictment.

The third "finding" listed in the majority report touches on one of the fundamental issues before the committee.

While opinions have been rendered that existing law provides that "there is no legal conflict of interest involved when persons in public office receive commissions on business placed by the State," it is our firm conviction that such conduct is not only unethical, it is highly questionable and not in the public interest.

In discussing possible conflict of interest with the committee, Mr. Britton McConnell, the State Insurance Commissioner, stated: "I've learned that the Chief Justice of the United States Supreme Court and the Chief Justice of the Supreme Court of California have turned their minds to this matter and with knowledge of all the facts have made certain decisions."

In a distortion of Mr. McConnell's statement, the chairman responded with a question in this manner: "Do you have evidence that the Chief Justice of the United States did this, and also the Chief Justice of California placed insurance with Members of the Legislature?"

After a few moments, the chairman concluded this line of questioning with this comment: "We have hearsay on that but to date I have not received any information, no evidence of any kind, nature, shape, manner or form which would indicate that We do have with respect to others but not with respect to those two " This is a complete misstatement of facts by Chairman Munnell, and contrary to the evidence contained in the transcript of the hearings and corollary exhibits available

* See attached exhibits.

to members of the committee which prove that both the Olson and Warren administrations condoned the same practice of insurance placement. This was testified to by Mr J. F. Brady, Insurance Adviser to the State Department of Finance.

Assemblyman Lanterman: How long have you been connected with the insurance placement?

Mr. Brady. I have worked with it since 1934.

To amplify this point, we refer you to later question and answer exchange between Mr. Brady and Assemblyman Lanterman:

Q Mr. Brady, have you served in this capacity under previous Directors of Finance?

A. Yes, sir.

Q. Mr. James Dean?

A. Going back further to Mr. Stockburger, I should say previous to that, actually, in one way and another, not in this exact capacity, but I worked for Mr. Vandegrift when he first came to the State and he was chairman of the Board of Control and I was working for them at one time and then thereafter Mr. Stockburger, *Mr. Chief Justice Gibson,* Mr. Richards, George Killion and James Dean and presently Mr. Peirce.

We call your attention again to a statement by Mr. Brady in which he said, "* * * with respect to the length of time that this general procedure has been going on and that is that *it was in existence when I came here.*"

Since, during this period, Mr. Justice Gibson was Director of Finance it may be logically concluded, that Mr. Gibson was obliged to be aware of the practice and that, in the strictest sense, Mr. McConnell was justified in using the phrasing he employed.

Further illustration of this point is the following statement by Mr. J. F. Brady in reply to Assemblyman Levering and the subsequent clarifying exchange of questions and answers:

Mr. Brady: May I make one statement, there is a possibility that I may have misled you on one part where I had no intention to do so. When Mr. Gibson was Director of Finance I don't recall his directing me or our office at all in the matter of any of the commissions. *We discussed policy and he approved policy* but I don't believe he gave me names; in other words, with respect to naming any broker of record.

Assemblyman Levering: Who had given you those instructions?

A. I believe the deputy director handled it at that time.

Q. Who was that?

A. I believe George Killion, for at least part of the time.

There is also to be found among the exhibits an interdepartmental communication, signed by M. F. Small, Departmental Secretary to Governor Earl Warren, dated September 25, 1951, directed to the Director of Finance, James Dean, citing a letter written to Governor Warren in connection with state insurance coverage. Mr. Small's communication concluded in this manner: "I believe that you know of the relationship between Mr. Mullins and the Governor *The Governor would not want to influence this matter, but I am sure that whatever can be done consistent with the policies of your department would be in order and appreciated.*"

In addition, at the time the Chief Justice of the United States was Attorney General of California his office issued an official opinion at the request of Assemblyman Henry P. Meehan which noted particular circumstances under which the Assembly could not participate in state insurance business, concluding, however, that the section cited did not apply to the official or his firm "in the ordinary transaction of business or in the writing of official bonds in which your position as an assemblyman does not in any way effect the writing of such bond."

Thus it is evident that both Mr. Justice Gibson and Mr. Chief Justice Warren were aware of the practices of the State in insurance placement during their service in previous state administrations. This knowledge was readily available to the chairman at the time he so belligerently challenged Mr. McConnell.

In a letter to the committee, dated December 17, 1956, the present Finance Director, Mr. John Peirce, stated:

"It is my understanding that the state law prohibits insurance companies from granting rebates, discounts, or other preferential treatment to any of their insured, including the State of California, and that it was the long-established practice of the insurance industry to pay commissions to its agents and brokers, regardless of the degree to which such agents or brokers participate in the actual handling of such business.

"*Accordingly, I carried on where my predecessor left off,* and have since been following the practice of complying with the wishes of insurance companies by designating the names of brokers and agents to receive standard commissions on insurance and public official bonds purchased through the State Department of Finance.

"Several of the brokers and agents who have so been designated were continued by me from a *list used by my predecessor,* Mr. James S. Dean, who served as Director of Finance under Governor Earl Warren."

In testimony before the committee on January 4, 1957, Mr. Peirce stated categorically: "*There has been no attempt on my part or on the part of the administration, so far as I know, to seek favoritism, political or otherwise, by allowing legislators to participate in this business.*"

Mr. Peirce then cited instances of where members of the Legislature had been helpful to the department in advising about various insurance problems which arose. Assemblyman Lanterman posed the question, "Did they seek this by direct contact with your office, personally?"

Mr Peirce replied: "* * * As I remember some of them doubtless indicated a desire to be of assistance to the State by discussing their interest with the Executive Secretary of the Governor. Others, I am sure, have talked to Mr. Brady directly; and others have talked to me, personally. In all instances, so far as I can remember, they didn't come with hat in hand. They came with a sincere desire to be of assistance to the State in advising us on problems.

"Now their assistance has been variable Some have been most helpful in their over-all advice, their suggestions with respect to how we should handle this and that, and so on. Others, their advice has been possibly limited and their willingness to help us has been more or less on a stand-by basis."

Further question by Assemblyman Lanterman brought this reply from Mr. Peirce: "Their attitude in the matter, as I recall, was based on their ability to be of assistance as insurance brokers, as businessmen and not as lawmakers. Now there may be some confusion between these two objectives but I interpreted their intent to be as businessmen and not as lawmakers. Now you may not be able to separate the two. If you can't separate them, then of course incompatibility exists"

In the course of the exchange of questions and replies between Assemblyman Lanterman and Director Peirce, the latter stated: "It would simplify matters for me as Director of Finance if incompatibility were more clearly defined in the law, and that should not be restricted to members of the Legislature, but to all elective public officials, and I believe to public employees generally"

In an earlier formal statement to the committee, Mr. Peirce reported: "*In the future, it is my intention to discontinue placing any state insurance with Members of the Legislature.* It has been misunderstood and I feel that that misunderstanding can be removed by discontinuing their use as brokers handling state insurance

"Secondly, I believe it will be helpful if, on my own, pending a further directive from the Legislature, I hereafter handle all the State's insurance business under the jurisdiction of the Department of Finance through brokers, and that we discontinue the use of direct negotiations with the companies themselves."

In closing his testimony before the committee, Mr. Peirce stated: "I pledge to all of you the full cooperation of the Department of Finance. And also, I express my complete pleasure concerning the inquiry, because it provides an opportunity to improve this operation, and remove any public doubt concerning the manner in which we are handling the State's insurance."

Indicative of the fact that Mr. Peirce accurately reflected the attitude of the Governor are these thoughts transmitted by Governor Knight in a letter to the chairman:

"I have asked Mr. John Peirce, the Director of Finance, to appear personally if your committee desires him to do so and to give every cooperation to you and your membership

"*I want you to know I hold no brief for the present system of placing state insurance, and, as I have said repeatedly, I will welcome any improvements which can be made in the system which will work to the best interests of the people of the State. I believe this is a matter which should receive the fullest consideration of the Legislature at the forthcoming session, and I hope that there will be some constructive action taken.*"

Commenting on Mr. Peirce's decision to remove all Legislators from lists of brokers to receive state business, Assemblyman Levering said:

"*I think you and this administration * * * are to be commended for the prompt action that you have taken to discontinue this without any legislation whatsoever. I think you really have done a service to the State in removing any connotations of any pressure that could be made by an administration upon the Members of the Legislature by virtue of these commissions that they have received.*"

Touching on the need for legislative action in the field, Assemblyman Lanterman brought out a most significant point, passed over by the Majority Report when he asked Mr. Peirce:

"If it (the Legislature) sets forth policy legislatively relating to this problem, you will be happy to cooperate with the Legislature, and advise and guide us in that legislative correction?"

Mr. Peirce: * * * As I said at the outset, I am exceedingly happy that this inquiry is in process, because it brings to a head something that has caused me considerable anxiety. I wasn't afraid of the practice being inimical to the public interest as long as I am Director of Finance; it would not be. But I am very much concerned over the rather wide misunderstanding of this matter on the part of those outside of government. * * * There have been no irregular practices or no dishonesty so far as I know, but people may suspect that. So I welcome this inquiry, and I pledge to all of you the complete and full support of the Department of Finance, and myself personally. I hope that you come forth with some good recommendations.

On Items 4, 5 and 6 of the Majority Report findings we are in agreement to a degree. However, we would point out that—again by choosing words to sustain a prefabricated partisan political conclusion of the chairman—*a false and unfair analysis is made of existing policies and practices in the placing of state insurance.*

First, the Majority Report pointed out "evidence of a lack of centralized responsibility for insurance matters." Our perusal of the available testimony brings us to the conclusion that this condition is the result of legislative direction specifically dispersing certain insurance functions to agencies other than the Department of Finance.

It is our conclusion that this function should be centralized and that the agency made responsible be fully, adequately staffed.

Assemblyman Miller in questioning Mr. Peirce, asked: "Do you feel that there can be some improvement made in respect to your office, Mr. Brady's department particularly, by additional personnel or otherwise, that we might correct this situation?"

Mr Peirce: * * * Ever since I have been in office, three years and two months, I have been constantly conscious of the opportunity to improve the efficiency of our operations, and we have accomplished a great deal in that regard in the various divisions of the Department of Finance.

I think that Mr McLachlan informs you correctly when he observed that there are opportunities to improve the methods of handling the State's insurance. Mr. Brady and his assistant, Mr. Coblentz, and one stenographer handle this office. They may be undermanned. It may be that the procedure that has been followed for the last 25 years is slightly antiquated. I am very enthusiastic about the opportunity to improve our operations. That is why I have asked the rather newly created Organization and Cost Control Division of the Department of Finance, which was created by the Legislature in 1955, to make a complete study of the subject of the State's insurance coverage with a view of developing any recommendations which administratively may improve our efficiency, or reduce the cost of this coverage.

Assemblyman Lanterman: Mr. Peirce, two questions: One, in relation to the statement that was just made—that there's some 36,000

licensed brokers and agents in the State, and an open bid would take quite a substantial staff, wouldn't it, to analyze and to merely organize the bids for purposes of selection?

Mr. Peirce: That's right.

Q. It would have to be regulated, actually, by the industry itself in some selective manner, to make the bids be *restricted to those competent to meet a bid of certain caliber; it would have to be done by classification and some segregation.* Number Two: You mentioned a couple of firms who apparently are of very high caliber and of high standing by nature of their long experience in their field. How many firms, to your recollection, of this caliber have been rendering service continuously to the State over a given number of years, going back through different administrations? In other words, where there has been a continuity of service through the years regardless of which administration was in power?

A. I can't answer that question precisely, but on the basis of the information I have gleaned from various sources, I am of the opinion that certain of these large firms have been more or less in constant service to the State of California. There may have been breaks here and there, but I rather suspect that some of these firms have been in the picture—like Johnson & Higgins, now, a very fine nation-wide firm —and *I suspect that firm has been serving us for maybe 25 or 30 years.*

Q Would you say that there are a dozen or so that have—of this caliber, been in that general classification?

A. Oh, probably—maybe four or five. I can't answer that question. I really don't know.

Mr. Lanterman, I'd like to come back to the observation you just made about the 36,000 brokers and agents. I am assuming that most of them are agents and not brokers; but if we sought a public official bond or a moderate-sized insurance policy, and we were required to seek bids from each of the 36,000, mental calculations that I am making right now indicate that each time we sought to buy a policy, regardless of size, we'd have to send out 36,000 letters, and at three cents a letter we have a thousand dollars' worth of postage, to say nothing of the envelopes and the clerical labor. It would take several employees to handle it on that basis—that is what I meant when I said it would be impracticable to spread this business out over a very large number of insurance brokerage firms.

Q. What you'd have to do would be selective in any event, no matter how the bids were proposed; and you would almost have to be selective to the extent that you would limit certain types of coverage to certain standards of companies who were competent and capable by their experience and their capacity to meet the requirements as responsible firms.

A. That's right.

Chairman Munnell: Mr. Peirce, has the department ever used independent actuarial help in determining the reasonable price for insurance contracts?

Mr. Peirce: Mr. Munnell, not to my knowledge—Mr. Brady?

Mr. Brady: When we have a loss ratio for a 10-year period, Mr. Munnell, on motor vehicle insurance which we provided you with, of 81.6 percent or thereabouts, it doesn't take an actuary to determine that we have had a pretty fine deal.

In discussing with Mr. Peirce earlier testimony by Mr John Synon with reference to a specific insurance policy, Assemblyman Unruh asked the Director of Finance:

"Do you feel that you are adequately staffed here in order to service this, or look it over with enough thoroughness to ratify it or disapprove it?"

Mr. Peirce: I believe that insofar as our present responsibility is concerned, our staff is adequate. However, as was mentioned earlier in this hearing, if the Legislature were to transfer responsibility of administering insurance from certain other state agencies which insurance is not under the jurisdiction of the Department of Finance at the present time, we would doubtless have to have a larger staff than we now have.

Elaborating this point, Mr. Peirce later stated: "If the Legislature will transfer to the Department of Finance responsibility for the management of the State's insurance which is now handled by other agencies, we would require a bigger staff."

Considering the aggregate testimony of Mr. Peirce, Mr. Brady, Mr. Louis Heinzer, Administrative Adviser to the Department of Finance, and Mr. Eric McLachlan, Chief of the Audits Division, Department of Finance, negates the use of such words as "disregard" and "neglect" as used in Item 4 of the "Findings."

We present this as further evidence that the chairman *was using his official position* as an officer of the Assembly for personal *partisan political* purposes.

With serious reservations concerning a recommendation for "open-bid purchasing procedures" in relation to state insurance, we recognize the need for more centralization of insurance buying and for more extensive research facilities in connection with state insurance programs. It is our hope that the Legislature will provide (a) explicit direction to this end, (b) adequate staff facilities to carry out a comprehensive program of this nature and (c) *enact legislation to eliminate to the fullest practicable extent every vestige of conflict of interest between legislative and administrative state officers and the business transactions of the State Government, not only in the field of insurance placement but in all areas of enterprise.*

The draft of the majority report as submitted to us for signature contained material that was edited out of context in an effort to show that insurance has been placed improperly by the present Administration. The report was deliberately written to imply that these practices are unique to the present Administration.

The fact is that no testimony, beyond the *unsupported political statements of the chairman* which were read into the record, was presented to show that the manner in which insurance has been placed by the present Administration is in any way illegal or contrary to customary and long-established procedures.

Assemblyman Lanterman expressed the sense of the subcommittee minority when he stated during the proceedings: *"My principal concern was with the elective official, because I happen to be an elective member, and I was thinking of that primarily. However, I think the whole purpose of my questioning is not to point a finger in any direction—merely to say we have not done his heretofore. It has been discussed lightly, but never specifically, and I think it is high time that we prepare proper legislation, which I have already placed in the hands of the Legislative Counsel, to cover this from every angle possible, and then for us to adopt a standard and a code for all officials, so that there can be no area of doubt in the minds of the public, and thereby raise the confidence in the integrity of the government in its relationship to the people."*

We feel that this statement by Assemblyman Lanterman embraces one of the most salient recommendations which should have been made to the Legislature by the committee on the basis of its investigation and the body of the evidence before it. These suggestions have been implemented by the provisions of Assembly Bill No. 442, Assembly Bill No. 443 and Assembly Bill No 444, introduced in the January, 1957, Session.

In conclusion we note with satisfaction that on Friday, March 22, 1957, the Assembly unanimously passed:

> *"An act to add Section 1090.1 to the Government Code, relating to public officers.*
>
> *"The people of the State of California do enact as follows:*
>
> "SECTION 1. Section 1090.1 is added to the Government Code, to read:
>
> "1090.1. No officer or employee of the State nor any Member of the Legislature shall accept any commission for the placement of insurance on behalf of the State."

HAROLD K. LEVERING
Assemblyman 60th District
FRANK LANTERMAN
Assemblyman 48th District

See exhibits and attachments.
April 4, 1957

STATEMENT OF PROTEST BY FRANK LANTERMAN AND HAROLD K. LEVERING

Members of the Subcommittee on the Placement of Insurance by the State—Assembly Interim Committee on Finance and Insurance

We have refused to sign the report submitted to us by the Democrat chairman of this subcommittee for the reason that it is a political document, prepared for political purposes, without any regard for a fair appraisal of the facts produced at public hearings conducted by the subcommittee.

The draft of the report submitted to us contains material that has been doctored, edited and taken out of context in an effort to show that insurance has been placed improperly by the present Administration. The fact is that no testimony was presented to show that the manner in which insurance has been placed by the present Administration is in any way illegal or contrary to customary business procedure.

The report as drafted minimizes—in fact practically ignores—evidence presented to the subcommittee showing bald-faced political handling of insurance by the Department of Finance of the Olson Administration, headed by Phil Gibson and George Killion.

Furthermore, it purposely overlooks the fact that insurance practices of the present Administration are identical with those of the Warren Administration and, in fact, a great many of the brokers who handled insurance under the Warren Administration were, at the time of the investigation, still handling the placement of insurance under the present Administration.

The action of the chairman in drafting his political document is an abuse of Legislative privilege and what amounts to a misuse of state funds for political purposes. In conducting his one-man wrecking crew, the chairman has very carefully eliminated any derogatory references to his own political friends. Excerpts from the transcript cited in the report are confined almost entirely to the chairman's own statements, while the remarks of other members of the subcommittee are ignored.

For these, and other similar reasons, we will not be parties to a report which is a prejudiced report and one not in keeping with the high traditions of the California Legislature.

There was not the slightest evidence of any violation of law or of any improper expenditure of state funds by the present administration.

The testimony given to the committee by no means supports the charge that the insurance program carried on by the Department of Finance had been "loose and inefficient." Actually it is our opinion that the Department of Finance has done a good job in obtaining insurance at a low cost to the State and has exercised sound business judgment.

The evidence did not support the charge that most brokers who received commissions on state business performed no services whatsoever. On the contrary, there was evidence that a number of brokers had given valuable assistance to the State in its insurance procurement program.

In one noteworthy incident presented to the subcommittee, it was brought out that a suggestion made by a broker resulted in savings of many thousands of dollars to the State. There have been many other similar money-saving suggestions received by the State from brokers.

The draft of the report is utterly unfair in its treatment of the issue of political favoritism in respect to designation of brokers to receive commissions on state business. By citing only portions of the testimony out of context it gives the impression that only during the administration of Governor Knight has it been the practice to designate members of the Legislature or public officials who were licensed insurance brokers to receive commissions on state insurance business. Actually there was abundant evidence presented to the committee that this practice had been in effect for many, many years and that previous administrations had established this precedent. We are attaching copies of correspondence with Mr. George Killion, Director of Finance under Governor Olson, as examples of the kind of political favoritism practiced under the Olson administration.

We are convinced that there is a conflict of interests when members of the Legislature and other public officials are selected as brokers and receive commissions on state insurance business. We note with approval that Director of Finance Peirce has voluntarily discontinued the practice of designating legislators and other public officials as brokers for state business. We will give our active support to legislation which will prohibit such conflicts of interest not only in the insurance field but in all business and professional relationships where income or profit is involved in dealings with the State Government.

Several references are made to a recommendation that the State's insurance should be procured under "open bid purchasing procedures." The report indicates a lack of understanding as to how insurance business operates. Insurance cannot be purchased through competitive bids such as apply to buying supplies or equipment. There are more than 36,000 insurance agents and brokers in this State. It is not possible for the State to solicit all of them for its business.

We do not concur with the statement that the evidence submitted indicated a need for greater centralization in respect to handling the State's insurance business. Three major items of insurance are handled separately from the Department of Finance: (1) insurance procured by the Department of Public Works for the California Toll Bridge Authority; (2) workmen's compensation insurance, and (3) insurance procured by the Department of Veterans Affairs in connection with the Veterans Farm and Home Purchase Program. (A minor instance of independence in respect to insurance by the Treasurer's Office was cited, which is being corrected with the full cooperation of the present State Treasurer.) No evidence whatever was shown that any of the above enumerated programs has not been handled in a thoroughly busi-

nesslike and satisfactory manner. In our opinion centralization merely for the sake of centralization gives no guarantee of improvements, but can increase bureaucracy and the cost of government.

We question seriously that there is sufficient evidence of inadequate staffing of the Insurance Adviser's office to justify adding to the administrative expenses of the State.

The draft report seems to lose sight of the fact that the State has always been largely on a self-insurance basis. Fire insurance is carried only in a few special situations such as the San Francisco Harbor. The other coverages are for automobile liability, a few comprehensive liability policies, official bonds, and the bridge and veterans home coverage mentioned above.

We think that it would be well for the State to have a comprehensive survey made of its insurance program by an outside firm or agency which would be thoroughly competent and completely unbiased. Such a survey would indicate the extent to which the State has had proper coverage at proper costs, and would point out any possible improvements that could be made under sound insurance practices.

It is our intention to file a complete and documented minority report based on the contents of the actual transcript.

HAROLD K. LEVERING
FRANK LANTERMAN

March 6, 1957

RICHARD GRAVES

Dear Jack—

You have done in a friend of mine. The amount involved is insignificant but the trend is in exactly the wrong direction.

I refer to the fact that you are taking Bond #4395367A—(Fidelity & Deposit Co. on Frank G. White) away from my friend George Gaw—

Far from doing this, you should really be giving him additional business.

Seriously, can't you correct this and start a trend in the opposite direction. I'd appreciate it—

Dick

215 Alston Way
Berkeley

STATE OF CALIFORNIA

DEPARTMENT OF FINANCE

(INTERDEPARTMENT MEMORANDUM)

TO. MR. GEORGE KILLION DATE JULY 28, 1941

FROM J. F. BRADY REFERENCE FILE

SUBJECT DESIGNATION OF BROKER (LETTER FROM MR. GRAVES) COPY TO

Herewith is personal note from Richard Graves, on behalf of an insurance broker, George Gaw, who was formerly the broker on the bond of Frank G. White, Chief Engineer of the Board of State Harbor Commissioners.

For your information, Argentina Conforti, successor to General Insurance Agency, of Mt. Shasta, California, was named by you as broker on the present bond.

It may be that you will wish to give Mr. Gaw some consideration as to future business.

JFB

Brady
Let this remain as
designated at Mt Shasta.
GK

June 19, 1941

Mr. Claude L. Welch
Chairman
Democratic Central Committee
412 Loew's State Building
Los Angeles, California

Dear Claude:

Thank you for your letter of June 17th concerning Mr. Don Thompson.

I have just received a letter from Mr. Thompson, asking that he be considered for a portion of the insurance coverage handled by the State. The amount of insurance that is placed through this department, with the exception of surety bonds, is not large but I shall be glad to have Mr. Thompson on our list and to do what I can him from time to time.

With every good wish, I am,

Sincerely yours,

George Killion
Director of Finance

DON THOMPSON ASSOCIATES
GENERAL INSURANCE
CITRUS 2-6257
104 SOUTH GLENDALE AVENUE
GLENDALE, CALIFORNIA

June 16, 1941

Place in Official Bond File

Mr. George R. Killian,
Director Finance,
State of California.

Dear Mr. Killian:

It will be very much appreciated if you will place my name on your list of those to write State insurance when something is available which could be written through this office.

At the suggestion of Claude Welch under whose supervision I have worked in several campaigns, I am writing this letter.

If you desire further reference you may communicate with Leo Whitaker, Joseph F. Baudino or Archie L. Walters, our present Mayor whose campaign I managed several years ago.

Yours very truly,

Don Thompson

DT:m

May 5, 1941

Massachusetts Bonding & Insurance Co.
440 Montgomery Street
San Francisco, California

Gentlemen: Re: State Compensation Insurance Fund
Primary Commercial Blanket Bond

This communication will serve as your authority to pay broker's commission upon the renewal of the above bond to the following brokers, in the percentages herein indicated:

L. T. Moss, Modesto, California, 25%; Steinmann & Brenner, 201 Sansome Street, San Francisco, California, 25%, Hugh P. Donnelly, Turlock, California, 25%; and Henry F. Meehan, 1727 Webster Street, Oakland, California, 25%.

Very truly yours,

George Killion
Director of Finance

STATE OF CALIFORNIA
DEPARTMENT OF FINANCE
(INTERDEPARTMENT MEMORANDUM)

TO	Mr. George Killion	DATE	April 29, 1941
FROM	Mr. J. F. Brady	REFERENCE FILE	
SUBJECT.	State Compensation Insurance Fund Primary Commercial Blanket Bond	COPY TO·	

Last year commissions were paid on this bond to Archie H. Lyons, Modesto, and Ted E. Hunt, Sonora, in the following percentages:

Lyons 75%
Hunt 25%

You recently indicated that you wished the L. T. Moss Agency of Modesto designated in lieu of Archie Lyons.

Do you wish Mr. Hunt to receive 25% and L. T. Moss Agency 75% of the commission?

J. F. B.

JFB:BD

Brady

Moss - 50%
Hunt - 25%
Ramsey 25%

G.R

LOS ANGELES COUNTY

DEMOCRATIC CENTRAL COMMITTEE

1940 1942

415 LOEW'S STATE BUILDING . . . LOS ANGELES, CALIFORNIA

VANDIKE 0 60

GLANDE L. WELSH
CHAIRMAN
ARTHUR C. WHITE
1ST VICE CHMN
11TH CONG. DIST
GEORGE MYERS
SECRETARY
CHARLES H. ROE
TREASURER

★

CONGRESSIONAL
VICE CHAIRMEN
18TH, EDWIN JOSS
19TH, HARVEY P. GARDY
14TH, FAY E. ALLEN
15TH KENNETH F. LONG
16TH RAY E. MILLER
17TH, WILLARD HARPER
18TH WILLIAM G. WOLFE

★

CHAIRMAN &
HON MEMBER
ADVISORY COMMITTEE
DR ELMER A. SELT
DR VERNON KENNETT
MRS CATHERINE BRESLIN
AMERICO BOZZANI
TEMPER SAMPSELL
REV THOMAS CLARK
MRS HELENA CRIPPS
ISIDORE ROSENWEILER
MRS CHELENE ECKERSON
JOHN ANSON FORD
MRS G P HANNA
SAUL S KLEIN
MRS MARIE LARKEY
SAM LINDAUER
ELMER E LOSE
HUGH E MACBETH
AUGUST J O'CONNOR
BYRON H SCOTT
WILLIAM H STEPHENS
PAUL WEAVER
FRED A WELLER
DAVID J WILLIAMS
BERT MANN
J P VAUGHN
CARL OPPENHEIMER

June 17, 1941

Mr. George R. Killion,
Director of Finance,
Sacramento, California.

Dear George:

One of my very good Democratic friends in Glendale is Don Thompson, 104 South Glendale Avenue.

He is an insurance broker, and if there is any way he could be given a little of the State insurance, I should be very glad. He is deserving and would render an able service.

I am sure that Mayor Archie Walters and Councilman Joe Baudino, of Glendale, would also vouch for him.

With kindest personal regards, I am

Sincerely yours,

CHAIRMAN.

CL":E

He is chairman of the Glendale civil service Commission

MEMBERS
JOSEPH H. STEPHENS — JOHN GEE CLARK, Chairman — ARCHIE H. LYONS
JOHN E. CHADWICK, State Parole Officer — CLINTON T. DUFFY, Warden — ALBERT H. MUNDT, Asst Sec'y At Folsom

BOARD OF PRISON TERMS AND PAROLES
STATE OF CALIFORNIA

ARCHIE H. LYONS
P. O. Box 511
1021 Jay Street
Modesto California

RECEIVED
APR 15 1941
DEPARTMENT OF FINANCE

April 11th, 1941

Mr. Geo. Killion
Director of Finance
Sacramento, Calif.

Dear Mr. Killion:

Wednesday you asked me to write you a letter regarding the Bond for the employees of the State Compansation Fund, which I have written for the past two years.

I feel, because of my present position, that I should not be considered for this business, but as I told you, I wish that you would give this Bond to the L. T. Moss Agency here in Modesto. Mr. W. H. Westmoreland owns this Agency and has been in this business in Modesto for more than 25 years. He is the leading Agent in our County, and I have had my office in connection with his for nearly ten years.

He is a life long Democrat, and during the past three years, since I began the Olson Campaign, has cooperated with me one hundred per cent. During this period, he has handled all appointments, telephone calls, arranged talks, and general routine matters for us. He has a large clientel and is one of the most influential vote getters of any man I know in this valley.

He has never had any recognition for his services to-date, nor has he asked for any. For these reasons, and more, I believe he is entitled to this business. I know he has earned it by his many kind acts toward us. I sincerely hope that you can arrange for this business to go to his Agency. I will appreciate your courtesy. He has an Agents license and a Brokers license.

MEMBERS

JOSEPH H STEPHENS — JOHN OEE CLARK, Chairman — ARCHIE H LYONS

JOHN E CHADWICK, State Parole Officer — CLINTON T. DUFFY, Warden — ALBERT H MUNDT, Asst Sec'y At Folsom

BOARD OF PRISON TERMS AND PAROLES
STATE OF CALIFORNIA

ARCHIE H LYONS
P O Box 511
1021 Jay Street
MODESTO CALIFORNIA

If I can furnish you with any further information regarding this request, please let me know. I will appreciate your answer.

Sincerely yours,

A. H. Lyons

A. H. Lyons

AHL/EP

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ASSEMBLY INTERIM COMMITTEE REPORTS
1955-1957
VOLUME 16 NUMBER 3

REPORT OF THE ASSEMBLY INTERIM COMMITTEE ON MARINE AFFAIRS

PREPARED BY THE COMMITTEE
(Assembly House Resolution No. 172, 1955)

MEMBERS OF THE COMMITTEE

CHARLES EDWARD CHAPEL, *Chairman*
SETH J. JOHNSON, *Vice Chairman*

MONTIVEL A. BURKE
REX M. CUNNINGHAM
CLAYTON A. DILLS
DONALD D. DOYLE
LOUIS FRANCIS
AUGUSTUS F. HAWKINS
FRANK LUCKEL
WILLIAM F. (BILL) MARSH
CHARLES W. MEYERS
CHARLES H. WILSON

JOSEPH A. BEEK, *Secretary of the Senate, Honorary Consultant*

Published by the

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OF THE STATE OF CALIFORNIA

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Speaker

HON. CHARLES J. CONRAD
Speaker pro Tempore

HON. RICHARD H. McCOLLISTER
Majority Floor Leader

HON. WILLIAM A. MUNNELL
Minority Floor Leader

ARTHUR A. OHNIMUS
Chief Clerk

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LETTER OF TRANSMITTAL

ASSEMBLY CHAMBERS, STATE CAPITOL
SACRAMENTO 14, CALIFORNIA, March 14, 1957

HONORABLE LUTHER H. LINCOLN,
Speaker of the Assembly, and
Members of the Assembly:

The Assembly Interim Committee on Public Utilities and Corporations, constituted in accordance with House Resolution No. 172, 1955, in its capacity as the Assembly Interim Committee on Marine Affairs by authority of the Assembly Rules Committee, ratified by House Resolution No. 17, 1956 Budget Session, herewith presents its report, findings and recommendations regarding small boat harbors in California.

CHARLES EDWARD CHAPEL, Chairman
SETH J. JOHNSON, Vice Chairman
MONTIVEL A. BURKE
REX M. CUNNINGHAM
CLAYTON A. DILLS
DONALD D. DOYLE
LOUIS FRANCIS
AUGUSTUS F. HAWKINS
FRANK LUCKEL
WILLIAM F. (BILL) MARSH
CHARLES W. MEYERS
CHARLES H. WILSON

INTRODUCTION

CREATION OF ASSEMBLY INTERIM COMMITTEE ON MARINE AFFAIRS

The Assembly Standing Committee on Public Utilities and Corporations was constituted an interim committee in accordance with House Resolution No. 172, adopted June 6, 1955, as shown on pages 5595 and 5596, Assembly Daily Journal of that date. Thereafter, the Assembly Committee on Rules assigned in writing to the Assembly Interim Committee on Public Utilities and Corporations, for study, the subject matter of Assembly Concurrent Resolution No. 138 of the 1955 Regular Session which would have created a Joint Legislative Committee on Marine Affairs and Bay Area Development, with authority to investigate the subjects of marine affairs and bays and harbors In this manner, the Assembly Interim Committee on Public Utilities and Corporations was given the additional duties of functioning as the Assembly Interim Committee on Marine Affairs. House Resolution No 17, 1956 Budget Session, affirmed and ratified the action of the Assembly Rules Committee in assigning subjects for study to various interim committees, thus confirming the authority of the Assembly Interim Committee on Public Utilities and Corporations to also serve as the Assembly Interim Committee on Marine Affairs.

The Honorable Louis Francis became a member of the committee in 1956. The Honorable Bernard R. Brady was a member until January 8, 1957.

PREVIOUS JOINT COMMITTEE ORGANIZATION

The Joint Interim Committee on Marine Affairs and Bay Area Development was created pursuant to Assembly Concurrent Resolution No. 108, Chapter 237, Statutes of 1953. The chairman through December, 1954, was the late Assemblyman Ralph R Cloyed. Former Senator Gerald J. O'Gara was a member of the committee until January, 1955. Senator Arthur H. Breed, Jr., was elected chairman and Assemblyman Charles Edward Chapel was elected vice chairman in January, 1955. Assemblyman Sheridan N. Hegland was appointed a member of the committee in January, 1955 Joseph A. Beek, Secretary of the Senate, served as honorary consultant throughout the life of the committee. In addition to those already named, members of the committee included Senator Fred H. Kraft, Senator John F. McCarthy, former Senator Arthur W. Way, Assemblyman Thomas W Caldecott, Assemblyman S. C. Masterson, and former Assemblyman Earl W Stanley.

THE REPORT OF THE JOINT COMMITTEE

The report of the Joint Committee on Marine Affairs and Bay Area Development, consisting of 72 pages plus maps, was prepared by Miss Diana Clarkson under the supervision of the committee, transmitted to

the Legislature on March 30, 1955, and published by the Legislature. It was printed in the California State Printing Office. About 5,000 copies were distributed to the Members of the Assembly and the Senate, and to interested citizens throughout the State.

ASSEMBLY CONCURRENT RESOLUTION No. 138
1955 REGULAR SESSION

Assembly Concurrent Resolution No. 138, 1955 Regular Session, is set forth below to show the subject matter assigned to the Assembly Interim Committee on Public Utilities and Corporations in its capacity as the Assembly Interim Committee on Marine Affairs:

CALIFORNIA LEGISLATURE—1955 REGULAR SESSION

ASSEMBLY CONCURRENT RESOLUTION No. 138

Introduced by Messrs. Chapel, Wilson, Stanley, Masterson, Beaver, Bonelli, Bradley, Burke, Caldecott, Collier, Cunningham, Mrs. Davis, Messrs. Dills, Donald D. Doyle, Thomas J. Doyle, Elliott, Fleury, Gaffney, Ernest R. Geddes, Samuel R. Geddes, Grant, Hawkins, Hegland, Johnson, Kilpatrick, Klocksiem, Lindsay, Luckel, Lyon, Marsh, McGee, McMillan, Meyers, Munnell, Nielsen, Nisbet, O'Connell, Porter, Rees, Schrade, Smith, Thomas, Unruh, and Weinberger

May 23, 1955

REFERRED TO COMMITTEE ON RULES

Assembly Concurrent Resolution No. 138—Relative to the creation of the Joint Legislative Committee on Marine Affairs and Bay Area Development.

Resolved by the Assembly of the State of California, the Senate thereof concurring, As follows:

1. The Joint Legislative Committee on Marine Affairs and Bay Area Development is hereby created and authorized and directed to ascertain, study, and analyze all facts relating to or in any manner affecting the marine affairs and bays and harbors of the State including, but not restricted to, the establishment of a waterways system on the inland waters of the State tributary to the Pacific Ocean, the establishment of harbors of refuge along the California coast for the safety and use of fishing boats and other small craft, and the pollution of the bays and harbors of this State. The said committee is further directed to study ways and means of securing funds for the accomplishment of the purposes herein set forth, and to investigate any and all other matters incidental or pertaining to bays and harbors and marine affairs,

in all their phases including, but not limited to, all matters pertaining to small boat harbor development, navigational facilities such as moorings, anchorage areas for small craft, fishing boats, and including but not limited to the operation, effect, administration, enforcement, and any needed revision of any and all laws bearing upon and relating to the subject of this resolution, and to report thereon to the Legislature, including in the report its recommendations for appropriate legislation, and to confer with the United States Army, the Navy, the Coast Guard, and local harbor authorities of the various cities and counties and chambers of commerce, yachting organizations and other public or private bodies, in order to effect a waterways system in aid of navigation and the establishment, improvement and development of all necessary facilities to accommodate commercial fishing or recreational pursuit by operators of small craft on the inland waters or along the California coast, its bays and inlets of the Pacific Ocean and also to confer with competent professional technicians on the engineering and economic factors involved in the various plans which may be proposed with respect to marine affairs and bay and harbor development in this State, including the prevention of the pollution of the waters thereof.

2. The committee shall consist of five Members of the Assembly, appointed by the Speaker thereof, and five Members of the Senate, appointed by the Committee on Rules thereof. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

3 The committee is authorized to act during this session of the Legislature, including any recess, and after final adjournment until the commencement of the 1957 Regular Session with authority to file its final report not later than the last legislative day of that session.

4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time at this session, which provisions are incorporated herein and made applicable to this committee and its members

5. The committee has the following additional powers and duties:

(a) To select a chairman and a vice chairman from its membership, and to employ such assistants as it deems necessary.

(b) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created.

(c) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpenas, orders and other process issued by the committees

(d) To report its findings and recommendations to the Legislature and to the people from time to time and at any time, not later than herein provided.

(e) To travel, or to appoint a subcommittee, and an advisory committee, to travel, within or outside of this State and the United States in pursuing the investigation committed to it.

(f) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

6. The sum of _____ or so much thereof as may be necessary is hereby made available from the Contingent Funds of the Senate and Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid from said contingent funds equally and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

THE CITIZENS' ADVISORY COMMITTEE ON MARINE AFFAIRS

The Citizens' Advisory Committee on Marine Affairs was formed by the Assembly Interim Committee on Marine Affairs to obtain the recommendations of individuals and organizations interested in small boat harbors in California. All Members of the Assembly and Senators were invited to nominate people to serve on the citizens' committee and all persons nominated by Members of the Legislature were appointed.

The Citizens' Advisory Committee did not hold any formal meetings as such, but its members attended hearings and presented valuable oral and written recommendations.

In addition to the contributions made by the Citizens' Advisory Committee, the Assembly Interim Committee on Marine Affairs received the cooperation of city councils, boards of county supervisors, chambers of commerce, planning commissions, recreation directors, harbor engineers, port and harbor commissioners, port districts, harbor districts, fishermen's unions, yacht and boat clubs, sport fishermen's associations, boat builders, the California Marine Parks and Harbors Association, the Army, the Navy, the U. S. Coast Guard, the U. S. Coast and Geodetic Survey, and particularly the U. S. Army Corps of Engineers. In addition, various departments and divisions of the State of California contributed to the success of the committee, including, but not limited to the Division of Beaches and Parks, the Division of Highways, the Division of Oil and Gas, the Department of Public Health, the Department of Fish and Game, and the State Lands Commission.

Members of the Shoreline Planning Association of California, Inc., were especially helpful.

Members of the Citizens' Advisory Committee on Marine Affairs are listed in the appendix.

CHAPTER I

THE CLASSIFICATION OF SMALL BOAT HARBORS IN CALIFORNIA

BASIC ASSUMPTIONS AND FINDINGS

The report of the Joint Interim Committee on Marine Affairs and Bay Area Development, created by Assembly Concurrent Resolution No. 108, 1953, and prior reports by various committees of the Legislature and unofficial organizations established beyond any doubt the need for additional and improved harbors for small recreational and commercial craft on the coastal and inland waters of California.

The Assembly Interim Committee on Marine Affairs in its hearings during 1955, 1956, and 1957, proceeded on the following assumptions:

1. Any new harbors will be fully used when completed and all expansions of existing harbors likewise will be completely occupied as fast as facilities are made available to boat owners

2. Small boat harbors are of state-wide value and are not limited in value to areas immediately adjacent to the harbors. People living at great distances inland use these harbors and receive both recreational and commercial benefits.

3. A state-wide program is imperative.

4. A priority classification system is desirable as an essential feature of any state-wide program, regardless of the source of funds for construction, but if funds from any source can be made available for harbor construction, action should not be held up pending the establishment of a priority system.

5. It must be recognized that the principal source of funds for the construction of small boat harbors at present is the U. S. Government. Regardless of any arguments about the advisability of federal aid to local problems, we must look to Congress for the greatest proportion of money for harbors until the State of California makes available, from one source or another, money for this purpose.

6. A single state agency must be designated and empowered to administer a small boat harbor program. Regardless of whether such agency is a branch of some existing state department, or an entirely new entity, it should have sufficient authority, funds, and personnel to help communities in planning and building harbors, and coordinating the efforts of city, county, state, and federal governments in accordance with a state-wide, master plan.

7. The first step in preparing adequate legislation for this program is a classification and analysis of small boat harbors in California.

COMMUNITY POLICY

The committee early adopted the policy of visiting harbors only upon the written request of the Member of the Assembly or the Senator in whose district the harbor is located, and asking the Assemblyman and

his Senator to sit with the committee and participate in its hearings. Most hearings were opened with testimony by advocates of the harbors, followed by a physical inspection of the harbors from the sea in small boats. When the entire committee of 13 members could not attend a hearing, a subcommittee of at least three members was appointed. Any member of the committee who had a harbor in his district presided as chairman for the hearing on that harbor.

WHY WE AVOID THE WORD "YACHT"

Technically, a *yacht* was originally a fast ship used to pursue pirates. Then the word was applied to any ship of light draft designed and constructed to sail fast. In modern usage, it may be a slow vessel, but it must be a comparatively small craft with graceful lines and a sharp prow, generally privately owned and operated entirely for pleasure. Unfortunately, in the mind of the public the word "yacht" is associated with the supposedly idle rich who are believed to cruise lazily along the coast with a heavy passenger list of beautiful damsels and an ample supply of champagne.

Whenever a "yacht harbor" is mentioned, the taxpayers associate it with their idea of wealth and leisure. In reality, the majority of small pleasure boats in California are owned and operated by people of average income, many of whom are hourly workers. Therefore, it is advisable to refer to our harbors as "small boat harbors" or "small craft harbors," avoiding the word "yacht" as though it were smallpox.

COASTAL HARBORS EMPHASIZED IN THIS REPORT

The Assembly Interim Committee on Marine Affairs, together with previous organizations which have reported on California small boat harbors, finds that there are not enough small boat harbors, that those in existence are unequally distributed along the coast, and that many of those which are safe harbors of refuge lack desirable facilities for the health, happiness and comfort of boat crews.

Small boat harbors on the inland waters of California have not been overlooked by the committee, but the emphasis has been placed on coastal harbors, probably because we have received more requests to visit coastal harbors. "The squeaky wheel always gets the grease first." However, it must be admitted that many of the potential boat harbors on inland waters can be developed with far less expense than coastal waters, even when we compare harbors on the basis of expected use.

THREE CALIFORNIA BAYS PROVIDE NATURAL SHELTER

Humboldt, San Francisco, and San Diego Bays provide natural shelter from ocean storms. These are God-given harbors, but people take them for granted and overlook the fact that even though they were given to us as natural harbors by Divine Providence, they can be used best if we intelligently plan for their future development.

NINE HARBORS DEVELOPED FOR ALL-WEATHER SHELTER

In addition to the three natural harbors of Humboldt, San Francisco, and San Diego Bays, there are nine harbors already developed for all-weather shelter These are Crescent City, Moss Landing, Monterey, Morro Bay, Santa Barbara, Port Hueneme, Los Angeles, Long Beach, and Newport-Balboa.

THREE HARBORS UNDER DEVELOPMENT FOR EARLY USE

Since the publication of the report of the Joint Interim Committee on Marine Affairs and Bay Area Development, in 1955, three more harbors where engineering projects have provided for all-weather shelters have advanced far enough to be recognized. These are the Marina del Rey (Playa del Rey Harbor) and the Redondo Beach Harbor, both in Los Angeles County, and the Mission Bay Harbor, in San Diego County.

ABOUT 50 POTENTIAL HARBORS

The *U. S. Coast Pilot-Pacific Coast*, published by the U. S Coast and Geodetic Survey, lists and describes about 50 other harbors, which are actually potential harbors, or harbor sites Some are coves, others are bights, and still others are open bays, but in all of them there is some degree of protection for small boats from ocean storms. However, most of these are at the best "fair-weather" or "sunshine" harbors Rocks, reefs, and shoals, not to mention sirens on the shores, threaten the lives of unwary seamen who are not familiar with their hazards

CLIMATIC LIMITATIONS ON COASTAL HARBORS

Most of the fair-weather harbors are safe for small boats only a few months of the year They are especially dangerous in southerly or westerly weather. They lack wharves. Many do not have beaches safe for landing a boat at any time during the year. They lack lights and other aids to navigation

Some harbors have short breakwaters built to add to the protection afforded by the natural shape of the coast, but even these harbors do not have large enough all-weather sheltered areas for small boats Examples are Santa Barbara Harbor, Port San Luis, and Monterey

NORTH vs. SOUTH AGAIN

North of Point Reyes (Marin County) there is more wind and rough sea than there is to the south In the north, except at Humboldt Bay and Crescent City, there is no shelter from winter winds which are often accompanied by a heavy westerly swell. From Point Reyes south to Point Conception (Santa Barbara County) the wind and sea are less rough, although Point Conception has been called the "Cape Horn of the Pacific" for generations because it is hit by heavy northwest winds

South of Point Conception, the coast runs in an easterly direction, there is more calm weather, and winter storms are less severe than they are to the north

From Santa Barbara to San Diego, there is the greatest concentration of population along the coast, more taxes are paid, and the small

boat harbors are larger than they are to the north Fishing is less important to these small boat harbors and recreational features of boating predominate.

Since there is a greater opportunity to use beaches and coastal harbors from Santa Barbara south, there is less interest in small boat harbors on inland lakes and rivers. All of these facts must be faced in forming a state-wide plan for small boat harbor development.

BASIC REQUIREMENTS FOR A SMALL BOAT HARBOR

The U. S. Army Corps of Engineers in a report published in 1950 listed the following basic requirements for a small boat harbor, all of which are as true in 1957 as they were when promulgated:

1. Safe entrance.
2. A protected anchorage, mooring area, or bulkhead, for tying up boats, especially transient craft.
3. A channel along the bearthing area wide enough to permit maneuvering in and out.
4. Frontage with slips or stalls for local craft.
5. A public landing with arrangements for the sale of supplies, such as gasoline, oil, food, etc.
6. Dockage and repair facilities.
7. Telephones, electricity, and fresh water.
8. Police and fire protection.
9. Space for future expansion of the harbor.
10. Access roads.

ON-SHORE FACILITIES FOR A RECREATIONAL HARBOR

The U. S. Army Corps of Engineers also has recommended the following additional on-shore facilities for a recreational harbor, assuming that space is available:

1. Car parking areas.
2. Private and public club houses, including lockers, sanitary facilities, etc.
3 Restaurants, motels, trailer parks, grocery stores, parks and picnic grounds.
4. Marine ways and repair yards.
5. Boat building yards.
6. Boat undercover storage.
7. Hoists, elevators and launching ramps
8. Boat and engine dealers.
9. Marine equipment dealers.

SPECIAL REQUIREMENTS FOR COMMERCIAL FISHERMEN

In considering the special requirements of a small boat harbor for commercial fishermen, we should first understand that the owners of large ocean-going vessels used to supply fish to canneries are not directly interested in small craft harbors.

The small commercial fishing boats, which supply the majority of the fish for sale, are vitally interested in small boat harbors for three purposes:

1. Shelter from storms.
2. Landing fish and replenishing such supplies as bait, fuel, ice, food, etc.
3. Mooring in calm waters for rest between voyages.

Commercial fishermen have testified that they would like to have a section of a small boat harbor set aside for their own use where they would not interfere with the operation of pleasure boats, preferably near the mouth of the harbor, assuming that the harbor is protected from ocean storms. If space permits, these small-boat commercial fishermen would want their own launching, mooring and shore facilities, but they do not want special treatment if it jeopardizes the construction or expansion of harbors. In other words, they support the program for constructing harbors of refuge along the California coast and subordinate their special needs to the general welfare of all small-boat owners.

The supply of ocean fish along the California coast varies from year to year, but if we can assume a fairly uniform distribution of fish along the entire coast in any given year, then it follows that some long stretches of the coast will not be fished for certain kinds and types of fish because small boats cannot risk operation far from a harbor of refuge from ocean storms. At the same time, the coast near safe harbors will be overfished. Therefore, the creation of more small boat harbors with reasonably uniform spacing will take the pressure off the overfished areas, provide access to fishing grounds now avoided, cause the over-all catch to be increased, and, paradoxical as it may seem, result in a better program of fish conservation.

SPORT FISHING BOATS

Sport fishing boats range in type and size from a small rowboat to a large ocean-going vessel which is technically not a "boat" at all, but a ship. The following types and kinds of sport fishing vessels are found at one time or another in every boat harbor:

1. Small boats brought by individuals on trailers. A few are rowboats but most are either sailboats or boats powered by outboard motors. Some have both sails and outboard motors
2. Small boats rented at the harbor, like those described above.
3. Boats powered by inboard gasoline or diesel engines.
4. Boats and ships operated by permanent crews, either on a regular schedule, or by charter.

The boats listed above may be fitted specifically for sports fishing, or they may be pleasure boats used incidentally for sports fishing Obviously, the growing popularity of all recreational and sport fishing boats makes it necessary to improve facilities for these craft at existing harbors and construct new harbors.

MARINAS

The dictionary definition of a *marina* is: (1) An oceanside esplanade or promenade; or (2) A basin or dock providing safe moorings for boats, launches and yachts.

In California, the word *marina* generally means an integrated development of shoreline facilities, including restaurants, motels, hotels, parks, picnic grounds, camping grounds, parking areas, grocery stores, boat and engine dealers, private and public club houses and lockers, marine equipment stores, boat building yards, marine ways and repair yards, boat storage under cover, hoists, elevators, launching ramps, access roads, police and fire protection, dockage and repair services, telephones, electricity, gas, and fresh water. In other words, a California marina may include many of the features listed as basic requirements for a small boat harbor together with the recommended on-shore facilities for a recreational harbor, and even the special requirements recommended for commercial fishermen

THE CHAIN OF HARBORS OF REFUGE

Many years ago the U. S. Army Corps of Engineers began to base their preliminary studies of harbor sites on the assumption that there should be a *chain of harbors of refuge*, spaced from 30 to 50 miles apart to enable small craft to cruise safely up and down the California coast, always within reasonable distance from a harbor that would provide protection against ocean storms or facilities for an overnight stop.

In 1955, when the Joint Interim Committee on Marine Affairs and Bay Area Development published its report, it was admitted that there were "many missing links in this chain" A boat cruising from north to south along the California coast would travel 60 nautical miles from Crescent City Harbor, in Del Norte County, to Humboldt Bay, in Humboldt County. Then the same boat would have to travel 90 miles from Humboldt Bay to Noyo Harbor, in Mendocino County, but Noyo Harbor is dangerous to enter in a rough sea, although it provides excellent protection inside a natural cove when the boat has passed the entrance Curiously enough, in this first part of an imaginary voyage, the boat has remained in Assembly District No 1, although it has cruised along the coast of two entire senatorial districts and has almost left a third senatorial district

From Noyo Harbor, the next run is to Bodega Harbor in Sonoma County, a distance of 85 miles. Assuming that the boat is still operating, the next voyage is to the entrance to San Francisco Bay, a distance of 42 miles The next safe harbor is Moss Landing, in Monterey County, a distance of 76 miles south From Moss Landing there is a short cruise of 13 miles to Monterey Harbor, but from Monterey to Morro Bay the distance is 102 miles without a safe harbor of refuge

Leaving Morro Bay, in San Luis Obispo County, the boat cruises around Point Conception to Santa Barbara, a distance of 103 miles.

Leaving Santa Barbara, the distance to Port Hueneme is only 28 miles, but then the boat must travel about 54 miles in an easterly direction to reach either Long Beach Harbor or Los Angeles Harbor. In 1957, we can report that the Marina del Rey (Playa del Rey) Harbor

and the Redondo Beach Harbor are under construction, but even now, two years after the publication of the joint legislative committee report, the chain of harbors remains substantially the same.

Assuming that the boat owner is from Iowa and wants to visit his cousins in Long Beach, the next run is 17 miles to Newport Bay Harbor. From there the distance to the next safe shelter in San Diego Bay is 67 miles, although the boat owner can hold the happy thought that Mission Bay Harbor is under construction and will chop a very few miles off the run to San Diego Harbor proper when it is completed.

That is the way it was in 1955 and that is the way it is in 1957. There are four cruises of 85 miles or more, two on the north coast and two on the south coast of California, where no safe harbor of refuge is available in 1957.

TYPES OF CALIFORNIA COASTAL HARBORS FOR SMALL BOATS

There are three principal types of small boat harbors that can be built on the California coast:

1. **Harbors outside the beach line,** generally constructed by building a breakwater to extend the incomplete natural protection of a reef or headland. An example is the Crescent City Harbor in Del Norte County.

2. **Harbors at the mouths of rivers,** generally established by constructing jetties to deepen and stabilize a channel An example is Noyo Harbor in Mendocino County

3. **Harbors in marshes or lagoons,** established by dredging to provide the necessary depth of water and constructing jetties which form a protected entrance from the ocean An example is Mission Bay Harbor in San Diego County

DISADVANTAGES OF HARBORS REQUIRING BREAKWATERS AND JETTIES

The disadvantages of harbors requiring breakwaters and jetties, like harbors of the first two types listed above, are

1. **Expense.** The ratio of cost to the area of sheltered water obtained by constructing breakwaters and jetties is generally high because breakwaters and jetties often cost several million dollars when completed In addition, a harbor at a river mouth may require expensive dredging to keep the harbor entrance open and extensive upstream flood control projects

2. **Silting of the Harbor or Channel.** Dredging at regular intervals will overcome silting, but its cost must be considered.

3. **Beach Erosion.** This is caused by the change in the pattern of littoral (shore) sand drift There is an old saying that "The ocean always seeks to return to its original bed." For example, the construction of harbor jetties at Port Hueneme, in Ventura County, and at Anaheim Bay Harbor, in Orange County, damaged property in a

southerly direction. Sand carried away by the ocean after the jetty construction at Port Hueneme made it necessary to dredge the Silver Strand Harbor, also in Ventura County. Another example was found at Redondo Beach Harbor, in Los Angeles County, where a breakwater was constructed many years ago in an effort to provide protection against ocean storms. The breakwater was not long enough to accomplish the intended purpose, but it was long enough to cause so much beach erosion that the originally beautiful beach was carried to sea Today, a new harbor is being constructed at Redondo Beach, but the lesson has not been forgotten.

Beach erosion is often more costly than the silting of a harbor or channel Harbor engineers can estimate in general terms what erosion may take place, but even the greatest of experts in harbor design will not absolutely guarantee that costly erosion will not follow the completion of a harbor built with breakwaters and jetties. Maintenance expenditures and damage claims are often unpredictable

ADVANTAGES OF HARBORS IN LAGOONS OR MARSHES

The third type of California coastal harbor for small boats, consisting of those in lagoons or marshes, may provide at comparatively low cost sufficient space for all types of small boats together with extensive commercial and recreational facilities on the adjacent land. Mission Bay Harbor, about eight miles north of the entrance to San Diego Bay, has been mentioned already as an example of this type of harbor. The Playa del Rey Harbor, now called the Marina del Rey Harbor, located about 3½ miles south of Santa Monica, and directly north of the community of Playa del Rey, on Santa Monica Bay, in Los Angeles County, is another good example of this type.

It must be emphasized that the lagoon or marsh must be comparatively large to make this type of harbor economically desirable. However, at least 16 harbor sites on the coast of California, including the two mentioned here, are large enough to meet this requirement.

ADVANTAGES OTHER THAN FISHING AND GENERAL RECREATION

The owners of recreational boats, including sport fishing craft, and the owners and operators of commercial fishing boats are the direct beneficiaries of small boat harbors. In addition, the following tangible benefits have been established beyond doubt:

1. The attraction of out-of-state tourists to the California coast.
2. The attraction of Californians who may never own or operate a boat but like to visit the ocean, especially where there are on-shore facilities for their use.
3. The increase in property values near harbors, sometimes to a distance of 10 miles from the sea.
4. Increased taxes from boats, boat supplies, land facilities for boats, and property located near harbors, based upon both the increase in the amount of property to be taxed and the value thereof.
5. Increased business from expenditures on boats, repairs, maintenance, servicing, supplies and related activities.

6. Increased revenues from amusement and recreational projects built near small boat harbors, such as motion picture theaters, ocean aquariums, etc.
7. Increased employment.
8. The creation of new usable land areas by filling lowlands with spoils obtained from the dredging of harbors
9. Increased revenue from commercial fishing.
10. The peace-time value of small-boat harbors as harbors of refuge from ocean storms, thus saving lives and property.
11. The peace-time use of small-boat harbors for air-sea-rescue operations by the U. S. Coast Guard, by other armed services, and by law-enforcement agencies.
12. The use of these harbors in time of war by the armed forces.
13. Reduction in the cost of marine insurance. At first glance, this would seem to be only a direct advantage to owners of boats, but it also affects all who travel or ship cargo on ocean-going vessels.
14. Reduction in transportation costs Boats now carrying passengers and cargo on long runs between harbors could reduce time, fuel, and maintenance cost.

THE BENEFIT-COST RATIO FOR EVALUATING HARBOR PROJECTS

The United States Army Corps of Engineers use a *benefit-cost ratio* in evaluating harbor projects and assigning construction priorities. The value of the total benefits to be derived from the construction of a small boat harbor is compared with the total cost. If the excess of benefits over cost of one harbor is greater than the benefit-cost ratio of another harbor, then the first harbor may have a higher priority, assuming that other factors are equal.

TANGIBLE AND INTANGIBLE BENEFITS

The *tangible benefits* of a harbor are those which can be appraised at an actual or approximate value. For example, the managing body of a well developed harbor can estimate rentals from restaurants, motels, hotels, grocery stores, boat and engine dealers, marine equipment stores, boat building yards, marine ways and repair yards, boat storage under cover, and similar services. Likewise, income can be estimated from auto parking lots, private and public club houses and lockers, gasoline pumps, etc. All these are reasonably tangible benefits.

Intangible benefits are those which cannot be appraised at an actual or approximate value. Examples are the peace-time value of small boat harbors as harbors of refuge from ocean storms; the use of harbors for air-sea-rescue operations; the use of harbors in time of war by the armed forces; and the increase in health and happiness gained from the recreational features of harbors. The latter benefit is intangible from the viewpoint of accountants, tax assessors, and engineers, but it is tangible from the viewpoint of psychologists, physicians, and all laymen who love the sea.

THE EARNING CAPACITY OF A HARBOR

Disregarding the intangible benefits entirely, the records of several harbors along the California coast show that their earning capacity is enough to provide money in excess of operational costs and use the excess funds for the reduction of the original development expense. However, such earning capacity can be realized only when two conditions exist: (1) the harbor is carefully planned in advance; and (2) it is economically administered. Running a small boat harbor is a business just as much as managing a bank or a grocery store.

THE PRECEDENTS FOR A PRIORITY SYSTEM FOR HARBORS

The California Highway Commission has established priorities for highway construction for many years, and usually has acted entirely independently of the Legislature because the Division of Highways has what amounts to a continuing appropriation from highway user taxes. In theory, this separates highway planning from "politics," but the California Highway Commission is itself a political body, being appointed by the Governor. This comment is made without adverse reflection on any Governor, but it is mentioned to emphasize the fact that the Legislature might hesitate to abrogate its authority to a similar body for establishing harbor priorities.

The Division of Beaches and Parks, a Division of the Department of Natural Resources, has established priorities for the construction of beaches and parks In theory, the establishment of priorities *within* counties is the responsibility of each county board of supervisors, but the establishment of priorities *among* counties is a function of the State Park Commission Here again, the Legislature has not been entirely satisfied, but the discontent with the State Park Commission is expressed less than it is with the California Highway Commission.

It must be admitted that it is impossible to please everybody in California, whether we deal with highways, beaches, parks or harbors, but it is possible that a classification and priority system established by the joint action of the Assembly and the Senate of the Legislature would meet less objection than a system developed by any department, division, board or commission of the State. Nevertheless, the committee believes that it is more important to get action started on a state program than it is to quarrel about any priority system.

THE PROPOSED SMALL BOAT HARBOR COMMISSION

The creation of a Small Boat Harbor Commission (the exact name of the body is not important) has been suggested as a means of acquiring federal funds for small boat harbors and coordinating the requests of those seeking both federal and state funds for harbor development. Obviously, this commission would tend to establish a priority system which would immediately create jealousies among the various sections of the State However, the need for action is so acute that most individuals and groups would be willing to subordinate their local loyalties in order to get some kind of a program in operation.

This commission could be a small boat harbor division of the Department of Natural Resources. It would establish a priority system for the location and construction of harbors (both coastal and inland

harbors) based on plans covering the over-all need of the State. It is desirable that these harbors be constructed on a reasonable plan with the cooperation of federal, state, and local governments. Assuming that the commission were placed in the Department of Natural Resources, separate funds should be provided and not taken from any other division of the Department of Natural Resources.

Upon completion of harbors, their administration and maintenance would be turned over to local government by act of the Legislature, wherever possible.

In order to give proper representation, the commission should include at least one member from those supporting small craft harbor projects on the inland waters, one member from those supporting harbors on the north coast, one from those supporting harbors from the central portion of the State, and one from those wanting harbors in the southern section of the State, plus one member who could be accepted as an impartial but interested individual, who would serve as chairman. This would form a commission of five members, all of whom could be appointed by the Governor on the advice and recommendation of *both* houses of the Legislature. None of these five should be members of the Legislature or hold any elective or appointive office of the State or the United States.

The staff of the commission should include civil engineers, harbor engineers, and other necessary technical and administrative personnel.

CHAPTER II

FEDERAL AID FOR HARBORS

THE REASON FOR FEDERAL AID

We have already explained that until the State of California provides enough money for the actual construction of small boat harbors, the principal source of funds for this purpose is the Congress of the United States. However, before going to Congress, it is essential that the proponents of any harbor project first consult with the appropriate agencies of the U. S. Government. Among these are the Army, the Navy, the Coast Guard, the Coast and Geodetic Survey, and the Corps of Engineers, which is part of the Army but for our purposes a very special Corps of the Army.

THE DEPARTMENT OF THE ARMY

The Department of the Army should be consulted when it has activities affecting a small boat harbor. For example, when the committee inspected Monterey Harbor, the Coast Artillery Corps supplied a vessel which took the committee on a tour of Monterey Harbor and adjacent harbors, and gave valuable advice regarding harbor improvements.

THE DEPARTMENT OF THE NAVY

The Department of the Navy must be consulted when it has jurisdiction over any portion of a harbor. For example, when the committee visited Glorietta Bay, an arm of San Diego Bay at the south end of Coronado, in San Diego County, officers and civilian employees of the Navy, both active and retired, gave advice and cooperation which later led to the appropriation of federal funds for developing Glorietta Bay to the advantage of small boat operators.

THE U. S. COAST GUARD

The U. S. Coast Guard operates under the U. S. Treasury Department in time of peace and under the Department of the Navy in time of war. Some of its duties are: (1) the enforcement of the laws of the United States on the high seas, in harbors, bays, sounds, roadsteads, and like bodies of water along the coasts of the United States, its territories and possessions; (2) enforcement of navigation laws, of neutrality laws and regulations; of rules and regulations in relation to anchorage grounds, and of the Oil Pollution Act; (3) inspection of all vessels to insure safety to passengers and crews; (4) aid to distressed mariners and saving of life and property from shipwreck; (5) issuance of marine licenses and certificates; (6) investigation of circumstances connected with shipwreck or collision at sea; (7) destruction of derelicts;(8) construction, operation, maintenance, and inspection of aids

to navigation; and (9) publication of light lists and radio beacon charts.

One of the more recent activities of the U. S. Coast Guard has been "air-sea rescue" operations. Using both surface vessels and aircraft, particularly helicopters, the U. S. Coast Guard is vitally interested in the development of small boat harbors. For this reason, the Assembly Interim Committee on Marine Affairs has constantly urged sponsors of harbors to seek the cooperation and advice of the U. S. Coast Guard. At several hearings, officers and civilian representatives of the U. S. Coast Guard testified or sent statements showing the extent of their interest in small boat harbors. This has been of material help in obtaining federal aid.

THE U. S. COAST AND GEODETIC SURVEY

The U. S. Coast and Geodetic Survey, under the U. S. Department of Commerce, is charged with: (1) the survey of the coasts of the United States and its possessions to insure the safe navigation of coastal and intracoastal waters; (2) the compilation and publication of nautical charts, Coast Pilots, tables of predicted tides and currents, and tidal current charts to meet the needs of the mariner; and other duties not directly applicable to small boat harbors. The headquarters address is U. S. Coast and Geodetic Survey, Commerce Building, Washington 25, D. C. District offices are located in Los Angeles, San Francisco, and other ports.

The principal publication of the U. S. Coast and Geodetic Survey of interest to small boat owners is the *United States Coast Pilot—Pacific Coast,* covering California, Oregon, and Washington. The last edition was published in 1951, but yearly supplements are published which bring the book up to date. It can be obtained from the U. S. Government Printing Office, Washington, D. C., or from the U. S. Coast and Geodetic Survey offices, at a cost of $2.50, including supplements to date.

This publication has been used as a basic reference by the Joint Interim Committee on Marine Affairs and Bay Area Development, created in 1953; and the Assembly Interim Committee on Marine Affairs, created in 1955.

THE CORPS OF ENGINEERS AND FEDERAL FUNDS

The improvement of the rivers and harbors of the United States and miscellaneous other civil works are under the charge of the Corps of Engineers, Department of the Army. The miscellaneous civil works include the administration of the federal laws enacted for the protection and preservation of navigable waters of the United States, the establishment of regulations for the use, administration, and navigation of navigable waters, the approval of plans of bridges, the alteration of obstructive bridges, the establishment of anchorage grounds and harbor lines, the removal of sunken vessels obstructing or endangering navigation, and the granting of permits for structures or operations in navigable waters.

Information concerning the various ports, improvements, channel depths, navigable waters, and the condition of the Intracoastal Water-

ways in the areas under their jurisdiction may be obtained direct from the District Engineer offices. In California these offices are in San Francisco, Los Angeles and Sacramento.

It must be emphasized that it is almost entirely hopeless to seek federal funds for any harbor project unless it is approved by the U. S. Corps of Engineers. Since the construction of jetties, piers, breakwaters, etc., and the dredging of all channels of harbors under the jurisdiction of the U. S. Corps of Engineers, must be approved and supervised by them, their blessing is the first step in obtaining federal money.

Assuming that the U. S. Corps of Engineers approves a harbor project, the next step is to have a Representative in Congress introduce an appropriation bill, or an amendment to an appropriation bill, providing specific funds for a specific project.

Under Public Law 14, Seventy-ninth Congress, Chapter 19, First Session, Congress authorized the granting of federal aid to the various states for the construction of breakwaters and jetties and the dredging of main channels for small harbors approved by the U. S. Corps of Engineers. Grants for these purposes were suspended during the Korean War, but were resumed recently. Unfortunately, although California is the second largest state in the Union, and has one of the longest coastlines, in the past it has received less federal money for developing small boat harbors than any other state with a coastline

The Assembly Interim Committee on Marine Affairs from its conception recognized these facts. At each hearing on a small boat harbor, and in all correspondence, the committee has urged those supporting harbors to solicit the active support of the U. S. Corps of Engineers and the local United States Representative in Congress.

At a few hearings, members of Congress have personally appeared and actively participated in the hearings. At several hearings, officers of the U. S Corps of Engineers, or their civilian representatives, have sat with the committee and later followed through in harbor development. As a result of this cooperation between the committee and members of Congress and the U. S. Corps of Engineers, large sums of federal money have been spent already, and small boat harbors of major importance are already under construction. Examples are the harbor at Redondo Beach, and the harbor formerly called the Playa del Rey Harbor, now known as the Marina del Rey.

It must be understood that federal funds recommended by the U S Corps of Engineers are for *exterior* features of harbors, such as dredging and the construction of jetties, breakwaters, and similar features. The *interior* features of a harbor, such as docks, mooring spaces, etc., must be financed by state, county, city, or other nonfederal money.

All the activities of the Corps of Engineers along the coastal areas of California are under the jurisdiction of the Division Engineer, South Pacific Division, 630 Sansome Street, San Francisco 11, California. When this report was compiled, the Division Engineer was Brigadier General William F. Cassidy, to whom the committee is indebted for valuable cooperation.

THE CORPS OF ENGINEERS IS HARD TO BYPASS

The committee has been asked in some communities what can be done to get federal aid if the Corps of Engineers refuses to recommend harbor construction. The answer is that it is possible but not probable for a Representative in Congress to obtain an appropriation in the face of opposition from the Corps of Engineers, but even then the congressman must be on a key committee of Congress and have enough influence to over-ride the Corps. In general, it is not recommended.

APPROPRIATION BILLS ORIGINATE IN THE HOUSE OF REPRESENTATIVES

Since all appropriation bills in the United States Congress must originate in the House of Representatives, that is where provisions for harbor money must start. If the House of Representatives passes the measure, it goes to the Senate and then to the President. That is why a United States Senator cannot help a harbor project at the beginning.

HARBORS ARE NONPARTISAN

A harbor project does require political activity, but not partisan politics, either in the United States Congress or the California State Legislature.

CHAPTER III

CALIFORNIA STATE DEPARTMENTS INTERESTED IN HARBORS

DIVISION OF BEACHES AND PARKS

One of the original proposals for an agency of the State to administer the harbor program was that the State Park Commission, acting through the Division of Beaches and Parks, Department of Natural Resources, would supervise the expenditure of any money for this purpose, classify harbors, establish a priority system, and develop the harbors.

There was some element of logic in this idea because the Division of Beaches and Parks has for many years controlled several small recreational harbors, but these have been regarded by the Division of Beaches and Parks as adjuncts to parks, and not as harbors, per se. Proof of this statement can be found by anyone who has visited one of these harbors and seen for himself that the land features are well kept up but the harbor remains much as God created it.

The Joint Interim Committee on Marine Affairs and Bay Area Development, of 1953, on pages 46 and 47 of its report said:

> "A possible organizational disadvantage to this proposal can be seen from the following statement from the January, 1955, *Report of the Assembly Interim Committee on Agriculture,* Volume 17, Number 4, concerning the relationship among the State Park Commission, the Division of Beaches and Parks, and the Department of Natural Resources:
>
> "* * * the existing divided authority, the present commission-director form of administration, is neither efficient nor economical. It is not possible for a commission, meeting once a month, to adequately administer the beaches and parks program. The commission should not be required to devote time to administrative details (as is presently the case). It should devote its energies to formulating the policies by which the division will operate. Administrative duties should be delegated to the chief of the division who is directly responsible to the Director of Natural Resources."

Having quoted the report of the Assembly Interim Committee on Agriculture, the Joint Interim Committee on Marine Affairs and Bay Area Development then said, on page 47:

> "If, as this committee found, such a defect exists in the organizational setup of the Division of Beaches and Parks, as it relates to the Department of Natural Resources and the Park Commission, the placing of the small boat harbor within its jurisdiction might prove ineffective.

"Placing administration of a small harbor program in a division of beaches and parks proved successful in the Puget Sound area. The problem in California, however, differs from that in Washington. The harbor projects involved in Puget Sound were all recreational harbors while California's program contemplates both commercial and recreational harbors. The proposal to vest the California Division of Beaches and Parks with the power to administer the program would not be feasible without revision of the basic law of the division, since the division is authorized to deal only with matters affecting or affected by recreation."

The Division of Beaches and Parks is administering relatively small recreational boat harbors at such state parks as Angel Island (Hospital Cove), Morro Bay, and the Colusa-Sacramento River State Park. These are simply adjuncts to a larger recreational area in each case. The Assembly Interim Committee on Marine Affairs finds that placing small boat harbors having commercial features under the jurisdiction of the State Park Commission would not meet with the approval of that Commission. Also, the committee finds that the State Park Commission leaves the actual administration of the few small boat harbors under its jurisdiction to the Division of Beaches and Parks, contrary to what might be inferred from a casual reading of the comments of the old Joint Interim Committee on Marine Affairs and Bay Area Development, quoted above.

This is not to be interpreted as opposition by the committee to the administration of small boat harbors by the Division of Beaches and Parks, but merely as an appraisal of the situation.

The *Report of the Joint Interim Committee on Marine Affairs and Bay Area Development, 1955*, on pages 56, 57, 67, and 69, showed that certain harbors were administered or sponsored by the State Division of Beaches and Parks, but these errors have been corrected in the present report.

DIVISION OF HIGHWAYS

The Division of Highways, under the Department of Public Works, and the California Highway Commission, can help or hurt potential and existing small boat harbors. For example, the committee found that the mouth of one excellent small boat harbor is entirely inaccessible to most boats because the Division of Highways built a bridge and highway across the mouth of an inlet. The natural harbor is almost worthless until the Division of Highways relocates the highway and bridge.

This is not a condemnation of the Division of Highways because it is administered by excellent civil engineers who think mostly in straight lines. They are not nautical minded. In order to make them sea conscious, bills were introduced at the beginning of the 1957 Session to require the Division of Highways to get permission from other appropriate agencies of the State before they construct a highway or bridge across any ocean inlet.

DIVISION OF OIL AND GAS

The Division of Oil and Gas, Department of Natural Resources, can provide information about plans for oil drilling which affect a harbor. This is important because oil drilling can impede the passage of boats, lead to pollution of the harbor, and also supply funds for harbor financing. For example, the City of Redondo Beach owns an old grant giving it tidelands including oil, gas and mineral rights. The city authorized oil drilling, obtained contracts with oil companies, and used funds from the oil drilling as so-called "matching money" to obtain federal appropriations. However, this paragraph is not to be interpreted as approval or disapproval of oil drilling in a harbor. It is simply an explanation of the importance of considering oil drilling when a harbor is planned. Incidentally, "matching money" in the case of a federal appropriation does not necessarily imply that the local agency puts up one-half the money.

DEPARTMENT OF FISH AND GAME

The Marine Research Committee, acting under the Department of Fish and Game, can provide impartial information regarding sporting and commercial fishing in any harbor. This is important in the design and operation of any small boat harbor.

DEPARTMENT OF PUBLIC HEALTH

The Department of Public Health can provide information about the contamination and/or pollution of harbors, but its reports must be interpreted by experts to obtain a clear picture of the situation. Incidentally, biologists regard contamination and pollution as entirely different words, hence care must be exercised in reading the statements of biologists, especially marine biologists, as the committee found during its hearings.

STATE LANDS COMMISSION

The State Lands Commission, a division of the Department of Finance, was the agency selected after long study by the Joint Interim Committee on Marine Affairs and Bay Area Development, of 1955, to administer the small boat harbor program, under the provisions of Chapter 8, of Part 1, of Division 6, of the Public Resources Code. An appropriation in the bill was deleted by the Governor, but a $30,000 appropriation was included in the budget beginning July 1, 1956.

The State Lands Division found it difficult to recruit a competent staff but finally employed a consulting seacoast engineer. The total amount chargeable to the $30,000 appropriation as of January 31, 1957, was about $7,000, and expenses prior to July 1, 1956, were paid out of "support," according to Col. Rufus W. Putnam, executive officer, State Lands Division, who also reported on February 14, 1957:

> "As a layman, I can find nothing in Chapter 8 of Part 1 of Division 6 of the Public Resources Code which gives the State Lands Commission the authority to do promotional work. The closest I can come to it is Section 6494 of the Public Resources Code, which reads as follows:

"'6494 Authority to cooperate with, advise, and assist local agencies in developing and operating harbors. The commission may cooperate with, advise, and assist local agencies in developing and operating small craft harbors on tide and submerged lands which have been granted to such agencies'."

Regarding his own research, Col. Rufus W. Putnam reported on February 14, 1957:

"In accordance with the provisions of that section, I personally have visited all harbors and potential harbor projects since July 1, 1955, with one exception and that is the proposed harbor at Mattole Creek in the northern part of the State which was not to be reached by land. In addition, our senior civil engineer in charge of our Harbor and Waterways Section and I have attended numerous meetings of the California Marine Parks and Harbors Association, of the State Chamber of Commerce, of the Shoreline Planning Association, and of other similar organizations, as well as having conferred with local officials in places such as Crescent City, the mouth of the Russian River, Sacramento, Half Moon Bay, Santa Cruz, San Luis Obispo, Santa Barbara County, Ventura County, Los Angeles County, and with others along the coast."

Since the design and construction of the interior features of a harbor, as distinguished from harbor entrance, jetties, or breakwater, are the responsibility of local interests and not the duty of the U. S Corps of Engineers, the State Lands Commission recommends the enactment in 1957 of a bill similar to the following:

"Public Resources Code. Division 6, Part 1, Chapter 8, Section 6475.1. The commission shall have plans prepared for small craft harbors of refuge along the coast of California. The sum of two hundred thousand dollars ($200,000) is appropriated from the State Lands Act Fund, without limitations as to fiscal years, for the purpose of the preparation of these plans. In the preparation of these plans, the commission may cooperate or contract with the State Park Commission or with any other state agency, or with the Corps of Engineers of the Department of the Army of the United States, or with any other federal agency, or with any county, or city, or port district, upon such terms and conditions and in such manner as will be for the best interests of the State."

STATE LANDS COMMISSION COMMENTS

The State Lands Commission reported to the committee:

1. The State Lands Division has been handicapped by the inability of the State Personnel Board to supply adequate personnel, the deletion of the appropriation at the beginning of its duties, the small appropriation currently available, and the limitation of its authority in its enabling act
2. Regardless of what agency of the State is charged with responsibility, legislation similar to the proposed amendment to Part 1, Division 6, Chapter 8, Public Resources Code, Section 6475.1, should be enacted.

3. After a meeting of the State Lands Commission held in Los Angeles in November, 1955, each county on the coast and along inland navigable waters of the State was provided with specifications and criteria to assist in the preparation of county-wide plans, as a result of which 10 plans were received for counties on the coast out of a possible 18, and six plans for counties on the inland navigable waters out of a possible total of 17. The net result of this effort to prepare a state-wide plan was not adequate, through no fault of the State Lands Commission.
4. The State Lands Commission then concentrated on harbors of refuge and completed a report on November 8, 1956, which involved the joint planning, engineering, and estimating of costs of the following projects with the help of the U.S. Corp of Engineers:

   Anno Nuevo Bight, Arena Cove, Big Sur River, Coxo Anchorage, Mattole River, San Simeon Bay, Shelter Cove, and Trinidad Cove.
5. After a meeting of the Senate Interim Committee on Bay Development and Small Craft Harbors in Santa Barbara, California, December 6, 1956, the State Lands Commission found that the Santa Cruz small boat harbor in Woods Lagoon was so far advanced that it would be appropriate to substitute it for the suggested site at Anno Nuevo Bight. At Half Moon Bay, a federal project was awaiting only appropriations for its execution. In addition, it was found that the harbor site at Cambria, a few miles down coast from San Simeon Bay, warranted consideration for early development work.

The committee recommends that the State Lands Commission shall proceed immediately with whatever funds are available or may in the future be appropriated for this purpose to prepare a state-wide plan for the development of small boat harbors. The commission also shall take into consideration plans already submitted by counties and shall be flexible enough to be adaptable to other plans which may be submitted in the future.

CHAPTER IV

FINANCING AND ADMINISTERING SMALL BOAT HARBORS

HARBORS AND NAVIGATION CODE

Six types of port and harbor districts are provided for in the Harbors and Navigation Code of the State of California. In the Report of the Joint Interim Committee on Marine Affairs and Bay Area Development, of 1953, reference was made to "Municipal Port Districts," but that portion of the Harbors and Navigation Code has been repealed.

The six types of districts are: (1) joint harbor improvement districts; (2) harbor improvement districts; (3) harbor districts; (4) port districts; (5) recreational harbor districts; and (6) river port districts.

The U. S. Army Corps of Engineers requires the formation of a local administrative body which controls and governs the port before the Corps of Engineers will proceed with harbor development. Also, a harbor or port district can deal more effectively with the State of California and with the various official and unofficial agencies which must cooperate in harbor activities.

JOINT HARBOR IMPROVEMENT DISTRICTS

A joint harbor improvement district may be formed by two or more contiguous counties, or by portions of two or more counties when exterior boundaries of the proposed district extend into a bay, harbor, inlet or navigable water in the Pacific Ocean. (Section 5710).

HARBOR IMPROVEMENT DISTRICTS

Section 5820 provides that "Any portion of a county in this State the exterior boundaries of which include a bay, harbor, inlet or navigable water of the Pacific Ocean may be formed into a district for the improvement or development of a harbor."

HARBOR DISTRICTS

Section 6010 provides that a harbor district for the improvement or development of a harbor may be formed by "A county or portion of a county or city or portion of a city or more than one city with or without a portion of the unincorporated territory of a county, the exterior boundary of which includes a harbor."

PORT DISTRICTS

Section 6210 provides that a port district may be formed which "* * * shall include one municipal corporation and any contiguous unincorporated territory in any one county but a municipal corporation shall not be divided in the formation of a district.* * *"

RECREATIONAL HARBOR DISTRICTS

Sections 6403 and 6420 provide for recreational harbor districts. "Recreational harbors are harbors that are intended to be used for the pleasure and recreation of the public, including as well as others the boating, fishing and bathing facilities afforded thereby * * *." Any portion of a county may be formed into a district when a part of the exterior boundaries "includes a bay or portion of a bay, harbor, or inlet, or portion of the shore of the Pacific Ocean * * *."

RIVER PORT DISTRICTS

Section 6810 provides that "* * * A district may include any contiguous territory in one or more counties, contiguous to a navigable river or to any channel connected with a navigable river.* * *"

HARBOR MASTER PLAN

After the local governing body for a harbor or port district is formed, the next step is to prepare a harbor master plan. Chapter I of this report lists the principal requirements for a small boat harbor which should be considered in preparing a master plan. This harbor or port master plan is an absolute requirement for obtaining help from either the State of California or the U. S. Government.

COUNTY HARBOR MASTER PLAN

State and federal laws change from year to year but it is obvious that in any county where there are two or more small boat harbors, or potential harbors, the county board of supervisors must prepare a county harbor master plan and designate priorities in order to avoid conflicting interests when federal and state help is requested.

SOURCES OF STATE REVENUE FOR HARBORS

The principal sources of revenue which have been considered at various times by the California State Legislature are: (1) the state General Fund; (2) revenues from tideland oil funds; (3) motor fuels tax; (4) personal property taxation of small craft; (5) license registration fees on small craft; and (6) license registration fees for boat operators. All of these are not necessarily of equal merit.

THE STATE GENERAL FUND

Direct appropriations of state general funds could be made by the Legislature for the development of small boat harbors. Ideally, all revenue, however raised, should go into the General Fund and be appropriated out of that fund, but the State long ago departed from this policy, particularly in the case of highway financing, hence the present tendency is to look for special sources of revenue, as explained below.

REVENUE FROM TIDELAND OIL FUNDS

The State of California has been allocating 70 percent of the tideland oil funds to the development of beaches and parks and 30 percent has gone into the General Fund, in accordance with the Public Resources

Code, Section 6816 as amended. This division of funds was based upon the theory that tideland oil funds were coming from the depletion of a natural resource, oil, and should be used for the protection and development of another group of natural resources, that is, beaches and parks.

The Assembly Interim Committee on Marine Affairs finds that either the General Fund of the State or the Tideland Oil Funds should be the principal source of revenue for the State financing of small boat harbors.

THE PROPOSED STATE HARBOR FUND

Regardless of whether the Legislature chooses to appropriate money from the General Fund or the Tideland Oil Funds, the Committee finds that it is desirable to establish a State Harbor Fund (the exact name is not important), to be used as a "revolving fund" for granting long term loans to harbor projects. The harbors would issue revenue bonds which would be secured by special local taxes or fees charged to beneficiaries of the harbors. All loans would be made according to an equitable system of harbor priorities.

The committee also finds that a special problem exists in the case of a harbor which will be used by people from all over the State, but is located in a community where local taxation cannot be obtained for securing revenue bonds. However, an exceptional case of this type should not be used as an excuse to hold up the exeecution of a State master plan and the creation of a State Harbor Fund.

THE MOTOR FUELS OR MARINE GASOLINE TAX

The present California law provides that fuel used for propelling boats is exempt from the California motor vehicle fuel license tax. The boat owner must pay the regular price, including the state tax, at the time of purchase, but he can obtain a refund if he submits a proper application to the State Controller.

During the fiscal year of 1954-55, refunds of $309,231.72 were paid on sales of marine gasoline totaling 5,153,562 gallons. During the fiscal year of 1955-56, refunds of $287,252.52 were paid on the sale of 4,787,542 gallons of marine gasoline.

Major oil companies are hesitant to offer more than a reasonable estimate of the total amount of marine gasoline sold in California because they own and operate only about 25 percent, and certainly less than 50 percent, of the gasoline stations in California. However, they do estimate that their total sales of marine gasoline in each of the fiscal years mentioned was about 20,000,000 gallons, or about four times the amount on which refunds were claimed by boat operators.

Owners of pleasure boats have informed the Assembly Interim Committee on Marine Affairs that they have two suggestions: (1) the overwhelming majority of pleasure boat operators do not now apply for a refund because the form they must fill out is too complicated; and (2) they would like to see the entire refund transferred to a fund for the development of small boat harbors. Owners of commercial fishing boats of all sizes and for-hire boat operators are generally opposed to placing the refund in the fund for the development of small boat harbors, although some of those in opposition have said they would sup-

port such a program if they could be sure that they would benefit directly.

The Assembly Interim Committee on Marine Affairs recommends enactment of an amendment to the Motor Vehicle Fuel Licensing Tax law similar to the current provisions for refunds on aviation fuel tax, and it also recommends that whether or not such amendment is passed by the 1957 Session of the Legislature, that the subject of the marine gasoline tax be studied by an interim committee after the adjournment of the 1957 Session.

Using the reports from the State Controller and the major gasoline companies, mentioned above, if 6 cents per gallon tax on marine gasoline were transferred to a fund for the development of small boat harbors, instead of being available for refund to boat owners, the boat harbor program could receive between $750,000 and $1,000,000 per year from this source alone.

THE PERSONAL PROPERTY TAXATION OF SMALL CRAFT

All small craft, whether commercial or pleasure, can be assessed as personal property by city and county governments. An "in lieu" tax could be substituted, as is now the practice for the taxation of motor vehicles. The revenues from this source could be allocated by the State to cities and counties on an equitable basis, such as the number of small boats registered in proportion to the population. However, this brings us to the problem of registering the boats which will be discussed before proceeding to an examination of other sources of revenue.

STATE REGISTRATION OF BOATS

The Joint Interim Committee on Marine Affairs and Bay Area Development, created in 1953; the Assembly Interim Committee on Marine Affairs, created in 1955; and the Senate Interim Committee on Bay Development and Small Craft Harbors, created in 1955, all faced the problem of finding how many boats would use the existing and proposed small boat harbors of California.

Accurate figures have not been available to any of these committees. In one year, the county assessors of all the counties of California were asked to report the number of boats on their tax rolls. When their replies were totaled, the sum was slightly greater than the number of boats registered with the U. S. Coast Guard.

Since all boats 16 feet or more in length are required by federal law to be registered with the U. S. Coast Guard, the reports from the county assessors obviously showed that something is wrong. It is common knowledge that the number of outboard motorboats on our coastal and inland waters far exceed the number of boats 16 feet or more in length, hence it is obvious that a vast number of small boats are not assessed and carried on the tax rolls by the County Assessors of California.

Since 1939, the California State Revenue and Taxation Code, Chapter 6, Sections 3101-3112, has required county assessors to register *all* boats and to assign to each boat a distinguishing number. This is mandatory in the State Code. It is believed that earnest efforts to comply with the code have been made by the County Assessors of San Fran-

cisco, Alameda, Los Angeles, Orange, and San Diego Counties, but it is not believed that even these five counties have been able to register and assess all boats. Information regarding other counties is inconclusive because it has been physicaly impossible for the Assembly Interim Committee on Marine Affairs to adequately survey this question.

Officers of the California Assessors Association said that they would introduce bills to "put more teeth into the code." They recommended that the operation of a boat not carrying the distinguishing number issued by a county be made a misdemeanor, that a numbering system be established by the State, and that all boats registered in each county should bear a county number assigned to that county by the State Board of Equalization. This number would be followed by "OB" (for outboard) or "SB" (for sail boat), and followed by the individual number of the boat. For example, if a county were assigned county number 1, then the first outboard boat registered in that county would bear the designation 1-OB-1.

The failure of the county assessors of California to carry out the provisions of Chapter 6, Revenue and Taxation Code, leads to the question of state registration of boats. This would require the repeal of Chapter 6 of the Revenue and Taxation Code and the enactment of provisions for some agency of the State to register boats.

The county assessors of California do not favor state registration because they erroneously believe that this could lead to the transfer of the revenue now derived from the counties to the State. This is an incorrect interpretation of state registration because the purpose of state registration would be solely registration and not taxation.

Law-enforcement officers of federal, state, county and municipal governments believe that state registration would be more useful to them than the registration by counties, although most of them prefer some mandatory system of registration and numbering of boats to no system at all.

It has been estimated that the cost of administering and establishing a state system of registration would be about 50 cents per year for each rowboat, 50 cents per year for each outboard motor, $1 per year for all sail and power boats under 16 feet, and $2 per year for all other pleasure boats. Using the most conservative estimate of the number of pleasure craft in California, it has been estimated that the above fees would produce sufficient revenue to pay for the registration service and provide a small surplus which could be transferred to a state small boat program. If a flat registration fee of $1 were applied to all pleasure craft, bookkeeping would be simplified and the surplus for the state small boat program would be greater.

The Director of the Department of Professional and Vocational Standards could handle the state registration program in cooperation with the Yacht and Ship Brokers Commission if so authorized by law. It must be emphasized that the state registration system would apply only to recreational boats and not to commercial vessels.

Three courses are open to the 1957 Session of the Legislature: (1) Do nothing about boat registration and rely upon the county assessors to administer the existing law; (2) Enact the county system of registration; or (3) Enact a state-wide system of registration.

Regardless of which course is followed, the Assembly Interim Committee on Marine Affairs recommends that the subject of boat registration, as distinct from boat taxation, be a subject of study by an interim committee after the adjournment of the 1957 Session.

LICENSE REGISTRATION FEES ON SMALL CRAFT AS A TAX SOURCE

It is possible to provide for the state registration of small boats and the charging of fees for such registration as a tax measure. The revenues from the fees could be retained by the State and placed in the proposed State Harbor Fund, or allocated by the State to cities and counties for harbor development as explained above for the personal property taxation of small craft. However, the registration of boats for revenue would constitute a burden of taxation on top of the personal property tax. Since the committee has not studied this problem, it is recommended that it be referred to an interim committee for examination, whether or not any legislation on this subject is enacted in 1957.

LICENSING BOAT OPERATORS

After each boating accident where the boat operator has been accused of negligence, there is a general demand for the establishment of a testing procedure before anyone can operate any type of boat, and the issuance of a license to those found qualified.

The U. S. House of Representatives Committee on Merchant Marine and Fisheries has held hearings on this subject throughout the United States. The Assembly Interim Committee on Marine Affairs has held no hearings on this subject but has received a vast amount of correspondence from those interested.

Objections to the licensing of operators, whether federal or state, include the following:

1. Sufficient need for boat operator licensing has not been demonstrated.
2. No practicable administrative system for testing and licensing has been developed which could accomplish the purpose of the proponents of such licensing.

It should be emphasized that any licensing system should be for safety purposes and not for revenue. Regardless of any action by the Congress of the United States, or by the 1957 Session of the Legislature, the Assembly Interim Committee on Marine Affairs recommends that the licensing of boat operators be studied by an appropriate interim committee of the Legislature after the adjournment of the 1957 Session.

A UNIFORM BOAT REGULATION ACT

The state registration of boats, license registration fees on small craft, the licensing of boat operators, and similar subjects which pertain to boats and their operators, but not directly to harbor development and construction, lead to the question of a uniform boat regulation act.

The committee has concentrated on harbors and has not held hearings on the recommendations for a uniform boat regulation act. However, oral and written communications have been received from the Outboard Boating Club of America, 307 North Michigan Avenue, Chicago 1, Illinois, other organizations interested in boating and individuals.

The proponents of a uniform boat regulation act have made recommendations regarding the following features of the proposed act:

1. Title of the act.
2. Application and jurisdiction of the act.
3. Definitions.
4. Boats used for hire.
5. Life preservers.
6. Lights.
7. Muffling devices.
8. Whistles.
9. Carburetors.
10. Ventilators.
11. Fire extinguishers.
12. Reckless driving and speed.
13. Traffic rules.
14. Traffic lanes.
15. Overloading.
16. Riding on decks and gunwales.
17. Mooring to beacons.
18. Intoxication.
19. Accidents.
20. Penalties.

The proponents of such an act also contend that the present legislation pertaining to boats includes United States laws, the present incomplete and far from modern California State laws, county ordinances, and city ordinances, not to mention rules adopted by boat and yacht clubs for their members. Because of the haphazard and often overlapping and contradictory nature of all these regulations, the majority of owners of boats neither know nor understand what they are expected to do.

Since the Assembly Interim Committee on Marine Affairs did not conduct hearings on the proposed Uniform Act, it neither advocates nor oppose any bills brought before the 1957 Session of the Legislature pertaining to this subject. However, it does find that there is justification for considering the merits of the proposed act and recommends that an interim committee thoroughly study the subject after the adjournment of the 1957 general session. Such interim study should include, but not be restricted to the following topics:

1. The need or lack of need for a uniform act.
2. The protection of both boaters and nonboaters afforded by the proposed act. This includes water users other than boaters, such as swimmers, skin divers, water skiiers, surfboarders, paddleboarders, etc.
3. Emphasis on safety and not merely enforcement for the sake of enforcement.
4. The practical, sensible operation of the act.
5. The means and cost of enforcement.

CHAPTER V

THE CONTAMINATION AND POLLUTION OF HARBORS

THE AUTHORITY OF THE COMMITTEE

Assembly Concurrent Resolution No. 138, referred for study to the Assembly Interim Committee on Public Utilities and Corporations by the Assembly Rules Committee, gave this committee, in its capacity as the Assembly Interim Committee on Marine Affairs, the authority to investigate "the pollution of the bays and harbors of this State." The Legislative Counsel, in his Opinion No. 2566, dated April 30, 1956, confirmed this authority and said, in part:

> "It may be that pollution of beaches bordering on bays and harbors or other anchorage areas would affect the usefulness of those bays, harbors, and other anchorage areas for small craft operators and thus such pollution would be a matter incidental to a subject expressly referred to in this provision. To that extent, at least, investigation of the subject of pollution of beaches would be within the committee's authority."

HEARINGS ON CONTAMINATION AND POLLUTION

A subcommittee was appointed by the chairman of the committee which consisted of the chairman, the Honorable Augustus F. Hawkins, and the Honorable Charles H. Wilson. Every known and available California expert on the subjects of harbor contamination and pollution was subpenaed and examined under oath for three full days. These experts included various types of biologists, oceanographers, fish experts, health officers, engineers, public officials, and officers of organizations interested in harbors.

The subcommittee found that:

1. "Contamination" means an impairment of the quality of the waters of the State by sewage or industrial waste to a degree which creates an actual hazard to the public health through poisoning or the spread of disease, while "contamination" also means any equivalent effect resulting from the disposal of sewage or industrial waste, whether or not waters of the State are affected. Furthermore, "pollution" means an impairment of the quality of the waters of the State by sewage or industrial waste to a degree which does not create an actual hazard to public health but which does adversely and unreasonably affect such waters for domestic, industrial, agricultural, navigational, recreational, or other beneficial uses, or which adversely affect the waters and bays of the State dedicated to public recreation.

2. Sewage means any and all waste substance, liquid or solid, associated with human habitation, or which contains or may be contaminated with human or animal excreta or excrement, offal, or any feculent matter.
3. Industrial waste means any and all liquid or solid waste substance, not sewage, from any producing, manufacturing or processing operation of whatever nature.
4. Waters of the State means any waters, surface or underground, including saline waters, within the boundaries of the State as defined and described in Section 1 of Article XXI of the Constitution and as given greater precision in Sections 170, 171, and 172 of the Government Code.
5. The contamination and pollution of harbors is a state-wide and not a regional, sectional or local problem.
6. Although witnesses testified before the subcommittee from all sections of the State, the principal evidence related to the waters of Santa Monica Bay, particularly to its harbors and adjacent beaches.
7. The State of California owns about 13.6 miles of beaches along Santa Monica Bay.
8. The harbors at Redondo Beach and Playa del Rey (now called the "Marina del Rey"), which are within the Forty-sixth and Sixty-first Assembly Districts, respectively, are now being constructed with the assistance of the U. S. Government and local authorities, and are in Santa Monica Bay.
9. Expert witnesses testified that waters which are locked within a bay until violent ocean storms cause a "flushing of the bay" are technically described as "conservative waters." Witnesses referred to a report on a pollution survey of Santa Monica Bay beaches made by the Bureau of Sanitary Engineering to the California State Board of Health in 1942, which described Santa Monica Bay waters as "conservative" in accordance with the above definition.
10. Since 1894, the City of Los Angeles and other communities have deposited sewage and industrial waste in Santa Monica Bay.
11. Contamination and pollution of Santa Monica Bay have been critical at certain periods and on one occasion certain areas were quarantined, notably Manhattan Beach, which was quarantined for a period of eight years.
12. The State Water Pollution Board and Regional Water Pollution Control Board No. 4 found that beneficial uses of Santa Monica Bay include water-contact sports throughout the bay except in the immediate vicinity of a sewage waste-outfall. This committee concurs.
13. The State Water Pollution Board and various regional water pollution control boards have found that one of the beneficial uses of the waters of a bay, particularly Santa Monica Bay, is fishing, both commercial and sport. This committee concurs
14. Both commercial and sport fishing may be substantially curtailed by pollution of bay waters because adult fish tend to migrate from such waters, young fish may be killed, and feed chains for

"bethonic populations" and fish are seriously disrupted (testimony under oath of John Fitch, Dr. Carl Hubbs, Charles Towers, and Dr. Olga Hartman). There was some testimony to the contrary.

15. A health hazard exists in polluted and/or contaminated waters to persons who come in contact with these waters by immersion therein, or being sprayed by them, and to protect such persons the California State Board of Health and the various water pollution control boards have fixed bacteria standards for areas where sewage or industrial waste contamination and/or pollution may be present.
16. The maximum beneficial use of small boat harbors in California, particularly in the waters of Santa Monica Bay, the attendant recreational activities of fishing and water-contact sports, and the commercial features of such harbors, require a close and careful surveillance of the disposal of sewage and industrial waste in waters adjacent to such waters and high standards maintained for the preservation of the marine population (fish, etc.) and the protection of public health.
17. In all bodies of confined waters (conservative waters) containing small boat harbors strict standards must be established for the disposal of sewage and/or industrial waste, if any, into such waters. Witnesses testified that Santa Monica Bay is an example.
18. Some means of warning persons using water in the vicinity of a sewage and/or industrial waste outfall should be used to effectively restrict water activity in that area
19. The contamination and pollution of harbors, bays and beaches is a subject which should be studied by standing and interim committees of the Assembly, including, but not restricted to, the Committees on Fish and Game; Manufacturing, Oil, and Mining Industry; Public Health; Transportation and Commerce, and whatever Assembly committee is charged with the study of small boat harbors, such as the Assembly Committee on Public Utilities and Corporations has been charged in the past. It is urged that in all such studies the services of professionally qualified scientists be obtained.

CHAPTER VI

COASTAL HARBOR PROJECTS

THE SITUATION IN 1953

The Report of the Joint Interim Committee on Marine Affairs and Bay Area Development, 1955, did not include a priority system for small boat harbors, but on page 52, under the title "Appendix B," it gave a list of "Small Craft Harbor Projects on the California Coast," and beside certain harbors it showed either a printer's sign called the asterisk, which meant "projects examined and recommended for further study by the U. S. Army Engineers," or a printer's sign called the obelisk, which denoted "projects already undertaken or authorized by the U. S. Army Engineers," as follows:

Del Norte County:
- Crescent City Harbor †
- Klamath River *

Humboldt County:
- Trinidad Harbor *
- Freshwater Slough (Eureka)
- Eureka Boat Basin
- Eel River *
- Mattole River *
- Shelter Cove *

Mendocino County:
- Noyo Harbor †
- Arena Cove *

Sonoma County:
- Fort Ross Cove *
- Russian River *
- Bodega Bay †

Marin County:
- Tomales Bay *
- Pt. Reyes *
- Bolinas Lagoon *

San Mateo County:
Half Moon Bay †
- Ano Nuevo Bight *

Santa Cruz County:
- Santa Cruz *

Monterey County:
- Moss Landing †
- Monterey †
- Big Sur River *
- Cape San Martin *

San Luis Obispo County:
- San Simeon Bay *
- Morro Bay †
- Port San Luis (Avila) †

Santa Barbara County:
- Lompoc Landing *
- Coxo Anchorage *
- Goleta
- Santa Barbara †

Ventura County:
- Silver Strand Harbor †
- Port Hueneme *

Los Angeles County:
- Malibu Creek *
- Santa Monica *
- Playa del Rey †
- Redondo Beach †

Los Angeles-Orange Counties:
- Alamitos Bay *

Orange County:
- Newport Bay †
- Dana Point
- San Clemente

San Diego County:
- Camp Pendleton Harbor *
- Agua Hedionda Lagoon *
- Mission Bay †
- San Diego (Shelter Island) *
- Glorietta Bay *
- National City-Chula Vista *

THE CORPS OF ENGINEERS 1957 REPORT

In a letter dated January 2, 1957, signed by Brigadier General William F. Cassidy, U. S. Army, Division Engineer, South Pacific Division, Corps of Engineers, his file number SPDGP 800.921 (General), he wrote to the chairman of this committee in part as follows:

"From the data shown in the enclosed report, it would appear that you are interested in both authorized projects and those in the report stage and not yet authorized by Congress. Of those projects in the report stage, and for which the reports have not been completed, information cannot be given at this time as to the probable recommendations of the Corps of Engineers.

"The following paragraphs will discuss each Corps of Engineers' harbor in turn from north to south followed by the inland harbors on the San Francisco Bay system. Where no changes have occurred since the 1955 Report, that harbor or site of proposed harbor will be so noted and no data given. All costs given are for new construction exclusive of maintenance."

1955 HARBOR DESCRIPTIONS PLUS 1957 CORPS OF ENGINEERS' COMMENTS

The following coastal harbor descriptions are first given substantially as they appeared in the 1955 *Report of the Joint Interim Committee on Marine Affairs and Bay Area Development*, but modified by the Assembly Committee on Marine Affairs to bring the descriptions up to date according to information obtained by the committee in visiting harbors, reports from the State Lands Commission, and other reliable sources. Comments by the Corps of Engineers in the January 2, 1957, letter mentioned above, are set in bold face type. In the detailed description of a harbor, opposite the words "By whom recommended," the words "Army Engineers" means the U. S. Army Corps of Engineers, and usually means that the harbor is in a "survey report stage" by the Corps of Engineers.

The Assembly Interim Committee on Marine Affairs cautions the readers of this report that detailed descriptions of harbors are subject to change and should be verified by writing to the authorities charged with responsibility for harbor development.

When the U. S. Corps of Engineers uses the phrase "survey report stage," it means that preliminary examination of the known harbor conditions has been made and a survey report has been authorized, but funds are not currently authorized by Congress.

In addition to harbors described in the 1955 report, and new harbors included in this current report on the recommendation of the U. S. Corps of Engineers, we have inserted descriptions of some harbors which were not in the 1955 report, and on which we have received no comment from the U. S. Corps of Engineers. Furthermore, we have not included descriptions of harbors for which local organizations have not requested examination by our committee, such as the harbors at Santa Catalina Island and Portugese Bend.

CRESCENT CITY

Location—18 miles south of Chetco Cove, Oregon; 60 miles north of Humboldt Bay entrance; in Del Norte County.

General description—Commercial, fishing and pleasure harbor.

Existing facilities—4,000-foot breakwater to protect west and northwest. Inner harbor provided by V-shaped breakwater with southerly protection; three piers, handling fish, lumber, and oil.

By whom built—U. S. Army Engineer breakwater, one pier city-owned, two docks privately owned; total cost of improvements to date nearly six million dollars.

Desired facilities—Development of marina, floats and moorings.
By whom recommended—Harbor Commission and Chamber of Commerce.
Specific plan prepared—Yes.
Estimated cost—$750,000.
Present major uses—Commercial fishing, oil and lumber, sport fishing
Additional uses in view—Recreational.
Present sheltered area—About 160 acres partially; about 25 acres fully.
Additional area proposed—15 acres fully protected for small craft.
Communities to be served—Del Norte County, parts of southern Oregon.
Administration or sponsorship—Harbor Commission.

1957 Corps of Engineers Report:

Authorized project.
Costs: to June 30, 1956—$5,059,053.
Total estimated cost—$6,697,000.
Other items no change. Costs given for new construction only.

KLAMATH RIVER

Location—14 miles south of Crescent City, 48 miles north of Humboldt Bay.
General description—Mouth of Klamath River without a fixed channel; subject to winter floods.
Existing facilities—None.
Desired facilities—North and south jetties Dredging in entrance channel and interior basin.
By whom recommended—Klamath Chamber of Commerce; U S. Corps of Engineers; and State Lands Commission (for study as a harbor of refuge).
Specific plan prepared—None.
Present major uses—Sport fishing.
Additional uses in view—Harbor of refuge.
Present sheltered area—None.
Additional area proposed—Boat basin and marina facilities.
Communities to be served—Northern California.

1957 Corps of Engineers Report:

In survey report stage.
Desired facilities: north and south jetties and dredging in entrance channel and interior basin.

TRINIDAD HARBOR

Location—44 miles south of Crescent City, 18 miles north of Humboldt Bay.
General description—Small boat cove sheltered from the north by Trinidad Head.
Existing facilities—Hallmark pier open to public use, with hoist and floats.
By whom built—Private company.
Desired facilities—Breakwater.
By whom recommended—U S. Engineers, for further study as harbor of refuge; and by State Lands Commission for same.
Specific plan prepared—None.
Present major uses—Commercial and sport fishing.
Additional uses in view—All-year harbor of refuge and fishing center.
Present sheltered area—About 150 acres partially sheltered.
Additional area proposed—Same area fully sheltered.
Communities to be served—All Northern California.
Administration or sponsorship—Mayor and City Council of Trinidad, Trinidad Chamber of Commerce.

1957 Corps of Engineers Report:

In survey report stage.
No change.

HUMBOLDT BAY HARBOR

1957 Corps of Engineers Report:

Authorized project.
Location: 228 miles north of San Francisco Bay and 60 miles south of Crescent City Harbor.

General description: a deep craft commercial harbor with commercial fishing and small-craft facilities.
Existing facilities: protected entrance; navigation channels; shipping facilities at Eureka, Samoa, and Fields Landing; and small-craft facilities at Freshwater Slough, Eureka, and Buhne Point.
By whom built: jetties and channels by Corps of Engineers.
Desired facilities: greater depth in navigation channels and anchorage basin.
Specific plan prepared: existing project complete. Desired improvements in the report stage with no specific plan prepared.
Cost: to June 30, 1956—$5,640,076.
Present major uses: lumber, oil, commercial fishing, general commerce and recreational.
Communities served: all Northern California.

FRESHWATER SLOUGH, IN HUMBOLDT BAY

Location—West of U. S. Highway 101 at north limits of Eureka, Humboldt County.
General description—A tideflat area adjacent to a fresh water channel in the northeast part of Humboldt Bay.
Existing facilities—Small landing float.
Desired facilities—Dredging and construction of slips and other small boat harbor facilities, total area about 23 acres.
By whom recommended—Private interests, to City of Eureka for acquisition.
Specific plan prepared—None.
Present major uses—Landing of small pleasure craft.
Additional uses in view—All uses incidental to small craft harbor.
Administration or sponsorship—If acquired by the City of Eureka this site would be developed for lease to private operators for moorings, marine railway, and other facilities.

1957 Corps of Engineers Report:

No change.

EUREKA BOAT BASIN

Location—Near business district of Eureka on Humboldt Bay, Humboldt County.
Existing facilities—Mooring floats and a launching ramp.
Desired facilities—Dredged area for additional floats, and acquisition of adjacent property for on-shore facilities.
By whom recommended—City of Eureka.
Specific plan prepared—Yes, in part.
Present major uses—Moorings for commercial fishing boats and pleasure craft
Additional uses in view—Enlargement of present uses, and possible diversion of pleasure craft to a separate small craft harbor as described above.
Communities to be served—Eureka and adjacent communities.
Administration or sponsorship—City of Eureka.
(NOTE: The municipal boat basin project has been financed by city bond issue approved by popular vote.)

1957 Corps of Engineers Report:

No change.

KING SALMON RESORT

1957 Corps of Engineers Report:

Location: at Buhne Point 0.8 mile north of Fields Landing, Humboldt Bay, Humboldt County.
Existing facilities: dredged entrance channel and four mooring channels, mooring floats.
Specific plan prepared: private facility.
Present major uses: commercial and sport fishing craft and recreational craft.
Communities served: Eureka and adjacent communities.
Administration: private.

EEL RIVER

Location—Nine miles south of Humboldt Bay, Humboldt County.
General description—Low sandy river mouth with extensive tideflats
Existing facilities—None; no safe navigable entrance channel.

Desired facilities—Dredged entrance channel, jetties, and inside area dredged for boat basins.
By whom recommended—By U. S. Army Engineers and by State Lands Commission, as harbor of refuge
Specific plan prepared—None
Present major uses—Considerable fishing in small craft inside the river.
Additional uses in view—Harbor of refuge as an alternative to Humboldt Bay; moorings for commercial and pleasure boats.
Communities to be served—Ferndale and neighboring communities.
Administration or sponsorship—Ferndale Chamber of Commerce and sportsmen's groups.

1957 Corps of Engineers Report:

In survey report stage.
No change.

MATTOLE RIVER

Location—10 miles south of Cape Mendocino, Humboldt County.
General description—Landlocked lagoon at the mouth of the Mattole River.
Existing facilities—None.
Desired facilities—Jetties and dredged entrance channel.
By whom recommended—By U. S. Engineers and by State Lands Commission, for study as a harbor of refuge.
Specific plan prepared—None.
Present major uses—Not accessible from the sea
Additional uses in view—Harbor of refuge and small boat moorings.
Communities to be served—Humboldt County and adjacent areas.
Administration or sponsorship—No information on this project has been received from any local sources.
(NOTE: This harbor site is not presently accessible by highway.)

1957 Corps of Engineers Report:

In survey report stage.
No change.

SHELTER COVE, POINT DELGADO

Location—39 miles north of Noyo, 54 miles south of Humboldt Bay, Humboldt County.
General description—A cove offering fair protection from northwesterly winds, open to westerly and southwesterly.
Existing facilities—High-tide landing ramp, restaurant, cottages, county airstrip
By whom built—Private interests.
Desired facilities—Breakwater.
By whom recommended—U. S. Engineers, and by State Lands Commission, for study as a harbor of refuge.
Specific plan prepared—None.
Present major uses—Sport fishing; commercial fishing anchorage.
Additional uses in view—All-year harbor of refuge and fishing center.
Present sheltered area—About 50 acres partially sheltered.
Additional area proposed—Same area fully sheltered
Communities to be served—Garberville and other interior points.
Administration or sponsorship—Private owners.

1957 Corps of Engineers Report:

In survey report stage.
No change.

NOYO HARBOR (FORT BRAGG)

Location—89 miles south of Humboldt Bay—133 miles north of San Francisco Bay entrance, Mendocino County.
General description—A natural cove at mouth of Noyo River fully open to west. Fishing port, Coast Guard Station, and sport fishing center.
Existing facilities—Jetties at mouth of river, dredged channel, fish piers, boat rental floats.
By whom built—U S Army Engineers.
Desired facilities—Breakwater, mooring basin, completion of dredging.

By whom recommended—U. S Army Engineers (breakwater authorized).
Specific plan prepared—Yes.
Estimated cost—South breakwater $600,000 (1940 estimate); upstream dredging $190,000 (1948 estimate).
Present major uses—Commercial and sport fishing.
Additional uses in view—Harbor of refuge and expansion of present uses.
Present sheltered area—About 10 acres.
Additional area proposed—Sheltered area in outer cove and boat basin in the river.
Communities to be served—Fort Bragg, Northern California sportsmen.
Administration or sponsorship—Noyo Harbor Commission.

1957 Corps of Engineers Report:

Authorized project.
Authorized facilities not constructed: breakwater and extended channel dredging.
Additional desired facilities: mooring basin in survey report stage.
Costs: To June 30, 1956—$215,000.
Estimated cost for authorized project: $2,627,000.
No other changes.
Notice: State Lands Commission concurs in comments by Corps of Engineers.

ARENA COVE

Location—Point Arena, Mendocino County.
General description—Open cove suitable for small craft and fishing boats.
Existing facilities—Pier.
By whom built—Private interests.
Desired facilities—Breakwater.
By whom recommended—U. S. Engineers and by State Lands Commission, for study as a harbor of refuge.
Present major uses—Commercial fish landing and sport fishing.
Additional uses in view—Harbor of refuge.
Present sheltered area—Extensive partially sheltered area.
Additional area proposed—Same area fully sheltered
Communities to be served—Point Arena and nearby communities.

1957 Corps of Engineers Report:

In survey report stage.
No change.

FORT ROSS COVE

Location—19 miles north of Bodega Bay, at Fort Ross; Sonoma County.
General description—A cove about one-half by one-quarter mile facing south, sheltered only from northerly winds.
Existing facilities—None.
Desired facilities—A breakwater would be the only possible improvement.
By whom recommended—By U. S. Army Engineers and by State Lands Commission, for study as a harbor of refuge
Specific plan prepared—None.
Present major uses—Anchorage for fishing boats.
Additional uses in view—No report on this project has been received from local sources.
Administration or sponsorship—None reported.

1957 Corps of Engineers Report:

In survey report stage.
No change.

RUSSIAN RIVER

Location—Mouth of Russian River at Jenner, about 12 miles north of Bodega Bay; Sonoma County.
General description—Low sandy river mouth.
Existing facilities—None.
Desired facilities—North and south jetties and dredging in entrance channel.
By whom recommended—U. S. Engineers and by State Lands Commission, for study as a harbor of refuge.

Specific plan prepared—None.
Present major uses—Beach fishing and small boat fishing inside river mouth. The Russian River is a recreational area for many miles upstream.
Present sheltered area—No shelter outside river mouth and no navigable entrance channel.
Administration or sponsorship—None reported.

1957 Corps of Engineers Report:

In survey report stage.
Desired facilities: north and south jetties and dredging in entrance channel.
No other changes.

BODEGA HARBOR

Location—42 miles north of San Francisco Bay entrance; Sonoma County.
General description—Triangular landlocked lagoon about two miles long and one and one-half miles wide in north end of Bodega Bay.
Existing facilities—Entrance jetties and dredged channel.
By whom built—U. S. Army Engineers; additional dredging by local interests.
Desired facilities—Enlargement of dredged area.
By whom recommended—Sonoma County
Specific plan prepared—Yes, by County Planning Commission.
Present major uses—Anchorage and landing point for commercial fishing boats; base for charter fishing boats.
Additional uses in view—Enlarged sheltered area and moorings for commercial and pleasure craft.
Present sheltered area—Limited to dredged channel.
Additional area proposed—Ultimately entire area of lagoon.
Administration or sponsorship—None reported.
Communities to be served—All of Sonoma County and adjacent areas.

1957 Corps of Engineers Report:

Completed project.
Desired facilities: none requested.
Costs: to June 30, 1956—$641,800.

TOMALES BAY

Location—Adjoining south end of Bodega Bay; Marin County.
General description—A landlocked bay about 12 miles long and one mile wide extending from northwest to southeast.
Existing facilities—Pier and boat moorings at Inverness; no entrance channel to Bodega Bay safe for navigation.
Desired facilities—Dredged entrance channel and some dredging inside; complete facilities for use of entire bay by all types of small craft.
By whom recommended—Tomales Bay is a project of the Marin County Planning Commission; it is also a recommended project for further study by the U. S. Army Engineers
Specific plans prepared—Yes.
Communities to be served—All of Marin and adjacent counties.
Administration or sponsorship—Marin County Planning Commission
Comment by Division of Beaches and Parks: Tomales Bay State Park—The Division of Beaches and Parks ownership is primarily land for picnic use and development with no primary control or interest in the waters of Tomales Bay.

1957 Corps of Engineers Report:

In survey report stage.
Desired facilities: add a single entrance jetty.
No other changes.

POINT REYES COVE (DRAKE'S BAY)

Location—21 miles north of San Francisco Bay entrance; Marin County.
General description—A small cove formed by the eastern projection of Point Reyes, protected from the north and west, and partially protected from the south.
Existing facilities—None.
Desired facilities—Breakwater in vicinity of Chimney Rock.

By whom recommended—By U. S. Army Engineers for further study as an improved harbor of refuge.
Specific plan prepared—None.
Present major uses—Shelter for all types of small craft.
Additional uses in view—Extension of sheltered mooring area.
Communities to be served—Marin County and adjacent counties.
Administration or sponsorship—No detailed report on this project has been received from local sources.

1957 Corps of Engineers Report:

In survey report stage.
No change.

BOLINAS LAGOON

Location—In the head of Bolinas Bay, 10 miles north of San Francisco Bay entrance; Marin County.
General description—A landlocked triangular lagoon about three miles long by one mile wide, consisting mostly of tideflats.
Existing facilities—None
Desired facilities—Dredged entrance channel, jetties, and inside area dredged to form boat basin and anchorage
By whom recommended—By U. S. Army Engineers and by State Lands Commission, for study as a harbor of refuge.
Specific plan prepared—None.
Present major uses—Very limited due to lack of depth.
Additional uses in view—All uses incidental to small craft harbor.
Communities to be served—Marin County, San Francisco, and adjacent counties.
Administration or sponsorship—Bolinas Harbor District.

1957 Corps of Engineers Report:

In survey report stage.
No change.

HALF MOON BAY (PILLAR POINT)

Location—19 miles south of San Francisco Bay entrance; San Mateo County.
General description—Bight south of Pillar Point sheltered from northerly winds.
Existing facilities—Three private piers at Princeton.
By whom built—Private interests.
Desired facilities—Two breakwaters, each about 4,400 feet long.
By whom recommended—U. S Army Engineers—authorized project.
Specific plan prepared—Yes.
Estimated cost—$7,800,000 (1956 estimate).
Present major uses—Commercial and sport fishing; fish packing.
Additional uses in view—Harbor of refuge and expanded commercial fishing.
Present sheltered area—Small anchorage area partially sheltered.
Additional area proposed—Over 300 acres behind the breakwaters.
Communities to be served—All of San Mateo County and adjacent counties.
Administration or sponshorship—Port district.

1957 Corps of Engineers Report:

Authorized but construction not started.
Estimated cost: $7,800,000 (1956 estimate).
No other change.

ANO NUEVO BIGHT

Location—43 miles south of San Francisco Bay; 19½ miles north of Santa Cruz; San Mateo County.
General description—An open bight sheltered from northerly winds.
Existing facilities—None.
By whom built—
Desired facilities—Breakwater.
By whom recommended—U. S Army Engineers.
Specific plan prepared—None.
Estimated cost—
Present major uses—Occasional anchorage for fishing boats.
Additional uses in view—Safe refuge.

1957 Corps of Engineers Report:

In survey report stage.
No change.

SANTA CRUZ SMALL BOAT HARBOR

Location—Santa Cruz, 63 miles south of San Francisco Bay; Santa Cruz County
General description—Small boat harbor in center of city, in present Woods Lagoon.
Existing facilities—City pier in exposed harbor.
By whom built—Private interests
Desired facilities—Jetties and dredged inner harbor.
By whom recommended—U. S. Engineers and by State Lands Commission, for study as a harbor of refuge.
Specific plan prepared—None.
Present major uses—Commercial, sport fishing, and pleasure craft—summer season only.
Additional uses in view—Year-round present uses; harbor of refuge; small boat moorings; marine park.
Present sheltered area—None.
Communities to be served—Santa Cruz area, San Jose, and San Joaquin Valley.
Administration or sponsorship—Port district.
Comment by Division of Beaches and Parks: Santa Cruz Small Boat Harbor—The land is owned by the State and under control of the Division of Beaches and Parks and designated as Twin Lakes Beach State Park

1957 Corps of Engineers Report:

In survey report stage.
No change.

MOSS LANDING HARBOR

Location—73 miles south of San Francisco Bay—13 miles north of Monterey Harbor; Monterey County.
General description—A fishing, pleasure craft and commercial harbor Canning facilities.
Existing facilities—Jetties, 200-foot dredged entrance and 100-foot-wide dredged inner channel all to 15 feet.
By whom built—U. S. Army Engineers.
Desired facilities—Additional interior harbor dredging, in survey report stage by Army Engineers
By whom recommended—Elkhorn Yacht Club and U. S Engineers
Specific plan prepared—Work completed.
Estimated cost—$100,000—Sold bonds.
Present major uses—Commercial and sports fishing; commercial shipments of oil.
Additional uses in view—None at present
Present sheltered area—600 feet wide by 3,000 feet long
Additional area proposed—None at present
Communities to be served—Watsonville, Salinas, and vicinity
Administration or sponsorship—Port district.

1957 Corps of Engineers Report:

Authorized project.
Desired facilities: additional interior harbor dredging. In survey report stage.
Cost: to June 30, 1956—$338,215.

MONTEREY HARBOR

Location—80 miles south of San Francisco Bay; Monterey County.
General description—A U-shaped cove, open to the east, sheltered from all but strong northerly winds.
Existing facilities—A 1,700-foot breakwater on the north; two municipal piers; two launching ramps for small boats.
By whom built—U. S. Army Engineers and City of Monterey.
Desired facilities—A 1,600-foot extension of existing breakwater; a 2,150-foot companion breakwater from southeast to northwest, with 400-foot entrance between breakwaters; 10 acres of berths for small craft in protected area between piers.

By whom recommended—U. S. Army Engineers and City of Monterey.
Specific plan prepared—Yes.
Estimated cost—$6,605,000 for breakwaters. City Engineer estimates saving of 2 million dollars if local material is used.
Present major uses—Basing point for commercial fishing boats, anchorage for small pleasure craft.
Additional uses in view—Berths and additional anchorage for pleasure craft
Present sheltered area—About 50 acres fairly well sheltered except for surge and northerly winds.
Additional area proposed—Second breakwater would triple present area.
Communities to be served—Monterey and adjacent counties.
Administration or sponsorship—City Council of Monterey.

1957 Corps of Engineers Report:

Authorized project.
Cost: to June 30, 1956—$698,741.
Desired improvement in survey report stage—estimated cost not determined.
No other changes.

BIG SUR RIVER

Location—Below Point Sur, about 20 miles south of Monterey; Monterey County.
General description—An undeveloped river mouth.
Existing facilities—None.
Desired facilities—*No information has been received from local sources on this project.*
By whom recommended—U. S. Engineers and by State Lands Commission, for study as a harbor of refuge.
Specific plan prepared—No.
Administration or sponsorship—Not reported.

1957 Corps of Engineers Report:

In survey report stage.
No change.

CAPE SAN MARTIN

Location—About 35 miles southeast of Point Sur; Monterey County.
Existing facilities—None.
Desired facilities—*No information has been received from local sources on this project.*
By whom recommended—U. S. Army Engineers and by State Lands Commission, for study as a harbor of refuge.
Specific plan prepared—None.
Administration or sponsorship—None reported.

1957 Corps of Engineers Report:

In survey report stage.
No change.

SAN SIMEON BAY

Location—About 25 miles northwest of Morro Bay; San Luis Obispo County.
General description—A partially sheltered bay formed by a low wooded point extending about one-half mile southwesterly from the shore.
Existing facilities—None; a former wharf in the bay has been removed.
Desired facilities—A small wharf for landing boats; eventually a breakwater to provide additional shelter.
By whom recommended—U. S. Army Engineers and by State Lands Commission, for study as a harbor of refuge.
Specific plan prepared—None.
Present major uses—Anchorage for fishing boats and pleasure craft; a county park has been established in the eastern beach area of the bay.
Additional uses in view—Moorings for small craft and facilities for launching and landing boats.
Present sheltered area—Approximately 1,000 by 2,000 feet partially sheltered.
Additional area proposed—Same area fully sheltered by breakwater.
Communities to be served—San Luis Obispo and adjoining counties including San Joaquin Valley communities.

Administration or sponsorship—County board of supervisors.
(NOTE: This is the most sheltered natural bay between Morro Bay and Monterey Harbor. It is adjacent to the site of the new state park being acquired from the Hearst estate.)
(The U. S. Army Engineers also recommended Cambria for further study as an alternative harbor site, but no report on it has been received from local sources.)

1957 Corps of Engineers Report:

In survey report stage.
No change.

CAMBRIA

1957 Corps of Engineers Report:

In survey report stage as an alternative harbor to San Simeon Bay.
Location: 21 miles northwest of Morro Bay, San Luis Obispo County.
General description: the undeveloped outlet of Santa Rosa Creek.
Existing facilities: none.
Desired facilities: entrance jetties, interior channel, and creek diversion channel.
By whom desired: Cambria Chamber of Commerce, San Luis Obispo County, and local fishermen. Survey recommended by Corps of Engineers.
Specific plan prepared: none.
Communities to be served: Cambria, San Luis Obispo and adjoining counties.

MORRO BAY HARBOR

Location—222 miles south of San Francisco, 245 miles north of Los Angeles.
General description—A landlocked bay in the southeast part of Estero Bay.
Existing facilities—North and south breakwaters, channel dredged to 16 feet and revetment wall inside harbor; county wharf; moorings.
By whom built—U. S. Army Engineers; funds contributed by Department of the Navy; small boat moorings by State Park Commission.
Desired facilities—Extend dredging area inside channel
By whom recommended—U. S. Army Engineers and port district.
Specific plan prepared—Yes.
Present major uses—Sport and commercial fishing.
Additional uses in view—Enlarged area in bay for similar uses.
Present sheltered area—Small, due to silting of channel.
Additional area proposed—Large area of south bay.
Communities to be served—San Luis Obispo County and Central Valley.
Administration or sponsorship—Port district.

1957 Corps of Engineers Report:

Completed project.
Desired facilities: maintain project, extend north breakwater and interior dredging.
By whom recommended: State of California, Division of Beaches and Parks; Morro Bay Chamber of Commerce.
Costs: to June 30, 1956—$2,612,093.
Not estimated for desired improvements.
No other changes.

PORT SAN LUIS (SAN LUIS OBISPO HARBOR)

Location—Avila, seven miles southwest of San Luis Obispo.
General description—A bight three miles east and west by one mile north south opening to the ocean on the south.
Existing facilities—1820-foot breakwater running southwest from Point San Luis—three piers; Union Oil, County wharf and Port San Luis wharf.
By whom built—Breakwater by U. S. Army Engineers; piers by private and local public interests.
Desired facilities—Additional dredging and breakwater as well as docking facilities.
By whom recommended—Port San Luis Port District.
Specific plan prepared—Yes.
Present major uses—Commercial fishing, oil, sport fishing.
Additional uses in view—Expansion of present uses, boat storage and development of shore facilities.

Communities to be served—San Luis Obispo County and San Joaquin Valley.
Administration or sponsorship—San Luis Port District.

1957 Corps of Engineers Report:

Completed project—survey report authorized for desired facilities.
Costs: to June 30, 1956—$568,417.
No other changes.

LOMPOC LANDING

Location—About seven miles north of Pt. Arguello; Santa Barbara County.
Existing facilities—A former Marine Corps base
Desired facilities—Harbor of refuge; no information received from local sources.
By whom recommended—U. S. Army Engineers and State Lands Commission, for study as a harbor of refuge; sponsored by Lompoc Chamber of Commerce.
Specific plan prepared—None.
Cost estimate—None.
Administration or sponsorship—None reported.
(NOTE: Examination of this site for a possible harbor of refuge was recommended because of the long distance from Port San Luis to Santa Barbara around Point Conception, with no other harbors established in the area. No local sponsorship has been reported in connection with the present Interim Committee study.)

1957 Corps of Engineers Report:

In survey report stage.
By whom requested: Lompoc Valley Chamber of Commerce.
No other changes.

COXO ANCHORAGE

Location—About 1½ miles east of Point Conception; Santa Barbara County.
Description—An open bight formed by Government Point, which extends about one-fourth mile into the ocean, affording shelter from northerly winds.
Existing facilities—None
Desired facilities—No report on this project has been received from any local sources.
By whom recommended—U. S Army Engineers and State Lands Commission, for study as a harbor of refuge.
Specific plan prepared—None.
Cost estimate—None.
Present major uses—Emergency anchorage for fishing boats and other craft.
Present sheltered area—About 2,000 by 1,000 feet partially sheltered
Administration or sponsorship—None reported.
(NOTE: This site, like Lompoc Landing described above, was recommended for further study because of the absence of any sheltered harbor in the 90-mile length of coast from Avila to Santa Barbara, which includes the exceptionally stormy area of Pt. Conception.)
Administration or sponsorship—None reported.

1957 Corps of Engineers Report:

In survey report stage.
No change.

GOLETA HARBOR

Location—10 miles north of Santa Barbara; Santa Barbara County.
General description—A large lagoon and marsh adjacent to Santa Barbara Airport and University of California campus.
Existing facilities—None.
Desired facilities—Jetties and dredged harbor for small craft.
By whom recommended—Goleta Chamber of Commerce and member of board of supervisors; also various private groups.
Specific plan prepared—Not in detail.
Communities to be served—Santa Barbara and adjacent counties.
(NOTE: This project has not yet been studied by the U S Army Engineers. A review of the harbor site was made by the State Lands Division.)

1957 Corps of Engineers Report:

No comment made in letter.

SANTA BARBARA HARBOR

Location—82 miles northwest of Los Angeles Harbor; Santa Barbara County.
General description—A developed harbor, without natural protection.
Existing facilities—Breakwater, commercial wharf, Navy pier, moorings for 375 small craft in protected anchorage.
By whom built—City of Santa Barbara and private interests, U. S. Navy.
Desired facilities—Extension of existing breakwater, additional breakwater from east side of harbor, bulkhead and jetty.
By whom recommended—U. S. Army Engineers and City of Santa Barbara
Maintained by City of Santa Barbara and Federal Government Annual cost of dredging, approximately $100,000 on a 70 percent to 30 percent basis in the previous mentioned order.
Estimated cost—Total cost, $6,053,000; federal, $2,330,000 (1948 estimate).
Present major uses—Pleasure craft, commercial fishing, Navy. Oil exploration ships, Coast Guard
Additional uses in view—Moorings at floats for 675 boats, additional protected anchorage area.
Present sheltered area—32 acres, plus 52 acres partially sheltered.
Additional area proposed—50 acres or more, according to location of breakwater and jetty.
Communities to be served—All of Santa Barbara County and nearby communities in San Joaquin Valley.
Administration or sponsorship—Harbor Commission of the City of Santa Barbara.
(NOTE Santa Barbara and Goleta are the nearest coastal points from the Channel Islands.) Only protected harbor between Oxnard and Morro Bay

1957 Corps of Engineers Report:

In survey report stage but includes preliminary examinations at two alternative sites.
No change.

VENTURA HARBOR

Location—Pierpont Bay, City of Ventura, 28 miles from Santa Barbara, 50 miles from Santa Monica.
General description—Dredged harbor with fill material proposed to go to the State Highway Department for new freeway less than one-quarter mile away Entrance protected by rock jetties.
Existing facilities—None.
Desired facilities—Engineering plans call for moorings for 1,000 boats, launching facilities for 2,000 outboard motor boats on any single day, storage for 500 outboard motor boats, docking facilities for offshore oil exploration and drilling personnel and supplies, gasoline docks, marine railways and repair facilities for boats up to 100 feet.
By whom recommended—Ventura Port District, Ventura Board of Supervisors
Specific plan prepared—Yes.
Estimated cost—$4,000,000.
Additional uses in view—Harbor of refuge, offshore oil exploration and drilling personnel and supply center, repair facilities for boats up to 100 feet, mooring for 1,000 boats, launching facilities for 2,000 outboard motor boats, gasoline and supply docks, recreational facilities; one mile of sandy beach.
Communities to be served—All of Ventura County, San Fernando Valley, Antelope Valley, Bakersfield and Taft.
Administration or sponsorship—Ventura Port District.
Notice: This harbor was not described in the 1955 Report of the Joint Interim Committee on Marine Affairs and Bay Area Development. No comments from the Corps of Engineers are in the possession of the present committee.

1957 Corps of Engineers Report:

In survey report stage but includes preliminary examinations at two alternative sites.
No change.

SILVER STRAND HARBOR

Location—One mile north of Port Hueneme; Ventura County, eight miles south of Ventura.
General description—A new sand dredging basin established by the Navy to provide replacement sand for beach erosion south of Port Hueneme Harbor.
Existing facilities—None.
Desired facilities—Breakwater, jetties, and dredged boat basin. See Corps of Engineers report below.
Specific plan prepared—Yes.
Estimated cost—See Corps of Engineers report below.
Present major uses—None.
Additional uses in view—To replace Port Hueneme as a harbor of refuge and mooring basin for fishing and pleasure craft.
Present sheltered area—None.
Additional area proposed—Will depend on extent of dredging as determined in final plans.
Communities to be served—Ventura County and adjacent inland areas
Administration or sponsorship—Ventura County Board of Supervisors.
(NOTE: This project is one of the nearest points to the Channel Islands.)

1957 Corps of Engineers Report:

Authorized project, construction not commenced. Survey authorized for additional dredging.
General description: a combined navigation and shore protection project by Corps of Engineers to provide a harbor for small craft and facilities for correcting the erosion problem down-coast from Port Hueneme.
Estimated cost: authorized project—$6,970,000 federal, $2,040,000 local (1956 basis).
No other change.

PORT HUENEME

Location—Nine miles south of Ventura; Ventura County.
Description—A Navy harbor, with permitted uses by commercial and pleasure craft on a limited basis.
Existing facilities—Jetties and dredged basin; Navy piers and one port district pier.
Desired facilities—Navy requirements make it impracticable to extend the use of this harbor by private small craft.
Present major uses—Naval operations, general commerce, and commercial fishing.
Additional uses in view—None.
Administration or sponsorship—U. S. Navy and local port district.
(NOTE: Silver Strand Harbor, described above, is intended to replace Port Hueneme as a facility for commercial fishing and pleasure craft for all of Ventura County.)

1957 Corps of Engineers Report:

No change.

MALIBU CREEK

Location—About eight miles northwest of Santa Monica Harbor; Los Angeles County.
General description—An open bight sheltered from the north by Malibu Point. It is commonly known as Keller's Shelter.
Existing facilities—Private pier.
Desired facilities—No report on this project has been received from any local sources.
By whom recommended—By U. S. Army Engineers for further study as a possible harbor of refuge.
Specific plan prepared—None.
Present major uses—Anchorage for sport fishing boats.
Additional uses in view—Protected small craft harbor.
Present sheltered area—Small anchorage sheltered from north and partially from west.
Communities to be served—Malibu and adjacent communities.
Administration or sponsorship—Not reported.

1957 Corps of Engineers Report:

In survey report stage.
No change.

SANTA MONICA HARBOR

Location—Santa Monica, 26 miles northwest of Los Angeles Harbor; in Los Angeles County.
General description—A partially protected small craft harbor of limited extent off the beach.
Existing facilities—Breakwater parallel to the beach, and a pier.
Desired facilities—Extension of breakwater to enclose larger anchorage area affording all-weather security.
By whom recommended—By U. S. Army Engineers for further study.
Present major uses—Sport fishing and anchorage for pleasure craft.
Additional uses in view—Expansion of the same uses.
Present sheltered area—About 2,000 by 1,000 feet.
Additional area proposed—Depending on size of breakwater.
Communities to be served—All of Los Angeles County.
Administration or sponsorship—Not reported.

1957 Corps of Engineers Report:

Preliminary examination authorized.
No change.

PLAYA DEL REY HARBOR

Location—3½ miles south of Santa Monica, Santa Monica Bay, Los Angeles County.
General description—1,800 acres of marsh land adjacent to beach.
Existing facilities—None.
Desired facilities—1,000 acres developed, facilities for 8,000 small craft; two jetties, 2,300 feet long, entrance channel 1,925 feet long.
By whom recommended—Los Angeles County, City of Los Angeles, and U. S Army Engineers.
Specific plan prepared—Yes.
Estimated cost—Corps of Engineers report below.
Harbor Financing—The people of Los Angeles County voted on and approved issuance of revenue bonds for the construction of the harbor.
Additional uses in view—Moorings for 8,000 small craft, creation of employment, and general recreational area for Los Angeles County residents.
Present sheltered area—None.
Additional area proposed—1,000 acres.
Communities to be served—All of Los Angeles County and adjacent counties.
Administration or sponsorship—County of Los Angeles, City of Los Angeles, State Division of Beaches and Parks

1957 Corps of Engineers Report:

Authorized, not under construction.
Desired facilities: 1,000 acres developed; two jetties, 2,000 feet long; entrance channel, main channel, and eight side basins; capacity 6,200 boats at slips and 2,000 trailer-mounted craft.
Estimated cost: federal $3,025,000, nonfederal $18,175,000 (1956 estimate).
Additional uses in view: a general recreational area for Los Angeles County.
No other changes.

REDONDO BEACH HARBOR

Location—Part of Santa Monica Bay, 11 miles southeast of Santa Monica Harbor.
General description—Small pleasure craft anchorage and beach recreation area.
Existing facilities—A private finger pier, a city owned horse-shoe pier and a breakwater under construction offering anchorage for approximately 1,200 pleasure craft.
Desired facilities—Automobile parking and other shoreline beach facilities including dredging, piers, etc. (1957 report from Redondo Beach)
By whom recommended—City of Redondo Beach and U S. Army Engineers
Specific plans prepared—Breakwater only.
Estimated cost—Federal, $4,832,000, local, $2,250,000. (Redondo Beach 1957 report)
Present major uses—Sport fishing, pleasure craft activities.
Additional uses in view—Increased beach area, bathing, fishing and boating facilities.
Present sheltered area—Restricted because of breakwater construction activities.

Communities to be served—City of Redondo Beach and City and County of Los Angeles.
Administration or sponsorship—City of Redondo Beach.

1957 Corps of Engineers Report:

Authorized and under construction.
Costs: to June 30, 1956—$280,834.
Estimated cost: Federal $5,630,000, nonfederal $2,030,000 (1956 estimate).
No other changes.

ALAMITOS BAY

Location—On the east city line of Long Beach bordering on the city limits of Seal Beach. About three miles northeast of the end of the Long Beach breakwater, on the boundary between Los Angeles and Orange Counties
General description—Small craft harbor, separated from ocean by sandspit, controlling depth in entrance channel two feet at low water.
Existing facilities—Jetties and about 130 acres of harbor at mean tide. Three public and several private piers in the bay. Some protection is afforded entrance by Long Beach breakwater
Desired facilities—Constructed by City of Long Beach.
By whom recommended—Los Angeles County.
Specific plan prepared—Yes.
Present major uses—Recreation.
Additional uses in view—Increased recreational and sport use
Present sheltered area—About 130 acres.
Communities to be served—Southeastern Los Angeles and Orange Counties and adjacent areas.
Administration or sponsorship—Board of supervisors.

1957 Corps of Engineers Report:

Constructed by City of Long Beach. Apparently some changes are required but data are not available at this office.

NEWPORT BAY HARBOR

Location—20 miles southeast of Los Angeles Harbor, 67 miles northwest of San Diego Bay entrance.
General description—The largest pleasure craft and small boat harbor in Southern California
Existing facilities—Jetties, 20-foot deep entrance channel, numerous wharves both public and private. Mooring area for 3,082 pleasure and fishing craft.
By whom built—Local interests and U. S. Army Engineers. Army Engineers have made extensive improvements including jetties and dredging.
Desired facilities—Improvement of Upper Newport Bay—196 acres for small boat use and reclamation of 513 acres of marsh land Upper bay to accommodate 2,200 small craft, four recreational centers to accommodate 18,000 people at peak hours
By whom recommended—Orange County Board of Supervisors and Harbor Commission. See 1957 report of Army Engineers below.
Specific plan prepared—Yes.
Estimated cost—$9,875,000 for all items, including land acquisition and necessary facilities
Present sheltered area—Lower Newport Bay.
Additional area proposed—196 acres in upper bay.
Administration or sponsorship—Orange County Harbor Commission.

1957 Corps of Engineers Report:

Lower Newport Bay completed project. Upper Newport Bay in preliminary examination stage.
No change.

DANA POINT

Location—13 miles southeast of Newport Bay, five miles northwest of San Clemente; Orange County.
General description—A small open cove protected from northerly winds by Dana Point.
Existing facilities—None.

Desired facilities—Breakwater extending east from Dana Point, and another extending south from the shore to form enclosed area.
By whom recommended—Orange County and Corps of Engineers.
Specific plan prepared—Yes, by consulting engineers for county board of supervisors in 1949.
Estimated cost—4 million dollars to 6¼ million dollars, depending on area included (a 1949 estimate).
Present major uses—Anchorage for small craft.
Additional uses in view—Landing pier, slips, and all facilities for a small boat harbor.
Present sheltered area—Small area protected from northerly winds.
Additional area proposed—100 to 195 acres.
Communities to be served—All of Orange County and adjacent areas.
Administration or sponsorship—Local interests and board of supervisors.

1957 Corps of Engineers Report:

In survey report stage.
By whom recommended: by Orange County and by Corps of Engineers for further study.
No other changes.

SAN CLEMENTE

Location—San Clemente, 18 miles southeast of Newport Bay; Orange County.
General description—An unprotected beach area.
Existing facilities—San Clemente Pier.
Desired facilities—Breakwaters to form a protected basin.
By whom recommended—This site has been studied at the request of the county board of supervisors along with the site at Dana Point described above. The engineers' report recommends Dana Point as the more desirable location for development due to the natural protection afforded by the configuration of the coast.
(NOTE—San Clemente, like many other beach communities from Long Beach to San Diego, is frequented by small craft during the summer months when the weather usually permits anchoring off the open beach or landing skiffs through the low surf.)

1957 Corps of Engineers Report:

No comment made in letter.

CAMP PENDLETON HARBOR

Location—52 miles south of Los Angeles Harbor and 35 miles north of the entrance to San Diego Bay, San Diego County.
General description—An artificial harbor dredged out of beach sand dunes.
Existing facilities—Jetties, inner harbor 900 feet by 1,600 feet.
By whom built—Constructed by Department of Navy and operated by the Marine Corps.
Desired facilities—The Marine Corps considers that any public use of this harbor would be incompatible with military uses.
Present major uses—Exclusively military.
Additional uses in view—None.
Administration or sponsorship—U. S. Marine Corps

1957 Corps of Engineers Report:

The Camp Pendleton-Agua Hadionda Lagoon area is in the survey stage to develop a small-craft harbor for use by recreational and fishing craft.
No change.

AGUA HEDIONDA LAGOON (CARLSBAD)

Location—28 miles north of Mission Bay; San Diego County.
General description—A basin dredged by San Diego Gas and Electric Company for cooling water at its steam plant at the entrance to Agua Hedionda Creek.
Existing facilities—Entrance dredged to 100 feet wide and 28 feet deep, short jetties.
By whom built—San Diego Gas and Electric Company
Desired facilities—Additional jetties, entrance channel, and interior basin.

By whom recommended—City of Carlsbad, U. S. Army Engineers, and by State Lands Commission, for study as a harbor of refuge.
Specific plan prepared—In preparation.
Present major uses—Cooling water for steam plant
Additional uses in view—Recreation and refuge, if agreed to by San Diego Gas and Electric Company.
Present sheltered area—See below.
Additional area proposed—Sufficient basin area to provide adequate capacity
Communities to be served—Immediate vicinity and inland communities.
Administration or sponsorship—City of Carlsbad.

1957 Corps of Engineers Report:

See Camp Pendleton Harbor.
Desired facilities: additional jetties, entrance channel, and interior basin.
Present sheltered area: none that provides an effective navigation facility.
Additional area proposed: sufficient basin area to provide adequate capacity to meet needs of the area.
No other changes.

MISSION BAY

Location—Eight miles north of entrance to San Diego Bay.
General description—A dredged marshland area is being developed as a large boating and recreational lagoon.
Existing facilities—3.5 mile floodway for San Diego River to ocean; some utility development
By whom built—City of San Diego, State of California, U. S. Army Engineers.
Desired facilities—1,900 acres of water area (1,700 to eight feet depth, 200 to 20 feet depth); public facilities for all types of small craft activity.
By whom recommended—City of San Diego, and U. S. Army Engineers, authorized and under construction.
Specific plan prepared—Yes.
Estimated cost—$25,000,000—14 million spent—6.5 by U. S.; 5.5 City of San Diego; 3.2 State of California as of 1952.
Present major uses—Limited recreational development, Mission Bay Yacht Club, fishing, boat rental, etc.
Additional uses in view—When dredging is completed facilities will be available for 5,000 boats, also more commercial uses will be made of land areas in the development.
Present sheltered area—Entrance closed, but considerable area already dredged inside.
Additional area proposed—When all work is completed, 1,900 acres of water and 2,150 acres of land for commercial and recreational use.
Communities to be served—All Southern California and visitors from other states.
Administration or sponsorship—City of San Diego.

1957 Corps of Engineers Report:

Authorized and under construction.
Cost: federal to June 30, 1956—$7,416,438.
Estimated costs: federal, $10,600,000; nonfederal, $17,500,000.
No other changes.

SAN DIEGO HARBOR; SHELTER ISLAND

Location—In northern part of San Diego Bay.
General description—Two completely sheltered basins between Shelter Island and Point Loma, divided by Byron Street causeway.
Existing facilities—Municipal yacht harbor, four yacht clubs, seven private moorings providing for total of 3,500 commercial and pleasure craft boat yards; marine ways, restaurants, equipment and supplies
By whom recommended—U. S. Army Engineers, in survey report stage
By whom built—San Diego Harbor Commission and private interests
Present major uses—Commercial fishing and pleasure craft of all types.
Additional uses in view—Further planned development.
Total sheltered area—About 300 acres.

Communities served—All of Southern California and adjacent areas.
Administration or sponsorship—San Diego Harbor Commission.

1957 Corps of Engineers Report:

Survey report authorized for Shelter Island, Glorietta Bay, and National City-Chula Vista. Study not started.
No changes required at these three sites.

GLORIETTA BAY

Location—In San Diego Bay at the south end of Coronado, San Diego County.
General description—A small dredged basin opening eastward into San Diego Bay.
Existing facilities—Anchorage and moorings for yachts and small craft.
Desired facilities—Dredging to enlarge the area available.
By whom recommended—By U. S. Army Engineers for further study.
Specific plan prepared—Yes.
Present major uses—Haven and berthing for pleasure craft.
Additional uses in view—Same as present, on an enlarged scale.
Communities to be served—Coronado, San Diego, and neighboring communities
Administration or sponsorship—Local interests.

1957 Corps of Engineers Report:

Survey report authorized for Shelter Island, Glorietta Bay, and National City-Chula Vista. Study not started.
No changes required at these three sites.

NATIONAL CITY-CHULA VISTA

Location—Adjacent to the above cities, in southern San Diego Bay, San Diego County
General description—An extensive tideland area inside San Diego Bay
Existing facilities—None
Desired facilities—A dredged basin for boat anchorage and moorings.
By whom recommended—By the cities of National City and Chula Vista, and by the U. S. Army Engineers for further study.
Specific plan prepared—None reported
Present major uses—None possible until area is dredged.
Additional uses in view—All uses incident to the mooring and operation of small craft of all types.
Communities to be served—All of southern San Diego County.
Administration or sponsorship—Not reported.
(NOTE: The entire southern part of San Diego, comprising over half its total area, with a present depth of less than five feet, is available for development as a boating area)

1957 Corps of Engineers Report:

Survey report authorized for Shelter Island, Glorietta Bay, and National City-Chula Vista. Study not started.
No changes required at these three sites.

TIJUANA RIVER

Location—10 miles south of entrance to San Diego Bay. One and one-half miles north of U. S.-Mexico border.
General Description—Extensive area of unimproved lowland adjacent to lower part of river. Channel through sand beach. Lagoon extending in a northerly-southerly direction inside beach.
Facilities—No information has been received from local sources on the project

1957 Corps of Engineers Report:

No comment made in letter.

CHAPTER VII

INLAND HARBOR PROJECTS

THE CORPS OF ENGINEERS 1957 REPORT ON INLAND HARBOR PROJECTS

The letter dated January 2, 1957, signed by Brigadier General William F. Cassidy, U. S. Army, Divison Engineer, South Pacific Division, Corps of Engineers, mentioned in Chapter VI, said in part:

> "* * * With regard to inland harbors, a preliminary examination of harbors for light-draft vessels in San Francisco Bay was completed in 1950. Pursuant to this study, a survey was authorized to develop an integrated plan for providing about 3,800 additional berths at several locations including Richardson Bay, Belvedere Cove, Corte Madera Creek, Petaluma Creek, Vallejo, Martinez, Richmond, Berkeley, Oakland, Alameda, San Leandro Bay, Bay Farm Island, Palo Alto, Redwood City, Point San Mateo, and San Francisco * * * ."

The January 2, 1957, letter then gives comments on inland harbors, but before we present these comments in this 1957 report, it is necessary to quote from page 65 of the *Report of the Joint Interim Committee on Marine Affairs and Bay Area Development*, published in 1955, which analyzes the distribution of inland harbor projects, as follows:

"This list covers three major areas:

Humboldt Bay and north coast rivers
San Francisco Bay and tributaries.
San Diego Bay.

"The major small craft harbor projects in Humboldt Bay and the north coast rivers, and also in San Diego Bay, were included in the preceding digest of coastal harbors. * * *"

Project	*Status*
"Freshwater Slough	Undeveloped
Eureka City Boat Basin	Existing facility
Klamath River	Undeveloped
Eel River	Undeveloped
Mattole River	Undeveloped
Russian River	Undeveloped
Shelter Island, San Diego	Existing facility
Glorietta Bay, Coronado	Existing facility
National City-Chula Vista	Undeveloped

"The projects listed in this digest are located on San Francisco Bay and tributaries, including the Sacramento and San Joaquin Rivers. These inland waters are divided into four areas for purposes of convenient reference, as follows:

South Bay shores of San Francisco, San Mateo, and Santa Clara Counties.
East Bay shores of Alameda and Contra Costa Counties.
North Bay shores of Marin, Sonoma, Napa, and Solano Counties.
Delta and river area, including San Joaquin, Yolo, Shasta, Sacramento, Yuba, and Colusa Counties."

The old 1955 report also says on page 65: "The list includes only the major projects of cities, counties, boat clubs, and other community groups; it does not cover the privately operated marinas where boats are moored, rented, or serviced," and it refers to a "Sportsmen's Atlas," published by *Sunset Magazine* (Lane Publishing Co.), now out of print, which "lists over 100 such 'small boat liveries' in the Bay and Delta area. Most of them provide boat rentals only; less than 30 provide mooring space."

THREE HARBORS NOT IN 1955 REPORT

The 1957 letter from the Corps of Engineers describes three harbors not covered in the 1955 report: San Rafael Creek, Petaluma Creek, and Napa River. Since these were not in the 1955 report, they are printed here in bold face type:

San Rafael Creek—Completed project.
Location: North end of San Francisco Bay, Marin County.
General description: 8-foot by 100-foot channel across flats to mouth of creek; 6-foot by 60-foot channel to San Rafael.
Existing facilities: For 260 pleasure craft at one public and three private boat basins, boat building plants and repair facilities.
By whom built: Channels dredged by Corps of Engineers.
Desired facilities: Increased channel depth and width.
By whom recommended: Local interests.
Plan prepared: Yes.
Costs: Federal to 30 June 1956—$73,453.
Estimated cost: $313,000 for desired improvements (1952 estimate).
Communities served: San Rafael and adjacent areas including San Francisco.

Petaluma Creek—Completed project.
Location: Northwest San Pablo Bay to Petaluma, Marin and Sonoma Counties.
General description: Dredged channel generally 8 feet deep.
Existing facilities: Commercial landings in Petaluma.
Desired facilities: Boat basin and facilities for 100 craft.
By whom recommended: Petaluma Chamber of Commerce.
Specific plan: No.
Communities served: Petaluma and San Francisco Bay Area.
Cost: Federal to 30 June 1956—$312,705.

Napa River—Completed project.
Location: Northeast San Pablo Bay between Mare Island Strait and Napa, Solano, and Napa Counties.
General description: Dredged channel 15 and 10 feet deep.
Adjacent existing facilities: Naval facilities on Mare Island; commercial landings at Vallejo and Napa.
Desired facilities: See Vallejo small-boat basin.
By whom recommended: Vallejo Chamber of Commerce.
Cost: Federal to 30 June 1956—$1,048,830.

OTHER MAJOR INLAND HARBOR PROJECTS

In the *Report of the Joint Interim Committee on Marine Affairs and Bay Area Development*, published in 1955, Appendix E is titled: "Inventory of Major Inland Harbor Projects—San Francisco Bay and Tributaries Including Sacramento and San Joaquin Rivers," and is found on pages 66 to 71, inclusive, of that 1955 report.

The January 2, 1957, letter from the Corps of Engineers offers only one comment on any of these harbors, as follows:

"Rio Vista Aquatic Park (St. Joseph's Cut). In survey report stage. No change."

Therefore, we have reproduced Appendix E of the 1955 report exactly as it was published in 1955 with the exception of the comment on Rio Vista Aquatic Park.

SAN FRANCISCO SMALL BOAT HARBOR

Location—Marina district of San Francisco, east of the Golden Gate
General description—A developed boat mooring basin
Existing facilities—251 berths; none covered
By whom built—City and County of San Francisco.
Desired facilities—A breakwater enclosing the harbor's expanded area and a secondary breakwater opposite the entrance to protect the basin from wash and surge; berths for 727 additional boats; pier for sport fishing party boats, fuel station, marine supplies, etc.
By whom recommended—San Francisco Recreation and Park Commission, San Francisco Chamber of Commerce, San Francisco City Planning Commission, California Marine Parks and Harbors Association, boat and yacht clubs
Plans prepared—Detailed engineers' drawings by Punnett-Parez and Hutchinson and J. E. Hayes, Engineers.
Estimated cost—$5,000,000 for all improvements
Present sheltered area—21 acres.
Additional area proposed—53 acres.
Communities to be served—San Francisco and all communities in the surrounding Bay area.
Administration or sponsorship—San Francisco Recreation and Park Commission; City and County of San Francisco; State Division of Beaches and Parks.
(NOTE—From time to time there have been proposals for other small craft harbor facilities on the San Francisco waterfront, particularly in Candlestick Cove south of Hunter's Po nt, but public sponsorship of such projects has been deterred by the uncertainty regarding other developments in that area—the southern Bay crossing, dispostion of tidelands, etc.

Fishermen's Wharf in San Francisco is fully occupied by commercial fishing vessels, and there is no opportunity to expand facilities for other small craft in that area.)

SOUTH SAN FRANCISCO SMALL BOAT HARBOR

Location—Northern San Mateo County on San Francisco Bay at Oyster Point within the city limits of South San Francisco
General description—Proposed development for small boats and recreation area by filling presently submerged lands. Development started and is now in progress.
Desired facilities—Berths for 100 small craft; breakwater consisting of an earth fill dam with entrance channels 150 feet wide and inner channels 100 feet wide; piers, docks and marinas of wood and steel construction; fueling stations, launching ramps, clubhouses and repair shops; swimming beach, picnic area, tennis and handball courts, baseball diamond, and restroom facilities.
By whom built—City of South San Francisco
By whom recommended—City Council of South San Francisco, South San Francisco Planning Commission, South San Francisco Park and Recreation Commission, San Mateo County Planning Commission, San Mateo County Parks and Recreation Commission, San Mateo County Master Planner, rod and gun clubs, and sportsmen's clubs.
Plans prepared—Detailed engineering plans drawn by Wilsey & Ham, engineers, and original drawings by Utah Construction Company
Estimated cost—$484,700 for harbor and recreation area development
Communities to be served—Northern San Mateo County including Bayshore City, Brisbane, Daly City, Millbrae, San Bruno, and South San Francisco
Administration or sponsorship—City of South San Francisco
Notice: This was not in 1955 report.

COYOTE POINT YACHT HARBOR

Location—Northeastern San Mateo County on the Bay side, within the city limits of San Mateo
General description—Sheltered harbor for pleasure boats.
Existing facilities—Berths for 152 boats, water, lights, power, fuel, small boat ramp.
By whom built—County of San Mateo.

Additional facilities desired—10 acres of contiguous parking and picnic area, in addition to the parking facilities already installed; a north and south berm paralleling the existing berm; additional berthing facilities for 300 boats. Installation of an east and west berm to be located at the north end of the harbor to prevent silting. A marine ways, new harbormaster's house, and additional small boat ramp, concession buildings for boat sales and accessories.
By whom recommended—San Mateo County Recreation Commission, concurrence with County Engineer's Office on plans and counsel by Henry S. Pond, Engineer.
Plans prepared—In part by Henry S. Pond; San Mateo County Planning Commission, San Mateo County Engineer's Office; San Mateo County Parks and Recreation Commission.
Communities to be served—All residents of San Mateo County.
Administration or sponsorship—San Mateo County Recreation Commission.

REDWOOD CITY YACHT HARBOR

Location—Redwood Creek above the turning basin of the deep-water navigation project and near Boundary Slough.
General description—A mooring facility for pleasure boats.
Existing facilities—Berths for 84 small craft and moorings or anchorage for 12 boats at present site; 250 berths at new site.
By whom built—City of Redwood City
Desired facilities—Present site will be given up due to extension of deep water channel and turning basin Expanded new location will provide about eight acres of water and eight acres on shore for parking, etc.
By whom recommended—Redwood City Park and Recreation Commission.
Communities to be served—Southern San Mateo County.
Administration or sponsorship—Redwood City Park and Recreation Commission.
(NOTE—A building for the Stanford rowing crew has already been constructed on the new site.)

PALO ALTO MUNICIPAL BOAT HARBOR

Location—Southern part of San Francisco Bay on Mayfield Slough.
General description—A mooring facility for pleasure boats.
Existing facilities—Berthing available to a limited extent.
By whom built—City of Palo Alto.
Desired facilities—Berthing for 139 boats, a dredged entrance channel 250′ x 13,000′ x 10′. Other improvements for aquatic park.
By whom recommended—City of Palo Alto, and Santa Clara County.
Specific plan prepared—Yes.
Estimated cost—Plan A (219 boats) $138,872.33. Plan B (139 boats) $39,423.73. Does not include outer channel. Outer channel dredging $157,500. City of Palo Alto and Santa Clara County appropriated $40,000 for 1954-55 Plan B improvements
Communities to be served—Southern San Mateo County and Santa Clara County.
Administration or sponsorship—City of Palo Alto.

ALVISO SLOUGH

Location—South end of San Francisco Bay, northwest of San Jose.
General description—Harbor at the end of a long shoal area at the southern end of San Francisco Bay below the Dumbarton Bridge At mean high tide there is 7 4 feet of water in the harbor and at mean low water about two feet.
Existing facilities—Berths for 40 boats
By whom built—South Bay Yacht Club
Desired facilities—From time to time local interests have made informal requests for improvements in the harbor but because of the surroundings and expense involved in dredging the necessary channel most boatmen in the area have supported improvements in the Palo Alto Municipal Boat Harbor.
Communities served—Santa Clara County.
Administration or sponsorship—South Bay Yacht Club

SOUTHSHORE YACHT HARBOR

Location—Southwest shore of Alameda near the Naval Air Station.
General description—A project for proposed development on a stretch of city-owned beach area which is available on the south shore of the City of Alameda

Desired facilities—A boat basin 2,000′ x 500′, finger piers and berths for 600 boats, dry dock, repair, and other service facilities.
By whom recommended—Alameda County Planning Commission.
Specific plan prepared—None in detail.
Estimated cost—$1,750,000 (1947 estimate).
Communities to be served—Entire East Bay area.
Administration or sponsorship—City of Alameda.
Comment by Division of Beaches and Parks: Southshore Yacht Harbor—This is not a proposed development by the Division of Beaches and Parks

BAY FARM ISLAND YACHT HARBOR

Location—Northwest corner of Bay Farm Island, on San Francisco Bay.
General Description—A project for development dependent upon reclamation of tidelands
Existing facilities—None.
Desired facilities—Mooring for 400 boats and miscellaneous facilities that are usually found around small boat harbors.
By whom recommended—Alameda City Planning Commission and State Division of Beaches and Parks
Specific plan prepared—Not in detail.
Estimated cost—$1,200,000 (1947 estimate).
Communities to be served—Alameda and adjacent East Bay cities.
Administration or sponsorship—City of Alameda.
Comment by Division of Beaches and Parks: This is not a proposed development by the Division of Beaches and Parks.

ALAMEDA MUNICIPAL MARINA PARK

Location—At east end of Encinal Avenue on San Leandro Bay.
General description—Landscaped park with harbor facilities and limited commercial development Now privately owned tidelands to be filled
Existing facilities—None.
Desired facilities—Accommodations for 150 light draft vessels with repair and service facilities.
By whom recommended—Alameda City Planning Commission
Specific plan prepared—No detailed plans or cost estimates
Additional area proposed—55 acres
Communities to be served—Alameda County.
Administration or sponsorship—City of Alameda.

OAKLAND MARINA AND AQUATIC PARK

Location—Oakland Outer Harbor, south of the land fill approach to the San Francisco-Oakland Bay Bridge.
General description—Proposed boat basin and aquatic park.
Existing facilities—None
Desired facilities—Basin 1,000′ x 2,400′ x 11′ deep, protected by breakwater; berthing for 750 boats, boat yard, parking, clubhouse, concessions, beach, etc.
By whom recommended—Marine Park Committee of the Oakland Chamber of Commerce, Oakland City Council, Alameda County Board of Supervisors
Specific plan prepared—Master plan but no specifications.
Area proposed—About 55 acres of harbor area
Communities to be served—Oakland and neighboring bay cities
Administration of sponsorship—Oakland Port Commission

BERKELEY MUNICIPAL BOAT HARBOR

Location—Foot of University Avenue, on San Francisco Bay.
General description—1,600′ x 1,600′ area enclosed by sea wall, entrance 300′ wide open to west.
Existing facilities—Berths for 200 boats up to 100′ in length
By whom built—City of Berkeley.
Desired facilities—Develop east and north portion of harbor to accommodate 193 more boats, provide parking for 700 cars, administration building and other service facilities
By whom recommended—City of Berkeley.
Specific plan prepared—Yes

Estimated cost—$449,000.
Present sheltered area—Nearly 60 acres
Additional area proposed—Full utilization.
Communities to be served—City of Berkeley and adjacent East Bay cities
Administration or sponsorship—City of Berkeley Recreation & Parks Department

MARTINEZ SMALL CRAFT HARBOR

Name—Martinez Small Craft Harbor
Location—Northwest part of Contra Costa County
General description—Small craft harbor leased by the city to private operators serving a small number of private craft
Existing facilities—Limited, due to silting of harbor, making it almost unusable at low tide. Few facilities available for berthing or launching even at high tide, and no facilities for marine repair
By whom built—City of Martinez
Desired facilities—Breakwater dredging, piers, marina berths, repair facilities, and launching ramps
By whom recommended—City of Martinez
Specific plan prepared—Yes
Estimated cost—$1,233,000
Present major uses—Serves a small number of private craft
Additional uses in view—Port of refuge for traffic moving up or down stream during high winds or foul weather, recreational area
Present sheltered area—Unusable at low tide
Additional area proposed—440 berths
Communities to be served—Martinez and central and eastern part of Contra Costa County.
Administration or sponsorship—City of Martinez

BRICKYARD COVE

Name—Brickyard Cove in Richmond (formerly called Richmond Light Draft Harbor)
Location—Inside Richmond inner harbor. Access by paved streets one mile over Garrard Blvd. from an interchange on the proposed Hoffman Freeway
General description—Cove within Richmond Inner Harbor which is protected by a rock jetty extending 9,500 feet westward from Brooks Island immediately adjacent to the main deep-water channel dredged and maintained by the U. S. Corps of Engineers
Existing facilities—None.
By whom built—U. S. Corps of Engineers
Desired facilities—Wood sheetpile breakwater, dredged entrance channels, piers and floats, storage and berthing of a city-owned fire boat and essential related facilities
By whom recommended—Richmond City Planning Commission
Specific plan prepared—Yes
Estimated cost—$1,633,000 (estimated)
Present major uses—Presently unused.
Additional uses in view—Will convert presently unused shallow tide lots into a valuable income-producing resource. All-year harbor of refuge. Increased boat building, increased fish catch, increased recreational activity
Present sheltered area—Thirty-two acres of well-protected water surface
Additional uses in view—Will convert presently unused shallow tide lots into a pierhead lines for harbor berthing facilities. Would double the capacity of the harbor
Communities to be served—Richmond, El Cerrito, San Pablo, Kensington and El Sobrante. By 1970 a population of 250,000
Administration or sponsorship—Administered by the City of Richmond with various operating and sales functions being handled on a concession basis

LONE TREE POINT

Name—Lone Tree Point
Location—Between Carquinez Straits and the City of Richmond in Rodeo
General description—Aquatic park and small craft mooring basin.
Existing facilities—Virtually none (small privately owned boat launching ramp).
By whom built—Natural formation

Desired facilities—Small craft berths and fishing pier
By whom recommended—Rodeo Chamber of Commerce
Specific plan prepared—Yes.
Estimated cost—$1,153,870.
Present major uses—Privately owned launching ramp is used, but most of the area is not in use
Additional uses in view—Marina, community picnic area, small craft berths, and fishing pier.
Present sheltered area—None
Additional area proposed—Approximately 60 acres
Communities to be served—From Oakland to eastern Contra Costa County
Administration or sponsorship—Rodeo Harbor District

NEW YORK SLOUGH

Name—New York Slough
Location—At the junctions of the San Joaquin and Sacramento Rivers near P
General description—Small yatch harbor 310 x 360 feet, with existing fueling station
Existing facilities—Fueling station, sheltered mooring basin, some covered berths, marine railway and playground
By whom built—Built between 1885 and 1890 by private developer and leased to the city. Reverted to the city at the end of the lease period
Desired facilities—Piers and marinas, seawall bulkheads, dredging to enlarge present harbor, covered sheds
By whom recommended—City of Pittsburg.
Specific plan prepared—Yes
Estimated cost—$181,500.
Present major uses—Used as a small yatch harbor, recreational facility, fishing ground.
Additional uses in view—Service as port of call, automobile travel savings, prevention of boat damage, increased recreational activity
Present sheltered area—Harbor—310 x 360 feet
Additional area proposed—450 x 250 x 225 x 450 feet
Communities to be served—Pittsburg and surrounding communities in need of berthing or recreational facilities
Administration or sponsorship—City of Pittsburg.

RICHARDSON BAY

Location—Mill Valley, Richardson Bay—between Strawberry Point and Waldo, north of Sausalito.
Existing facilities—None.
Desired facilities—Dredged channel 100′ x 10′ x 3,000′, 300′ turning basin, small boat moorings, parking area.
By whom recommended—Residents of Mill Valley and neighboring communities.
Specific plan prepared—None.
Communities to be served—Mill Valley and surrounding area
Administration or sponsorship—Marin County.

BELVEDERE COVE

Location—Southern end of Tiburon Peninsula, Marin County
Existing facilities—Two yacht clubs, anchorage or mooring for 100 boats including dry storage.
Desired facilities—Dredging of coves and construction of a jetty across the entrance
By whom recommended—Local Harbor Improvement Committee, endorsed by Belvedere City Council
Communities to be served—Marin and San Francisco counties.
Administration or sponsorship—Marin County.

CORTE MADERA CREEK

Location—Southwest of Point San Quentin, Marin County.
Existing facilities—None.
Desired facilities—Deepening, widening, and realigning Corte Madera Creek for a distance of 18,590′; provide municipal yacht harbor for 100 boats at Larkspur
By whom recommended—Marin County Planning Commission
Specific plan prepared—None.

Present sheltered area—None.
Communities to be served—Marin County and San Francisco.
Administration or sponsorship—Marin County.

ANGEL ISLAND

Location—Hospital Cove, northwest shore on Angel Island in San Francisco Bay.
Existing facilities—Dock and buildings on shore.
By whom built—U. S. Government.
Desired facilities—Boat moorings, beach improvement, picnic area.
By whom recommended—California Marine Parks & Harbors Association, Angel Island Foundation, and many other groups.
Specific plan prepared—No.
Communities to be served—All of San Francisco Bay area.
Administration or Sponsorship—The State Division of Beaches and Parks controls only the shore facilities of Angel Island State Park.

VALLEJO SMALL BOAT BASIN

Location—On the Vallejo waterfront south of and adjacent to Mare Island causeway.
Existing facilities—None.
Desired facilities—Berthing area for 350 boats, and reclamation of 50 acres of tideland for parking, picknicking, etc.
By whom recommended—Valejo Chamber of Commerce, Valejo Yacht Club, city council and board of supervisors.
Specific plan prepared—Partial plans.
Communities to be served—Vallejo and surrounding communities.
Administration or sponsorship—City of Vallejo.

GLEN COVE—ELLIOT COVE

Location—Between Vallejo and Benicia on Carquinez Strait.
Existing facilities—None.
Desired facilities—Facilities for large pleasure craft, as well as rowboats, parking, picnic areas, fishing pier, and access roads.
By whom recommended—Solano County Planning Commission.
Specific plan prepared—Master plan only.
Communities to be served—Solano and neighboring counties.
Administration or sponsorship—Solano County.

DUTCHMAN SLOUGH (SOLANO)

Location—0.3 mile north of city limits of Vallejo, on Napa River.
General description—A slough well protected from open water, with width and depth sufficient to accommodate larger types of pleasure craft.
Existing facilities—None
Desired facilities—Boat landing and launching facilities for portable type boats, fishing pier, parking.
By whom recommended—Solano County Planning Commission.
Specific plan prepared—Master plan only.
Communities to be served—Vallejo, Napa, and neighboring areas
Administration or sponsorship—Solano County

BENICIA MARINA

Location—At Benicia, on Carquinez Strait
Existing facilities—Two private establishments with rental boats.
Desired facilities—Fishing pier, boat moorings, and launching facilities; parking and picnic area.
By whom recommended—Solano County Planning Commission.
Specific plan prepared—Master plan only
Communities to be served—Solano and neighboring counties.
Administration or sponsorship—Solano County.

RIO VISTA AQUATIC PARK (ST. JOSEPH'S CUT)

Location—Small inlet on west side of Sacramento River at Rio Vista.
Existing facilities—Municipal boat dock; private boat moorings.
By whom built—City of Rio Vista and private interests.

Desired facilities—Fishing pier, boat moorings, launching, parking and picnic space
By whom recommended—Solano County Planning Commission
Specific plan prepared—Master plan only
Communities to be served—Rio Vista and neighboring area
Administration or sponsorship—Solano County
Corps of Engineers comment, 1957: "In survey report stage. No change."

SUISUN SLOUGH AND ADJOINING ISLAND

Location—Near southeast corner of City of Suisun, eight miles north of Suisun Bay.
Desired facilities—Launching facilities, fishing pier, a park on the island
By whom recommended—Solano County Planning Commission.
Specific plan prepared—Master plan only
Communities to be served—Fairfield-Suisun and adjacent area
Administration or sponsorship—Solano County.

14-MILE SLOUGH

Location—A sheltered estuary adjacent to deep-water channel 10 miles west of Stockton
Existing facilities—Open and covered berths nearby.
By whom built—Private interests.
Desired facilities—Boat moorings, visitors' berths, service facilities, parking and picnic area.
By whom recommended—Marine Committee of Stockton Chamber of Commerce and numerous other local groups.
Specific plan prepared—None
Estimated cost—$750,000 (dredging only).
Area proposed—137 acres to be dredged
Communities to be served—Stockton and neighboring communities
Administration or sponsorship—San Joaquin County Board of Supervisors

UPTOWN YACHT HARBOR, STOCKTON

Location—East end of Stockton Channel, close to city center.
Existing facilities—Limited number of berths for local and visiting boats
By whom built—Private interests
Communities served—Stockton and delta area
Administration or sponsorship—Private operator, on lease from City of Stockton.
(NOTE—In addition to the projects noted above the San Joaquin County Planning Commission has proposed marina development at three sites in the Delta area:

Project No. 2—On Stanten Island on the south fork of the Mokelumne River about 10 miles west of Lodi on State Highway 12

Project No 3—On the Stockton deep water channel at Little Connection Slough about 15 miles northwest of Stockton

Project No 4—The north corner of Bacon Island on Old River about 20 miles west of Stockton and five miles south of the main channel of the San Joaquin River.)

SACRAMENTO MUNICIPAL BOAT HARBOR

Location—Miller Park, foot of Broadway, Sacramento, on the Sacramento River
General description—A sheltered harbor for pleasure craft in a city park.
By whom built—City of Sacramento Park and Recreation Department and U. S. Army Engineers (dike for spoilage area)
Estimated costs—$500,000 when completed.
Facilities provided—Berths for 300 boats, launching ramps, 25 acres of parking space, etc.
Communities to be served—Sacramento and adjacent area.
Administration or sponsorship—City of Sacramento.

COLUSA COUNTY RIVER PARK

(Now Known as Colusa-Sacramento River State Park)

Location—Colusa City on Sacramento River.
General description—15 to 20 acres
Existing facilities—One ramp.

Desired facilities—Ramp-park facilities and access roads
By whom recommended—Colusa County Boat Club
Communities to be served—Valley River communities and others.
Administration or sponsorship—Colusa County Boat Club; property owned by City and County.

SHASTA COUNTY BOAT LANDING

Location—Ball's Ferry, 14 miles southeast of Redding on the Sacramento River
Desired facilities—Double launching ramp, landing float; parking, picnic, and trailer area
By whom recommended—Shasta-Cascade Wonderland Association, Anderson and Cotton chambers of commerce.
Area proposed—Six acres.
Communities to be served—All of Shasta County
Administration or sponsorship—Shasta County Board of Supervisors

REDDING MUNICIPAL BOAT LANDING

Location—Rodes Grounds at Redding on the Sacramento River.
Facilities—Launching ramp, float, parking area
By whom built—City of Redding
By whom recommended—Shasta-Cascade Wonderland Association; Redding Chamber of Commerce
Present major uses—Launching and landing of small boats; no mooring berths
Present area—10 acres (for parking)
Communities to be served—Redding and surrounding communities.
Administration or sponsorship—City of Redding
(NOTE—Redding is practically the head of small craft navigation on the Sacramento River. To publicize the extent of the inland river system, the Junior Chamber of Commerce of Redding, with the cooperation of the Shasta-Cascade Wonderland Association, is making plans for power boat races from Stockton to Redding, a distance of 275 miles, scheduled for August 1955.)

THE FUTURE OF INLAND HARBOR PROJECTS

We explained earlier in this report that the committee has visited harbor projects only on receipt of a written request from the Member of the Assembly or the Senator in whose district the harbor project was located. One of these was Rio Vista Aquatic Park (St. Joseph's Cut). At the request of both the Senator and the Assemblyman representing this harbor, the committee inspected the project and recommended that the local authorities request that the Corps of Engineers place the project in the "survey report stage," which was done. This emphasizes the importance of the cooperation of the United States Government, the State, and local authorities. Unless the sponsors of a harbor project, particularly an inland harbor project, take the initiative, little can be done for them.

CHAPTER VIII

LAKES AND OTHER SPECIAL PROJECTS

SPECIAL HARBOR PROJECTS

In March, 1957, Members of the Assembly and Senators brought to the attention of the committee the fact that many large lakes, reservoirs, and rivers which do not empty into the ocean should be considered as potential small boat harbors. These are projects which cannot be classified technically as coastal harbors described in Chapter VI of this report, or as inland harbors described in Chapter VII. These "special harbor projects" may be "inland" according to the ordinary meaning of the word, but they are generally not on bays of the Pacific Ocean or on navigable rivers emptying into the Pacific Ocean, directly or indirectly. Therefore, they must be treated as special projects. Examples are Eagle Lake, in Lassen County, and Clear Lake in Lake County, but these are only two out of a great number of special projects.

Another type of special project is a proposed boat harbor at Hermosa Beach, in Los Angeles County. Hermosa Beach is on Santa Monica Bay, hence it is "coastal" geographically, but it is primarily a beach and any harbor features necessarily will be secondary in importance. Therefore, the proposed boat harbor project is not included in Chapter VI of this report, but is described here as another example of a special project.

It is emphasized that the mention of these three special projects in this report does not necessarily give them any priority over other coastal harbors, inland harbors, or special projects.

CLEAR LAKE BOAT HARBOR

Location—Borders on city frontage in City of Lakeport, Lake County.
General description—90% recreational, 10% commercial.
Existing facilities—1 city pier 200′ long; 1 small swimming area enclosed by floats with 200′ pier; 2 boat launching ramps, each 40′ wide.
By whom built—City of Lakeport
Desired facilities—Purchase of lake frontage; dredging for island breakwater.
By whom recommended—Lake County Board of Supervisors and Lakeport City Council
Specific plan prepared—Yes
Estimated cost—$350,000
Present major uses—Fishing, boating, swimming, water skiing.
Additional uses contemplated—Picnicking area; improved swimming areas and water skiing; repair way for boats.
Presented sheltered area—None
Additional area proposed—Breakwater, 1,000′ long by 300′ wide. Room for 300 boats.
Communities to be served—Tourists come from all over the State to use this lake.
Administration or sponsorship—Lake County Board of Supervisors, Lakeport City Council and Lake County Service Clubs
Other facts—Due to the ever-increasing demand for recreational areas, it is imperative that plans be made for acquisition of a site for a small boat harbor in Lake County. The area is now so overcrowded that it sometimes takes three

hours of waiting in line for small boats to be launched. The safety factor is something to be considered carefully inasmuch as there is no protection for swimmers from the great number of boats in the lake.

EAGLE LAKE BOAT HARBOR

Location—14 miles north of Susanville, in Lassen County.
General description—A large inland lake.
Existing facilities—None.
Desired facilities—Moorings for small fishing and pleasure craft.
By whom recommended—Board of Supervisors, Lassen County.
Communities to be served—Lassen County and adjacent counties at present; eventually it will attract people from all over the State.

HERMOSA BEACH HARBOR PROJECT

Location—On Santa Monica Bay, in Los Angeles County.
General description—Recreational, sports fishing, water sports in general.
Existing facilities—Steel reinforced concrete pier, 75% deteriorated.
By whom built—City of Hermosa Beach.
Amount spent—$60,000 in 1913; about $6,000 since 1913 for reconstruction and maintenance
Additional facilities desired—Reconstruction of present pier with docking facilities and slips at terminus with adequate protection.
Harbor sponsored by—City of Hermosa Beach.
Specific plan—No. This is under study by City of Hermosa Beach.
Additional funds needed—Exact amount not known until plans are completed
Present major uses—Due in part to deteriorated condition of pier, activities are limited to sports fishing, surf and beach recreational activities, and a few small boats.
Additional uses proposed—Boating and additional sports fishing, surf and beach recreational activities.
Communities to be served—Visitors now come from all over California, and not merely from Los Angeles County.
Present administration—Hermosa Beach City Council.

CHAPTER IX

SUMMARY

THE USE OF BOATS FOR RECREATION

Until recently boats were used primarily for transportation, for commercial fishing, and for various military and naval purposes. A few people of means indulged in the sport of yachting but the great mass of people because of expense and lack of leisure time were denied the pleasures of boating.

Aquatic sports in all of their myriad variations are the next great field of recreation development. Unlike the situation which prevailed in former days we now find enough experienced and potential boatmen to create a substantial market for water sports gear of all sorts at prices which appeal to large numbers of people. Rapid population growth, increased leisure time, fast automobiles, good highways, and a desire to get away from city congestion and pressures have focused attention on all water sports, including the use of small boats.

The principal question to be answered is where can facilities be provided and who is to pay the cost of development and maintenance of these facilities for water sports enthusiasts.

QUESTIONS BEFORE THE LEGISLATURE

The Legislature has become accustomed to a procedure of providing land recreation areas in response to public pressures for more state-owned and maintained beaches and parks. The State is providing extensive public highways and local communities are now building parking areas for automobiles. Small craft harbors may include recreation areas, parking lots, and highway beginnings or access.

The Legislature, therefore, by association can base its decisions partly on recreation area, parking lot, and highway concepts.

The Legislature is faced with the problem of making determinations with reference to five types of problems:

1. Shall its small craft harbor program apply equally to coastal, inland waterway, and inland water areas?
2. Where does the State's responsibility begin and end?
3. What is the extent of the State's interest in the small craft harbor program?
4. What sort of program shall the State encourage?
5. By what method or methods shall the State finance its participation in such program?

STATE-WIDE PROGRAM

Unlike facilities provided for land-based recreational activity, those for small boats must accommodate commercial craft operations in many harbors. The facilities required must also take into account large pleasure craft as well as those powered by outboard motors. Provision must be made for sailboats as well as those with engines.

Not only must the facilities be varied and flexible but they will in varying measure be required in all portions of the State where there is recreation water of sufficient area to warrant boat operation.

Small craft facilities will be used by people from all over the State. Present day small boatmen are travelers and are accustomed to taking their boats from river to lake to coast, possibly on successive weekends. Increasingly, the people of all areas of the State, where there is recreation water, will come to depend partly upon the revenue derived from small boatmen who visit their areas.

The state program must include developments state-wide and not be restricted to those on the coast. The needs for harbors of refuge on the California coast are great but the pressure for development on rivers, inland bays, and large lakes and reservoirs are of equal importance, recreationally.

STATE RESPONSIBILITY

Several assumptions are basic to any consideration of the limits on state responsibility for a boat harbor program. Among these assumptions are the following:

1. The local levels of government, the counties, the cities, and the various districts should be asked to exhaust their resources and abilities before calling upon the State for financial assistance.
2. The State should undertake no task properly within the areas of private enterprise and additionally should encourage and plan for private enterprise operations at and adjacent to small craft harbors wherever possible and practical.
3. The State, as a public agency, should not invade the areas of interest of the Federal Government or of local agencies of government and should not duplicate in any sense any proper activity of such agencies.
4. The State should not engage in any wholesale "give-away" of state funds or have its program received as a "grab bag." In general, appropriations should be in the form of loans from a revolving fund.

LIMITS ON THE STATE'S INTEREST IN THE BOAT HARBOR PROGRAM

The interest of the Federal Government in this program is limited to the traditional responsibilities of major harbor development, provision for harbors of refuge, for regulation of large craft, and for policing activities upon navigable waters. Local areas and agencies of government should bear costs of maintenance and operation of harbor facilities and should in many cases provide the necessary land.

The State can serve the needs of the public for boat harbors in several ways. For example:

1. Provide the essentials of a state-wide program.
2. Adopt a master plan for boat harbor location.
3. Within its legal limitations establish systems of regulation, licensing, etc.
4. Provide methods of financing of:
   a. Its own formal organization in this field;
   b. Its own direct investment in facilities; and
   c. Reimbursable loans to local agencies.

A SINGLE STATE AGENCY

There is a need for a state agency whose sole responsibility will be the location and development of small boat harbors. Since this program involves potential commercial operations as well as those strictly recreational in nature, the program does not fall within the scope of the work of the State Park Commission and the Division of Beaches and Parks whose activities are primarily in the field of conservation.

Basic to the program is the need for a master plan of boat harbor development. Such a program, well documented and detailed, would be of great value to local areas and also to the Federal Government, aiding the latter in the allocation and use of federal money which can become available for federal purposes at some of the harbors.

The State's program must classify needs and utilize the inventory which the Corps of Engineers and this Committee has already developed. It should include a priority system and provide for stage developments of the various harbors in such matters as planning, land acquisition, and final construction.

FINANCING THE PROGRAM

Several sources of funds with which to implement the state program are available:

1. Fees from licensing, regulation, and similar activity.
2. Uncollected amounts of refundable money collected from the sales of gasoline for boat consumption.
3. Allocations from the State's oil royalty income.

APPENDIX

MEMBERS OF THE CITIZENS' ADVISORY COMMITTEE ON MARINE AFFAIRS

Aisley, Harold, 159 S. Anderson St., Los Angeles
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ASSEMBLY INTERIM COMMITTEE REPORTS
1955-1957
VOLUME 16 NUMBER 4

REPORT OF THE ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

PREPARED BY THE COMMITTEE
(Assembly House Resolution No. 172, 1955)

MEMBERS OF THE COMMITTEE

CHARLES EDWARD CHAPEL, *Chairman*
SETH J. JOHNSON, *Vice Chairman*

MONTIVEL A. BURKE
REX M. CUNNINGHAM
CLAYTON A. DILLS
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LETTER OF TRANSMITTAL

ASSEMBLY CHAMBERS, STATE CAPITOL
SACRAMENTO 14, CALIFORNIA, MARCH 20, 1957

HONORABLE L. H. LINCOLN,
Speaker of the Assembly, and
Members of the Assembly:

The Assembly Interim Committee on Public Utilities and Corporations, constituted in accordance with House Resolution No. 172, 1955, herewith presents its report, findings and recommendations regarding public utilities and corporations. A separate report has been filed on marine affairs.

CHARLES EDWARD CHAPEL, Chairman
SETH J. JOHNSON, Vice Chairman
MONTIVEL A. BURKE
REX M. CUNNINGHAM
CLAYTON A. DILLS
DONALD D. DOYLE
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CHARLES H. WILSON

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INTRODUCTION

CREATION OF THE ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

The Assembly Standing Committee on Public Utilities and Corporations was constituted an interim committee in accordance with House Resolution No. 172, adopted June 6, 1955, as shown on pages 5595 and 5596, Assembly Daily Journal of that date, reproduced below:

CONSIDERATION OF HOUSE RESOLUTION No. 172

By Mr. Chapel:

House Resolution No. 172

Relative to constituting the Assembly Standing Committee on Public Utilities and Corporations an interim committee

Resolved by the Assembly of the State of California, As follows:

1. The Assembly Standing Committee on Public Utilities and Corporations of the 1955 Regular Session is hereby constituted an interim committee and is authorized and directed to ascertain, study and analyze all facts relating to and regulating public utilities and corporations and matters incidental thereto, the powers and duties of the Public Utilities Commission, local utility franchises, and publicly owned utilities, including but not limited to the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution, and to report thereon to the Assembly, including in the reports its recommendations for appropriate legislation.

2. The committee shall consist of the members of the Assembly Standing Committee on Public Utilities and Corporations for the 1955 Regular Session. The chairman and vice chairman shall be the chairman and vice chairman of the standing committee. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

3. The committee is authorized to act during this session of the Legislature, including any recess, and after final adjournment until the commencement of the 1957 Regular Session, with authority to file its final report not later than the fifth legislative day after the constitutional recess during such session.

4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly and of the Standing Rules of the Assembly as they are adopted and amended from time to time at this session, which provisions are incorporated herein and made applicable to this committee and its members.

5. The committee has the following additional powers and duties:

(a) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created.

(b) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee.

(c) To report its findings and recommendations to the Legislature and to the people from time to time and at any time, not later than herein provided.

(d) To travel, or appoint a subcommittee or committee employed to travel, within or outside of this State and the United States in pursuing the investigation committed to it.

(e) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

6. The sum of sixteen thousand dollars ($16,000) or so much thereof as may be necessary is hereby made available from the Contingent Fund of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid from the said Contingent Fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CREATION OF ASSEMBLY INTERIM COMMITTEE ON MARINE AFFAIRS

The Assembly Committee on Rules, at their meeting of June 24, 1955, referred the subject matter of Assembly Concurrent Resolution No. 138 of the 1955 Regular Session, which would have created a Joint Legislative Committee on Marine Affairs and Bay Area Development, to the Assembly Interim Committee on Public Utilities and Corporations, for study. House Resolution No. 17, 1956 Budget Session, affirmed and ratified the action of the Assembly Rules Committee in assigning subjects for study to various interim committees, thus confirming the authority of the Assembly Interim Committee on Public Utilities and Corporations to also serve as the Assembly Interim Committee on Marine Affairs. The Report of the Assembly Interim Committee on Marine Affairs has been filed and published as a separate document.

CHANGES IN COMMITTEE MEMBERSHIP

The Honorable Bernard R. Brady was a member of the committee until January, 1957. The Honorable Louis Francis became a member of the committee in 1956.

SCOPE OF THE COMMITTEE REPORT

This report does not include detailed accounts of all meetings of the committee sitting as a whole, or all meetings of subcommittees. Instead, it includes only the reports, findings and recommendations pertaining to legislation on which the committee has taken action.

POLICY OF THE COMMITTEE REGARDING COMPLAINTS AND SUGGESTIONS

All complaints and suggestions regarding public utilities and corporations submitted in writing to the committee were brought to the attention of the appropriate public utilities, corporations, and the departments, boards, and commissions of the State of California having jurisdiction over the subject matter of such complaints and suggestions.

This required a vast amount of correspondence and many interviews and investigations on the part of members of the committee, but most of the problems were solved without holding formal hearings, thus materially reducing the number of bills introduced in the 1957 session of the Legislature.

THE CITIZENS' ADVISORY COMMITTEES

The committee appointed Citizens' Advisory Committees on the advice and recommendation of Members of the Assembly. The members of the Citizens' Advisory Committees did not organize formally, but served as advisors and consultants, and attended meetings as individuals. Their valuable assistance is gratefully acknowledged.

CHAPTER 1

REPORT OF SUBCOMMITTEE ON RECOMMENDATIONS OF PUBLIC UTILITIES COMMISSION

PUBLIC NOTICE PRIOR TO HEARINGS

On August 8, 1955, the chairman of this committee wrote to Peter E. Mitchell, President, Public Utilities Commission, State of California, and invited suggestions for proposed amendments to the code pertaining to the Public Utilities Commission.

On August 19, 1955, Mr. Mitchell replied that he would offer recommendations after conferences with his staff. On January 9, 1956, Mr. Mitchell mailed the chairman an 18-page mimeographed set of 14 suggestions for legislation.

On January 16, 1956, the chairman mailed copies of the recommendations to about 200 officials of labor and management; city, county, and state officials; and all legislative advocates registered with the Legislature who would be interested in this subject.

The letter from Mr. Mitchell and his recommendations were printed in the Assembly Daily Journal, March 21, 1956, First Extraordinary Session, pages 247 to 259, both inclusive. Later, the chairman of the committee mailed additional copies of the recommendations of Mr. Mitchell to about 150 individuals representing organizations believed to be interested in amendments to the code pertaining to the subject.

Those receiving the recommendations replied in writing, stating their reaction to each recommendation affecting their organizations.

SUBCOMMITTEE ORGANIZED

On June 22, 1956, all members of the Assembly Interim Committee on Public Utilities and Corporations were invited in writing to attend a meeting to be held in Los Angeles beginning Monday, July 23, 1956. The number agreeing to attend was not enough to constitute a quorum of the whole committee, hence a Subcommittee on Public Utilities was formed, consisting of the following:

Chairman, Charles Edward Chapel; Vice Chairman, Augustus F. Hawkins; Members—Bernard R. Brady, Montivel A. Burke, Donald D. Doyle, William F. Marsh; Deputy Legislative Counsel, Owen K. Kuns; Committee Secretary, Anne E. Prothers; Stenotypist, Margaret Jane King; Sergeant-at-Arms, Tony Beard.

SUBCOMMITTEE MEETING

The Subcommittee on Public Utilities met at 10 a.m., Monday, July 23, 1956, in the Auditorium, Room 100, Los Angeles Police Building, 150 North Los Angeles Street, Los Angeles. The chairman read a communication from the Honorable Luther H. Lincoln, Speaker of the Assembly, appointing the Honorable Louis Francis a member of the Assembly Interim Committee on Public Utilities and Corporations. The Honorable Louis Francis was present, was appointed a member of

the Subcommittee on Public Utilities by the chairman, and was present during the hearing. The Subcommittee was in session on July 23d and July 24th, and recessed at 3.30 p.m. on July 24, 1956. The testimony was transcribed by the stenotypist, Margaret Jane King, checked by the secretary, Anne E. Prothers, mimeographed and then about 200 mimeographed copies of the record were mailed by the chairman to members of the whole committee, witnesses at the hearing, other interested individuals and organizations.

Throughout the hearing, on both days, Mr. Henry A. Jacopi, Assistant Director of Transportation for the California State Public Utilities Commission, with headquarters in the State Building, San Francisco, presented the opening argument for each of the 14 recommendations of the Public Utilities Commission. Witnesses favoring each recommendation then testified, followed by those in opposition. Mr. Jacopi was permitted to present a closing argument at the end of the testimony by others on each. Members of the subcommittee also questioned witnesses. For simplicity, the 14 recommendations were referred to as "Items" and are thus listed in this report.

ITEM No. 1, HEARINGS ON APPLICATIONS FOR CERTIFICATES

Item No. 1 was a recommendation that the Public Utilities Code, Sections 1005, 1007, and 1008, be amended. The subcommittee found the evidence inconclusive and took no action, but this was without prejudice to the right of the Public Utilities Commission to present the subject to the 1957 Session of the Legislature.

ITEM No. 2, FOREIGN CORPORATIONS

Item No. 2 was a recommendation that Public Utilities Code Section 704 be amended to include the clause: "provided, however, that no such foreign corporation shall be permitted to engage in intrastate commerce within this State until it shall have first complied with the laws of this State respecting foreign corporations." There was no opposition to the recommendation. The subcommittee voted that the chairman should ask the Legislative Counsel to draft the bill. This was accomplished after the hearing and is now before the Legislature as Assembly Bill No. 488. Page 2, line 4 of the bill omits a comma (without showing strikeout) after the word "State." Such comma is in the present section of the statute, and should not be stricken.

ITEM No. 3, RAILROAD HOSPITALS

Item No. 3 of the commission's legislative suggestions recommended that the committee consider legislation amending the Labor Code to provide that annual reports concerning railroad hospitals be filed with the Industrial Accident Commission, and that jurisdiction to declare hospital charges to be unreasonable, as well as auditing and the inspection of hospital books and accounts, be placed in the Industrial Accident Commission.

The chairman announced that at two subcommittee hearings in February, 1956, testimony regarding Item No. 3 had not demonstrated the need for action by the Assembly Interim Committee on Public Utilities and Corporations, and that the chairman of the Assembly

Interim Committee on Industrial Relations had been informed of the request by the Public Utilities Commission for legislation on this subject. It was unanimously voted that no action be taken on Item No. 3.

ITEM No. 4, SPECIAL APPROPRIATIONS FOR GRADE CROSSING PROTECTION

Item No. 4 relates to the Grade Crossing Protection Fund, established by the 1953 Session of the Legislature, which appropriated $500,000 to the fund. At the 1956 Budget Session, following a meeting of the Assembly Committee on Public Utilities and Corporations, the Legislature augumented the fund by $200,000. Since the fund was first established in 1953, some 252 requests for allocations have been filed with the commission.

As of February 5, 1957, the commission had allocated to cities and to counties a total of $517,471, and requests for an additional $50,100 were pending The present rate of expenditure is about $175,000 per year. It is estimated that by December 31, 1957, the balance in this fund will have been allocated or applied for, and that beginning on that date the commission will have to advise cities and counties which seek assistance from the fund that no more moneys are available

At the meeting of the subcommittee on July 23, 1956, there was no need for action on Item No. 4, for reasons given above. The subject is presented here because the Grade Crossing Protection Fund is a fund which the Legislature itself initiated to deal with the severe hazards at railroad grade crossings. The Legislature may desire to consider the appropriation of additional moneys for the fund during the 1957 Regular Session.

ITEM No. 5, SAFETY REGULATION OF TRUCK OPERATIONS

Item No. 5 was a recommendation that the committee consider such legislation as may be appropriate to place safety regulation of all trucks under the administration of a single agency. This meant all trucks in the State, those operated by carriers for hire subject to Public Utilities Commission regulation, as well as those engaged in proprietary not-for-hire operation and which may not be regulated by the Public Utilities Commission.

The chairman announced that correspondence with about 200 individuals representing governmental agencies, truck owners and operators, labor unions, and other interested groups indicated that Item No. 5 was the most controversial item on the agenda. He recommended that it be the principal order of business on the second day of the hearing, July 24, 1956. The subcommittee concurred

The principal witnesses included Henry A. Jacopi, for the Public Utilities Commission; Daniel J O'Connell, Inspector, California Highway Patrol; H. G. Feraud, Executive Secretary, Southern California Rock Products Association and Southern California Ready Mixed Concrete Association; L. E Osborne, Director, Traffic Department, California Manufacturers Association; Vern Cannon, Legislative Counsel, Teamsters Union, A F. of L.; Ralph E. Cawelti, Department of Motor Vehicles; Harry Cheshire, Automobile Club of Southern California; Arlo D. Poe, General Counsel, California Trucking Association; Claude

Minard, representing the California Railroad Association; and G. R. Mitchell, Chairman, California State Legislative Board, Brotherhood of Locomotive Engineers.

The witnesses were by no means in complete agreement, but the testimony, taken collectively, was to the effect that: (1) the safety regulation of all trucks should be under the administration of a single agency; and (2) the California Highway Patrol is the state agency best organized and operated to accomplish this purpose if it were given appropriations for additional personnel and equipment. The members of the committee expressed no opinion regarding public policy on this subject. At this hearing, and during subsequent investigations by the committee, we received no specific recommendations regarding the exact legislation required to accomplish the objectives of the Public Utilities Commission and the witnesses at the hearing. The subcommittee took no action at the hearing because of the lack of specific recommendations for legislation. Obviously, this is a vital problem which must be considered by the Legislature.

ITEM No. 6, TRUCK CARRIER OPERATION BETWEEN TWO CITIES

Item No. 6 and all other items at this hearing were considered on Monday, July 23, 1956, except Item No. 5, as explained before.

Item No. 6, truck carrier operation between two cities, one city being within the exterior boundaries of the other city (such as transportation between Beverly Hills and Los Angeles, or between Piedmont and Oakland), was a recommendation that the committee consider amendment of Public Utilities Code Section 3911 (a part of the City Carriers' Act). Henry A. Jacopi, representing the Public Utilities Commission was the only witness. There was no opposition. The subcommittee voted that the legislative counsel should draft the bill. This is before us now as Assembly Bill No. 486.

ITEM No. 7, LESS THAN MINIMUM RATES, CARRIERS REGULATED UNDER PUBLIC UTILITIES ACT

The recommendation, as modified, was that Public Utilities Code Section 726 be amended to include the sentence: "If any common carrier subject to this part desires to perform any transportation or accessorial service at a lesser rate than the established minimum rates, the commission shall, upon finding that the proposed rate is reasonable and consistent with the public interest, authorize the lesser rate."

The only witness was Henry A. Jacopi. There was no opposition. The subcommittee voted for the legislative counsel to draft the bill. It is now before us as Assembly Bill No. 484.

ITEM No. 8, LESS THAN MINIMUM RATES, CARRIERS REGULATED UNDER CITY CARRIERS' ACT

It was recommended that Public Utilities Code Section 4015, applicable to city carriers, be amended by striking out the words "and consistent with the public interest." The chairman announced that the Public Utilities Commission had requested that Item No. 8 be dropped in a letter from the commission dated April 10, 1956, entered at the

hearing of the subcommittee as Exhibit No. 4. It was unanimously voted that Item No. 8 be dropped.

ITEM No. 9, UNIFORM FILING FEES ON APPLICATIONS OF TRUCKERS FOR ISSUANCE OF CERTIFICATES OR PERMITS

The commission recommended the enactment of legislation providing for uniformity of filing fees or permits. This would require amendments of code sections.

The witnesses were Henry A. Jacopi, for the Public Utilities Commission, and O. W. Fillerup, Manager, Public Affairs, California Trucking Association. He did not recommend as to whether the filing fees on applications of truckers for certificates or permits should be $50 or $100, but did recommend that such filing fees be uniform for all in the code sections in question.

Mr. Fillerup said that the uniform fee should be $100. His testimony, and that of Mr. Jacopi, was to the effect that the difference in amounts of fees "grew up as a legislative situation," that is, it was accidental, and that there was no known reason for charging $50 for some and $100 for other certificates or permits.

It was unanimously voted that the legislative counsel draft the bill, leaving the amounts blank, and refer the bill to the Standing Committee on Public Utilities and Corporations in 1957. The bill is before us as Assembly Bill No. 483.

ITEM No. 10, KEEPING OF RECORDS OF "PERMIT" TRUCK CARRIERS WITHIN THE STATE

The Public Utilities Commission requested that Part 2 of the code, which contains the Highway Carriers' Act, the City Carriers' Act, and the Household Goods Carriers' Act, be amended so that Section 3701 would begin "Each highway permit carrier;" Section 4041 would begin "Each carrier;" and Section 5221 would begin "Each household goods carrier;" and then read: "shall have an office or a place within this State in which it shall keep all books, accounts, papers, and records required by the commission to be kept within this State. No such books, accounts, papers, or records shall be at any time removed from the State except under such conditions as the commission prescribes."

There were no witnesses. There was no opposition. The subcommittee voted that the legislative counsel draft the bill. It is now before us as Assembly Bill No. 487.

ITEM No. 11, LAPSE OF TRUCK CARRIER PERMITS FOR NONUSE

Mr. Jacopi testified that this was another situation where a one-year period has been used in some cases and a six-months' period in other instances, hence uniformity was recommended by the commission which would require amending code sections 3573, 3605, 3945, and 5284.

The subcommittee voted for the legislative counsel to draft a bill providing for a one-year period, but subsequently a witness made a request for a six-months' period, hence the legislative counsel drafted

a bill with the period blank, thus leaving it to the 1957 Standing Committee on Public Utilities and Corporations to hold a hearing and decide upon a uniform period. This is before us as Assembly Bill No. 482.

ITEM No. 12, TRUCK CARRIER OPERATION BETWEEN SAME POINTS UNDER DIFFERENT KINDS OF PERMITS

The recommendation was that the Highway Carriers' Act, Code Section 3542, be amended by inserting the words "or petroleum contract carrier" so that the section will then read:

"3542. No person or corporation shall engage or be permitted by the commission to engage in the transportation of property on any public highway, both as a common carrier and as a highway contract carrier or *petroleum contract carrier* of the same commodities between the same points."

Mr. Jacopi and Mr. O. W. Fillerup, California Trucking Association, both testified in favor of the amendment. There was no opposition. The subcommittee voted to draft the bill. It is now before us as Assembly Bill No. 489.

ITEM No. 13, TRANSPORTATION RATE FUND FEE COLLECTION UPON REVOCATION OF OPERATIVE AUTHORITY

The recommendation was that code section 5007 relating to default in payment of fees by a transportation agency be amended by adding:

"Upon revocation of any operating authority issued to any transportation agency subject to this chapter, all fees provided for herein shall become due and payable immediately."

Mr. Jacopi and Mr. Fillerup testified in favor of the amendment. There was no opposition. The subcommittee voted that the legislative counsel should draft the bill. It is before us as Assembly Bill No. 485.

ITEM No. 14, OBSOLETE STREET CAR FARE PROVISION

The commission recommended that the first sentence of Section 462, Public Utilities Code, be struck out by amendment. It reads:

"462. No street or interurban railroad corporation shall charge or receive more than five cents ($0.05) for one continuous ride in the same general direction within the corporate limits of any city or city and county, except upon a showing before the commission that such greater charge is justified."

Mr. Jacopi testified: "The commission believes that the present provisions of Section 462 of the code with respect to a 5-cent fare are obsolete and the same thing is accomplished under the provisions of Section 454 of the code which requires that a common carrier must obtain permission from the commission before it can make an upward adjustment of fares."

There was no opposition. The subcommittee voted that the legislative counsel should draft the bill. It is before us as Assembly Bill No. 490.

LEGISLATIVE COUNSEL'S OPINIONS ON AUTHORITY OF COMMITTEE

The chairman read a letter dated June 13, 1956, from the legislative counsel giving his opinion that the Assembly Interim Committee on Public Utilities and Corporations has authority to investigate parking lots. This was entered in the record as Exhibit No. 6.

The chairman read a letter dated July 18, 1956, from the legislative counsel giving his opinion that the Assembly Interim Committee on Public Utilities and Corporations has authority to investigate certain aspects of aviation.

There being no requests for action by the committee pursuant to the above opinions of the legislative counsel, the committee did not receive any testimony on these subjects. As stated above, the hearing convened on July 23, and adjourned on July 24, at 3.30 p m.

(Signed)

CHARLES EDWARD CHAPEL
AUGUSTUS F. HAWKINS
MONTIVEL A. BURKE
DONALD D. DOYLE
LOUIS FRANCIS
WILLIAM F. MARSH

CHAPTER 2

THE CALIFORNIA WATER AND TELEPHONE COMPANY

COMPLAINTS WHICH LED TO THE HEARING

Beginning in July, 1955, the chairman, Assembly Interim Committee on Public Utilities and Corporations, began receiving a few complaints regarding the California Water & Telephone Co. from its subscribers. In each case, the chairman wrote to the complainant that he or she should send written complaints to the company, and then, if they failed to take action, to write to the Public Utilities Commission.

Beginning in January, 1956, complaints reached the chairman from subscribers to the California Water & Telephone Co. living in Palm Springs, Banning, Beaumont, Elsinore, Hemet, Moreno-Edgmont, Murrietta, Perris, San Jacinto, Idylwild, Temecula, Yucaipa, Loma Linda, Joshua Tree, Twentynine Palms, San Fernando, Monrovia, Redlands and Sierra Madre, and portions of Arcadia, Pasadena and Los Angeles. Investigations showed that the communities mentioned are in the area served by the company which includes San Bernardino County, Riverside County, and a part of Los Angeles County, embracing an area of about 2,400 square miles and having a population of more than 225,000 people.

The complainants, which constantly increased in number, were advised to write to the Public Utilities Commission without first writing to the company because their letters indicated that writing to the company was a waste of time in almost every case.

HEARINGS BY THE PUBLIC UTILITIES COMMISSION

In January, 1956, the chairman of the Assembly Interim Committee on Public Utilities and Corporations began writing to Peter E. Mitchell, President, Public Utilities Commission, State of California, enclosing complaints from subscribers to the California Water & Telephone Co. and requesting commission action.

On March 13, 1956, the commission on its own motion opened an investigation, under Case No. 5741, regarding service and rate problems in the Palm Springs-Palm Desert area. Following six days of public hearings during April and May, 1956, the commission on June 26, 1956, issued its interim opinion and order by Decision No. 53298. This authorized the company to diligently proceed to institute extended service between Palm Desert and Palm Springs on or before October 1, 1957, at rate levels to be subsequently determined and fixed by the commission. It also provided, as an interim measure pending introduction of extended service, for the establishment on or before December 1, 1956, of a reduction in toll rates from 35 cents to 20 cents for station initial period service, with corresponding reductions for personal service, between Palm Desert and Palm Springs coincident with

the establishment of facilities between these locations. Proceedings were held open pending completion of staff studies and for such additional evidence as would complete the record.

Effective December 1, 1956, the reduced toll rate provided for by the commission's interim opinion and order was placed into effect. Also, effective December 1, 1956, the company, pursuant to the commission's Resolution No. T-3389, reduced charges for higher grades of service in the Rancho Mirage area of Palm Springs. Two days of further hearings in this matter were held in Palm Springs on January 3 and 4, 1957, at which time additional complaints were registered by members of the public and the commission staff introduced its report, called by the commission Exhibit No. 18, in the proceedings. Since then, additional hearings have been held by the Public Utilities Commission, but after each hearing by the Public Utilities Commission, the chairman of the Assembly Interim Committee on Public Utilities and Corporations received a fresh flood of complaints, principally from communities in and near the community where the hearing was held. Apparently the reason was that the subscribers of the company do not object to the rates charged so much as they do the poor service rendered by the company.

"It does me no good for the rates to be reduced when I cannot receive or send telephone calls, or hear noises on the line when I do get a connection," one complainant wrote. This comment was typical of hundreds of letters received by the committee.

Another typical complaint was: "We do not believe the California Water & Telephone Co. is afraid of the Public Utilities Commission. The service seems to get worse after each hearing."

On December 21, 1956, the California Water & Telephone Co. filed its Application No. 38685 with the Public Utilities Commission for authority to *increase* its rates and charges for telephone service by approximately $1,472,000 a year. The request in the application involves increases in all service areas of the company, that is, in each of the communities mentioned previously in this report. At the time of preparing this report, no hearings had been held by the Public Utilities Commission on the company's application for rate increases, but when the news of the application reached the company's subscribers, the chairman of the Assembly Interim Committee on Public Utilities and Corporations again received an avalanche of complaints from subscribers, many of whom asked: "Why doesn't the company improve its service first and then ask for a rate increase."

LEGAL LIMITATIONS ON PUBLIC UTILITIES COMMISSION

In a spirit of fairness, the committee finds that the Public Utilities Commission, State of California, is required to observe due process of law and statutory standards in regulating a telephone company and, therefore, it must operate within limitations not necessarily applicable to a committee of the Legislature. The commission must observe procedural and other legal rules in rendering its decisions, which decisions are subject to review by the Supreme Court of the State of California. There is no evidence that the Public Utilities Commission is not attempting to apply all reasonable and permissible regulatory action against the California Water & Telephone Company. However, there

is evidence that the subscribers of that company are not satisfied with the service they are receiving, and there is evidence that the subscribers are impatient with the lack of improvement of telephone service even after repeated hearings by the Public Utilities Commission.

PREPARATION FOR HEARING

On January 25, 1957, because of insistent demands for an Assembly hearing, the chairman sent written notices to leading citizens of Palm Springs, Desert Hot Springs, and adjacent communities, informing them of a hearing to be held in Palm Springs, Friday, February 8, in the City Hall, at 10 a.m. A letter also was written to the President of the California Water & Telephone Company.

The chairman then began to receive telephone calls, obviously inspired by the company, to the effect that the meeting should be postponed or canceled. One came from a lawyer for the company, who also wrote a letter in the same vein; one was from an executive of a telephone company with lines connecting with those of the California Water & Telephone Co.; one from a lawyer for another company having connecting lines; and others from people who admitted that they were acting on the suggestion of the company. The main argument was that the Assembly interim committee could not do anything that was not being done as well or better already by the Public Utilities Commission.

On the morning of the hearing, the Vice President and General Manager of the California Water & Telephone Company introduced himself to the committee chairman in front of the Palm Springs City Hall and said that the Assembly hearing would be a waste of time and money because nothing could be accomplished by it. Accompanying him was the local manager of the Palm Springs office of the company.

THE SUBCOMMITTEE MEETING

A Subcommittee of the Assembly Interim Committee on Public Utilities and Corporations consisting of Charles Edward Chapel, Chairman; Seth J. Johnson, Vice Chairman; and Rex M. Cunningham met at the Palm Springs City Hall at 10.10 a.m. Sitting with the subcommittee as an ex officio member was L. M. (Lee) Backstrand, Member of the Assembly from the Seventy-first Assembly District which includes the area from which many of the complaints originated.

Peter Nenzel, Vice President and General Manager, California Water & Telephone Co., of San Francisco, was seated with the subcommittee in order that he might better hear the complaints of witnesses and make notes on how he can improve the service. Also present and seated with the committee was Mrs. James D. (Mary E) Wiltshire, Staff Assistant, Coachella Valley Telephone Co , P. O. Box 726, Thermal, California, to take notes on the hearing for her employers. She did not testify or take part in the proceedings.

The following witnesses testified in the order named: Edwin J. Shaut, Peter Nenzel, Robert E. Newman, Evelyn C. Knudsen, Bessie C. Boardway, Larry H. Smith, Walter Larsen, Emil C. Luks, H. L. Gogerty, Marjorie B. Hanzel, John A. Van Pelt, Mrs. Ben H. Read.

After each witness testified, Mr. Nenzel was permitted to ask the witness questions and make statements on behalf of the company. A brief digest of the principal complaints includes the following:

1. Speakers from out of town, making long distance calls, cannot be heard or are heard poorly. Indistinct reception.
2. Being cut off in the middle of a telephone conversation.
3. Party line interference on party lines.
4. Telephones being out of order frequently.
5. Too many wrong numbers when calls come through operator.
6. "Frequently when dialing the operator we get the busy signal."
7. "I have a private line but can hear other people talking to one another."
8. Excessive delay in obtaining telephone service although neighbors who have moved in later have telephones. (Complaint that company does not install telephones in the order of the requests.)
9. Long distance calls receive no "call back" when connection is not made immediately.
10. "My telephone was installed September 28, 1956. Between that date and February 1, 1957, the telephone has been out of order 21 times, from three to five days each time. Operator does not tell calling party the telephone is out of order. Result—lost business."
11. Voices fade out during conversation.
12. "Customers report they cannot get us on days and hours when we are present."
13. Excessive delay in installation of pay telephone booths after promising that they would be installed.
14. Excessive toll charges because telephone is not disconnected by operator after call is completed.
15. Arbitrary refusal to install PBX switchboard in hotel on grounds that the company has established that policy. (Testimony of H. L. Gogerty.)
16. General complaints that reporting telephone difficulties to company "does not do any good."

TESTIMONY OF PETER NENZEL

Peter Nenzel, Vice President and General Manager, California Water & Telephone Co., testified after the other witnesses had concluded their remarks and answered questions by the members of the subcommittee. Although no shorthand record was kept of the meeting, the testimony of Mr. Nenzel, corroborated by information received from various reliable sources established the following:

1. On or about October 1, 1957, the California Water & Telephone Company, the Pacific Telephone and Telegraph Company, and the Coachella Valley Telephone Company plan to complete the installation of toll facilities which will enable subscribers to the Palm Springs exchange to dial the San Bernardino toll operator directly without the intervention of the Palm Springs operator and subscribers in Coachella exchange to dial directly their station toll calls to distant locations without the assistance of an operator.

2. The companies mentioned are also proceeding with the construction necessary to provide extended service between Palm Springs and Palm Desert on or before October 1, 1957.

3. Gross construction by the California Water & Telephone Co. in the Palm Springs area, during 1956, amounted to about $1,300,000 to provide additional facilities in the area.

4. The common stock of the California Water & Telephone Co. was selling at an average price on February 8, 1957, of about $20 per share. Assuming a dividend of $1.20 per share, the yield is about 6 percent.

5. About 15 percent of the common stock of the company is held by a single group, a corporation, which, in turn, is owned by many others.

6. Mr. Nenzel did not discuss the question that perhaps the company had been diverting funds into the water portion of the business at the sacrifice of developing telephone service, although this question was propounded by the subcommittee.

FUTURE HEARINGS

Mr. Johnson made a motion that the 1957 Standing Committee on Public Utilities and Corporations investigate the promised performance of the California Water & Telephone Co. regarding better installations and service, on or after October 1, 1957. Mr. Chapel seconded the motion. Mr. Cunningham announced that as the chairman of the 1957 standing committee he would definitely hold hearings at an appropriate time to verify performance.

ACTION BY COMPANY AFTER HEARING

On the day following the hearing, although it was Saturday, one member of the subcommittee saw two company repair trucks in action, another member reported that he counted four at work, and reliable citizens of the communities around Palm Springs said that there were actually eight repair trucks in the field.

Members of the subcommittee visited witnesses who had testified the previous day and were told that telephone men had called at their homes and businesses that morning (Saturday) and arranged for the installation of telephones that had been promised for many months. Several witnesses wrote to the subcommittee that individual problems were being corrected for those who had testified, but service in general was still bad. Obviously, this raises the presumption that the company was desperately trying to pacify the more vocal subscribers, and could have given such service earlier.

SUBSEQUENT FINDINGS REGARDING CORPORATE STRUCTURE AND EARNINGS

A report on the California Water & Telephone Co. published by Standard & Poor's Corporation, 345 Hudson Street, New Work 14, dated January 14, 1957, corroborates the following generally known facts about the company:

1. The California Water & Telephone Co. was incorporated in California in 1926. Its home office is at 300 Montgomery Street, San Francisco 4, California. The president is C. H. Loveland; the secretary is C. de Y. Elkus; and the treasurer is G. D. Lamp.

2. The company has 44 percent of its plant investment providing water service for domestic, agricultural and industrial purposes, although the water phase of the business accounts for only about 31 percent of the operating revenues. Telephone service accounted for 69 percent of the 1955 gross revenues, despite the fact that only 56 percent of the plant investment is devoted to telephone service. These percentages can change from time to time but they do show that in the immediate past the company has neglected its telephone service in favor of its water business.

3. Water is delivered to more than 200,000 people in the Monterey Peninsula region, a portion of Los Angeles County, and a portion of the San Diego Bay region.

4. Subscribers to the telephone service will question the accuracy of the following quotation from the Standard & Poor's Corporation report dated January 14, 1957:

"Marked population growth in the area served and substantial additions of new phones during the past year, together with a rate increase in the water division, should be reflected in further wide revenue gains."

5. The future looks bright—for the stockholders, that is. The same Standard & Poor's report says:

"With costs showing leveling tendencies, the upward trend in earnings should be extended for some time ahead."

6. The obvious conclusion is that if the Public Utilities Commission, and the Assembly Committee on Public Utilities and Corporations, working together, cannot get good telephone service for the company subscribers, the last clear chance for the subscribers to get action will be to buy shares of common stock in the company, collect a handsome return on the investment, attend stockholders' meetings in San Francisco, throw out the present Board of Directors, and elect their own people. This is a promising new development of the "do it yourself" program.

(Signed)

CHARLES EDWARD CHAPEL, Chairman
SETH J. JOHNSON, Vice Chairman
REX M. CUNNINGHAM, Member

CHAPTER 3

REPORT OF THE COMMITTEE ON BILLS ASSIGNED TO IT BY RULES COMMITTTEE

ORGANIZATION OF THE MEETING

Prior to the meeting, the chairman mailed a notice of the meeting to all members of the committee. On December 18, 1956, the Assembly Interim Committee on Public Utilities and Corporations met in Room 2170, State Capitol, Sacramento, California. The following were present and constituted a quorum: Charles Edward Chapel, Chairman; Seth J. Johnson, Vice Chairman; Bernard R. Brady, Montivel A. Burke, Louis Francis, Augustus F. Hawkins, William F. (Bill) Marsh.

RATIFICATION OF MEETINGS ON JUNE 22 AND JUNE 23, 1956

The committee ratified the findings of the subcommittee on Public Utilities which had held meetings on June 22 and June 23, 1956, in Los Angeles, and instructed the chairman to have the Legislative Counsel prepare bills amending the Public Utilities Code in accordance with the findings of that subcommittee.

BILLS ASSIGNED BY RULES COMMITTEE

The Assembly Rules Committee in 1955 assigned to the Assembly Interim Committee on Public Utilities and Corporations, for such action as the committee desired to take, the following Assembly bills: Assembly Bill No. 356, Assembly Bill No. 2190, Assembly Bill No. 2342, Assembly Bill No. 2418, Assembly Bill No. 3166, Assembly Bill No. 3341, Assembly Bill No. 3348, Assembly Bill No. 3410, Assembly Bill No. 3411, Assembly Bill No. 3412, Assembly Bill No. 3413, Assembly Bill No 3416, Assembly Bill No. 3418, Assembly Bill No. 3419, Assembly Bill No 3420, Assembly Bill No 3422, Assembly Bill No. 3423, Assembly Bill No. 3424, Assembly Bill No 3425, Assembly Bill No. 3426, Assembly Bill No. 3647, Assembly Bill No. 3648, and Assembly Bill No. 3741.

The chairman told the committee that he had, in 1955, informed the authors of the bills in writing that the committee would hold hearings on the bills if requested, that no requests had been received for such hearings, and that he would await the pleasure of the committee. It was moved, seconded, and unanimously voted that the bills be dropped.

There being no further business before the committee, the meeting was adjourned at 11 a.m., December 18, 1956.

(Signed)

CHARLES EDWARD CHAPEL, Chairman
SETH J. JOHNSON, Vice Chairman
MONTIVEL A. BURKE
LOUIS FRANCIS
AUGUSTUS F. HAWKINS
WILLIAM F. (BILL) MARSH

CHAPTER 4

REPORT OF THE COMMITTEE ON CORPORATIONS

INTRODUCTION

The Assembly Interim Committee on Public Utilities and Corporations appointed a Citizens' Advisory Committee on Corporations on a state-wide basis, and also asked the Corporations Commissioner of the State of California for recommendations.

The only suggestion received from any source was for an act to amend Sections 1109 and 1506 of the Corporations Code, relating to share dividends, which was introduced as Assembly Bill No. 3487 on January 24, 1957, and referred to the Assembly Committee on Public Utilities and Corporations.

ASSEMBLY BILL No. 3487

Assembly Bill No. 3487 is set forth below in its entirety as it was introduced.

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL **No. 3487**

Introduced by Mr. Chapel

January 24, 1957

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to amend Sections 1109 and 1506 of the Corporations Code, relating to share dividends.

The people of the State of California do enact as follows:

SECTION 1. Section 1109 of the Corporations Code is amended to read:

1109. No shares of stock, with or without par value, shall be issued except in consideration of any or all of the following:

(a) Money paid.

(b) Labor done.

(c) Services actually rendered.

(d) Debts or securities canceled.

(e) Tangible or intangible property actually received by the issuing corporation.

(f) Amounts transferred from surplus to stated capital upon the issue of shares as a dividend.

This section does not forbid or limit the power of a corporation to split up or subdivide its shares into a larger number of shares without transferring surplus to stated capital, *or to effect a transfer to paid-in surplus in accordance with Section 1506*.

If authorized in its articles or by-laws, a corporation may issue the whole or any part of its shares or its certificates for shares prior to full payment under such restrictions as are imposed by this division.

SEC. 2. Section 1506 of said code is amended to read:

1506. ~~Upon the declaration of a dividend payable in shares the amount of surplus from which the dividend is declared shall be transferred to stated capital.~~

If a dividend is declared *payable* in shares having a par value, the aggregate par value of the shares shall be deducted from the surplus *from which the dividend is declared* and added to stated capital, *and when such dividend is declared out of earned surplus, an amount equal to the excess, if any, of the estimated fair value of such shares, as determined and stated by resolution of the board of directors, over the aggregate par value thereof, may be deducted from earned surplus and added to paid-in surplus*.

If ~~the~~ *a* dividend is declared *payable* in shares without par value, preferred shares shall be valued at the amount to which they are entitled in preference to shares of another class upon involuntary liquidation, and common shares or shares having no liquidation preference shall be valued upon the basis of their estimated fair value, ~~upon issue,~~ as determined and stated by resolution of the board of directors, *and such value shall be deducted from the surplus from which the dividend is declared and added to stated capital*.

Upon the declaration of a dividend payable in shares notice shall be given to the shareholders of the amount per share transferred from surplus and of the particular surplus from which the amount was transferred.

OPINION OF THE LEGISLATIVE COUNSEL

OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, March 12, 1957

HONORABLE CHARLES EDWARD CHAPEL
Assembly Chambers, State Capitol
Sacramento 14, California

SHARE DIVIDENDS—#8785

DEAR MR. CHAPEL: You have asked us to review certain correspondence between yourself and the Commissioner of Corporations regarding proposed amendments to the Corporations Code relating to share dividends, and also to give you an analysis and opinion regarding Assembly Bill No. 3487, which would amend Sections 1109 and 1506 of the Corporations Code, relating to share dividends.

The correspondence in question primarily involves the accounting method to be used in connection with the declaration of a share dividend by a corporation. According to the correspondence, it often happens that a corporation will issue dividend shares for a par value

which is lower than the market value of the shares. In such case, it is standard practice for the corporation to transfer from earned surplus to stated capital an amount equal to the aggregate par value of the dividend shares, and to transfer from earned surplus to paid-in surplus an amount equal to the difference between such aggregate par value and the market value of the shares. In other words, the corporation transfers only that part of the amount of the dividend which represents the par value to stated capital, and transfers the excess to paid-in surplus. The accounting method so used is apparently not in accord with existing law.

At present the Corporations Code provides for a transfer of earned surplus to stated capital in the case of share dividends:

> "Sec. 1109. No shares of stock, with or without par value, shall be issued except in consideration of any or all of the following:
> * * * * *
> (f) Amounts transferred from surplus to stated capital upon the issue of shares as a dividend. * * *"

The amount to be transferred from surplus to stated capital is determined by Section 1506 which reads as follows:

> "1506. Upon the declaration of a dividend payable in shares the amount of surplus from which the dividend is declared shall be transferred to stated capital.
> "If a dividend is declared in shares having a par value, the aggregate par value of the shares shall be deducted from the surplus and added to stated capital.
> "If the dividend is declared in shares without par value, preferred shares shall be valued at the amount to which they are entitled in preference to shares of another class upon involuntary liquidation, and common shares or shares having no liquidation preference shall be valued upon the basis of their estimated fair value upon issue, as determined and stated by resolution of the board of directors.
> "Upon the declaration of a dividend payable in shares notice shall be given to the shareholders of the amount per share transferred from surplus and of the particular surplus from which the amount was transferred."

As indicated in Section 1506, quoted above, where a corporation declares a dividend payable in shares having a par value, the aggregate par value of such shares must be transferred from earned surplus to stated capital. No provision is made for the transfer of the difference between such aggregate value and the market value of the shares. Both the Corporations Commissioner and the corporation attorneys, in the correspondence submitted, suggest that changes be made in the law to remedy this situation, and Assembly Bill No. 3487 is directed to that end.

Under the bill, a corporation, in declaring a dividend payable in par value shares and from earned surplus, would be permitted to transfer the excess of the market value over the par value of such shares, as determined by board resolution, from earned surplus to paid-in surplus.

The amount of such shares representing the aggregate par value thereof would still be transferred to stated capital, as now provided in the law. In the case of a share dividend payable in shares having no par value, the entire value of such shares would be transferred from earned surplus to stated capital, which is also a reflection of the present law. However, the bill would delete the present requirement that the estimated fair value of such no-par stock be determined as of the date of issuance thereof, apparently leaving it to the board of directors to determine such value at the time of declaring the dividend.

Other changes made by Assembly Bill No. 3487 appear to be merely clarifying in nature.

Very truly yours,

RALPH N. KLEPS
Legislative Counsel
By EDWARD K. PURCELL
Deputy

APPENDIX

CITIZENS' ADVISORY COMMITTEE ON CORPORATIONS

Crotty, Homer D., 1155 Shenandoah Road, San Marino
Dessau, David, 38 Fourteenth Street, Hermosa Beach
Jefferson, Bernard S., Suite 611, 306 West Third Street, Los Angeles 13
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ASSEMBLY INTERIM COMMITTEE REPORT
1955-1957
VOLUME 17 NUMBER 6

FAIRS AND EXPOSITIONS

FINAL REPORT OF THE SUBCOMMITTEE OF THE ASSEMBLY INTERIM COMMITTEE ON AGRICULTURE

House Resolution No. 189, 1955

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RALPH M. BROWN, *Chairman*
SAMUEL R. GEDDES
H. W. KELLY
EUGENE G NISBET
ALAN G. PATTEE
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Consultant to Subcommittee

RUSSELL R. McCOMB
Project Director

March, 1957

Published by the
ASSEMBLY
OF THE STATE OF CALIFORNIA

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HON. CHARLES J. CONRAD
Speaker pro Tempore
HON. RICHARD H. McCOLLISTER
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Minority Floor Leader
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Chief Clerk

LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, MARCH 6, 1957

HON. L. H. LINCOLN
Speaker of the Assembly; and Members of the Assembly
Assembly Chamber, Sacramento, California

GENTLEMEN: Pursuant to House Resolution No. 189, 1955 Session of the California Legislature, your Assembly Interim Committee on Agriculture submits its final report covering the functions and activities of its Subcommittee on Fairs and Expositions.

The report contains the results of studies made and public hearings held on six major subjects during the second half of the interim. It does not duplicate the material contained in the Preliminary Report of the Subcommittee on Fairs and Expositions which was submitted in March, 1956.

The subjects upon which the subcommittee reports herein are:

1. Industrial education exhibits pilot study.
2. Proposed Industrial and Trade Exposition by the Sixth District Agricultural Association.
3. Traveling state and industry exhibits.
4. Fairs Classification Committee.
5. Interim use of fairgrounds and facilities.
6. Proposed five-year building program of county and district fairs.

The subcommittee believes that continuing legislative study of the fair program in California is beneficial to fair managements, participants and visitors, alike, and recommends that this policy be maintained in the future.

Respectfully submitted,

RALPH M. BROWN, *Subcommittee Chairman*
SAMUEL R. GEDDES
H. W. KELLY
EUGENE G. NISBET
ALAN G. PATTEE
WILLIAM W. HANSEN, *Chairman*
Committee on Agriculture

LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, MARCH 6, 1957

HON. WILLIAM W. HANSEN, *Chairman*
Assembly Committee on Agriculture
State Capitol, Sacramento, California

DEAR MR. HANSEN: Your Subcommittee on Fairs and Expositions, acting under the authority of appointment by Hon. George A. Clarke, who was Chairman of the Assembly Interim Committee on Agriculture until his retirement from the Assembly on January 7, 1957, herewith submits the final report of its activities.

This report covers six major subjects on which studies were made and public hearings held during 1956. It does not duplicate the contents of our preliminary report which was submitted to the Assembly in March, 1956.

The subjects on which the subcommittee reports herein are:

1. Industrial education exhibits pilot study.
2. Proposed Industrial and Trade Exposition by the Sixth District Agricultural Association.
3. Traveling state and industry exhibits.
4. Fairs Classification Committee.
5. Interim use of fairgrounds and facilities.
6. Proposed five-year building program of county and district fairs.

The subcommittee believes that continuing legislative study of the fair program in California is beneficial to fair managements, participants and visitors, alike, and recommends that this policy be maintained in the future.

The subcommittee could not complete its activities without expressing its deep gratitude and appreciation to Mr. George A. Clarke.

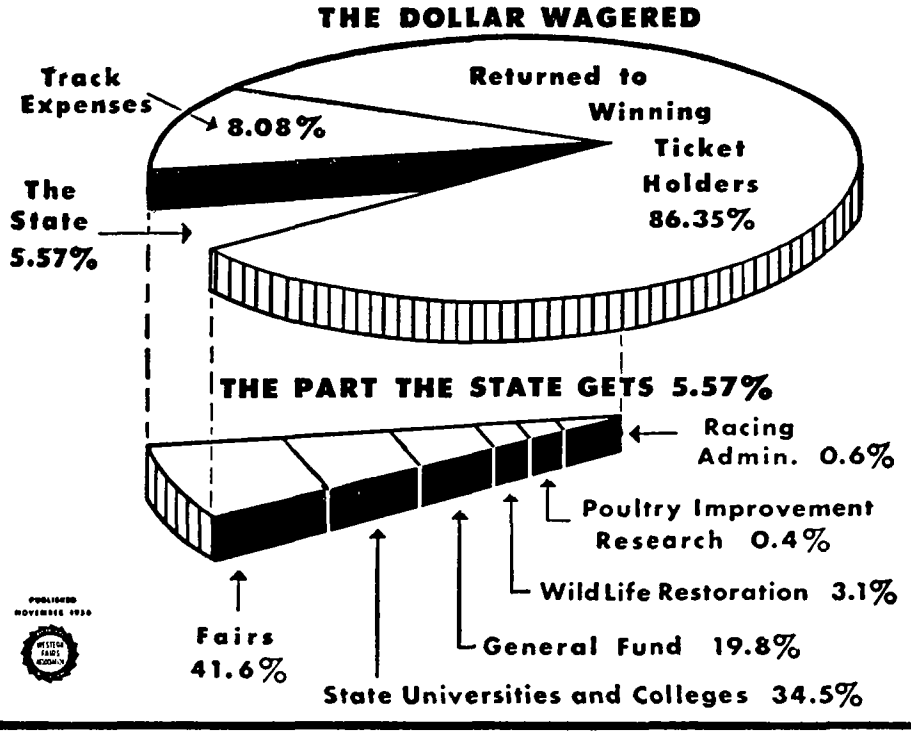
Mr. Clarke's sincere interest in the district and county fairs of California and his unceasing efforts on behalf of their activities have been sources of great inspiration to those who have been privileged to work with him. Mr. Clarke well deserved the honor which he received on October 22, 1955, when he became a member of Western Fairs Association's Hall of Fame.

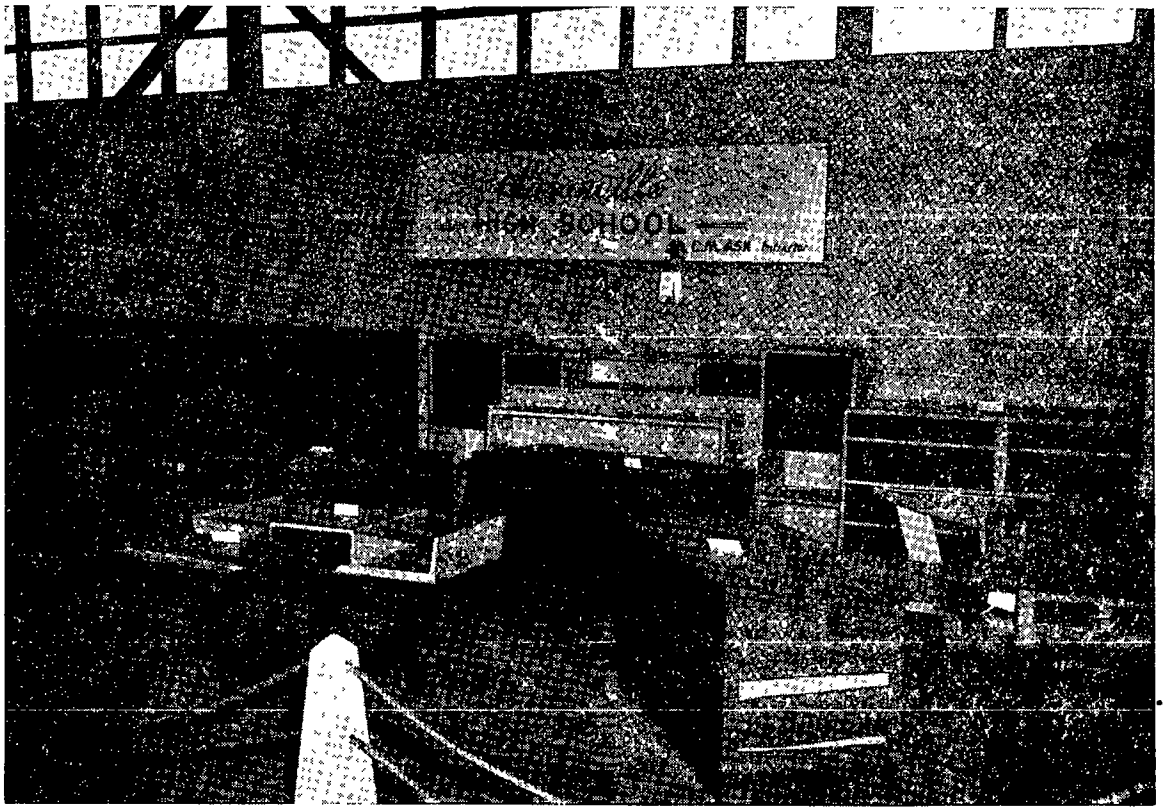
Respectfully submitted,

RALPH M. BROWN, *Subcommittee Chairman*
SAMUEL R. GEDDES
H. W. KELLY
EUGENE G. NISBET
ALAN G. PATTEE

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THE STORY OF THE PARI MUTUEL DOLLAR





Susanville High School's exhibit in the Silver Dollar Fair at Chico is an example of school participation in the pilot studies on industrial education exhibits

FINAL REPORT OF THE SUBCOMMITTEE ON FAIRS AND EXPOSITIONS

PREFACE

In its preliminary report submitted to the Assembly in March, 1956, the Subcommittee on Fairs and Expositions reviewed the growing trend toward industrial-vocational training in the California educational system and the early study of the feasibility of including industrial-vocational education exhibits in the activities of the State's district and county fairs.

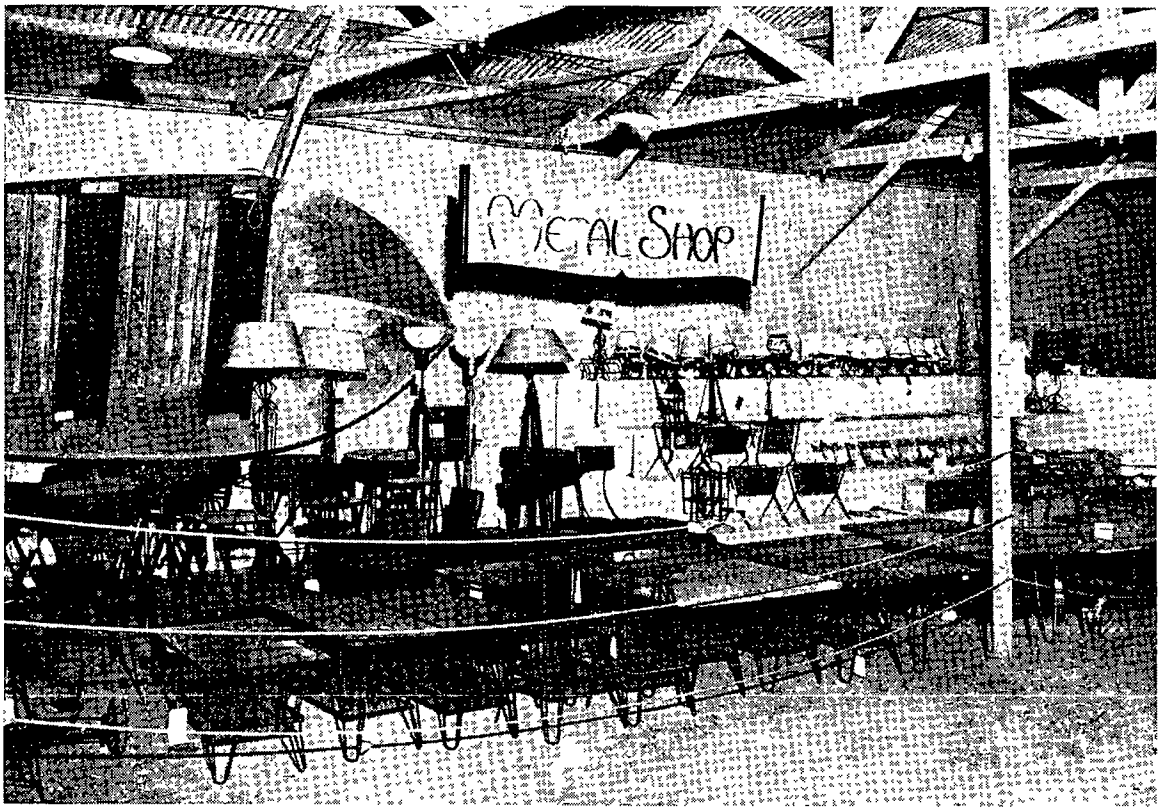
During the period since the filing of its 1956 preliminary report, the subcommittee has expanded its investigation into this matter, and this report contains the highlights of the testimony that has been presented to the subcommittee during the past year.

Other educational aspects of the fair program studied by the subcommittee include the over-all role of youth activities, the creation of the Industrial and Trade Exposition by the Sixth District Agricultural Association, and the development of traveling exhibits depicting functions of California State Government and major industries which contribute so greatly to the economy of the State.

The role of youth in county and district fairs was reported on in detail in the preliminary report. This report contains the findings, conclusions and recommendations on the remaining educational aspects.

In addition, the subcommittee has been interested in the work of the Fairs Classification Committee in classifying the county and district fairs as regional, special feature, and sectional.

Interim use of fairgrounds and facilities for nonfair activities was surveyed by the subcommittee. Although this report merely summarizes such interim use, detailed information on this subject is part of the subcommittee's records.



One of the problems encountered in the industrial education exhibit pilot studies was insufficient space, as demonstrated by this photograph.

INDUSTRIAL EDUCATION EXHIBITS PILOT STUDY

Findings

The pilot studies into the feasibility of including industrial-vocational education exhibits in the activities of the State's district and county fairs were conducted for the Subcommittee on Fairs and Expositions by the Division of Fairs and Expositions of the Department of Finance.

An Industrial Education Exhibit Committee, composed of fair managers, industrial education representatives, and personnel from the Bureau of Industrial Education, State Department of Education, and the Division of Fairs and Expositions, was established. This committee worked out a proposed industrial education exhibit classification, selected seven fairs where the conditions necessary for a satisfactory pilot study were present, and received reports from the managers of the respective fairs and the industrial education instructors in the participating schools.

At the close of the 1956 fair season, the Industrial Education Exhibits Committee submitted the following statement to the Subcommittee on Fairs and Expositions which summarizes the more detailed data obtained in the pilot studies:

COMMENTS

Based on the reports submitted by the fair management and the schools who participated in the pilot study and some personal observations, the committee found that the participation of the industrial education groups in the fairs was quite successful. Fair management indicated that the problems encountered were not too difficult, and the school participation was generally good.

These exhibits provided a new educational field to the fairs, and attracted a segment of students and the public who are interested in the industrial fields. The students participating in the pilot program represented the junior high school, senior high school, and junior college levels.

Some typical problems which developed in this activity are as follows:

1. When the fair is held during a time when the schools are closed, the problem of supervision and preparation of exhibits on the part of the schools is quite difficult.
2. Some of the fairs have found difficulty in providing adequate exhibit areas and desirable locations.
3. The local schools and the fairs both have need for their present funds in other areas of activities.
4. Due to the time element in regard to the pilot study, the problem of the school and the fair management getting together was amplified, and in some cases resulted in the schools being unable to participate.

The variety of exhibits presented indicates that the potential for putting on attractive and interesting educational exhibits in the area of industrial education would be assured in future participation.

In determining the scope of this pilot study, the committee felt that it should be in situations where the willingness and the ability to cooperate, on the part of both the fairs and the schools, was known to exist.



The photo above, taken at the Ventura County Fair, illustrates the spectator interest which can be generated by industrial education exhibits which have both educational and entertainment value.

From the evidence produced in the pilot study, liaison between the schools and the fairs will need to be improved in order to develop full participation.

RECOMMENDATIONS

In view of the findings of the committee in regard to the pilot study, the following recommendations would seem to be in order.

1. Since the pilot studies were conducted at the expense of the participating fairs without additional funds being made available for the purpose, and considering the most favorable report from this preliminary study, it is the belief of the committee that not only should this type of exhibit be continued but that every effort should be made to encourage continued participation by the provision of additional financial support.

2. Present law does not provide for the inclusion of awards in the Master Premium List for exhibits prepared by students in industrial education. The committee recommends that legal provisions be made enabling the fairs to include awards of this type in the Master Premium List.

Additional details on the size of exhibit space, number of exhibitors, number of exhibits, reports from fair managements and school officials, and other aspects of the pilot studies were presented to the subcommittee by the special committee and are a part of this subcommittee's records.

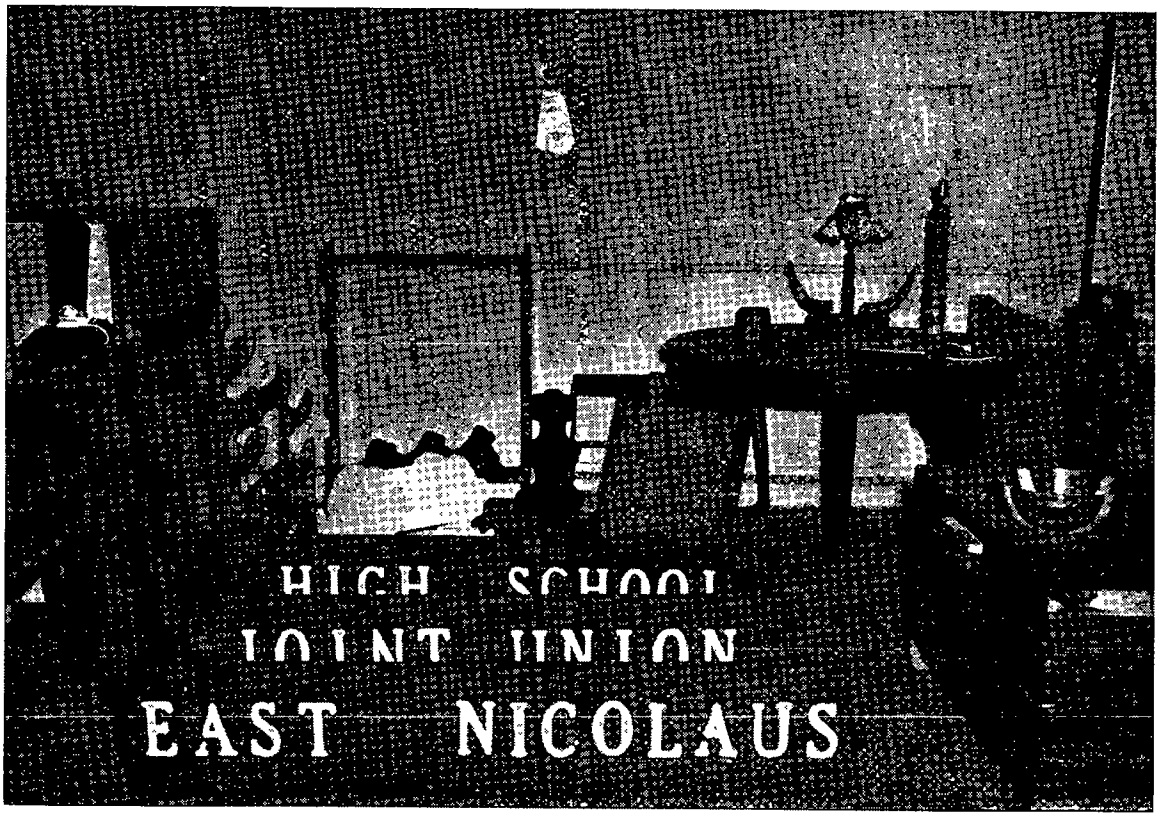
Conclusions and Recommendations

The Subcommittee on Fairs and Expositions believes that the work done to date in studying the feasibility of including industrial education exhibits in the programs of county and district fairs has been productive.

The subcommittee further believes that this kind of exhibit should become a regular part of the fair program and offers the following recommendations as a means of encouraging and assisting in the growth of such activity:

1. That Section 92 of the Agricultural Code be amended to provide for the payment of premiums for industrial education exhibits.

2. That further study be made of the problems relating to such exhibits, including, but not necessarily limited to, financing, coordination between fairs and schools, and kinds of exhibits which will best serve the interest of the student participants and the viewing public.



The kind of work that can be done by high school students is well demonstrated in this display

PROPOSED INDUSTRIAL AND TRADE EXPOSITION BY THE SIXTH DISTRICT AGRICULTURAL ASSOCIATION

Findings

Plans of the Sixth District Agricultural Association to establish an Industrial and Trade Exposition in Los Angeles were presented to the Subcommittee on Fairs and Expositions at its meeting in Coronado on December 5, 1956. The presentation was made by Don M. Muehmore, executive secretary of the association, who said:

Nearly a year ago the board of directors of the Sixth District Agricultural Association began to explore a subject which holds far-reaching implications for the economy and the culture of California.

A proposal was made by members of the board that the district sponsor an annual exposition aimed generally along the following lines: (1) to dramatize the growing importance of California as an industrial State; (2) to stimulate increased commerce with Latin American and Oriental markets; (3) to fulfill these and other purposes now unmet by either state- or privately-supported fairs and trade shows.

The board was impressed by the fact that while some 79 agricultural fairs are held throughout California each year, there is not a single exposition devoted, as this would be, to industry and trade

Impelling as its proposal seemed, the board recognized that it should be subjected to lengthy deliberation and the objectives carefully scrutinized.

To this end, the board has augmented its own deliberations with conferences and conversations with many individuals and groups, including, among others, the following: Members of the State Legislature; representatives of the Western Fairs Association; representatives of the Los Angeles Chamber of Commerce; Latin American consuls in Los Angeles; sponsors and executives of industrial and trade shows; legislative representatives, and business and industrial leaders.

As a result, the Sixth District is persuaded of the vital importance, not only to Southern California but the entire State, of an exposition developed along the indicated lines.

Many of those who were consulted emphasized the district's experience in managing one of the State's great cultural-educational institutions, the California State Museum of Science and Industry. This, they felt, would prove a decided plus in formulating and carrying out plans for such an undertaking. In this, the board of directors concurs.

The district is firmly opposed to an exposition that would compete with trade shows sponsored by private industry. Indeed, the purposes of this exposition would be quite different. Its accent would be on education and on stimulating greater awareness of California's industry and economic resources.

Funds would, of course, have to be allocated by the State Legislature from the Fairs and Expositions Fund. It is significant, we believe, that more than 50 percent of the annual contributions to this source come from two tracks situated within the boundaries of the Sixth District Agricultural Association; Santa Anita and Hollywood.



Another kind of industrial education exhibit used in the pilot study in this display of electronic instruments which students learn to use.

There are three important and basic reasons why there is a definite need for an industrial and trade exhibition in California and why it should be located in Los Angeles.

The first important reason is that such an exhibit would serve as a lure for more industry to come to California. If corporations who heretofore have limited their operations to the eastern or midwestern United States have the opportunity to exhibit in the Los Angeles area they will be more inclined to move some of their operations to the State of California.

The second important reason to have such an industrial and trade exhibition is the need for California and its residents to recognize the tremendous contributions made by both industry and trade to the development of California. Almost every county in California currently pays tribute to the importance of agriculture. The proposed Industrial and Trade Exposition, in the heart of the industrial City of Los Angeles, would match this tribute insofar as industry is concerned.

The third important reason for the exposition is that of education. The main intent of the Industrial and Trade Exposition is, and always has been, that this exposition would be primarily an educational one.

Conclusions and Recommendations

Plans of the Sixth District Agricultural Association for an Industrial and Trade Exposition appear to the subcommittee to offer an excellent addition to the over-all fair program in California. The subcommittee, however, offers no legislation of its own, but does wish to express its approval of the bills introduced by one of its members, and others, which would provide an annual appropriation to the Sixth District Agricultural Association for this purpose.

TRAVELING STATE AND INDUSTRY EXHIBITS

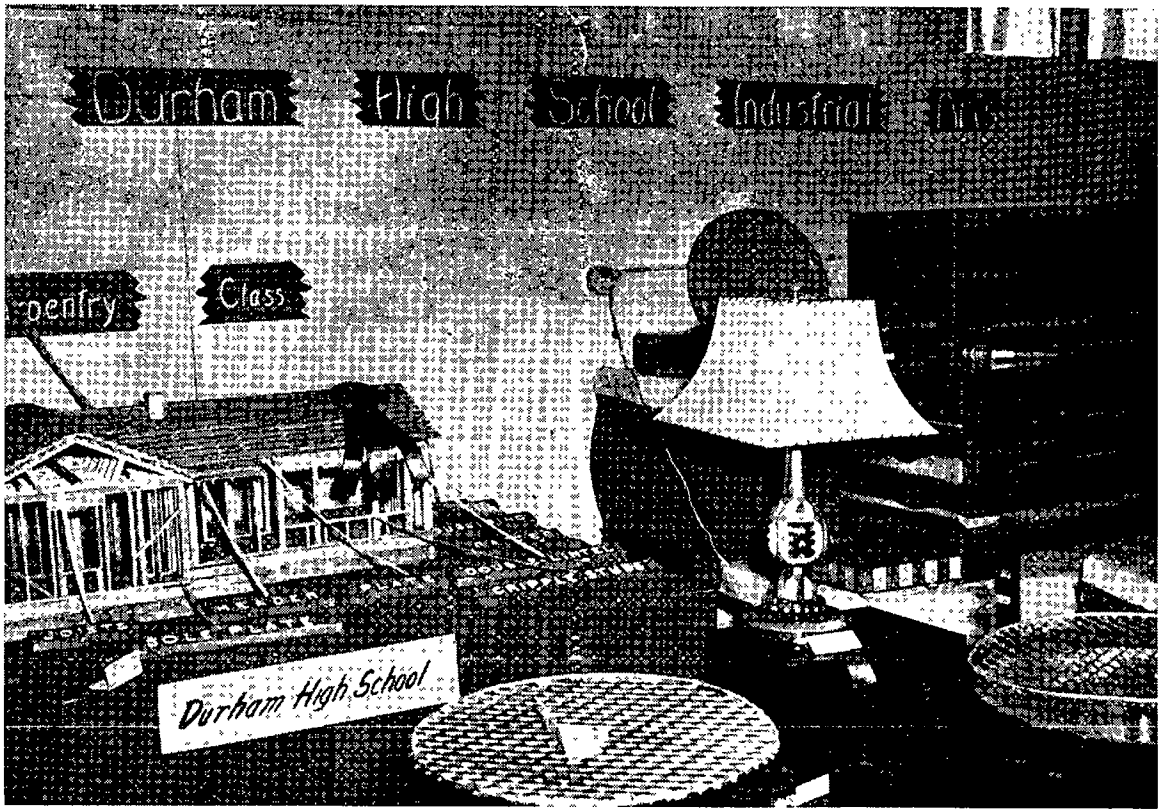
Findings

The Subcommittee on Fairs and Expositions received from the Western Fairs Association a suggestion for a completely new program of public education for fair visitors.

Noting that the state, district and county fairs are making a substantial contribution to public education in the fields of agriculture, animal husbandry and home economics, both for adults and youth, the Western Fairs Association believes fairs are now equipped and ready to expand their informational programs to include functions of State Government and major industrial classifications.

The association proposed that the Legislature appropriate from the Fairs and Expositions Fund the sum of $50,000 to create traveling exhibits which will tell the story of the State's growth in population and highway, school, and water resources development programs. Thus the story of government and each of the major problems confronting the State could be dramatized to the people of California at all major fairs and at other public meetings and conventions.

Similarly, the Legislature would be asked to appropriate another $50,000 to make a complete survey regarding the possibility of having industry, through a state agency, contribute, arrange for, and present similar mobile exhibits to depict graphically the progress of industry in California and the contributions it has made to the State's economy.



The educational value to the fair visitor as well as the student of this exhibit of a home under construction is plainly evident. This exhibt was also a participant in the pilot study.

Conclusions and Recommendations

The suggestion of the Western Fairs Association has much to commend it and, in the opinion of the subcommittee, warrants further consideration.

Therefore, the subcommittee recommends a further investigation into the feasibility of such exhibits, both by the State and by industrial organizations.

FAIRS CLASSIFICATION COMMITTEE

Under the provisions of Chapter 1717, Statutes of 1955, the Fairs Classification Committee was established as a study committee to classify the 73 district agricultural association and county fairs which receive annual allocations under the provisions of Section 92 of the Agricultural Code.

The committee is composed of one representative of the Department of Finance who is not an employee of the Fairs and Expositions Division, one representative of the Fairs and Expositions Division, one Member of the Senate, one Member of the Assembly, and one elected representative of the fairs from each of the seven areas set forth in the act.

The committee is required to review available data and to classify the fairs after giving consideration to the following:

1. The type and class of agriculture, including livestock, industrial and natural resources exhibited and the amount of premiums paid in accordance with the approved premium list of such fair.
2. Whether the fair is regional in nature, offers a special feature for agriculture, livestock or industry, or is a sectional fair limiting exhibits to the region in which the fair is held.
3. The ratio of attendance at the fair to the population of the area served by it.
4. The efficiency of management, including operational procedures, revenue from sources other than the State, quality of exhibits and community interest in such fair.
5. The extent and nature of interim utilization of fair property as promoted by the fair management.
6. The need of the fair for money from state sources.

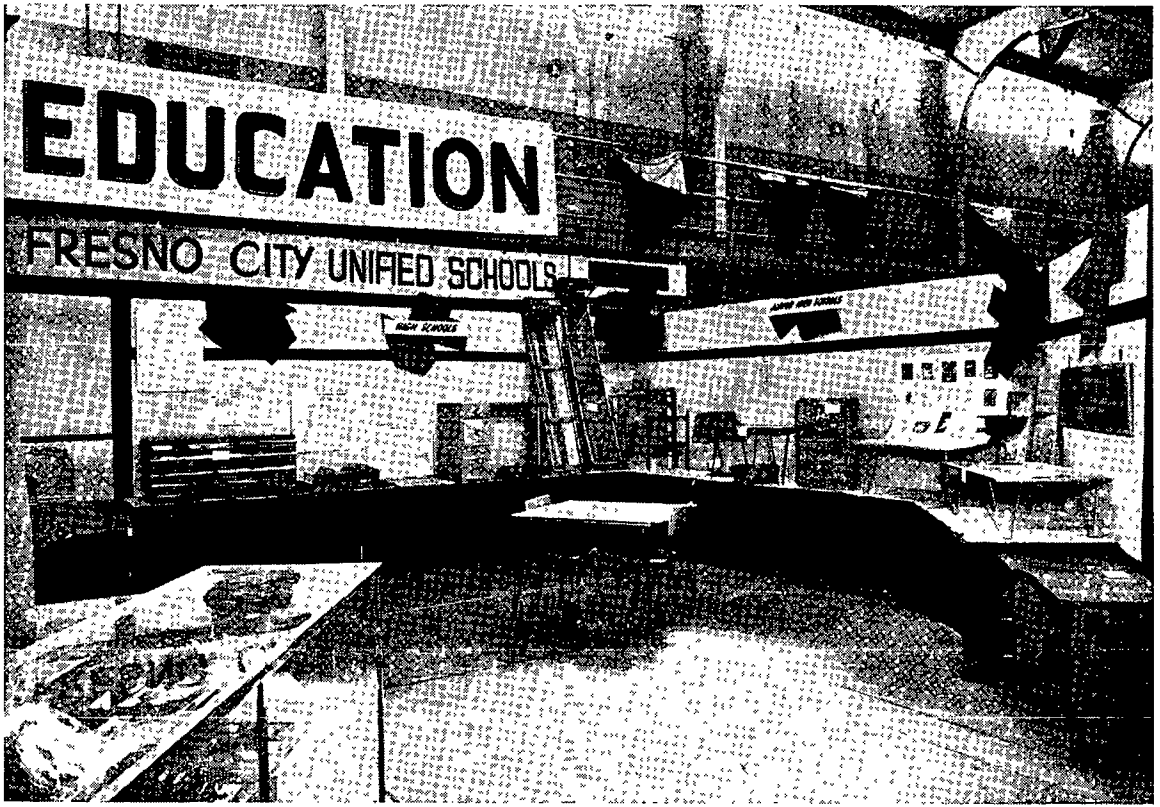
The committee classified the fairs as regional, special feature and sectional.

The committee designated the following geographical areas in the consideration of regional fairs: Northern Region; San Francisco and Central Coast Region; San Joaquin Region, and Southern Region.

The regional fairs were designated on the basis of size, efficiency and scope of operations, and potential growth from the fairs conducted in the respective regions.

The Southern California Exposition and San Diego County Fair conducted by the 22d District Agricultural Association at Del Mar was selected from 14 fairs as a regional fair in the Southern Region.

The Fresno District Fair conducted by the 21st District Agricultural Association at Fresno was selected from 14 fairs as a regional fair in the San Joaquin Region.



Industrial education at the various school levels makes an attractive and informative exhibit of the skills being learned by today's students.

The Santa Clara County Fair conducted by the County of Santa Clara at San Jose was selected from 18 fairs as a regional fair in the San Francisco and Central Coast Region.

The selection of a regional fair from the 27 district and county fairs in the Northern Region was deferred as there was no fair sufficiently outstanding on the basis of the data available and the standards established by the committee.

The committee classified the following 10 fairs as Special Feature Fairs on their predominant exhibits:

1. The California Garden Show conducted by the 1st District Agricultural Association at Oakland features flowers and gardens.
2. The Santa Barbara National Horse Show conducted by the 19th District Agricultural Association at Santa Barbara features a horse show and light horses.
3. The Great Western Livestock Show conducted by the 48th District Agricultural Association at Los Angeles features livestock.
4. The San Mateo County Fair and Floral Fiesta conducted by the County of San Mateo at San Mateo features flowers and gardens
5. The San Francisco Flower Show conducted by the City and County of San Francisco at San Francisco features flowers.
6. The Lodi Grape Festival and National Wine Show conducted by the County of San Joaquin at Lodi features grapes and wines.
7. The Merced County Spring Fair and Livestock Show conducted by the County of Merced at Los Banos features livestock.
8. The San Benito County Saddle Horse Show, Rodeo and Fair conducted by the County of San Benito at Hollister features a horse show and light horses.
9. The Lassen County Fair and Livestock Show conducted by the County of Lassen at Susanville features livestock.
10. The Marin Art and Garden Fair conducted by the County of Marin at Ross features flowers, art and gardens.

The remaining 60 fairs were classified as Sectional Fairs.

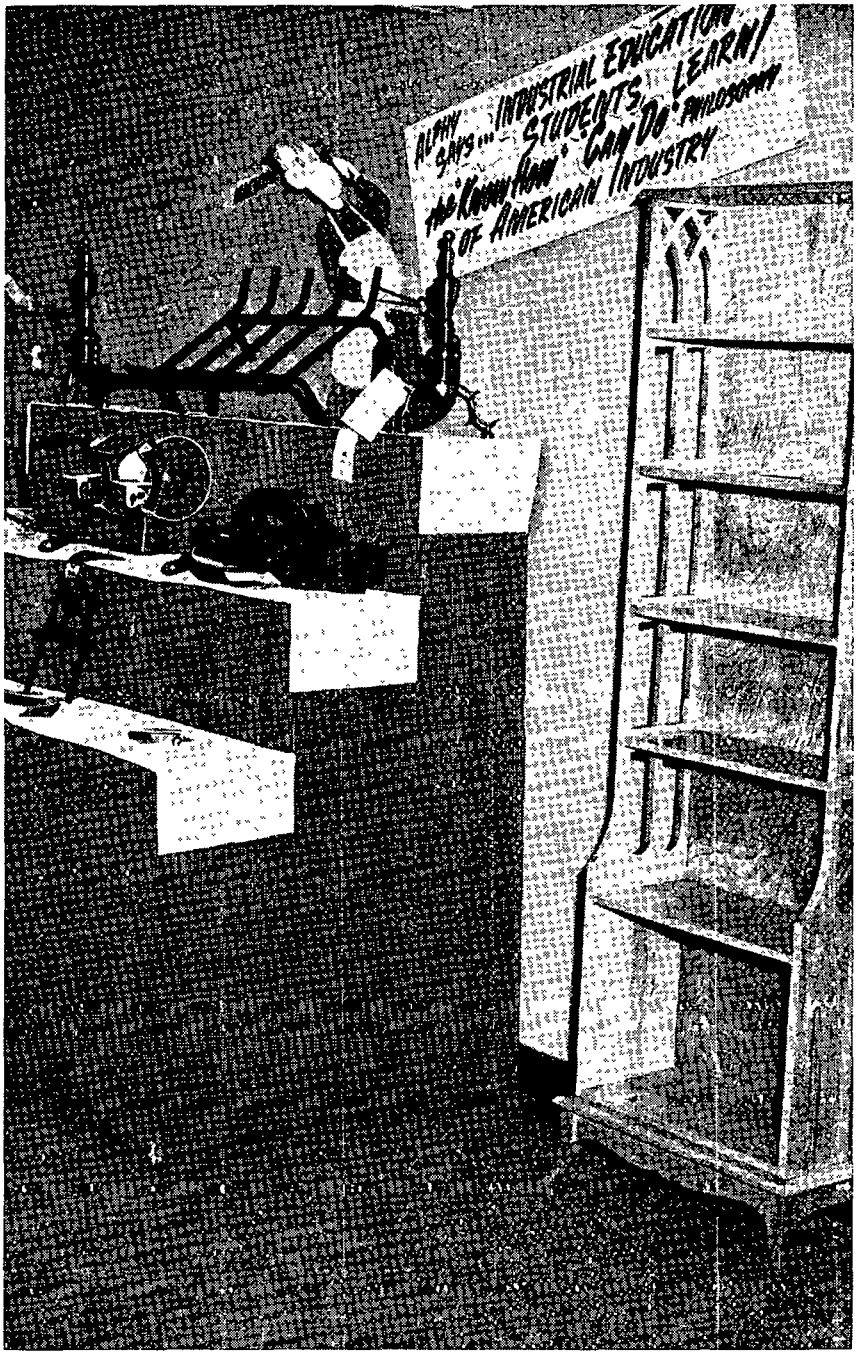
The data studied by the committee clearly indicated a wide variance in the size and scope of the fairs within each of the three classes.

The committee recommends that the 1956 classification be considered as a tentative classification and that further study be directed at breaking down the three main classes into a suitable number of subgroups and the possible reclassification of borderline cases in all three classes.

Conclusions and Recommendations

The subcommittee commends the Fairs Classification Committee for its accomplishments and is in agreement with its findings.

The subcommittee joins with the committee in recommending that further studies be made for the purpose of determining whether subgroups should be established within the three main classes for a more precise classification of the various fairs within these classes.



The industrial education department at the 1956 Orange County Fair received direct support from private enterprise. A grocery chain paid all cash premium awards for the department.

INTERIM USE OF FAIRGROUNDS AND FACILITIES

Findings

Interim use of county and district fairgrounds and facilities was given considerable attention by the subcommittee. It is the belief of members of the subcommittee that fairgrounds and facilities should be used as extensively as possible as centers of community activities, but not in such manner as to result in a financial loss to the fairs.

The Division of Fairs and Expositions provided the subcommittee with detailed information on interim use of fairgrounds and facilities which showed that social events and club meetings comprised the most frequent use of the facilities. Heading the list were dances, miscellaneous club meetings, 4-H Club and Future Farmers of America activities, picnics, and Boy Scout and Girl Scout activities.

More than 100 different kinds of activities were enumerated, falling in the following classifications: specialty shows, athletic events, use by government agencies, social events and club meetings, religious meetings, and miscellaneous activities. More than 900 different groups and organizations rented fairground facilities during 1956.

Total attendance at interim activities exceeded 3,800,000. The greatest attendance was recorded by the 22d District Agricultural Association in Del Mar, but the total reported of 1,073,090 included attendance at the horse racing meet held there.

Conclusions and Recommendations

It is apparent that interim use of fairgrounds and facilities exists in all county and district fairs where such use is possible, to a greater or lesser extent. It is equally apparent that interim use could be expanded at many fairs to the benefit of both the fair managements and the public.

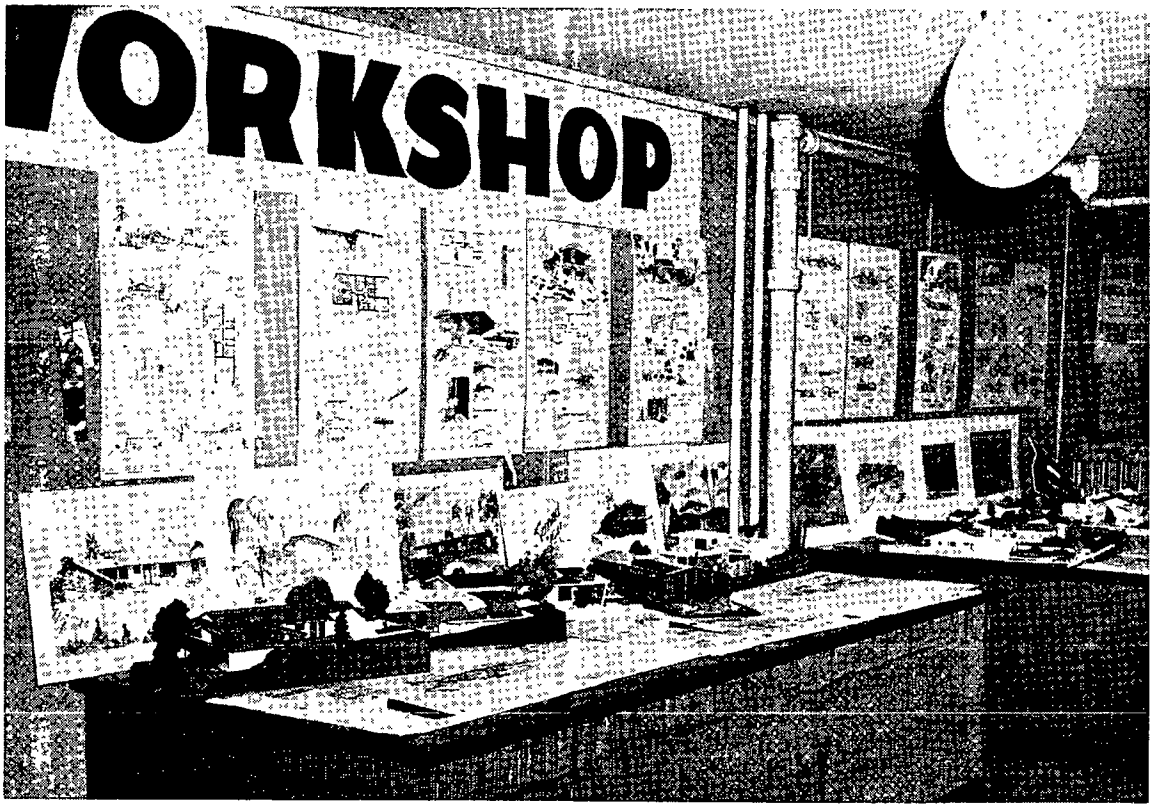
The subcommittee has no specific recommendation to make regarding interim use of fairgrounds and facilities, except to encourage fair managements to be alert to opportunities for such interim use as may exist or arise in their communities.

SUMMARY OF PROPOSED FIVE-YEAR BUILDING PROGRAM

Findings

The 1955 report by the Joint Interim Committee on Fairs and Expositions recommended "that county and district fairs prepare and submit to the Division of Fairs and Expositions an estimate of the minimum requirements of funds needed to undertake and complete facilities required to accomplish in whole or in part the five-year master plan of operation of fairs."

The Division of Fairs and Expositions' tabulations of these estimates are published in the following pages. One table shows the estimated requirements of each fair for each of the five years and the source of the funds. A second table shows the total estimates of all fairs for the five-year period for the various kinds of facilities required.



From original sketch, through detailed drawing, to final model is the story told in this industrial education exhibit at the 1956 Orange County Fair.

FAIRS AND EXPOSITIONS DIVISION
STATE DEPARTMENT OF FINANCE

DISTRICT AND COUNTY FAIRS

SUMMARY OF PROPOSED FIVE-YEAR BUILDING PROGRAM SHOWING YEAR OF CONSTRUCTION AND SOURCE OF FUNDS

County	*City*	*1956*	*1957*	*1958*	*1959*	*1960*	*Total*	*Local funds*	*Executive order funds*	*County or other appropriations*
Alameda	Pleasanton	$215,000	$155,000	$120,000	$125,000	$85,000	$700,000	$350,000	$350,000	--
Butte	Gridley	78,400	23,000	26,00	15,000	31,000	173,400	86,700	86,700	.
El Dorado	Placerville	151,176	37,500	15,000	13,000	20,000	236,676	83,676	153,000	. .
Humboldt	Ferndale	232,650	260,000	115,000	107,500	70,000	785,150	10,000	775,150	--
Lassen	Susanville	35,000	40,000	44,000	66,000	88,000	273,000	--	273,000	--
Madera	Chowchilla	60,000	28,500	13,000	8,000	10,000	119,500	34,500	85,000	--
Marin	Ross	150,000	--	--	--	2,000,000	2,150,000	--	2,150,000	--
Mendocino	Boonville	317,000	--	--	--	--	317,000	--	317,000	--
Merced	Los Banos	129,000	50,000	60,000	5,000	20,000	264,000	59,000	205,000	--
Monterey	King City	219,000	31,600	60,000	--	--	310,600	--	310,600	--
Napa	Calistoga	35,000	55,000	33,000	30,000	35,000	188,000	130,500	57,500	--
Placer	Roseville	96,000	54,000	40,000	65,000	25,000	280,000	71,000	209,000	--
Plumas	Quincy	20,000	22,000	40,000	29,500	35,000	146,500	--	143,500	$3,000
Riverside	Riverside	73,450	50,100	116,000	--	. .	239,550	.	239,550	--
San Benito	Hollister	43,250	27,700	29,500	1,850	9,750	112,050	112,050	. .	--
San Francisco	San Francisco	400,000	--	--	--	--	400,000	400,000	-	--
San Joaquin	Lodi	49,800	49,000	35,500	16,000	45,000	195,300	152,800	42,500	--
San Mateo	San Mateo	242,000	32,500	--	151,500	30,000	456,000	132,000	324,000	--
Santa Clara	San Jose	280,000	600,000	325,000	275,000	350,000	1,830,000	--	1,830,000	--
Shasta	McArthur	22,250	34,000	19,500	19,500	18,500	113,750	46,250	67,500	--
Solano	Vallejo	215,000	65,000	43,000	37,000	112,500	472,500	29,750	112,750	--
Sonoma	Santa Rosa	178,000	150,000	110,000	105,000	30,000	573,000	--	573,000	--
Trinity	Hayfork	13,500	14,000	--	--	--	27,500	27,500	--	--
Totals	23 counties	$3,255,476	$1,778,900	$1,244,500	$1,069,850	$3,014,750	$10,363,476	$1,725,726	$8,634,750	$3,000

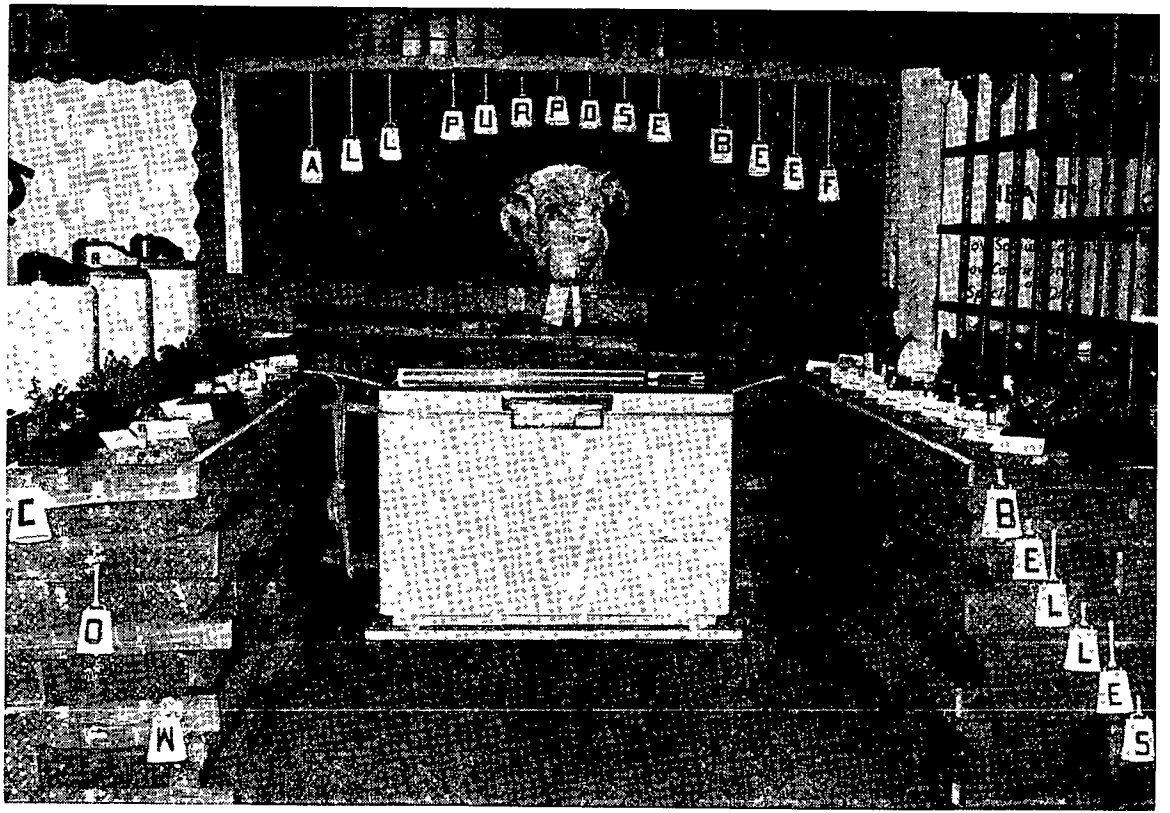
SUMMARY OF PROPOSED FIVE-YEAR BUILDING PROGRAM SHOWING YEAR OF CONSTRUCTION AND SOURCE OF FUNDS

District fair	*City*	*1956*	*1957*	*1958*	*1959*	*1960*	*Total*	*Local fair funds*	*Executive order funds*	*County or other appropriations*
1	Oakland	--	--	--	--	$4,000,000	$4,000,000	--	$4,000,000	--
1-A	San Francisco	$42,350	$175,250	$11,500	$38,000	600,000	867,100	$3,800	863,300	--
2	Stockton	440,000	475,000	672,000	230,000	300,000	2,117,000	--	2,117,000	--
3	Chico	75,600	35,000	--	--	--	110,600	--	110,600	--
4	Petaluma	75,000	90,000	--	--	--	165,000	75,000	90,000	--
7	Monterey	151,000	335,000	70,000	50,000	25,000	631,000	--	631,000	--
9	Eureka	24,800	18,900	30,000	--	--	73,700	14,800	58,900	--
10	Yreka	65,000	87,500	30,000	40,000	75,000	297,500	237,500	60,000	--
10-A	Tulelake	162,990	49,000	34,000	28,000	47,000	320,990	242,990	78,000	--
12	Ukiah	9,500	17,000	3,500	7,000	8,000	45,000	35,000	10,000	--
13	Yuba City	43,750	52,750	40,000	28,125	30,900	195,525	70,325	125,200	--
14	Watsonville	12,500	10,000	65,000	108,500	87,000	283,000	--	283,000	--
15	Bakersfield	47,000	89,350	120,000	175,000	245,000	676,350	--	676,350	--
16	Paso Robles	100,000	57,500	35,000	25,000	35,000	252,500	--	252,500	--
17	Grass Valley	63,200	50,000	60,000	--	--	173,200	69,200	104,000	--
18	Bishop	198,115	133,300	100,000	109,000	104,000	644,415	--	644,415	--
19	Santa Barbara	1,210,000	660,000	--	--	--	1,870,000	--	1,870,000	--
20	Auburn	52,000	85,000	--	--	--	137,000	--	137,000	--
21	Fresno	18,000	470,000	260,000	150,000	150,000	1,048,000	18,000	1,030,000	--
21-A	Madera	117,350	129,800	1,850	30,000	27,000	306,000	--	306,000	--
22	Del Mar	847,500	502,900	67,500	122,500	510,050	2,050,450	1,021,325	879,125	$150,000
23	Antioch	185,000	70,000	95,000	55,000	35,000	440,000	20,000	420,000	--
24	Tulare	69,100	105,500	82,500	--	--	257,100	20,100	237,000	--
24-A	Hanford	25,000	60,000	65,000	40,000	40,000	230,000	25,000	205,000	--
25	Napa	38,000	90,000	27,000	50,000	20,000	225,000	--	225,000	--
26	Plymouth	64,000	15,000	25,000	12,500	20,000	136,500	136,500	--	--
27	Anderson	305,000	--	--	--	--	305,000	10,000	295,000	--
28	Victorville	90,000	150,000	80,000	30,000	60,000	410,000	--	410,000	--
29	Sonora	81,281	85,000	20,485	--	--	186,766	19,000	167,766	--

SUMMARY OF PROPOSED FIVE-YEAR BUILDING PROGRAM SHOWING YEAR OF CONSTRUCTION AND SOURCE OF FUNDS—Continued

District fair	City	1956	1957	1958	1959	1960	Total	Local fair funds	Executive order funds	County or other appropriations
30	Red Bluff	87,000	49,500	53,000	7,500	--	197,000	7,500	189,500	--
31	Ventura	87,000	60,000	130,000	20,000	100,000	397,000		397,000	--
32	Costa Mesa	147,000	260,000	29,800	--	--	436,800	--	436,800	--
33	Hollister	28,700	--	120,000	40,000	25,000	213,700	213,700	--	--
34	Cedarville	28,500	20,000	25,000	35,000	20,000	128,500	93,500	35,000	--
35	Merced	173,000	87,000	63,500	80,000	157,500	561,000	3,000	558,000	--
35-A	Mariposa	39,360	22,890	27,000	75,000	49,000	213,250	26,140	187,110	--
36	Dixon	30,000	13,000	43,000	5,000	10,000	101,000	50,000	51,000	--
37	Santa Maria	49,000	35,000	55,000	15,000	35,000	189,000	15,000	174,000	--
38	Turlock	42,500	55,000	60,000	50,000	120,000	327,500	--	327,500	--
39	Angels Camp	62,000	10,000	10,000	5,000	14,000	101,000	40,000	61,000	--
40	Woodland	57,500	7,000	45,000	--	--	109,500	64,500	45,000	--
41	Crescent City	56,750	9,000	65,000	30,000	30,000	190,750	190,750	--	--
42	Orland	12,500	12,000	--	40,000	--	64,500	24,500	40,000	--
44	Colusa	14,500	11,500	45,000	20,000	29,500	120,500	24,500	96,000	--
45	Imperial	40,600	199,550	15,650	--	--	255,800	26,950	228,850	--
46	Hemet	29,750	132,000	--	65,000	40,000	266,750	--	266,750	--
48	Los Angeles	250,000	3,000,000	500,000	200,000	512,000	4,462,000	--	2,962,000	1,500,000
49	Lakeport	25,215	26,450	3,600	8,500	--	63,765	54,265	9,500	--
50	Lancaster	58,000	126,080	96,000	64,000	44,000	388,080	171,580	216,500	--
51	Northridge	53,000	50,000	57,000	--	--	160,000	--	160,000	--
52	Sacramento	--	--	--	--	2,000,000	2,000,000	--	2,000,000	--
	Totals, 51 districts	$5,984,911	$8,284,720	$3,438,885	$2,088,625	$9,604,950	$29,402,091	$3,024,425	$24,727,666	$1,650,000
	Totals, 23 counties	$3,255,476	$1,778,900	$1,244,500	$1,069,850	$3,014,750	$10,363,476	$1,725,726	$8,634,750	$3,000
	Grand totals, 74 fairs	$9,240,387	$10,063,620	$4,683,385	$3,158,475	$12,619,700	$39,765,567	$4,750,151	$33,362,416	$1,653,000

Prepared by Fairs and Expositions Division, State Department of Finance February 1, 1956



Special feature exhibits, such as this one pertaining to beef which was a prize-winner at the Amador County Fair, can be both educational and attractive.

FAIRS AND EXPOSITIONS DIVISION
STATE DEPARTMENT OF FINANCE

DISTRICTS AND COUNTY FAIRS

SUMMARY OF PROPOSED FIVE-YEAR BUILDING PROGRAM BY TYPES OF PROJECTS, 1956-60

Livestock buildings	$5,598,040
General exhibit buildings	10,854,650
Home economics buildings	968,000
Floriculture buildings	1,135,275
Warehouse buildings	482,450
Administration buildings	602,700
Grandstands	2,438,957
Restrooms and showers	437,500
Cafeterias	866,500
Landscaping	261,600
Grading and Paving	1,578,445
Electrical, sewer, water	1,015,540
Fencing	142,250
Recreational area	216,375
Equipment	277,700
Real property	469,500
New fair sites for Ross, Marin County, and 52d District, Sacramento	4,000,000
Miscellaneous (74 fairs)	8,420,085
Total	$39,765,567

FAIRS AND EXPOSITIONS DIVISION
STATE DEPARTMENT OF FINANCE
February 1, 1956

SUMMARY OF RECOMMENDATIONS

Based upon its studies during the past two years, the Subcommittee on Fairs and Expositions makes the following recommendations:

1. That Section 92 of the Agricultural Code be amended to provide for the payment of premiums for industrial education exhibits at district and county fairs.

2. That further study be made of the problems relating to such exhibits, including, but not necessarily limited to, financing, coordination between fairs and schools, and kinds of exhibits which will best serve the interests of the student participants and the viewing public.

3. That legislation be enacted to provide an annual appropriation to the Sixth District Agricultural Association for the purpose of establishing and maintaining an Industrial and Trade Exposition.

4. That the Fairs Classification Committee make further studies for the purpose of determining whether subgroups should be established within the three main classes for a more precise classification of fairs. This recommendation coincides with the Fairs Classification Committee's own recommendation.

5. That fair managements be encouraged to be alert to opportunities for such interim use of their fairgrounds and facilities as may exist or arise in their communities.

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ASSEMBLY INTERIM COMMITTEE REPORTS

1955-1957

VOLUME 17 NUMBER 7

CALIFORNIA PUBLIC OUTDOOR RECREATION

A REPORT OF THE

SUBCOMMITTEE ON PUBLIC LANDS, GRAZING AND FOREST PRACTICES OF THE ASSEMBLY INTERIM COMMITTEE ON AGRICULTURE

to the

CALIFORNIA LEGISLATURE

House Resolution No. 189, 1955

WILLIAM W. HANSEN, *Chairman of the Interim Committee*

March, 1957

MEMBERS OF THE SUBCOMMITTEE

H. T. SEDGWICK
JOHN J. McFALL
SHERIDAN HEGLAND
DOMER POWER
LLOYD W. LOWREY, *Chairman*
JOHN L. MENG, *Consultant*

Published by the

ASSEMBLY

OF THE STATE OF CALIFORNIA

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Minority Floor Leader

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Chief Clerk

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LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, March 7, 1957

HON. L. H. LINCOLN
Speaker of the Assembly
Sacramento, California

MR. SPEAKER AND MEMBERS OF THE ASSEMBLY: In accordance with House Resolution No. 189, 1955 Session, the Assembly Interim Committee on Agriculture submits this report on recreation development in California by its Subcommittee on Public Lands, Grazing, and Forest Practices.

Respectfully submitted,

WILLIAM W. HANSEN, *Chairman*

SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, March 7, 1957

HON. WILLIAM W. HANSEN, *Chairman*
Assembly Interim Committee on Agriculture
State Capitol, Sacramento, California

DEAR SIR: Pursuant to House Resolution No. 189 of the 1955 Regular Session, your Subcommittee on Public Lands, Grazing and Forest Practices transmits a variety of facts and ideas relating to recreation development and the several phases of administrative responsibility, the financing and the planning of such recreation.

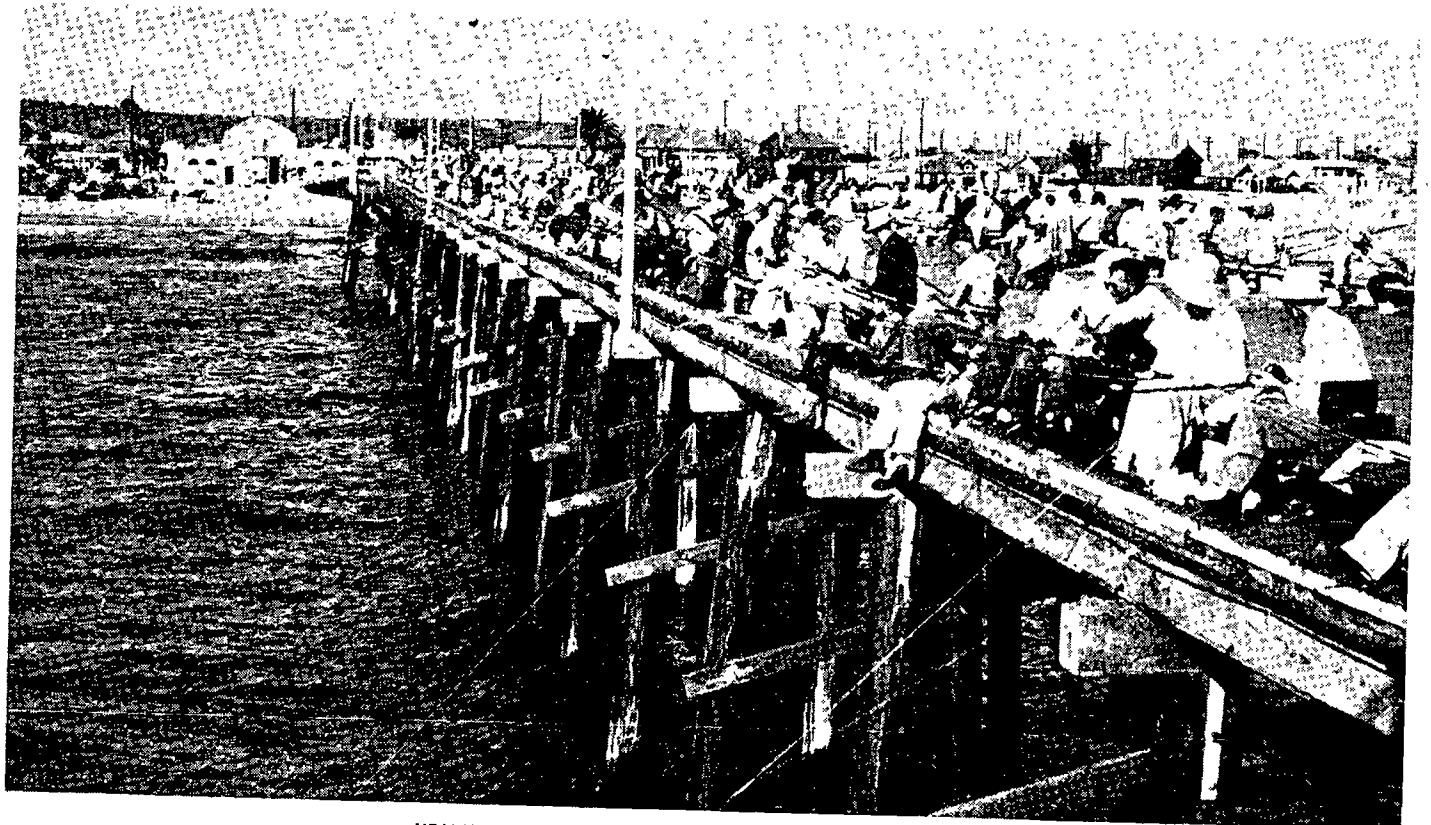
Your subcommittee met jointly with the Assembly Interim Committee on Public Health, Subcommittee on Campground Sanitation and the Assembly Interim Committee on Conservation, Planning and Public Works to conduct public hearings in Sacramento and again with the Public Health Subcommittee in Los Angeles. The data obtained, which is included herewith, contains the evidence that our recreation program as it now exists presents a state-wide problem of serious proportions which invites the attention of the California Legislature. We are therefore recommending legislation aimed at assisting to realize maximum recreational development for California's recreation needs.

The prospectus for achieving a program and plan as set forth in this report should be encouraged and put into effect, thereby eliminating costly delays, confusion and overlapping jurisdictions.

Respectfully submitted,

LLOYD W. LOWREY, *Chairman*
SHERIDAN HEGLAND
JOHN J. MCFALL
DOMER POWER
H. T. SEDGWICK

2—L-4972



HEAVY USAGE OF LONG BEACH PUBLIC PIER BY FISHERMEN

INTRODUCTION

The reason for this report to the Legislature results from the urgent need for determining the responsibility for recreation, from the administration point of view, the financing, and all the problems that are involved; and perhaps the most glaring and apparent need for action is long-range over-all planning of our recreational program.

Naturally, the legislators are wondering, do we need more legislation, or clarification of existing statutes? Is there duplication of administration and financing and planning at the present time? As an example, how much of the Department of Water's financing should be devoted for planning recreation in our State Water Plan?

In Fish and Game, is Fish and Game responsible for other phases of recreation that occur on the areas that Fish and Game administers? Or should financing come from some other source than the Fish and Game funds?

An additional factor is the relationship to our federal lands. The United States Forest Service is vitally interested. How might we get better coordination in a development program with the Bureau of Land Management, as well as the Reclamation Bureau, Army Engineers, in fact, all the federal agencies that have recreation involved in their activities.

The subjects at hand place high value on a definite state policy on recreation and are pertinent to the problems of the various agencies which are concerned with recreation.

SUMMARY

In respect to recreation development and planning on public lands in California, small thinking is bad—but a scarcity of concepts for the future is even worse. Recreation planning as it now exists, or the lack of it, can be very costly to California's future: the impact of population and industrial growth has greatly increased the problem. Our destiny is tremendous, and we need solid harmony within the several agencies responsible for outdoor recreation.

It strikes this subcommittee there is urgent need for long-range coordinated planning at all levels of government. California needs mature planning, an all-over recreation inventory made concurrently with the State Water Plan, and a set of criteria as to responsibility so the various agencies with recreation potential and problems can pursue definite avenues for development.

This recreation matter is forced on us by the larger population, the good roads that make travel easy and the greater leisure. We can't sweep this recreation demand aside and forget about it. The State must take some action, but it should be according to a well-conceived plan.

RECOMMENDATIONS

In considering the problems involved in preparing legislation that would achieve the objectives recommended by witnesses of the many interim committees reporting on recreation needs and evaluating new testimony, this subcommittee respectfully urges that the California Legislature create a recreation study committee to consider and develop a complete California Public Outdoor Recreation Plan, supported by a budget item, for achieving a program to utilize and administer land and water areas and the facilities pertaining to outdoor recreation which exist or may be needed in the foreseeable future.

In order to insure a state-wide integrated plan, all types of recreational areas and services should be developed in full cooperation with appropriate state, federal, regional, county and city agencies and with interested organizations in which there is a strong recreation interest and responsibility. To further insure equal and unbiased development, all agencies should have a part in the preparation and render consultant services as well as administrative direction for the production of The Plan.

PROPOSED LEGISLATION

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL No. 32

Introduced by Messrs. Lowrey, Johnson, Sedgwick, Mrs. Davis, Messrs. Belotti, Grant, Hegland, and Lindsay

January 8, 1957

REFERRED TO COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

An act to add Chapter 3 to Division 7 of the Public Resources Code, relating to recreation.

The people of the State of California do enact as follows:

SECTION 1. Chapter 3 is added to Division 7 of the Public Resources Code, to read:

CHAPTER 3. CALIFORNIA PUBLIC OUTDOOR RECREATION PLAN ACT

8750. This chapter shall be known as the "California Public Outdoor Recreation Plan Act."

8751. It is the policy of the State of California: To protect, conserve and develop the natural resources and wildlife of the State; to preserve the rights of the people to the coast and coastal waters for recreation purposes; to assure unhampered access by the public to all navigable waters, parks, playgrounds and squares; to maintain areas of peace, quiet and respectability so that they may be enjoyed by all the people; to acquire, develop and maintain parks, beaches and campgrounds, in order to preserve areas of natural beauty and make them available for the enjoyment of the people; to propagate and protect fish and game; to maintain and improve wildlife habitat for the recreation of hunters and fishermen; and to expend funds for the acquisition and improvement of land and water areas for purposes of recreation.

At the present time there are not adequate outdoor recreation facilities in California to meet the demand of its growing population. The purpose of this act is to create a public outdoor recreation committee and to provide for the preparation of a public outdoor recreation plan.

8752. There is in the State Government a Committee for the Development of the California Public Outdoor Recreation Plan consisting of the following members: Director of Natural Resources, Director of Fish and Game, Director of Water Resources, Director of Recreation, Director of Finance, Chief of the Division of Beaches and Parks, and

the Executive Officer of the State Lands Commission. The Governor shall appoint the chairman of the committee.

8753. The committee shall consider, develop and recommend to the Legislature a California Public Outdoor Recreation Plan. The plan shall be based on a survey of present and future needs of the people in this State for outdoor recreation opportunities and facilities.

8754. The committee may enter into contracts with such persons and agencies, public or private, and do any act necessary to carry out the purposes of this act. It shall adopt rules to govern its internal affairs

8755. The committee shall appoint a technical consultant group consisting of the following members:

(a) Members of the Committee for Development of the Public Outdoor Recreation Plan, Director of Public Health, Director of Education, and the heads of the following state agencies: State Water Pollution Control Board, Wildlife Conservation Board, Division of Fairs and Exhibits, Division of Forestry, State Local Planning Office, and State Aeronautics Commission.

(b) The General Manager of the County Supervisors Association and the Executive Officer of the League of California Cities.

(c) When requested by the chairman of the committee, any representative of a federal department, agency, or board which controls land or water areas within California, and which may be used for outdoor recreational purposes, including but not limited to, the Bureau of Land Management, the Bureau of Reclamation, the National Park Service and Fish and the Wildlife Service in the Department of Interior, the Forest Service in the Department of Agriculture, and the Corps of Engineers in the Department of Army.

The chairman of the committee shall appoint a member of the committee to serve as chairman of the Technical Consultant Group.

The Technical Consultant Group shall assist the committee in developing the California Public Outdoor Recreation Plan and may do any act necessary to accomplish this purpose. It shall meet as a committee at least twice during each fiscal year beginning with the fiscal year of July 1, 1957.

State officers and employees may be reimbursed for expenses expended in connection with meetings of the technical consultant group.

8756. There shall be an advisory council to the committee which shall consist of the following members:

(a) One member from each of the following state boards and commissions appointed by the chairman from the respective board or commission: Fish and Game Commission, Park Commission, State Water Resources Board, Recreation Commission, Wildlife and Conservation Board, State Water Pollution Control Board, Board of Public Health, Board of Education, State Local Planning Committee, and State Aeronautics Commission.

(b) The committee shall appoint additional members from private and voluntary state-wide or regional organizations having interests, resources or services related to outdoor recreation, parks, wildlife national preserves, tourist industry, historical sites and land or water

sports. In addition members shall be selected from universities and colleges having curricula related to outdoor recreation and from statewide organizations having interests or services related to the recreations resources of any local government or the State or Federal Government.

Expenses of such members incurred in connection with meetings of the council shall not be charges against the State.

The committee shall designate a member of the council as chairman of the advisory council.

The advisory council shall advise the committee and its staff of the methods to be used in the preparation of the California Outdoor Recreation Plan, shall consult with the organizations represented on the advisory council on the proposals under consideration for inclusion in the planning, and shall review the plan before its adoption by the committee.

8757. The committee shall select an executive officer and staff, which shall devote its full time to coordinating the activities of the agencies created by this act and to the completion of the California Public Outdoor Recreation Plan within the period designated by this act.

8758. The California Public Outdoor Recreation Plan shall include but is not limited to the following matters:

(a) An intensive review of all factors affecting public outdoor recreation in the foreseeable future.

(b) An inventory of the existing facilities, areas, and opportunities available for outdoor recreation and an inventory and classification of areas, facilities and resources which potentially may provide outdoor recreation.

(c) A determination of the nature and an estimate of the need of the people for outdoor recreation opportunities in the foreseeable future in relation to the matters considered in subdivision (b).

(d) An investigation and analysis of the authority of different segments and levels of government with respect to public outdoor recreational resources and facilities.

(e) The nature, location and size of land and water areas and facilities to be developed, including a preliminary program and procedure for the development, administration, and financing of these areas and facilities.

8759. The committee shall submit the final plan to the Governor and the Legislature on or before March 1, 1960. Preliminary reports on the California Public Outdoor Recreation Plan shall be submitted by the committee to the Governor and the Legislature on or before March 1, 1958, and on or before March 1, 1959.

SEC. 2. There is hereby appropriated the sum of three hundred thousand dollars ($300,000) to the Committee on the California Public Outdoor Recreation Plan, for the Fiscal Years of 1957-58, 1958-59, and 1959-60, to be expended by the committee without respect to fiscal years, for salaries and wages, operating costs, equipment, and for contractual services as may be required for the development of the California Public Outdoor Recreation Plan and for the operation of the committee.

OPERATION OUTDOORS—NATIONAL FOREST RECREATION



Inadequate number of trash cans and infrequency of hauling rubbish away



House trailers in public camp space. Trailers are crowding into campgrounds designed for "open" use or small tents.

OPERATION OUTDOORS—NATIONAL FOREST RECREATION

OPERATION OUTDOORS DESIGNED TO DOUBLE NATIONAL FOREST RECREATION FACILITIES

Operation Outdoors, a plan to double camping and picnicking facilities in the national forests within the next five years to meet a steadily building demand for such facilities, was announced today by the U. S. Department of Agriculture.

Recreation visits to the national forests will hit the 66,000,000-mark by 1962, Forest Service officials predict. Their estimate is based on the past rate of rise in recreation use of national forests, the growing population, increased time for leisure activities, and the upward swing in money spent for recreation.

The five-year recreation plan was released following the President's budget message to Congress which recommended financial support of the project to start this year. The program resulted from the department's study of various congressional and public proposals to balance recreation facilities with the mounting use. At the request of Congress a comprehensive survey of needs in the 150 national forests throughout the country has been made.

Operation Outdoors is a double barreled program. First it aims at solving the problem of ever-increasing family outdoor activities such as picnicking and camping in the national forests. A second part will deal with improvement and management to wildlife habitat in cooperation with state game departments. The report released today deals only with the family type recreation program and is designated Part 1. Part 2 will be released later.

Some 2,150 new camping and picnicking grounds which will accommodate 40,500 additional families at a time are called for in Operation Outdoors. Tables and fireplaces are to be repaired and sanitary facilities modernized on the 4,900 camp and picnic grounds which now can properly accommodate only 41,400 families. As in the past, it will be left to private capital to provide and operate resorts and other special facilities in the national forests.

"Operation Outdoors is geared not only to correct existing unsatisfactory conditions at national forest recreation areas but also to meet foreseeable use during the next five years," Richard E. McArdle, Chief of the Forest Service, said. "At the same time, however, we must keep recreation in balance with the use of other national forest resources, such as water, timber, and forage.

"The American people are seeking outdoor recreation more than ever before. The national forests are feeling this boom with a tremendous increase in visits. Our existing facilities simply can't handle the load."

Recreation visits to the national forests hit an all-time high of 45,500,000 in 1955 as compared to 18,200,000 in 1946. About 39 percent of

the people camped and picnicked outside improved areas because existing facilities, largely built by the Civilian Conservation Corps between 1933 and 1941, could not take care of them.

Existing facilities have deteriorated under excessive use. Picnic tables, campfire grates, and sanitary facilities need constant repair. Sections of some popular areas have been closed for indefinite periods because facilities were completely worn out and funds have not been available to replace them.

Many people, unable to find a spot to picnic or camp in established areas, have gone to places which there are no sanitary facilities and no fireplaces. Streams that supply water to nearby towns and cities are being threatened with pollution and forest fire danger is increasing. Through Operation Outdoors it is expected that these serious conditions can be alleviated.

A copy of the report Operations Outdoors may be obtained upon request to the Forest Service, U. S. Department of Agriculture, Washington 25, D. C.

CALIFORNIA PUBLIC OUTDOOR RECREATION PLAN

The legislative committees requested Director Dewitt Nelson to chairman a temporary committee to draft an outline and present a proposed plan for making a state-wide recreation study.

This temporary committee, composed of Mr. John M. Pierce, Director of the Department of Finance; Mr. Seth Gordon, Director of the Department of Fish and Game; Mr. Harvey O. Banks, Director of the Department of Water Resources; Mr. Sterling S. Winans, Director of the Recreation Commission; Col. Rufus W. Putnam, Executive Officer of the State Lands Commission, and Mr. Newton B. Drury, Chief of the Division of Beaches and Parks, met in Director Nelson's office on December 12, 1956, to consider a proposal for developing an outline for such a study, recommend the type of body which should make such study, and in addition, develop a budget for consideration by the Legislature to accomplish said study within a two-year period.

From the recommendations and suggestions submitted, recognizing the breadth and scope of the problem, this temporary committee has drafted for consideration of the Legislature the following prospectus for achieving a California Public Outdoor Recreation Plan.

EXISTING STATE RECREATION POLICY

SECTION 1. There is no integrated, state-wide plan for public outdoor recreation. There is urgent need for long range coordinated planning at all levels of government to provide more facilities and areas to meet the exploding outdoor recreation demand which is increasing at a faster rate than is the population of California. The following statements, which need broadening and coordinating, occur in the codes which represent responsibilities of several state agencies for outdoor recreation: It is the policy of the State of California: to protect, conserve and develop the natural resources and wildlife of the State; to preserve the rights of the people to the coast and coastal waters for recreation purposes; to assure unhampered access by the public to all navigable waters, parks, playgrounds and squares; and to maintain areas of peace, quiet and respectibality so that they may be enjoyed by all the people; to acquire, develop and maintain parks, beaches and campgrounds, in order to preserve areas of natural beauty and make them available for the enjoyment of the people; to propagate and protect fish and game, and to maintain and improve wildlife habitat for the recreation of hunters and fishermen; to expend funds for acquisition and improvement of land and water areas for purposes of recreation; and to require the various agencies of State Government concerned with recreation to review annually the development, conservation and utilization of recreation resources pertaining to the respective agencies and to make recommendations on areas, facilities and programs that exist or may be needed.

THE CALIFORNIA PUBLIC OUTDOOR RECREATION PLAN

SECTION 2. To further implement the policy of the State, there should be formulated a plan, program and procedure for development, utilization, administration and financing of land and water areas and facilities pertaining to opportunities for outdoor recreation which exist or may be needed at all levels of government. The plan, program and procedure shall be based on a survey of present and future needs of the people of California at all levels of government, for outdoor recreation opportunities and for natural and artificial resources and facilities.

SHORT TITLE

SECTION 3. The plan, program and procedure shall be known as the "California Public Outdoor Recreation Plan."

GUIDING COMMITTEE ESTABLISHED

SECTION 4. The act of the Legislature shall create a committee for the California Public Outdoor Recreation Plan consisting of the following representatives of state agencies: Director of Natural Resourcse, Director of Fish and Game, Director of Water Resources, Director of Recreation, Director of Finance, Chief of the Division of Beaches and Parks, and the Executive Officer of the Lands Commission.

The Governor shall appoint the chairman of the group to be known as the Committee for Development of the California Public Outdoor Recreation Plan.

COOPERATION

SECTION 5. The committee shall consider, develop and recommend a California Public Outdoor Recreation Plan in full and complete cooperation with appropriate state, federal, regional, county and city agencies, and with interested organizations.

TECHNICAL CONSULTANT GROUP ESTABLISHED

SECTION 6. To insure a state-wide integrated plan, the committee shall make full and complete use of a group to be known as the technical consultant group consisting of appropriate representatives of state, federal, and local agencies. In addition to those state agencies represented on the committee, which will render consultant services as well as administrative direction for the production of The Plan, the heads or their representatives of the following state departments, agencies and boards shall be members of the technical consultant group: Department of Public Health, Department of Education, Water Pollution Control Board, Wildlife Conservation Board, Division of Fairs and Exhibits, Division of Forestry, Local Planning Office, and Aeronautics Commission (Attachment No. 2).

The chairman of the committee shall invite federal departments, agencies and boards, which control land and water areas now being used, or which may be used for purposes of outdoor recreation within California, to designate representatives of their respective agencies to

serve as members of the technical consultant group; the principal agencies being: Bureau of Land Management, Bureau of Reclamation, National Park Service and Fish and Wildlife Service in the Department of the Interior, the Forest Service in the Department of Agriculture, and the Corps of Engineers in the Department of the Army.

In order to insure equal and unbiased representation of interests of all cities and counties within the State for achieving the integrated plan equitable to all levels of government, the chairman of the committee shall invite the General Manager of the County Supervisors' Association and the Executive Officer of the League of California Cities to serve with the technical consultant group.

The technical consultant group shall meet with the committee at least twice during each fiscal year beginning with the fiscal year July 1, 1957. State agency representatives, only as a part of the technical consultant group, may be reimbursed for travel, hotel and meal expense in connection with meetings of the technical consultant group.

CHAIRMAN TECHNICAL CONSULTANT GROUP

SECTION 7. The chairman of the committee shall appoint a member of the committee to serve as chairman of the technical consultant group.

ADVISORY COUNCIL ESTABLISHED

SECTION 8. The committee shall appoint an advisory council for development of the California Public Outdoor Recreation Plan and shall designate the chairman of the advisory council. Meetings of the council shall be called at least twice each fiscal year beginning with the fiscal year July 1, 1957. The advisory council may: (1) advise with the committee and its staff on the method to be used in the preparation of the California Public Outdoor Recreation Plan; (2) consult with the organizations represented on the council on proposals under consideration for inclusion in the plan; and shall (3) review the plan before its adoption by the committee.

MEMBERSHIP

SECTION 9. Members of the advisory council shall be selected from state-wide or regional private and voluntary organizations having interests, responsibilities, resources or services related to outdoor recreation, parks, wildlife, natural preserves, tourist industry, historical sites, land and water sports; from universities and colleges having curricula related to outdoor recreation; and from state-wide organizations having interests or services related to the recreation resources of local, state and federal governments. Expenses of the members of the advisory council, referred to in this section, in connection with meetings of the council, shall not be a charge against the State.

STATE BOARDS AND COMMISSIONS ON ADVISORY COUNCIL

SECTION 10. One member each, of the following state boards and commissions shall be designated by the chairman of the respective board or commission as a member of the advisory council: Fish and

Game Commission, Park Commission, Water Resources Board, Recreation Commission, Wildlife Conservation Board, Board of Forestry, State Fair Board, Water Pollution Control Board, Board of Public Health, Board of Education, Local Planning Committee, and Aeronautics Commission. Expenses of members of state boards and commissions, in connection with meetings of the advisory council, shall be a charge against their respective agencies.

STAFF FOR THE PLAN

SECTION 11. The committee shall select an executive officer and staff to work exclusively in developing The Plan within the designated period. The committee is encouraged to draw freely upon qualified experts of departments, and may assign, upon approval of the state departments concerned, personned to direct, work with, or provide assistance to the executive officer and his staff. The committee may enter into contractual services necessary to produce The Plan.

STEPS IN MAKING PLAN

SECTION 12. The preparation and formulation of the California Public Outdoor Recreation Plan shall encompass the following procedures in addition to others which may be necessary:

(a) An intensive review of all factors influencing the need for adequate opportunities for outdoor recreation in the forseeable future;
(b) An inventory of: (1) the existing facilities, areas, and opportunities available for outdoor recreation; and (2) an inventory and classification of areas, facilities and resources which potentially may provide outdoor recreation.
(c) A determination of the nature and an estimate of the need of the people for outdoor recreation opportunities in the forseeable future in relation to (b) preceding.
(d) Development of criteria for determining the province of different segments and levels of government in providing, in an integrated manner, for the deficiencies in natural and artificial resources which now exist and those resources which will be needed.
(e) Formulation of The Plan for the nature, location and size of land and water areas and facilities, including a preliminary program and procedure for the development, utilization, administration and financing of these areas and facilities pertaining to opportunities for outdoor recreation, to meet present and future needs at all levels of government.

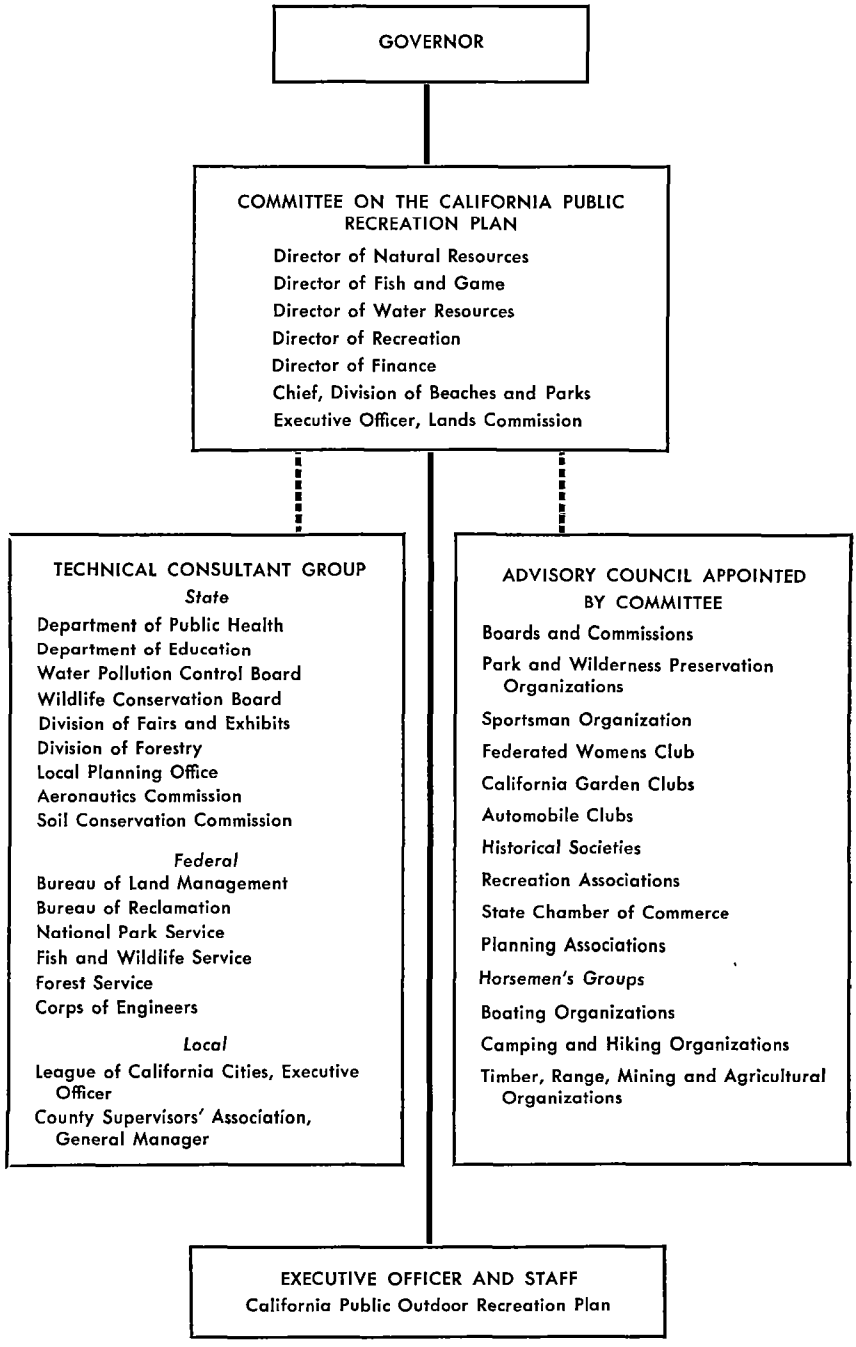
PLAN SUBMITTED TO GOVERNOR AND LEGISLATURE

SECTION 13. The committee on the California Public Outdoor Recreation Plan shall submit the final plan to the Governor and the Legislature for adoption on or before March 1, 1960. Preliminary reports on the California Public Outdoor Recreation Plan shall be submitted by the committee to the Governor and the Legislature on or before March 1, 1958, and on or before March 1, 1959.

APPROPRIATION

SECTION 14. There is hereby appropriated the sum of $300,000 to the Committee on the California Public Outdoor Recreation Plan, for the Fiscal Years of 1957-58, 1958-59, and 1959-60, to be expended by and at the direction of the committee without respect to fiscals years, for salaries and wages, operating costs, equipment, and for contractual services as may be required for the development of the California Public Outdoor Recreation Plan and for the operation of the committee. Upon the recommendation of the committee, the funds will be expended through the regular channels of the State Department of Finance.

ORGANIZATION CHART



LEGISLATIVE AUDITOR'S PROPOSAL TO RESOLVE THE PROBLEMS CREATED BY RECREATION IN CALIFORNIA

A. Alan Post: Mr. Chairman and members of the committee, what is involved really in this proposal to authorize expenditures and to establish a committee to provide for this long-range coordinated plan for recreation in California is, first of all, as I see it, the creation of a plan which can provide for the State's recreation needs; and then, secondly, to provide a basis upon which such a plan can be effectively administered and financed.

I think I can say that there is no coordinated plan at present and, as a matter of fact, there are inadequate single program plans in each and in all of the state agencies that are presently concerned with recreation; and it will be necessary, in such a study as is proposed here, to develop:

(a) The proper state-wide interest in recreation program;
(b) The program which should be carried out by the responsible agencies at the federal, state and local levels of government—or, at least, it seems to me from the state standpoint it should be determined what position the State will take in respect to the responsibilities of these other levels of government;
(c) The agency organization which can best carry out these state programs and the financing of such programs;
(d) And then, lastly, the coordinated plan and the coordinated administrative machinery to carry out these several programs with maximum efficiency. For example, I would like to point out that we do have a five-year plan from Beaches and Parks, and it has been authorized by the Legislature; but it hasn't been fully financed.

There will be very difficult problems encountered immediately in deciding how far and how fast acquisition should proceed on the basis of these limited funds, in relation to the development of our existing or additional acquisitions, so that they can be used by the public at an early date. We are facing that problem in the budget right now—today.

Another example: We have a very general 10-year fish and game plan. That is the plan—the only plan that I know of—is the one that was presented to Mr. Lowrey's committee by the Department of Fish and Game. It is expressed in general terms. It does forecast what the Department of Fish and Game feels will be long-range needs, the anticipated numbers of sportsmen in the various categories, and it does outline in general terms some of the bases upon which they feel the various fish and game programs should be developed.

There are many places in the recreation program where there must be a clear definition of the individual programs of recreation in the

coordinated use of our facilities, and we badly need plans for this and also for the administrative machinery for getting and operating these plans; and I make that point most strongly.

In proceeding to establish a committee to produce these plans, it seems to me that consideration should be given first of all to how far it is necessary and desirable to secure independent staff facilities for the purpose, and secondly how far the state agencies should be required to furnish the planning staff.

I think that the proposed plan to establish a central guiding committee with expert staff is a good plan, and providing that the Governor appoints the chairman of this central guiding committee, which is in turn primarily composed of governor's appointees, is a good way of getting executive responsibility for formulating the plan.

It is absolutely essential, in working out this plan, that you get complete cooperation from the agencies concerned, and I think that is the way to do it, and I think that it is a very sound approach to putting your basic responsibility in a small group, making them responsible directly to the executive, and, by having the executive appoint the chairman, put the responsibility right on his back; to say, "You are responsible for getting a plan and seeing that your agencies work it out." And I think that is a fundamental point and a very good point in the proposed plan.

I think that it is an anomaly that the guiding committee should include both the Director of Natural Resources and the Chief of the Division of Beaches and Parks, who is nominally under his jurisdiction. It illustrates the problems, however, which are inherent in the presently confused organization, which gives to the director of the department partial authority, overlapped by that of the Park Commission. The insecure relationship of the Chief of the Division of Beaches and Parks, between the directors of the department and Park Commission, I think, makes it difficult to secure adequate and comprehensive planning and administration within the Beaches and Parks function, and while it may be necessary to include this position on the central planning guiding committee, as a matter of practicality I do think that it indicates that it will be more difficult to secure an adequate plan by continuing this type of organization, rather than having the position of the Director of Natural Resources clarified and by giving him full administrative and policy responsibility for this function.

I think that this would also provide for a more effective fire protection program for parks; and, in this same relationship, that the planning and operating duties of the State Lands Commission in respect to the small boat harbors is poor organization, and that this responsibility should be transferred over to Beaches and Parks and made an integrated part of the total program.

I repeat that a coordinated plan is just as good as the coordinated administration that carries it out, and I feel very strongly that the simpler the organization that we can achieve in this whole recreation function, the better will be the administration of it, and I think that is a very important related problem to the preparation of the plan, as such.

It seems to me that the extensive technical committee and advisory committee set forth in your plan is somewhat unwieldy, but on the other hand the concentration of the authority in this guiding committee and a clearcut mandate from the Legislature to produce a report probably should foreclose any tendency to end up with a report that you simply can't resolve the difficulties among the many parties that are concerned in it. So long as that guiding committee is given a clearcut responsibility, and depending in large part, also, upon the caliber of the staff that is employed for the study, I think that those difficulties can certainly be worked out, and you will then have, of course, the advantage of having consulted with everybody and will have made a comprehensive evaluation of all the requirements in recreation in the State.

It also seems to me that three years may be a little too long a time. I simply point out that there will be intervening elections which possibly could change the key people on the guiding committee, and that is a practical consideration that I don't think you can overlook. Moreover, the 1959 Session, rather than the 1960 Session, is a general session, and if consideration is to be given to many policy questions and to organizational questions that, of course, is the session in which it should be dealt with. I think efforts should be made to try and complete the report sooner, if possible.

With respect to the amount of $300,000 which is proposed for the report, I am afraid I will have to take a rain check on that. It seems to me that it is a little large, assuming that the technical assistance will be largely furnished by the agencies, and yet recognizing that this is a tremendous job that is being proposed here.

The Legislature did provide a hundred thousand dollars to Beaches and Parks for planning reservoir recreation projects. It seems to me that that ought to be sort of added into the total here, because that will answer quite a number of questions if it is properly done.

I want to point out, however, that the Department of Water is having some problems with the Division of Beaches and Parks in getting the kind of cooperation they should get, and this committee is just the sort of place to see to it that these feuds, if there are going to be any, as to who is responsible for planning what and how it is going to be done, have got to be ironed out, and we have got to get on board and stop that sort of thing.

It would seem to be that a very careful study should be made of the personnel who are presently in the agencies who can be made available for this planning job. I don't think we have at the present time an adequate inventory of what is being planned and by whom. It can be dug out, and I think it ought to be dug out, number one, because you need that information to decide how much money you need to complete these plans, and, number two, you have to dig that out before very long to find out who can be used to do this planning job.

It seems to me that it would be a very desirable step to get this inventory of the personnel who are presently working on planning in all of such agencies, to find out what the projects are and get a timetable from each of the agencies as to what it expects to accomplish with its present planning projects. Then, if this is done immediately, as I say, it will provide us a basis for more accurately determining

how much money we need to complete this particular planning job; and I think at the same time it will go a long way to help organize the basis for conducting the project, because to me that is just an absolutely essential first step in defining the kind of a planning project that will end up with a fairly complete report, and after all that is what you are talking about buying here.

In conclusion, I would like to say that I think we simply must recognize that California is in the recreation business in a big way, and it is going to remain in recreation in a big way, and that it is absolutely essential that coordinated planning and a report of this kind should be made, and I think it is a very constructive step; and the job now is to just see to it that it works out in as sound a fashion as is outlined here in the report, and that, as a by-product of that, there is provided the administrative machinery to implement the plan, once the plan is made and laid out.

Mr. Nelson: Mr. Chairman, Ladies and Gentlemen: After hearing Mr. Post's report, there isn't a great deal left to say. I certainly appreciate his endorsement of the proposal in its basic form, and concur that we must have some similar type of survey to this, if we are to know how to meet the recreational problems that are confronting a rapidly growing state such as California.

There are a couple of points that Mr. Post made that I should like to speak of very briefly. One, he questioned the desirability of having the Chief of the Division of Beaches and Parks on the committee, and I think that should be given consideration. The main reason that that was done was one of organization, primarily, because when you look at the other departments that are on the steering committee you will find that they are single function departments, while the Department of Natural Resources is made up of five divisions, each with its own primary function; and, since Beaches and Parks does have a primary recreational function and would and must necessarily play a very dominant and important role in developing such a plan, we felt that the chief of that division should be part of the steering committee

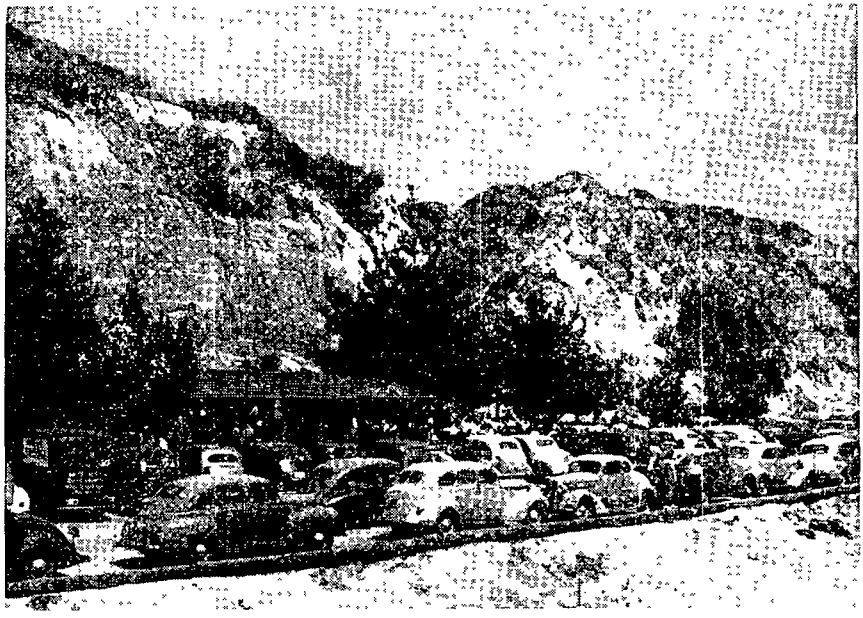
The question as to time, certainly we would like to produce such a survey and plan in an absolute minimum of time. 1959 would make an excellent target date, if we could get the job accomplished by then, and we would do everything possible to do so. However, when you consider the Legislature convenes in January, that knocks a half a year off of that particular schedule, and it makes it a pretty tight time schedule.

Mr. Post raised a question in regard to the possible unwieldiness of the proposed technical committee and advisory committee. The primary thing behind writing into this program the technical committee, made up of the skills of all of the participating agencies was to make it clear that there is legislative policy that they shall participate completely in the program. We believe that the advisory committee is desirable—and advisory committee made up of lay people representing all interests; that they would be a good sounding board for the program as it developed, and they would see to it that the professional surveyors and planners don't overlook anything, and I think that they would be very valuable help to the people who are participating

in the development of the program. And I think that is highly desirable.

In regard to the $300,000 estimated budget, we have done some budget projection on this, and we feel that that is a minimum. Now, that recognizes that the departments must, of necessity, furnish a lot of the manpower that will go into the development of this plan, and every department is carrying a maximum load with its existing personnel, and if you take those people off of their present programs you are slowing down some other program. Therefore, it was our belief that we should adequately finance so that the departments which provide men to this program should have some money available to replace those men for a temporary period, so that the regular programs of the various departments can continue to go forward. We also consider that probably a number of phases of the study can be handled on a contractual basis. We, too, are concerned, and the reason we wanted to set up this temporary type of committee was that we would not build a staff that would be projected on throughout, ad infinitum.

I think those are the basic points that I want to leave with your committee in response to the very excellent report made by Mr. Post.





DOANE LAKE, SAN DIEGO COUNTY, OPENING DAY OF 1956 TROUT SEASON

TRANSCRIPT

JOINT HEARING ON RECREATION DEVELOPMENT IN CALIFORNIA

BY THE SUBCOMMITTEE ON PUBLIC LANDS, GRAZING AND FOREST PRACTICES OF THE ASSEMBLY INTERIM COMMITTEE ON AGRICULTURE

and the

SUBCOMMITTEE ON CAMPGROUND SANITATION OF THE ASSEMBLY INTERIM COMMITTEE ON PUBLIC HEALTH

and the

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

State Capitol, Sacramento, November 29-30, 1956
State Building, Los Angeles, January 3, 1957

PRESENT

Assemblyman Lloyd W Lowrey
Assemblyman John Collier
Assemblywoman Pauline L. Davis
Assemblyman Seth J. Johnson
Assemblyman Domer F. Power
Assemblyman Frank Luckel
Assemblyman Jack Schrade
Assemblyman Frank P. Belotti
Assemblyman Jesse M. Unruh
Assemblyman Ernest R. Geddes
Assemblyman Harold T. Sedgwick
Assemblyman Sheridan Hegland

DIRECTOR, DEPARTMENT OF NATURAL RESOURCES

Mr. DeWitt Nelson: Mr. Chairman and members of the committee, I'm DeWitt Nelson, Director of the Department of Natural Resources.

I think historically we have looked to the Division of Beaches and Parks primarily as a recreational agency for the State of California, and I think historically they have done an outstanding job in developing the program in an orderly, comprehensive manner under what might be called limited, relatively limited, appropriations.

A couple of years ago when the impounded funds of the tidelands oil royalties were released, there was a large amount of money available, and that, coinciding with the exploding population in California, certainly focused attention on the recreational problems confronting California. There is no question about it, but what the Division of Beaches and Parks is not the only agency involved in the recreation field. There are many state organizations, and city and county organizations working in the field of recreation, and I know of no activity that cuts across as many functional fields of responsibility as does the activity of recreation.

There is a difference, I think, between the various levels of government For example, in the federal agencies, our land managers, such as the Forestry Service and the National Park Service, and the Bureau of Reclamation, Bureau of Land Management, and so forth. They have managerial responsibilities and territorial jurisdictions, while ordinarily many of the state agencies have functional responsibilities, but do not always have the territorial jurisdictions or the land ownerships, so their problem in meeting many of today's impact of population pressures, is that of acquiring additional lands for recreational purposes.

Of course, when we get into the field of acquisition, we are going to get into the area of conflicting interests; conflicting interests in concept and philosophy, and conflicting interests in the field of land use, one type of land use in opposition to another type of land use, and they are not always compatible, so we again open up another problem area.

I think there again, we will run into the same problem that we run into elsewhere, that some way and somehow, we are going to have to develop a set of criteria as to responsibility for such development, whether it be federal, state, or local responsibility.

Now, many organizations throughout the country have endeavored to establish such criteria. I know of none who have developed it satisfactorily. It varies with populations, type of areas, and with various financial structures of the different areas.

Chairman Lowrey: What is the thinking of the department as to the responsibility for the financing of the planning activity; should that be going along with the Water Plan as it is developed?

Mr. Nelson: Very definitely. We in the department, in the Division of Beaches and Parks, and the Park Commission, believe that the broad planning for recreational development, and uses around the reservoirs,

should be made concurrently with the water development plan, and where it is desirable to acquire lands, those lands should be acquired at the same time as the reservoir site is acquired. Otherwise, you have an appreciation of values that will go beyond the possibility of financing, and as you know, there was $100,000 appropriated at the last session for the division to carry on such survey on some of the pending and already under construction projects, and that should be a continuing survey, because our Water Plan is a continuing type of thing, and each year it's going to keep on building up, and the recreation surveys should be made concurrently with the reservoir surveys.

Mr. Johnson: Mr. Nelson do you know of any survey or any department that has taken on the responsibility of trying to tie these different things together? It seems to me like we've got a constant overlapping of things here, that's going to cause us more trouble as we go along. That applies to the State Legislature as it does to the departments, because this morning I had a committee set-up in Los Angeles on practically the same type of set-up that we have here and there's another one in San Francisco. It seems to me that if we are going to get coordination between these departments so we know what we're going to have to do and where we're going to work, we're going to be in really a beautiful state of confusion.

Do you know of any department that has taken on that responsibility?

Mr. Nelson: The departments, among themselves, have endeavored to do some coordinating. I don't think there's any question about it; there is a certain amount of duplication probably in thinking. I'm not sure there's too much duplication in action.

Our departments are set up on primarily functional bases, which basically do not conflict with each other, but because the field of recreation cuts across so many of these departments, that phase of every affected department's activity does lead to duplication, or what might be even worse, none of the agencies assuming the responsibility for certain phases.

Now, in this reservoir study program, there is coordination, in varying degrees.

The Department of Fish and Game, for example, are working with the Department of Water Resources, in the wildlife planning on these reservoirs. Our Division of Beaches and Parks are working with the Department of Water Resources in their surveys, and even before the moneys were appropriated for the division to make those surveys, there were periodical consultations with the Department of Water Resources on the recreational potentials and problems that we could foresee that will come up as a result of these reservoirs.

I don't think that it's possible to consolidate all of the recreational and planning and programming and development and administration in any one single agency, because it cuts across so many, wherein the function, the primary function of those agencies is very sharply defined.

Therefore we do need some mechanism probably, for bringing the agencies into contact in their general planning programs, and probably —some definition of the recreational development for each agency after that basic planning has been done. I think that's the first step before we can come to any final determination on responsibility, final, that is,

as to what type of developments ought to be put in what types of areas, what agencies should handle what functions, and I think that such a complete study, along with the recommendations on those elements, is basic before we continue to go off here in a dozen tangents, in a dozen different developments.

Mr. Seth Johnson: Mr. Nelson, earlier you stated that, in effect, that you had a lot of coordination among your different departments. Do you think that is carried far enough along now, until such time as something such as you have suggested, or the Assembly might set up a commission: do you think that you have done any work that would be actually worthy and would carry on into a commission?

Mr. Nelson: Yes, I think so. I think through this effort of trying to coordinate within ourselves, we are building a relationship and an understanding between departments that is very important, and I think that should continue. I think it must continue.

DIRECTOR, RECREATION COMMISSION

Mr. Sterling S. Winans: Mr. Chairman and members of the committee, I'm Skip Winans, Director of the Recreation Commission.

I am pleased that this committee is probing into this whole problem of the use of land and water areas, and a plan for the development of those land and water areas.

I just reported to the Governor on some statistics developed by the All Year Club of Southern California. In the fiscal year ending September 1, 1956, they made what I think is quite an accurate estimate on the tourist industry. In 12 months Southern California brought in close to 600 million dollars in what they called "new dollars." This year's income was in addition to what these people expended for travel into the State and returning to their homes.

And a year ago, I saw statistics developed by the Shasta Wonderland Association, that the tourist industry had now exceeded the lumbering industry as their primary industry.

Now, we have no accurate estimate of the industry. The United Press two years ago asked us for some information on what the number of tourists coming to California amounted to, and to get any kind of figures for them, we had to go to the All Year Club of Southern California for those figures, to the Californians Incorporated for Northern California, to the State Chamber of Commerce, to the Shasta Wonderland Association, the Redwood Empire Association, and in State Government, had to go to five agencies; and then we had to go to about three agencies of the Federal Government. When we got through we had pears and lemons and couldn't add them up, but it was an indication, and I think that maybe this committee or another committee may want to go into that, and ask that some state agency, and the Recreation Commission might be an appropriate agency, to gather these figures together so that when we start talking about the number of people that are going to use the water reservoirs, we might have some assessment of the number of tourists, and a fairly good estimate that could be added up, of what that amounts to.

Now, one problem of getting statistics on this one subject of the tourist industry, and the multiplicity of the agencies that have a stake in it, that are interested, that could contribute, that have resources for

it and they are anxious to know about it, is illustrated by the suggestion that I think Mr. Nelson outlined pretty well to this committee.

We developed a compilation of what statutes are now on the books in various codes, and we went into about 19 codes and developed what the Legislature and government had held, from time to time, composes the policy of State Government, and as you see in the back of this compilation, each department that has a resource or an interest or a responsibility for recreation, and that term as it's used is as wide as the hills, but they compiled a statement of what their responsibilities are now under the law, and we did that for the purpose of bringing together in the kind of form that a layman could use, what the current responsibilities are, and what the present policy of the State of California is, and it does show that there are many agencies that have some responsibility.

While the Recreation Commission has in its charter the Public Resources Code, the authority to coordinate freely state and local recreation facilities and programs, I am convinced that you can't legislate coordination among agencies, but that if this committee would give consideration to an interim organization for a couple of years, call it what you will, an intergovernmental committee to develop this plan, or a committee, or a task force, and at the policy level in the committee, which would be temporary, if we had representation from the major land administering agencies, I'd like to say that of the agencies mentioned there are only about six or seven state agencies that manage lands and control lands. Because we have described here the Department of Mental Hygiene which uses recreation in the treatment program for patients. Well, they would have no necessity to be involved in this program.

The Water Pollution Board does not manage land, but has a great deal to contribute in developing this state park and recreation plan. We now have a Department of Finance, a local planning office, which has just been established; it doesn't manage lands. As it develops, it would have something to contribute in the development of this over-all plan, and I would like to see the federal agencies that manage land have a share in it.

And it might bring about an answer to the question posed by Mrs. Davis about the relationship of state plans for our water resources to federal plans for reservoirs.

I think the parties who have vested interests in land and water areas, and the parties who have control, like the Department of Public Health, for instance, controls swimming pools in this State, their sanitation; those agencies have to be in on the making of the plan, and if you folks could give consideration to this interim period of a couple of years, and ask at the end of one year, possibly, for a preliminary report, and at the end of two years for a final report, and if you could provide this mechanism that we're talking about—I'm sure we can work it out—enough funds in that two-year period so that a competent staff can be hired outside of the present staffs of any of the agencies, and not reporting to any of the constituent agencies, but reporting to this committee, the Governor could designate the chairman, and someone in one of the committee's agencies could be the executive secretary for it.

So we could go to the Forest Service or the National Park Service, or to the Division of Beaches and Parks, or the Land Commission that is now making a master plan for boat harbors, and all these agencies under the gun to maintain their current service; so that we could say, if we want some additional information, that we could assign a man to that agency for one month maybe, or two months, or steal a man from some agency to work in this central staff, and let that agency pay his salary, that agency could then replace him with somebody else. These agencies wouldn't feel "we're loaded now."

I think now the time is right, but that we should not do this by ourselves, but we have developed excellent working relationships with every agency represented in this room, including the local agencies of city and county government, and we could participate in this, shoulder to shoulder with these other agencies, if we had the breathing space to do it.

We could come up with something that might not be as broad, as well worked out as the California Water Plan. It wouldn't be perfect, but we could then present it to you folks and say, "Shall we adopt this plan?"

You would want to amend it There would be agency and citizen groups that would want to amend the plan. I think it has possibilities, and I'm really pleased to see this committee pursue the idea.

CHIEF, DIVISION OF BEACHES AND PARKS

Mr. Newton B. Drury: I'm Newton B. Drury of the Division of Beaches and Parks.

Mr. Chairman, members of the committee, to us in the Division of Beaches and Parks it seems an admirable approach to dealing with the problem that of course for many, many years we have been conscious of. I don't think that I would want to add or subtract from what was said by the director or Mr. Winans, because they outlined very clearly the basic problem in California, of determining not only what the recreational needs of the State are, but in whose province it is to meet those needs.

I think I might say this to you: you are only too aware of the five-year master plan that was developed by the State Park Commission, by the division, and also aware of the fact that the Legislature at its last session had an appropriation of some $48,000,000, and we have completed about one-half of that five-year plan.

There has been a great deal of talk about recreation, and of course, as we see it, the problem deals primarily with outdoor recreation, and recreation on public lands. The State Park System in California, as things are now, from a state standpoint, of course, represents the recreational holdings of the State.

The grave question that has arisen is the question as to the extent to which what might be termed local recreation should come within the province of the State Park System. There is no disposition, I'm sure, on the part of the State Park Commission to question in any way any mandate of the Legislature. In fact, they have always felt that the appropriation over the last 30 years of some $50,000,000 in accord-

ance with the pattern that has been followed in the State Park System, was their primary mandate.

Of course, one of the very large problems is this problem of recreation on reservoirs. We have in our budget for this year, $3,000,000 for lands, development, and operation of Folsom, and Nimbus, Lake Natoma, and Folsom Lake. That, incidentally, is more money than the entire Division of Beaches and Parks received for all purposes in all areas five years before, just for that one item.

Chairman Lowrey: Do you think there is any need for policy clarification in the Legislature? Would the commission want some clarification, or do you think there is ample provision in the code at the present time?

Mr. Drury: Well, I think that as a result of this survey, the Legislature will see the need of a policy, particularly as to this question of jurisdiction and province, and the Park Commission, I know, and just as Director Nelson has already indicated for his department, would welcome any clarification that the Legislature feels is necessary.

Chairman Lowrey: This is directed to Mr. Nelson (This is dated November 19, 1956) (reading):

> "DEAR MR. NELSON: In regard to the roadside rests program of the Division of Beaches and Parks included in the division's five-year plan and authorized by the Legislature during the 1956 Budget Session, this office would like to solicit your aid in conducting a survey to determine feasible roadside rest locations at certain fire suppression station sites.
>
> "And perhaps Mr. Raymond will be involved in this, too.
>
> "We feel that if such locations are available, benefits will accrue to the divisions involved and, from an economic standpoint, to the State generally in reduced expenditures.
>
> "This office has submitted a list of fire suppression stations to the Division of Forestry, which are generally in the same location as sites proposed for roadside rests by the Division of Beaches and Parks. In addition to an appraisal of the feasibility of using those sites submitted, we would appreciate any additional site recommendations which your organization may deem applicable to the roadside rest program.
>
> "Sincerely yours,
>
> (Signed)
>
> ALAN POST, Legislative Auditor"

Mr. Nelson: I'd be glad to answer that. I think it's an excellent suggestion, and we are proceeding accordingly.

Chairman Lowrey: Now, is there coordination between the Forestry Service and the Beaches and Parks when we were planning these roadside rests, or is this a new entry that might alter slightly the original thinking.

Mr. Nelson: This is a new entry, Mr. Chairman, and I think a very good one, and it may alter somewhat, but I think it will be for the best rather than otherwise, because if a number can be worked out along those lines, we obviously could reduce the cost of operation.

Chairman Lowrey: Do you have any comment on that, Mr. Drury, any addition?

Mr. Drury: No, I haven't anything to add. I might say this as to our program up to today, there are only two regions, the first being San Bernardino County, the second being Plumas, Butte, and Lassen, where we've got anything like a definite tying down of locations. In those cases, they both deal with public lands; in San Bernardino with the 400-foot right of way of the Division of Highways, in Plumas and the other counties with the United States Forest Service lands. We are working on cooperative agreements with both of these agencies, and we are expectant that shortly after the first of the year we can install in those two locations, a representative series of roadside rests.

I don't want to overwork the word pilot project here, but it seems to us there's going to be quite a little experimentation necessary. Now, it's true that for some reason or other, the potentialities of the State Forestry stations were not perhaps fully explored. From the very beginning we recognized that the national forests would play an important part in the location of these roadside rests, and our general program is one of endeavoring, of course, to save money for the State where we can and where it fits in with the logical program, to locate these areas on land—of course, by far the largest cost of the whole program is going to be the development and administration, the maintenance. But there again, I know Director Nelson feels strongly that in connection with normal forestry operations some of these stations can be operated at a saving to the State.

Chairman Lowrey: Then there will be another policy question involved, whether or not the Division of Forestry should be charged with the sanitation and policing and all additional costs?

Mr. Nelson: Well, as I see it, the stations that normally would be involved are fire crew stations, which usually are operated on a seasonal basis, and the maintenance of those roadside rests at or near those stations, I think could be handled without any specific cost charge, except for materials, and things of that type, once they are installed.

There may be some garbage disposal problem. I think it's something that can be worked out at an interdivisional cooperative level.

Chairman Lowrey: This would be another subject for this task force, or the planning group to explore.

Mr. Drury: That's right.

Mr. Nelson: Yes.

STATE SUPERVISOR, U. S. BUREAU OF LAND MANAGEMENT

Mr. Best: I'm Ray Best, State Supervisor for the Bureau of Land Management, for California.

Chairman Lowrey: Would you care to make any comment as to how you might facilitate your activities for improvement on B. L. M. lands, or how we could coordinate and cooperate more, if there are any ways and means in which we could induce the Federal Government to spend some moneys here on recreation, or what is the fault, that we're not getting the same type of development that they're getting, say, in Wyoming?

Mr. Best: I believe I can explain that to you. First of all, the Congress of the United States has told us, the Bureau of Land Management, that we are, as a bureau, are not in the recreation business.

Now, I want to say practically everything we do is closely related to recreation, and we know it. Sometimes we think we're getting over the line. They watch us awfully close. Now the reason for that, the way it's explained to us, is that we have in the Department of Interior, other bureaus that do handle recreation. Now we are guided, as you all know, by public law, and we deal with all of your departments of the State here, and we are doing it daily, either in the exchange of lands, the leasing of land, rights of way, in everything else we do, we have an enormous volume of business with your bureaus in the interest of recreation.

At the moment, all of our people in California that are working in the field are coming in contact with our land, and by the way, our land in California is not as good as some other people's land. You know what type we have. We have what's left after everybody else got what they wanted, but we do have a sizable area. We have some pretty good timber in spots, but very isolated, talking about timber for just a moment, in granting rights of way or processing a timber sale, every little bitty thing we do provides an avenue possibly for some recreation in that area, while we can't spend any of our appropriated money directly in the interest of recreation.

You mentioned Wyoming, I believe, and I think what you saw in Wyoming—there is no different policy than we have in California.

Chairman Lowrey: They're spending a whale of a lot of money in Wyoming.

Mr. Best: They're doing it under soil and moisture, and other operational activities.

Chairman Lowrey: Why can't we? Are we asleep here in California, our agencies, that we aren't cooperating and getting the same type of soil and moisture content development out here?

Mr. Best: I can't quite answer that quickly, but we are spending considerable sums on soil and moisture in various areas. Now, we don't have to deal with the same things and the same conditions here as Wyoming. Wyoming has some water; Wyoming has a lot of other things. They're spreading water there; they're clearing brush, they're planting grass in those areas.

Those areas for us are limited in California. We have lots of brush areas, but we don't have the water in the places where we might want to clear brush or plant grass or something else.

Chairman Lowrey: Then if we could find areas, if the State could find areas where you would have water, if you cleared the brush and started to grow grass, then we could have these airplanes come in with the 24-D ester and do the same type of work as they are doing out there; is that correct?

Mr. Best: I can assure you that we can get more money to spend in California than we've got today, if we provide areas and there is a potential chance of being successful in that type of thing.

Chairman Lowrey: Have you any suggestions as to how the State and your federal agency, could more closely coordinate their activity, so that we would get greater benefit?

Mr. Best: The only comment I'd like to make, I'd like to see you pursue that California recreation planning just a little bit harder than you planned on doing it. That's where all these things fall down. We've got the problem before we get into planning, and I'm kind of a bug on this planning business. You'll never regret it. Just spend some money for planning and you'll be way ahead of the game.

If there is anything we can do for you in the Bureau of Land Management, call us and we'll be glad to help you.

DEPUTY DIRECTOR, DEPARTMENT OF FISH AND GAME

Mr. Shannon: Shannon's my name. Department of Fish and Game, Deputy Director, W. T. Shannon. I had a statement prepared here, but after listening to the testimony, I felt that much of it would be repetition, and rather than take the time of the committee, I'll just leave it here for the secretary.

We also have some pictures which bring to one's attention the hunting and fishing pressures, which I think the committee might be interested in looking at, at their convenience.

As far as the basic purpose of this committee in looking at the field of recreation, the administration, financial responsibility, and who is to do what, I can't add much to what Mr. Nelson and Mr. Winans said.

We have worked together in arriving at some possible recommendations, and they will be formulated in more complete form at a later date, but they have brought to the attention of the committee the things that we are considering jointly with them.

I might mention here that one thing that we are very much interested in, and which possibly should be called to the attention of the committee, is the use of water, and much of our recreation in California depends upon water, as you well know. We have been concerned for several years now, in that recreation, and fish and game is not adequately protected under the water laws.

In other words, there should be a reservation of water for recreation in California. We negotiate with federal projects, privately owned projects wherein dams are being built. Sometimes we negotiate for two or three years to secure adequate water release to protect fish and game below those dams.

Under our present water law, that water can be appropriated at any time, and the water removed from the streams. Now, that is something that is quite important, because once recreational facilities are built up and programs are built around water developments, the streams and so forth, there should be some protection so that the water will be reserved for those recreational opportunities.

Chairman Lowrey: And you feel that that should be codified in the state codes?

Mr. Shannon: It should be in the water law. We feel that when water is appropriated, water rights boards should have the power to say so much water will remain in this stream, and from here on out will be reserved for fish and game and other recreational uses, so that over a period of 20 years, or 50 and 100 years, that water will still be there, and those streams will not be dried up.

Chairman Lowrey: Isn't it a fact that in this 15 county study which was effectuated by Mrs. Davis, with a little minor amendment, that

the Water Department is making a definite study in cooperation with your department?

* * * * *

That there be in those areas, recommendations made to the Water Department. Now, isn't that a new departure in policy?

Mr. Shannon: That's a very forward step, and some lakes are being provided solely for recreation in the area, where that's in the planning.

But what I have reference to particularly in running water, streams and so forth, which can be appropriated in the future

Mrs. Davis: Mr. Chairman, under this Northern California investigation and the amendment that you mentioned, these recommendations are being made, but as Mr. Shannon states here today, there is definitely no provision within the Water Code to assure that this is actually going to be a permanent thing.

Chairman Lowrey: Well, if we had a task force, as was suggested this morning, to plan this recreation for California, would it not necessarily follow that your agency, being represented, would see to it that in the planning, in recommendations, that policy, similar to what you represent, would be included?

Mr. Shannon: We certainly would urge that. Furthermore, without waiting for such, we are in favor, very much in favor of coordinating this effort to establish the need, establish the amount of recreational opportunity that is needed. But this is something that we feel that we should continue to press for, and also bring it into that line when that is established too.

Chairman Lowrey: Well now, the biggest question that has been in my mind as I travel over the State is this: You have various areas for hunting and fishing which you administer. Now, I understand in the code you are charged with hunting and fishing. I don't remember the exact words, but also recreational activities are mentioned, recreational activities as such.

How do you determine how much money you can or should spend to administer the phases of recreation other than hunting and fishing? That's a problem that I haven't been able to clarify in my mind. And should the department be charged with that cost?

Mr. Shannon: Well, we feel under the present situation, that we should confine our activities to, first, conservation of our wild life, fish and wild life; secondly, to provide recreation for the public in respect to those.

Now, one of the problems that we have, and that faces up in this study, is the assignment of responsibility, the delineation of each agency's responsibility. In other words, we feel that ours should be somewhat limited to fish and game.

Now, maybe the Legislature, after they consider that, may feel that it should be broader than what we're thinking of, or it should be narrower, and we should arrive at some definition of responsibility here.

I think also we should keep in mind in obtaining areas, that we shouldn't get areas that are dedicated to one particular use; that if we are going to provide enough recreation in California, it seems to me it must be in the nature of multiple use.

Chairman Lowrey: But by the same token, it shouldn't be your whole financial responsibility, to put it in the vernacular, to foot the bill, for

the other phases of recreation rather than wild life management and harvesting?

Mr. Shannon: That's right. We feel that if money is to be spent in the way of these general recreation opportunities, then money should be provided from the General Fund or some other source that would pay for those things.

Chairman Lowrey: And you're working on that with the other departments and agencies of government at the present time?

Mr. Shannon: We have had several meetings with Director Nelson, Mr. Winans, and their staff, and have further meetings set up to consider just this thing.

WILDLIFE CONSERVATION BOARD

Mr. Horn: I'm Everett E. Horn of the Wildlife Conservation Board. Mr. Chairman, members of the committee: I think it would be presumption on my part to dwell on the testimony that has already been given on over-all planning and the needed coordination, other than to state in the words of the Wildlife Conservation Board, we can wholeheartedly subscribe to the statements Mr. Nelson made, and particularly in regard to a need for coordination.

The one little point I would like to make, probably it could be classed under the caption borrowed from the old time movies, "Meanwhile, back at the ranch something has been going on." I have not heard any discussion of the, what we might term what projects for recreation, and in the program of the Wildlife Board in reference to fishing on the rivers, we have run squarely into a local grassroots need and request and desire. The program carried on by the board is to acquire roads to suitable reaches of the river that provide good fishing, to create parking areas, launching ramps, and necessary sanitary facilities. The operation of these areas will be undertaken by the counties, and in some few cases by some of the cities, and the thing that I think is of interest was the intense interest on the part of the counties in undertaking a cooperative program of that nature, their willingness to assume the operation and maintenance once the areas are acquired and developed.

They did not have the funds for acquisition and development, but they could carry on the operation and the maintenance. And then in every case there was the question raised, "Is there any way that you can expand the program carried by the Wildlife Board to provide additional facilities?" Local facilities for general recreation, largely picnicking; none of them came in for camping or thought of camping.

It would take very little more, either funds or effort, to create that additional recreation. It is not within the scope of the work of the Wildlife Board. Their money is for capital investment in fish and game.

It would be very easy to delineate and to differentiate between the area, and the development that would be needed for fishing access; and that additional area and additional development that would be needed for this general type of recreation. These projects are small. No one of them is large either in area nor in the amount of money that is required to develop or to acquire it.

But in the aggregate they would provide a great deal of local recreation for cities and counties, and take care of that need of local people. This program is under way at the present time, and if there are some

means provided whereby that additional request of the counties could be granted, I think it would be possible to develop a great deal of recreation at very low cost.

How it could be handled, I suppose if the program of the Wildlife Board were expanded, if the agency needed expanding, and funds allocated for that purpose, it would take a fraction of what would be required to go back at a later date and pick up the additional. Perhaps if, there is some other agency that could handle it in coordination with the work of the Wildlife Board and that agency, in the acquisition and planning, in the actual act of development and of making contact with the counties for operation and maintenance.

In the field of water, the Wildlife Conservation Board has been looking primarily to uses of additional or existing water, and also where water plans are being made and waters are being impounded, where fishing values might be provided or developed by the Wildlife Board and turned over to the Department of Fish and Game. We find that various of the agencies, as Soil Conservation, have programs of small flood control projects. There is no provision in their planning or in their work for recreation or for fishing. They have no funds for any of that work.

We are trying, of course, to coordinate that, tie the Wildlife Board's activities to it, and see if it's possible to set up a minimum pool, instead of complete drainage of the impounded waters. Soil Conservation Service thinks that is possible. The work of the Bureau of Reclamation offers another good possibility.

The work is governed by what resources—under this Northern Counties Survey, some of the warm water reservoirs that had been studied by the Wildlife Board as reservoirs that might be built, dams that could be built under those funds, were taken into the survey of the northern counties. Some of them were found in that survey to be very feasible.

How should they be handled, and funds? There is a very definite need, and I think an immediate need for some coordinated effort, or some provision to meet these rather smaller demands that exist, and that would provide so much at a relatively small cost, and to do it without undue delay.

Chairman Lowrey: The board has had difficulty in deciding how far it should proceed in spending money for the over-all recreational development of an area, in contrast to the special function for which it was set up, and there are many very, very fine picnic areas in many of the areas that are being developed right now, isn't that correct?

Mr. Horn: That's correct, Mr. Lowrey.

Chairman Lowrey: This is a policy question that must be resolved, and it could save the State perhaps millions.

Mr. Horn: One other statement I might make, Mr. Lowrey. Some of the requests that are made by the counties are more on the order of help on creating county parks. Well, now, unless those had values, and high values, for fishing or hunting, largely for fishing, I don't see how the Wildlife Board could consider it.

But where you have an area that is adjacent to an excellent fishing reach of water, and a development for fishing is going in, then if there

were some way to consider the additional phases of recreation that could be developed there, it might warrant consideration.

ASSISTANT REGIONAL CHIEF, NATIONAL PARK SERVICE

Mr. Hoyt: I'm Raymond E. Hoyt, Assistant Regional Chief of the Recreation Resources Planning Division of the National Park Service. The Planning Division of the National Park Service has been referred to several times here today. I did not intend to make a speech; I was just going to be an observer. I think I should advise the committee of the role of the National Park Service in the recreation planning, particularly of these reservoirs. We have already completed about 40 or more recreation plans of the reservoirs that are planned and under construction by the Bureau of Reclamation and the Corps of Engineers.

Congress passed what is known as the Park, Parkway, and Recreational Area Study Act, under which we operate. That act not only authorized us, but directed us to cooperate with the states and their political subdivisions, also with other federal agencies, only when requested, however, in their park, parkway, and recreation planning problems.

The Bureau of Reclamation has an interbureau agreement with the National Park Service that we act as their agent in all matters concerned with the recreation problems of the bureau's projects. That includes the planning, and also includes the attempt to get a local agency to administer the area after it is completed.

For example, in our reports we make recommendations to the Congress through the Bureau of Reclamation, that there shall be certain expenditures made on a nonreimbursable basis for what we call the minimum basic recreational facilities.

I think, Mrs. Davis, you'll be interested to know that through the reports which we made several years ago, the Congress did authorize on a nonreimbursable basis $100,000 in the Trinity Reservoir, to be spent for these minimum basic recreational facilities.

Our report also stipulated that inasmuch as the reservoir was completely within the national forest, that the United States Forest Service should be the administering agency, and we have now turned that money over to the Forest Service for the purpose of preparing a development plan and proposing minimum basic facilities.

Now, these minimum basic facilities include the access roads, the sanitation facilities, water development, picnic areas, and boat launching areas. It does not go into any of the other detailed and more costly developments.

I might also state that down at Casitas, that's in Southern California, there, through our report to Congress, was authorized $100,000 to be spent for these minimum facilities.

They are now writing into their authorization a stipulation that we must find local administrators of the area before that money will be available. We went to the County Board of Supervisors of Ventura County, and we worked with them for a long, long time. They finally turned us down. The State was not interested, so we finally had to go to the municipal water district, and they are going to administer the recreational area down there, even though they feel it's not their job,

but in order to protect the reservoir from contamination, so that the proper use of the reservoir will be protected, and will protect the water because of that planning. That's all I have to say on that.

One other thing I would like to advise the board on; within the last 10 days an individual has come through and has provided us with ample funds, not government funds, but private funds, to do a shoreline study of the Pacific coast, of which California has about 50 percent of that coastline. We will begin that study on January 1, 1958. In the progress of that work we will seek the cooperation of all state agencies that are in any way connected with the beaches, because we want this to be a report which the State will be as equally proud of as we in the National Park Service.

We will also confer, of course, with all private agencies, such as the Shoreline Planning Association, and county boards of supervisors, county planning boards, and others who have any stake whatsoever in the beaches. I think that's all. I'm very happy to have been with you today.

DEPARTMENT OF WATER RESOURCES

(Mr. William L. Horn, Supervising Hydraulic Engineer, Department of Water Resources.)

Mr. Horn: I'm extremely sorry that the Director, Harvey Banks, was not able to attend this meeting and give you the benefit of his remarks, but I was able to contact him this noon by telephone, and he wanted me to make a few remarks; particularly he wanted me to keep the Members of the Assembly aware of the interest that the Department of Water Resources has in the recreational planning field, and to bring you slightly up to date on the fact that we are presently engaged in recreational planning activities, and then to point up some problems that the Legislature will be confronted with in this session, and then perhaps to make a few comments on the proposals that were made this morning by Director Nelson and Sterling Winans.

As you know, most of you know, the Department of Water Resources has been engaged in this development of the California Water Plan for quite some time, and in that development we were quite conscious of this recreational aspect of all these reservoirs. As a matter of fact, not only applied to reservoirs that were being proposed for conservation or for flood control or other uses, but for development of reservoirs that could provide recreation themselves, either the reservoir itself, or for the maintenance of stream flow below the reservoir.

We did include in this California Plan, a number of reservoirs for both purposes. They have been proposed. Now in addition to this plan, however, we are constantly involved in other planning activities. For example, this Northern Counties Investigation; also the planning for developments in the basin above Oroville Reservoir.

I might say briefly in connection with the latter two investigations, we at staff level had considerable discussion with both the Department of Fish and Game, and the Department of Natural Resources, that is, Beaches and Parks, and with the Recreation Commission, in trying to work out a logical planning approach to recreation, or development in connection with reservoirs in the northern counties, in the Upper Feather River Basin.

We, after much discussion, finally realized that none of us were really in a position to properly approach the problem, and so we were forced to employ an outside consulting firm, and they have studied this problem for us, both in the Northern Counties Investigation, and the Upper Feather River. This is a rather unfortunate thing for a state agency to have to do, I feel, but I think we found it to be necessary.

Now, that points up one thing, that perhaps in the future, the state agency should be so coordinated that this isn't necessary. There should be some central planning agency or some group responsible for long range planning of recreational aspects in connection with this development. Now, that's one point that I wanted to bring out.

Now, the other points seem to be in connection with problems that the State is going to be faced with in the next session. Mr. Banks wanted to point out that we're going to make recommendations without real knowledge of what the state responsibility is in connection with financing reservoirs that are primarily or in part for recreational purposes.

What is going to be the state responsibility for the purchase of land around a reservoir that would be used solely for recreational purposes? Not only the land immediately surrounding the reservoir for operational purposes, but additional lands upon which camp sites must be constructed or access might be made to the reservoir; such land as that. What is the state responsibility in connection with that? What, in effect, are going to be the nonreimbursable items when the State is planning to finalize water development? Those are immediate questions that are going to come up.

I think other people before me have pointed out this water rights question. If a reservoir were constructed by state funds and a watershed at higher elevation—its purpose was to maintain stream flows below it for fishing and recreational purposes, there should be some water right provisions that would protect that stream flow maintenance.

And of course, then, also in front of us is the reconciliation of the future administration of these recreational reservoirs. We know, and perhaps you know, that there are conflicts in our own state agencies as to how recreational areas shall be administered. Well, those should be reconciled in some manner in the future. Perhaps they can't entirely, but in specific cases perhaps they should be.

Now, just how that is to be done, I wouldn't know.

Mr. Banks wished me to comment briefly on this proposal that was made this morning, and we, without very much thought, are certainly in favor of any type of long-range planning that might be proposed. We ourselves are in the planning field. We have just completed a long-range plan for California's water resources development. Certainly the same thing should progress as related to the recreational development of California.

However, that is not going to solve all the problems, and these things that I have just pointed out before are part of the problem too, and they should not necessarily be left up to this group that is going to plan the long-range aspects.

Perhaps they could plan better if some of these policies were evaluated and straightened out in advance. So, I think his suggestion was

that certainly you should go along with any proposal for long-range planning, but it should be with, and conjunctive with, solution of these other more basic problems that you're going to have to solve, if you're going to implement the California Water Plan in future legislative action.

Chairman Lowrey: Did he give you any idea of how we were to resolve these other problems? Give us an idea of the tack we should take in order to accomplish that. That's what we're primarily interested in.

Mr. Horn: No, he didn't. But I think with our reports that will come to you, perhaps there will be recommendations; whether you are to take those recommendations or whether they should be stated in advance I can't suggest, but these points will be brought out in our report to the Legislature, and they will be recommendations as to what we feel should be done about them.

DEPARTMENT OF WATER RESOURCES
SACRAMENTO, CALIFORNIA, January 4, 1957

MR LLOYD W. LOWREY, *Chairman*
Subcommittee on Public Lands,
Grazing and Forest Practices
State Capitol, Sacramento, California

MR. SETH J. JOHNSON, *Chairman*
Subcommittee on Campground
Sanitation
State Capitol, Sacramento, California

GENTLEMEN: At the joint hearing of your subcommittees in Los Angeles on January 3, 1957, the question was asked under what authority the Department of Water Resources is including consideration of recreational water uses and fish and wildlife in connection with investigations and reports under way for The California Water Plan and other special water resources investigations. Since the question was not fully answered at your hearing I am taking the liberty of addressing this communication to your committees and request that it be *made part of the record.*

The question raised at your hearing is best answered by reference to Part 6 of Division 6 of the Water Code which is quoted as follows:

> "12581 In studying water development projects, full consideration shall be given to all beneficial uses of the State's water resources, including irrigation, generation of electric energy, municipal and industrial consumption of water and power, repulsion of salt water, preservation and development of fish and wildlife resources, and recreational facilities, but not excluding other beneficial uses of water, in order that recommendations may be made as to the feasibility of such projects and for the method of financing feasible projects."
>
> "12582. Fish and wildlife values, both economic and recreational, shall be given consideration in any flood control or water conservation program. In the design, construction, and operation of projects, when engineering and economic features of the project make it practicable, adequate provisons shall be made for the protection of migratory fishes, and the designs for structures and facilities required for such protection shall be prepared in cooperation with the United States Fish and Wildlife Service and the California Department of Fish and Game."

I trust this answers for the record the question raised, but if there is any further service our department can be in this matter kindly feel free to call on us.

Very truly yours,

HARVEY O. BANKS, Director

Present Recreational Studies of Multipurpose Reservoirs

The Department of Water Resources has been engaged in recreational studies of multipurpose reservoirs in four general areas of investigation: (1) California Water Plan; (2) Feather River Project; (3)

Northeastern Counties Investigation; and (4) Upper Feather River Basin Investigation. The California Water Plan is a comprehensive program for full utilization of the State's water resources. It therefore includes broad studies for the use of multipurpose reservoirs as attractions for on-site recreational activities, and for the maintenance of stream flow for fishery enhancement. The plan also includes reservoirs to be operated solely for stream flow maintenance. These studies for recreational purposes at Oroville Reservoir have been made in cooperation with the Division of Beaches and Parks, the Department of Natural Resources, and the Department of Fish and Game. A master plan is in the formulative stage for Oroville Reservoir, and will include recommendations for the purchase of recreation areas. Also a study has been conducted of the effect of Oroville Reservoir on fish and game, with plans being developed to enhance the fishery below the dam structure.

The Northeastern Counties Investigation has as its objective the evaluation of ultimate water requirements, predicated upon full development of all natural resources in 15 counties in Northern California. In this connection, a study by a private planning firm is in progress to evaluate the regional recreational potential of the area. The study includes an evaluation of lands most adaptable to recreational use, a long-range general plan for the development of the recreational resources in conjunction with the plans for water development, and, finally, a determination of the ultimate water needs for public and private recreation facilities.

The Upper Feather River Basin Investigation is being conducted to complete engineering studies for a multipurpose water development in the basin, studies of a construction program for such development, and report thereon to the Legislature. Plans included will provide sizable recreational benefits, both for on-site and downstream development. Studies for both a master recreational plan and an evaluation of benefits in monetary terms are in preparation by a private planning firm. The Department of Fish and Game and the Division of Beaches and Parks have also worked cooperatively on special phases of the planning.

Responsibility Recommended to Be Vested in the Department of Water Resources as to Planning for Recreational Developments

(1) Investigation and planning for water development works and the several project purposes thereof, including provisions for public recreation, are now and should remain a prime responsibility of the Department of Water Resources. The department would coordinate and consult with other state, federal, and local agencies concerned with recreation in the preparation of reports and master plans for recreational uses.

(2) Lands required for public recreation in connection with reservoirs and other facilities of water development projects, additional to those lands needed for primary project purposes, should be acquired by the Department of Water Resources in connection with the land acquisition program for the project: provided that, such land acquisition for public recreation shall have been reported to and authorized by the Legislature and funds for such acquisition shall have been

appropriated by the Legislature. Costs for such acquisition should be nonreimbursable.

(3) Construction, operation, and management of facilities for public recreation at sites acquired for the purpose in connection with reservoirs and other water development facilities constructed by the Department of Water Resources as a part of The California Water Plan, not being a regular organized function of the department, should be turned over by means of grant, lease, license, or other agreement to other state agencies or local agencies prepared to undertake that responsibility.

LEGISLATIVE AUDITOR

Mr. Post: Alan Post, Legislative Auditor. Mr. Chairman and members of the committee, Mr. Lowrey suggested that I might pose some of the problems as we see them in analyzing the agencies of State Government, and to make some suggestions as to what we feel might be sound avenues to try to resolve some of these problems.

I gather from your testimony earlier today, that most of these problems have been touched upon. I gather that there has been considerable emphasis on a need for coordinated planning. We certainly have been aware of that.

The State is spending enough money now in many ways that affect recreation, to justify taking a complete new look at how we go about planning in each of the agencies, how we effectuate coordinated planning, to what extent we have what would be the guide lines of a reasonable master plan for state recreational activities, no matter what agency they may fall in.

We have had considerable difficulty in our own minds, feeling that we had adequate guide lines in individual programs, but certainly we don't have very well coordinated master plan guide lines for recreation.

I think it's only reasonable to expect that the State will continue to spend substantial sums in this area, and it's important in my mind, to take steps right away to approach this whole problem first of all, from the standpoint of planning. Where, how, by whom? A complete inventory of what we're doing now, and to set down where we ought to be going in the future.

It would include such things as the multiple use items that I have heard suggested here already, the kind of thing that involves the question of whether or not your lakes, reservoirs, water projects, developments, and so on, should be used only for parks, camping, and picnicking purposes, but whether or not consideration should be given to boating and fishing, and in what way and to what degree, and with what types of projects.

We have the feeling that your river access development for fishing purposes is in many cases too limited for full recreational development, and so long as we are going into that, we ought to take further steps to provide additional facilities for camping and picnicking and recreational sports, perhaps.

There certainly is indicated a need in this particular respect, for control and coordination between the Department of Natural Resources and the Department of Fish and Game, but I'll take that subject up in a moment when I discuss administration.

We are very much interested in attempting to economize in the cost of operating these facilities, in the way that was suggested by the letter to Mr. Nelson; where we have facilities which can coordinate the cost items of water and patrolling or maintaining facilities for multiple use recreational purposes, we think that consideration should certainly be given to that.

It has simply occurred to us that since the Division of Forestry had stations which probably would be adjacent to these roadside rests, that we should make an effort to determine which of those roadside rests could probably be tied in with the forestry units. Because you have water, which is an important consideration in the cost of these roadside rests, already established, and other facilities. And maintenance might also be made available on a coordinated basis. We think that sort of thing ought to be followed up very carefully, to economize in costs, which can be substantial.

So far as the administrative features of the recreational facilities are concerned, I gather that there has been a proposal by Mr. Nelson to provide greater coordination. I haven't discussed this with him, but we have had the feeling that the Department of Natural Resources should be strengthened to provide this type of coordination.

I recognize that you have agencies outside of the Department of Natural Resources that would have to be brought in, but at the same time I think we can go a long way to getting greater coordination within the department itself. There is confusion in the statutes with respect to the responsibilities of the Director of Natural Resources and the commission, Beaches and Parks Commission. I think those should be clarified. It would be our feeling that the administration should be given in a stronger way to the director of the department. We find that even within the department, there appears to be lack of coordination.

For example, the Division of Forestry, in our opinion, does not have the ability to take strong enough steps within state beaches and parks, to provide adequate protection, and this has been costly in the past, and it still needs clarification.

As I think many of you know, we did not originally recommend that the Department of Fish and Game should have departmental status, but rather that the same objectives which were needed to be accomplished in the way of reorganization and redefinition of responsibility of the commission, and the administrative function of the agency, could be provided on a divisional basis within the Department of Natural Resources. I still think that is true. I realize that the establishment of the department is an accomplished fact, but I think that the logic of that position that we took before, is pointed up by the problems that everybody brings up, coordination and lack of coordination.

I do think then, that we can do a good deal to straighten things simply by strengthening the role of the Director of the Department of Natural Resources, but in order to do this, obviously we have to clarify what the policy of the State is going to be in each one of these areas.

Insofar as the financial aspects are concerned, we have, of course, different funds and different policies. The point has been mentioned

that we have General Fund money which is going into the creation of these facilities to provide for game and more fish. That's General Fund money, and it's handled differently from the special funds of the Department of Fish and Game. I think there has been good coordination between those two problems, and obviously there must be, because the facilities that we create with this General Fund money increases the budget of the Department of Fish and Game, and that budget is already strained, and we have reached a point where we seriously have to consider what is going to happen in the future, if we are going to be able to maintain existing facilities with the present fish and game licenses and fees.

So that we have two different policies there. The tidelands money is still unresolved, and will be certainly before you in this session.

The water project developments from the financial standpoint demand that we clarify the State's responsibility in respect to recreation. Unquestionably there will be formulas considered by this Legislature to try to determine the proper basis for financing water projects in California, at the local level and at the state level, and this will have to take into consideration, as has been pointed out here today by Mr. Horn of the Department of Water Resources, the nonreimbursable items which will include among other things recreation.

And you can't, you simply can't do that without considerable research. You've got to find out what the recreational potential is in each of these types of projects, and we've got to determine what the state's policy will be in connection with specific items that will go into that program, and price them out and determine the formula basis presumably that could be used, if the State does decide to follow the federal pattern of grants, let us say, for those nonreimbursable items in financing water projects.

Certainly the State Water Plan, with its, I think some 260 dams and other facilities, puts us in a position where we simply have to recognize the tremendous potential that is there and should be used to create recreational facilities in California.

In conclusion then, I simply think that we haven't yet made an adequate inventory of what we're doing at the present time in recreational planning. I think we've got to give very serious thought to how our present administration is working in each one of the agencies that is dealing with this problem, and what we can do within existing law and perhaps through even reorganization, to create a better administrative machinery for all of these related functions.

And then we certainly have got to work out some definite policies with respect to the various funds, tidelands, and the water projects' financial problems, before we can have anything like a well coordinated and long range master plan for state recreation.

Of course I'm concerned with the ultimate cost of this, but I do think that it would just be foolish for us to not recognize that with all the expenditures which are going to take place and are taking place in this area, if we don't immediately attempt to get the most out of the potential that is involved in each one of these projects, and I think the people who testified here today, as I have heard it within the last hour, have been well aware of these problems, and they have been

well aware of the administrative problems that go with it probably far more than I, because they have to live with it and I don't.

Those would be my only suggestions. I might say that we have been really trying to tackle in some detail, some of these things, and I'm just talking generalities. I have felt, however, that the agencies involved should come forward with proposals first. I think they're closer to the firing line. But I think we'll be prepared if they don't, to come forward with something to use as a suggested basis for trying to hammer out some of these policies, and if your committee would like to have us work on some of these, we'd be very happy to tackle them for you.

SUPERVISOR, STANISLAUS COUNTY

Mr. Adams: My name is Robert W. Adams. I'm a supervisor for Stanislaus County. I am not a professional planner. I have been interested in planning for many years, and have had the privilege of serving the people of Stanislaus County now in an elected office for a little over eight years. I'd brought along a lot of material, thinking perhaps I might be one of the earlier ones to speak today, but I have had the opportunity and benefit of listening to the various speakers. It would appear to me, from what I know about planning, that there evidently has been a difference of opinions, and perhaps not a clear understanding of what we are talking about here. If we're talking about a comprehensive general plan or—we're talking about a survey, a broad survey of nothing specific, but general.

Now, if we are talking about specific plans, we are not talking about a comprehensive plan. Assemblyman Johnson asked the question earlier this morning, "Is there a department that coordinates these broad problems of planning?"

Well, there has been evidently, an attempt by the various sessions of the Legislature to write a planning law. I think the last one that we have that you're familiar with is Senate Bill No. 28. I have long felt this; that we have five basic broad concepts of general over-all planning, particularly in our central valley.

No. 1 is water; No. 2 is highways; No. 3 is land use; and No. 4 is recreation; No. 5 is air pollution. To me, after a great deal of study, I consider those the five broad basic problems that affect all of us, particularly here in the central valley.

In our study of this whole master planning or comprehensive planning, we came to the conclusions that a comprehensive general plan would have to be a continuing inventory, continual analysis of the data, of projects and trends, and the preparation of the comprehensive plan on a long term, general over-all viewpoint.

We also considered that we would have to break it down into a regional planning coordination, and then to make it successful, we would have to have planning assistance from smaller communities.

Now, it was suggested earlier that, as I understand it, to accomplish a master plan or comprehensive plan, that there were two basic suggestions. One, that we have a new body created with advisory facilities of industry and the general public. And then another suggestion was that an interim committee be appointed to go ahead and prepare this comprehensive plan.

It would appear to me that California should take bold action, not based upon the negative viewpoint, and hand over to our state planning agency that we have, the function of producing the master or comprehensive plan. The specifics of it can certainly be carried out by whatever department that is involved.

I think both of you are familiar with that, that it was only in the last session of the Legislature that Senate Bill No. 28 was rewritten, primarily for a specific purpose, of allowing California to receive federal grants. I'm also sure that you are familiar that we were one of three states who were unable to receive federal grants.

It does seem that in this great State of ours, that if money was available for planning, urban or area planning as it is, under assistance of the Federal Government, that certainly we should not have been until the year 1956 in the position to receive the grants from our state law.

If we are to have a planning agency in the State, then let's give it some duties to perform. It will need money and staff, but it does appear, and I feel very sincerely about this, that if we are going to talk about a general over-all plan of the departments, and particularly recreation, it should be fitted into our state planning agency.

Now, I'm sure that you're familiar that in our Government Code, Article 7, Section 65460, says, "Each commission or planning department shall prepare and the commission shall adopt, a comprehensive long term general plan for the physical development of cities, county areas or regions."

Now, the state law imposes upon us at the county level and at the state level, that we must, it says, "Shall prepare a comprehensive long term general plan * * *."

I would urge you to clarify your own thinking on the concept of planning, whether it be specific planning or whether it be comprehensive planning. In the last session of the Legislature I appeared before a Senate committee, and I was not too appalled at the thinking of some of the Senators, but they confused planning with zoning, and it has been a very common misconception.

Certainly the Recreation Department should have the broadest latitude in the specific planning, and it should take an active part in the comprehensive planning, but if you are to have an organization from the state level that we from the cities and county level can look to for basic information that is going to affect our area, it does seem to me ridiculous that we have to then look to various agencies when it should be consolidated into a single agency, so that if there is information, that we feel that we need to know what is going on at the state level, we can clear it through this single agency.

And again I would say with all sincerity, please give serious consideration to the question that Assemblyman Johnson asked, "Is there a department that coordinates these broad problems of planning?"

PRESIDENT, SHORELINE PLANNING ASSOCIATION

Mr. Pechtel: Mr. Lowrey and the rest of you, I came here as President of the Shoreline Planning Association, new president, but what I want to say, I want to say as an individual citizen. I was very happy when I got your notice. Having been in the sporting goods business for many years, now retired out of that, recreation in the sporting goods

business comes under a general name for all kinds of sports. And so, as we go through, for hunting and fishing, is it a sport? And if we go in for golf, it's a sport, and we go into parks, they would call it, they're going out for recreation, to live outdoors, outdoor life. Now I think, as I see it, and I have been coming up here a number of times during the past years, that your problem is to get each department to give you the exact definition of recreation in their department, as they see it. Then you'll have something to work on.

I think that the Department of Natural Resources, the Department of Parks and Beaches, the Recreation Department, did give a good sendoff this morning. I think they are in earnest, and the only question that I can see, is that we need to find out how the recreation picture fits in each department, by the head of that department, and then you can find out just how you're going to go at it, and that's all I have to say.

PRESIDENT, EQUESTRIAN TRAILS, INC.

Mr. Crank: Lewis A Crank, Culver City, California. I'm the state president of the organization. We have 36 clubs. Each club has its own president, secretary, board, and members. Our membership consists of men, women, boys, and girls. We have housewives, stenographers, business executives, doctors, and people in various occupations.

We all, I believe, agree that recreation today is an integral part of our economy. It's becoming more and more important every day, due to the shorter work week, shorter work day, and early retirement, and this in turn requires more and more recreational facilities.

And I'm also sure we all agree that recreation is a public responsibility. In 1945 the California Assembly and Senate enacted Senate Bill No. 630, known as the Riding and Hiking Trail Act. This legislation, however, prohibited the use of eminent domain, as well as the construction of feeder trails until the main trail was completed.

A review of the progress made on this project in 1949 resulted in an amendment permitting the construction of feeder trails from congested areas to the main trail before the loop was completed. Probably the main consideration concerning this was the lack of eminent domain. They were unable to complete the trails in various areas, and therefore decided to commence feeding the congested areas into the trail that was completed, in order to temporarily take care of that situation.

We believe that any development of public lands anywhere in this State should make provision for riding and hiking trails, and equestrian parks for overnight stops, such as Borrego and Cuyamaca State Parks, in San Diego County.

Also, such trails, wherever possible, should be connected with established state or county systems. You gentlemen, I'm sure—and lady—know that each of the counties have trail plans of their own. For instance, in Los Angeles County the board of supervisors recently approved a master plan of riding and hiking trails covering approximately 800 miles in that county, not including the state trail.

We know of no other recreational facility that has such diversified use, and where we obtain so much for each tax dollar. For instance, these trails are used by the Boy Scouts, the Girl Scouts, the fishermen, hunters, equestrians, the United States Forest Service for building

fire breaks and for fighting fires, and by the sheriffs' posses of the various counties.

We also all know that we are today plagued with juvenile delinquency, and it may interest you to know that statistics available to our organization indicate that there is less delinquency among the 4-H and equestrian trail groups than any other group in the Country. I might add there the old proverb, "An ounce of prevention is worth a pound of cure."

We would like to have you people support the right of eminent domain on the beaches and parks in the acquisition and development of the riding and hiking trails. And our organization proposes to endeavor to have such introduced at the coming session of the Legislature.

Chairman Lowrey: Now, do you have any comments of your organization on the planning or administrative angle?

Mr. Crank: Well, I think the discussion this morning was just along the line of our own thinking, and I think the committee is going right along the line that we would like to see carried out, that is, an over-all plan. But we just want to be sure that the equestrian trails are made a part of that plan.

TECHNICIAN, SAN BERNARDINO COUNTY

(Mr. Jay N. Homan, Technician, San Bernardino County Planning Department.)

I'm a member of the Planning Department, San Bernardino County, and I have been authorized to speak for the Board of Supervisors of San Bernardino County.

I have only this to add, having been here since this morning and having heard the presentation by Mr. Nelson and Mr. Winans; San Bernardino Board of Supervisors are certainly in accord with all the ideas expressed relative to the need for master planning.

We ourselves have completed an inventory of our park opportunities, both as state parks, and park opportunities at county, city, and park district levels. We have submitted that information to Mr. Drury of Beaches and Parks. We feel that, and I believe we are correct in saying, we are among the first counties to undertake to put into effect one of the principal points that Mr. Nelson made this morning.

We would also like to call your attention to the possibilities, however. We are a very spacious county down there. We have within the county boundaries about 10 percent of the land area of the State of California. We do have only about 4 percent of the population in the county, but in a small area south of the hills, south of San Bernardino Mountain Range, in the upper Santa Ana River Basin, where we recently have had two serious fires, there are residing now about 600,000 people, roughly 5 percent of the state population, in what amounts to about 10 percent of the land area of San Bernardino County.

The remaining 90 percent of the land area is wide open and available for a fine group of state parks, any number of which we would welcome, due to the fact that about 80 percent of the land is publicly owned.

Now, we only want to emphasize again our sincere and rapidly growing interest in planning, and the opportunities of creating interesting, desirable state parks in San Bernardino County. Thank you for your time.

Chairman Lowrey: May I ask you, there's a considerable area in San Bernardino County controlled by the United States Forest Service, is that not correct?

So that if there were some way we could coordinate our activities with the Federal Government, we might get the recreational benefit from those areas without establishing state parks, if we had the sanitation and the necessary facilities, is that not a fact?

Mr. Homan: I think that opportunity is certainly there, inasmuch as we are all aware of the fact that the Forestry Service has not been adequately supplied with funds for that purpose in years past. I understand their budget for 1956-57* will probably include a larger amount for that purpose, but I would like to emphasize the fact that—I believe it was Mr. Best who, speaking for the Bureau of Land Management, pointed to the means of working out a state park arrangement on federally-owned land now public domain—may I again mention that we have many, many fine opportunities down in San Bernardino County of an extraordinary scenic value.

SUPERINTENDENT, RECREATION, SAN MATEO COUNTY

(Ralph Shaw, Superintendent of Parks and Recreation, San Mateo County.)

Mr. Shaw: Chairman Lowrey and members of the committee, this is one of the many sessions that I have attended in Sacramento over a period of years; to be exact, since 1947, when this Butano Forest came into being, and I think that the testimony that has been given this morning, followed by the testimony this afternoon, is probably one of the most gratifying that I have had the pleasure to attend and hear, from the standpoint that you are attempting to get together agencies on an over-all planning basis with an objective which will benefit the people of the State of California.

It's not a question that has arisen just here in Sacramento, but it's one that we are going through in the counties in appraising all the agencies that are involved in recreational planning throughout our county, and the many counties of the State.

I think that the other counties would concur in the fact that under state leadership in this type of thing, that their findings are going to benefit not only the State, but all of the counties and public jurisdictions throughout the State. I'm vitally interested because of my interest in the presidency of the Harbormaster and Port Captains Association of California, and of the Butano Forest Association, and we feel that many of these projects, as in the Butano Forest Area, had that proper planning been arrived at many years ago, that that area would have been conserved in its infancy instead of at a later date with a tremendous cost.

We feel with the boating program coming up, that this type of program will handle and put into being proper planning, with the full cooperation of the jurisdictions that are interested and who are working at it from many different angles.

It's our understanding, and which was recently mentioned at the shoreline planning meeting in San Mateo, that there are four or five

* Operation Outdoors—National Forest Recreation, United States Department of Agriculture, January, 1957, Washington, D. C.

agencies engaged at the present time in the development of the coastline of California. This knowledge would be put to a single purpose under the plan as outlined by Mr. Winans and Mr. Nelson this morning, and followed this afternoon by Mr. Drury.

Certainly we have enjoyed in our county, the full cooperation of the state agencies, and I don't believe it has been their intention to work at overlapping policies. I think from their own testimony, they have shown a desire, in effect, to work economically and work to one objective.

I'd like to commend your committee and the program that you're attempting, and to wish you good luck on it, and a lot of speed. Thank you.

CHAIRMAN, REDWOOD EMPIRE ASSOCIATION

Mr. Freyer: My name is Ed Freyer, and I'm the chairman of the State Park Committee of the Redwood Empire Association.

I have a few resolutions that were passed by our organization. The Redwood Empire Association comprises the eight northern coast counties and one county in the State of Oregon.

This is a summary of the policies taken by the Redwood Empire Supervisors Unit, who administer the policies of the Redwood Empire Association pertaining to legislation These policies were adopted and included in our thirty-sixth annual convention which was held on October 18th and 20th of this year, and I'm going through these as briefly as I can.

I know it's getting late. I'm not going to take you through a lot of unnecessary reading here, but I'm going to read a motion that was unanimously carried by our organization, which proves how necessary it is to have a well established department for recreation in your State Park and Beaches Commission.

> "We resolve that the Division of Beaches and Parks be congratulated on their efficient way in which the state parks were put back into operation and operating condition after the severe floods of last winter."

This proves that it's necessary for the welfare of the area, to have an organization that is well equipped and able to act in an emergency.

> "We resolve that the recreational area be developed in Sonoma County, including the Jack London Ranch and Glen Ellen (about 1600 acres) to be set up as a memorial, and in conjunction with a museum, it being pointed out that the London family is agreeable to this plan."

I bring these things up to show you how wide an area this is going to carry, and how important it is that not one department such as the Parks and Beaches, be shouldered with too great a responsibility, in this over-all plan.

It was also resolved that the state parks that are not now usable by the public be rendered accessible by access roads and trails with adequate directional signs. That parking and picnicking facilities, comfort stations and other facilities be installed and maintained therein.

That by legislative action, counties and cities, also the City and County of San Francisco, be reimbursed for taxes lost due to state and federal ownership of lands and buildings for parks, beaches and monuments and other recreational purposes.

That no more taxable land be acquired by the state or federal government for such purposes, except with the consent of county boards of supervisors affected.

That installation and operation of concessionaire facilities within the state parks, to compete with taxpaying wayside enterprises located outside of the park boundaries, continue to be opposed.

That such funds be provided to maintain state monuments open (and qualified curators on duty) seven days each week, all year around, financially beneficial to the state tax treasury, and city and county tax treasuries, also beneficial to employment and to the general economy of the State.

That funds be supplied to complete the acquisition and restoration of the Vallejo adobe near Petaluma, and that Robert Louis Stevenson Park in Napa County be enlarged and developed and brought to a state of usefulness.

Regarding the small boat harbors, action was taken during the annual convention of the Redwood Empire Association, and a motion was passed, adopted, which expressed appreciation to the State Land Commission for excellent work to date; approved action, accomplishment to date by the Corps of Engineers, United States Army, the State Legislative Interim Committee on Small Boat Harbors, and the State Land Commission.

Continuing campaign to promote state and federal funds for small boat harbors both along the coast and in interior sections of the redwood empire. I believe that covers that.

REPRESENTATIVES, HAROLD F. WISE ASSOCIATES

Mr. Waybur: My name is Bruce Waybur, and my colleage is Mr. Kenneth Anderson. We represent Harold F. Wise Associates, Consultants in Regional Planning and Urban Economics.

The work we have been doing that I believe you're interested in has been for the Department of Water Resources, and it covers two separate general fields of inquiry. One field of inquiry was the population and economic development in the northern counties, a study to assist the Department of Water Resources in their estimates of ultimate development and the water requirements of the northern counties.

The other major field of study that we have been working in is that of recreation potential, which goes with the development of these water resource projects.

I'll go briefly through our population and economic studies, and then we'll devote as much time as you wish to the recreation.

Chairman Lowrey: Could I put this in for what it's worth? If we're going to have population increase, and it seems that even if we threw up a Chinese wall we couldn't stop it, it therefore follows, does it not, that we have to have a place for these people to spend their leisure, or their recreation, so you can't divorce recreation from population.

Mr. Waybur: We are thinking in terms of a population of the State at what is called ultimate development of its resources, of 45 million people. This figure is very important to fix in our minds, the scale of the magnitude of the increases which lie ahead of us, because we are now at about 13.6 million.

Obviously this means a tremendous and in some ways unimagined increase in all facilities.

The second aspect of our population research was these meetings that we held in the counties. These were very important to us; not that the people in the counties are experts on population, but they are experts in their counties, and many times you can get misleading impressions from figures, when a little conversation with people will reveal what is possible and what is not possible.

Theoretically, some of the counties in the northern part of this State could hold, I mean there is a capacity there to hold many hundreds of thousands of people, but practically, it's obvious that the resources will not support them, and so we have had to make a careful distinction between the number of people whom these counties could absorb if space were the only object, and the number of people they can absorb based upon the resources that are available there to support them.

When I mention resources, we're talking, of course, of the agricultural development that is possible, and on that score we had very great assistance from the farmers in each county, from the agricultural commissioners, the farm advisers, who told us, and in many ways their thinking is just as advanced as anybody's in this room; they are looking ahead to this period, and they're looking for ways to increase the productivity of their lands, and they are prepared, as irrigation water becomes available, to do it.

One of the most interesting trends that we observed is the movement of farmers from the more central portions of the State up to the mountain counties, bringing with them ideas about what can be done, which some of the oldtimers just didn't believe possible.

Many people were reconciled to a beef economy. They didn't believe field crops could be introduced. Some of these fellows from the central part of the State came up, and are growing field crops, and this is one of the interesting things, and this is going to help support a larger population from the agricultural economy than had heretofore been believed.

The second major resource of the northern counties is timber. We have consulted with the Forest Service and with individual timber operators who came to our meetings, and we have made estimates, and we have gotten expert estimates from them, of the sustained yield capacity in each county, and we have based our employment estimates in the timber industry on those sustained yield estimates.

A third resource, of course, is the mines of the northeastern counties. There we find considerable uncertainty about the future, because there have not been sufficiently exhaustive mineral surveys made to establish what the long range, if we might use the term, sustained yield might be.

A fourth resource, and the one which we will discuss most from here on out, is the recreation resource itself; not a physical commodity perhaps, but in its impact on the counties and its support of county pop-

ulation, it will have perhaps an even larger effect than all of the commodity resources that I have discussed.

Generally speaking then, our projections, our studies and projections of population and economy development forsee the northern counties absorbing approximately 1,750,000 people in a state population of 45,000,000.

I believe that as a general resume to summarize this picture as we see it, of a population of 1,750,000 in the northern counties, supported by an expanded agriculture made possible by approximately threefold increase, more than that, I have the figures here, in the amount of irrigated acreage, and expanded employment in timber resulting from a sustained yield cutting program and fuller utilization, and continuing level of employment in mining, though not substantial if you're thinking in terms of the gold rush days, and a very greatly expanded development of trade and service industries based on the kinds of population demands.

One—in a sense they are both related to the recreation potential of the area—one would be the people who come with retirement incomes or other sources of income not derived from employment in the county, to live in those counties, because they like the area as a place to live. And the other source of this expanded activity in the trade and service industries will be the recreation visitor, and we really believe that especially in the mountain counties, this form of economic activity. I don't know whether to call it an industry or not, because it covers many different trades and service industries, this will probably be the largest source of employment and income in your counties.

I'd like to call now on my colleague, Mr. Kenneth Anderson, to describe to you the procedures being used in our inventory of recreation potential in the 14 northern counties, and even more intensively in the Upper Feather River Basin.

Mr. Anderson: I don't mean to go over any of the background on the study. Mr. Waybur has done a splendid job. I wanted to make sure that it was clear that we are doing actually two studies, and in effect they are comparison studies, and that the 14 northern counties study is the kind of study which precedes the detailed study which we are doing in the Upper Feather Basin. The one follows the other in that sequence of study, in our opinion.

Before going into the subject matter of these two studies, I'd like to go over very briefly a general framework which we have thought through, and I put down here in just note form, as to the basic philosophy, the basic requirements in doing an over-all recreation study of this type.

The planning process is seldom ideal, but must fit the present situation—and that's what we have, a present situation that has to be solved. Planning for future park and recreation needs of California requires consideration of all elements of physical planning including other uses of land, transportation—which means highways, of course—public utilities, and other natural resources. This is only a general list of the things which should be included.

Those four items in this list are not intended to be all inclusive, totally inclusive of the elements of a general plan, whether it's a statewide plan which I'm talking about here, or a regional plan.

In the absence of the comprehensive state-wide general plan, we were forced to make assumptions which would relate to the eventual development of that plan.

A study to produce a state park and recreation plan should include these following elements, in our opinion, and we used these points as a basis for doing our studies in these two projects. First, we were forced to develop, needed to develop, a methodology acceptable to ourselves and acceptable to Water Resources, which considers future park and recreation needs for California residents and tourists.

Second, we had to test as well as we could, the practical application of this methodology by special study of sample areas.

The third point here is to develop a comprehensive work program and procedures for carrying out the study.

Four, analyze studies on park and recreation planning for California in order to make full use of available existing data. That's where we really have relied on the Forest Service.

Development of use and space standards for recreation and park areas; here we ran into a considerable problem, as we could find no stated use and space standards which could be used to evaluate the potential areas in the 15 counties, and so we had to determine present recreation and park needs by actual measurement of selected sample areas we have not done. This kind of work, except from existing data from existing agencies or from discussions with these people in the counties, we haven't been able to do these sample studies in order to determine the actual needs.

It wasn't part of our study, other than to project total user-visitor days under full development. This is a phase which needs very careful study at present. On the basis of our discussions in the counties we revised our tentative standards and have used them since that time in our evaluation.

The next point, we inventoried park and recreation resources in the entire State—15-county area, on the bases of these standards in order to develop the total potential picture.

We put all this information down, and consolidated it on large detailed maps, and then we did our own inventory of each county, both by automobile and by air with a person, usually from the Forest Service, who knew his area very intimately, so he could point out the areas that had been discussed previously as having certain potential.

Therefore, we were familiar personally as well as we could be in this reconnaissance type survey, familiar with all of the areas within the counties.

Now, on the Upper Feather River Study, this is a good deal more detailed. This follows this type of reconnaissance survey, and includes consideration in detail around reservoirs. We are only part way through this study, as you know. It just got under way. We have done preliminary studies, site utilization studies on five upper basin reservoirs. Plumas basin on the same basis as the 15 counties, in order to give us an over-all estimate of potential for the counties. Beyond that, we are in the process of developing a detailed inventory which will give us more precise figures for the entire basin, and then the other phase is to develop these site utilization plans around the reservoirs themselves.

Chairman Lowrey: I think your organization and the Department of Water are to be commended for the fine type of survey and planning you're doing before construction starts, and I hope out of all this, that we can have—the studies—not only around the reservoirs, but to pinpoint county-wide, and then state-wide, a similar study, and then we'll really be able to see and to have some idea of the magnitude, the dollars involved, in the developing, and at the same time will be able to show the people the great potential wealth and income, revenue, that will accrue from the developments, and they will, like our sustained yield in the forests, they will be bringing money back into the State and the communities as long as the State and the Nation exist.

DIRECTOR, DEPARTMENT OF FISH AND GAME

Mr. Gordon: Mr. Chairman and gentlemen, I did not ask to testify. If the committee desires, I would like to supplement a few of the things that Mr. Post mentioned, and then give you two or three other bits of information that may be helpful. Director Nelson made a statement in behalf of the joint group that has been working on this problem at your previous meeting, and he is here to speak further as may be necessary at this time. I think that, in the long run, the State will save a great deal of money by coordinating the recreational program, and especially the planning part of it, in the manner that has been proposed.

To show you that California is not alone in this particular problem—and it is a problem with us because of the terrific population growth—just recently I had the privilege of sitting in as a member of a research advisory committee for the Department of Agriculture dealing with the national forests in Washington, at which time that committee brought forth, after a year of preliminary study, a recommendation that there be a nationwide evaluation of these recreational problems, and the planning necessary to meet them, comparable to the timber resources review which was a three- or five-year job; and it is something that can't be done in a hurry and done well.

I think that a small staff of technical people will absolutely be essential as a central staff. The departments can all contribute their share towards such a coordinated program, but unless there is a staff that is going to spearhead and coordinate the job, we will just drag and drag and drag. I believe that a part of the job can be contracted out—and save the necessity for building up a large technical staff. On the State Water Pollution Control Board projects—I happen to be a member of the board—we contract out certain kinds of work, and it saves the necessity for building up a technical staff of our own. It gives certain groups that are in that field an opportunity to use their services, their skills and, I think, saves money in the end, and I believe the same thing can be done here.

As to the urgency of the situation, I think we have already waited too long. This job should have been tackled five years ago, and I would urge that you start the project this year, this coming session of the Legislature, and get it underway, even though it may not be quite on the scale that was recommended by the committee.

Mr. Nelson, I think, made in behalf of the committee a suggestion that there be not less than $300,000 to get the program started. It is

going to be a job that will require several years, and I would very much like to see the initial steps taken this year. But don't underestimate the cost of a job well done. It has got to be done well, and we are ready to play our part in this program.

I would just like to comment one thing further. Mr. Post covered very nicely the 10-year program that Fish and Game made up for consideration about two years ago. As a result of the developments since that time, we are convinced we did not aim high enough; our sights were not big enough when we figured that we would have 3,000,000 licensed hunters and fishermen by 1965 and over 4,000,000 by 1975. I am now convinced that we were shooting too low. If the present population trends continue in California those figures will, I am sure, prove to have been much too conservative.

So I am simply mentioning that as related to this over-all recreational program. And bear in mind that a great many of the people who come to California to live are coming here because of our great recreational opportunities and the kind of weather conditions and everything else. I have queried a great many of them, and invariably they say that is one of the things—the outdoor living opportunities that California affords—is one of the chief magnets which has brought them here, and we can't afford to sit by and find ourselves in real difficulty after a while.

EXECUTIVE OFFICER, STATE LANDS COMMISSION

Colonel Putnam: Mr. Chairman and members of the committee. I presume the committee would like to know a little bit about the small craft harbors program with which the State Lands Commission has been associated.

Chapter 1850 of the Statutes of 1955 imposed certain duties upon the State Lands Commission, provided certain things were accomplished. The number one accomplishment was to submit to the State Legislature a county-wide plan for a particular county with reference to the construction, financing, or support of small craft harbors within that county.

Unfortunately, we couldn't get started until last July, because we had no money, and I can't operate without money—I have got other things to do.

So we did the best we could with our own staff.

Last summer and last spring we requested each county to prepare their own plans because we felt that these plans should start from the lower level of the government and not be imposed upon the counties by the State.

The results have not been too fortunate so that it has been impossible to submit yet to the Legislature any county-wide plan. I am hopeful we can submit one for Santa Cruz County.

I was up there last week, and their plan was the most complete of any, but I am still not sure. We still need a report from the Army Corps of Engineers on the Santa Cruz plan.

I don't see that it is appropriate to submit to the Legislature a request for appropriation for any particular county on its harbor plan until such time as we see that the United States Army Engineers, Department of Defense, have finished.

If their plans are still two years away, why should we suggest to our Legislature any appropriations to further their projects?

It is a question of timing, of course, and I am afraid I am going to be a little unpopular in certain areas here on this thing, because if we don't adopt some pretty good criteria on the question of this state participation in harbor planning and harbor construction, we will get into the old pork barrel deal, and I don't think it was the intention of the Legislature to get into something of that character.

So I hope to be able to give to the State Lands Commission at its next meeting on January 10th, a report covering results of our review of the whole subject, as best we could have made it, and I am not decided yet as to whether or not to recommend any particular county for special consideration, because, as I say, this can get into a log-rolling or pork barrel deal, and I think any county that qualifies for recommendation from our office should have a pretty complete plan and fairly imminent plan.

Our thought is this: That harbors of refuge come first. There is an immense amount of off-shore traffic now in small boats. Why recommend to the Legislature to spend more money to create more facilities for more boats, when we are not taking care of the boats off shore?

Now that, in general, is about to be my recommendation to the State Lands Commission, and whether or not they will approve it, I don't know. And from the commission, it will go to the Legislature.

Assemblyman Lowrey: I am not trying to be facetious or critical, but I am just after information on it because up until recently I haven't thought very much about the program on any specifics, and I would like to ask you: Do you feel that the Lands Commission is equipped and that it is feasible, with your staff, to carry through a program of small boat harbors?

Colonel Putnam: Not the way we are presently organized. We have had a skeleton organization, but we just plain can't get engineers.

Assemblyman Lowrey: Well, now, are the statutes so set up and are they clear enough, so well defined, so that there is no question of doubt as to procedures, as far as the Lands Commission is concerned?

Colonel Putnam: I think, Mr. Lowrey, there are questions, and it is my duty to so inform the Legislature.

Assemblyman Lowrey: Well, one other question: I don't know whether you are familiar with this California plan, program and procedure at all levels and segments of government for the development, utilization and administration of land and water areas and facilities, and so forth, that Director Nelson submitted to us.

If we get such a coordinated plan set up, would not having some specifics and the underlying philosophies as guideposts be of great aid in pioneering such a program?

Colonel Putnam: Well, I sat in on the meeting with the Director of the Department of Natural Resources about 10 days ago. I think we can work something out eventually on that deal. I haven't conferred with my commission yet, and I haven't made any commitments, either.

Assemblyman Lowrey: You are certainly not being criticized for it, but it just seems to me that this is a glaring example of how there hasn't been proper and adequate planning for the executive branch of

government by the Legislature to carry out a recreational program of over-all coordinated plan.

Colonel Putnam: Well, let me state this with respect to the small craft harbors, that this was pioneering legisaltion.

The State hadn't been into it at all. Some agency has to pioneer, even if they can't carry it on through. We sweated blood over it. We will still take it as long as you want us to have it, and try and come up with good answers, but not too many.

SUPERVISOR, STATE SOIL CONSERVATION COMMISSION

Chairman Johnson: Now I see Mr. Darsey isn't here. Mr. Nelson, were you going to offer some testimony in his behalf?

Mr. DeWitt Nelson: Mr. Chairman, members of the committee: Mr. Darsey would have liked to be down here, but since I was coming anyway, I thought we might save his time and I would try to cover his field, as well.

In the field of soil conservation, we concede the urgent need for activating more action in the field of the small watershed program under the provisions of Public Law 566 as amended by the last Congress, and Public Law 1018.

I will give you a little background on the provisions of those laws.

That is what is known as the "watershed law" and as amended in Public Law 1018 the Federal Government, through the Department of Agriculture, assumes the financial responsibility for flood control works, while the local agencies or levels of government must assume the financial responsibility for conservation for water purposes, such as developing water for domestic or irrigation uses.

At the present time there have been 26 applications made for small watershed programs through the Soil Conservation Commission, which is the presently constituted body for approving the proposals. From there they go to the United States Soil Conservation Service and are examined and forwarded to the Secretary of Agriculture.

If approved at that level, then they are authorized for surveys, and at the present time we have 26 applications.

The Soil Conservation Service has only two survey parties in the field. They are working on five projects, so we have some 21—I think it is—pending projects.

If the State of California is going to go forward as rapidly as we think we should, and if the State of California is going to get its proportional share of moneys available for this type of project, we believe that we should put into the field a couple or more survey teams in order that we might get these projects surveyed and cleared, so that when moneys are available we will be ready to receive some of those.

Now, such surveys, of course, must of necessity be thoroughly coordinated with the Department of Water Resources, because, after all, they must be coordinated with the California Water Plan, and we are in consultation with the Department of Water Resources at the present time, developing a procedure for assuring proper coordination on these projects, because obviously maybe a small watershed project could more or less nullify one of the larger programs of the Water Department, and vice versa.

So there is a necessity for a high degree of coordination.

We feel that there should be given serious consideration to the activation by the State of at least two survey teams to push this program forward, and we estimate that such a set of teams would cost us in the neighborhood of about $230,000 a year.

That, Mr. Chairman, is what we believe is the most urgent need in the field of soil conservation at this time, in a broad scale water development program.

Assemblyman Lowrey: Then, while they are making that study, they should be surveying the recreational possibilities as the water study goes along; isn't that right?

Mr. Nelson: That should be coordinated with it, yes.

CHAIRMAN, CALIFORNIA AERONAUTICS COMMISSION

Mr. Lampson: Mr. Chairman, members of the committee: I am Leroy Lampson, Chairman of the California Aeronautics Commission. I didn't come here with any prepared speech or anything of that sort. As a matter of fact, I am pinch-hitting for our director, who called me last night. I happened to be in the area, and he asked me to attend this hearing and leave a few thoughts with this committee in regards to recreational areas, connected with aviation.

First, I would like to point out that the sales of business and personal type aircraft in the last year have increased about 64 percent. It is a new, modern method of transportation, and we feel that we certainly should have some landing strips or airports within the recreational areas. As far as I know, the whole length of the State of California doesn't have an airport or a landing strip near the beach that people can fly into and get out of the airplane and go swimming, or some recreational thing of that sort. We did have one at Morro Bay, and the airport there was taken over—the state highway went right through it. Whether it is going to be replaced or not, I don't know. It is the only one, to my knowledge, that we had in the State of California.

We have very few mountainous airports within the recreational areas.

I would like to point out to the committee that, in the last year and a half, we have been working pretty hard on an airport at Lake Tahoe. We have purchased the property now, and the airport will be usable, we hope, by the summer of this year. It has been quite a project, and we would like to have you keep your eye on this airport and see just what happens up in that particular recreational area.

I would also like to point out to this committee that we have discussed this problem with the Beaches and Parks. We haven't been able to get very far with them, and we have recommended that airports within the park—I think our recommendations are that the airports be put adjacent to the parks, rather than in them. But we are still working with those people on that particular item.

That is about all I have to report. If there are any questions that I might be able to answer, I would be glad to do so.

ASSISTANT CHIEF, U. S. FOREST SERVICE

Mr. Davis: I am W. S. Davis, Assistant Chief of the Division of Recreation and Lands, U. S. Forest Service, San Francisco.

Chairman Johnson, Chairman Lowrey, and committee members: I make this statement on behalf of our regional forester.

The Forest Service concurs in an earlier recommendation to the committee that a state-wide inventory be made of public needs for forest and beach recreation opportunities, and that a comprehensive California plan for the utilization of this resource be prepared.

We will be happy to cooperate in such a project for the attainment of this objective. We already have a good inventory of existing and potential public recreation sites insofar as national forest plans are concerned. The possibility of adequately developing and expanding these sites now looks more promising than it has for over a decade, as federal recreational appropriations for the California region have increased tenfold in the past four years, and Congress continues to maintain a live interest in providing forest recreation for all.

We have recently added to our planning staff in order to provide completed new recreational area plans in advance of increased financing.

We are already cooperating with the State of California in the new roadside rest program and in the program of hiking and riding trails. We consider ourselves fortunate in being in a position to provide developed public recreation areas in the high mountains and forests and feel that our program should be coordinated with the efforts of other agencies to furnish companion sites in the valleys, foothills, and along the coast so as to meet the needs of the expanding population.

That is the end of the prepared statement. I would like to add this: that the Forest Service did not wish to give the joint committee the impression that we feel we are at the present time doing a top job or even an adequate job in handling forest recreation in the national forests of California. We have had too much catching up to do. But, as indicated in the statement, the situation is looking far better now than it ever has. We are slowly beginning to see some daylight ahead, and we are confident, as is implied here, that we will in time be able to get on top of the job.

It would be presumptive on my part or on the part of the regional forester to try to predict completely what Congress is going to do, but Congress is giving us a much better show in the recreation field now than it has for many, many years.

Assemblyman Lowrey: In other words, it could be possible that the Federal Government isn't meeting their responsibilities as managers of public lands in that respect, inasmuch as they are denying you the essential initial funds to carry out that program?

I know that is rather an embarrassing question, but isn't it a fact?

Mr. Davis: I should say that that certainly has been the case. I think the signs are that we are getting over that now. Congress has asked the Forest Service to prepare a five-year plan for getting on top of the problem, and that is being done.

I am sure that Congress wouldn't request that unless they also had in mind giving us the wherewithal to carry out at least a portion of such a plan.

FOREST SERVICE—INYO NATIONAL FOREST

Mr. Radel: Chairman Johnson and members of the committee:

I represent the Inyo National Forest, which is, we feel, the finest fishing in the world—the east slope of the Sierra from Bridgeport south to Lone Pine; also a portion of the headwaters of the San Joaquin and Kern.

I do want to reiterate very briefly what Mr. Davis said this morning, as far as our cooperation is concerned, as far as the Inyo National Forest is concerned out of Bishop, and any committee or any organization that is set up to do planning work for recreation in the State of California.

In the first place, it is such a big job. And I should add here, too, that I think the Federal Government—the Forest Service and the National Forest System—is going to justify its existence. And I couldn't do otherwise and say otherwise as a loyal Forest Service employee. And I am sure we are going to redeem our responsibilities as far as recreation is concerned as part of the multiple use feature of the national forests in California.

But it is a big job.

With that, I would like to leave that thought with the committee, and as an example I would cite some figures as far as we are concerned on the Inyo again, remembering that we are the backyard—backdoor—of the third largest city in the United States.

We get a lot of use from Los Angeles. Los Angeles County people make a lot of use of our facilities, and we welcome them. Last year—and I just have the preliminary figures now for 1956—it showed total recreation use of our forest alone of over 2,000,000 man-days. On camp and picnic areas that figure is about 950,000 man-days use. The overall use is the equivalent of a city of about 30,000 for a period of approximately 70 days, in which we get the big pressure from the middle of June, after school is out, until Labor Day, and if you were to place those people all in one spot that use the Inyo for recreation, you would have a city of about 30,000 population for that period of 60 to 70 days.

And so I am making a plea for a partnership approach to this problem, because it is so big that I am sure the Federal Government, Forest Service and the State and the counties and, in some cases, the cities, working together can meet this great challenge that is before all of us.

CONSERVATIONIST, BUREAU OF RECLAMATION

Mr. Chairman, members of the committee: my name is Everett A. Pesonen. I am employed by the Bureau of Reclamation as a Conservationist in its Sacramento office, that is the Region 2 office. One of my responsibilities is to interpret Bureau of Reclamation policy with respect to management of reservoirs and their shorelands.

Recreational use is considered an incidental benefit of reservoirs, that is it is not one of the primary purposes for which a project is constructed. Most reservoirs are multiple-purpose, serving for irrigation storage, municipal and industrial water supply, flood control and electric power production. However, consideration is given to the recreational use potential of reservoirs while a project is being planned, even though it is an incidental purpose. At that time, the National

Park Service, upon request of Reclamation, makes a study of a proposed reservoir and evaluates its recreational utility. That evaluation includes the possibilities for development, as determined from such factors as topography, vegetative cover, fluctuation in water level and road access. The types and amount of use, as indicated by the distance from population centers, the size of those centers and the size of the reservoir, are also taken into account. The report includes a very preliminary plan which shows the areas suggested for recreational development and possible locations for major facilities. The amount of land needed for recreation usually exceeds that required for reservoir control, which is roughly three hundred feet back from the shoreline when the reservoir is full. Therefore, recreational land needs are indicated.

The level of government which should assume management responsibility is considered by the National Park Service in preparing its report. In making recommendations concerning management the service is guided by certain broad criteria. If a given reservoir is of national interest, as for example Lake Mead behind Hoover Dam, federal administration by the Park Service itself is recommended. In reservoirs not of national significance which are situated in more than one county, state or district management is usually recommended. Those of less than national significance situated within the boundaries of a single county may be recommended for state, district, county or city management, the recommendation depending upon how great the recreational potential is, where the recreationists will come from and what managing agencies exist or should be created. Reservoirs wholly or partly within national forest boundaries are an exception. By interdepartmental agreement between the Departments of Agriculture and Interior, these are managed by the forest service. In general, the policy is to arrange, if possible, that an entire reservoir and all the public lands around it be administered by a single agency, whatever the level of government.

The report of the National Park Service usually includes, in addition to other information, an evaluation of recreational benefits in monetary terms for use in connection with allocating project costs.

The service also makes preliminary estimates of development costs, one estimate for an over-all development, as indicated by the total recreational use potential of the area and another for what we call minimum basic facilities. Minimum basic facilities have been interpreted to mean access to the reservoir, sanitation, a potable water supply if possible, a parking area and some picnic units—all usually in the vicinity of the dam. The minimum facilities may be constructed as part of the project, while the over-all development plan is principally for the guidance of reclamation and the managing agency. Whether minimum basic facilities are constructed depends upon whether an agency is available to assume responsibility for their operation and maintenance. Reclamation does not have specific authority to manage land for recreational purposes so some other agency which does have such authority must be found to assume the responsibility. The cost of minimum basic facilities is nonreimbursable; that is, it does not have to be repayed by the water or power users. It includes the cost of any

land purchased specifically to accommodate the facilities, as well as the cost of the facilities themselves.

The inclusion of minimum basic facilities in reclamation projects is a recent development. Provision for them is included in the Trinity River Division of the Central Valley Project and in the Ventura River Project, both of which are now under construction. Authorization for the Washoe Project, Truckee and Carson rivers, also includes provision for construction of minimum basic recreational facilities.

The following listing of reclamation reservoirs, which have been built or are being built in California, identifies the administering agency or the status of plans for administration in each case.

Completed Reservoirs

Shasta Lake, Shasta County. Managed by the United States Forest Service. The boundaries of Shasta National Forest were extended to include Shasta Lake by Act of Congress (Public Law 449, 80th Congress, 2d Session).

Keswick Reservoir. Managed by Bureau of Reclamation. Recreational use limited to one small boat concession.

Millerton Lake, Fresno County. Managed by the National Park Service on an interim basis. It is not of national significance and funds were provided during the last session of the Legislature to bring it into the State Park System. Negotiations are underway.

Cachuma Lake, Santa Barbara County. Managed by Santa Barbara County as a unit of the County Park System under a 50-year agreement with the Bureau of Reclamation.

Folsom Lake, Placer, El Dorado and Sacramento Counties. Managed by the Division of Beaches and Parks as a unit of the State Park System under a 50-year lease with reclamation.

Lake Natoma (Nimbus Reservoir). Accepted by the State for management along with Folsom Lake.

Jenkinson Lake (Sly Park Reservoir). Responsibility for management transferred to the U. S. Forest Service which, in turn, has granted a permit for administration of the entire reservoir area to El Dorado County.

East Park Reservoir, Colusa County. No management agreement with a public agency. Facilities for public use provided by a concessionaire.

Stony Gorge Reservoir, Glenn County. No management agreement with a public agency. A nonprofit club operates facilities for public accommodation.

Lake Havasu, San Bernardino County. West shore of lake in California. A wildlife refuge managed by the U. S. Fish and Wildlife Service. National Park Service is preparing plan for recreational use.

Imperial Reservoir, Imperial County. West shore of reservoir in California. A wildlife refuge managed by the U. S. Fish and Wildlife Service. National Park Service is preparing plan for recreational use in conjunction with Laguna Lake.

Laguna Lake, Imperial County. No formal recreational management on California side. Seasonal occupancy by trailer camps on trespass basis. Informal recreational use by anglers and bathers. National Park Service is preparing a master plan.

Colorado River. Much of the land along the river between the Nevada line and the Mexican border, not covered above under Lake Havasu, Imperial Reservoir, and Laguna Lake or not in Indian reservations, is public domain under reclamation withdrawal. California Division of Beaches and Parks is considering state parks at certain sites on these lands.

Boca Reservoir, Nevada County. Surrounding lands controlled by Washoe County Water Conservancy District. No management although there is considerable recreational use.

Tule Lake, Modoc and Siskiyou Counties. A waterfowl refuge management by the U. S. Fish and Wildlife Service.

Clear Lake, Modoc County. A wildlife refuge managed by the U. S. Fish and Wildlife Service.

Lower Klamath Lake. A waterfowl refuge managed by the U. S. Fish and Wildlife Service.

Reservoirs Under Construction or Authorized for Construction

Trinity Reservoir, Trinity County. Within National Forest boundaries and will be managed by the United States Forest Service.

Lewiston Reservoir, Trinity County. Same as Trinity Reservoir, except that it is only partly within National Forest boundaries.

Whiskeytown Reservoir, Shasta County. No management arrangements made. Under study by State Division of Beaches and Parks and Shasta County.

Berryessa Lake (Monticello Reservoir), Napa County. No management agreement. Under study by Division of Beaches and Parks, Napa County has indicated interest in managing the reservoir area.

Casitas Reservoir, Ventura County. Repayment contract with Ventura Municipal Utility District includes authority to manage recreational use of reservoir area.

Vaquero Reservoir, Santa Barbara County. No management agreement. Only minor recreational use potential.

Stampede Reservoir, Sierra County on Little Truckee River. Proposed to be managed by the U. S. Forest Service.

Watasheamu Reservoir, Alpine County on East Fork of Truckee River. Reservoir lies mostly in State of Nevada. Recreational value not sufficient to require special administration.

With the increasing need for public recreational areas and the opportunities which reservoirs offer in that regard, this committee merits particular commendation for focusing public attention on these areas and their opportunities. Both state and local policy regarding the management of the recreational use of reservoir areas is needed. The hearings of your committee should be beneficial both in highlighting the need and in finding ways of meeting it. I wish to thank you for the opportunity of appearing before you.

Mr. DeWitt Nelson: I would like to speak to a policy problem that I think is pertinent. Mr. Pesonen has given to you very comprehensively and clearly the policy of the Bureau of Reclamation in handling and assigning the recreational problems and opportunities that adhere to these various lakes. He has also given you a pretty good long list of lakes, reservoirs, that can indicate some of the potential problem and potential cost, as far as state and local government are concerned

and that, as we all know, is just the beginning of the reservoir program. It seems to me that the Federal Government, in this instance, is not only delegating and authorizing under long term contract or lease agreement the privilege of developing recreational facilities, but that they are also delegating to the State or whatever agency takes on that long term lease responsibility of administering great mileages of shore line, which can become a tremendous financial burden and administrative burden.

Just as a case in point, in the Folsom reservoir some 75 miles of shore line is concerned, and most of it, you have a 300-foot tapeline from the high water mark to the edge of the federal holding. The Division of Beaches and Parks is already being deluged with requests for permits for boat launching facilities from the adjacent landowners, requests from boating clubs and sporting clubs, and it is a job of real magnitude just administering and policing that 300-foot strip around these reservoirs. Now, it seems to me that in doing that the State is taking over what is really a federal responsibility. It seems to me that we should—the State or whatever level of government assumes the recreational responsibility, that is the development of recreational facilities —should take those on what you might call a beach head basis. That may be one portion of that shore line and the adjacent lands which they are, in turn, having to acquire. The government isn't providing those adjacent lands, only where they happen to have them. And we should handle the recreational use and operation on those beach head installations. But I don't see why we should have to handle the policing and administration of this 300-foot shore line, all the way around.

Assemblyman Lowrey: Does that mean the State of California Beaches and Parks are being responsible for that whole thing?

Mr. Nelson: That is right, and as you heard that is the policy of the bureau, to make that assignment to one single agency. We have the full shore line, and I think it is a matter of policy that has got to be clarified before we go too far into this type of program.

Assemblyman Lowrey: Isn't that something that we should have some of these Congressmen looking into? They are selling us a pig in a poke then.

Mr. Nelson: I think we bought one. I don't want to buy any more.

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CALIFORNIA MILK CONTROL ACT

REPORT OF THE

ASSEMBLY INTERIM COMMITTEE ON LIVESTOCK AND DAIRIES

to the

CALIFORNIA LEGISLATURE

House Resolution No. 199, 1955

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LETTER OF TRANSMITTAL

ASSEMBLY, CALIFORNIA LEGISLATURE
INTERIM COMMITTEE ON LIVESTOCK AND DAIRIES
March 7, 1957

Hon. L. H. Lincoln
Speaker of the Assembly
State Capitol, Sacramento, California

MR. SPEAKER AND MEMBERS OF THE ASSEMBLY: Your Interim Committee on Livestock and Dairies, in accordance with House Resolution No. 199, 1955 General Session of the California Legislature, was granted the sum of fifteen thousand dollars ($15,000) or so much thereof as may be necessary to conduct its work. Your chairman reports expenditures under this resolution in the amount of three thousand nine hundred sixty dollars ($3,960) for the expenses of the committee and its members, and for this submits herewith a report covering hearings relating to the activities of administering the Milk Control Act.

The committee met three times during the interim, holding a meeting in Eureka, one in Sacramento and a third in Fresno, and heard the recommendations from more than twenty organizations and their testimony regarding manufacturing milk products, milk pricing, inspection fees, labor costs, and flood damage.

The investigations have revealed certain practices and procedures of administration which seem to require attention, and legislation has been proposed in conformance with these suggested adjustments and is now pending before you.

Respectfully submitted,

WILLIAM W. HANSEN, Chairman

SUMMARY AND RECOMMENDATIONS

1. MILK ACT

There was general sentiment in the testimony of a number of witnesses that the Milk Act as it is related to fluid milk was showing a good degree of success. Some dissatisfaction was shown with the methods the Department of Milk Control was using in costing the production and in the processing of milk in the Eureka area.

It was developed that much of this was due to the automatic formula method of setting prices, and it was agreed among those testifying that inequities could be overcome by better and more frequent checks of costs by the Bureau of Milk Control.

2. BEAR DEPREDATIONS

Some testimony was taken on the subject of bear depredation, since it would be necessary to make some recommendation to the 1957 Session of the Legislature because the Belotti bill would expire at the end of the first two-year trial period. Testimony presented indicated that the region of Del Norte, Humboldt, and Mendocino would desire to retain the law for another two years.

3. FLOOD DAMAGE

The committee was interested in the problem of sanitation in the areas around Eureka. We were curious as to the flood damage to the whole area. We were especially pleased at the high morale of the dairymen of the area, and were very pleased at the fine feeling existing toward the milk inspectors after going through this most disastrous flood, which did untold damage to the whole dairy economy due to drowned cattle and fine topsoil being washed away.

4. MANUFACTURING MILK

Here we encountered the first dissatisfaction. The universal complaint was, "the price was too low." No two witnesses seemed to agree that there was an answer. Feed prices were too high, labor too high, cattle too high, returns far too low. This was the theme in all of the hearings where manufacturing milk was discussed.

5. INSPECTION FEES

Testimony was introduced on milk inspection charges, the complaint being that there was some duplication in fees. The testimony indicated that it was believed that there was sufficient law at present if the Department of Agriculture would use it.

6. MILK PRICING

A new departure was presented by the Milk Control Bureau for seasonal pricing of market milk. It was agreed by the committee that it had some very good points to recommend.

Mr. Kuhrt of the Department of Agriculture presented a paper in which he went into detail in explaining a change in milk pricing by the department. This formula is now in effect; but not long enough to establish its worth.

7. LABOR COSTS

It was brought out that there had been a steady increase in labor cost over which the dairy farmer had no control, and it was evident he could not absorb any further costs by increases in efficient production methods. The committe emphasized that it would seem necessary for the department to recognize this fact.

8. AGRICULTURAL CODE No. 503

Testimony brought out the need for the Attorney General's opinion to clarify the intent of Agricultural Code No. 503—Levy and Collection of License Fees.

9. BOND REQUIREMENTS

Moved by Assemblyman Pattee, seconded by Assemblyman Power—that the committee take up the matter of distributor or processor bond requirements as a matter of special investigation by a special committee.

10. RESEARCH CENTER

Provide for a dairy science building—a research center at the University of California, Davis, California.

PROPOSED LEGISLATION

S. B. 916—Desmond. (Agr.) Amends various secs., Agr. Code, re approved milk inspection services.

Permits charges to be made by approved milk inspection services for dairy or processing plant inspection, or both, which charges are to be based on computed cost and paid by distributor. Establishes a schedule of maximum charges. Permits protest of the amount of an inspection fee to the Director of Agriculture.

Provides for assignment of dairies or plants to no more than one approved milk inspection service and that market milk and related products approved by one service may be sold elsewhere without additional inspection.

Expands duties of approved milk inspection services to include enforcement of local sanitary ordinances pertaining to milk products plants processing or handling related products.

S. B. 1685—Desmond. (Agr.) Adds Sec. 496.5, Agr. Code, re dairy inspectors.

Permits Director of Agriculture to employ as civil service dairy inspector, employees of a discontinued approved milk inspection service who have previously qualified through examination by State Personnel Board.

S. B. 1813—Cobey. (Agr.) Amends Secs. 4246, 4247, and 4281, Agr. Code, re minimum milk prices.

Removes requirement that price of manufacturing milk be a factor in establishing minimum distributor prices for fluid cream, fluid skim milk, or milk fat, or fluid skim milk components of fluid milk.

Requires Director of Agriculture to provide for minimum prices for fluid milk of all classes in stabilization and marketing plans, and details factors to be considered in arriving at prices.

S. B. 1886—Sutton. (Agr.) Amends Sec. 509, Agr. Code, re milk inspection.

Authorizes director to fix fees for inspection in established milk inspection area at less than present statutory fees if such fees will meet cost of administering provisions re grading and inspection of market milk.

S. B. 1947—Montgomery. (Agr.) Adds Sec. 461.1, Agr. Code, requiring standard milk bottle or single service container in which market milk is sold at retail to be labeled as to minimum percentage of milk fat contained.

To become operative January 1, 1958.

A. B. 867—Pattee. (L. & D.) Adds Sec. 470.5, Agr. Code, to require Grade A raw and pasteurized milk when delivered to consumer to contain not less than 3.8 percent milk fat and 8.4 percent solids-not-fat.

A. B. 868—Pattee. (L. & D.) Amends Secs. 469 and 470, Agr. Code, re Grade A milk, to require such to be collected by or delivered to distributor within 24 hours after being drawn.

A. B. 2004—Lowrey. (L. & D.) Amends Sec. 4395, adds Secs. 4396 and 4397, Agr. Code, re fluid milk and milk-fat testing, weighing, and sampling tests on delivery to distributor.

A. B. 2019—Lowrey. (L. & D.) Adds Ch. 18, Div. 6, Agr. Code, re manufacturing milk.

Provides for stabilization and marketing of manufacturing milk.

A. B. 2023—Lowrey. (L. & D.) Adds Art. 1, and heading to Art 2, Ch. 7, Div. 4, Agr. Code, re imported milk products.

Provides for nonresident dairy producers license to be issued to producer of dairy products in another state who meets standards of quality equal to California's, for unspecified fee.

Makes unlawful importation of dairy products for consumption in State not produced by licensed nonresident producer.

A. B. 2024—Lowrey. (L. & D.) Amends, repeals, and adds various secs., Agr. Code, re milk inspection.

Deletes authorization for aproved milk inspection service by city or county and instead provides for state milk inspection services.

A. B. 2025—Lowrey. (L. & D.) Amends Secs. 4246, 4247, 4281, and 4293, Agr. Code, re marketing of milk and milk products.

Deletes provision that prices for fluid milk, cream, and skim milk, milk fat, and fluid skim milk components under stabilization and marketing plan be based on economic relationship, and in no event lower than, manufacturing milk prices.

Provides such prices shall be based on survey conducted by Director of Agriculture costs of production of fluid milk in the marketing area.

A. B. 2530—Pattee. (L. & D.) Amends Sec. 461, Agr. Code, re sale of milk.

Makes it unlawful to sell milk at retail without marking on container cap or otherwise percentage of milk fat and solids-not-fat contained therein.

A. B. 2979—Pattee. (L. & D.) Adds Sec. 461.1, Agr. Code, re labeling milk fat of market milk.

(See S.B. 1947, apparently identical.)

A. B. 3219—Brown. (L. & D.) Amends Secs. 4246, 4247, and 4281, Agr. Code, re minimum milk prices.

(See S.B. 1813, apparently identical.)

A. B. 3408—Lowrey. (L. & D.) Adds Sec. 4230.5, Agr. Code, re prices to be paid producers of milk and cream.

Provides when law requires sale of milk and cream at not less than minimum wholesale or minimum retail prices in marketing area of sale, producers shall be paid Class 1 price established in stabilization and marketing plan for such marketing area.

A. C. R. 27—Winton et al. (L. & D.) Requests Director of Agriculture to hold new hearings and promulgate a new order regarding milk prices which would otherwise be reduced on April 1, 1957.

EXCERPTS FROM TRANSCRIPT OF THE MEETING OF THE INTERIM COMMITTEE ON LIVESTOCK AND DAIRIES

EUREKA	SACRAMENTO	FRESNO
August 27, 1956	August 31, 1956	August 29, 1956

MILK CONTROL ACT

W. J. Kuhrt, Chief, Division of Marketing, Department of Agriculture:

Mr. Kuhrt: W. J. Kuhrt. I am Chief of the Division of Marketing of the Department of Agriculture. Mr. Chairman and Members of the Committee: The chairman asked me to attend the three meetings of this committee, I presume, because of a paper I presented at the Dairy Department of the Farm Bureau at Monterey a couple of weeks ago.

The title of this paper is "Some Problems in Food Milk Pricing" and the paper seems to be appropriate because, at the time it was written, we were engaged in considering the proposals for increases in milk prices in the State.

They have since been announced and they become effective on the first of September. But many of the thoughts that are contained in this paper, at least certain of the thoughts, have already been worked into the schedule of prices that will become effective on September 1st.

The first point that I wish to discuss is not so much a problem as a need for a clarification of understanding. For the past two years, at least, there has been much discussion regarding the meaning and the adequacy of the standards of the act relating to fixing of producer prices.

There was introduced in each of the recent producer hearings an historical and legal analysis of the legislative standards of the Milk Act by a representative of the California Milk Producers Federation.

In order that we may all understand each other in this matter, it seems that some further clarification is necessary.

Most dairymen who are active in the picture in the early 1930s will recognize that the original concept of the Young Act, which has been carried through to the present time to the effect that "the prices so designated or prescribed for fluid milk shall be based upon the economic relationship of the price of fluid milk to the price of manufacturing milk, taking into consideration the additional costs incurred by the producer in producing and marketing fluid milk over and above the costs incurred by the producer in producing and marketing manufacturing milk." was intended to mean just what it says; namely, that the Director of Agriculture is required to base the price of fluid milk in proper economic relationship to manufacturing milk.

In the early days of the Act, nearly everyone agreed that this was a sound economic as well as a sound legal standard for this purpose.

Manufacturing milk prices were established on a worldwide supply and demand basis, and in the search for some standard to guide the

Director of Agriculture, it was sound and convenient to use as a base a continuous national or even international price established by such supply and demand conditions.

This instruction to the director, however, did not prevent him even at the beginning from taking into consideration the other guiding standards and purposes of the law; namely, those relating to the maintenance of an adequate supply, changes in producer costs, avoidance of surpluses, and the maintenance of general prosperity to producers.

In the early days of the statute from 1935 to 1943, the Bureau of Markets, which was the bureau of the department which handled this law, developed producer prices by calculating the additional costs of producing and marketing fluid milk, over and above the costs of producing and marketing manufacturing milk, and then by modifying these differentials by the application of the other general standards of the law.

In 1939, in arguing the *Jersey Maid* case before the court, it may be that too much emphasis was placed upon the precise nature of this standard relating to the economic relationship between fluid milk and manufacturing milk, since this standard was one which could be easily calculated, it appears that the court accepted this as the main standard and validated the Milk Act on that basis, ignoring to a very great extent the other ecoonmic standards set forth in the statute.

Even after this opinion was handed down, the Bureau of Markets continued to establish milk prices in the same manner as before, using the other general standards of the act to modify either up or down the calculated economic relationship between fluid milk and manufacturing milk.

I am advised by our men in the Bureau of Milk Control that this same procedure has been continued up to the present time. I put it that way because from 1943 until a year or so ago, I was not directly connected with the bureau and so I rely upon their judgment.

Although it is true that for some period of time at least, the legal advisers to the department were inclined to adhere strictly to the narrower tenets of the *Jersey Maid* case, the 1955 amendments to the statute specifically set forth in Section 4281, instructing the director to take into consideration all of the standards of the act, did not remove the original language directing the director to base the price of fluid milk upon the economic relationship between fluid milk and manufacturing milk. It simply instructs him to take the other economic standards into consideration.

These amendments no doubt will be helpful in that they clear the air and strengthen the hand of our Bureau of Milk Control in carrying out the customary procedures in the establishment of fluid milk prices.

Consequently, the actual situation remains approximately the same. The bureau still starts out with a calculation of the cost differentials between fluid milk and manufacturing milk to establish the economic relationship between the two products, but the bureau has considerable freedom of action to modify such relationship to give effect to each of the other factors mentioned in the statute.

It should be kept in mind that these factors are not always of equal importance and they may also be contradictory. Consequently, the Bureau of Milk Control must evaluate each one and reach a conclusion

which will have the net effect of carrying out the over-all and generally intended purposes of the statute.

In making this statement at this time, I do so only to clarify the thinking and certainly not to indicate to you that any radical changes in procedures are contemplated.

The net effect in the end will be approximately the same, but the bureau will now have additional freedom of action in applying all of the standards of the law. This does not solve the problem entirely as will be observed from the discussion of my next point.

In the earlier days of the Milk Act, when manufacturing milk and its products comprised at least 65 percent of the total production of milk in California, there was little doubt in the minds of producers, economists, state people and legislators that prices and manufacturing milk established by supply and demand conditions were perhaps the soundest base available to guide the director in establishing prices for fluid milk.

This determination is subject to question in California today because of certain changes that have taken place. First of all, the relative importance of manufacturing milk has greatly diminished, so that now fluid milk takes nearly 70 percent of total production, leaving manufacturing milk less than 35 percent.

As a matter of fact, our records show that approximately 1,300 Grade B producers went out of business in the 12 months' period ending June 30, 1956.

This trend is continuing and, in the not too distant future, manufacturing milk may be so greatly reduced in its relative importance as to raise doubt as to the soundness of that provision of the milk law that fluid milk prices shall be based upon the economic relationship between fluid milk prices and manufacturing milk prices.

The second problem is that for several years the prices of manufacturing milk and its products have been seriously depressed as a result of national surpluses.

Prices paid for manufacturing milk during the past 27 months have been generally below costs of production, that is of manufacturing milk, to the extent of approximately 85 cents per hundredweight, with variations ranging from 6 cents per hundredweight to $1.75 per hundredweight.

In California this situation affects not only what the fluid milk producer receives for his Class 2 and Class 3 milk, but it also causes serious complications in the application of the standard of the law which I have analyzed before, which instructs the director to base the price of fluid milk upon the economic relationship to manufacturing milk.

If we were to establish fluid milk prices strictly upon the historical differentials between fluid milk and manufacturing milk, it would be a much narrower differential than exists today, and it would have the effect of causing the bureau to set prices for fluid milk that would be wholly out of reason with the present costs of producing fluid milk.

It must be obvious that, especially under present conditions, the director and our Bureau of Milk Control must have considerable freedom to exercise discretion in evaluating the importance of each of the

standards of the law so that proper fluid milk prices can be established. To this end, there is still need, in my opinion, to review the present producers' standards in the act.

Now, as we said at Eureka day before yesterday, I am not indicating to you—I don't wish to indicate to you that we cannot operate the law with the present standards; we can operate it but we must have an understanding that the director must have considerable latitude in order that he may properly evaluate the fact that manufacturing milk prices are depressed at least 85 cents to 90 cents a hundredweight below the costs of producing manufacturing milk, and we must take that fact into consideration if we are to establish differentials between manufacturing milk prices and fluid milk prices.

Over many years, the cost of producing manufacturing milk has run below the costs of producing fluid milk because a great deal of the manufacturing milk is produced by cows which come fresh in the spring and go out on pasture, and the dairymen in many sections of the State, and of course in other parts of the Country, do not feed grain as heavily to the manufacturing milk cows as they do on fluid.

Another thing is that the fluid milk producer must maintain an even production per day and per month in order to satisfy the requirements of his distributor, and so he has a replacement cost that is considerably higher than the manufacturing producer.

Then there are additional and higher standards for sanitation and costs of inspection which are required by the State and by municipalities. Those are some of the principal reasons.

There has been over the years, from the beginning of the law, historical differential between the costs of producing the two kinds of milk. But in addition to that historical differential, what I wish to point out today is that there is the fact that manufacturing milk prices at $3.25 a hundredweight, as they have existed for several months, is about 85 cents to 90 cents under the general cost of producing that milk, and that must be added and considered in relation to the normal differential between fluid milk costs and manufacturing milk costs.

The next point that I wish to discuss with you is that of seasonal pricing. It is regrettable that opportunity was not had to discuss this matter more fully with producer groups generally throughout the State, prior to the recent series of producer price hearings. There were some discussions, but it was not thoroughly discussed apparently.

In our opinion, seasonal pricing procedure holds distinct advantages for the producer. Actually, the basis for this suggestion is that over the past 12 to 15 years there has been a calculable and consistent difference in production costs, that is for fluid milk, between the spring-summer production months and the fall-winter production months. That difference is much more marked in the northern counties than it is in the southern counties.

In some sections of the State, particularly below the Tehachapi Mountains, the difference in costs has been approximately one-half cent per quart, that is between spring-summer and fall-winter. In the San Joaquin and Sacramento Valleys, it has been consistently at least 1 cent per quart, in some areas a little more, and in the North Coast counties, such as in Humboldt, Del Norte, it has been approximately 2 cents per quart between the spring-summer and the fall-winter.

In recent years, the Bureau of Milk Control, although recognizing the differences in production costs between the spring-summer and the fall-winter production periods has, nevertheless, established a price which would reflect the median of the two cost periods.

This, in itself, and perhaps I can show that better to the members of the committee if I refer you to the chart which was presented by the Bureau of Milk Control at the four hearings; this shows it rather graphically, these lines represent the fluctuation in the standard cost, of costs of production for the San Joaquin Valley, Sacramento Valley, the North Bay areas, the South Bay areas, and the North and Sierra Mountains.

Now the costs during the spring-summer months would be down in this range. Then in the fall and winter months, the costs rise to those levels and then as we approach the spring-summer months again, they come down into this range.

Now the bureau in its operations, while it recognized these variations from the low cost areas to the high cost areas, has found it necessary to establish its prices along this median line which would reflect both the low cost periods and the high cost periods

There is some advantage to the dairymen, however There would be an advantage if the higher cost periods here could be reflected in a price which would be in effect for a period of seven months, and then the lower cost period would be five months. That is the way it calculates in the northern counties of the State.

Now that is all there is to seasonal pricing. The prices which go into effect on the first of September, for example, in the northern counties will provide a price increase of 1½ cents per quart for the period September 1, 1956, to March 31—up to April 1 of 1957. At that time, the price will drop 1 cent to reflect only the difference in seasonal production costs.

That price of 1 cent per quart less will be in effect during this period of time and then it rises again.

Of course, we have not attempted to reflect the full maximum increase in price or the full maximum decrease in price, but it does have the effect of bringing to the milk producer, the fluid milk producers, prices which will much more generally cover his costs of production during the two seasonal periods of time, and we think that from a standpoint of the producer he will have that assurance, and he will not have to go through a period of seven months when he has the feeling that his costs are higher than the price that has been established by the bureau.

Donald McMann, Manager, Western Dairymen's Association·

Mr McMann: Donald McMann, manager of Western Dairymen's Association. I would like to attempt to answer Mr Belotti's question that he asked Mr. Kuhrt. According to the Federal Market News Service of the quantities of dairy products that was shipped into the United States from foreign countries for the fiscal period of July 1, 1955, through June 30, 1956, cheddar cheese, which I understand is the primary cheese manufactured in California—the amount of 2,780,000 pounds—it came from various countries; blue mold cheese, 4,167,000; Edam and Gouda cheese, 4,600,000 pounds; Italian type, 9,000,000

pounds, of which 5,000,000 came from Argentina; butter and other items in much less quantities; butter, 707,000 pounds; dried skim milk, 1,807,000 pounds; dried buttermilk, 496,000 pounds, and various other smaller items.

Assemblyman Hansen: Have you any record of how much dry milk we have?

Mr. McMann: It runs malted milk and compounds, 6,000 pounds; dried buttermilk, 496,000 pounds; dried skim milk, 1,807,000; dried whole milk, 700,000 pounds; dried cream, 5,000 pounds; and then the 707,000 pounds of butter. Cheese is the big item.

Mr. Chairman, I have just two things, which I will bring up before the committee this afternoon, and the remainder we will take up at a later meeting.

There is one thing we are concerned with and are interested in and that is inspection fees and inspectors of dairy ranches, which we are mainly interested in since we have nothing to do with the processing plants or distributing plants. We propose to suggest in our legislative program that standards be established in the State and organized and operated by the State for all inspection and enforcement of dairy laws and regulations relative to dairies. We suggest that these standards be equal throughout the State instead of having it as it is at the present time where various cities set up various standards which they desire. We feel that the consumers in the small towns are equal or should have equal protection with consumers in large cities. We also are not too pleased with the duplication of inspectors that we now have, and it is expensive as far as the dairyman is concerned and is considerably confusing to a tremendous amount of dairymen. Half the time they don't know where they stand because of different inspectors doing the inspecting. We propose that the State be broken down into some area form whereby there would be one inspector in each area and there would be a standardization, and any time it is necessary to raise the standardization to go before the department and make requests through normal channels, but it would be fair and equal for all people in all areas and would be more economical as far as the dairyman is concerned and also would minimize the confusion.

Now, I would like to say this, Mr. Chairman, we are not unhappy with the Department of Agriculture. We don't mean to appear that way. We are very proud of the department that we do have in this State. We think it is the finest in the United States and it is very ably staffed. However, there are things we feel as far as the advantage of the dairymen are concerned that could be changed somewhat for harmonious operation of the department. I have here in rough form an operational draft of the department as it now appears and the change which we are going to request you gentlemen to consider. We realize this is somewhat of an important change and it isn't something that will be done in a short time and probably may take several legislative sessions before it can come about. The one that is all filled in is as it is now and is an organizational chart of the department. We are interested in having consideration given to the reorganization of the department setting it up something like the Division of Dairies. This is merely a suggested chart and we do not wish to convey it as being anything

that is final as yet. There has been considerable study done on this and undoubtedly there should be considerably more.

We feel it should be under the Division of Dairy Industry, Bureau of Milk Control, Dairy Livestock Disease Control, Interstate Quality Standardization, Bureau of Dairy Service, Milk Law Enforcement, Statistics and Cost Studies, and Dairy Livestock Identification. Now we feel the statistics and cost studies are extremely important and they are doing a very fine job at the present time. However, we feel it should be expanded and be more complete.

Now, dairying is the largest segment of agriculture in the State. It is the third largest in the United States, and as California continues to grow, it will undoubtedly probably become larger. We feel it is peculiar in itself inasmuch as the commodity is produced and consumed practically on a daily basis and it is of extremely perishable nature, different from any other production in agriculture and we feel this way—we would have a better operation as far as our industry is concerned. This would include all the distribution and anything that has to do with the industry. Now, there is some opposition to this I have had implied opposition. We haven't had meetings on this to any great extent so far We understand that the department itself is not exactly pleased with any type of reorganization. It has been said that the organization of the department is none of our concern Well, we feel it is since our entire livelihood is encompassed in the operation of the department as well as our fees that we pay for its operation. We realize that it is somewhat a drastic change as far as the department offices are concerned, but we feel that such type of an organization setup in the department would be far more efficient as far as our industry is concerned, because as we grow we know we will probably by 1960 be the largest state in the United States and with that so must your dairy industry grow.

I would like to state our association's position, sir, in reference to the milk pricing since that was the subject which was discussed considerably this morning.

We feel that the pricing structure as it is now is not sufficiently taken into consideration, the necessary cost to produce this milk. We feel that the cost of production should be a primary factor in establishing the price that is paid for market milk usage

We feel that too much emphasis is being given on the excess production at Class 1 standards.

As you know, this excess production finds itself in the Grade B market so that in itself then is Grade B as far as the price structure is concerned.

It would be rather immaterial even in our opinion that if all milk in the State of California was produced in Class 1 standards, that does not consume at the present time, would be to the Grade B market as it does now.

We feel that the correlation between Grade B and Grade A in the price structure is completely overemphasized.

We feel to some extent there is foreign—you take Grade B and establish prices, you use coal in comparison to market milk They are two different commodities. They find themselves in entirely different market channels. We'd like to see some action taken in a way that

would be written into law, if necessary, whereby the primary factor taken into consideration in establishing price is the cost of producing that market milk usage.

I understand from information that I have, understanding some of the discussions this morning that such is not the case in the past, and it appears that from indications it won't be in the future.

It seems to be that the economic conditions has more to do with it than actually the cost of producing this milk.

This organization of course is not made up of statisticians or historians or anything, we are dairy farmers interested in some way of getting a decent and fair price for our commodity.

Surely there must be some way this can be approached equitably and fair for everybody and that the dairy producers not find themselves continuously in the position we have been for the past three years.

It is rather peculiar to us, how, since there has been no change in legislation, no changes in administrative directors that at this time they find that they can allow an increase in the price of milk, however, is not considered necessary last fall

We would like to see some definite changes made in legislation to clarify this situation so that it will not happen in the future. So much for price of milk.

Another thing that I'd like to discuss briefly with you, gentlemen, a program to which we feel very keenly in since we are interested in both the market and manufacturing milk industry, and that is import standards of dairy products that come into California that compete on our markets.

California, as you know, has next to the highest or as high as any I know of, none higher standards of any in the United States We are told it is necessary to maintain the standards for the protection of our consumers and yet they are continuously being shipped in substandard quality products from other states that compete on our markets

We feel it is not fair to our producers to have to maintain a standard and then compete with other states who do not compare anywhere with standards.

California is a deficiency state in dairy commodities, as I understand, we only produce some 62 percent of what we consume. We have the market, we do not have a total supply.

Our Grade B and our surplus of market milk finds itself into manufacturing channels.

It is made into butter, ice cream mix, cottage cheese, powdered milk, whatever the commodity may be.

One of the reasons we feel that our producers find themselves in a cost-squeeze is because price-wise, we must compete on the market with the inferior markets of some other states maintaining the standards that are necessary in this State are expensive, they cost us money.

We feel that if it is necessary for us to maintain these standards to have a high quality commodity for our people to purchase, then other states that ship in our market should have equal quality.

It is interesting to note just as an indication of some of the shipping, I'll go over it rapidly, I know you are busy and others wish to speak. The first six months of this year butter that was shipped into the Los

Angeles market, California butter was some 4,000,000 pounds, Missouri some 9,000,000 pounds, and Idaho was some 17,000,000 pounds.

That is just in the Los Angeles market alone, not considering the San Francisco market.

Now, as an indication of some of the difference in standards, as far as those states and this State is concerned, the maximum amount of bacteria that can be had in manufacturing milk in Southern California is 2,000,000 per milligram, I believe, and inspectors naturally, which we appreciate, never allow it to get anywhere near the maximum.

Missouri, which is a large shipper of butter and cheeses into California, has none listed in their Agricultural Code as such.

Idaho has 500,000 per cubic centimeter which, if my calculations are correct, is equivalent to approximately 5,000,000 per millimeter or almost three times the amount that we have.

We have to go forwards, not backwards, but we don't think it is fair to our people to have to maintain these standards for this advancement and then allow themselves to be exposed to substandard.

Now, you pick up a package of butter in a grocery store and it says distributed by such and such a creamery, whoever it happens to be, it doesn't say it is manufactured by, or anything else unless it is a local small creamery.

We feel that the regulations should read in a way, we know which states have certain standards, and whereby all dairy products that are shipped into California for California consumption should be processed and manufactured under equal standards.

Adrian Chapin, Dairyman, Humboldt County:

Mr. Chapin: I was interested in the comments of Mr. Kuhrt on the seasonal pricing program which we have in effect in this area. I am going to give my own opinion of this. We have discussed it in our groups. We have never taken any action on it, but in setting the seasonal price program in this area, we didn't get an increase to cover our winter production exactly They took a cent off the summer and put it on the winter, so, in other words, we didn't get any increase to cover that added winter cost. Now, in my opinion, as an example—we buy our hay and store it through the summer; we have to pay those winter bills in the summer when the price is low, if we can.

And then another item, in the winter we have some unemployment here so we raise the price to them. In the summer we generally have full employment and we have got quite a bit of tourist trade to sell to and then we lower the price. Well, that doesn't seem quite consistent to me. We have had it here for, I think, eight or 10 years. It was set up to stimulate that winter production. It has served its purpose in that respect, but I think it would fit to better advantage—that was merely a comment that occurred to me while I was listening to Mr. Kuhrt.

Assemblyman McCollister: Assuming, Mr. Chapin, that you are looking at it only from the dairyman's point of view, not the sales stimulus and so forth. You already are under the seasonal arrangement?

Mr. Chapin: Yes.

Assemblyman McCollister: Do you think your seasonal arrangement is good enough to avoid having additional hearings?

Mr. Chapin: It doesn't create any unnecessary hardship. It is just a point I think should be considered.

Assemblyman Erwin: We have a producer before us. I would like to ask him a question. Are you in favor of the Milk Control Act as it presently stands on the statutes, or are you opposed to it?

Mr. Chapin: I am in favor of it.

Assemblyman Hansen: Any further questions? Do you have any further comments?

Mr. Chapin: One thing that is kind of a pet beef with me is in the pricing there is no consideration given to the cost of hauling. The producer costs are set up on a f.o.b. ranch basis, but we don't sell that way. We sell f.o.b. plant. Now, in our costs, too, they are not considered very greatly in determining the price where the distributor's costs are and it is passed through to the consumer just like most any other commodity, but in the case of the producer he pays freight both ways, on everything he buys and everything he sells. That always kind of sticks in my craw that where we can't collect the cost of hauling, on the other side of the picture, they can. That cost of hauling seems to stir up a lot of discussion, too, in differences of opinion in what it should be. It seems to me that effort should be made to place that on the other side.

Assemblyman Erwin: I wonder if Mr. Kuhrt could answer that question. Is that a ruling of the Department of Agriculture through the bureau, or is it written into the act?

Mr. Kuhrt: No, I think that—I am trying to find the figures here. I don't seem to have it with me, but, of course, the purpose in trying to establish the price at the dairy is to provide a uniform buying price for all distributors If you try to calculate the hauling costs for each producer you would have a different price for each distributor That is the reason for that particular basic point, but the cost of hauling is one of the things that's taken into consideration in the development of the over-all price.

Mr. Chapin: Now, our costs in this area, the bureau's figures on the costs for April through June was $5.39 per hundred for 3.8 percent milk. Our price is $5 26 less our hauling cost. Now, in my case the hauling costs 17 cents, which brings it down to $5 09, which is quite a bit different from $5.39.

Assemblyman Hansen: Any further questions?

Assemblyman McCollister: I have a comment. When Senator Desmond was authoring the other half of this Control Act, this question was kicked around, and as I remember the discussion of placing the freight costs in the distributor's package it lost by its own weight on the fear that—if the distributor paid the freight and the price to the producer was a fixed marketing price for everybody, as we have it now, but the producer did not pay the freight, the distributor paid the freight, the tendency would be obvious, the distributor would give a large contract to the nearest dairyman and the fellow five miles away would be jockeyed out of business, so at that particular stage of the development of this legislation, this matter was discussed and dropped and left in pretty much its present shape. So that the dairyman has

a fixed price. If his freight rate turned out to be 40 cents and yours is only 17 cents, he still is not discriminated against by reason of the law He supposedly gets the same price. We went through this thing many years ago and did not pick up the freight from the distributor's point of view for the reason that it might result in discrimination among producers.

Lynn Bramkamp, manager, California Milk Producers Federation:

Mr. Bramkamp: Lynn Bramkamp, Milk Producers Federation, manager. I should like to comment on two or three points brought up by Mr. Kuhrt in connection with this matter of pricing and standards particularly. We are very much of the opinion that the time has come for a re-examination of this fluid-manufacturing milk standard. We have been of that opinion for about eight or ten years, but we have found a very difficult problem of keeping its head up all the time because we cannot seem to get unanimous approval of any approach to it, as you gentlemen know. The California Milk Producers' Federation has now employed Joe Paulucci, who was the man who physically drafted the various sections of the Milk Act and probably all of the amendments that have gone into that Milk Act as an employee of the Legislative Counsel Bureau. He is of the opinion that it is entirely possible to restate the standard, not to eliminate it, not to take the fluid-manufacturing milk standard entirely out of the act, but to restate it so that its effect is weakened in the determinations of the department in the establishment of a price

At the present time that standard operates something like a rope on an anchor If you don't get to the end of the rope, why the department is able to flex it pretty easily in connection with the difference in price, but when you get to the end of the rope, you are pretty much held up. In other words, historically we go back in this matter of pricing to a differential between fluid and manufacturing that existed in a past period of time and when the price appears through various factors to have reached that point, then it becomes extremely difficult for the department to flex any further in the direction of an increase to the producer. We are very much of the opinion that the manufacturing price is part of the factors involved in pricing fluid milk. I will agree 100 percent with Mr. McMann's viewpoint that they are different commodities, but there is a relationship between them and we feel that that relationship must be taken into consideration, but we think as Mr. Kuhrt has indicated that the relationship as it now stands is outmoded and should be re-examined and I believe that somewhere through industry conference working with the department, working with other producer groups that there will be in the 1957 Session of the Legislature a bill or bills to change that particular standard, modify it so that its effectiveness will not be quite as tight. In the past we have had several discussions about it and many of them have been based on the fear on the part of the producers that if you modify it you will eliminate one of the constitutional bases for producer pricing. Mr Paulucci's opinion is that that is a danger more apparent than real and that language can be developed which will not upset the constitutional base and the determination as the Jersey Maid case developed that base

Commenting a little further on one of the points that Mr. Chapin brought up on this matter of transportation costs, I should like to point out and I am sure Mr Pattee will agree with this that the price of hauling is ordinarily established by the distributor without conference with the producer and I think that he is extremely important to be conferred with, even slightly, as to how much he is to pay.

Assemblyman Pattee: The only reason I was contacted was because I was a legislator.

Mr. Bramkamp: I know of no other producer who was given the opportunity to determine whether or not he was going to pay a transportation cost. I know in the general area Mr. Pattee operates, one of the larger distributors changed the requirement of farm tanks and required the producers who already had farm tanks to double the size of those farm tanks.

Assemblyman Pattee: I was one of them.

Mr. Bramkamp: Required that the size of the farm tank be doubled which meant a loss in investment as well as an increase in investment, and then when the new freight rate was set on an every other day basis rather than every day basis the average producer made no saving whatever in that freight rate. He paid just as much per hundred pounds of milk every other day as he did on the every day basis, and had doubled his investment in farm tanks. It led us to the conclusion that some type of a zoned f.o.b. ranch price should be very seriously considered in the establishment of producer pricing. We feel that at the present time a zone price could be worked out which would eliminate the difficulty that Mr. McCollister has pointed out in the past.

We quite freely recognize if one man is 200 miles away and the other is 10 miles away, if the distributor is paying the freight on a flat basis, he is going to use all the milk from the nearby producers and as little as he can from the far-off producer, and we are not at all in favor of that program.

Another point comes up in connection with that f.o.b. zone price at the ranch. Distribution increasingly is concentrating its processing facilities in fewer and fewer locations and selling milk farther and farther away. The net result is that the producer in effect is paying the freight for this milk going all over California in processed form because his price is a blend of all of the marketing areas where that milk is sold. It is our opinion that if the f.o.b. ranch price were established on a zone basis that that problem would be solved. It would additionally solve the problem of the department insofar as they would not be required to make such an exhaustive set of audits as to where that milk actually went in the ultimate usage. They could fall back on an audit which indicated only Class 1 usage and producer would receive Class 1 price for that regardless of where it went, but also it would answer the problem we discussed earlier here and that is that with the producer in no position to have any influence whatever on transportation rates, the distributor would then find himself in a position where he would help to hold those rates down instead of being somewhat indifferent to them.

Speaking of the pricing of this matter of transportation we had a very interesting development in the San Francisco Bay area sometime past. The transportation rates were based on the rates of the public

carrier for that area. The public carrier was the Rudolph Company. The Rudolph Company was purchased by the managers of three of the large distributing plants in San Francisco. Those three plants all had their own transportation facilities. There wasn't a drop of milk being hauled by the Rudolph Company for any of these three plants except in the highest cost, most inaccessible regions they could possibly find. In other words, all of the transportation base established under the Public Utilities Commission was based on the far-off high cost cat and dog haul that this Rudolph Company had. Then every other form of transportation could come up to that level without any problem because the department had a Public Utilities carrier to base it on. That was the situation in which the producer had absolutely no control over the situation. The only responsibility was to pay the bill. He had no opportunity to make any savings.

Various problems of that kind keep bringing us back to the conclusion that there is a very sound answer in this f.o.b. zoned ranch pricing, and I think that is something we need to check on.

Assemblyman Belotti: On that the department already has the authority without further legislation?

Mr. Bramkamp: I am not entirely sure. The department has taken this position that with the statement in the law that uniform raw product cost to the distributor must be achieved that they cannot do it under f.o.b. ranch pricing at the present time. It may require a technical change in language which would say uniform, or rather approximately uniform raw product cost. In other words, if we could set it up so that one block is taken out, which I believe is the one block at the present time in the law, then it would be optional on the part of the department, then it would be a matter of production to sell to the department. I think something of that nature will be the approach. I do believe it needs some minor legislative change.

Assemblyman McCollister: In your first point, Lynn, did you mean you wanted to amend the code so that while not accomplishing a complete separation of the market milk factor, the code would nevertheless accent and concentrate on the production cost?

Mr. Bramkamp: Not necessarily on production cost, Mr. McCollister, but on the other standards. Now, let us discuss that production cost matter for a moment. Mr. Kuhrt pointed out there is a range in production costs—at any time you set up a series of production costs for 100 producers you are going to get a very wide range between the high and the low. If you were to attempt to establish a price based on the highest cost producer you would provide a tremendous profit for the lowest cost producer. So somewhere in the process of arriving at a cost, you are going to have to come out with the practical answer which is related to what has been done in distribution of the supply line producers. In other words, you will find the producer somewhere along in that range who is essential to provide the market. As the market becomes wider and the production becomes less in relation to it, you set your price higher in the range, but as you have a surplus you have to set it lower on the range because someone farther down the line is available to provide that production.

Assemblyman McCollister: You would say you want to make a few mild changes on it and yet Mr. Kuhrt said he thinks the 1955 amendment gave the department enough latitude.

Mr. Bramkamp: Well, we have felt for sometime that the department might have had enough latitude prior to 1955, but we find in our discussions with the department that they still have some hesitancy about some of these things so we would like to remove the hesitancy if we possibly can and make it possible for them to come to glory in one large jump without further restraint.

I should like to comment on Mr. Pattee's statement in connection with the seasonal pricing that he hasn't found any producer who is in favor of it.

I think we can go further and say that we have found practically nobody in the industry, producer or distributor, who is in favor of that particular program.

We felt, and so testified at the price hearings, that the seasonal pricing program was premature; that it should be studied at considerable extent before it was put in, and we felt for example that seasonal pricing as such based exclusively on cost factors did not take into consideration enough of the factors which go into the operation of a dairy, for example.

We felt that there should be consideration to other factors, consumer purchasing power, labor rates, feed costs, things of that type, to go into the picture as well as long-time trends.

Mr. Power put his finger on something which is very important and that is historical figures are fine and dandy. They tell you where they have been, but they don't tell you where you are going and unfortunately we have to go where we are going, not where we have been.

So all of those factors we felt should be studied and included when the seasonal pricing program was put in. We felt it was premature. We still think it was premature.

We also would like to refer to the comments that have been made on some of the changes in standard and some of the changes in legislative procedure. These were brought up in the Eureka hearing but I should like to bring them up again, in addition to which I should like Mr. Paulucci who is here today to expand a little bit on the general subject of the fluid manufacturing milk standard.

In the matter of establishing the price to the producer, the fluid manufacturing milk standard has been under discussion and consideration for elimination by producers and producer groups for the last eight years to my knowledge.

On many occasions it has been agreed that some such move was necessary but in nearly every case the producers backed away from it because they feared the effect on the constitutionality of the Milk Act if the action was taken.

It is our opinion that at this coming session we must re-establish a standard which will not eliminate the fluid manufacturing milk relationship but which will weaken its effect on the pricing.

Historically, the department has flexed its pricing above the dollars and cents difference. I don't know that I can recall for some time at least where the dollars and cents difference was the exact measure of the Class I price above the manufacturing price.

Nevertheless, it has represented a limitation, in other words, they haven't wanted it to go beyond a certain amount and we feel that is dangerous because it ties one section of the industry pretty tightly to another section which is dying, and which is dying because it cannot meet its costs in its present price.

We feel that is a very essential move to be made.

I think also as Mr. McCollister points out that it is manadatory for us to change and clarify this pass-through language so we don't find ourselves in any kind of a legal bind.

There are many occasions and there will continue to be many occasions when the price of milk to the producer is in order to be changed and costs have not varied adequately at the distributor level to consider changes, and therefore the proper procedure is a pass-through hearing and if that is in any way, shape or form under a cloud legally, that needs to be clarified.

We will certainly support the department in the language which they have developed and if it needs any further change, we will help with that also.

John Shay, Manager-Secretary, California Dairy Council:

Mr. Shay: I am John Shay, California Dairy Council Secretary and Manager. I haven't any testimony to present. I would like to bring the committee up to date on the functions of the industry as such on these particular questions. We have an inspection committee of the Dairy Council that prepared a report in 1954, which they presented in regard to farm tanks and duplication fees, state and federal regulations, and so forth, which was followed up to this point a great many of those things have been clarified, namely on your farm tank regulations and inspections. And that is under way and the market milk conference as such has taken into consideration the standby milk requirement which the cost study committee has presented and which was entered into testimony at the recent producer hearings. And also they are going into a study of the consolidation of the marketing areas from a producer and distributor viewpoint. In other words, all these committees are made up of both producers and distributors. The same thing holds true on seasonal pricing. They are taking that under consideration from an industry approach, both producers and distributors and also the streamlining of hearings and cost procedures, cost accounting for those hearings, hoping that they may satisfy industry, help out the bureau in any way they can in arriving at any procedure that will step up these hearings.

I would also like, if I may go on record, to thank Mr. Erwin and yourself for the great help you have given us on this research center at Davis. It is something industry has been working on for some years and it's only been this year with a great amount of effort on your part that's made it possible, but I think that will bring into being the need for all of us in agriculture which we have discussed time and again to get behind our legislators who are helping the agricultural people in every phase, not only our own dairy industry, but all commodities of agriculture, in order to keep our standing and make it possible for the dairy industry as such to receive help on research from this center, which as I say, has been going on for 20 years, and to make

it possible for aid in the problems that are confronting us at the present time. That is all I have.

Mr. Pedrazzini, representing Humboldt County dairymen:

Assemblyman Belotti: What is your thinking, Mr. Pedrazzini, or are your members satisfied with the present marketing act the way it is set up?

Mr. Pedrazzini: I wouldn't care to talk on the Grade A because I think you have other fellows more posted in the Grade A, but naturally there are more people going into Grade A, and Grade B is getting less, and production is down. We have plenty of manufacturing plants in the county. They can take care of what milk we have. In fact they can take care of a lot more and we would probably get a better price if there was more milk. Of course, naturally a lot of dairymen have gone out of manufacturing milk. Some have gone into beef. Maybe they will go back into dairying because beef has gone down so much now. Naturally the dairy business as far as Grade B is concerned is not good. You fellows know that probably as well as I do. What the solution is to it I don't know. I think that Grade B should have some consideration. Some representative of the western dairymen was talking about maybe Grade B should be put on the basis of cost of production, something like your Grade A. Of course, that is a hard thing to do, too. You have to figure your Grade B product. You know it is not only statewide, but it is nationwide, and the price is controlled on a broader base. Otherwise I don't have too much to say. Anything you want to ask me I would be glad to answer.

Assemblyman Porter: I do have one question I would like to ask. When the Grade B dairyman disappears, where does he go?

Mr. Pedrazzini: Well, a lot have gone into Grade A.

Assemblyman Porter: Do you think that would be the largest place that he goes? He just doesn't go out of business, does he?

Mr. Pedrazzini: There have been some go out of business, yes, but a lot have gone to Grade A.

Assemblyman Erwin: When your Grade B herds go out of existence either by going broke or selling out, do the Grade A people pick out the best and then the culls go to the market or what happens?

Mr. Pedrazzini: Well, that is kind of hard to answer. Naturally, there has been one or two Grade A producers sold out their herds and I don't know who has picked up the cows Naturally I suppose some Grade A producers, if they have the cows that would freshen at the right time of the year to suit them, naturally they would buy them. If they wouldn't suit them, they would have to go to whoever would buy them. A lot have gone for beef and a lot for other purposes.

W. D. Pine, farm advisor, Humboldt County, on bear depredation:

Assemblyman Hansen: Mr. Belotti says he is ready for the bears. I don't mind telling you folks that you really handed him a job when you started talking about bear depradation in pine trees because we all thought it was a joke in Sacramento. We really did. Who do you have, Frank?

Assemblyman Belotti: I notice Doug Pine. Why don't you come up here and tell these fellows here what has happened, or if you have had an opportunity to invoke the provisions of that particular law from the time it was enacted.

Mr. Pine: You mean the present law?

Assemblyman Belotti: The present law, yes, because as you know, the statute will automatically expire at the end of 1957 and in order to have it continue it will have to be reintroduced at the next session.

Mr. W. D. Pine: I was thinking there a while back when you told Al Pedrazzini to get this all lined up for the Legislature, that is what we did here, I think it was last year. We had everybody agreed on it, even the Fish and Game passed it. It passed the House unanimously, and then a couple of guys kicked it in the creek So then we got this substitute law which as far as I know has worked out quite satisfactory so far. Bear are not declared a predator, but they are taken at any time of the year, and I know that all of our hunters are working on it and so far I haven't seen too much objection to it.

Assemblyman Hansen: Do you want it continued—do you want the law extended?

Mr. Pine: Yes, we certainly do.

Assemblyman Hansen: That is the thing we want to know because if there is no pressure from here to do something about it, why this thing will end.

Mr. Pine: I am sure the wool growers and all the livestock people and the timber interests want the thing to go on as it is. I think it should be permanent. I don't think it should be just for a year

Assemblyman Hansen: It will be easier to make it permanent if we can show some results. Now, you think there has been a beneficial result because of the enactment of this law?

Mr Pine: There is no question of it.

Assemblyman Hansen: And they have reduced the numbers of bears?

Mr. Pine: That is right.

Assemblyman Hansen: That would be the proof for extending the law.

Joseph W. Paulucci, attorney, California Milk Producers Federation:

Mr. Paulucci: My name is Joseph W. P-a-u-l-u-c-c-i, California Milk Producers Federation

Mr Chairman, I haven't a great deal concrete to offer at this time but I agree with Mr Kuhrt and Mr. Bramkamp that something has to be done to the standards to lessen the effect of the manufacturing milk price on the fluid milk price.

In 1935 when we drafted the Young Act, we were conscious that the price of butter was a world price. If the price of butter in Chicago got a cent or so out of line with the price here, the butter would start moving from Chicago to here and vice versa.

At that time also butter was a staple food. The price of butter rose and fell pretty much in relationship to food commodities generally. That has ceased to be true.

There are a number of factors, government supports and things like that have gone in and out since that time and the presence of substitutes on the market has affected the butter price and the result is that

the price of butter in New York is simply no longer any valid basis upon which to fix the price of fluid milk in California.

Now our fluid milk industry is a purely local affair as I see it. There is no fluid milk imported to speak of and there are no exports in any quantity.

We are considering not the elimination of the manufacturing milk price because that relationship is always going to be present. Fluid milk is produced to put in the bottle, but some of it inevitably goes for manufacturing purposes and the price it commands for those purposes is the manufacturing milk price which is the price generally speaking of manufacturing milk throughout the country.

Unless we do something like creating grades of products for butter for instance that is made out of fluid milk, and I am not advocating that at the moment, the manufacturing milk price in California is going to be determined by the manufacturing milk price of the United States as a whole because the products made out of that manufacturing milk or that fluid milk so used as manufacturing milk must be sold in competition with the products made from the manufacturing milk produced in the rest of the State.

Therefore, we have to keep in mind the fact that what the fluid milk producer is producing is not only fluid milk but a certain amount which varies from season to season of manufacturing milk.

What the producer receives isn't the Class I price; it is the blend price and that is the blend of the price he receives for his milk that goes in the bottle and the price he receives for the milk that goes into a pound of butter or some other manufactured product.

And I do not see how it is ever going to be possible to measure fluid milk production to fluid milk usage, and there must be some by-product use of fluid milk for manufacturing purposes.

Therefore, it is a factor that must be kept in mind. I am flirting with the idea that it might be possible to tie the fluid milk price to the level of commodity prices generally or to the level of food prices generally.

As a matter of fact, that was what the Young Act of '35 started out to do. It tied fluid milk to the price of butter on a national basis. The price of butter in those days would rise and fall in a general relationship to the rise and fall of other foods.

Now that butter has ceased to be a valid basis, perhaps we could put the fluid milk price into some relationship to food commodities generally.

There are several other alternatives, commodity prices generally, but those generally speaking food prices and commodity prices are in some sort of relationship.

The difficulty with the operation of the milk law at present as I see it is that by the operation of the manufacturing milk—fluid milk differential, the price has got too low.

I was surprised to learn after I retired from the Legislative Counsel Bureau and got interested in the practicalities of the milk business that the things that we produced at these recent hearings were facts that the unit cost of production of fluid milk is more than the Class I price and that is particularly astonishing in view of the fact that it is not the Class I price but the blend price that the producer actually receives.

Now that certainly was never the intention of the Legislature that the fluid milk producer would produce milk at an economic loss, and there surely is something that can be done about it to rectify it.

I am not at the moment willing to say just what legislative remedy should be applied to it. It is going to require considerable thought but I don't think it is a hopeless task. The law has just got itself tangled up and like anything else, it may be a complicated job to get it straightened out, but I can see no reason why the milk control law couldn't be made workable to the satisfaction of everybody.

There is nothing in the fluid milk law that says that the price of milk should be kept low. The Legislature never intended that the milk producers would produce milk at less than cost for instance in order that the people should have milk.

I don't believe personally that the consumers of milk are as much concerned about the price of milk as people might think. There is nothing about milk that is different than other food commodities.

I noticed recently that the price of bread rose about 3 cents or roughly 10 percent and there was no uproar. The price of coffee has jumped in about that same amount in the last month or so. When people are making a lot of money it seems to me like they expect to pay more for the things that they consume.

However, we are undertaking to work on this proposition of fixing up the standards in the milk control law, and as I say, it is a complicated problem but I can see no reason why it is any different from other legislative problems. It is just something that has to be worked out and I think that it can.

We also have a few other things that Mr. Bramkamp mentioned and I can see no great drafting or legislative problems concerned with those. They are just matters that need cleaning up. But on the basic problem, the standards in the act, I think that something must be done.

I agree with Mr. Kuhrt that the standards must be kept flexible. If you could work out a nice mathematical basis for varying the price of milk, it would be a very handy thing but I think what you have here is not a mathematical problem. It is an economic problem and it is going to change from time to time. Your factors are going to change as they have in this case.

In the 21 years the act has been in effect, the butter factor has changed entirely. I think that flexible formula administered with a considerable sympathy for the producer would do the work. I don't see why the Department of Agriculture set up as it is to promote agriculture should have an attitude that is antagonistic to the producer.

The department was created to promote and foster agriculture in the State and the fluid milk production is a big factor in the agricultural industry.

I can see no reason why there should be any attitude in the department that would be inimicable to the interest of the fluid milk producers, and I think if appropriate flexible standards could be worked out that the milk control law after all these years might be able to work out as it was intended and what it was intended to do was very simple. It was intended to first stabilize the fluid milk industry which was

as of 1935 in a deplorable condition. And second, it was designed to make the business of producing fluid milk one with a reasonable degree of prosperity.

Those objectives are still stated in the law and I think that they can be attained.

L. D. DeForest, producer from Modesto:

Mr. DeForest: My name is L. D. DeForest. I am from Modesto, California, and I am a producer.

I want to take exception to the bureau's statement on their difference in cost of production in the fall and the spring. They say that there is a cost of production of approximately a dollar a hundred for pounds of milk.

In our area you can produce as much feed on 25 acres of alfalfa as you can on about 60 or 70 acres of pasture and when you have thousand dollar land you have to pay just as much taxes on acres that you have in alfalfa as you do acres in pasture and you have to irrigate twice as often and you have to feed hay and you have to feed grain, just the same problem, perhaps not as much, you have to feed in the summer time as well as you do in the winter time, and I think that they are off according to my bank balance anyway on the way they figure their cost of production in the summer time.

And the price that they have given us now, the increase, will just about take care of our present cost of production and it is not going to take care of the deficit that we have had in the last three years.

Now I have to borrow money from the bank and in the statement from one January 1st to another January 1st, my assets drop $12,000. That is actual fact.

Now this present price that we have is not going to take care of that deficit.

Another thing in figuring the costs of production, they allow you $20 per head per year for management purposes; that allows a man, say he has 150 dairy cows herd, he gets $3,000 a year for management. Now you can't hire a man for $3,000 and the fellow that delivers that milk gets $2 23 an hour and he makes approximately $5,000 a year. And I think that those prices of $20 a head may have been all right 20 years ago, but they don't apply now.

And another think that they have stated that when you get overproduction of milk, they cut the price. Well, what happens when you cut the price of milk? A fellow on a ranch has a certain overhead The only means he has of meeting that overhead is from the milk he produces The minute you cut the price of that milk, he has to produce more milk to meet that overhead.

So it is going to have just the reverse effect instead of cutting down on production, it will increase production of milk when they cut the price.

And in the Young Act, they say the purpose of it is to create prosperity and stability in the dairy industry. If the dairymen are not making a profit or at least breaking even, you are not going to have stability, you are not going to have prosperity in the dairy industry.

And in the past I have attended all the hearings held at Oakland by the Bureau of Milk Control and they have never paid any attention to evidence presented at those hearings to my knowledge.

That is all I'm going to say.

Robert J. Beckus, Dairy Institute of California:

Mr. Beckus: Mr. Chairman and members of the committee: My name is Robert J. Beckus, representing the Dairy Institute of California.

I'd like to read a prepared statement which has been prepared by the manager of the institute and with advice from our legal counsel, relative to dairy inspection fees.

A problem has arisen related to those sections of the Agricultural Code which provide for inspection fees being charged to dairy products processing distributors for the inspection of dairy farms and the inspection of the distributor plants.

The problem arises from the fact that, consistent with the Agricultural Code, the Bureau of Dairy Service has designated the areas in which various approved inspection services are to do the inspections in order that any duplication of inspection may be avoided, but in so doing has designated in some cases one department to do the dairy farm inspection and a different department to do the plant inspection, with the result that both departments have assessed fees.

The plants which have been assessed more than one fee have refused payment of more than a single fee based on that section of the code which states "that no distributor shall be required to pay a license fee to more than one city or county on the same market milk."

The Dairy Institute is of the opinion that an analysis of the code sections related to the subject is called for and could result in clarification of the problem. We offer the following for your consideration:

First, with reference to Section 446 of the code, the section seems to make it clear that *two separate* inspections are provided for. One as to milk products plants and the other as to dairy farms.

Second, Section 500 provides that where a distributor delivers or sells market milk within the jurisdiction of two or more cities or counties, the director shall designate the county or city to conduct a *milk products plant inspection.*

Third, Section 501 provides that where market milk produced within a county is delivered or sold with the jurisdiction of one or more approved milk inspection services within or without the county of production, the director *shall* designate an approved milk inspection service to conduct a *dairy farm* inspection.

These sections—Nos. 446, 500 and 501—seem to make it clear that two separate inspections are considered in the present code. In addition to the sections mentioned above, Sections 496, 497 and 506 refer separately to the inspection of dairy farms and milk products plants.

Section 503 then deals with the subject of inspection fees and provides that a city or county or group of either or both *may,* in order to maintain an approved milk inspection service, levy and collect a license fee from distributors of market milk within the jurisdiction of the inspection service. The levy and collection are subject to four separate conditions:

1. The first condition is that the distributor shall not be required to pay a license fee except to the city or county maintaining an inspection service under whose supervision the distributor's plant or plants operate, *or to an inspection service which inspects dairy farms,* the milk of which is shipped direct to a distributor operating a plant within the jurisdiction of another approved milk inspection service. This condition clearly indicates that the distributor may be required to pay a dairy farms inspection fee and a plant inspection fee where the farm and plant are under the jurisdiction of separate inspection services. Where the farm and the plant are in the jurisdiction of the same inspection service, "*a license fee*" may be collected, but in our opinion the intent of the code is that this fee may reflect the cost of both the dairy farm and the plant inspection.

2. The second condition is that the total of these license fees shall not be more than sufficient to maintain the cost of the inspection service for which the fees are levied.

3. The third condition is that no distributor shall charge any portion of these fees to a producer.

4. The fourth condition is that no distributor shall be required to pay a license fee to more than one city or county on the same market milk. We interpret this to mean that whether *one or more inspection services* participate in the dairy farm plant inspections, only one fee may be collected for the *dairy farm inspection* and only one fee for the *plant inspection* as to the same market milk.

We do not interpret the provision to mean that where two separate inspection services inspect the farm and the plant, only the farm inspection, or the plant inspection, as the case may be, may be made the subject of a fee.

Or, if one inspection service handled both the farm and the plant inspection, we do not interpret the section to mean that in fixing a fee for this service, the costs of only one, not both, of such phases of the inspection service may be reflected in the inspection fee.

Based upon the foregoing analysis, it is our opinion that the present sections of the code with respect to inspection fees are clear enough without need for further amendment at the next session of the Legislature.

An interpretation of these sections along the lines which we have indicated in our opinion is definitely supportable by the language of the code sections and may accordingly be made the subject of regulations which can be issued by the director.

Ample authority for the issuance of regulations as to these specific sections of the code having to do with inspection and inspection fees is found in Agricultural Code Sections 16, 490, 491, 492, 493, 495, 497, 505 and 705.

We suggest that this committee request the Attorney General's Office to make an analysis of these code sections in regard to this problem, with the objective in mind that a clarifying regulation could be promulgated by the Director of Agriculture as a solution to the problem and that such regulation, if our analysis is concurred in, make it clear that two separate fees are indicated; that both dairy farm and plant inspection fees may be charged by a single department, or by separate departments, but in either case such fees must be reasonably related to

actual costs, and in no case may more than one inspection agency levy a fee on an individual dairy farm or dairy plant; the fee in each case to be levied by the inspection agency designated by the department to make the inspection.

Now that is the end, Mr. Chairman, of the prepared statement. We have Mr. Jack Covert who is the Chief Inspector for the Los Angeles City Dairy Inspection Service, and he can outline to you two or three specific items wherein the City of Los Angeles is involved where they have billed City of Oakland for dairy farm inspection fees.

Assemblyman Pattee: Bob. I am interested in this. I never realized that the distributor had to pay for the producer's inspection. In my county the inspection is under the county health department. Now isn't that budgeted in the county budget under the health department? His distributor doesn't pay anything with respect to my milk.

Mr. Beckus: I think it varies throughout the State. In Los Angeles I believe it is budgeted. The code permits the local inspection agency to make a charge but it can't exceed the actual cost.

Jack Covert, Chief Dairy Inspector of Los Angeles:

Mr. Covert: Mr. Chairman, my name is Jack Covert, Chief Dairy Inspector, City of Los Angeles.

The City of Los Angeles concurs in this report submitted by the Dairy Institute. Our legal counsel has had access to this report and that is the opinion of our legal counsel. It is also the opinion of the department that I represent that it is necessary for one of three things to be done to make Section 503 of the Agricultural Code understandable and workable

1. Legal opinion be rendered clarifying certain provisions of Section 503.

2. The Director of Agriculture promulgate regulations clarifying Section 503 You have already taken this action so that answers those two.

3. We don't anticipate and do not wish that the Section 503 be amended at this next session of the Legislature in order for the Dairy Industry and Inspection Services to be able to understand the intent of Section 503

Section 503, if I may read it, will answer Mr. Pattee's question on this:

> "A city or county or group of either or both may, for the purpose of maintaining an approved milk inspection service, levy and collect a license fee from distributors of market milk within the jurisdiction of the approved milk inspection service; provided, that no distributor shall be required to pay a license fee except to the city or county maintaining an approved milk inspection service under whose supervision the distributor's plant or plants operate, or to any approved milk inspection service designated by the director which inspects dairy farms, the milk of which is shipped directly to a distributor who operates a plant within the jurisdiction of another approved milk inspection service; and provided, that in no case shall the total of said license fees be more than sufficient to maintain the cost of such approved milk inspection service for which said license fees are levied; and provided that

no distributor shall charge any portion of such fees to any producer; and provided further, that no distributor shall be required to pay a license fee to more than one city or county on the same market milk."

On the City of Los Angeles, the industry does not support the dairy inspection costs. That is borne out of the general tax fund.

The City of Los Angeles also has inspection branches in San Joaquin, Tulare, Kings, Modesto, Merced.

The industry supports the inspection program by a prorated cost of services rendered.

Chairman Hansen: Any further questions? Are you through?

Assemblyman Porter: I have one, Mr. Chairman. Mr. Covert, am I to understand then both you and Mr. Beckus are saying that first that you don't wish Section 503 amended in the coming session of the Legislature?

Mr. Covert: Providing it can be clarified before that

Assemblyman Porter: Provided that the opinion that we receive from the Attorney General's Office says that the State Department has the authority to issue a proper and enforceable regulation?

Mr. Covert: Right, yes, sir.

Assemblyman Porter: Which would be based upon a favorable opinion, of course, from the Attorney General's Office?

Mr. Covert: Yes, sir.

Assemblyman Porter: Now then if the Attorney General's opinion says the language needs clarifying, then of course you'd go along and recommend that we do amend it?

Mr. Covert: Yes, sir.

Milton Natapoff, Avalon Farms:

Mr. Natapoff: I had no intention of making a statement. We are well satisfied with the results and the workings of Assembly Bill No. 2335 and the work of the bureau on 2335.

The cash and carry people have taken some exception to the thought of a half a gallon price differential and as a result we merely held half-gallon prices in the Los Angeles marketing area at a cent, a penny a half-gallon above the minimum.

But we would like to state at this time we appreciate and are well satisfied with the work of the Legislature and the bureau on Assembly Bill No. 2335.

Thank you.

H. G. Claudius, Manager, Consolidated Milk Producers for San Francisco:

Mr. Claudius: I am H. G. Claudius, Manager, Consolidated Milk Producers for San Francisco.

I come here in a very happy mood for the reason that I haven't any serious disagreement with anybody today—as a matter of fact, I have no prepared statement, Mr Chairman, because my intention was to come here, something a little different than my usual procedure, to listen for a change.

But there is one subject I'd like to discuss shortly and then there are two questions that were raised here earlier that I think I have some recent information that might answer them.

Now the question of seasonal pricing. I might say we have just completed our annual meeting of members which was held one section in the North Bay including Marin, Sonoma, Mendocino, Napa Counties and the other for Santa Clara and Monterey, and we discussed this question of seasonal pricing, see the order had not yet come out, we didn't know what it was and didn't have too much information on it, and discussed it with the farmers generally and on the grounds that I think it is axiomatic and in order to solve a problem you first have to understand it.

And the difficulty was we didn't have enough specific information on which to come to a ready conclusion and we are very much in that same position today except that I might have at this time an opportunity if I might ask Mr. Kuhrt and Mr Weinland a question or so, at the conclusion it might help us materially.

And that is this, our opinion, and I say it is a studied one, in discussing with many of us in trying to get with all the information we could give each other at the time and explain it, that we can't say that we are unalterably opposed to it at all, nor can we give it blanket endorsement; but we must agree, we did agree and feel that the theory of it, behind it, has some merit.

As a matter of fact, it is a common practice in the East and eastern markets and in many other sections and is something that normally occurs in all other commodities, and it has some merit also, let's say, let's say along psychological grounds, in that it was brought out how coffee and bread can go up and anything else can go up, nothing happens.

Now the question I raise is this, is it just flatly that? Is it as simple as that, so much arithmetic or does the bureau intend or will they or have they ways and means of studying the question at that particular time on April 1st, if there are extenuating circumstances or conditions which might alter their thinking or might alter the circumstances under which prices should change or might change, are they prepared so to do?

In other words, do you plan, the question now, come April 1st or prior to that time to appraise the whole situation, evaluate it, and if extenuating circumstances arise, something that is out of the normal, that let's say a hearing on the subject can be had?

Mr. Kuhrt: You wish me to answer that?

Chairman Hansen: Yes, I want someone to answer it.

Mr. Kuhrt: That same question, if you remember, gentlemen, was asked at the Eureka meeting. I answered I believe along these lines, that the change that is contemplated on the first of April, "Skip," will reflect only a certain proportion of the seasonal reduction in costs only, but if any other of the factors that must be considered on the law will change in any respect, the bureau then, and we are watching those of course all the time, the bureau then would need to call further hearings to consider the effect of those changes.

So this is not a long time fixed situation but if other factors such as the supply and such as general prosperity and so forth, if they continue

on a level keel and the only factors that is changing is the factor of cost then we'd be in that situation the first of April.

This isn't a fixed thing. We still have to consider the other factors at all times

Mr. Claudius: The other thing that raises another question, I think, you take any other commodity, you can see what the dilemma, what the dairymen were thinking of, you couldn't go to people who were in the vegetable business or orchard or anyone else, they'd wonder what was going on if somebody said, look, the price of peaches in 1957 or 1958 is something that is going to be "X" dollars a ton. He'd say to you, how do I know what is going to happen in '57 or '58? Crop conditions or what kind of crop are we going to have, going to be set by anything, certainly we can't tell you or be able to be in a position to say yes, the price in '57 or '58 you fix now is right.

You don't know until you get into it, until you find out what you are up against. And if the department, however, I say has actually planned to say look at this thing and meet extenuating circumstances if they arise or something out of the normal, why then I think possibly the plan has merit along some other features that I mentioned.

So we are not opposed to it. We think it has merit, and a little more study should be given to it particularly by the department to anticipate what could happen.

Mr. Kuhrt: I think the best assurance I could give you is that we had the seasonal pricing in effect in the Humboldt-Del Norte area for several years and this spring following the floods, when so much of the pasture land was covered over with silt and sand and so many of the cows were lost up there and hay prices got way out of line, normally under that program the price would have gone down 2 cents per quart on the first of April.

Instead of that, prior to the time we held a hearing and simply carried over the fall-winter price into the spring-summer, so they held the 2 cents per quart.

Mr Claudius: That actually happened in the eastern states, didn't it, the federal orders of spring and fall pricing structure, they suspended the spring price in most areas and I think in one of them they actually raised it a little bit, so that can happen.

Mr. Kuhrt: The assurance I'd like to give you and the committee is that when this program goes into effect, it will in no sense overlook the operation of other economic factors which would cause the necessity of calling public hearings.

Mr. Claudius: It is also true before OPA you know when we had the so-called automatic formulas they practically did the same thing, didn't they? They moved up and down with difference in costs of production relating to feed and manufacturing milk pricing?

Mr. Kuhrt: That is right.

Chairman Hansen: Thank you very much, Mr. Kuhrt.

Mr. Claudius: The only other subject was someone raised a question about labor costs.

For your information, labor costs did, and transportation, that is milk hauling rates went up in our area 10 percent on transportation and labor costs went up $30 a month, that is for milkers.

Now that isn't in itself the whole story. Thirty dollars a month I think they assign as I understand the contract, remember it, 50 cows, you have to have a milker for every 50 cows. You may milk 105 cows, somebody else does the packing, yack, yack, whatever the milker would do, there is another milker there at the same wage. So you have a milker for every 50 cows and $30 a month, then plus relief men. As a matter of fact, it is a little more than a dollar a day at 50 pounds, 2 cents a pound fat, that is about 8 cents a hundredweight right there in labor costs.

Now it doesn't stop there. When you raise your milkers $30 a month, how do you escape the same you might say proportionate raise to field hands that you have working there? That is, you can't raise one group on your ranch and then keep the others at the same scale. That thing just works all the way through.

So an increase in milkers' wages alone and the 8 cents a hundredweight is not the total cost on a labor basis alone. You have the other factors that come in.

The second, you asked a question relative to milk in comparison with other commodities. Well, that would be difficult to answer as on a commodity basis, unless we specified what year you are talking about or what system of years.

The last figures at all I have of course are those from pre-Korean War, 1949 up to the present time, and milk and milk products are off—that is generally national income, that includes labor and all other income; industry and so forth is up 40 percent and farm prices are down 18 percent, generally. Milk and dairy products, dairy in California follows just exactly that pattern down about that 18 percent.

Now as far as evaluating milk compared to other commodities, I think the Stanford people did considerable research on that not too long ago and came up with the figures, some economist or home economist down there, which has never been disputed, came up with the figure that if you bought in the retail food market—there is no other single item, but any group of items, that gave you the same food value, that is protein, fat, sugar and so forth, and as milk, the sum total of those items would be 35 cents.

In other words, it would cost you 35 cents in any other foods or combinations of foods to purchase what you get in a quart of milk at 22 cents. So milk is way under-priced.

We are not at all afraid of pricing ourselves out of the market. When you are already that far under, in the first place there is no other substitute, and it can't be substituted for less than 35 cents of other commodities.

Assemblyman Pattee: Mr Claudius, don't you personally feel though that the reason that the fluid milk producer in the State of California, that there are any left, the way things have been going, is that the Grade A dairyman in California is probably the most efficient dairyman in the Country, he has the most efficient run organization, and he can keep his head above water a little mainly because he has run his dairy up to around 450 or 500 pounds per cow, he feeds scientifically, and he runs a very efficient dairy?

Mr. Claudius: I don't have to guess at that We all know the figures that—actually the production, it is particularly market milk dairies,

and some manufacturing dairies, too, that the production per cow in California is nearly twice the national average.

Now that is one of the reasons when we sold it for 10 cents a quart in 1912, Mr. Pattee, and it is only twice that now, is because it is the dairyman that has effected all of the savings you might say by his efficiency.

As a matter of fact, all of the additional costs, why it is 22 cents and not half of that is on account of the farmer saving the 5 cents or 10 cents a quart it went up is simply distribution costs and processing and that sort of thing has followed the national pattern in wages and costs of material and everything else, without the chance of deficiencies.

If anything, they are probably a little less efficient on account of all of the commodities they have to pack and the housewife wants it in the extra services that the public themselves demand

It costs money to put stuff up in cellophane and put it in—cheaper to put it out in glass bottles than in paper, they won't go for that. And that is what you are up against.

So it is the public themselves in demanding the extra services that has increased the price of all commodities for that matter. Certainly the farmer has been more efficient, probably twice as efficient as they were at that time.

Chairman Hansen: Mr. Power.

Assemblyman Power: What you would like to have in the record is the fact that the efficiency of the dairyman has been passed onto the consumer almost in its entirety.

Mr. Claudius: Well, yes, certainly it has It is a matter of fact it is 10 cents a quart, that is just what it would have been up 10 cents a quart more today if you took away the efficiency, if the dairyman had stayed where he was and just met the things as he went along because that is exactly what he saves, two for one.

D. A. Weinland, Chief, Milk Control Board, Department of Agriculture:

Mr. Weinland: Mr. Chairman and members of the committee: As we understood Mr Hansen's request at Sacramento, he was interested in learning the labor costs on the producer side as well as distribution side in the production and distribution of fluid milk

The first table you have, we have produced some data for four of our major production areas. On the first column is the San Joaquin Valley, second column Sacramento Valley, third column North Bay, and the fourth column is the metropolitan Los Angeles area

The first item are the average wage rates for the year 1955 to 1956. You will see in the San Joaquin Valley $347, Sacramento Valley $330, North Bay, $335, and metropolitan Los Angeles $469.

If you move down, you will see the milkers' wages and the laborers' wages, top figure, the one I read is the average for the milkers and the laborers.

The cost per hundredweight is the second item down in the San Joaquin Valley it is for the year '55-'56, according to our Standard Cost Survey, was 92 cents per hundredweight of 3.8 milk. Sacramento Valley $1.05, North Bay, $1.06, and metropolitan Los Angeles, 86 cents.

Those figures per quart of milk are approximately 2 cents per quart for the San Joaquin Valley, it works out as 1.978 cents per quart; the Sacramento Valley, 2.266; North Bay, 2 28 and Southern California 1 85.

That difference between Southern California and the other areas in face of the higher wage rate appears startling to many people, but per hundredweight of milk, that is what appears to be the labor costs per man-hour per hundredweight of milk produced. They have higher wages but they produce more milk per man-hour of labor.

Now, as a percentage of the total cost of production, the bottom figure in that first group of figures indicates that the labor costs for the San Joaquin Valley is 19 percent of the production cost. Sacramento Valley 21 percent, North Bay 20 percent, and Southern California 18 percent.

We grouped together the feed costs and all other costs for comparison, the feed costs run around 55 percent, 53 percent, 54 percent, and 56 percent respectively for those areas for the total milk production costs, those percentages have been applied to the total costs at the ranch exclusive of transportation

If the farmers' transportation cost is added to that those percentages would be reduced a very minor amount because you would have a slightly higher base in calculating the percentages.

Chairman Hansen: Any questions? I have this question. Now, that is all very fine, but that is only the producers' end of this thing Now, when we get the total costs of the quart bottle of milk, that is what I am interested in. That is on the second page.

Mr. Weinland: On the second page we took recent cost surveys for eight plants, two in the Fresno marketing area, three in the Sacramento marketing area, two in San Francisco, and two in Los Angeles. And we have shown the figures for the four areas and the average of those eight plants is the last figure at the bottom of the first group, and at the bottom of the second group

Now, the first group are the cost for milk delivered in wholesale distribution, that means milk sold through the stores. The labor cost per quart to the store for the average of those eight plants is 3 cents per quart, slightly in excess of 3 cents per quart. You can see there is some variation in the Fresno area, there was 3.7 cents. In the Sacramento plants, 2 3, San Francisco 3.3 cents, Los Angeles area 2.4. An average of those eight plants showed a cost of slightly in excess of 3 cents per quart.

Now, the selling price on the average is 19.44 cents per quart in the September-March figure, and 18.56 cents in the April-August period, and that percentage, the labor cost in relation to the selling price for the September-March period is 15.84 percent of the total selling price, and slightly higher when the price is reduced under that seasonal program to 16½ percent.

Now, the second group of figures is the same type of data for milk delivered on retail home delivery routes. Now, you will notice the labor cost is substantially higher in relation to the total cost.

In the September-August period in relation to the selling price, that cost is 7.39 cents per quart, or 32.68 percent of the total selling price, and 34 percent in the spring months.

Now, the third table is one plant which gives a different break down, but it is probably fairly representative of the situation state-wide

This shows the total labor cost in distribution in relation to all of the distributors' costs other than his raw product costs. All of the distributors' processing, handling and delivery cost for a wholesale quart of milk, it amounts to 58 percent of his cost.

Assemblyman Pattee: 58 percent of your cost in a bottle of milk is labor, all the way through, if you take them all?

Mr. Weinland: If you relate it to the selling price, it is approximately 10 percent of the selling price is the farmers' labor cost, and approximately on wholesale, approximately 15 to 16 percent of the selling price is labor costs, which is a total of about 26 percent.

In the final selling price of the bottle of milk, is the farmers' labor, and——

Assemblyman Pattee: Is 26 percent on wholesale?

Mr. Weinland: That is correct. Retail home delivery would be 32 plus the 10, or 42 percent. On the retail home delivery, your total labor.

Assemblyman Pattee: It would be higher than that, wouldn't it?

Chairman Hansen: I don't follow that.

Assemblyman Pattee: It would go higher than that.

Mr. Weinland: The farmers' labor is about 10 percent of the total selling cost, and distributors' labor is 32 or 34 percent of the total selling cost, so that makes 42 percent. Forty-two percent in the retail home delivered bottle of milk approximately is labor, farmers' labor and distributors' labor.

Chairman Hansen: Then after all, when the price of a quart bottle of milk goes up two cents, almost half of that is costs that the farmer has no control over, isn't that so?

Assemblyman Pattee: Your remark, 50 percent of the cost of the farmer in a bottle of milk, the farmer has absolutely no control over, I think that is easily it.

Chairman Hansen: I haven't got any beef against labor. That isn't what I am after. What I want to show on the record is that over 50 percent of this is something we have no control over and yet we get the responsibility for every announcement that comes out about milk, it is the farmers that did it, and I'd like to see that corrected. I don't think it is fair.

Assemblyman Belotti: I think you are right, Bill. These figures don't reflect the entire costs that are involved that the farmer has to produce in order to actually have a quart of milk finally get to the consumer.

Chairman Hansen: Of course it doesn't. The labor that goes into a ton of hay is at least 50 percent labor, you ask any man trying to grow hay and see.

Harold S. Wakefield, Dairy Institute of California:

Mr. Wakefield: Mr Chairman, may name is Harold Wakefield, I represent the Dairy Institute of California. I rather thought, Mr. Chairman, that someone else would open up this subject of milk inspection fees, because the problem does exist which has been somewhat critical in this particular area.

The problem has to do with the fact that, as you know, the department designates the particular inspection department which is to cover

both dairies and plants, and in this particular area, for example, the dairies in part of the northern part of this area may be, and have been assigned to the Los Angeles City Health Department for inspection of the dairy farms, and I want to distinguish between the dairy farms and the dairy plants.

Some of that milk has gone into Oakland, and of course Los Angeles City has to be reimbursed for inspecting these dairies up here. But Oakland has an inspection fee which they charge for inspecting the plants and we have a little section of the law which says that no two fees shall be charged for inspection on the same milk. That caused a little complication because the plants in Oakland refused to pay the inspection fee on the dairies around Chowchilla, which were inspected by Los Angeles City, and the inspection for which was charged by Los Angeles City, and it caused a complication.

The institute in studying the law, and I have a report here which was prepared by Mr. Steck, is of the opinion that the Attorney General's office and the department need to review the matter and my paper relates to that subject.

So with that explanation offered, I think I could make it clear to you maybe if I took for example, the City of San Diego. The City of San Diego is a long ways from Dos Palos or Los Banos, just west of us here, and certainly the City of San Diego has to inspect its plants, but it doesn't have inspectors up here, and it sometimes gets milk from Los Banos or Newman, as a matter of fact, it does regularly, and those dairies are inspected by a department designated by the State Department of Agriculture. Either one of the northern cities or Los Angeles have inspected them for them, and certainly those plants in San Diego have to pay for the Los Angeles City inspection of the dairies, and they also should pay for their plant inspection. So there are two separate inspections, plants and dairy farms, and the law, I think intended that, and I think it is pretty clear. With that explanation I will read this.

A problem has arisen related to those sections of the Agricultural Code which provide for inspection fees being charged to dairy products processing distributors for the inspection of dairy farms and the inspection of the distributor plants.

The problem arises from the fact that, consistent with the Agricultural Code, the Bureau of Dairy Service has designated the areas into which various approved inspection services are to do the inspections in order that any duplication of inspection may be avoided, but in so doing has designated in some cases one department to do the dairy farm inspection and a different department to do the plant inspection, with the result that both departments have assessed fees.

The plants which have been assessed more than one fee have refused payment of more than a single fee, based on that section of the code which states, "that no distributor shall be required to pay a license fee to more than one city or county on the same market milk."

The Dairy Institute is of the opinion that an analysis of the code sections related to the subject is called for and could result in clarification of the problem. We offer the following for your consideration:

First, with reference to Section 446 of the code, the section seems to make it clear that two separate inspections are provided for. One, as to milk products plants and the other as to dairy farms.

Second, Section 500 provides that where a distributor delivers or sells market milk within the jurisdiction of two or more cities or counties, the director shall designate the county or city to conduct a milk products plant inspection. That is what the law says.

Third, Section 501 provides that where market milk produced within a county is delivered or sold within the jurisdiction of one or more approved milk inspection services within or without the county of production, the director shall designate the approved milk inspection service to conduct a dairy farm inspection.

So that is the point I want to stress that there are two separate inspections, the plant inspection and the dairy farm inspection.

These sections—Nos. 446, 500, and 501—seem to make it clear that two separate inspections are considered in the present code In addition to the sections mentioned above, Sections 496, 497, and 506 refer separately to the inspection of dairy farms and milk products plants.

Section 503 then deals with the subject of inspection fees and provides that a city or county or group of either, or both, may, in order to maintain an approved milk inspection service, levy and collect a license fee from distributors of market milk within the jurisdiction of the inspection service. This levy and collection are subject to four separate conditions:

The first is that the distributor shall not be required to pay a license fee except to the city or county maintaining an inspection service under whose supervision the distributor's plant or plants operate, or to an inspection service which inspects the dairy farms, the milk of which is shipped direct to a distributor operating a plant within the jurisdiction of another approved milk inspection service.

This condition clearly indicates that the distributor may be required to pay dairy farms inspection fee and a plant inspection fee where the farm and plant are under the jurisdiction of separate inspection services. Where the farm and the plant are under the jurisdiction of the same inspection service, "a license fee" may be collected, but in our opinion the intent of the code is that this fee may reflect the costs of both the dairy farm inspection and the plant inspection.

The second condition is that the total of these license fees shall not be more than sufficient to maintain the cost of inspection service for which the fees are levied.

The third condition is that no distributor shall charge any portion of these fees to a producer.

The fourth condition is that no distributor shall be required to pay a license fee to more than one city or county on the same market milk. We interpret this to mean whether one or more inspection services participate in the dairy farm plant inspections, only one fee may be collected for the dairy farm inspection and only one fee for the plant inspection on the same market milk.

We do not interpret the provision to mean that where two separate inspection services inspect the farm and the plant, only the farm inspection, or the plant inspection, as the case may be, may be made the subject of a fee. Or, if one inspection service handled both the farm

and the plant inspection, we do not interpret the section to mean that in fixing a fee for this service, the costs of only one and not both of such phases of the inspection service may be reflected in the inspection fee.

Based upon the foregoing analysis, it is our opinion that the present sections of the code with respect to inspection fees are clear enough without need for further amendment at the next session of the Legislature.

An interpretation of these sections along the lines which we have indicated in our opinion is definitely supportable by the language of the code sections, and may accordingly be made the subject of regulations which can be issued by the director.

Ample authority for the issuance of regulations as to these specific sections of the code having to do with inspection and inspection fees is found in Agricultural Code, Sections 16, 490, 491, 492, 493, 495, 497, 505, and 705.

We suggest that this committee, your committee, Mr. Chairman, request the Attorney General's Office to make an analysis of these code sections in regard to this problem with the objective in mind that a clarifying regulation could be promulgated by the Director of Agriculture as a solution to the problem and that such regulation, if our analysis is concurred in, make it clear that two separate fees are indicated; that both dairy farm and plant inspection fees may be charged by a single department, or by separate departments, but in either case such fees must be reasonably related to actual costs, and in no case may more than one inspection agency levy a fee on an individual dairy farm or dairy plant; the fee in each case to be levied by the inspection agency designated by the department to make the inspection.

Charles V. Dick, Chief, Plant Industry Division, State Department of Agriculture:

Mr. Dick: Charles Dick, Department of Agriculture Mr. Chairman and members of the committee, as I told the committee I believe at the Eureka meeting, that the present Section 23 of the Agricultural Code gives the Director of Agriculture the responsibility of assigning and classifying the work of the department and creating, consolidating or abolishing bureaus, all this with the approval of the government.

They are saying to us, a subject that is within a normal purview of the director, and Mr McMann I believe at Eureka said that he had no particular criticism of the department as it was presently constituted, but he thought of this in terms of a suggestion for improvement.

Now, we have analyzed the thing, and we see quite a few disadvantages that I'd be glad to point out to the committee if the committee feels that it wants to take this on as a legislative responsibility.

However, we think that unless there is a showing that the department isn't properly constituted, is a matter for the Director of Agriculture to settle

To start with, I'd have to explain how we are organized at the present time. You will note on that chart of our present organization, you can disregard the Division of Administration at the left because that is merely the housekeeping functions of the department, for the operations of the department are conducted by the Division of Marketing, Division of Plant Industry and Division of Animal Industry. We

have tried to lump the bureaus that have to do with production of crops into the Division of Marketing, those that deal with—I mean in the Division of Plant Industry, that is the center one. Those that have to do with marketing in the Division of Marketing and those that have to do with livestock production in the Division of Animal Industry.

Our organization is along a functional line, that is based on the type of duties, for instance we have a Bureau of Livestock Disease Control that takes care of all livestock diseases, whether poultry or dairy or swine or what.

Now, Mr. McMann's proposal would tend to organize a division strictly on a commodity basis. Now, that to start with, would establish a precedent that other segments of the agricultural industry would be entitled to, citrus people or cattle people or somebody else I think would have an equal right to ask for a division of citrus fruits. And while we don't see any advantages in this proposal, there are several specific disadvantages.

One of them is that it would take, take one of our bureaus, for instance milk control, and would break it up into three units, Bureau of Milk Control, Bureau of Law Enforcement, Statistics and Cost Studies. It would take Dairy Service and break it into units.

The result is that if these things that are indicated on the chart here are bureaus, we'd be adding five bureaus, each of which would have to have a bureau chief and a secretary to the bureau chief, and that would cost us probably around $15,000 a bureau to set up and sort of decentralize or specialize our organization.

Our tendency has been to try to take away the specialization. You will remember some years ago we had specialists, butter specialists and ice cream specialists. We tried to make them specialists in milk products to get away from the specialization so we can have better utilization of our manpower.

Here, for example, this proposal would split our Bureau of Livestock Disease Control by leaving that part of it that dealt with cattle and swine and sheep and so on, over in the Division of Animal Industry, and would take that part that dealt with dairy, livestock disease control and put it over in the Division of Dairies.

Well then, if you had an outbreak of foot and mouth disease here you have two sets of inspectors out there, dairy cow one set, and pig or beef cow you'd have another. I don't know what we'd have on the next ones.

And this also proposes to split the Bureau of Livestock Identification the same way, so we'd have two sets of hide and brand inspectors, one for the beef cattle and one for the dairy cattle, with the problem then of having to have two sets of supervisors because we have got our State divided into areas for enforcement.

There is another angle to it, and that is that it proposes to separate the milk law enforcement, that part of the Bureau of Milk Control that sets the prices.

Now, we had that kind of a set-up years ago when the milk law first came into being. One bureau made the determinations as to prices, and another bureau enforced them. We had that with respect to milk and had it with respect to marketing orders, and in neither case did it work out properly, so as a result we consolidated and found that we got a

better job done when the enforcement rested in the bureau that made the regulation.

Maurice E. Hibbert, Challenge Cream and Butter Association and Danish Creamery Association:

Mr. Hibbert: I am appearing here for Challenge Cream and Butter Association and also Danish Creamery Association.

I agree with much that Mr. Wakefield stated and we would like to concur in his recommendations except to the extent that I would like to now mention I know of no way to better illustrate the problem that exists here in Fresno than to use a specific example.

If you gentlemen would consider this, I believe that this may point out a particular problem. First, I ask that you will assume that a dairy is located in the Fresno area and that it is located within an area that is designated to be inspected by the Los Angeles City Health Department, the Los Angeles City Health Department being the approved milk inspection service for the given area.

Second, I will ask you to assume that this particular dairy delivers its milk to Danish Creamery Association, located in Fresno as a country plant, and third, that Danish Creamery Association, the country plant in turn delivers the milk to Challenge Cream and Butter Association, where it is processed.

The Danish Creamery Association is located within an area that is inspected by the City of Fresno, and that requires some further explanation. The City of Fresno is designated by the State as the approved milk inspection service for the area to make the plant inspection, but the City of Fresno, in turn, has a contract with the county to perform the work, the county in turn employs certain city employees to do the work that the county is employed to do by the city.

Now, as to the computation of fees, in the first place, Danish Creamery Association would pay the dairy farm's inspection fee to the City of Los Angeles and that fee is computed by calculating the total cost of providing this service incurred by the City of Los Angeles Health Department in the given inspection area and dividing it by the number of dairies located within the area

Now, this inspection includes the dairy farm inspection as well as the plant inspection within the given area

Therefore, in my hypothetical example, Danish Creamery Association would be paying a portion of the cost incurred by the City of Los Angeles Health Department in inspecting plants that are located within the Los Angeles city-designated area although its plant is not inspected by the City of Los Angeles.

This amount of computation, as I understand it, is based upon taking the number of dairies involved, arbitrarily disregarding the quantity of milk obtained from a given dairy so that the fee being paid based upon a per-dairy charge, amounts to and has amounted to approximately $5 to $7.50 per dairy per month, and that applies whether the given dairy supplies one can of milk or 100 cans of milk per day.

Second, the City of Fresno charges an inspection fee of six mills per pound butter fat received in the plants that they inspect This covers the plant and dairy farms inspection costs and in my given example the dairy farm in this case was not inspected by the City or County of Fresno, yet Danish Creamery Association would be paying

an inspection charge that takes into account the cost of maintaining the service in respect to dairy farm inspections as well as plant inspection.

This same milk, upon being received by Challenge Cream and Butter Association in Fresno would be the yardstick for measuring another 6 mills per pound of butterfat charged likewise to cover the cost of plant and farm inspection, although this same milk again was not—this milk was not inspected by the City of Fresno or County of Fresno in connection with the dairy farms inspection. The only function that was performed in this connection was a plant inspection.

Now, in the last Legislature, Section 503 of the code was amended to provide that no distributor shall be required to pay a license fee to more than one city or one county on the same market milk.

I will agree completely with Mr. Wakefield that this has reference, and obviously has reference to the possibility that there are two inspections to be performed, one at the dairy farm and the other of the plant, and it does not mean to say that a dairy farm, a fee cannot be charged for the dairy farm inspection and the same milk used as a yardstick for charging for the plant inspection. I think we can all agree upon that, but here we have a situation in which the same milk is being used as a yardstick for charging two fees, and the amount of the fee computed in the three instances in which I point out in my example takes into account the maintenance of an inspection service that is not utilized by the given distributor or the given dairy farm in the case of my example.

Now, I am not prepared to say this can or cannot be a problem solved by interpretation by the Attorney General's office or by regulation of the department.

I would like to suggest to this committee, however, that in the event the Attorney General in his opinion, if and when it is expressed on this subject, should determine that this is a matter which cannot be solved within the framework of the present language of the statute, then I suggest that there is some need of further legislation to clarify this situation.

I'd like to suggest that in any event, ultimately consideration be given to an amendment to the law which will provide that the license fees charged for dairy farms inspection and plant inspection respectively, be no more than sufficient to maintain the cost of each.

Now, that is not the language of the present statute. The present statute permits lumping the whole works together and does not describe the method of charge other than to simply say the total charge shall not be in excess of that necessary to maintain the service.

Edward A. Jordan, dairyman, Tulare County:

Mr. Jordan: My name is Edward Jordan. I am just the first amateur to appear here today, I guess. The rest of the gentlemen who appeared are more experienced than I, so I want you to know what I say here just comes from a plain old cow-jerker.

Two or three of the matters I'd like to bring to the attention of this committee. One of them is that I am sorry Mr. Munnell isn't here to hear this comment that I'd like to go into the record; that is that the price increase that we just received, if I recall the figures correctly, just about brings the price of Grade A milk up to, or maybe a very few

cents per hundredweight beyond the bureau's cost figures of producing a hundredweight of milk, and I would like it also in the record that the dairy farmers in the State of California probably pay the highest wage scale for the kind of work performed anywhere in the world.

Mr. Chairman, there is another matter that perhaps this committee would like to look into, that is that there was a hearing called by the Bureau of Market Milk Control in Fresno, if I remember the date correctly, it was the tenth of August, 1956, and while there is no question in my mind, I don't charge them with being illegal by a long way, but in my way of thinking it was just a little bit irregular.

Chairman Hansen: Just at that point, let me ask you a question, was that after the Milk Bureau hearing?

Mr. Jordan: This hearing to which I refer was called for the day following the bureau's hearing relative to price change for the dairy farmer in this area.

The reason I bring this to the committee's attention is that there have been times in the past when the dairymen have endeavored to get a price hearing here, and we were refused a price hearing on the basis that it wasn't needed, and this hearing was apparently, as far as I can tell, at least from the outside, held at the request of a very few individuals. It seems to me it wasn't quite the right thing to do, and particularly calling it at the time that it was called, immediately following a hearing that was having lots of publicity and to which the dairy farmer was giving much of his time and attention, especially those interested in presenting testimony at the price hearing.

The other matter that I would like to call to the attention of you gentlemen is the matter of the amount of the bond which is provided by law, and which the processor is now required to carry in the State of California.

The amount, as you know, is $5,000, and as far as insurance goes that doesn't provide very much protection for the dairy farmer today. Any individual dairy farmer, let alone a group who might be shipping into any one creamery.

I would like to ask that this committee take steps to make a study of this particular problem to see if it couldn't be resolved in some way that the dairy farmer could have a little bit more protection in the way of insurance for the product that is sold to the creameries. That is all, Mr. Chairman.

Burt Mosher, National Marketing Coordinator, Foremost Golden State Company:

Mr. Mosher: My name is Bert Mosher with Golden State. I have two or three or four little items I'd like to discuss from a distributor's viewpoint.

First of all, under the Milk Control I might mention that what has happened price-wise and price level-wise, from a study that I made a few months ago.

This study was made throughout the United States, including six California cities, and covered 64 cities, all the cities on the report of the United States Department of Agriculture report, all the cities that

were on that report which I was able to determine whether there was sufficient information to determine the facts of prime margin and so forth, I used.

Now, in that report I find that these six California cities, the level of margin were all below 8 cents per quart of wholesale, where the rest of them were all, there were only about five of the other 58 who were below.

Consequently, the California operating margins were less than 90 percent of the markets shown on the United States report.

Now, we, in addition to that, in the same report, it gives figures for 25 cities in the United States covering the selling prices at retail, and in that report it showed, included Los Angeles and San Francisco, this was for the month of November, 1955, incidentally, and showed that their selling prices in those two cities was 2 and 3 cents less than the average of all of those cities including San Francisco and Los Angeles.

It further showed that from 1949-'53 average, up until November of 1955, that while the rest of the cities had increased a cent and a half a quart, Los Angeles and San Francisco had only increased .4 of a cent, so there is considerable evidence which indicates that the level of prices in California under Milk Control compare very favorably with those in the rest of the country, either with or without Milk Control.

That, of course, then when we get to the prime margin factor, we found as far as distributors were concerned that the levels as I indicated were less than 90 percent of those other markets reported.

On retail, they were less than two-thirds of those markets in the same group.

Now, the net result of all this, of course, is that it is very well indicated by a survey made by the Milk Industry Foundation, Professor Star of the University of Indiana, in which he found, surveyed 400 and some distributors or plants, representing about 305 distributors, and in every state in the Union, except two, and the results of his report show 1954 that in Region 13, the profits were less for distributors than any other area in the country. So there is a great deal of that to show that prices are low and have been low under the Milk Control, and the consumers have received an exceedingly good price on their milk.

Now, we come to the situation as it concerns distributors and some of the problems we face and some of the suggestions that I think will solve them.

The recent legislative act Assembly Bill 2335 establishes a prime factor, one of the prime factors certainly, as in establishing distributor margins, as being a reasonably necessary cost to supply the demand.

In addition to that they were to consider the raw product cost as paid, as established by the bureau and reasonable return on necessary investment.

Now certainly these three are reasonable methods of measuring the ability of a distributor to make money. We think they are fine.

The problem as I see it gets into the ability to get each of these and get them in time. The measurements are reasonable. We come first of all, however, I do want to say that it is very encouraging that the bureau is working, they have set up their organization now to a point

where they are able to cover the particular problems, set up a plan on economics, distributors' problems of establishing price orders and plans, and so forth, they have also set up a man who is in charge of their costing for the State as a whole so we can get uniform methods and so forth, and they are definitely looking into many of these factors.

They are so important, however, the standards are reasonable, all we have to do is get them.

One of the items again is investment per gallon. It happens that we are operating now on a factor of $67.50 per daily gallon, as a factor for determining distributors' investment, and that has been in effect since 1948.

The bureau is studying that, they are undoubtedly getting many varied figures and it is going to take some time before they have reached a point, but they are working on it.

Then the other thing is the rate of return. There is a great deal of evidence that the rates of return of 6 percent, or they may be proper and sufficient in some public utilities where they are noncompetitive and so forth, are not common nor reasonable for a highly competitive business such as we are in.

There has been considerable work done on that by one member of the industry, through their attorneys they have searched the thing pretty well and presented it to the bureau, and I am sure they will give a lot of thought and consideration to that.

The other one is once these proper margins are determined then is to allocate them to the containers. Now, under the previous practices it has turned out that distributors within the same market or within various markets through the State, even though their margins were all based on the same $67.50, the return on the individual package would be different.

There were good reasons for that. It was a method of allocating it and that was the way it would come out because of different volumes for various sized containers.

However, the bureau is looking into that, and we think something which said if your return on whatever the investment may be per gallon, that is the kind of returns that we should get and each of the persons in the various areas should get it.

The next thing then is that we have a proper margin, it must be added to the proper level of cost.

Now, there has been over the last few months, particularly over the last year or so, has been increasing, it has been increasingly apparent some of the cost factors that are used in allocating costs have not been kept up to date, and therefore are distorting the costs from one particular container or type of operation from milk to buy butter, and so forth.

We have seen numerous, not only our company, but others where if, for example, the by-products were an extremely high ratio of sale, that they would lower the cost of the milk through the heavier allocation of cost to the by-products through the use of a modifier.

Those things take a lot of time and study and that is another thing they are going to get into. I am sure it isn't something easy.

We have an industry set-up, a committee to try to study into these things and make recommendations to them, and I hope the result of that will begin to get somewhere.

The next item is once we have margins that are reasonable and we have the proper levels of cost, then it is the problem of getting them. That is one of the big factors that has made it difficult for many distributors to have margins that would be adequate and because we come along and it takes months to prepare the studies, and there is a great volume of work they go into, and have to go into to do the job, so we wind up either with studies that are either going to take six months to prepare, new studies, or else using studies that are two or three years old, in order to determine what are the prices now.

It seems to me that it is necessary that some method be made of stream-lining that collection of information for preparing those studies.

It is essential that we not only have proper margins considered but that we get them and it may be necessary for the industry to cooperate in some method of reporting that will give them that information, rather than have them send their people around and spend three to six weeks or so, picking up information that you could have on a routine basis to be able to make a decision quickly.

Now, I believe that is about all I have, but it is encouraging that things are moving that way. The standards in there which say what we should have sound reasonable. The question is getting it, and we think that the speed-up of timing and so forth are highly important to the satisfaction of the distribution in California.

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ASSEMBLY INTERIM COMMITTEE REPORTS
1955-1957
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REPORT OF ASSEMBLY INTERIM COMMITTEE ON SOCIAL WELFARE

House Resolution No. 217, 1955

SOCIAL WELFARE STUDIES

PART I
Health Problems and Programs for Public Assistance Recipients

PART II
Welfare Programs for the Blind

PART III
Adoptions and Abandonment

PART IV
General Assistance Standards

MEMBERS OF COMMITTEE

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March, 1957

Published by the
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OF THE STATE OF CALIFORNIA

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Minority Floor Leader

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Chief Clerk

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Number 2—Life Care Contracts
Number 3—Emotionally Disturbed Delinquents
Number 4—Problems of State Mental Hospitals

LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON SOCIAL WELFARE
ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, March 1, 1957

HON. L. H. LINCOLN, *Speaker, and*
Members of the Assembly
Assembly Chamber, Sacramento, California

GENTLEMEN: As authorized in the 1955 Session by House Resolution No. 217, the Assembly Interim Committee on Social Welfare has made studies in the fields of Mental Hygiene and Social Welfare. Eight problem areas have been explored, including programs for the aged and the blind, treatment of emotionally disturbed delinquents, the mentally ill, and the mentally retarded. Fourteen public hearings have been held and visits have been made to 12 state institutions. Progress reports have been issued on five of the nine subjects studied. Summary material from these reports will be included in the several sections in which this final report has been prepared. Further study must be made in some areas but a program of needed legislation has been developed and recommendations are made for desirable changes in the operation of the several state departments concerned.

The committee is pleased to report that many of its recommendations for administrative changes have been accepted and are currently being implemented by three state departments. Acknowledgment is hereby made of the splendid cooperation received from the Department of Finance, Legislative Counsel, and the Legislative Auditor, and the State Departments of Corrections, Youth Authority, Public Health, Education, Mental Hygiene and Social Welfare. Superior court judges, probation officers, state and county welfare department staffs, and other county officials have also been most cooperative.

This report is issued in four sections: 1—Social Welfare Studies, 2—Life Care Contracts, 3—Emotionally Disturbed Delinquents, and 4—Problems of State Mental Hospitals.

Respectfully submitted,

BRUCE F. ALLEN, Chairman
WANDA SANKARY, Vice Chairman
FRANK LANTERMAN
S. C. MASTERSON
HAROLD T. SEDGWICK

J. WARD CASEY
DOROTHY M. DONAHOE
EDWARD E. ELLIOTT
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PART I

HEALTH PROBLEMS AND PROGRAMS OF PUBLIC ASSISTANCE RECIPIENTS

INTRODUCTION AND SCOPE OF THE STUDY

Aware of the special importance of health services in the later years of life this committee study has emphasized the unmet needs of older recipients for medical care and related services. There are economic as well as humane values in programs that go well beyond the provision of care for acutely or chronically ill older patients. For all persons, including particularly the needy aged, an adequate health service must include measures to prevent the occurrence or the development of illness as well as its treatment. The planning of such a program for older persons requires a refusal to accept the "infirmity of old age" as inevitable or irremediable. An optimistic view of recovery to the level of self care or at least to a less expensive level of care is essential. It has been demonstrated that an appropriate and adequate program is an economy.

The committee recognized that present tax-supported health services are operated and, in large measure, supported by the 58 counties. Variation among the counties means that the health needs of some recipients are less adequately met than of others. Also, it was found that many recipients have "outside income" which they are permitted to retain when there are "special needs" especially for medical care. Similar needs of other recipients are unmet when there is no outside income. There is no item for health services in the current basic needs budget. There is a lack of uniformity in the health services now available through public agencies. The recipients with unmet needs because they have no outside income present difficulties which could be at least partly overcome through the additional funds available on a state matching basis from the Federal Government after June 30, 1957.

At the 1956 Legislative Session, this committee was assigned the responsibility for exploring the use of the insurance principle in meeting the health needs of public assistance recipients. Pooling the new federal-state funds and enabling the most needy to obtain health services and supplies beyond those now provided by the counties, would be an application of the insurance principle.

The committee has held two public hearings—Los Angeles, January 24, 1956, and San Francisco, September 12, 1956—and has collected significant information through field study in an effort to determine: (1) the place of health services in public assistance programs; (2) the extent to which present county administered services are meeting the needs of older indigents for medical, dental, and related services and supplies; (3) ways of meeting the special health needs of recipients who have no outside income; (4) the economy of a comprehensive health program which avoids or retards senile deterioration and makes

more expensive care unnecessary; (5) the possibility of utilizing the insurance principle in meeting health needs, and (6) the basis for the state legislation needed in connection with the matching funds made available by recent federal legislation.

FINDINGS AND RECOMMENDATIONS

Information obtained through public hearings and field study is concisely reported here and documented in the *Summary Analysis*. Implications for legislative and administrative action are listed briefly to suggest both broad purposes and changes in code provisions or operating practices.

1. Public assistance has under-emphasized the health needs of recipients. This is recognized in recent federal legislation establishing separate matching funds for medical care and related services. In California, the basic needs budgets of $89 per month for needy aged and $99 for the blind make no allowance for health services or supplies except the assignment for "home remedies" of the $4 increase in the federal contribution which started in October, 1956.

State matching funds sufficient to obtain the maximum federal contribution to the separate health fund should be appropriated.

2. Operation and much of the financial support of such tax supported health services as are now available rests with the 58 counties. There is considerable variation among the counties which differ in type, scope, and effectiveness of the medical, dental and other health services and supplies provided. Even the counties with the better health programs do not meet all the needs of all of the recipients.

The separate federal-state health funds should not be merely a subsidy for services now available. These funds should provide additional services and supplies. Counties should continue to operate health programs with increasing effectiveness but those counties with less adequate programs should not be assisted at too great a disadvantage to the more satisfactory programs in other counties.

3. At present attention tends to be focused on overcoming ill health and disabilities. Although they have differed in per capita expenditures, the various counties have tended to use their health funds largely for hospitals, out-patient treatment services and convalescent care which too often was custodial in character.

An adequate program of medical care and related health services should be geared not only to treatment of disease but also to preventing its occurrence or progress. The legislative intent to further the establishment of such a program should be made clear.

4. In addition to the specific measures for the "promotion of health, the prevention of disease and disability, the mitigation of disease, and the rehabilitation of the ill and the disabled," certain related services and supplies are essential to a health program which will be economical.

The well known "need of the elderly to be sick"—the development of psychosomatic disorders—should be minimized through activity programs and other means of making the elderly feel needed and wanted. Diagnostic and counselling services, dentures, eye glasses, hearing aids and prosthenic devices should be provided as integral parts of the new health program.

5. Illness has a profound effect on the lives of most elderly persons. The some 270,000 needy aged and older blind recipients of public assistance probably will require more than double the average amount of medical care including acute and chronic hospitalization, will show three times as much disability, and make 60 percent more visits to physicians because of the age factor. In the lower income brackets about half the aged are reported to be in "poor" health as compared with one-fifth of the wealthier aged.

Because the counties vary from "one in seven" to less than "one in twenty" in the proportion which the aged constitute of the total population, account must be taken of the extent and type of the needs of this age and income group in planning expanded health services.

6. Nearly $20,000,000 could be available July 1, 1957, to pay for medical care and related health services for older recipients of public assistance. It is estimated that this sum will not be sufficient for all needed additional health services and supplies. Therefore the content of the program must be comprehensively defined and priorities established.

Legislation should be enacted clearly indicating intent with regard to such definition and priorities. Precise limits should be determined within which the State Board and Department of Social Welfare should be authorized to formulate and administer the necessary rules and regulations.

7. The separate federal monthly contribution of $3 each for recipients of needy aged and blind aid and $1 50 for each recipient of aid to needy children, together with state matching funds in equal amount, may be pooled and dispensed in accordance with the insurance principle. Direct payments may be made to vendors of services or supplies. Unlike the present public assistance grants, which may be expended by recipients without regard to state determined budgets of basic needs, the separate health funds can be expended on the insurance principle of purchasing services and supplies for the particular recipients with the greatest need at the time.

Decision regarding immediacy and extent of needs of particular recipients, and regarding standards of quality, quantity, and cost for the items and services approved, should be made by or in consultation with persons qualified in the several professions involved.

8. Aged persons constitute slightly more than 8 percent of the population but they occupy more than 18 percent of the general and 22 percent of the long-term hospital beds. Since those who have health

insurance are more apt to utilize hospital beds than those who have not, the new health funds like insurance may increase the demand for hospitalization.

Consideration should be given to alternatives to hospitalization and to those community resources which reduce the number of days of hospital care including day care, convalescent facilities and home care which includes visiting physicians, nurses, technicians and therapists and adequate medical social service. Policy in the disbursement of the new health funds should not preclude payment for these less traditional services.

9. Communities in this country and abroad have demonstrated the effectiveness and economy of a modern geriatrics program. Since the visit to this State of the Oxford, England, specialist Dr. Cosin, a number of projects are developing in California.

Policy and practices in relation to meeting the health needs with these additional funds should be in accord with the modern geriatric approach and encourage other such developments.

10. Santa Cruz County with a larger proportion of aged population than any other county established a geriatrics clinic in 1955. Findings of comprehensive appraisals of the health status and needs of aged recipients of public assistance were in accord with the results of other studies of aged persons in Miami, Baltimore, Topeka and other communities. The value of this diagnostic or screening service with effective referrals to proper treatment resources was shown by comparison with a control group. "The stupendous cost for medical care and drugs occasioned by waiting until the need was obvious and desperate" was called "extravagant neglect."

Advantage should be taken of this demonstrated means of saving to the taxpayer by using some of the additional funds for early diagnosis and competent intensive treatment.

11. Previous interim committee study found that certain diseases, diabetes for example, when undiagnosed and not treated are associated with early and rapid senile deterioration. It was also found that mere custodial care is more expensive in the long run than the more humane intensive treatment through which apparently hopeless cases have recovered to the point of self care in the community or at least improved enough to require a less expensive type of service. Also, when nonpsychotic (and not tubercular) seniles receive treatment in a medical facility the Federal Government will participate in the support of the program. California counties are currently receiving about $3,000,000 a year toward the care and treatment of older blind and needy aged chronic cases. At the present rate the federal contribution amounts to more than $1,600,000 a year.

If needed, legislation should be enacted to continue this federal contribution. The new funds should thus be available for the early diagnosis and intensive treatment that prevent or retard senile deterioration and could constitute an important aspect of the added health services.

12. About one-third of the needy aged recipients are buying medical care with "outside income" which they are permitted to retain for this purpose. Other "special needs," usually directly or indirectly related to health, are recognized in four out of five cases in which there is outside income but the amount of this income is not always sufficient to completely meet the recognized needs. Most of the more than 80,000 recipients who have no "outside income" probably have unmet health needs.

As priorities are established for the distribution of the new funds this group should receive prime consideration. Relative economic need—ability to purchase the needed health services with outside income—should be an important criterion in deciding for which of the public assistance cases payment will be made.

SUMMARY ANALYSIS

As California plans for the most effective utilization of the separate matching funds to be available in a few months, the Interim Committee on Social Welfare calls attention to some significant factors in the health situation of the more than 270,000 older recipients of public assistance. Constituting more than half of all recipients of public assistance, those 65 years of age and over will be the basis for at least two-thirds of the federal contribution to this new separate health fund. Wise planning for the effective and economical expenditure of about $1,600,000 a month of these federal-state health funds will take careful account of vendor payments made from the present public assistance grant, the "outside income" retained to meet "special needs," the hospital outpatient and other medical or related health services available at public and private health agencies, and through philanthrophic practitioners of the healing arts. There are implications for this planning in the findings of the recent health survey by the State Department of Public Health and of the experiences of the Bureau of Vocational Rehabilitation in arranging for medical services. Also involved is the question of the aged patients improperly sent to state mental hospitals. Consideration must be given to activities of several state departments because they are significant in planning comprehensively to meet the health needs of recipients of public assistance.

As recommended in 1955 by a policy committee of the American Public Welfare Association,[1] * the Federal Government, recognizing the large proportion of recipients who need medical care and the high and unpredictable costs of such care, is sharing these costs on a basis not restricted by or related to its participation in present maintenance grants Thus these additional funds may be pooled and used to provide the most essential health services and supplies for those recipients most in need at a given time. The State of California is free to plan with the counties for a coordinated health program for needy older residents.

Even though all present services are continued with the same source of financial support, the additional services and supplies will not be sufficient to meet all of the health needs of all of the older recipients The establishment of priorities in terms of both the type of need and the specific cases to be served is therefore essential. Such priorities

* Note Numbers refer to bibliography on pages 17 and 18.

must take into consideration the health problems especially found in the later years but with more recent geriatric concepts of prognosis in even the most hopeless appearing cases.

In the development of a comprehensive program of medical care and related services and supplies, the economy of intensive treatment should be compared with the high cost of the prolonged custodial care which has characterized the services available in too many communities. In the concern with adequate treatment of both chronic and acute illness other aspects of medical assistance must not be forgotten. A clear but broad definition of health service is required to achieve both humane and economic values. The advantages of case-finding methods in serving the older recipients is now being demonstrated by the screening and diagnostic services of the Geriatrics Clinic of Santa Cruz County.[10] Findings of recent health survey conducted by the State Department of Public Health reveal the large number of untreated illnesses which tend to accelerate senile deterioration. The possibility of economy through rehabilitation of disabled parents and aid to needy children cases has been shown.[9b]

The scope of the medical assistance program and the circumstances under which care is to be made available should be generally but precisely stated in the law. Legislative intent should be clear with regard to the working arrangements with suppliers of services or their representative organizations. As the legislative intent is implemented through the detailed rules and regulations adopted by the Social Welfare Board and through the supervisory services of the Department of Social Welfare, there should be assurance that professional decisions are made by competent professional personnel in accord with the ethical codes and the procedures approved by the various professional associations. This will probably involve formal relationship through advisory committees [3d] at the state level and a careful check on local developments.

The supervision of a $30,000,000 health program will bring to the department new problems and accentuate certain existing difficulties. Direct payments to vendors may present problems other than those connected with the purchase of medical and related services by recipients with outside income retained for the purpose but not necessarily of easier solution. The fluctuating character of medical needs has often resulted in "overpayments" to recipients with consequent administrative difficulties and sometimes hardship for those whose monthly grants are reduced to balance accounts.[27] The apparently simple task of making vendor payments in specific amounts for a few thousand cases receiving county hospital care for more than two months is reported as presenting some difficult problems [25d] To deal with private hospitals and physicians in the payment for both acute and chronic cases and with dentists, technicians, and therapists of several kinds is more difficult. Emergencies as well as preapproved care and services for perhaps as many as 100,000 cases a year appear to be a complicated task. Purveyors of health supplies, especially drugs, will number in the thousands and vendor payments to them will be especially difficult.[3h]

In two states now making vendor payments from pooled funds for health services, the entire responsibility was transferred to the State Department of Health. In the State of Washington [16a] the health services were transferred back to the public assistance department in July,

1955. The latter department, after an evaluation of the program reported that: (1) changed organization structure was essential to needed coordination; (2) clerical and accounting costs were excessive; (3) state-wide standards for screening cases should be developed as conflicting interpretations of medical care had complicated payment procedures; (4) up-to-date drug lists and prices would effect large savings of funds; (5) reports of vendors and suppliers were inadequate; and (6) there was much criticism of inadequate funds for dental care and eye glasses. Continued study [16b] indicated that the quality of the health services and the economy of operation, to a considerable degree, were affected by the administrative arrangements and the methods and procedures. The setup for dental care required improvements and review of the proposition of funds to be expended for this purpose.[16c] Attention was also given to improved state rate scales on which payments should be made for various kinds of services related to the health needs of recipients.

After 10 years of providing medical care for public assistance recipients and others through the State Department of Health, Maryland [13b] is reported to be caring for more than 40,000 recipients per month at a cost of about $38.70 each for the year 1953-54. This cost figure does not include expenditure for nursing home care. "Persons close to the Maryland program praise the high level of administrative and professional efficiency. It is generally agreed that skillful organization has minimized red tape, maximized individual patient-physician relationships and encouraged the high quality of medical care."[18]

It would appear that turning over the operation of a medical care program to a state health department is not a complete answer. Whatever department of state government is responsible for the operation will need the cooperation of other departments and careful planning of many procedural details in order to achieve the essential efficiency and economy. The present pilot study in Butte County which is being carried on by the State Departments of Public Health and Social Welfare is an evidence of the coordinated efforts now operative in California.

The experiences of other states in the operation of pooled funds [3b] from which payments are made and in the organization of the essential administrative structure [3d] for the program of health services to start July 1, 1957, raise some important questions. Shall payment be made to individual sources of care or suppliers, or should services be purchased directly from medical societies or similar professional organizations? Shall use be made of Blue Cross or California Physician and Surgeons insurance programs or should the pool funds serve as the equivalent of an insurance program? Are the methods used by these non-profit health insurance plans for determining fees an appropriate method for use by the State? How should priorities among kinds of services be established? What controls should be exercised by the Legislature, by the State Welfare Board, and by county boards of supervisors? Shall maximum expenditures for a given case be established?

The experience in California with medical services for the vocational rehabilitation of parents of needy children has not only pointed up the

desirability of interdepartmental coordination at the state level, but the fact that 90 percent of incapacitated fathers in 803 cases studied, were already known to county health departments—many were receiving some type of service and—"yet an integrated or coordinated approach had not yet developed"[25e] indicates a need for more local coordination. The economy of a rehabilitation program for public assistance recipients is indicated by the fact that an estimated[9e] 73,000 persons are receiving aid because of disability. Recently the Bureau of Vocational Rehabilitation has devoted nearly half of its services to recipients of public assistance and reports an annual saving to the taxpayers of $750,000.

The American Public Welfare Association issued a statement of policy[17a] reaffirming the responsibility of public welfare departments for assuring essential rehabilitation services. Since the California Bureau of Vocational Rehabilitation is emphasizing "vocational" in taking few if any clients over the age of 62, the rehabilitation of the elderly in this State is a problem for the Department of Social Welfare. At a recent federal-state conference on aging it was "pointed out that active rehabilitation of the aged to the maximum level of self care should be the keystone of all programs whether or not there is a vocational goal."[8a]

"By providing for rehabilitation as a part of everyday medical service to older public assistance recipients, public welfare departments can help to prevent serious physical disability with its frequent consequences of long-term personal and financial dependency."[21a] Early detection of the onset of chronic illness through periodic and complete medical examination is a first step and programs of general medical care are essential in this preventive service. After years of study the Commission on Chronic Illness[23] stresses the importance of complete and periodic health examination as sound economy and points[21] to the importance in the promotion of health of such nonmedical factors as adequate housing, proper nutrition and a useful and productive place in society. With so many of the elderly feeling unneeded and unwanted with a "need to be sick" as a means of getting attention, the mental hygiene factor looms large. In many cases psychosomatic illness will probably develop. Screening out those persons who are more in need of counsel than medical care should include referral of such cases to agencies which provide activity programs. Such a referral service is an integral part of a comprehensive health program.

Another complicating factor in the health program to be developed is the increased demand for hospital care. A disproportionate number of beds in county hospitals is now occupied by older patients. Analysis of admissions in one California county showed that the elderly group accounted for three times as many admissions and four times as many hospital days as younger patients.[22] Other studies have shown that older people have more long-term illness and are disabled for longer periods of time.[23] In the later years the need for care increases with each older age bracket. Study of old age assistance recipients in 1952

disclosed that some care was needed for 11.4 percent of those 65 to 69, 20 percent of those 70 to 74, 23.9 percent of those 75 to 79, and 44.7 percent of those 80 years of age and older.[13e] About one-half of all old age security recipients are 75 years of age or older.[25a]

The ability to pay for medical care or health insurance depends on money income.[13e] The number of persons with health insurance has doubled in recent years, but after the age of 65 the proportion insured falls off rapidly—from 70 percent to 50 percent, and after the age 75 a further drop to 32 percent.[13b, 13e] In a letter dated July 31, 1956, Chairman D. C. Harrington, M.D., of the Medical Services Committee of the San Joaquin Medical Society wrote to the Interim Committee in relation to the responsibility of the committee to study health insurance as assigned in House Resolutions No. 70 (1956 Session):

> "People in the State of California now qualifying for old age assistance have health problems as do all other individuals, and because of their advanced age these problems are undoubtedly compounded. These health needs should be met with the same standards and high quality of medical care enjoyed by other individuals. Finally, because their ability to pay for this high quality of medical care is limited, it is our earnest desire that every possible avenue be explored which will give these people the advantage of high quality care while retaining their personal dignity and self-respect."

To the extent that the new federal-state separate funds for medical care are pooled and disbursed in a manner similar to health insurance, there will undoubtedly be more demand for medical care including hospitalization. It would therefore seem imperative that the policies and program of additional health services include payment for private hospital and out-patient care and that the funds be disbursed in ways that will encourage the development of extra-mural health services including home care. Compensation should be available not only for visiting nurses but for visiting physicians, technicians, therapists, and even visiting housekeepers. The health value, as well as the economy of home care is being demonstrated in San Francisco,[21c] and its importance in providing for chronic cases is documented in the report on the care of the long-term patient by the Chronic Illness Commission.[21e, 23]

In planning health care of older recipients of public assistance, attention must be given to their generally low income. It is reported [13e] that about 80 percent of the older persons in the higher socio-economic levels are in good health, but only half of the older group in the lower socio-economic levels were in good health. Over half of California's population over 64 years of age receives Old Age and Survivors Insurance benefits indicating relatively low incomes. Nearly two out of five beneficiaries also receives old age security grants, and more than half of the public assistance recipients with outside income are also OASI beneficiaries. This source of outside income for about a hundred thousand recipients constituted a large part of the $6,186,282 outside income available in February, 1955 to 176,780 recipients. (Appendix D) To meet "special needs," most of which were for medical care and

related services or supplies, 148,650 or 55 percent of the total recipients were permitted to retain $2,991,150. In April, 1955, an average of $21.78 per recipient (with recognized special needs and outside income) was applied to meet special needs including a $16.82 average for the 85,760 recipients with specific health needs. (Appendix B) Tables in the appendix show that about one-third of all aged recipients were purchasing health services and supplies from private sources. The study made in March, 1953 [25a] showed that the outside income then available was $10.89 less per month than was needed to meet recognized needs of about one-third of the recipients with outside incomes. Thus it would appear that more than 100,000 recipients have special medical needs which are unmet, or at best only partially met, unless the health services and supplies furnished to the medically indigent residents by the county hospital and related facilities are completely adequate. With considerable variation [6] among the counties in the medical care and related services now provided, there undoubtedly are older residents in each of the counties who have serious unmet health needs. One outstanding possible use of the additional federal-state funds would be to meet this deficiency in considerable part.

The health needs of the elderly are different from that of the younger persons in that prolonged care is so often required. Studies [7] show that chronic conditions after the age of 65 are found at a rate 2.5 times that of the population under 65. It is reported [12] that 17.1 percent of those 65 and over are chronically ill, and almost half of this older age group have some chronic disease or impairment.[13e] Many older persons live alone,[25a] and there are many who live with relatives where no one in the household can take care of them. This contributes to the disproportionate share of the aged who are hospitalized for prolonged care. To make hospital beds available for the acutely ill, many of these cases are put in "special wards" or transferred to "convalescent" facilities—in many instances to receive only custodial care. The gradual nation-wide change in attitudes towards the rehabilitation of the older long-term patient [21d] is the result in part of a federal policy Participation in the support of older public assistance recipients in public institutions is limited to those who receive treatment. In adjusting to the changing application of this policy after July 1, 1957, it is important for the State to assure the continuance of a treatment program in all of the county facilities.

Although the new matching funds may be used to pay for care in private nursing homes or boarding homes, it would seem desirable to make separate arrangements for the state to share with the counties in the supplementary (above the assistance grant) payments for such care. Care in private, as well as public facilities, must be made available to make adequate local provision for the nonpsychotic seniles, now sent by some counties, in considerable numbers to state mental hospitals.[5] In developing an integrated and comprehensive program of health services and supplies there is a demonstrated [21f] need to properly relate the public to the private resources in each community. It is anticipated that such a program will be an advantage both to the taxpayers and to the older recipients of public assistance.

REFERENCES

The following list includes only those sources which have been specifically cited in this report:

[1] American Public Welfare Association. *Certain Current Public Welfare Issues* —Grants-In-Aid, *Brochure*, July 9, 1955.

[2] Anderson, Odin W. with Feldman, Jacob. *Family Medical Costs and Voluntary Health Insurance Costs: A Nationwide Survey*, McGraw-Hill, 1956.

[3] Bierman, Pearl. *Medical Care—A Series of Reports*, Chicago: American Public Welfare Association.
- a. I "General Aspects of Medical Assistance," September, 1953.
- b. II. "Pooled Funds for Medical Care," December, 1953.
- c. III. "Organization for the Administration of Medical Assistance Programs," March, 1954
- d. IV "Advisory Committees in Medical Assistance Programs," May, 1954.
- e. V. "Hospital Care," July, 1954.
- f. VI. "Physicians Services," November, 1954.
- g. VII. "Nursing Home Care," March, 1955
- h. VIII. "Drugs," June, 1955.

[4] Breslow, Lester, M.D. "Aging and Community Health Programs" *California's Health*, Volume 12, No. 11, December, 1954.

[5] California Assembly Interim Committee on Social Welfare, 1953-55. "The non psychotic Senile and Related Problems," *Final Report*, March, 1955.

[6] California Senate Interim Committee on Social Welfare, "County Medical Facilities Providing Care to Public Assistance Recipients," *Preliminary Report*, March, 1956.

[7] Commission on Chronic Illness. "Chronic Illness In an Urban Area," *Chronic Illness Newsletter*, Volume 6, No. 9, November, 1955.

[8] Council of State Governments:
- a. "Guidelines on the Aging," *State Government*, September, 1956.
- b. "State Programs for the Aging," *Report*, December, 1956.

[9] Education, California State Department of:
- a. "Characteristics of Cases. Economic, Social, Medical," *Report of the Bureau of Vocational Rehabilitation*. 1955
- b. "Rehabilitation of Disabled Parents," *Department Bulletin*, Volume 23, August, 1954.
- c. "Disabled and Dependency," *Bureau of Vocational Rehabilitation, Report*, 1956.

[10] Ferguson, Russell S., M D. *The Santa Cruz Plan*, County Social Welfare Department, 1956.

[11] Gillam, Helen L., et al "The Nutritional Status of the Aging," *Maturity*, Volume 2, No. 2, June, 1955.

[12] Governor's Committee to Study Problems of the Aging *Report*, Salem, Oregon, November, 1954.

[13] Health, Education and Welfare, United States Department of:
- a Social Security Bulletin, Volume 17, No. 10, October, 1954.
- b. Social Security Bulletin, Volume 18, No. 11, November, 1955.
- c Social Security Bulletin, Volume 20, No. 1, January, 1957.
- d. "Facts and Figures on Vocational Rehabilitation," 1953. *Rehabilitation Service Series No. 280*, August, 1954.
- e. "Health Costs of the Aged," Report No. 20, Social Security Administration, Division of Research and Statistics, May, 1956.

[14] Health Information Foundation. "National Consumer Survey of Medical and Voluntary Health Insurance," *Summary Report No. 1*, July, 1953.

[15] Institute of Industrial Relations. *Economic Problems of the Aged*, Berkeley: University of California, 1954.

[16] Legislative Counsel, State of Washington:
a. "Medical Welfare Program, Costs and Quality of Care," *Progress Report*, November, 1955.
b. "Medical Welfare Program," *Supplement No. 1*, February, 1956.
c. "Medical Welfare Program," *Supplement No. 2*, May, 1956.

[17] Medical Care Committee:
a. "The Place of Rehabilitation in the Public Welfare Program—A Statement of Policy," *Public Welfare*, Volume 12, No. 2, April, 1955
b. "Tax Supported Personal Health Services for the Needy—A Statement of Principles," *Public Welfare*, Volume 13, No. 4, October, 1955.

[18] Merriam, Ida C. and Rose, Laura F. "Medical Care for Needy Persons in Maryland," *Social Security Bulletin*, Volume 18, No. 11, November, 1955.

[19] Miller, Nina C. et al. "A Medical Consultant in the Public Assistance Agency," *Public Welfare*, Volume 13, No 3, July, 1955

[20] Muller, Jonas N., M D. "Improving the Quality of Tax-Supported Medical Care," *Public Welfare*, Volume 14, No. 1, January, 1956.

[21] Newsletter of American Medical Association:
a. *Chronic Illness*, Volume 7, No 1, February, 1956.
b *Chronic Illness*, Volume 7, No. 2, April, 1956.
c. *Chronic Illness*, Volume 7, No. 3, June, 1956.
d *Chronic Illness*, Volume 7, No. 4, August, 1956.
e. *Chronic Illness*, Volume 7, No 5, September, 1956.
f. *Chronic Illness*, Volume 7, No. 6, December, 1956.

[22] Public Health, California State Department of. "Health Implications of Institutional Care for the Aged," October, 1956.

[23] Roberts, Dean R., M.D. 'The Over-all Picture of Long-Term Illness," *Journal of Chronic Diseases*, Volume 1, No. 2, February, 1955.

[24] Smothers, Frank (Editor). *The States and Their Older Citizens*," Chicago: Council of State Governments, 1955.

[25] Social Welfare, California State Department of:
a. "Social and Economic Characteristics of Old Age Security Recipients," *Report* of the Division of Research and Statistics, March, 1954.
b. "Social Characteristics ANC Families and Children in California," *Research Series Report No. 3*. August, 1956.
c. *Annual Report 1955-56*, November, 1956.
d. "Social Work in Vendor Payments," *Welfare News*, December, 1956.
e. "Rehabilitation of ANC Fathers," *Welfare News*, April, 1956.

[26] Tompkins, Dorothy C. "The Senile Aged Problem in the United States," *1955 Legislative Problems: No. 1*, Berkeley: Bureau of Public Administration of the University of California, 1955.

[27] California Welfare Directors Association. "Overpayments, Outside Income and Special Needs," Unpublished *Committee Report*, 1954.

[28] Welfare Planning Council, Los Angeles Region. *Old Age Security in California*, Report of the Policy Committee on Old Age Security, May, 1956.

[29] Wickenden, Elizabeth. *Needs of Older People and Public Welfare Services to Meet Them*. Chicago: American Public Welfare Association, 1953.

APPENDIX A

BASIC NEEDS BUDGETS FOR OLD AGE SECURITY AND AID TO NEEDY BLIND PROGRAMS

Basic needs	*Aged*	*Blind*
Food	$28 50	$32 85
Housing	15.00	15.00
Utilities	6 30	6 80
Clothing	7.70	9.85
Transportation	6.00	6 00
Household—repairs and replacements	4 50	5.50
Incidentals	13 50	15 50
Education—recreation	3 50	3 50
	$85 00	$95 00
* Household remedies	4.00	4.00
Totals—February, 1957	$89.00	$99.00

* Additional federal contribution available since October, 1956

APPENDIX B

SPECIAL NEEDS IN OLD AGE SECURITY PROGRAM RECOGNIZED AND MET—APRIL, 1955

Types of special need	*Number of cases*	*Percent of total case load*	*Average applied*
Medical care	85,760	31.8	$16 82
Housing	57,620	21 4	11 40
Telephone	48,210	17.9	2 62
Utilities	17,460	6 5	3.53
Food	16,420	6 1	16 92
Room and board	8,160	3 0	34.58
Transportation	4,390	1 6	4 69
Others	42,260	15.7	7.63
Totals	146,520	54 3	$21 78

NOTES 1 A case may have more than one type of special need
2 On the basis of a March, 1953, study it is estimated that about one-third of the "special need" cases would require an average of nearly $11 to meet all the needs which were recognized
3 Because special needs which cannot be met by available "outside income" are often not explored, it is probable that some 80,000 aged recipients without outside income have unmet special needs most of which are directly or indirectly related to health problems

APPENDIX C

DISPOSITION OF OUTSIDE INCOME OF OLD AGE SECURITY RECIPIENTS

		February, 1955			
Number of cases	*Percent of total cases*	*Average outside income*	*Applied to special needs*	*Percent of outside income*	* *Total amount available February, 1955*
30,130	11 1	$19 66	$2 93	14 9	$82 93
25,230	9.3	24 29	6.31	26 0	86.31
15,410	5.7	35 81	11.79	32 9	91 79
16,620	6 1	36 20	16 69	46 1	96.69
27,530	10.2	42.75	24 24	56.7	104 24
16,020	5 9	41 87	33 21	79 3	113 21
8,110	3 0	54 07	43 60	80 6	123.60
3,900	1 7	57 10	53.28	93 3	133 28
1,800	0 7	67.10	62.70	93.4	142.70
2,700	1.0	93.84	88 72	94.5	168.72
1,200	0 5	144 36	142.54	98.7	222.54
148,650	55 2	36 43	20.12	55 2	100 12
93,690	34.5	--	--	--	80.00
28,130	10 3	27 40	--	--	80 00
270,470	100.0	22.87	11.06	48.4	91.06

* By February, 1957, the amount of the grant had been increased from $80 to $89 which would probably make about $100 a month available to the average recipient

APPENDIX D

SOURCES OF OUTSIDE INCOME OF OLD AGE SECURITY RECIPIENTS

	February, 1955			
Sources of income	*Number of cases*	*Percent of cases with income*	*Percent of total February, 1955*	*Case load March, 1953*
Old age and survivors insurance	99,200	56.1	36.7	32 9
Use and occupancy of home	60,660	34 3	22.4	23.2
Relatives	44,440	25 1	16.4	12 3
Pensions	10,210	5 8	3.8	3.5
Property	10,110	5.7	3 8	4.1
Earnings	3,200	1 8	1.2	1.3
Other	9,410	5.3	3.5	5.1
Totals sources	237,230			
Some outside income	176,780	65.5	65.5	61 8
No outside income	93,690	34 5	34.5	38 2
Case load	270,470	100.0	100.0	100 0

NOTE. Some cases have outside income from more than one source In March, 1953, there were 168,768 cases with income from 223,929 outside sources

PART II

WELFARE PROGRAMS FOR THE BLIND

INTRODUCTION AND SCOPE OF THE STUDY

Continuous and extensive studies have been made of the public assistance programs for needy children and the aged but there has been no comprehensive study of the programs for the blind in the past five years. The 1951 report of the Joint Legislative Interim Committee on "The California State Program for the Adult Blind" contained conclusions and recommendations which required current verification. The State Department of Social Welfare indicated a desire to have the Legislature study the present effectiveness to the program of aid to the partially self-supporting blind. The State Department of Public Health has made an analysis of the blind population of California. The Bureau of Vocational Rehabilitation has recently completed an extensive inventory of its cases including those of the blind, and a study has been made of the program at the workshop operated by the California Industries for the Blind (State Department of Education). Account has been taken of these separate studies by the Assembly Interim Committee on Social Welfare as it included in its agenda a study of both programs of aid to the blind. A comprehensive study of Aid to the Partially Self-supporting Blind was planned but attention was necessarily given to the public assistance program of Aid to the Needy Blind, to preventive measures, to the workshops and opportunity centers, to the School for the Blind, to the orientation center, to the vocational rehabilitation programs and to the field services for the adult blind.

Visits were made to the school, the orientation center and to the workshops of the California Industries for the Blind At the first of the two public hearings held on this subject, testimony was presented by representatives of the divisions serving the blind of the State Departments of Education, Public Health and Social Welfare, and of county welfare departments. The second hearing was largely devoted to testimony of blind witnesses who were or had been recipients of aid or other public welfare services for the blind.

The purpose of the study was to check the effectiveness of the various services and the programs of financial assistance for the blind and to make sure that all parts of the program contribute to the attainment of self-support by all capable blind residents. The study sought to determine: (1) the extent and type of the inadequately met needs of the blind recipients of public assistance; (2) the effectiveness of the present interdepartmental coordination of the programs for the blind; (3) the adequacy of, the cost of and the changes which should be made in, services now available; and (4) the factors in the law, in the departmental regulations, and in the methods of operation which help, *or hinder*, the achievement of the stated objectives:* assisting all capable recipients of blind aid to become self-supporting.

* Welfare and Institutions Code, Division 5, Chapter 1, Section 3000, and Chapter 3, Section 3400.

Emphasis was placed on the programs of aid to the partially self-supporting blind but the study necessarily involved the several programs and services of other public and private agencies and departments at both state and local levels. Original plans, which called for a comprehensive study including analysis of all APSB cases, were necessarily curtailed but enough basic information was gathered for some significant recommendations.

FINDINGS AND RECOMMENDATIONS

Aid to the partially self-supporting blind affords potentially greater opportunity for the rehabilitation of recipients than any other public assistance program. These recipients get the highest average monthly payments and more staff attention and services than are given to any other group not receiving institutional care. If the objective of the program were to be reached in more cases, the higher cost to the State would be justified on the basis of economy as well as on that of the humane values involved.

"Approved plans" for self-support seem too limited in variety and emphasize the training or preparatory phases on which no definite time limits have been set by law or by regulation. Adequate criteria and staff for the periodic re-evaluation of plans appear not to have been available and placement in full employment at or above the minimum income (required for full self-support) has not developed in many cases. In some instances, the APSB program has been only a means by which a few blind persons have been able, for many years, to enjoy a larger income than recipients of ANB. Some recipients apparently need strong encouragement to leave the security of public assistance in an attempt at self-support.

The legislative intent that the capable blind be aided in the attainment of self-support is evident throughout Chapter 1 and Chapter 3 of Division 5 of the Welfare and Institutions Code and should be implemented, especially by administrative policies and procedures in accordance with Section 3082.1 which limits the number of cases per worker.

2. Although an annual check on ANB cases is required to determine the possibility of transfer to APSB, in the last fiscal year only 36 such cases were found as contrasted with 46 APSB cases returned to ANB. In comparison to the 58 cases achieving full self-support while on APSB in 1955-56, there were 62 ANB cases discontinued because of the increase of the larger earnings of the recipients.

About two-thirds of the blind recipients are 65 years of age or older and some of the younger recipients have handicaps other than blindness. It is therefore estimated that not more than 4,000 ANB cases could become self-supporting but the APSB cases currently total less than 10 percent of this potential.

Recipients of APSB may retain a larger amount of outside income, receives a higher average grant than is made in any other public assistance program, and there is no federal participation in such grants.

* Welfare and Institutions Code, Division 5, Chapter 1, Section 3083.5

The fact that in the past fiscal year 11.5 percent of all APSB cases became self-supporting as compared with 1.5 percent of the ANB cases is evidence of the economic and humanitarian value of this program. Yet in the past six years the average number of APSB cases has dropped (from over 600 in 1951 to 350 in January, 1957) largely because fewer cases were transferred from ANB than were returned to this program from APSB.

The State Department of Social Welfare should supervise the programs for the blind in such a manner as to insure conformity with the legislative intent regarding self-support as generally expressed and in particular the requirement in Section 3082.1 of the Welfare and Institutions Code limiting the case load per worker. This section should be amended by adding the provision that "vocational counseling is considered to be directly related to the administration of Chapters 1 and 3 of Division 5."

3. Workshops as now operated by the California Industry for the Blind apparently do not offer a satisfactory means of self-support in most cases. Few blind workers in these shops earn enough to warrant discontinuance of their assistance payments, even though the shops are subsidized by the General Fund of the State and by the citizens who buy the products at above market prices. Training and experience in the workshop do not seem to be significant qualifications for achieving self-support through employment in private industry.

There is an inequity in that the CIB workshops offer little or no prospect of self-support but make it possible for some APSB recipients to earn and retain more than those on ANB who are employed in these shops. Also this state subsidized program offers a definite economic advantage to the blind employees over the reported 500 blind persons who are on the waiting list for such employment.

The possible functions of the workshops should be evaluated in terms of a priority listing of the needs of the blind. Future attempts to provide (1) self-support through operation as a competitive industry, (2) specific training and work experience in preparation for employment in private industry, and (3) opportunity centers where some earnings are possible as a part of a recreation program, should be completely separated in both the cost accounting system and in the minds of the recipient and the management.

4. Too few of the capable recipients are currently receiving the experience or training that is needed as preparation for employment in private industry. Of the blind who are apparently capable of earning their living only about 100 a year are placed in private employment by the Bureau of Vocational Rehabilitation.

In a considerable number of cases there appears to be a need for counseling regarding the means for the attainment of self-support. This need is in addition to the counseling now available through the limited staff assigned to work with the blind by the Department of Vocational Rehabilitation and through the county case workers who are primarily assigned to determine eligibility and too often have case loads of 300 or more.

Coordinate with counseling services now available in the various state and county departments serving the blind there should be an additional pilot program through which workers without other responsibilities could demonstrate methods and determine the extent to which recipients of aid can be helped to become self-supporting.

5. The lack of public understanding regarding the capacity of the blind as workers, especially on the part of potential employers, is regarded as an important factor in the limited number of job placements which give promise of ultimate self-support. Occasional efforts have been made to increase the extent of the public understanding and the regular but inadequate efforts of certain state departments and county departments of social welfare have made some headway but there has been no comprehensive continuous program of public education.

Organizational provision has been made for coordination of the three state departments (Social Welfare, Education, and Public Health) and their special bureaus serving the blind. Referral procedures have been developed to assure the contact of the blind with needed services. However, this coordination and referral at the state level is not always as effective at the local level. It would appear that some county welfare departments are not helping very many blind recipients of blind aid to become self-supporting and inadequate attention is given to the mobilization of all community resources for this important purpose. There seems to be little specific service for the blind in the State Department of Employment. Industrial management, labor unions and private agencies have not been brought fully into the program of helping the blind to achieve economic independence.

Specific measures should be undertaken to educate the public in general and potential employers in particular with regard to the facts concerning the blind as workers. As a part of this program, a Governor's conference on the employment of the handicapped, INCLUDING THE BLIND, should be given serious consideration.

The relative success of the various counties in helping blind residents to become self-supporting should also be comprehensively studied. There should be detailed evaluation of the present training resources and a creative study should be made of placement procedures. A realistic appraisal is needed of the factors which affected the success or failure of placements in private employment. Studies should also be made of the need for protected employment supported by the general funds of the State, of the adequacy of presently available training resources for the blind who appear capable of earning their living and of the possibility of "on the job" or apprenticeship training in private industry with governmental participation in the financing where necessary.

The State Department of Education should be authorized to purchase and loan to employers those special attachments and other equipment which would make it possible to employ blind persons on jobs for which they otherwise would not be qualified.

6. Enrollment in college is now considered to be a clear evidence of a plan for self-support which is a major qualification for APSB eligibility. For recipients of APSB grants, funds received as scholarships are explicitly "not to be considered property, income or resource" but no such exemption is made for recipients of ANB. It would also appear that blind students must maintain a higher standard of living than the average recipient of aid to the blind. Students also have special need of typewriters, sound recorders and other special equipment. The funds received from the State for the employment of readers is not now exempt or considered as meeting a special need in the ANB program.

Division 5 of the Welfare and Institutions Code should be revised so that eligible students could be aided under either program without financial disadvantage. Both Chapter 1 and Chapter 3 should be amended to exempt or consider as "outside income retained to meet a special need" all funds received for the employment of readers as well as scholarship funds which are not specifically for room and board.

The Department of Education should be authorized to purchase and loan to students enrolled in courses approved as leading to self-support those typewriters, sound recorders and other items of equipment which would enable them to study more efficiently.

Demands of other phases of its agenda prevented this interim committee from making the case analysis in the APSB program and completing several parts of its study of public assistance programs for the blind. Findings obtained indicate the need for this more comprehensive study.

SUMMARY ANALYSIS

California has about 8 percent of the total population of the United States but has more than 12 percent of all of the blind recipients of public assistance. The percentage of the State's population estimated to be blind is considerably less than the average for all states. Only four states made higher average assistance payments in their October, 1956, programs for the blind including vendor payments for medical care. Only Massachusetts made a higher average money payment to recipients. These factors, added to the high proportion of blind receiving aid, results in California making more than 18 percent of the total public assistance expenditures for blind programs in the 48 states. The per capita cost to California taxpayers is about double that of the average state.

Also in terms of service California appears to have done comparatively well by the blind residents. There is no intention, however, of suggesting or implying anywhere in this report that services to the blind should be reduced in quality or extent. The legislative and administrative changes recommended and the questions raised relate to meeting gaps in the programs and a check of possible overlap in the interest of efficiency and economy. The outstanding impression gained by the committee is that apparently too few of the capable blind are working on a plan for self-support.

Many of the recommendations made in 1951 by the joint legislative interim committee have been carried out. An orientation center has been established. The staff of the field services of the adult blind has been about doubled. Separate divisions or bureaus for the blind have been established in the State and in most of the larger county departments of social welfare.

Recommendations agreed upon in recent years but not yet carried out include: (1) augmentation of the staff exclusively serving blind clients in the Bureau of Vocational Rehabilitation; (2) more "opportunity centers" through which the blind can learn skills and sell their products; and (3) smaller case loads for the county welfare department workers serving the blind. There appears to be some possible overlapping of function between the field service of the adult blind and the case workers in the separate bureaus for the blind in county welfare departments. The California Council of the Blind is requesting legislation to transfer that part of the field services for the adult blind that is not clearly teaching to the Department of Social Welfare

Witnesses at the hearing in November, 1955, recommended an accelerated job placement program for the capable blind and "some reorganization of the state workshops so that blind workers might earn enough to achieve self-support." At the time of the hearing it was reported that more than half of the blind employed in the workshops are receiving public assistance—120 were recipients under APSB and 101 under ANB.

Nearly half of the 390 APSB cases active in November, 1955, were working in the shops operated by the California Industries for the Blind or were college students. About one-fifth of all the total were engaged in "selling" at vending stands or elsewhere; and another one-tenth were operating their own business or were engaged in professional or clerical occupations. Most of the others were farmers, factory workers or manual tradesmen.

At the hearing a witness from the office of the Legislative Auditor called attention to the emphasis placed by the Legislature on helping the blind to become self-supporting and seriously questioned the advantages gained by employing APSB recipients in the workshops as preparation for a job in private industry or as a means of achieving economic independence. This testimony reaffirmed the findings of the joint legislative interim committee which reported in 1951 that "leaders of the blind, representatives of the blind workers, local advisory boards and the State Department of Education agree that state-subsidized workshops do not prepare workers for jobs in private industry. They should, however, offer the blind who cannot obtain private employment an opportunity to contribute substantially to their own support through uninterrupted work at a fair wage rate."

There is need to determine clearly the function of the California Industries for the Blind workshops especially in relation to the APSB program. This was brought out in testimony regarding the program in Los Angeles County where 50 of the 143 recipients of APSB were employed in the workshops and some have been in the workshop program for many years without achieving self-support. This county has

a policy of referring all blind aid recipients under the age of 60 to the State Bureau of Vocational Rehabilitation. Most of those referred, however, are rejected as not "feasible." Throughout the State there were 231 APSB cases during the 14-month period ending June 30, 1955, on which disposition was made by the bureau. Three-fourths of the clients did not avail themselves of the bureau's service and of these 176 cases, 52 percent were reported as "currently employed at maximum earnings or in a satisfactory job." More than half (49 out of 92) were currently employed at one of the CIB workshops.

The Vocational Rehabilitation Bureau has established cooperative relationships with all agencies serving the blind. A four-way cooperative agreement has been signed between the Division of the Blind, State Department of Social Welfare; Field Services for the Adult Blind; Orientation Center for the Blind; and the Bureau of Vocational Rehabilitation. This agreement has been in operation for about a year and a half prior to November, 1955, and has to date been quite successful in the elimination of duplication of effort and the proper coordination of service to blind persons being served by more than one agency.

The liaison of the bureau with the California Industries for the Blind is more informal in nature. In each of the districts where the California Industry for the Blind operates a workshop, a Vocational Rehabilitation Department counselor for the blind maintains regular contact in an effort to utilize the shop where possible for exploratory and tryout experiences. As an experimental project it was found that the assignment of a member of the vocational rehabilitation staff to the workshops on a regularly scheduled basis did not result in the anticipated long-range benefit to the program for the blind.

The Bureau of Vocational Rehabilitation currently has staff in a total of 15 positions serving blind clients and providing the customary services of counseling, training, placement, medical services and various supplementary services. These positions include a full-time State Supervisor of Bind Services, who is blind, seven full-time blind counselors, five sighted counselors who supervise the vending stand program and the equivalent of two sighted counselors serving the blind in those areas without a blind worker. Plans for the next fiscal year include the addition of two new blind counselors. The bureau reports that at the close of the fiscal year ending June 30, 1956, there were a total of 414 legally blind cases in the active rolls who had been found to meet the legal requirements of eligibility and feasibility. During the year 213 cases were added to the load and 220 left the load by closure. Of the closed cases 103 were persons who had received substantial service and were placed in employment. Forty-seven cases left the load after receiving substantial service but were unemployed due to health conditions, loss of contact, withdrawal from the labor market, etc. Seventy cases left the load before a rehabilitation plan could be initiated for other reasons including lack of interest, loss of contact, aggravated disability or they secured their own employment.

Of the 103 cases placed in employment during the period the medium age was 30; 50 percent of the cases had dependents; 58 percent had never had substantial employment; 60 percent were dependent upon

public assistance; the remainder depended on unemployment insurance, workmen's compensation, family or other source of income.

The vending stand program of the California Bureau of Vocational Rehabilitation is the largest in the country with 162 locations at the close of the fiscal year. During the year, 19 new stands were opened and eight stands were closed. The 162 operators grossed in sales slightly over $3,000,000 which gave them an average net return of $3,631. The 162 operators employed a total of 62 full and part-time blind employees.

As estimated by the bureau there are about 6,000 blind persons in California who are under 60 years of age. About 1,500 are children and 800 are women supported by spouses, 1,000 are employed and about 800 more are not in the labor market. This leaves less than 2,000 in the rehabilitation potential which represents not more than 2 percent of the total handicapped population "The bureau is spending 8 percent of its budget on the blind, a much higher level of service than any other disability group."

At the hearing held in Los Angeles on January 23, 1956, most of the witnesses were themselves blind and were or had been recipients of services from one or more of the State and County agencies. Each of these blind witnesses testified to the high importance of providing capable blind persons with opportunities to work and become self-supporting. Each of these witnesses stressed the need for an adequate placement program and told of difficulties in finding employment in private industry. Suggestions made for improving the situation were of two kinds: (1) That sufficient opportunities be given in the CIB workshops to earn approximately $240 which would make the worker self-supporting and, (2) to increase the size of the placement staff of the Vocational Rehabilitation Bureau, enlist the services of the California Department of Employment, and the cooperation of the unions and of personnel men in private industry in an all-out effort to find job opportunities for blind persons who were capable of earning their own living.

A Los Angeles County industrialist was unable to appear as a witness but sent the following writen statement. "Having employed blind as well as partially sighted workers for the past 10 years, our company is proud of its record of employing handicapped people of all types amounting to about 30 percent of our total personnel. "More blind persons should be encouraged to leave the welfare roles through: (1) improved training facilities and more placement officers; and (2) legislation making more explicit the ready return of recipients to the rolls whenever attempt at self-support is temporarily discontinued or otherwise unsuccessful. The present situation is such that some blind persons are afraid to make so much money that they will be asked to leave the rolls and thus lose the security which they already have as recipients of public assistance " Having served on the Joint Interim Committee on Budget and Finance making a study of the California Industries for the Blind, the writer indicated his willingness to have the committee call upon him for additional information and stated his experience had taught him that most blind people can perform any task within the realm of their physical ability and that they have a great desire to become taxpayers rather than tax users.

The Welfare Director for San Bernardino County testified that his department has one of the largest Aid to Needy Blind case loads in the State and therefore has placed great emphasis on doing everything possible to provide services for the blind. A special bureau for the blind organized within his department dealt with 250 or more Aid to Needy Blind cases. Each case was carefully analyzed to ascertain the possibility to transfer to APSB. In this screening process a consultation was held with each blind person to discover his interest, his abilities and his willingness to undertake a training program or to accept employment. Close cooperation was arranged with the Bureau of Vocational Rehabilitation, with the Department of Employment, with private industry and other agencies.

Because of the preponderance of the blind in his county were elderly people, the witness stated they had not been able to transfer very many cases to the APSB program or to place them in private employment. They had, however, made a systematic effort to find opportunities for employment of blind workers throughout the county. Letters had been mailed to employers who belonged to the Chamber of Commerce and personal and telephone calls were made to most business enterprises of any size As a result of contact with 95 firms, one worker was placed and two more were promised jobs. The experience in San Bernardino County paralleled that of other counties where it has been generally stated that contacts must be made with about 100 employers to place one blind worker. This represents a great deal of work and considerable expense. Because of the humanitarian value as well as in terms of actual dollars saved over the lifetime of the individual, such an extensive and comprehensive effort indicates that job placement is considered to be very much worthwhile.

Thus county and state departments and the policy as set forth in the Welfare and Institutions Code are all in accord. Financial aid, even though adequate, is not enough. California's program for the blind must emphasize the importance of helping all capable blind residents to achieve self-support.

PART III

ADOPTIONS AND ABANDONMENT

INTRODUCTION AND SCOPE OF THE STUDY

For some years the questions relating to the adoption of children have been explored by other legislative committees. This year an analysis of this subject from the welfare point of view is included in the agenda of the Interim Committee on Social Welfare. The special subcommittee to which this study was assigned held a public hearing in San Francisco on September 11, 1956. With the information obtained at this hearing and through field study, consideration was given to two problems: (1) a way to help the unmarried mother who arranges an "independent" adoption as the means of obtaining the funds to pay the private medical care and hospitalization; and (2) clarification of the "abandonment" situation with better protection for the natural parent's rights, for the child and for the potential adopting parents.

FINDINGS AND RECOMMENDATIONS

It was found that excellent progress has been made in California and little change in policy or procedure with regard to adoption was considered essential at this time.

1. In the past eight years the number of children involved in adoption proceedings has at least kept pace with the population growth in California. As the number of agencies (now 17 public and 9 private) increased and their services improved, relinquishment (agency arranged) adoptions more than trebled while independent adoptions increased about 9 percent in 1955-56 as compared with 1948-49. During this period a state-wide citizens committee with more than 600 members helped to raise standards and contributed to broadened public understanding. Progress has been made in finding adoption homes for children of minority groups and for those who are difficult to place because of physical disabilities.

The State Department of Social Welfare division responsible for this program should continue its efforts to raise standards and to provide adequate protection for the children, their natural parents, and for adopting parents. Included in the program of services should be the further development of a state-wide index to aid in the placement of difficult children for whom suitable homes cannot be found in the locality.

2. There are mothers who make independent placements to obtain funds with which to pay for the continued services of their private physician and delivery in a private hospital. This action often is taken

while they are in an emotionally disturbed state and often before they have seen their children.

The important decision to relinquish her natural rights to the child should not be made under pressure on an economic basis. Protection through relinquishment to an approved agency and continued care by her own obstetrician in a private hospital should be made possible by increasing the fee which adopting parents pay to public adoption agencies.

3. The question of determining when a child has been abandoned by his natural parents and is free for adoption has been discussed at length by attorneys, social workers, and interested laymen. Of special concern is the length of time during which failure of natural parents to support or show interest through communication is presumptive of abandonment. Testimony was offered to the effect that it takes three or four months for necessary court and other procedures in addition to the present presumptive period of one year. There is general agreement that it would be in the best interest of all concerned if this waiting period were to be reduced but no consensus has been reached as to the optimum time.

The Welfare and Institutions Code requirement of a presumptive period of 12 months should provide that court action may be started after six months failure to communicate and support with the final decree of abandonment to be made by the court at the end of 12 months.

This will not limit present rights of natural parents but will reduce the waiting time by having all procedures completed in advance of the final court action.

SUMMARY ANALYSIS

The natural parent of a child when unable to provide a proper home, may select foster parents in what is known as an "independent" adoption or relinquish the child in California to one of the nine private or 17 public adoption agencies. In both the independent or relinquishment (agency) adoptions, investigation and approval by the State Department of Social Welfare form part of the legal action through which children get new parents. The primary concern of the law is, and of all persons involved ought to be, the welfare of the child.

In general there are many more families desiring to adopt than there are children who are available for adoption. However, there are children of minority groups and children with physical disabilities who have been difficult to place. Special programs in the interest of these hard-to-place children include a state-wide index which extends the scope of the home-finding program. In the past year a considerable number of these difficult placements have been made. Adopting parents have been found for older boys and girls, for blind, crippled and otherwise handicapped children. With organized cooperative effort it is expected that adoption may be possible for an ever-increasing portion

of the available children. The trend is indicated by figures in the following table:

Adoptions	*1948-49*	*1955-56*	*Percent of increase*
Relinquishment adoptions			
Children accepted for study	1,201	3,729	210
Private agencies	1,105	1,482	
Public agencies	96	2,247	
Children placed for adoption	596	2,157	262
Private agencies	557	914	
Public agencies	39	1,243	
Independent adoptions			
Petitions received	3,759	4,101	9
Step-parent adoptions			
Petitions received	2,135	3,276	57

Two other problems in this welfare field appear to require attention and probably legislative action. Despite the high national standing of California's adoption program, the welfare of the child is not the most important factor in some adoption proceedings. Young, unmarried mothers, emotionally disturbed by their own plight will "arrange" to give their unborn baby to strangers who pay for the continued services of her private physician and for her care in a private hospital. While the public social agency must investigate and approve the adoption home "selected" by the natural parent, the possibility of the child remaining with its own mother or a more appropriate placement being made are more remote. Also the adopting family is not protected against taking unsuitable children. In some instances such children are returned to the mother or an agency is asked to accept the child because marital discord, a change of mind or some other unforeseen element develops.

To avoid a placement made in order to get money for private physician and hospital care, social workers and agency advisory committee members recommend lifting the ceiling on the amount which the adopting parents pay in agency adoption cases. Witnesses testified at the committee hearing, that an additional $100 paid by adopting parents, able to pay $400 instead of the present $300 maximum, would make the agency services available during the prenatal period. Such agency service would be helpful to the mother and valuable to the adopting parents, but primarily concerned with the welfare of the child.

The second problem which appeared to be of immediate importance involves the presumption of abandonment. When children are relinquished to an agency for adoption, this is not a problem. In other cases, abandonment is overt and the court can so order. There is a considerable number of cases, however, in which code provisions require a period of a year to elapse with no support or communication from the natural parents to indicate a continuing interest in the child. After 12 months of such disinterest, court action and service by publication may add at least three or four more months of delay to the adoption proceedings.

Bar association committees and professional social workers have devoted much time and thought to the question of reducing the presumptive period to nine or six months. Some competitent professionals and

interested laymen believe a natural parent should have the full 12 months before being forever deprived of their children. A compromise acceptable to the department and to several persons concerned with local adoption programs would be to enter allegations with the court after six months of presumptive abandonment but not to enter the final decree until the end of a full year of nonsupport and failure to communicate.

There was general agreement among the witnesses at the hearing that there is no need to make many legislative changes in the coming session. It was felt that excellent progress has been made in California's adoption program and consolidation of gains and further study should be made before considering additional drastic legislative changes.

PART IV

GENERAL ASSISTANCE STANDARDS

INTRODUCTION AND SCOPE OF THE STUDY

In California the counties have been assigned the responsibility for giving relief and assistance to the resident indigents. Neither the Federal Government nor the State participate in the financing of this public assistance program. Seldom has a legislative interim committee given attention to the problems of the needy persons who are not eligible for one of the programs of public assistance for the needy aged, blind or children

This committee included the general assistance program in its original agenda but the more comprehensive study as planned could not be completed. One public hearing was held in Los Angeles on January 23, 1956, and some field study was undertaken in an effort to learn: (1) the types of cases; (2) the methods and costs of operating the programs; (3) the adequacy of the assistance payments, and (4) the standards of care and support which have been established in the various counties. Of particular interest was the question of the extent to which general assistance funds are used to provide certain health services and supplies, such as, dentures, eye glasses, prosthenic devices and for supplementary payments in nursing or boarding homes for recipients of aid to the needy aged, blind and children.

FINDINGS AND RECOMMENDATIONS

Pressure of other problems limited the study but information was obtained on which to base the following:

1. Some counties have established comprehensive policies and procedures for the general assistance program. Complete manuals, comparable to State Department of Social Welfare manuals for the categorical aid programs, have been developed and are used in a number of counties. Other counties are reported to operate on an informal basis using past decisions by the board of supervisors as precedent in handling recurring situations.

Each county should adopt and publish a formal set of general assistance standards. Included should be the amounts allowed in an individual or family budget for such basic needs as food, clothing, shelter and utilities, transportation and personal services.

2. Some counties include items of hospitalization, medical and dental care in their fiscal reports on general assistance. Other counties supply these services but use a different system of reporting to the State.

With careful consideration of clerical and other administrative costs, the State Department of Social Welfare should develop

reporting forms to make possible significant analyses and inter-county comparisons.

3. Current state reports on general relief expenditures by the counties provide information regarding the number of individuals and family groups but give no information as to the portion of the month for which the support was provided. County welfare directors who were consulted report that this information, now available in many counties, could be collected in the others without too much expense.

The State Department of Social Welfare should arrange for an economical way of reporting the days of care of support in each month for each type of case.

4. Some counties operate institutions, camps, "convalescent" facilities or other custodial programs. Health and safety features of such "indoor" relief may be excellent but many of the "cases" will require public assistance as long as they live unless constructive programs are available.

State leadership should be exercised to the end that rehabilitation programs are made available in these facilities.

5. To the extent that the counties are relieved by new funds and possible state-county sharing in supplementary payments for nursing or boarding home care for recipients of aid to the needy aged and blind, some unassigned funds will be available in the general assistance budget.

The counties should be encouraged to use such funds for the medical, dental and related services and supplies needed by residents not yet eligible for the categorical or special assistance programs.

If and when the above recommendations have been accepted and more precise information is available, further study of the general assistance program should be made in those counties in which the programs are inadequate. Serious consideration should be given to the question of state sharing in the cost of general assistance so that all needy residents of all the counties may be helped to help themselves in the achievement of a health and decency level of self-care.

SUMMARY ANALYSIS

Public assistance programs for needy aged, blind and children are the joint financial responsibility of three levels of government: federal, state and county. Within the limits set by the Federal Government, the State controls the policies and to some extent the methods and procedures involved in the county administration of these special forms of public assistance On the basis of a federally approved plan, the State sets the eligibility requirements and the amount of the maximum payment to the recipients. Age, citizenship and residence as well as need factors (including the economic circumstances of responsible relatives and the amount of real and personal property possessed) and the amount of the basic cash grant are uniform throughout the 58 counties.

The General Assistance Program is entirely the responsibility of the several counties. In contrast to the special assistance programs in which the financial participation of the county is relatively small, the local unit of government has been charged by state law with complete financial and operating responsibility. Section 2500 of the Welfare and Institutions Code provides that "Every county * * * shall relieve and support all incompetent, poor indigent persons and the incapacitated by age, disease or accident lawfully resident therein when such persons * * * " are not otherwise supported.

This general assistance (or general relief, home relief, direct relief or indigent aid as the program is variously called) is administered by county welfare departments under authority of the board of supervisors. The supervisors determine the policy of operation and the amount of aid to be given. The eligibility requirements are different from the special programs in that citizenship is not required, age is not a determining factor and shorter periods of residence in the State will qualify an applicant for general assistance. In a sense it may be said that most of the recipients of general assistance are persons who are not eligible for special assistance as needy aged, blind or children.

A considerable number of general assistance recipients are reported to be within a few years of the age, citizenship or residence requirements in one of the categorical aid programs In many instances the needs of the two classes of recipients are very similar. Seldom, however, is the amount of aid equal to that received by recipients of special assistance. Also there is no uniformity among the 58 counties.

Of the 57 counties in which some general assistance was given in November, 1956, there were nine counties in which the aid payments were exclusively "in kind" and three others which gave only "cash relief." In about one-fourth of the counties making payments "in kind" and "in cash," the value of the goods and services were approximately equal to the cash expenditures. In some counties the values of the "in kind" payments was 20 or more times the cash expenditures while in other counties the reverse was true.

The counties also varied in the amount of payments to the average recipient. In half a dozen of the larger counties this average ranged from less than $15 to more than $30. Averages in the three areas, into which the State is divided for purposes of supervision by the State Department of Social Welfare, were $30.13, $28.68 and $20.23 The significance of these figures must be interpreted in the light of the fact that available records do not include information about the number of days during the month for which the payments were expected to provide support. Another difference of importance at this point is the fact that some counties make extensive supplementary payments from their general assistance funds to meet special needs of persons also aided by specific assistance programs for needy aged, blind or children. Other counties expend little for this purpose and a considerable number make no supplementary payments at all.

There are also differences among the counties in the proportion of general assistance recipients who get "short-term" care. The number of transients who are aided varies with the seasons and varies more in some counties than in others. To compare the less than $28 November, 1956, payment to the average general assistance recipient with the

more than $61 paid to the average recipient of aid to needy blind, children and aged programs, would not be quite accurate as most of the special assistance recipients were aided throughout the month. However, it would appear that the general assistance grants are relatively less adequate than the payments in the categorical aid programs in which there is federal and state participation.

Witnesses at the hearing on general assistance held in Los Angeles on January 23, 1956, generally agreed that if the State were to specify the amount which should be paid to recipients of general assistance and to set standards of care which the State would supervise, there should be state participation in the financial support of this public assistance program. Without making a financial contribution the State should go no further than to require each county to adopt and make public the standard of aid given in the General Assistance Program.

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ASSEMBLY INTERIM COMMITTEE REPORTS
1955-1957

VOLUME 19 NUMBER 3

LIFE CARE CONTRACTS

REPORT OF ASSEMBLY INTERIM COMMITTEE ON SOCIAL WELFARE

House Resolution No. 217, 1955

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March, 1957

Published by the
ASSEMBLY
OF THE STATE OF CALIFORNIA

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NOTE: This is Section 2 of four sections.
Other sections in this report include:
Number 1 – Social Welfare Studies.
Number 3 – Emotionally Disturbed Delinquents.
Number 4 – Problems of State Mental Hospitals.

LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, March 1, 1957

HON. L. H. LINCOLN, *Speaker*
and Members of the Assembly
Assembly Chamber, Sacramento, California

GENTLEMEN: As authorized in the 1955 Session by House Resolution No. 217, the Assembly Interim Committee on Social Welfare has made studies in the fields of Mental Hygiene and Social Welfare. Eight problem areas have been explored, including programs for the aged and the blind, treatment of emotionally disturbed delinquents, the mentally ill, and the mentally retarded. Fourteen public hearings have been held and visits have been made to 12 state institutions. Progress reports have been issued on five of the nine subjects studied. Summary material from these reports will be included in the several sections in which this final report has been prepared. Further study must be made in some areas, but a program of needed legislation has been developed and recommendations are made for desirable changes in the operation of the several state departments concerned.

The committee is pleased to report that many of its recommendations for administrative changes have been accepted and are currently being implemented by three state departments. Acknowledgment is hereby made of the splendid cooperation received from the Department of Finance, Legislative Counsel, and the Legislative Auditor, and the State Departments of Corrections, Youth Authority, Public Health, Education, Mental Hygiene and Social Welfare. Superior Court judges, probation officers, state and county welfare department staffs, and other county officials have also been most cooperative.

This report is issued in four sections: 1—Social Welfare Studies, 2—Life Care Contracts, 3—Emotionally Disturbed Delinquents, and 4—Problems of State Mental Hospitals

Respectfully submitted,

BRUCE F. ALLEN, Chairman
WANDA SANKARY, Vice Chairman
J. WARD CASEY
DOROTHY M. DONAHOE
EDWARD E. ELLIOTT
SAMUEL R. GEDDES
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LIFE CARE CONTRACTS

INTRODUCTION AND SCOPE OF THE STUDY

Property valued at as much as $40,000 to $50,000 is transferred by elderly persons as prepayment for life care. Recently there has been an increase in the number and variety of these "life care contracts," which constitute a kind of annuity insurance. Because payments are made in services and commodities rather than in cash and because these services can only be given in a facility licensed to care for the elderly, the State Department of Social Welfare is responsible for issuing the required "certificate of authority" to make such contracts.

This study was undertaken at the request of the State Department of Social Welfare, interested citizens, and several of the organizations holding "certificates of authority." Preliminary field study indicated the need to clarify the jurisdictional and operational responsibilities of the several state departments concerned. Representatives of the State Departments of Social Welfare, Public Health, Mental Hygiene, Insurance and Corporations, together with representatives of organizations applying for "certificates of authority," were invited to testify at a public hearing in San Francisco on September 11, 1956 Other witnesses included interested citizens, a consulting insurance actuary, representatives of nonprofit health insurance organizations and of hospital and medical associations. The purpose of the study was to determine the changes needed in present laws and in enforcement supervision to provide adequate protection for all concerned.

FINDINGS AND RECOMMENDATIONS

Almost all of the 11 pertinent sections of the Welfare and Institutions Code are in need of reconsideration, and some gaps and desirable changes were found in the present services of the several state departments Explicit authorizations of interdepartmental coordination and precise assignment of jurisdiction, a modern mortality table, and more effective supervision of required financial reserves are essential to the protection of the purchasers and sellers of life care, and of the taxpayers who must support elderly citizens whose life savings may be lost if contracts are not fulfilled.

1. Elderly persons who transfer their property as advance payment for life care are not completely protected under present law and departmental operating policies. The license required to give boarding or nursing home care assures only minimum standards and the fulfillment of above minimum services is not now completely supervised by any state department. No "certificate of authority" (to make contracts) is required if the contract contains a clause permitting cancellation without cause.

All contracts for care in which payment is made a year or more in advance should be supervised by the state department which issues the license to operate the facility.

2. No contract form is provided by the department, and the only present requirement is that the contract shall be in writing. The department may now require that a copy be filed, but there are no code provisions or departmental regulations regarding the content of the contract.

Holders of "certificate of authority" to make life care contracts should be required to make full disclosure of their financial conditions relating to the fulfillment of the contract and the extent of the services promised, including care during prolonged illness.

3. Circumstances of the transferor and the transferee may be altered. The behavior and needs of the transferor may change with advancing age, and a tryout period of life in the institution is usually desirable. Therefore, the life care contract should make provision for cancellation by either party.

Conditions under which a life care contract may be canceled should be clearly set forth in the contract including the basis for refunding advance payments.

4. Under present code requirements, contracts may be made without a "certificate of authority" if they contain a clause permitting cancellation without cause.

As a condition essential to retaining the license to operate, all persons or organizations accepting payments for care a year or more in advance should be required to execute a written contract on a form approved by the state department issuing the license. This department should be empowered to contract with the State Department of Insurance for assistance in evaluating such contract forms.

5. Some life care contracts specify continued service throughout prolonged illness. Other contracts are silent regarding such continued service, but in practice provide care for chronic cases. However, some cases in which full advance payments have been made, are sent to public institutions for care during illness. It is estimated that the cost to the taxpayers for such cases sent to the state mental hospitals is at least $30,000 a year.

Savings on the per capita cost of life care should be available as payment for care in public medical institutions, including particularly the state mental hospitals.

6. At its discretion the State Department of Social Welfare may require the posting of a bond or the recording of a lien to secure the faithful performance of all obligations called for in the life care contract, but nonprofit organizations are specifically exempted. Also, the Welfare and Institutions Code make no provision for the impounding of funds transferred in advance of the establishment of the reserve or the beginning of care, and there is no requirement that persons be bonded if they have access to the funds involved in the operation.

The department should be authorized to determine whether it is desirable to require a bond or a lien from all types of organizations including the nonprofit agency, to impound funds received in advance of starting services, and to require operators and certain employees to be bonded.

7. Property is also transferred as founders' funds, membership, or other fees. Such donations or payments which at most assure only a reserved room or priority on a waiting list, may properly be used for capital expenditures.

Property transferred as advance payment for care should be kept separate from other funds and should not be encumbered or used for other than the maintenance or operation of services promised in the contract.

All certificate holders are required to maintain a reserve of funds to meet the obligations of the "life care contracts." The amount of this reserve is specified in the Welfare and Institutions Code by requiring the use of an outmoded table of mortality among annuitants (McClintock's) and by fixing the interest assumption at a particular rate.

The code should be amended to permit the department supervising the contracts to consult with the Department of Insurance in the selection of a modern table and to fix the interest rate assumption or make such other regulation of the reserve funds as is found essential to adequate protection.

9. At present 60 percent of the appraised value of the buildings and 50 percent of the equipment used in the care of the aged contract holder may constitute three-fourths of the reserve fund.

Beginning January 1, 1958, there should be a gradual reduction in the extent to which the value of such buildings and equipment may be used as part of the reserve.

10. The Welfare and Institutions Code now specifies the kind of securities which must constitute 25 percent of the reserve fund.

This section of the code should be amended to permit the supervising department in consultation with the State Departments of Banking and Insurance to determine the type of bonds, stocks, and other securities to be approved as a part of the reserve fund.

11. The State Department of Social Welfare may accept the report of a certified public accountant in lieu of making its own audit. There is now no regulations regarding the comprehensiveness of the certified financial report.

Each holder of a certificate of authority should be required to have an annual audit made and furnish the department with a certified report including full disclosure of all pertinent financial information.

12. The extent of the responsibility accepted by members of boards of trustees, boards of directors, and advisory committees of organizations and institutions providing life care is not specified in either the Welfare and Institutions Code or in the regulations of the Depart-

ment of Social Welfare. Some institutions publish materials or use names implying affiliations with persons or other organizations in such a manner as to indicate sponsorship with financial responsibility. Also, there is now no requirement of full or complete disclosure of financial conditions to prospective transferers of property, nor for making annual financial reports available to contract holders or their representatives.

All organizations or persons distributing literature and promoting sale of life care contracts should be required to specify the extent of the financial responsibility accepted by the board or committee members and by churches, fraternal orders, and other organizations apparently affiliated with or sponsoring the separate corporation offering the life care services. Specific limits should be placed on the compensation of officers or other persons not directly concerned with the provision of care or the administration of the agency.

13. The increasing variety and complexity of contracts for different levels of service, which are now being offered to aged persons by profit-seeking and nonprofit organizations, seems to make government supervision essential. Since many persons transfer all or almost all of their property for life care and since many of the transferors are widows without business experience, special protective supervision seems essential in this type of business transaction.

Specific provision for penalties or appropriate cross references to other codes (e.g., Section 17500 of the Business and Professions Code and Section 532a of the Penal Code) should be included in this chapter of the Welfare and Institutions Code to punish fraud or misrepresentation of the services and costs. The supervising department should be empowered to contract with the Department of Insurance for services in connection with the approval of contracts, the supervision of reserve funds and the investigation of suspected fraud.

14. There are a considerable number of persons who need the life care arrangement, but who do not have sufficient funds to purchase the "plush" type of services and accommodations. Such "contracts" are currently selling for from $25,000-$60,000. There is a long waiting list at charitable, church and fraternal institutions which accept elderly persons who have little or no financial resources. Organizations offering life care report many applications from persons who have property in excess of the maximum now permitted the recipients of public assistance but not sufficient to purchase care at today's prices. Many of these elderly persons have need of the type of care offered in less expensive facilities, but could only enter into such a contract if all or part of the public assistance grant were available. Serious question may be raised about the present law concerning the transfer of property and eligibility for property assistance.

Code provisions regarding the transfer of property to become eligible for public assistance should be amended to permit such transfer in exchange for services and care throughout the life of the transferor.

SUMMARY ANALYSIS

The increased proportion which the elderly constitute of the total population, the trend towards two rather than three generation family groups, the pressures of urban life, the limited accommodations in charitable and fraternal institutions, and the large number of the elderly—especially widows without business experience—who seek group life and freedom from continued economic planning are among the factors which increase the demand for prepaid life care. In consequence more individual proprietors and nonprofit organizations are developing additional facilities which vary considerably in cost and type.

The State Department of Social Welfare has recently adopted standards improved in consultation with representatives of operators of facilities from all parts of the State. These standards have been issued in revisable manual form and include new and more specific requirements with emphasis on improved services and better protection for the aged. However, there may be a considerable difference between these minimum standards and the level of services promised in a life care contract. The 1955-1956 Annual Report of the Department of Social Welfare states "The need to improve licensing practice is recognized, as well as the practical necessity of increasing the resources available to pay for the care required" It is known, however, that as long as aged persons with low income require care, the licensing process alone cannot be expected to improve conditions in boarding and nursing homes which operate on a subsistence level or a very low margin of profit.

Testimony by members of the staff of the State Department of Social Welfare at the hearing in San Francisco on September 11, 1956, indicated that the workers who investigate homes and institutions applying for renewal of their licenses are in general familiar with the services promised in life care contracts. Testimony at this hearing also indicates, however, that checking on these services promised in the contract which are above and beyond the minimum standards required for their license is not a part of the routine assignment of such workers. The staff of the Department of Social Welfare have discussed the findings and recommendations on this point and appear to have taken the position that it is not the responsibility of government to supervise such business transactions.

An interested citizen declaring his testimony would be given in the interest of aged persons, reputable operators, and government officials concerned with life care contracts, made the following comments and specific suggestions:

(1) The Welfare and Institutions Code Sections 2350-2360 do not adequately prescribe the qualifications of persons to whom "certificates of authority" to make "life care contracts" should be issued While a license to operate a home for the aged is required, making and fulfilling life care contracts involve different or greater fiscal and managerial skills. The State Department of Social Welfare is not given sufficient authority and is not required to make an "adequate" investigation of the character and capabilities of all persons concerned, including members of the board (trustees, directors, or advisory) and employees of all types. Mandatory power should be given to the department to revoke a license, and thus a "certificate of authority," whenever a licensee commits a felony, including fraud, an illegal or immoral act, or a violation of the rules and regulations of the department

(2) The code provisions fail to provide adequate financial safeguards, in that there is no requirement to disclose the complete financial condition of the institution to purchasers of contracts and no duty is imposed to publish financial statements. Any failure to disclose all the pertinent facts should constitute a criminal offense as well as grounds for recovery of all property transferred

(3) The code should be amended to replace the "obsolete" McClintock Table with a more modern and appropriate table of mortality among annuitants as prescribed by the rules and regulations of the department.

(4) There should be no exemption of any organizations from the discretionary requirement of giving bonds or liens to fulfill life care contracts.

(5) The department should be given authority to approve or disapprove and to add provisions of life care contracts filed with it.

(6) Civil and criminal responsibility should be imposed on all directors, sponsors and officers of organizations contracting to give life care when there are: (a) failures to maintain reserves as required, (b) secret profits from the sale of property of the institution, (c) misrepresentations or omissions of material facts including failure to furnish complete financial statements to proposed transferors of property at the time of the sale of the life care contracts, and (d) deliberate or intentional violations of department rules regarding the sale of such contracts.

(7) The department should have the power to regulate indebtedness of life care homes and encumbrances of assets which are connected with the ability of the organization or person to faithfully fulfill life care contracts

(8) The department should also be empowered to impound the funds of any life care institution, releasing it only on satisfactory proof that the contract can be fulfilled Distinction should be required between "founders' fees" or "admission fees," which may be used for construction or other capital expenditures, and those funds which are to be used for maintenance or operation of the services for which the contract is made. Such commingling of funds should not be permitted.

(9) Present permission to use 60 percent of the appraised value of the institutional buildings and 50 percent of the equipment value should be discontinued There should be a requirement of diversification of investments which constitute the reserve, and authority should be given to the department similar to that of the bank or insurance examiners in the appraisal of such investments

(10) The actual fiscal relations between sponsoring or affiliated organizations and persons, such as those named on letterheads or other printed material issued in connection with life care contracts, should be carefully explained where and whenever such responsibility or affiliation is implicitly or explicitly indicated.

(11) "A re-examination should be made of the desirability of exempting life care corporations from taxation. The purchaser of a life care contract at a price of $30,000 to $45,000 is not an object of charity and could be the means by which a wealthy person might obtain a tax-free home."

(12) There should be legal prohibitions of undesirable action as well as indication of capacity to provide the services contracted for as set forth in a complete financial statement.

This witness also stated that nonprofit organizations should not be permitted to pay large salaries to board members or officers who contribute little or no service to the transferor.

Testimony of the Insurance Commissioner, members of his staff, and of a consulting insurance actuary, may be summarized as follows:

Life care contracts constitute a kind of insurance policy in which payment is made in services and commodities rather than in cash. However, many of the principles involved in supervision of insurance companies should also apply in the supervision of life care contract operations.

McClintock's Annuity Table was developed in 1892 and although later revised, it is not in accord with more modern tables such as the 1937 Standard Annuity Table and the 1949 table. A comparison of this latter table with McClintock's Table shows the estimated difference

in longevity and reserve requirements on the basis of 2.5 percent interest assumption for annual life income of $1,000 would be as follows:

		McClintock's Table		* *1949 table projected*	
Age	*Sex*	*Years*	*Reserve*	*Years*	*Reserve*
65	Men	11 8	$9,700	15 5	$12,300
	Women	14.0	11,300	18.4	14,200
70	Men	9 2	7,900	12.2	10,100
	Women	11.0	9,200	14 5	11,700
75	Men	7 0	6,200	9 3	8,000
	Women	8.5	7,300	11 0	9,300
80	Men	5 1	4,700	6.9	6,100
	Women	6.3	5,600	8.1	7,100

A consulting actuary stated "to my knowledge no insurance company is now using the McClintock Table for valuing currently purchased annuities" He suggested that any table should be checked against the actual experience of institutions offering life care before adoption.

Other suggestions made by the witnesses qualified in the insurance field indicated the desirability of checking the life expectancy experience of all institutions for a period of time and of considering the possibility of reinsurance as no institution serving a small number of persons can adequately predict the reserve requirements.

Other than the need to amend the code to provide better protection for both the buyers and sellers of life care and thus for the taxpayer, the most significant finding of this study was the need for more facilities in which widows without business experience may be cared for in comfort. They desire group life and assurance that there will be someone to "look out" for them especially as the infirmities of advancing years bring illness and disability. Many of the elderly have too much personal property to qualify for public assistance but not enough to buy even medium level life care. There are probably several thousands of persons whose needs would best be met if their property could be transferred without disqualifying them for public assistance.

* From Appendix E of the material submitted by the Insurance Commissioner at the hearing in San Francisco, September 11, 1956

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ASSEMBLY INTERIM COMMITTEE REPORTS
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EMOTIONALLY DISTURBED DELINQUENTS

REPORT OF ASSEMBLY INTERIM COMMITTEE ON SOCIAL WELFARE

House Resolution No. 217, 1955

MEMBERS OF COMMITTEE

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DOROTHY M. DONAHOE
EDWARD E. ELLIOTT
SAMUEL R. GEDDES
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March, 1957

Published by the
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NOTE: This is Section III of four sections. Other sections in this report include:

NUMBER I—Health Problems and Programs of Public Assistance Recipients.

NUMBER II—Life Care Contracts.

NUMBER IV—Problems of State Mental Hospitals.

LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, March 1, 1957

HON. L. H. LINCOLN, *Speaker*
and Members of the Assembly
Assembly Chamber, Sacramento, California

GENTLEMEN: As authorized in the 1955 Session by House Resolution No. 217, the Assembly Interim Committee on Social Welfare has made studies in the fields of Mental Hygiene and Social Welfare. Eight problem areas have been explored, including programs for the aged and the blind, treatment of emotionally disturbed delinquents, the mentally ill, and the mentally retarded. Fourteen public hearings have been held and visits have been made to 12 state institutions. Progress reports have been issued on five of the nine subjects studied. Summary material from these reports wil be included in the several sections in which this final report has been prepared. Further study must be made in some areas but a program of needed legislation has been developed and recommendations are made for desirable changes in the operation of the several state departments concerned.

The committee is pleased to report that many of its recommendations for administrative changes have been accepted and are currently being implemented by three state departments Acknowledgment is hereby made of the splendid cooperation received from the Department of Finance, Legislative Counsel, and the Legislative Auditor; and the State Departments of Corrections, Youth Authority, Public Health, Education, Mental Hygiene and Social Welfare. Superior court judges, probation officers, state and county welfare department staffs, and other county officials have also been most cooperative.

This report is issued in four sections: I—Social Welfare Studies, II—Life Care Contracts, III—Emotionally Disturbed Delinquents, and IV—Problems of State Mental Hospitals.

Respectfully submitted,

BRUCE F. ALLEN, *Chairman*
WANDA SANKARY, *Vice Chairman*
J. WARD CASEY
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EMOTIONALLY DISTURBED DELINQUENTS

INTRODUCTION AND SCOPE OF THE STUDY

The problem of the "emotionally disturbed teen-age delinquent" was brought to the attention of the Interim Committee on Social Welfare by psychiatric* and juvenile court judges, probation officers, directors of California state departments and the Council of State Governments. For many years the problem of dealing with this group of difficult young people has confronted California courts, probation departments, the Youth Authority, the Department of Mental Hygiene and many private agencies. Throughout the years, committees have been established to study this problem. It has been a subject of discussion at most conferences of workers with youth. Recently the Governor's Advisory Committee on Children and Youth, the California Conference of Judges, and the California Advisory Committee of Mental Health have pointed to the necessity for immediate action.

Preliminary field study revealed a considerable number of older boys and girls in our State who require care and treatment for which there is at present no adequate provision in either the State Department of Mental Hygiene or the California Youth Authority. Some of these cases have been sent to a state hospital established for the care of the criminally insane and the sexual psychopath. The appropriateness of this placement was seriously questioned. For this reason and because the members of the committee have not yet found opportunity to visit this institution, it was decided to hold the meeting at Atascadero State Hospital.

Competent witnesses invited to testify included superior court judges, probation officers, and other persons concerned with local care in addition to representatives of the State Department of Mental Hygiene, the California Youth Authority and the State Department of Corrections. The psychiatrists, psychologists, sociologists and administrators in attendance were all in direct contact with the problem. Their extensive experience and reports of solutions attempted by public and private agencies in other states were analyzed in an effort to determine: (1) a working definition and the approximate number of such cases; (2) the kind of care and treatment needed; (3) the state department to which specific assignment of responsibility should be made; and (4) the changes in the Welfare and Institutions Code essential to efficiency and economy in dealing with this "hard core" of difficult cases.

FINDINGS AND RECOMMENDATIONS

On the basis of the reports of local and interstate conferences on this problem, preliminary field study, the testimony of witnesses qualified in the several pertinent disciplines, and of administrators of

* Term used in this report in preference to "Psychopathic" Court.

agencies concerned with the problem at the state and local level, the committee reports the following significant findings:

1. There is a group of emotionally disturbed delinquent teen-agers whose "acting out" behavior creates a serious problem in correctional facilities. Such cases are not helped by the services now available in local or state correctional institutions and reportedly "wreck" the programs designed for more normal youths.

2. Most of these difficult cases are not mentally ill to a degree that they can appropriately be committed to a state mental hospital. Two of these hospitals now have units for this age group, but neither has the essential security provisions.

3. The only state mental hospital with adequate security provisions was designed for sexual psychopaths and mentally ill adult criminals. For most of these emotionally disturbed delinquents, this hospital would not be an appropriate treatment resource.

4. The aggressive, "acting out" behavior of some emotionally disturbed delinquents would interfere with the present program for mentally ill children at Camarillo State Hospital and might result in a riot at Atascadero State Hospital or in running away from the unit for adolescents at Napa State Hospital.

5. While local authorities and several state departments—mental hygiene, corrections, and the Youth Authority—have been cooperative, and committees seeking coordination of effort have been operating at both state and local levels, a considerable number of cases have been transferred from one facility to another as a means of relieving pressure on the institutions.

6. Confronted with the need of older delinquents and criminals for psychiatric treatment and care in an institution with adequate provision for security, the Department of Corrections has established the Medical Facility at Vacaville and a 90-bed Adjustment Center within the Deuel Vocational Institution at Tracy. Special treatment resources also have been improvised at some of the prisons and other correctional facilities. These developments appear to have set a successful precedent for the establishment of special treatment units at several facilities operated by the Youth Authority.

7. The Youth Authority may use the institutions operated by other state departments, but it is not considered good practice to send juvenile cases to facilities primarily designed and used for adult criminals. Special psychiatric treatment resources, other than in state mental hospitals, are now available only in facilities of the State Department of Corrections.

8. In larger counties, where there are separate juvenile and psychiatric courts, there are certain problems of jurisdiction and control of cases which appear to require legislative attention.

9. Failure to prosecute young offenders for their serious misbehavior creates problems when the Youth Authority loses control of such cases at the age to which jurisdiction is limited.

10. Present law requires the Youth Authority to accept only those cases for which rehabilitation appears probable. Cases considered to be mentally ill are to be returned to the court for commitment to state mental hospitals. The Welfare and Institutions Code contains sections assigning to the State Department of Mental Hygiene the responsibil-

ity for "defective or psychopathic delinquents." At least one state hospital for mental defectives has security facilities for cases in which the mental deficiency is the more important factor.

11. Provision of psychiatric and other essential treatment for emotionally disturbed delinquents in institutional units with adequate security arrangements appears to be only part of the answer. Attention must also be given to preventive measures, to proper care in local facilities, to commitment procedures assuring care in the appropriate state departments, and to continued supportive therapy when needed after return to the community.

12. Proper care and treatment of emotionally disturbed delinquents is a problem of long-standing concern, but it has recently received intensive attention in many states. The number of such teen-agers varies with the case type definition, and the current total in California has been variously estimated from several hundred to several thousand boys and girls. Availability of local resources and the state-local division of responsibility will determine how many cases need psychiatric, but not mental hospital, treatment in special units of existing Youth Authority facilities under the temporary plans approved at the Atascadero hearing.

The seriousness of the problem and the relatively high cost of the care and treatment of these special cases makes further study important and long-range planning. For the immediate future, continued evaluation and research should be integral parts of the program as it develops. It is most important, however, that immediate steps be taken to provide a treatment program for this problem group of California residents. The interim committee therefore makes the following recommendations:

A. The California Youth Authority should make provision in the 1957-58 Budget for the psychiatrists and other special staff essential to the development of treatment units at several of the institutions now caring for delinquent boys and girls.

B. Older emotionally disturbed delinquents, particularly the superior court cases who require special treatment, should be cared for in the appropriate facilities of the Department of Corrections. Mentally ill (psychotic) cases should be committed to the state mental hospitals. Doubtful cases should be sent to state mental hospitals for observation and diagnosis. Cases in which mental deficiency is more important than delinquency should be the responsibility of the State Department of Mental Hygiene.

C. The Welfare and Institutions Code should be changed: (1) to make the Youth Authority specifically responsible for the care and treatment of all cases which cannot be cared for locally and which should not be sent to the facilities of the Department of Mental Hygiene or Department of Corrections; (2) to bring present sections dealing with "defective and psychopathic delinquents" into accord with this policy; (3) to permit the psychiatric departments of the superior court to control certain cases after discharge from state mental hospitals; and (4) to clarify and make more precise all those sections which now tend to confuse and make more difficult the proper disposition of such cases.

D. Consideration should be given to a formal trial for the older and more serious offenders so that control by the courts may continue when needed beyond the age of Youth Authority jurisdiction.

E. Interdepartmental and state-local coordination should be provided by assignment of staff to case discussion committees and other organizational or procedural devices.

F. Continued attention to long-range planning for these special types of delinquents should be given by the state departments concerned and by appropriate legislative committees.

SUMMARY ANALYSIS

Emotionally disturbed delinquents whose "acting out" behavior creates serious difficulty in local detention and correctional facilities often do not respond to the present programs of the Youth Authority. Since they are not psychotic and require care under security conditions they are not considered appropriate patients in state mental hospitals. As they externalize their emotional problems, these "misfits" tend to "wreck" the program arranged for more normal delinquents at either the State or the local facilities. They cannot be ignored or turned loose in the community. As the isolation facilities fill up and tolerance limits are reached, such cases are "transferred." Many are reported to shuttle back and forth from one state or local facility to another.

This does not help the maladjusted boy or girl and is expensive by the very nature of the procedure. To send them all to one big "jail" or maximum security facility is also too expensive. Custodial care for the remaining 60 or more years of their lives would cost more than $100,000 each for even minimum level care. All competent persons agree that an appropriate treatment program is not only the more humane plan but also the less expensive. The question confronting the interim committee was, therefore, what provision should be made for an appropriate and effective treatment program.

Special provision had been made for adult criminals with severe emotional problems at the medical facility recently established at Vacaville by the Department of Corrections. For older youth some service is available in the Adjustment Center of the Deuel Vocational Institution at Tracy. Separate programs for children and youth are operating at Camarillo and Napa State Mental Hospitals and some older boys have been sent to the Atascadero State Mental Hospital. Each of these facilities serving juveniles was reported as inappropriate for most of the cases categorized as emotionally disturbed "acting out" juvenile delinquents. However, on the basis of their experience in attempting to deal with such cases, the department administrators and the psychiatrists in the various facilities made suggestions and recommendations regarding the type of facilities and programs which should be established.

Judges from juvenile and psychiatric courts and mental health counselors and probation officers from various sized counties told of the difficulties at the local level. Present law requires that certain kinds of cases be sent to particular facilities and sets limits on the type of cases which the Youth Authority must accept. Experience has shown, however, that strict adherence to code provisions often does not provide the care needed by emotionally disturbed individuals and prevents the

agency from efficiently serving the more normal delinquents. In the light of what they have learned from experience local authorities are making the best arrangements they can for cases to be sent to state agencies.

In some instances special case committees have been formed of local and state workers. Reports on the operations of these committees indicate the great value of such cooperative effort but point out that for a considerable number of cases the present resources are quite inadequate. Judges of the juvenile and psychiatric courts say they are "at a loss to know what to do" with this hard core of cases. In some counties fairly extensive local programs are operating and only the most difficult boys and girls are sent to the State. In many counties the seriousness of the problems and the need for psychiatric and other treatment programs has been recognized However, to date no county has developed the type of treatment program essential for these cases. It should be noted that the question of local-state jurisdiction was not discussed at the hearing held by the committee at Atascadero last June. It was agreed, however, that "to have only one state agency to deal with would be most helpful." Also it would be desirable to have "a cooperative clinical conference" between state and local representatives where the decisions regarding the best disposition of such difficult cases could be made. "Such cases should be defined in the Welfare and Institutions Code and even then there will be borderline situations and differences of interpretation."

The problem of mentally retarded delinquents was discussed at the Atascadero hearing. Some security facilities are needed at state hospitals for the mentally retarded. Such facilities appear to be more appropriate for the care of those cases in which mental deficiency is the major question rather than the delinquency. Present admission and retention policies and practices in this phase of the problem appear to need further consideration.

It was also recommended that older boys and girls whose mental condition is an important if not a determining factor in their disposition often should be "tried and sentenced" and that court controls, regardless of the cause of the delinquency, should be established in the cases of younger boys and girls. When mental conditions improve the question still remains regarding the danger of returning certain types of cases to the community. It was also considered undesirable to have the Department of Corrections provide for long-time care of persons who have never been "legally charged with a crime where they could be defended by an attorney or convicted of a felony."

Present Welfare and Institutions Code provisions require the California Youth Authority to take only those cases that appear possible of rehabilitation. Nonetheless, only 14 cases were refused in the past fiscal year—eight cases were criminal court commitments and six were juvenile court cases turned down on the basis that they apparently would not benefit from the Youth Authority program. Analysis of the 2,870 cases accepted in 1955 reveal that 486 (about 17 percent) were suffering from serious emotional disturbance. Of these 486 cases, 336 were borderline psychiatric, 49 were mentally retarded, 68 were classified as psychopathic or defective delinquents, 20 were sexual deviates and other special problems involved 13 cases. A much higher propor-

tion (25.9 percent) of the cases returned from unsuccessful parole were "emotionally disturbed" than was found (14.1 percent) among the first admissions.

With about one out of six admissions of a type for which the Youth Authority was not designed and for which neither the facilities or the proper personnel is available, it is obvious that this is a problem of considerable proportions. It is estimated that 650 of such cases will be admitted in 1957-58. Of this number about 100 will be cared for in Department of Mental Hygiene facilities. While it would not be possible to build new buildings at once, certain of the facilities at many of the institutions operated by the Youth Authority could be used for the care of these special problem cases if proper staff were available. Developing these new program units at the various facilities would have the advantage of ease of movement of cases between the regular program and the special program. It would also be an advantage to have psychiatrists and other treatment specialists in contact with the regular staff of the Youth Authority at the several facilities.

The Chief Administrator of the Department of Corrections and two of the psychiatrists now providing treatment under strong security provisions at Vacaville and Tracy testified regarding the value of having resources for dealing with the mostly maladjusted criminals and older delinquents. The Department of Mental Hygiene proposed that all cases in which there is a question of mental illness should be observed in a state mental hospital. Others testified it would be undesirable to "turn a hospital into a prison" to provide the needed security conditions for potential rioters.

It was the consensus of the participants in the hearing that immediate action was necessary. By motion made and seconded, the committee voted unanimously that appropriate steps be taken to start a program in 1957-58 for emotionally disturbed delinquents. This special program is to be developed at the several institutions of the Youth Authority. It was understood that the number of cases would be in proportion to the resources as made available and that pending a complete program, the Department of Mental Hygiene would continue its service to this group. Older boys would be sent to the Deuel vocational institution at Tracy. Improved controls for the courts and other changes in the Welfare Institutions Code were proposed for the period essential to the development of a comprehensive program by the Youth Authority. All state and local units should continue certain services.

This is a nationally recognized problem. Other states and localities have developed programs. Many of these special programs have high per capita costs and nowhere is there a final, complete and satisfactory answer. All programs developed to date have been expensive but treatment costs less than prolonged custodial care. Continuous evaluative research is essential to the more efficient and economical operation of such special programs for these difficult boys and girls.

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PROBLEMS OF STATE MENTAL HOSPITALS

REPORT OF ASSEMBLY INTERIM COMMITTEE ON SOCIAL WELFARE

House Resolution No. 217, 1955

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March, 1957

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1. Social Welfare Studies
2. Life Care Contracts
3 Emotionally Disturbed Delinquents

LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, March 1, 1957

HON. L. H. LINCOLN, *Speaker*
and Members of the Assembly
Assembly Chamber, Sacramento, California

GENTLEMEN: As authorized in the 1955 Session by House Resolution No. 217, the Assembly Interim Committee on Social Welfare has made studies in the fields of Mental Hygiene and Social Welfare. Eight problem areas have been explored, including programs for the aged and the blind, treatment of emotionally disturbed delinquents, the mentally ill, and the mentally retarded. Fourteen public hearings have been held and visits have been made to 12 state institutions Progress reports have been issued on five of the nine subjects studied. Summary material from these reports will be included in the several sections in which this final report has been prepared. Further study must be made in some areas, but a program of needed legislation has been developed and recommendations are made for desirable changes in the operation of the several state departments concerned.

The committee is pleased to report that many of its recommendations for administrative changes have been accepted and are currently being implemented by three state departments. Aknowledgment is hereby made of the splendid cooperation received from the Department of Finance, Legislative Counsel, and the Legislative Auditor, and the State Departments of Corrections, Youth Authority, Public Health, Education, Mental Hygiene and Social Welfare, Superior Court Judges, Probation Officers, State and County Welfare Department Staffs, and other county officials have also been most cooperative.

This report is issued in four sections: 1, Social Welfare Studies, 2, Life Care Contracts, 3, Emotionally Disturbed Delinquents, and 4, Problems of State Mental Hospitals.

Respectfully submitted,

BRUCE F ALLEN, Chairman
WANDA SANKARY, Vice Chairman
J WARD CASEY
DOROTHY M. DONAHOE
EDWARD E. ELLIOTT
SAMUEL R. GEDDES
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INTRODUCTION

The material in this section of the final report is the result of hearings of the full committee at Pacific State Hospital, Langley Porter Clinic and Atascadero State Hospital, and hearings of the subcommittee (Geddes, Lanterman, Donahoe, and Allen) at Modesto State Hospital and Agnews State Hospital, plus field visits at other hospitals including a visit by the Chairman at Ossowatomie State Hospital, Ossowatomie, Kansas. It is divided into three parts Part I deals with research, Part II with conditions in hospitals for the mentally ill, and Part III is concerned with conditions in hospitals for the mentally retarded. The part dealing with hospitals for the mentally ill is the work of the subcommittee on that subject. Findings and recommendations are reported separately at the beginning of each section.

PART I

RESEARCH IN MENTAL HYGIENE

FINDINGS

Mental health is considered one of the greatest problems in the Nation today. About one-half of all hospital beds are occupied by mentally ill persons. California is spending almost $100,000,000 a year to provide for the mentally ill and retarded and until recently, relatively little for research.

Less is known about mental than about physical illness Experimentation and evaluative study are needed in all aspects of the programs of mental health services. Economy through improved methods of treatment and prevention awaits the findings of an adequate research program.

In comparison with other states, with the Federal Government, and with private industry, California expends a very small proportion of its operating budget in mental hygiene for research (5 percent is allocated in Illinois; from 1 to 2 percent is allocated in New York; and 7 percent is allocated in private industry with the same size operating budget—while less than one-tenth of 1 percent has been expended in California in recent years) California has had some research funds from "outside sources," and additional funds may be obtained from the Federal Government, from private foundations, and from other nontax sources if proper policies, staff, and facilities are available in the State Department of Mental Hygiene

Both *pure* or *basic* research (scientific investigation of problems, attempts to discover answers to questions for which there is no immediate use or application in sight) and *applied* or *clinical* research (seeking the solution of a practical and pressing problem) are needed. Basic research is usually best done in a university setting, and clinical research in a mental hospital, but university and state hospital collaboration on both types of research projects is now in process. Continuation of such cooperative research is considered desirable.

Conducting research has indirect values It not only provides evaluation of current methods, but it also acts as a stimulus to the entire staff—raising morale, aiding recruitment, and generally improving the level of treatment.

Some current research is financed with "outside funds," and there are some projects developed by individual staff members on their own time. Outstanding among the projects financed by general tax funds, the Stockton Pilot Study showed the effectiveness and economy of treating long-time, chronic patients. This project is serving as a demonstration of the value of intensive treatment with present methods Other state hospitals are now utilizing the findings of the Stockton Pilot Study.

Research is needed in all phases of mental health; and all types of professional staff—psychiatrists, psychologists, social workers, nurses,

psychiatric technicians, and various other staff such as occupational, recreational, and physiotherapists—may be involved in research projects. A wide variety of problems needs study, ranging from special hospital methods to community and home situations, and including many types of patients and services.

The Department Committee on Research recommends that six or seven qualified research teams, representing several disciplines, be added to the hospital and headquarters staff to conduct research and to aid other staff members in the development of research projects Such research teams and a deputy director of the department with responsibility for the research program would cost approximately $500,000 a year.

Following the hearing on November 15, 1955, there was provided in the 1956-57 Budget the sum of $35,544 with which a Director of Research was employed by the department. The sum of $200,000 is provided in the 1957-58 Budget for research projects in addition to the operating expenses of the bureau.

There should be a long-range research program in the department, spending about 1 percent of the operating budget This would amount to an appropriation of more than $600,000 a year for research.

PROCEEDINGS

Subcommittee Chairman Frank Lanterman called attention to mental hygiene as one of the greatest problems of State Government and quoted the President of the American Medical Association as saying that "mental health is one of the biggest problems confronting his profession." Mention was made of the report (Exhibit A) of Dr. Walter Rapaport, Director of the State Department of Mental Hygiene, outlining the need for research

Dr. Karl M. Bowman, M.D., Medical Superintendent, the Langley Porter Clinic, discussed availability of funds for research from foundations, from the Federal Government, and from "outside sources." Various government agencies, particularly the United States Public Health Service, have large appropriations which are available for research in the whole problem of mental health The National Research Council also has various funds for specific purposes, some of them in the field of mental health. In addition, there are a large number of private agencies, among which specific mention was made of the Ford Foundation which has recently appropriated $15,000,000 for research in the problems of mental health

The Langley Porter Clinic has already applied for more than $1,000,000 from the Ford Foundation, and the request is receiving very careful consideration. Among the criteria used by the Ford Foundation in selecting research proposals to which they will make appropriations are:

(1) Clear relevance for the field of mental health;
(2) Specific nature and content of the program;
(3) Past and potential quality of performance of personnel, with special attention to qualifications of the program's leadership;
(4) Proper organizational arrangements within the institution;

(5) Provision of research training in connection with the research program;
(6) Integration of attack on the problem;
(7) Cross-disciplines on research projects where appropriate;
(8) Complementary relationship to other research programs in the same or related fields;
(9) No displacement of funds (in other words, they will not give funds to pay the salary of someone who is already being paid by the institution, or by whoever is applying for an appropriation).

Any foundation or governmental appropriation for research will be concerned about the institution that is making the request. What is its standing? Has good research been done there? Will it be backed by the authorities? What are the current research projects? Who are the personnel? What have they ever done in the way of research? Are there facilities available—laboratories, offices, and other accommodations appropriate for the program?

The State Department of Mental Hygiene is likely to get funds for research from "outside sources" if it has the facilities for the projected research program, proper personnel, and the backing of the authorities, including the State Department of Mental Hygiene itself and the Legislature of the State of California.

Dr. Alexander Simon, M.D., Assistant Superintendent, the Langley Porter Clinic, distinguished between so-called pure or basic research (as scientific investigation of a problem, or the attempt to discover answers to questions for which there is no apparent immediate use or application in sight) and applied or clinical research (as that type of research in which the goal is the solution of a practical and pressing problem). Examples of both types of research were given, and it was emphasized that the two types of research often overlap.

He stated that, in general, the more basic science approach probably, although not necessarily, is done better in a university setting where there are facilities and resources for work in the basic sciences, such as anatomy, physiology, bacteriology, and pathology. They already have the laboratory facilities. There is also the means of cross-fertilization among the various scientific disciplines. While such basic research can also be done in a large state mental hospital, such a setting is probably more appropriate for the applied or clinical research. However, there are many instances of current research projects in which the university personnel and the staff of the state mental hospital are collaborating on the type of research which uses the facilities of both. Examples were given of cooperative research projects now under way.

Dr. Norman Q. Brill, M.D., Superintendent and Medical Director, Neuropsychiatric Institute, U. C. L. A. Medical Center, speaking for the Research Committee of the Department of Mental Hygiene (of which he had been chairman), presented an over-all look at the whole problem of the research needs in the area of mental illness. He pointed out that the State of California is spending increasing amounts of money both for the treatment of patients and for the construction of new hospitals, and that there is no letup in these expenditures unless

through research more efficient and economical ways of caring for patients or of preventing mental illness can be discovered.

He compared the State of California with New York, where, at the present time, the operating budget is approximately $140,000,000 and the appropriation for research is $2,400,000. He pointed out that the State Government has assumed major responsibility for the problems of mental illness and mental deficiency, and that it is therefore an economic advantage to the State to promote research and investigation directed toward the development of more economical and effective methods of treatment and prevention. Dr. Brill stated that, unless the State "initiates and continues a state-supported research program, the Department of Mental Hygiene will have extreme difficulty in attracting any kind of funds from 'outside agencies' for research."

He asserted that research offers the best means of evaluating current methods of treatment, that it acts as a stimulus to the entire hospital staff, and that it ultimately results in improvement in the treatment level in any given hospital. It also acts as a stimulus to recruitment, which has been a serious problem. He reported that the research committee recommended the establishment of nuclei research teams in the state hospitals as a means of coming to grips with the problem. Such research teams should be a part of each state mental hospital staff, and there should also be a team in the Office of the Director of Mental Hygiene.

As an example of a research team, Dr. Brill suggested there would be a psychiatrist, assisted by perhaps one, two, or three professional persons who might be psychologists, biochemists, sociologists, etc.—people who could undertake interdisciplinary types of research. Such professional staff would require the assistance of adequate clerical help; in some instances, librarians, where research into literature must be accomplished; and laboratory technicians, where they are required. He reported, as a rough estimate of the cost, that such a research team in a hospital would require a minimum outlay for equipment and operating expenses of approximately $60,000 a year for each team. The research committee estimated that an appropriation of approximately $500,000 would make possible the setting up of research teams in six or seven hospitals and in the headquarters group, where the position of deputy director for research should be established.

In response to questions asked by Assemblyman Lanterman, Dr. Brill indicated the high importance of research in the evaluation of the effect of certain treatment methods used at the present time, of the effect of social service operations in the hospitals, of the effect of different types of drugs, of the effect of rehabilitation therapies, and of the effect of electroshock treatment. In fact, "practically every aspect of the treatment program really needs to be evaluated." He also pointed out the need for studies into the causes of mental illness, including biochemical studies, physiological studies, and even studies of the constitutional makeup of individuals. Epidemiological studies in mental illness are also needed to find out the cultural factors in society that contribute to the occurrence of mental illness and to its spread from one individual to another. "We need to evaluate our preventive programs and even need research on techniques of research in psychiatry."

A. Alan Post, Legislative Auditor, suggested that he could summarize briefly the concern of the Legislative Auditor with the problem under discussion by pointing to the fiscal problems created by the increasing number of mental patients in California and by the increasing demands thus made for facilities and staff to take care of them. He pointed out that for a number of years the Legislative Auditor has been raising questions about the ways in which effective research could be done in the area, and that the Assembly Interim Committee on Social Welfare has been encouraged to undertake some evaluation of the research work of the past and the need for such a program in the future.

Mention was made of the report prepared by Dr. Walter Rapaport (Exhibit B) at the request of the Joint Legislative Committee on Finance which provided an extensive list of relatively small projects now going on in the institutions.

Mention was also made of the difficulty of recruiting trained personnel at the present time, and attention was called to the fact that for almost a year the department has been operating without a deputy medical direcor. "High priority should be given to filling this position, which is presently in the budget, and to the assignment of responsibility to the person thus appointed to coordinate the research program now going on in the various institutions."

Mr. Post reported on some figures secured from the National Health Committee in January, 1955, showing that approximately $10,787,000 is being spent for research in mental health by the Federal Government, by the states, and by national voluntary agencies. $6,716,000 of this sum comes from the Federal Government, and the $4,000,000 spent by the states is probably too low an estimate in the light of the fact that many research projects are being carried on which are not specifically budgeted under this heading.

Mr. Post pointed out the high desirability of making sure that the findings of research carried on by other states were made available and utilized in California. He noted that the limitations in the number of qualified research workers meant that the establishment of such positions in California would probably drain away from other states those persons who, if they remained in their present positions, would be carrying out research of value to the State of California

Attention was called to the $5,000,000 capital outlay for the U. C. L. A. Clinic and Hospital and to the funds made available to the Langley Porter Clinic as evidence of the fact that California is definitely interested in teaching and research and is pretty well at the top in giving recognition to research.

Assemblyman Lanterman pointed to the significance of budget study as an outstanding responsibility of the Legislature and indicated the importance of having research data in connection with planning for the expenditures of the large sums on which a decision must be made in the near future. He said that "we have not just a custodial responsibility in taking care of the people who are mentally ill. The treatment and cure of mental illness is an essential goal."

Richard Morgan, Statistical Research Officer, Department of Mental Hygiene, reported that appropriations over a period of four years,

from 1951 through 1954, totaled almost $500,000 for four research projects Two hundred eight thousand dollars was appropriated over the four-year period for research in sex deviation at the Langley Porter Clinic, and $240,000 was appropriated for a pilot study at Stockton State Hospital seeking a more effective method of treating chronic patients. There were two other relatively small projects—$20,000 for research in the treatment of alcoholism by ACTH, and $17,000 for pilot studies in the placement of high-grade, borderline, mentally deficient patients from Pacific State Hospital. "With the exception of the appropriations over this four-year period, no moneys have been appropriated by the Legislature, either before or after this period, directly to the Department of Mental Hygiene for research." He pointed out that the department had been successful, however, in obtaining funds from private sources and from the Federal Government and mentioned two projects now being carried out with federal support. These are a project comparing the cost and efficiency of inpatient versus out-patient treatment for suitable cases, which is being carried on with headquarters in Berkeley; and a university-sponsored project for research into cerebral palsy, which is being carried out jointly by the University, the Langley Porter Clinic, and Sonoma State Hospital

Mr. Morgan indicated that he would not consider many of the minor studies carried on by hospital staffs as being research in the true sense (He preferred to describe most of these projects as casual investigations) He pointed out that the amount of money in terms of salaries of personnel working on such projects was only $12,000 in 1953 and $30,000 in 1954, and that this was a very small sum when contrasted with $70,000,000 for current annual operating expenses of the department Referring to the extent to which California had benefited by research, Mr Morgan utilized a chart showing the effect of penicillin in reducing hospital admissions for the treatment of central nervous system syphilis (Exhibit C) Mr. Morgan pointed out that, while there was no such thought in the minds of the research workers who discovered penicillin, its application by the Department of Mental Hygiene and the State of California had saved approximately $4,000,000 to date in support costs and approximately $5,000,000 in capital outlay for beds for the 1,000 patients who are not now in hospitals because of penicillin. He stated that, "We are saving now at the rate of $1,000,000 a year as a result of this discovery."

Dr. George Tarjan, M.D., Superintendent and Medical Director, Pacific State Hospital—The final aim of research into abnormal human conditions, such as mental deficiency, is obviously prevention. In this lies a basic statement of economy through research. Only occasionally can a problem be approached so that prevention is at hand very early Usually, analysis of treatment methods comes before the discoveries of methods of prevention. Therefore, we seek treatment methods which are faster acting and thus more economical

Financed by the State of California, Pacific State Hospital has completed a pilot study under which mildly retarded individuals can, with intensive treatment, be gotten out of the hospital and readjusted in society.

Research into better methods of diagnosis is also important Negotiations with the Federal Government are now under way to obtain funds to find some answers to the questions of the types of patients who come to hospitals for the mentally retarded, the reason for their coming, the ways in which they differ from those who formerly were admitted, and the specific needs and experiences of the types of cases more recently admitted to hospitals for the mentally deficient. As background for this study, the summarization of the kinds of cases seen in the first 2,000 patients for a given period at Pacific State Hospital will be used.

"I would like to call your attention to the fact that, unless we can find either replacements for state hospital care or better, and more economical means in the care of patients, it is likely that the per day per capita cost is going to nearly quadruple in hospitals for the mentally retarded, simply by the shift in the kind of patients who come to state hospitals as contrasted with the kind that used to come to state hospitals some years ago

"There are certain extremely costly procedures that are becoming, and must become, part of the everyday operation of a state hospital for the mentally retarded. For instance, there are the costly processes of dealing with, and trying to control, gastrointestinal conditions, diarrhea, problems of the bowel system of the human body, issues that go along with the problem of nutrition, and methods of rehabilitation —means of improving the patient's self-reliance to the point where he is able to walk, toilet himself, and eat. Unless we can find some better ways of doing this, it will be imperative that we expend enormous amounts of funds to have it done by others for the patient.

"We must study the factors that bring children to the hospitals, not only the factors in the patient but also those of his family and other aspects of his total environment." In discussing the question of research and prevention, Dr. Tarjan pointed out that "we have today some inklings of the chemistry of the human body and its connection with mental retardation. We are beginning to understand more and more the intricate problem of genetics in the human being"

Although the field of mental retardation is one of the more neglected areas of research in mental hygiene, there are today some hopeful signs such as the fact that the American Association for Mental Deficiency has appointed a committee on research (with Dr. Tarjan as a member), and this committee has applied to the Federal Government for funds for long-term planning in the field of research and other items. Also, the National Association for Retarded Children has applied for funds to conduct a review into the etiology of mental retardation

Dr. W. A. Oliver, M.D., Director of Clinical Services, Napa State Hospital, pointing out the similarities between the problems of dealing with seniles and the problems of dealing with mental deficiency, spoke of the cooperative project now carried on at Napa State Hospital in cooperation with the Langley Porter Clinic and the University of California He stated that it has been traditional in medicine that the mentally deficient and the so-called seniles have been considered untreatable and hopeless

Dr. Oliver described a project in which a randomly selected group of patients, 55 years of age and over, have been studied to discover some answers to such questions as:

1. What are the medical and psychiatric characteristics of the senile and the arteriosclerotic mental states?
2. Are there other mental disorders in the advanced age group previously unrecognized because of insufficient attention?
3. Is there any relationship between personality make-up, previous life patterns, economic and social stability, and mental breakdown in later life?
4. What circumstances lead to the admission of these older patients to state mental hospitals?
5. How many such admissions are really justified, or how many would be justified if other means of care existed?

To date, some 313 cases have been studied in greater or lesser detail, including psychiatric, medical, laboratory, X-ray, cardiographic, brain wave tracing, social history, psychological examination, behavior ratings by ward nursing personnel, follow-up studies and pathological examinations in the event of death. This project has been staffed from within the hospital itself, utilizing half to three-fourths of the time of a psychiatrist, one-fourth of the time of a clinical psychologist, three-fourths of the time of a psychiatric social worker, and proportionately smaller amounts of the time of rehabilitation workers, therapists, and others who are interested in the project A considerable body of information has been collected, and some of it has been reported to the American Gerontological Association and other aspects to the California Medical Association Examples of tentative findings to date include:

1 As many as 30 percent of the patients over 65 years of age do not have senile or arteriosclerotic processes, but are suffering from other types of mental disorders which cover a rather wide range

2. In certain detailed observations on 100 consecutive cases studied with regard to reasons for admission, 59 were admitted because of what we would consider to be truly psychotic behavior; that is to say, serious assaultiveness, attempts at suicide, delusions, hallucinations, or in a few cases, inappropriate sexual behavior. The other 41 were admitted because of nonaggressive behavior typical of the senile patient—mental confusion, wandering, memory defect, irritability, and in one case alcoholism

3 In 44 of these 100 cases there was no question that the patient needed to come to the state hospital and needed to stay there and have continuing care There were another 13 who needed to be admitted and studied, but after the problem was better understood they could have left the hospital and returned to care by local facilities There were 37 who need not have been admitted at all if other facilities had existed.

Of the 66 patients who could have left the hospital, 28 could have been handled in a nursing home situation, 17 needed hospital care primarily for medical reasons, and another 11 could have been handled at

home if the family had had some help of various types, either housekeeping or nursing.

Dr. Philip May, M.D., Director of Clinical Services, Camarillo State Hospital, "It is a common misconception that research just has to be done in a university or in a special research center As a matter of fact, many of the most significant advances in psychiatry have originated either in state hospitals or in large federal hospitals which have pretty much the same sort of setup State and government hospitals, both in this Country and in Europe, have done outstanding research and pioneer work in industrial therapy, in athletic therapy, in group therapy, in the application of psychoanalysis, in psychiatric nursing, and in the treatment of narcotic addicts, sexual psychopaths, and alcoholics. In fact, the modern concept of a psychiatric hospital as a therapeutic community or society, utilizing especially group methods of treatment and industrial rehabilitation, originated entirely in state hospitals."

Dr. May referred to the fact that much of the first work in the use of the new drug Reserpine was done in California state hospitals, and he also stated, "What works on a small scale in a university hospital or in a special research center is not necessarily the best method for treatment in a state hospital."

Because the great majority of the psychiatric patients in this Country are in large state hospitals, one of the main objectives of research is to find out efficient and economical methods of treatment that will work for a large number of patients, and it would seem that research in state hospitals should be practical to get the best results without extravagant and unnecessary expenditure.

Referring to the 14 research projects recently submitted by the Camarillo State Hospital to the Department Committee on Research as indicating the extent of interest in research that is found in state hospitals, Dr May referred to the evaluation of certain treatment methods, including drugs, and drugs in combination with electrotherapy, psychotherapy, etc. He pointed out the need for research to determine what combination of methods gives the best results in what sort of cases He also mentioned the need for research to find out how to make the best use of the staff already available, and he gave some examples of an experimental approach to this problem in his personal experience. Commenting on the experience at a veterans' hospital in which patients were paid for their work and were thus motivated therapeutically to a point where they could be returned home at an earlier date with an estimated eventual saving of $48,000 a year for only 20 patients, Dr May spoke of other types of incentives which could be used in comparison with the financial incentive. He also mentioned the field of religion, stating, "We really don't know what religious needs our patients have in hospitals, how they can best be provided, what sort of buildings and equipment are needed, and in what way the chaplain can best enter into the picture to help in the treatment of the mentally ill."

Mentioning the problem of dealing with alcoholics in state mental hospitals as another type of problem in which research is badly needed, Dr May said, "There are all sorts of different areas, down-to-earth problems that we don't know the answers to, that it would not be too difficult to set up a research program to inquire into, but you can't do research work without extra staff and money I personally think this

would be a good investment of funds Quite apart from the direct or indirect results, there also are hidden values in research. A hospital in which research is done finds it easier to recruit staff, to maintain staff morale, and the attitude of the public toward such a hospital is a factor in therapy."

Dr. F. H. Adams, M.D., Superintendent and Medical Director, Stockton State Hospital. "A large state mental hospital is really a multihospital It is several hospitals under one roof. There is the acute surgical and medical treatment unit for the handling of the population of 5,000 patients in much the same manner as it would be done in a general hospital, except that the patients are also mentally ill. State mental hospitals are also established for the treatment of patients who have chronic illnesses and who are going to be there for a long period of time Some of these patients have chronic medical or surgical disorders which keep them under treatment for many months or even years. A fourth type are the elderly patients who have psychiatric disorders, and the fifth type are the patients who don't get well—those who are not physically ill and not elderly, but who are receiving long-term treatment on continued treatment wards.

Stockton Pilot Study. In 1949, by direction of the then Director of the State Department of Mental Hygiene, Dr. Tallman, a study was devised and presented to the Legislature, approved and initiated in July of 1950 In this study, a sampling of over 400 patients was divided into two groups: one group of 200 went into the control study and the other group of 200 was the experimental group The control patients remained with the rest of the patients in the hospital having the usual type program, while the experimental group went into special wards and received all the known treatments that we had available at the time to help patients get well—more staff, better diet, more personal attention, a more closely integrated treatment program. Outstandingly important in this was that the staff selected were optimistic of the possibility of ultimate recovery. They used occupational therapy in greater amounts, recreational therapy, social service, psychology—nothing new, but a closely integrated program

This study showed that if you treat people intensively, even those on the back wards, most of them will get better and some of them will get well enough to leave the hospital The pilot study at Stockton showed that chronic patients under intensive treatment will improve—patients who were previously considered to be hopeless.

The value of this pilot study included the important factor of recognition of the problem, namely, that it is a responsibility of state hospitals to *treat* patients and not just to give them custodial care. The second achievement was in overcoming tradition which included an air of hopelessness about the chronic patient In general, this might be summarized in the phrase, "Let us just give them humane care." This tradition had to be overcome in the general public as well as among the staff of the state hospital.

"As a result of the study, improved programs have been established in other state hospitals The geriatrics study for chronic patients at Napa, the program for disturbed adolescent boys at Sonoma, the intensive program on chronic schizophrenic patients at Agnews, and the development of a pilot ward to be used as a training ward for technicians

at Patton are among the programs established in other state hospitals growing in whole or in part out of the pilot study at Stockton."

Dr. Adams stated that he felt that his own hospital got the greatest value out of the study. He cited the fact that they have been able to continue, at least in a skeleton fashion, the original design where there are two cottages for intensive treatment of long-term or continuous treatment patients. At Stockton, also, these intensive treatment units are used as training facilities for psychiatric technicians to learn the newer techniques and how to deal with continuous treatment patients

One broad result of the research at Stockton is the demonstration of the necessity for a very closely integrated team on the unit, where everybody shares information and supports a particular goal in the treatment of a patient. Effective treatment through this integration and sharing in the goal at the ward level is important, because "you don't direct the treatment from the superintendent's office, but the treatment goes on in the ward and is given primarily by the nurses and psychiatric technicians under the guidance of other therapists."

The study also raised many questions, perhaps more than it answered, but it pointed up the need for the techniques and the studies carried on in the Stockton study. We need to know more about which particular therapies are doing good, what techniques you could teach to nurses and psychiatric technicians, and how you could better improve your total treatment program in the hospital.

Nathan Sloate, Chief of Social Service, State Department of Mental Hygiene: "We do know some things; in fact, our knowledge exceeds somewhat our application and we are continuing in the process of catching up in application with what we already know. It isn't that we are dealing entirely in ignorance."

Speaking as a social worker, Mr. Sloate defined the problem of research more broadly than the other witnesses and pointed out the high importance of studies being made in the homes and communities from which the patients come and to which they must return. He stated that, in addition to knowing the efficacy of a given drug or a specific treatment technique, we must also know how the patient will be received when he is so rehabiliated by his hospital experience that he is ready to go back into society. He said, "The so-called whole approach to the whole problem involving all the people on the team who are working in behalf of the patient must necessarily be considered." He indicated that the social worker's concept of research is something that will tend to answer questions which we have about what we are now doing. He spoke of some research carried on by a national organization of social workers connected with mental hospitals

Listing the areas of research interest from the point of view of the social service program, Mr Sloate mentioned the differential characteristics and needs of the mentally ill patients who have been in hospitals, those who have never been hospitalized but who have had psychiatric treatment from community psychiatrists or in psychiatric clinics, and those who have never been hospitalized and who have had no psychiatric treatment in the community He also pointed out the question of differential characteristics of those who had been committed, those who had been placed for observation, and those who had been dismissed by the

court as not needing medical care or community supervision. Mentioning the effects of hospitalization or nonhospitalization upon the family of the patient and upon the community as well as upon the patient, Mr. Sloate raised the questions of duration of leave, the frequency and character of social service contacts, the type of home leave plan, the social situation, etc. He advocated the evaluative type of research or "what we call demonstration defined as goal-centered research."

Dr. Everett W. DuVall asked whether or not matching funds must be appropriated in order to get "outside funds" for the projects that are now contemplated.

Dr. Bowman: Ordinarily, there is no need of so-called matching funds; but the institution requesting appropriations from foundations, from the Federal Government, etc., must provide more in terms of personnel, office equipment, clerical staff, and that sort of thing than is required for the ordinary operation and maintenance of the program.

Chairman Allen asked about current research programs that are financed by private foundations.

Dr. Bowman: For about two years we have had a grant from the Multiple Sclerosis Foundation for a study of brain metabolism, amounting to about $13,000 a year. (For others, see Exhibit D.)

Responding to another question asked by Chairman Allen, Dr. Bowman stated that a request has been made to the Ford Foundation for approximately $150,000 a year for seven years and that this money has been requested for five types of projects:

(1) Childhood schizophrenia;

(2) The recording of electroencephalograms on IBM punch cards to facilitate the accumulation of information readily available for analysis;

(3) The geriatric study now going on at Napa State Hospital, which requires additional personnel and further amplification, representing the need for about $30,000 a year for seven years;

(4) The setting up of a brain metabolism special research laboratory to study such things as the rate of blood flow to the brain and the rate at which the brain burns up various substances, and relating the amount of oxygen consumed by the brain to other neurophysiological studies and to the endocrine glands;

(5) The setting up of a training course in research where research workers can be trained. This would include psychiatrists, psychologists, social workers, nurses, and physicians in fields other than psychiatry. The United States Public Health Service is much interested in this training program; and as the Ford Foundation has requested a program rather than projects, there seems to be a good possibility that funds will be forthcoming.

Dr. Bowman pointed out the space limitations at the Langley Porter Clinic and indicated that in the past they have not asked for certain grants because they did not have sufficient space to take on research projects.

Assemblywoman Dorothy M. Donahoe asked about the day-patient program. Dr. Bowman replied that this had been given up because of limitations of space. There is hope that it can be reinstated in the

future for more than the present limited service rendered to three or four patients at a time.

Assemblyman Lanterman asked whether or not more grants for research will require more and more capital outlay. Dr. Bowman replied that it was obvious that in order to do a piece of research they have to have a space to do it in, and getting the grant will increase the cost to the State of California, both for the capital investment and for the lighting, heating, and janitorial service required in the additional buildings These, said Dr. Bowman, constitute essentially a sort of a matching fund from the State.

Assemblyman J. Ward Casey asked about the integration of the research findings of various states and the Federal Government and whether or not they are utilized by various groups including California When assured by Dr Bowman that such utilization is made, Assemblyman Casey asked whether or not there was therefore duplication in research. Dr Bowman's reply was that in certain fields duplication is desirable and necessary, and he gave some illustrations.

Assemblyman Harold T. Sedgwick asked whether or not research to date has not been largely limited to the Langley Porter Clinic and whether or not there were certain types of research that should be carried on in state institutions and then coordinated with other research. Dr Bowman agreed thoroughly that a whole series of cooperative researches were desirable and that many of them were now in operation, and he gave some illustrations He also agreed that there are some research projects which should be done in state hospitals rather than in a university or the Langley Porter Clinic, or the Los Angeles Neuropsychiatric Institute

Dr. Brill, recalled for additional comment, pointed out that even though there has been considerable money available for research from federal and private sources, an analysis of the amount of money available showed that only approximately 5 percent of all research funds went to state hospitals, which constitute the greater part of the psychiatric facilities of the country. Even that 5 percent went to state hospitals where research personnel already existed, as, for example, to state hospitals in New York Explaining the method by which application is made for funds from a federal agency or from private foundations, Dr. Brill pointed to the delays involved and suggested that many times there are people interested in doing research who cannot be recruited because by the time funds are available the personnel is no longer available.

Dr Brill emphasized that it is significant that the Hoover Commission, which has been interested primarily in economy in governmental operations, came out for increased appropriations for research in psychiatry. "This was the one area I can think of where they recommended increased allocation of funds "

Responding to a question asked by Assemblyman Lanterman, Dr. Brill indicated that this recommendation was for funds to be used at the federal level, but that the idea was picked up by the governors of the states at the Governor's Conference He said, "Traditionally, the care of the mentally ill has been the responsibility of the states. The states are the ones that are putting out the large amount of money for the treatment of the mentally ill."

Assemblyman Lanterman: "In fact, there are no federal funds available for state treatment. That is strictly prohibited by law."

Dr. Brill: "The agency that has the greatest investment in this problem of mental illness is the State, and for this reason it is important that the State do take some interest, if not from the humane and medical point of view, at least from the economical point of view, in research programs in their own state hospitals."

Assemblyman Lanterman: "In other words, to have a policy of research as part of the state system, rather than just occasional research activities."

Dr. Brill: "Exactly."

Chairman Allen asked whether or not Dr Brill recommended that the State Department of Mental Hygiene have about $600,000 a year in the budget for research.

Dr. Brill answered in the affirmative; and, in response to additional questions, added, plus the capital outlay, but most of the state hospitals will require but little in the way of capital outlay for facilities. "I think that with the nuclei research teams, if they could be provided, it is my rough impression that they could provide space in the state hospitals right now for them. At the Langley Porter Clinic there is a space problem, but at the Neuropsychiatric Institute at U C L A provision has been made for more research space than exists now at the Langley Porter Clinic However, the institute in Los Angeles is in the preliminary drawing state, and they have not yet had approval of the Board of Regents to proceed with working drawings."

Assemblyman S. C. Masterson asked whether or not Dr Brill was saying that we ought to spend about 1 percent of our state budget on mental hygiene for research.

Dr. Brill: "Yes, sir, I might add, as a beginning, I would point out in all fairness that the State of Illinois, I believe, is appropriating approximately 5 percent of their operating budget for research."

The State of Ohio is also understood to have developed a significant research program. "I think the feeling of our research committee is that there is hardly any business that would operate with an annual expenditure of approximately $90,000,000 without allocating some funds for improvement."

In response to a question asked by Dr. Du Vall, Dr. Brill stated that arrangements for a research team in the hospitals would not supplant the kind of work that is being done by other members of the staff, but would rather serve to assist them in designing their research experiments, to stimulate them, and to help them in applying for funds, as well as to be a general boost to the whole research program which men are interested in doing and to some extent carrying out

Mr. Morgan: A recent study made of research appropriations in private industry * shows that those industrial organizations with the same level of operating expenses as the Department of Mental Hygiene are spending from 5 to 7 percent of their total operating expenses for research. For larger industries, the percentage is smaller although the amount is larger; and for smaller industries a larger percentage is allocated for research.

* Spending for Industrial Research, 1951-1952, in "Dearborn, *et al*, Graduate School of Business Administration, Harvard University, 1953."

Mr. Post: "There are very few men who are really technically well qualified to do research, and they are more apt to be found in the universities than as practitioners in the mental institutions Thus, you have the practical problem of not only providing research facilities in institutions, but also the problem of trying to get the kind of men who would do the kind of research as distinguished from medical work which is required within the institution How you will be able to secure this specialized group of research people to put in institutions even though the money is appropriated is, I think, a very serious problem "

In response to a question asked by Assemblyman Lanterman as to whether or not this is again the problem of the chicken and the egg, Mr Post stated that it is taking from one pocket and putting in another. Since there is a shortage of this kind of man in the United States, Mr Post pointed out that whether he is working in Colorado, Ohio, or some other state, he is still doing the same kind of job for California that he would be doing in the California institutions if you had the facilities and the budget and were able to attract the people to this program.

Dr. Brill: "Mr. Post brings up a very important point. Certainly there is some basis in truth in what he says. However, I think that if we can get research started in the state hospitals, as has been pointed out by several of our people this morning, it will facilitate our getting the staff. I think this has been the case in practically every hospital in the country, whether it is in psychiatry or other medical specialty Where you have a research program going you do get staff The fact that our hospitals have been to such an extent custodial in the past has been the cause of physicians not being attracted to working in them We do have a problem of trying to get the number of outstanding research people I am convinced that many of the doctors now in our state hospitals are interested in, and competent to undertake, a great deal of research if there were financial support for it."

Chairman Allen asked about the new wonder drugs and whether they are being used in California institutions.

Dr. Brill responded that the drugs chlorpromazine and serpasil are being used in the state hospitals today, and an attempt is being made to find out just how effective they are. "I think most people look upon the new drugs as being chemical forms of restraint in contrast to physical restraint They quiet the patients down. I don't think there has been any claim made that the new drugs are really curing the schizophrenic, psychotic patient But they do help patients to some extent by making them more amenable in many instances to the treatment which they need, but which unfortunately in many instances we are unable to provide as it is an individualized type of treatment " Each hospital now using a new drug is running a continuing evaluation on the drugs to the best of their present ability for making such an evaluation I think "most people have pretty much given up looking for some simple vitamin or chemical as a complete cure for mental illness."

Commenting on a question asked by Assemblyman Lanterman, Dr Brill indicated there is a possibility that something in the nature of blood chemistry or in the amount of oxygen getting into the brain or

some similar specific approach to somatic disorders may become available and be just as clear-cut a means of prevention and treatment as that which is illustrated by the problem of retrolentalfibroplasia in relation to blindness.

Dr. Tarjan, in response to a suggestion from Assemblywoman Donahoe, stated that some evidences have been collected to date that chemical components of the blood are definitely related to the syndromes of mental retardation. "We are beginning to learn more and more about the chemical abnormality that is related causatively to the occurrence of mental retardation. Similarly, the lack of oxygen is a damaging, causative factor in many such cases."

Responding to a question asked by Assemblyman Lanterman, Dr Tarjan stated that it is possible that some of the chemical or oxygen deprival aspects of causation in mental retardation may take place in the uterine period, that is, before the birth of the child, or at the time of birth.

EXHIBIT A

NECESSITY FOR RESEARCH IN MENTAL ILLNESS

PREPARED BY WALTER RAPAPORT, M D
Director, State Department of Mental Hygiene
For the Hearing in San Francisco, November 15, 1955

California is spending about $100,000,000 a year for the treatment of the mentally ill and mentally retarded, but practically nothing for research Funds budgeted to the Department of Mental Hygiene amount to almost $70,000,000 per year for operating expenses and $20,000,000 a year for new buildings and equipment. Counties are expending probably $10,000,000 a year for short-term treatment, for court examinations, and for the care of the aged senile

During the year approximately 20,000 patients will be admitted to California state hospitals. About 19,000 patients will be released but not all will be cured. One-quarter will return at some time for further treatment.

Thirty-six thousand three hundred patients are now confined in our state hospitals for the mentally ill, 8,400 in the hospitals for the mentally deficient Approximately one-half of the 36,300 are afflicted with a type of mental illness called schizophrenia. The causes of this condition are not known. Little is known about the causes of many other types of mental illness. Without knowing the causes, preventive measures and treatment programs cannot be expected to be fully effective.

One-half of all hospital beds in this Country are occupied by mental patients (54 percent according to the 1952 census). Unless the trend can be reversed, one in every 12 persons born this year is destined to spend some time in a mental hospital. When Dr. Jonas E. Salk and two other scientists closely associated with him in the remarkable and inspiring story of the polio vaccine were asked what still incompletely explored area medical science should delve into next, all three said that of mental illness. While the great killers are cancer and heart disease, Salk and his associates pointed out, mental disorders are the great disablers

The National Governor's Conference on Mental Health at a meeting in Detroit on February 8-9, 1954, passed the following resolutions:

> "Training and research in the field of mental health are essential elements of effective mental health programs The serious accumulation of patients and costs can only be reduced by discovering new knowledge and new methods of treatment and by more adequate training and development of mental health personnel. State legislatures are urged to appropriate specific sums for training and research in addition to the regular appropriations for care and treatment.
>
> "At present it is estimated that less than 1 percent of total state mental health budgets is expended for research—$4,000,000 out of a total expenditure of about $560,000,000. Based on a comprehensive survey of state mental health officials, it is recommended that the states should devote a much larger percentage of their total mental health budgets to basic and applied research in the biological and behavioral sciences and to the training of personnel in research methods.

"Effective training and research programs cannot be achieved without effective organization A position of director of training and research should be established within the mental health agency in each state to assume responsibility for the coordination of mental health training and research within the state's jurisdiction. A technical advisory committee, composed of scientists and educators in the field of mental health, cooperating with scientists in universities and industry, should be established in each state to advise and assist the mental health agency and other state departments concerned with the coordination of training and research activities"

Estimates for the 1954-55 Fiscal Year indicate that about $11,000,000 was being spent over the Nation by both state and federal agencies for research in mental illness The Federal Government was spending about $6 7 million and the states $4,000,000 plus The states have since accelerated their research programs. Illinois is reported to have $7,000,000 on hand for research This was taken from collections made by the Mental Hygiene Department for care and treatment of patients in Illinois state hospitals. According to reports Ohio devotes 5 percent of its budget to research; Delaware has recommended 5 percent of the budget for research; New York's 1954-55 state budget allocates $2.1 million for research.

It is reported the chemical industry alone spends $1 billion a year for research. Other industries spend large sums. It is necessary they do this in order to survive.

Research in medicine has paid huge dividends. In 1938 the polio foundation was formed. By 1953 the foundation was spending $4,000,000 per year The result, the dramatic findings of Dr Salk. Large sums are spent annually in cancer and other research in the medical fields. A comparatively small amount is expended toward research in mental disorders.

During the past five years the Department of Mental Hygiene has expended less than one-half million dollars for research That covered only four projects Other projects have been carried on in the state hospitals These necessarily have been limited in scope for the reason that the work had to be done on the employees own time or at the expense of the treatment programs We have learned something from these efforts but the problem of what causes the major types of mental illness, how they may be prevented and what are the best forms of treatment, remain largely unexplored.

With the annual expenditure of almost $90,000,000 by the Department of Mental Hygiene for operating costs and additional facilities, it seems it would be good business judgment to spend some amount for research That course offers the only hope of reversing the present trend of larger hospital populations and larger operating and construction budgets.

Less is actually known about mental disease than physical illness. Periods of disability and treatment are much longer for mental illness The diagnosis and treatment of mental illness presents great difficulties. This is one of the reasons so little is known about the subject How-

ever, great strides have been made in general medicine and other sciences and there is reason to believe mental illness can be conquered.

Money is available from the Federal Government and private sources for research in mental health. Grants of these funds are made by the National Institute of Mental Health and various foundations. In order to qualify for grants the applicants must have a competent staff and facilities to carry on research projects

We have a modest plan for setting up in this State some basic structure whereby research may be carried on and, more important, place us in a position to qualify for outside grants At the beginning, such a program would cost approximately one-half million dollars per year It would be a start toward reversing the trend of larger hospital populations and larger budgets

EXHIBIT B

CURRENT RESEARCH PROGRAM OF THE DEPARTMENT OF MENTAL HYGIENE

A letter from DR WALTER RAPAPORT to MR A ALAN POST, Legislative Auditor, Dated January 6, 1955

In compliance with your request of December 22, I am happy to furnish the enclosed summary list of research projects currently carried out in our hospitals. For each project we have shown the number of personnel involved, the man-hours expended to date, and the man-hours required to finish the project (separately for departmental personnel and for personnel outside the department).

In general, it has been the department's policy to encourage research efforts at the hospitals, since research activities foster and promote staff interest in the patients The department has therefore encouraged research at all hospitals as being of immediate benefit to the patients under treatment, aside from its contribution toward the ultimate improvement of methods of treatment and prevention. However, I am sure that you will agree with me that the activities described in this summary do not represent an adequate research program in any sense of the word In fact, it is rather surprising to find that even this much research has been undertaken, when we consider the demands of the treatment programs, the lack of specific appropriations for research, and the department's present inability to provide top-flight guidance and consultation in research problems.

The hospitals have met these handicaps in various ways In a large number of instances the majority of the man-hours involved was supplied by agencies outside the department; and in other instances the research was carefully integrated with the treatment program and obtained as an incidental (but important) by-product with minimum man-hours expenditure In nearly all instances much of the research was carried out on the employees' own time

It is also of interest to note the wide range in the types of research being carried out Nearly all disciplines are involved (psychiatry, medicine, electroencephalography, psychology, social service, dietetics, etc.). Projects also range all the way from basic research in the field

of medicine to research in methods of selecting new personnel. There is also considerable range in the magnitude of the projects, from major programs supported in large part by federal grants, to small projects carried out by a single employee largely on his own time (We should point out that the superintendents have understandably found it difficult to estimate man-hours expenditure for those projects carried out in large part on the employee's own time, or carried out as a by-product of established treatment procedures).

The list of projects certainly indicates some duplication in research efforts. To some extent this is desirable, particularly in research involving the subjective evaluation of results; in these instances a cross-check is important. On the other hand, some of this duplication would have been avoided (and could be avoided in the future) through the establishment of a well-organized departmental research program

Finally, we should like to observe that several superintendents took the opportunity to reiterate their need for research funds, in the course of supplying this office with current information regarding their research activities. In fact, two superintendents went so far as to submit research plans for projects involving a total expenditure of $150,000, by way of illustration.

In this connection, we should mention also that we have a file of detailed statements prepared by the hospital superintendents last August in response to a request from the National Science Foundation, describing specific projects which the hospitals would like to undertake if competent personnel and adequate funds were made available to them.

As you know, the department's Program Committee also has spent considerable time in assessing the need for an expanded research program and in determining the areas and the direction of research which might be carried out in our facilities

NOTE: This letter concludes with a detailed tabular summary of the current research projects at each of the facilities operated by the Department of Mental Hygiene. This summary shows the descriptive title of each project, the number of persons involved, the staff hours expended to date, and an estimate of the additional staff hours required to complete the research.

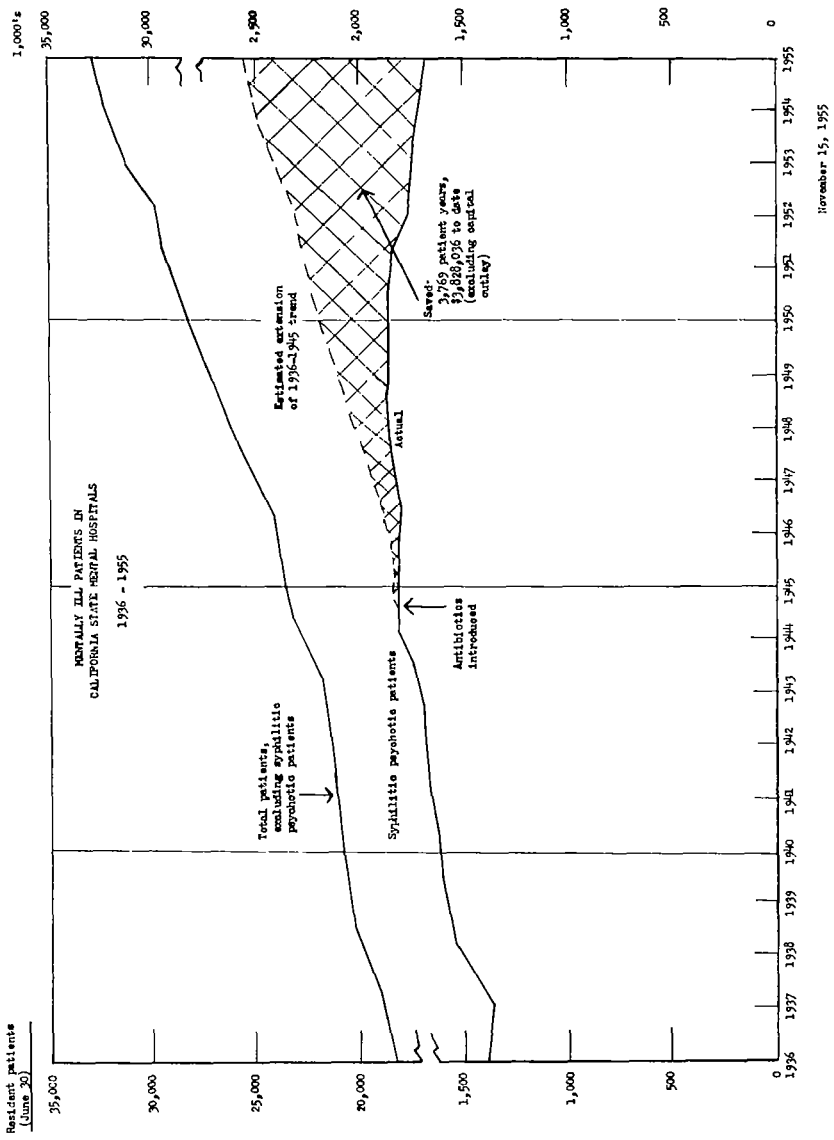

MENTALLY ILL PATIENTS IN CALIFORNIA STATE MENTAL HOSPITALS
1936 - 1955
Resident patients (June 30)
1,000's
Total patients, excluding syphilitic psychotic patients
Syphilitic psychotic patients
Actual
Estimated extension of 1936–1945 trend
Saved: 3,769 patient years, 33,828,036 to date (excluding capital outlay)
Antibiotics introduced
November 15, 1955

EXHIBIT D

OUTLINE OF PROPOSED RESEARCH PROGRAM FOR WHICH FUNDS HAVE BEEN REQUESTED FROM THE FORD FOUNDATION

The following descriptive titles of research projects indicate some of the areas in which the Department of Mental Hygiene proposes to make studies. Details of most of these projects, as presented to the interim committee, are in the files of the committee.

The research projects now under way with "outside" funds, or as projects undertaken by the staff in addition to their regular work assignments, include:

(1) Development of electroencephalographic methods in terms of the IBM system as an integral part of the larger, comprehensive, interdisciplinary research program, which is being submitted by the Langley Porter Clinic.

(2) An independent, much more detailed and comprehensive program to deal with all of the EEG data being accumulated in the 20 some laboratories now in the California Department of Mental Hygiene, the California Department of Corrections, and the California Youth Authority.

(3) Joint geriatric research, carried out at Napa State Hospital and the Langley Porter Clinic by the staffs of these units in collaboration with the University of California, in the study of new male admissions falling within the diagnostic classification of senile psychosis and psychosis with cerebral arteriosclerosis. This project will include clinical, therapeutic, sociological, pathological, and biochemical factors in an effort to determine their relative importance in the mental disorders of the aged.

(4) Endocrine studies of patients with chronic schizophrenia.

(5) A study of childhood schizophrenia. This project includes inquiry into the genesis and the maintenance of several varieties of mental disorders in children of all ages through adolescence and an evaluation for purposes of refinement of methods of prolonged, intensive psychotherapeutics of these disorders.

NOTE: On January 24, 1956, in an informal meeting of the interim committee held in his Los Angeles courtroom, Judge Ziemann brought to the attention of the committee the special problem of psychotic, delinquent teen agers. The need for research with this group was briefly discussed and its significance recognized.

(6) Subsequent to the hearing on November 15, 1955, an additional project was presented to the Ford Foundation which involved the evaluation of therapeutic techniques in a large state mental hospital.

The State Department of Mental Hygiene Committee on Research considered many proposed projects including the following:

(1) Psychotherapy of emotionally disturbed, high grade mentally retarded children;

(2) The Rorschach Test as a means of evaluating emotional maladjustment of deaf children;

(3) The use of Reserpine with anxious and agitated patients in a state psychiatric hospital;
(4) Some attitudes of the families of patients who have been hospitalized in a state psychiatric hospital,
(5) A statistical evaluation of lobotomies done at Agnews State Hospital,
(6) The measurement of improvement in hospitalized psychiatric patients;
(7) Single-therapist versus co-therapist groups in the treatment of emotional disorders,
(8) Study of an intensive treatment program for senile mental patients,
(9) The influence of case work services on parents of hospitalized psychiatric patients;
(10) A prognostic scale for electroshock therapy in California mental hospitals;
(11) The detection and treatment of space-occupying lesions in patients presenting symptoms of mental disorders;
(12) Group psychotherapy with post lobotomy patients,
(13) The anatomic and psychologic changes induced by "ECT" in laboratory animals,
(14) A staffing study of the nursing service in a new juvenile unit;
(15) Multidimensional total-push program in a controlled group of totally regressed schizophrenic children;
(16) Restoration of chronic mental patients (especially of the middle aged and senile classes) to some active life;
(17) Influence of Pyridoxine (B6 Factor) therapy on convulsive disorders without demonstrable cerebral lesions (centrencephalic type);
(18) Problems of the families of mentally ill patients;
(19) Group interaction of patients and personnel in a state mental hospital ward;
(20) Effect of group psychotherapy on hospitalized acute schizophrenics;
(21) Etiology of mongolism: A multiple factor analytical approach;
(22) Personnel concepts and their relationship to patient behavior.

NOTE. Other financial plans for all or parts of some of the projects listed above were made necessary by the decision of the Ford Foundation to limit grants from the $15,000,000 fund (see page 10) to universities and to private or nontax-supported agencies and mental hospitals. This made even more important the items for research in the budget of the Department of Mental Hygiene.

PART II

CONDITIONS IN MENTAL HOSPITALS

FINDINGS

At the conclusion of the three hearings at Modesto and Agnews State Hospitals, the subcommittee unanimously adopted the following findings regarding the immediate issues:

"California state mental hospitals do not have the conditions of brutality, sadism, torture, or beating of patients which have been alleged to exist. The director of the department and the hospital staffs do not permit such treatment, and the attitudes of the employees are opposed to such treatment of mental patients. Out of 14,695 employees in the 13 state mental hospitals in California, there have been rare cases of mistreatment of patients by employees not temperamentally suited for work in mental hospitals. Adequate procedures are followed by the hospital staffs and local law enforcement officials to discover such incidents and to discipline and/or prosecute the offenders.

"The 37-page report on Modesto State Hospital which was released to the press about September 6, 1956, is inaccurate in the quotation of witnesses, as appears from sworn testimony before the Assembly Interim Committee on Social Welfare, and is based so much on unverified hearsay that the report as a whole lacks credibility and should be disregarded in arriving at any conclusion on conditions at Modesto State Hospital.

"There is no foundation for the accusations in the press release of September 7, 1956, regarding insufficient investigation of deaths at Modesto State Hospital, torture of patients, administration of bruises to patients, improper use of chloroform liniment or dry epsom salts.

"There is no foundation for the accusation of intimidation of witnesses by this committee, its staff, or employees of the Department of Mental Hygiene. Testimony of witnesses before this committee indicates that undesirable pressure has been brought against them by those who have charged this committee of such conduct.

"The unfounded charges against Modesto State Hospital, Agnews State Hospital, and other state mental hospitals have upset the administration of those hospitals, weakened morale of employees, made much more difficult the recruitment of new employees, and needlessly caused great emotional distress to the friends and relatives of patients in all state mental hospitals. The damage caused by such malicious attacks cannot be repaired by legislation or appropriation of funds.

"The delay in the investigation from July 18, when the report was completed, to September 6, the lack of evidence to support the charges, and the lack of action by constituted authorities against

any employee as a result of such serious charges make suspect the motives behind the report.

"Therefore, the Assembly Interim Committee on Social Welfare, which is regularly authorized by Assembly Resolution No. 217 for 1955-56 to study problems relating to mental hygiene, will continue to evaluate in an impartial and objective manner conditions in mental hospitals."

Since adopting the foregoing preliminary findings, nothing has developed to change them To the contrary, they have been further substantiated by hearings of the State Personnel Board. Affirmation is also found in the December, 1956, report on Modesto State Hospital made by members of the Stanford University Medical School faculty through arrangement with the California Medical Association Other problems brought to the attention of the committee during the investigations require the following additional findings and recommendations

Improvements in the administration of California's mental hospitals since 1953 have resulted in an increase of 11 percent in the chances that the average patient will be returned to the community improved in mental condition. There has also been a decrease of 8 percent in the patient death rate. The increase in the number of patients in 1952-53 was 1,585 and in 1955-56 was only 133—a drop of 91 percent in the upward population trend although the general population of the State increased about 400,000 a year. Because of this there has been withdrawn from construction requests for 1957 the sum of $7,865,870 in capital outlay In view of the $1,799 annual maintenance cost for a mental patient in a state hospital, the increased appropriations resulting in higher standards of care and reduced patient population figures are an economy measure

The staffing of our mental hospitals should be brought up to modern medical standards as rapidly as possible. Any stinting of funds or half-way measures for the purpose are an extravagance the State cannot afford. Our presently approved positions for psychiatrists and other physicians is only 75 percent of the standards adopted by the department in 1952 (85 percent in the Governor's 1957-58 Budget). The situation is worse for clinical psychologists and rehabilitation therapists. On the basis of the standards adopted for psychologists in 1952, the positions presently approved in hospitals for the mentally ill are 55 percent and the Governor's budget provides a 5 percent increase making 60 percent of the adopted standards. Psychologist positions in hospitals for the mentally retarded are raised from 85 percent to 90 percent. Only 32 percent of the 1952 standards are met by presently approved positions for rehabilitation therapists (40 percent in new budget).

Because of difficulties of recruiting personnel in some key categories, there should be a critical review of recruiting procedures, salary scales, and fringe benefits. Special training programs should be instituted or expanded with the help of the state colleges and universities.

The formal training program for new employees should be expanded to provide annual formal training of appropriate types for all Department of Mental Hygiene personnel who work directly with patients.

Some old ward buildings presently used for housing patients have grossly inadequate plumbing and bathing facilities. The department's program for modernizing these facilities should be accelerated. Toilet facilities in patient quarters should, wherever possible, be of the type in common household use, equipped with plastic seats.

The department's program for replacing ancient, dilapidated, unsafe buildings should be accelerated. An effort should be made in the design of new buildings for geriatric use to use the type with low partitions, giving patients semiprivacy.

The use of seclusion of disturbed patients in locked rooms should be drastically curtailed. Additional personnel should be provided for supervision of these patients to avoid injuries.

The food served patients is inadequate, monotonous, and deficient in nutritional requirements Additional rations, equipment and personnel should be provided to give the patients meals of at least equal quality with that presently served employees in employee cafeterias. The present raw food ration is $0.5649 per patient per day compared with $0.93838 per employee per day.

The family-care program should be expanded both as an economy to the State and to give the patient eligible for such care a departure from an institutional program. This requires more social workers to make and supervise the placements. The proposed 1957-58 Budget is still short 193 social workers of an acceptable standard for this purpose. The present statutory allowance of $70 a month for family care is inadequate and should be increased on a graduated scale to realistic figures in order to find the type of homes that are needed.

Harmless chronic senile persons do not need psychiatric care in state mental hospitals. They should receive care and treatment in local private boarding or nursing homes or in public medical facilities. Federal participation in the support of otherwise eligible older persons is available when they are not diagnosed as psychotic and are not placed in facilities established for psychotic patients The total amount of the public assistance grant for the needy aged is less than the average cost of boarding home care and less than half the average cost in nursing homes. To assure the local care the State should share with the counties in the necessary supplementary payments

Questionable cases should be admitted to state mental hospitals but local care should be provided to those older patients found not to be in need of psychiatric treatment or who are so improved they can return to the community. When local authorities fail to find shelter care facilities for those older patients, the state department should place them and the county should pay for their care.

PROCEEDINGS

a. MODESTO STATE HOSPITAL

On Thursday, September 6, 1956, there appeared on the front page of the San Francisco *Call-Bulletin* the following, coupled with a story

"CAL. MENTAL HOSPITAL MYSTERY DEATHS QUIZ

"Atty. General Investigates 'Brutality'

"Attorney General Edmund G. Brown charged today that 'brutality and inhumane treatment' of patients at Modesto State Hospital is prevalent"

The San Francisco *Examiner,* on Friday, September 7, 1956, stated on page 1, in part:

> "The State Mental Hospital at Modesto is a modern throwback to Bedlam, with patients beaten to death by sadistic attendants undeterred by a cowardly administrative staff"

The Oakland *Tribune,* on September 7, 1956, published an air photo of the hospital with this caption

> "*Reign of Terror*—This is an air view of Modesto State Hospital, where a reign of terror was instituted by sadistic attendants, according to a report of the State Attorney General's Office"

Similar stories appeared in other newspapers all over the State

The Assembly Interim Committee on Social Welfare, at a meeting in San Francisco on September 11-12, 1956, decided to conduct an immediate inquiry into conditions at Modesto State Hospital. The chairman visited the hospital September 13, 1956, followed by further visits and public hearings at the hospital September 19 and October 2, 1956, and by a hearing at Agnews State Hospital October 9, 1956. These hearings, coupled with staff work and inspection tours by the committee, developed the following information:

(1) Attorney General's Report

The occasion for these press stories was the release to the press on September 6-7, 1956, by the Attorney General of the following press release:

"DEPARTMENT OF JUSTICE
"Office of Attorney General
"EDMUND G BROWN
"State Building, San Francisco
"PAT FRAYNE

"MEMORANDUM TO THE PRESS
"FOR RELEASE: 9 a m. Friday, September 7, 1956

"Brutality and inhumane treatment of patients by some of the employees of the Modesto State Hospital, Modesto, California, insufficient investigation of the causes of death to patients, maladministration and lack of disciplinary action, insufficient psychiatric-therapeutic treatment, overcrowding and understaffing is charged in an investigation report by Attorney General Edmund G. Brown submitted to Superior Judge Frank Cadmus Damrell of Modesto today.

"Judge Damrell requested Brown to make an investigation of the State Hospital last May 17th The judge's request followed the conviction in his court of Velva Irene McCaughan, a technician in the hospital, on a charge of involuntary manslaughter in the death of Grace Belill, a patient Another technician employee of the hospital was found not guilty on the same charge. A special agent from the Attorney General's Office made the investigation resulting in the report submitted today.

"Insufficient records were disclosed in a number of deaths in the mental hospital Where cases of violent death had been carried to the coroner, no records of the findings were available, and in

other cases, the coroner's records varied in the cause of death as designated by the institution's examining physicians.

"There appeared to be no indication in many cases that cause of death had been sufficiently investigated. In some instances a ward attendant's opinion was accepted as the cause of death

"The use of rubber toilet plungers to punish patients, and forcing some to drink water from toilet bowls was charged by some of the attendants and patients. Broken ribs and hair pulled from patients' scalps are listed as other instances.

"The following patient death cases are charged in the Attorney General's report as not sufficiently documented:

"In the case of Arthur E. White, age 63, who died on September 18, 1955, the cause of death was attributed to multiple bruises, concussions, and broken ribs An incident report in the files disclosed that this patient had been repeatedly beaten by one Nowlin Elliott, another patient. Nothing in the files disclosed any investigation as to the cause of the injuries.

"In the matter of Delmar York who died on December 8, 1954, the file disclosed that the patient was found hanging from a bed sheet in the shower room. The incident report merely indicated that the patient had committed suicide. No investigation of this matter was indicated in the report.

"In the similar case of Josephine Porras who was found dead on June 27, 1955, hanging from a bed sheet from the ceiling pipe, no investigation was made and no coroner's report appeared in the file.

"Patient Howard Clark was found dead in his bed on July 30, 1955. The cause of his death was attributed to aspiration of stomach contents. No autopsy report appeared in the file and no investigation appeared to have been made.

"In the case of Jane Stanberry, age 12, who died on March 11, 1955, the cause of death was also attributed to aspiration of stomach contents and a notation was made that patient was epileptic. No incident report appeared in the file and no investigation appeared to have been made.

"In the matter relating to the death of Hazel Ortega, who died on December 31, 1954, the physician's certificate of death showed that the patient collapsed in the hallway—the notes being followed by a question mark—and that she had struck her head and that death was caused by cerebral hemorrhage. An autopsy made in this case attributed the cause of death to asphyxia resulting from the aspiration of stomach contents. There appeared no indication in the files regarding the discrepancies in the cause of death assigned. The autopsy report failed to disclose that any examination of the head injury had been made.

"In the matter of the death of patient Lon Campbell, age 71, who died on January 28, 1955, the doctor's report on the certificate of death indicated that the patient had suffered head injuries and that there were many discolored areas about the body. A ward note made by a doctor on January 20, 1955, stated that the patient had collapsed in the bathroom; that he had numerous contusions, abrasions and scratches over the body, and a deep scalp wound,

indicating a possible fracture. A spinal tap disclosed the presence of blood in the spinal fluid. The examination of this patient's eyes further disclosed a possible brain injury. The cause of the injury was indicated to be that the patient had collapsed in the bathroom and struck his head on a radiator. There was no indication that this had been verified other than the fact that a technician had made the notation in the incident report that it was his opinion that the patient had struck his head on the radiator causing the scalp wound In the autopsy report dated January 29, 1955, cause of death was attributed to bronchial pneumonia and multiple pulmonary abscesses. The autopsy report also noted a 2½-inch cut in the scalp which was almost completely healed. There was no indication whatsoever in the autopsy report that an examination had been made of the patient's head to determine whether the cause of death was a brain injury.

"The file relating to patient Nobuko Sakaguichi was also examined. This patient died on August 7, 1955. An incident report made by Charge Mary Atkinson and witnessed by Technician Gertrude Fernandez stated, 'patient found soiled and given shower; collapsed face downward; removed from shower; unable to find breathing; artificial respiration given 100 minutes per doctor's orders, expired at 4 p.m ' An autopsy report dated August 8, 1955, attributed the cause of death to aspiration of a stomach contents, acute gastric ententes, fatty degeneration of liver. The anatomic diagnosis in the autopsy report disclosed multiple rib fractures and hemorrhaging of the pancreas. There was no indication in the file as to what had caused the rib fractures and the bleeding in the stomach cavity. No investigation was conducted to verify the events leading to the patient's death. It was noted that there appeared numerous incident reports in the file, which disclosed that the patient had a long record of belligerency and combativeness and had been on occasions a camisole patient. Information was obtained that the fractured ribs had been due to the administration of artificial respiration. In this connection, it should be noted that since 1953, the American Red Cross has completely changed its method of artificial respiration and that no longer is pressure placed on the ribs to induce breathing; that under the present method, pressure is merely applied on the shoulders and the arms of the subject pulled to induce inhalation and exhalation. It would, therefore, tend to indicate that in the matter regarding this particular patient that if the injuries had resulted through the administration of artificial respiration, those administering such artificial respiration were not cognizant of the methods to be used.

"Information for the investigation was received from 17 interviews in which the informants' names are listed as confidential, while patients, doctors and technicians of the hospital permitted the use of their names.

"Instances of broken arms, head injuries and administration of bruises to patients, as well as abuse and forced feeding are recorded in the report. In several instances torture included appli-

cation of chloroform, liniment and dry epsom salts, declared some of the informants

"Understaffing and the overcrowded conditions handicapped the adequate administration, treatment and policing of the institution, is the defense offered by top staff members

"Overcrowding could be relieved if many of the old and senile patients could be placed in family-care homes, but lack of social workers and the State's allowance of $70 a month for out-patient care is inadequate. The maintenance cost for each patient in the hospital is $120 a month. Frequent turnover of doctors handicaps the medical and psychiatric treatment, as most doctors use the hospital for training purposes and then turn to more lucrative private practice.

"Dr. David D Williams, Superintendent and Medical Director, Modesto State Hospital, stated that if 20 more social workers were made available, 200 patients could be released monthly to family-care, whereas only 30 to 40 are released. He believed further that approximately 75 percent of new admissions could be cured and released under supervision, as against the present rate of 50 percent.

"The security provided civil service employees and union members, said Dr. Williams, was the cause of disciplinary letdown. Dr. Williams admitted, says the report, that wards were not visited daily by doctors because of the understaffing and administrative backlog.

"Many capable doctors, who could be of assistance in the institution, have been turned down because of their failure to pass a rigid civil service examination.

"The report, in its conclusions, points to insufficient training for employees, and that insufficient psychiatric treatment is given the patients. Incomplete disciplinary action and incomplete investigation of the deaths of patients are highlighted in the charges against the conduct of the institution.

"The survey was made by Special Agent Joseph Martino of the State Department of Justice investigative staff, who has in turn handed the report to Judge Damrell"

Also released at the same time was the 37-page mimeographed report described in the press release and entitled "Attorney General's Investigation—Modesto State Hospital" This report was not dated, signed, nor addressed to anyone

Pat Frayne, Special Representative of the Attorney General's office, testified concerning the method of release as follows:

"Q And did you release it to the press yourself?

"A Indirectly The report was released by Judge Damrell of Modesto who had it about September the 4th, at the same time a copy was I am informed sent to Dr. Rapaport. Judge Damrell was going to release this report on the 7th. On the 5th he telephoned me and said that Dr. Rapaport had a copy of it so he thought he would hasten the release date and he released it on the 6th

"We had copies of the report in our office in the event any of the newspapers asked for it after Judge Damrell issued it, and naturally the newspapers did request it immediately, within a half an hour after the report came out from Modesto.

"Q. Did you prepare a press release which you distributed yourself?

"A. I didn't distribute it. I had it available."

Dr. Walter Rapaport, Director of Mental Hygiene, testified that a copy of this report had been left in his office September 5, 1956, "in a plain envelope and (it) had no letter of transmittal."

Joseph H. Martino, Special Agent in the Bureau of Criminal Identification and Investigation, testified that he had made an investigation into conditions at Modesto State Hospital starting early in July, 1956; that he completed the report referred to above and signed a copy on Friday, July 18, 1956, after proofreading it; and that he turned it in at that time The names of the 17 confidential informants were listed in Martino's original report, but not in the copy released to the press on September 7, 1956

Martino identified the 17 confidential informants quoted in the Attorney General's report as follows (job titles added for convenience):

1 Constance Norton, Supervising Psychiatric Social Worker;
2 Lucy A Green, Psychiatric Technician;
3 Mae A Hemenway, Psychiatric Technician;
4 Ruth C Burr, Senior Psychiatric Technician;
5 Ethel N Cavanor, R N, Assistant Superintendent of Nursing Services;
6 Eileen Mathews, R N., Assistant Superintendent of Nursing Services;
7 Elizabeth E Chisholm, R N, Superintendent of Nursing Services;
8 Edith Walk, Senior Psychiatric Technician;
9 Dalpha R Lane, Psychiatric Technician;
10 Valena S. Byrum, Psychiatric Technician;
11 Mary A Webb, Senior Psychiatric Technician;
12 Venia Palmer, Senior Psychiatric Technician;
13. Amanda V Whitaker (nee Rosas), Psychiatric Technician;
14 Anice Lee Work, Senior Psychiatric Technician;
15. Colin B. Chisholm, M D, Physician and Surgeon;
16 Cope Hartley, Stanislaus County Sheriff's office;
17. Cecil Kilroy, Stanislaus County Sheriff's office

The report quoted from the 17 confidential informants with such expressions as, "Confidential Informant No 13 stated * * * " Martino testified at the September 19, 1956, hearing of the committee, however, that he did not interview Informants Nos. 10, 11, 12, 13, and 14 Martino had previously testified before a senate committee on September 17, 1956, that he had interviewed each of the confidential informants and had made accurate notes of the interviews which were transcribed in his said report.

The committee called to the stand 10 of the "confidential informants," each of whom testified at length concerning conditions at the

hospital and the statements attributed to them by Martino in the Attorney General's Report. Eight said they had been misquoted in the Attorney General's Report. One said she had been correctly quoted in stating that she had seen or heard of no brutality. This testimony and the report have been transcribed and widely distributed. There is no need to report all of it here. Typical was the testimony given by Mrs. Elizabeth E. Chisholm, Superintendent of Nursing Services. She was quoted in the Attorney General's Report as follows:

"Confidential Informant No. 7 related that during her tenure at the Modesto State Hospital, she has arrived at the inevitable conclusion that the institution is operated for the benefit of employees rather than that of the patients. It has been her experience that employees do not consider the patients as human beings. It is her impression that supervisors of personnel at the institution cover up for employees if the employees do what the supervisors ask. She is of the firm opinion that a closer check must be made upon supervisors of personnel for efficient operation.

"Confidential Informant No. 7 related that the institution is operated more or less on a caste system which is perpetuated by the old "bughousers" who have preconceived ideas regarding the care and treatment of patients and who refuse to accept newer methods of treatment. While these "bughousers" do not actually defy the nurses, they will not cooperate. Supervisors withhold information from attending doctors and report only what they see fit. Many employees are known to "cut corners" and in cases go over the heads of supervising personnel. She has also noticed that many doctors fail to show sufficient interest in the patients and that this activity on their part is transmitted to the attendants who also show little regard for the welfare of the patient. Whenever an incident happens in the wards, incident reports are minimized and employees retreat behind the contention that the patient was at fault.

"During her employment, confidential informant No. 7 has noticed many breaks and fractures of patients' limbs which go unnoticed because of the large number of patients. Whenever incident reports regarding injuries to the patient become voluminous, there is a tendency to cover up the cause and the reports generally indicate that the injuries were caused by the patients themselves. She believes it incredible that the cause of so many injuries should go either unnoticed or unaccounted for. She believes that this is due to a large extent because the attendants and employees will not take the attitude that patients are sick individuals.

"Confidential Informant No 7 related that the use of dry epsom salts as punishment for the patients is an age-old custom in mental institutions. She has also heard of the use of astringent liniments as punishment but has never witnessed the application of such liniments. She has also noted that many doctors have a tendency to shirk duties and that little psychiatric effort is made on the patient. Many psychiatric cases are given little attention. In the event that a patient becomes unmanageable, he is sent to a security ward and generally no attempt is made to determine the cause

for his unmanageability. It was her opinion that many patients who need psychiatric attention are not given such and consequently they are 'lost in the shuffle'

"Regarding the training program at the hospital, Confidential Informant No. 7 related that all new employees are required to undergo 300 hours of training; that this training by the new employees has had a marked effect upon the progress and proper administration of the institution. This training is also available to the other employees but it has been her experience that very few avail themselves of such training. These employees may take such training on their own time which will be later compensated for but they refuse and neglect to take such training because it does not fit in with their personal plans."

Mrs. Chisholm testified before the committee, however, as follows:

Q. How long have you been employed at Modesto State Hospital, Mrs. Chisholm?

A. I started here January, 1951.

Q. In what capacity?

A In teaching, education director, and 1953 I took over the position of Superintendent of Nursing Services.

Q. And prior to your employment in Modesto State Hospital, where were you employed?

A. Well, I have been employed at New York Hospital, New York, Toledo General Hospital. My most recent one, position before coming here, was as Director of Nursing at Alameda Hospital in Alameda for six years.

Q. And these various places you have been employed as a registered nurse?

A. Yes.

Q. And did you ever work or study at Langley Porter Clinic?

A Yes, I did.

Q. When?

A. In 1950, I went to the University of California from 1948 to 1950 and then took the advance psychiatric nursing program at Langley Porter Clinic in 1950.

"Q. Now prior to your studies at the university, had you been doing this nursing in these hospitals you mentioned?

A Not psychiatric—oh, yes, nursing in the other hospitals.

Q. General nursing?

A General nursing.

"Q. And after you took your studies at the university, you started doing nursing with psychiatric patients, is that correct?

A. That is correct.

Q. Now I understand that you have been referred to as Confidential Informant No. 7 in this report. Mrs. Peterson, will you hand the witness Exhibit No. 1? If you will turn to page 19, Mrs. Chisholm, starting on the second paragraph it says "Confidential Informant No. 7"—then follows through that page and top of the next page. Can you find the place?

A. Yes.

Q. Were you interviewed by Mr. Martino?
A. Yes.
Q. When?
A. I can't give you the approximate date. I don't recall.
Q. Was it this year?
A. Yes.
Q. Do you recognize the gentleman who testified this morning?
A. Yes.
Q. And where did the interview take place?
A. In Dr. Noce's office.
Q. Here at the hospital?
A. Here at the hospital.
Q. And have you read this statement which is set forth in this Attorney General's report?
A. Yes.
Q. As quoting you?
A. Yes.
Q. Confidential Informant No. 7?
A. (Reporter's note: The witness nodded indicating an affirmative reply.)
Q. Are you correctly quoted?
A. No.
Q. Were you asked to sign a statement by Mr. Martino?
A. No.
Q. Did you see these notes before they were released to the press?
A. No.
Q. With reference to your interview, it starts out, "Confidential Informant No. 7 related that during her tenure at the Modesto State Hospital, she has arrived at the inevitable conclusion that the institution is operated for the benefit of employees rather than that of the patients. It has been her experience that employees do not consider the patients as human beings." Did you tell Mr. Martino those things?
A. No.
Q. Second paragraph it says, "Confidential Informant No. 7 related that the institution is operated more or less on a caste system which is perpetuated by the old "bug-housers" who have preconceived ideas regarding the care and treatment of patients and who refuse to accept newer methods of treatment." Did you tell Mr. Martino that?
A. No.
Q. Did you use the term "bug-housers" during your interview with Mr. Martino?
A. I never used the term "bug-housers."
Q. Would you tell us in your own words just what you did tell Mr. Martino?
A. In the first place, may I say that I was very upset after having the interview with Mr. Martino because I felt that he did not like me and I did not like him and we could not get together on what I was trying to say.

I did state, and I think it is common knowledge, that most people look upon a hospital as a place where patients are taken care of, and in the administration of a hospital, patients are the prime concern. After that, in this order, comes the hospital, what is best for the hospital, and what are the needs of the hospital, and third, administratively everyone knows that you have to have happy and contented employees, so you do all that you can.

That is what I call a patient oriented hospital.

Q Will you go on? Did you tell Mr. Martino anything further?

A. I believe I stated that—that is not—do you want me to look at some of these things?

Q Oh, yes.

A This is directly misquoted where it says I had "noticed many breaks and fractures of patients' limbs." Actually the question was asked me, were there many? How did we keep track of them? And I said I did not feel that there were many considering the number of patients, 3,500 patients, similar to a town of this size

Q. Go ahead.

A. I am also stated as saying that the "use of dry epsom salts as punishment for the patients is an age-old custom in mental institutions" I have not had a lot of experience, as I pointed out before, in mental institutions Those are only remarks that other people had said. I had never seen nor heard of it being used here

When it comes to the question of doctors, I was asked specifically did I know how long it would take a doctor to do a mental examination or a physical examination. I said I could not answer that question because I would have no idea. Why weren't these questions referred to the doctors?

I am quoted as saying, the inference, my impression is, that all employees are older employees not interested in patient care, which is not so There are many fine employees here There are many who are interested in patient care, and that is what we are trying to encourage, and I wouldn't have stayed here this long unless I thought it were possible to do so

Q. Go ahead. Are you finished?

A. Unless there is something special that you want to ask me on or question me.

Q. How about astringent liniments, are they referred to in this statement? Page 20, the second paragraph, "She has also heard of the use of astringent liniments as punishment but has never witnessed the application of such liniments" Was that discussed with Mr Martino?

A. He mentioned that and that was a general statement in regard to all institutions, not just Modesto. I said I had never witnessed it.

Q You are quoted as saying, "Many psychiatric cases are given little attention" Middle of the second paragraph of page 20.

A. There are times when there were very few doctors on the staff. I don't feel that I am competent to say how much or how little a doctor should give That is why I referred many of these questions that were asked me to a doctor, if he wished to question him.

Q. Did you get the impression during your interview with Mr. Martino that he was seeking to endeavor to find out what the facts were and conduct of this institution?

A. No.

Q. What was your impression?

A. My impression was that he had certain preconceived ideas and was trying to put words in my mouth.

Q. Can you tell us aside from the interview with Mr. Martino something about the set-up on the nursing staff of this hospital, who you have under you, what line of authority is, and things of that nature?

A. Yes. I am the head of the Nursing Services. This is Modesto State Hospital. There are two Assistant Superintendents of Nursing Services, in the morning, and Psychiatric Technicians. In the afternoon and night shifts there is one each Assistant Superintendent of Nursing Services, R.N.s.

The hospital is divided into areas. In this particular area we have four areas, each one having five supervisors. One of these areas is called the acute area and is staffed by nurses, as many as we have available.

Under the area supervisors we have what we call a group of wards. Then in charge of either one ward or two, depending upon the type of patient and the care they need, there may be a Charge. There can be a Charge Technician in non-acute areas and Charge Nurse in the acute area. That is in the morning shift. And then on the afternoon and night each of these wards has a shift Charge. These are known as Technician I The morning Charge is Technician II.

Q. Do you have the Technicians and the nurses under your supervision?

A. Yes, I do.

Q. When did the practice develop of using Registered Nurses in mental hospitals?

A. As far as I know, shortly before I came I came into the system in 1951. I believe formerly there were nurses in surgery, to what extent I am not sure. I believe in 1949 and 1950 nurses were put on the staff.

Q. Now I understood you to say that the acute wards are staffed by nurses?

A. As they are available, yes.

Q. And what do you mean by acute wards?

A. I mean the acute medical and surgical wards, this includes, you have one for men and one for women, the acute treatment wards the same way, and the receiving wards. Then there are chronic medical wards and wards for senile cases who need a lot of general nursing care.

Q. Do the new admissions, patients who come into a mental hospital for the first time, their arrival here, do they go into what is called an acute ward or some other type of ward?

A. They go into the acute ward, receiving ward in the acute area.

Q. Now you have other wards in other areas with different types of patients?

A. Yes.

Q. Such as what?

A. Such as those who are able to walk, such as those who are unable to walk, those are called feeding wards. We call the other ambulatory wards.

Q. Do you have some patients that are spoon-fed?

A. Yes, many patients on the feeding wards are spoon-fed.

Q. Is that because they are unable to move their hands and feed themselves?

A. Maybe, if they are unable to physically; maybe they don't want to, they must be assisted

Q Some of them are spoon-fed because they don't want to eat?

A Yes.

Q. Do you know of any brutality or mistreatment of patients here by attendants?

A. No.

Q. How are these special incident reports handled where there is an injury of some kind to a patient?

A. The report is made out originally by the employee concerned who sees it. Then the area supervisor is notified and she investigates and verifies what has been stated is correct.

If this is an emergency situation, such as the sutures, then the report and the patient are sent immediately to the dressing station where they are taken care of by the doctor.

Then the report comes to me. They are sent to the nursing office, to the assistants and me, and finally it is referred to Dr. Downey or Dr. Noce.

Q. What kind of reports do you get of special incidents? Could you recite some of them to us?

A. You can have a great variety of reports We try to have reports made out on any questionable incident where a patient may have a bruise or may be found, maybe scratched their hand, they may have some difficulty with another patient, they may have difficulty of course with an employee, they may fall down.

Q. Those are various things that are covered on these reports as they come across your desk, is that right?

A. Yes.

Q. Could you tell us whether there have been any over-all changes in the conduct of this hospital during the period of your employment here?

A. I feel that the care has improved.

Q. How?

A. More patients are being seen, more patients are being taken care of. That 1951 is a long time ago. There were many fewer people than there are now. For instance, in the nursing staff, there were seven I believe, I believe I was the seventh nurse on the staff. Now we have 31 Our training program has been accelerated.

Q. I believe the figure has been quoted that you have about 3,500 patients here now, is that about right?

A. That is about right.

Q Did you have that many when you first came here?

A. It was around 3,300 I believe when we first came

Q. Has there been any change in the attitude of the technicians toward the patients during the time you have been here?

A I believe so I believe the training program has helped immeasurably.

Q. How are promotions of technicians handled? Who decides that somebody is going to get promoted from one grade to another?

A Well, for each vacancy we are given a list of three names and we have set up a committee to look over the three names These people are interviewed and then it is the consensus of opinion, each one gives their idea.

Q Who is on the committee?

A. Mr Kinsey, the Personnel Officer, Dr. Noce, Clinical Director, and myself.

Q And when you recommend that in making your recommendation that a particular employee be promoted, what kind of an attitude do you look for?

A. We look for a person who is interested in the patient, who is anxious to see the patient improve, who wants to help them on their way out of the hospital.

Q I believe you used the expression patient oriented sometime?

A. That is true

Q. Tell us what you mean by that?

A Well, that is patient orienting, perhaps means someone who is interested in the newer psychiatric techniques as they are developed, that the patient—patient oriented, the patient is the object of our treatment and we do whatever we can toward the patient, all activity is centered toward the patient.

Q. Do you look for that in recommending promotion for a technician?

A. Yes.

Chairman Allen: Does anybody have any questions?

Assemblyman Lanterman: Yes, I'd like to ask

Chairman Allen: Mr. Lanterman.

Examination by Assemblyman Lanterman:

Q Mrs. Chisholm is it your opinion that the training program, for trainees, and the standard of the psychiatric technicians as far as their service to the patients and their service in the hospital has improved in your opinion over the past few years?

A. Yes.

Q. That began about what time to your knowledge?

A. For the trainees program began August, 1951

Q. And you have noticed an improvement in the capacity of these technicians in their treatment relationship with the patient?

A. Yes.

Q That it is a help in the hospital and is beneficial to the patients in their care?

A. Yes.

Q. Do you think that if brutality was prevalent at this hospital, and the technicians took pleasure out of beating the patients that you would know about it?
A. Yes.
Q. Do you feel that goes on here?
A No, I don't.

One confidential informant, Venia Palmer, testified that she had not been interviewed by Martino, but that she had in the past made a statement similar to that in the Attorney General's Report, to wit:

"Confidential Informant No. 12 advised on interview that she had been told by many patients that they had been forced to do physical labor for which they were not physically suited It was Confidential Informant No. 12's opinion that some of these patients were to old to do the type of work that they had been forced to do; that while she had heard that epsom salts and liniments were used on patients for punitive measures, she had never seen the salts and liniments administered."

One patient, Myrtle Wood, was called to testify. She had been quoted in the Attorney General's Report as follows:

"Myrtle Wood, patient, Modesto State Hospital, on interview advised that she had seen Patient Belill force-fed by Technician McCaughan and that McCaughan had made her sit on Belill's lap while she fed her On previous occasions, she had seen McCaughan strike Belill with a rubber plunger and force her to polish and scrub floors She related further that she had seen two technicians twist and break the arm of Patient Goldie Weisner and that she recalled that this was done by Technician McCaughan. Mrs. Weisner subsequently died. On another occasion she, personally, was kicked by McCaughan while washing floors Mrs Wood said that she had seen technicians at the hospital beat Patients Vera Hampson and Betty Rodgers and pulling the patients' hair and twisting their arms She recalled that upon one occasion, she had seen Mrs McCaughan place a swab with liniment in Belill's pajamas and heard Belill scream. Patient Wood also observed Technicians Samuels and McCaughan take Patients Ruth Poole and Crickett, Cordell Smith and Dinah Smith to the shower room where they had beaten the patients with rubber bathroom plungers On another occasion, she saw Technician Samuels beat Patient Odel Smith on the head with a shoe"

This patient testified before the committee as follows:

Q. Tell me, what ward are you in now?
A C-12.
Q And do you know how long you have been there?
A. I believe one year and nine months today, 19th.
Q This is the 19th, September 19th, 1956?
A That is right
Q. Were you in a mental hospital before you had been there?
A. No, sir.

Q. Where is your home?
A San Diego.
Q. And how old are you?
A. Thirty-two.
Q. Are you married?
A. Yes, sir.
Q. What is your husband's name?
A. William Franklin Wood.
Q How do you get along on the ward?
A. Fine.
Q. Do the technicians treat you all right?
A. They are very nice.
Q Who is in charge of the ward now?
A. Mrs Eppel, Lucille Eppel, she is technician on C-5.
Q. Have you ever had any trouble with any of the technicians?
A. No, sir.
Q. Do you do any work on the ward?
A. Yes, sir.
Q. What kind of work?
A. I see the patients, make up the beds, bathe them on Wednesday and Saturday, and take up the trays, make up the beds, bathe the untidies, comb their hair and dress them, and see they are properly dressed to go to meals.
Q. Do you do a good job?
A. Yes, sir.
Q. Do you have trouble with any of the technicians?
A. No, sir, not a one.
Q. How is the food?
A. It is O K. only I have money to go to canteen, buy my specials.

Other information received by the committee indicates that this patient has been in state mental hospitals since 1931, was born in 1900, and her husband died prior to 1931.

Martino testified before the committee that he had never seen Myrtle Wood and was not aware of the diagnosis of her mental illness.

One of the confidential informants, Ethel Cavanor, testified that she had seen technician Burke striking a patient with a rubber plunger. This technician, Agnes Burke, was called and testified that she had on that occasion used a rubber toilet plunger to separate two patients who were fighting, and denied that she had ever beaten a patient. Mrs. Burke had previously received a suspension for this incident.

Mrs. Cavanor further testified that Martino interviewed her twice, that the second time he read part of his notes back to Mrs. Cavanor, that she told Martino at that time his notes were not correct, that he did not make the corrections, and, in all the paragraphs, with the exception of that one which is a complete misstatement, there is a certain amount of what was discussed involved in each paragraph, filled in with the other things which are incorrect

Constance Norton, Supervising Psychiatric Social Worker at the hospital (Confidential Informant No. 1), testified generally concerning the attitudes and practices of the technicians toward the patients as follows:

A I would like to read into the record a statement commending the hundreds of good employees at this institution. To my knowledge, and it is not an opinion, it is my knowledge that employees have purchased drapery material for the wards, made the draperies themselves, have furnished cakes and refreshment for little birthday parties for patients without relatives. They have brought clothing and cosmetics for our girls going out on jobs. In fact, one group of employees dressed a little mental defective girl, even taking the dainty clothes home to launder.

There are hundreds of us here at Modesto who regard the care of those entrusted to us as a fine career Here each day we learn more of why people behave as they do. These people, these patients come to us broken, bewildered, confused, difficult to handle. As they recover and leave the hospital, it is a matter of deep and lasting satisfaction to every member of the team, the technician, the charge, the lead, the professional staff, to people on maintenance, to people in food services, that we are able to return them back to where they came whole, functioning again at their level and back again to their families and communities.

Q. Do you feel that any of the technicians show any kindness toward the patients or that they do not? What is your information on that?

A. It has been my experience that technicians have shown kindness to patients far beyond the call of duty and far beyond anything I myself probably have done.

Q. In what way?

A. They have shown it by taking the patients out of the hospital for week-ends, taking them into their own homes, have been interested in them and kindness to the patient which I have appreciated due to the shortage of our staff is they keep me aware of the needs of the patients for going out.

I don't think the day passes that some technician doesn't call to remind me that I have not gotten around to getting somebody released from the hospital.

Q. Do any of the technicians furnish—provide furnishings for the ward at their own expense?

A. Yes. Yes, they have.

Q. How?

A. As I said before, the draperies, some of the technicians bought and made. In fact, in a dye bath, to provide, this was when we were short of material, staff.

Q. Who paid for those?

A The technicians themselves.

Q. Out of their salaries?

A. Out of their own funds, yes

Dr Colin B. Chisholm, chief surgeon at the hospital, was listed as Confidential Informant No. 15. He testified regarding the statement attributed to him in the Attorney General's Report as follows:

A. "He stated, however that in his opinion there are some sadistic employees"—I object to the term "sadistic employees." A sadistic employee is one who gets pleasure in hurting people.

I know of no such employee in this institution. If I did, I would do everything in my power to get rid of him. * * * who are by far in the minority who exercise brutal practices. And I did not use the word "brutal"

May I further state, I am not interested in any political feud and I am not interested in the whitewashing of any institution or any department in the State of California. I never asked only for establishment of good treatment of patients and that I have worked hard, and a lot of doctors and nurses and technicians associated with me, have worked very hard at this, at least to my knowledge for two years, and a lot of them a lot longer than that

Q. Do you feel that you have any sadistic employees here?

A No, sir, I do not. I think we have a few amongst the employee population of somewhere around 750 or something like that, I think in just as in any group with 700, we have some short-tempered individuals that fly off the handle a little fast and might be a little too ready to use their fists, or too ready to initiate restraint on somebody, but sadistic employees that take pleasure in beating people, I don't know any.

Q Doctor, there is one other question, how does the incidence of body lice, scabies, sores, that sort of thing here compare with the general population?

A. At the moment and for some time past, we are probably the cleanest institution in the State with regard to body lice, head lice, scabies, crabs, and a few other things like that"

(2) Deaths of Patients

The Attorney General's press release and report listed deaths of eight patients as not sufficiently documented. The committee examined the hospital patient files in these eight cases and found in each case a death certificate properly completed by the county coroner

The present Stanislaus County Coroner, Herbert E. Paul, and his predecessor in office, Glenn Drake, were questioned by the committee at the September 19th hearing. Mr. Paul testified to the procedure he uses in the investigation of deaths at Modesto State Hospital, and.

Q. Among the deaths which you have investigated, have you found any which indicate homicide, manslaughter, death as a result of abuse by a technician or anything of that sort?

A I found nothing that led me to suspect anything at all in any of my cases

Glenn Drake, former coroner, testified to the procedure used in the investigation of such deaths, and stated that two of the eight cases had been handled by his predecessor. Mr. Drake testified that, in any death case where he felt there was a possibility of foul play, the case was immediately referred to the district attorney and sheriff for further investigation. There were "two or three" such cases, including that of a Mr. Henry S Hagen, which did not lead to prosecution, and that of Grace Belill, resulting in an indictment and conviction of one psychiatric technician for manslaughter, later reversed on appeal Mr.

Drake said further as to the cases mentioned in the Attorney General's Report:

> "People have told me the report said no investigation was made. That is not true. They were investigated because I did it."

Stanislaus County District Attorney Frank S. Pierson testified that since Jauary 3, 1955, his office had investigated three deaths at the hospital, that in two of the cases they "did not get any information that there was any criminal agency involved" The third case, that of Grace Belill, resulted in prosecution.

Mr. Pierson testified further that some of the hospital personnel were not cooperative in these investigations

Stanislaus County Sheriff Dan Kelsay testified that during his time in office, since January, 1951, only one case of a patient death at the hospital, that of Grace Belill, had been investigated by his office.

Two additional patient deaths were investigated by the Stanislaus County Sheriff's Office subsequent to the hearings of this committee at Modesto State Hospital In the case of *Jerome Silviera*, who died at the hospital December 12, 1956, at the age of 52 years, the sheriff's office made a complete investigation and reached the following conclusion:

> "Nothing of evidentiary value was developed that would indicate that this subject died as a result of violence inflicted by another.
>
> It is noted that the subject's mother, Mrs Mary Boysen, 320 North Fulton Street, Fresno, visited Jerome on December 10, 1956. Mrs. Boysen indicated that at no time during the visit did her son complain of mistreatment. She did indicate, however, that her son told her that everyone at the hospital had been good to him"

In the case of *Roy G. Tovelle*, who died at the hospital December 19, 1956, at the age of 72, the sheriff's office made an investigation and reached the following conclusion:

> "Post mortem examination indicated Tovelle died as a result of a subdural hematoma, petechial hemorrhage of the brain, skull fracture and hyperstatic pneumonia. Our investigation developed evidentiary information that the skull fracture was caused by violence committed on Tovelle by Irving Smalheiser, another Modesto State Hospital patient.
>
> "In a conversation with Investigator Sam Born this date Dr. Rourke Downey indicated that a request had been made to transfer Smalheiser to Atascadero State Hospital for the following reason: 'The patient has a combative, assaultive history. He was involved in an incident in which another patient died, death recorded as homicide due to patient's action. There are no facilities at this hospital to care for a criminal type of patient' Dr Downey indicated that he believed the transfer could be effected some time this week."

In connection with this case, the hospital superintendent reported the following history:

(COPY)

SHERIFF'S OFFICE, STANISLAUS COUNTY—SUPPLEMENTARY REPORT

File No CR-S3170

WALTER RAPAPORT, M D.
Director of Mental Hygiene
Sacramento, California

MODESTO STATE HOSPITAL
#16141
December 20, 1956
TOVELLE, ROY G. (Deceased)

The following report concerns the case of TOVELLE, ROY G., referred to in our teletype of December 19, 1956, as having died following a head injury.

This 71-year-old male was committed from Alameda County to Agnew State Hospital on November 30, 1955. The history indicates that he had been failing since 1952. The wife was finally unable to take care of him in the home and had placed him in the Masonic Home in 1955 He was only kept there for a month because of his confusion, disorientation and demanding behavior. At Agnew, he was diagnosed as having chronic brain syndrone w/senile brain disease. Notes referred to his being ambulatory but requiring a great deal of help in his personal care; he would get lost easily, he demonstrates a classical nominal aphasia.

On August 9, 1956, he was transferred to the Modesto State Hospital. He was placed on Ward A-4, which is a feeding ward, because of his inability to walk to the dining room. His records indicate that he was involved in several incidents, either due to falling or his being pushed by other patients because he would get in their way and interfere with others.

On August 29, 1956, the patient fell while sitting down and cut the back of his head on a chair, causing a laceration of the scalp Skull X-rays were taken, which were negative. There was a re-evaluation of his physical condition and it was noted that he was gradually failing.

At 7.20 p.m. on Friday, December 14, employee Phillips, who was charge technician on A-4, heard a noise in the dormitory. On investigation, he found Tovelle lying on the floor with another patient trying to pick him up. The patient was unconscious only for a moment or two and on recovering he was put to bed. Other patients who were present indicated that a patient in the unit by the name of Smalheiser had shoved Tovelle forcibly so that he had hit the floor real hard. At 8.30 p.m. when supervising technician Berry made rounds, Phillips reported what had happened and they both checked Tovelle's condition, failing to find any evidence of physical injury. At that time they made the decision that a special incident report was not indicated. Phillips, in his report, states that he checked the patient's condition several times that evening and noted nothing unusual.

Nursing personnel the next day noted that the patient was able to be up and about and showed nothing unusual. The afternoon shift reported, however, that the patient appeared more tired than

usual, when he was made ready for bed. They checked his temperature, pulse and respiration and found nothing unusual. It was noted, however, that he had a black eye and the back of his hand was skinned At this time, inquiry was made as to the possible cause of this and special reports were requested from the shift that was aware of the patient's fall that had occurred on the 14th. Mr. Berry then made a detailed investigation of what had happened Getting statement from Mr. Phillips as well as the patients who were present at the time that Mr. Tovelle was pushed by Mr. Smalheiser.

The patient was transferred to the Ward A-18, the acute medical ward, at 1.30 a.m. on Sunday. At that time, he was showing definite signs of head injury.

The detailed medical notes indicate that the patients finding could have been due to cerebral hemorrhage or head injury. He continued to be unconscious, showing possible neuralogical signs. The patient was seen in consultation by several members of our staff and a conservative management was agreed upon. Patient died at 9.51 a m., December 19, 1956.

Because of the known history of a fall, the case was referred to the coroner. Autopsy findings were those of fractured skull, subdural hematoma. The patient showed findings of chronic heart disease and congestive failure. The coroner classified the death as homicide and has requested an evaluation of the circumstances by the Office of the District Attorney. There is nothing in the investigation of this death that would in any way implicate an employee.

FREEMAN H ADAMS, M.D.
Acting Superintendent and Medical Director

(3) Edward E. Rodemeyer

Edward E Rodemeyer, formerly employed at Modesto State Hospital as a technician trainee, and dismissed before the end of his probationary period, testified before a Senate committee on September 17, 1956, that while working on a ward for men under the supervision of technicians Milton E. Lynch and Billie L Batson, that he saw Lynch and Batson hit an elderly, confused patient with a straight arm and knock him to the floor; that these same technicians would tease a patient about his delusions of ownership of the King Ranch in Texas, and the duration of his stay at the hospital, until the patient went into a wild frenzy; that on Ward D-8 for mentally retarded boys he saw technician Robert Lake strike a blind, mentally defective Negro boy in the stomach with a violent punch and knock him down; that Lake would teach the patients to call themselves vile names and perform unnatural sex acts; that as a means of discipline some of these boys called "low grades" either had no clothes at all or were clothed in short pants.

The chairman of this committee inspected Ward D-8 prior to Rodemeyers' testimony It is maintained for severely mentally retarded adult men whose personal habits make the ward difficult to maintain There were no indications, either on this ward or others visited by members of the committee, of any physical abuse of patients

Technicians Lake, Batson, and Lynch were interviewed prior to the September 19th hearing Each denied the accusation of misconduct and signed statements to that effect Lynch and Lake were permitted to testify under oath at the September 19th hearing voluntarily, without receiving legislative immunity from prosecution. Each denied the charges under oath

Milton E. Lynch testified as follows:

Q Do you recall a patient on the ward you were stationed at who thought he was the owner of King Ranch?

A. Yes, sir, I do.

Q. And did you tease him in the presence of Mr. Rodemeyer by saying his contract was being extended?

A. No, sir, I did not.

Q. Do you recall any incidents that might have been misinterpreted by Mr. Rodemeyer as such?

A. Yes, sir, this patient is extremely paranoiac and he has delusions and he believes that he is an Indian chief, that his name is not—I believe it is George Houlihan, he will emphatically deny that when you walk in, Mr. Houlihan, we'd like you to do this or that, he will start screaming as loud as he can and continue to scream and there is no way to stop him except we used to stand in the door and talk to him, and in a moderate tone of voice to try to calm him down and he also has a delusion of—I can't recall what the other one is right now. I am sorry, I can't remember the other delusion, but the steps we took, we generally did to avoid having to handle the patient.

He was partially a bed patient with an ulcer of the foot, and even in order to give him medical attention to his foot, which

the doctor had ordered, we would sometimes have to go in and hold him in the bed, while one of us put dressing on his foot.

Q Did you ever straight-arm patients in your ward?

A. I haven't straight-armed anybody since I left high school That was in football, incidentally.

Q. What kind of an employee was Mr. Rodemeyer?

A. He was the poorest employee I ever had

Q. In what respect?

A Well, I hesitate to say, not being a doctor, but I think he needs psychiatric help.

In September, 1955, Lynch received a three-day suspension for striking a patient and fracturing five ribs. He was not questioned about the incident at the hearing. Lynch stated outside the hearing that this incident occurred while restraining a violent patient.

Technician Robert Lake testified as follows:

Q How about the Negro boy, did you strike him in the stomach?

A. I am going to tell you about that. This man, Mr. Rodemeyer, has evidently found some delight or satisfaction or feels he has in projecting his mistakes into my case.

In the very case he has quoted me mistreating a patient. I saw Mr. Rodemeyer at the office window while doing my work, which is part of my duties, mistreating the patients to the extent of manhandling them and sitting them down.

I went outside to correct Mr. Rodemeyer, and told him that this wasn't necessary In doing so, I would like to demonstrate I wish I had someone to show you the amount of force I used with this patient

I guess it would be what I would call a slight pat on the stomach causing a blind patient naturally which can't see, to back away from me, and double over and reflex. I set him down in this manner and then told Mr. Rodemeyer this was the method of sitting patients down If he intended to stay in this type of work he must do this instead of a harsher way.

I guess this man has something against me. I don't know whether it was the fact that I reprimanded him for trying to eat food off the patients' food cart I don't know whether it is the fact he would do nothing, practically nothing of the duties I was told to assign him I don't know whether it was the fact that I told him he was too fat and needed to reduce. I don't know which of these, or maybe some more things, because there were several incidents on my ward, I had to reprimand Mr Rodemeyer for.

He, (Rodemeyer), seemed to take a good deal of pleasure in agitating two patients in particular to the point that they were disturbed either in the sense of making a lot of noise, or becoming combative.

Lake testified further, denying the charges of Rodemeyer in detail Lake said that he used short pants as a disciplinary measure in Ward D-8, and that:

Q. Have you ever hit a patient?

A. Have I ever hit one? To what extent? I have hit lots of patients. I wrestle with them. I play with them, to that extent I hit them. You can come to my ward. I wrestle with them. I tease them, they like it I am quite friendly with my patients, but in force or malicious intent, no.

Myrtle Lahar, Psychiatric Nurse, testified as follows:

Q. Are you acquainted with Mr. Edward E. Rodemeyer?

A. I know who he is, yes.

Q. Were you acquainted with him while he was working there at the hospital?

A. Just one time, when he worked on A-22, he was a trainee there.

Q. Were you supervising that ward or something?

A. I was the relief supervisor.

Q. And you saw Mr. Rodemeyer working there?

A. Yes, sir.

Q. Would you tell us whether or not you observed any defects in the work conduct of Mr. Rodemeyer?

A Mr. Rodemeyer is, I think he should be in the mental institution with these patients. He kept the patients always blowed up and we never left him on the ward alone. He was—we were afraid to leave him on the ward alone.

John T. Jolly, Supervising Psychiatric Technician, testified as follows:

A. Well, I was in the Education Department at the time Mr. Rodemeyer was going to class there, and I had, I know of these reports, Mr. Lynch made a report to me about him not fitting in the ward, and he told me the very statements that he stated here about Mr. Rodemeyer, and I in turn passed them on to Mrs Segelke, who was the educational instructor.

Q. Mr. Lynch told you those things he recited this afternoon?

A. Yes, sir.

Q. And that was when?

A. Well, that was, I can't tell you just the exact time, it was, oh, I would say possibly three or four months ago when I was working in the Education Department.

Q When Mr. Rodemeyer was employed there?

A. When he was a student in class there, I was assisting

Q. Anything else you would like to tell the committee?

A. Well, Mr. Booth also told me that he didn't fit in down at D-8, and Mr. Lynch told me he didn't fit in on his ward, I forgot which ward it is now that Mr. Lynch had. He said Mr. Rodemeyer did not fit in on the ward, and that he had to make out a report, everyone that is in charge of a ward, makes out a report about the students that work on the ward, and he made this report out and turned it in to the Education Department.

But he told me these things that he spoke about here, to me personally, about Mr Rodemeyer. And Mr Booth, when I was down on the D-8, he told me similar things, he told me Mr. Rodemeyer did not fit in down there also.

The committee received written statements to the same effect from other witnesses at the hospital who knew Mr. Rodemeyer.

No charges, either criminal or disciplinary, have been brought against Lynch, Lake, or Batson as a result of Rodemeyer's accusations.

(4) Belle Ward

At the committee hearing on October 2, 1956, near the close of the hearing, Martino testified that Mrs. Valena Byrum (psychiatric technician) had on September 28th told him about two instances when she had personally seen two patients mistreated. Over the objections of William M. Bennett, Deputy Attorney General, the committee called Mrs Byrum back to the hearing. Mrs. Byrum testified that about 2½ years previously she reported for duty on Ward C-24 at 2.45 p.m. and there saw the four technicians of the previous shift, Mrs. Epple, Mrs Gilstrap, Mrs. Horton, and Mrs. Fleming, giving a beating to a 34-year-old female patient, Belle Ward:

> A. Well, I saw them, what I call giving her a thrashing, a beating.
>
> Q All right. Will you describe it to us?
>
> A. Well, she was on the floor, and one technician was up on her inner middle and bouncing up and down on her stomach and one had her by the hair, bouncing her head on the floor, and one was stomping her on one side, and another one was holding on another side.

Mrs. Byrum testified further that when the four technicians who administered the beating finished, they went off shift; that the patient Belle Ward got up off the floor, received no special attention from either Mrs. Byrum, or the lead technician, or the ward doctor, went to dinner that night, and had bruises the next day. Mrs. Byrum said she thought the incident had been witnessed by Technician Clella Lady, and that Mrs. Byrum had discussed the incident with both Mrs. Lady and Technician Gillum with whom Mrs. Byrum worked.

The committee then summoned Mrs. Lady and Mrs. Gillum. Both testified that they remembered the patient Belle Ward on Ward C-24, that Mrs Byrum had worked on that ward, that the four accused technicians had worked on that ward, that they had never seen Belle Ward mistreated or beaten and had never been told of any such incident by Valena Byrum, or other employees. Both testified that Belle Ward was a violent patient who broke furniture and occasionally had to be physically restrained.

Dr. Robert H. Noce, Director of Clinical Services, testified that Belle Ward was a strong woman, that

> "she had a schizophrenic reaction of the catatonic type. She was prone to have violent outbursts of hyperactive and combative behavior to the point of being homicidal * * *,"

that at the time of the hearing she had quieted sufficiently due to treatment with serpasil that she was on leave of absence.

At Agnews State Hospital on October 9, 1956, the committee allowed one of the accused technicians, Mrs. Fay Fleming, to testify voluntarily, without immunity from prosecution. Mrs. Fleming testified

under oath, denied the charges, and said further that at times Belle Ward became so violent that the technicians had to call the men to help restrain her.

Conclusion

The committee feels that because of the denial of this alleged beating by the accused, the diagnosis of the patient, and the failure of the two named disinterested witnesses to substantiate the testimony of Mrs Byrum, that the charges made by Mrs Byrum were not true

(5) Laundry

A group of nine employees and former employees at the Modesto State Hospital laundry testified before a Senate committee on September 18th with regard to misconduct by the laundry supervisor and his wife. The accused were *Harmon F Batson*, Laundry Supervisor II, and his wife *Mary E Batson*, Laundress The charges made by these witnesses can be summarized as follows:

1. The Batsons frequently beat, slapped, and otherwise physically mistreated patients in the laundry. On many of these occasions the Batsons would take the patient into a side room known as the "woodshed" or "whipping room" for this purpose The patients would come out of the room bearing marks indicating such abuse

2 Mr. Batson choked patient Fred Fox who was trying to get cinnamon buns off a tray in the laundry.

3 Mr. Batson made indecent sexual proposals to several of the witnesses

4 Mr. Batson would refer to patients with the remark, "Their heads are not screwed on."

5 The Batsons shouted at patients and the employees.

This committee did not call any of the witnesses from the laundry who testified before the Senate committee This committee did call the remaining group of 13 persons employed in the laundry. These witnesses, employed at various places in the laundry, some since 1947, testified that they had not seen or heard any such whipping, beating, slapping, or physical abuse of patients in the laundry by anybody, some had heard the expression "woodshed" used in reference to the ladies lounge room; others had never heard that expression. Several testified to witnessing Mr Batson use physical force to restrain patient Fred Fox from taking extra cinnamon buns after he already had several. Some testified that Batson had used bad language, but that in recent months this had improved.

Ruby M. Eager, Laundress, testified as follows:

Q. Have you ever seen any beating or whipping of patients?

A No.

Q. What have you noticed about the way Mr Batson has treated the patients that work in the laundry?

A. Mr. Batson has been very nice to those patients. It was through his efforts they got the food every Thursday afternoon One patient in particular that told him he was hungry, and he bought him candy and he gave me money to buy him candy when he would be going away.

And further with reference to persons who testified before the Senate committee:

Q How do the employees in the laundry get along together?

A There is quite a nervous tension between them.

Q Was that something that happened in the last couple of weeks, or has it gone on before?

A It has been going on for a long time.

Q. How long would you say?

A Several years.

Q. Now you say nervous tension, do you mean that between each employee, or are there groups in the laundry?

A Groups.

Q. And would you explain what you mean?

A Sir?

Q. Would you explain that please?

A. There is one clique that agitates trouble, and they think they should run the laundry to suit themselves. They don't want to take instructions.

Q. Would you give us the names of the people that are in this particular clique?

A. Lavada Sears, Beulah Moore, Marie Henriques, Grace Day, Artie Garriott, Eva Shafer, Lu Sutherland

Mary L. Richardson, Psychiatric Technician, testified that she was Secretary of C S E A., Chapter 24, and Chairman of the Personnel Committee; that in the spring of 1956 this committee investigated complaints of laundry personnel as follows:

"Following are the complaints registered in writing to the committee from various members of the laundry personnel: Number one, restriction placed on employees' rest period.

"Employees stated they were: (a) prohibited from going outside the laundry building during the rest period; (b) not allowed to go to a public phone booth to use a phone during this time, (c) were not allowed to bring reading material or fancy work from home to occupy their time during these rest periods.

"*Solution:* (a) The superintendent read from Hospital Bulletin No 12, issued February 16, 1953, and from State Personnel Board Rule 360. This bulletin designates that laundry employees will take their rest periods in groups in the laundry building. An adequate lounge and lunch room has been provided in the laundry for this purpose. (b) Mr Batson will permit employees to leave the laundry during the rest period to use the public phone when they request it as necessary. (c) Employees will be permitted to bring a book or magazine or a small piece of fancy work to do during the rest period However, employees are to refrain from leaving reading material or fancy work in places where they might become a fire hazard.

"2 Lack of clear and concise orders and instruction from supervisors

"This referred specifically to order and directions the employees receive from their supervisor as to the manner in which recent job sheets were to be filled out, as well as other incidents

"*Solution:* Mr. Batson is to continue giving his instructions to his two laundresses to carry through, but he is to talk with the one who seemed to be most at fault, and see that she gives all instructions in a clearer and more concise manner.

"3. Shouting at employees by supervisor.

"This was covered in No. 2, and the solution will be handled by Mr. Batson's talk to the employee as it is the same supervisor mentioned in No. 2.

"4. Feeling Mr. Batson agitates and stirs up dissention.

"The one who voiced this complaint inferred that Mr. Batson had favorites.

"*Solution:* Mr. Batson denies any knowledge of this practice and feels that it may stem from personal dislike between two employees.

"5. Mrs. Batson washes dogs' dishes in employees' drinking fountain.

"Mr. Batson denied this, stating Mrs. Batson may have filled the dogs' drinking dish at the fountain, but nothing more.

"*Solution:* The dog will be left at home, and not brought to the laundry.

"6. Uniform orders to all.

"The statement in one letter was that Mr. Batson showed partiality to Mrs. Batson, allowing her to go to the office to sit down. Mr. Batson states this was not true, but perhaps someone did not understand that when Mrs. Batson went into the office and sat at a desk, she was doing part of the clerical work necessary, such as keeping up the production cards.

"*Solution:* The curtain between the office window and laundry room will be removed, so employees may know what is going on in the laundry, and that anyone working in the office may be seen.

"7. Feel that patients are sometimes abused, physically and verbally.

"Mr. Batson explained this probably referred to an incident which occurred with a disturbed patient when it had been necessary for him to have the assistance of the truck driver to remove a patient from the presence of other patients and employees for protection of all until the patient was over his disturbed state. A report of this incident is on file. Mr. Batson suggested it would be a good idea for all employees to have a good training period in the handling of patients before they went to work in the laundry.

"8. Some employees feel their private lives are investigated too much.

"This appeared to be a reference to Mr. Batson making inquiries when the employee was away on sick leave.

"*Solution:* When this is a check to see if the employee is off duty because of illness, the checking is legitimate.

"9. Feel that employees should have keys to the pressroom.

"*Solution:* An order has been placed for suitable locks and keys. Do you want me to continue?

"Q. Go right ahead.

"A. Following the discussion of various complaints, Mr. Kinsey urged the committee to make sure the employees seek relief through proper supervisory channels before bringing their complaints to the committee. He also suggested employees on sick leave who had been off duty because of a prolonged illness should notify their Supervisor four or five days before they planned to return to work. Mr Kinsey will publicize this in a M.S.H. memorandum.

"Mr. Batson requested, and received approval to increase the production on pressing patients' clothing and keep the piece room operating rather than combining with the press room during slack times.

"Mr. Kinsey was requested to furnish job specifications for each job, to be posted in the laundry, as well as an organization chart. Mr. Batson will request employees to give him any further complaints in writing, and he will answer them in writing

"Q Now, you mentioned that during either this meeting or the previous one, there was a complaint about this incident involving Fred Fox Were there any other complaints about beatings or brutality in the laundry?

"A That is the only one I ever heard

"Q Any complaints about the "woodshed"

"A I never heard of the "woodshed" until this all came up in the papers At one time when we had a meeting with the employees from the laundry, we were talking about their complaints, and we asked them if they had any reports of brutality they could bring to us. And to put them into written form, and at that time they apparently didn't have any."

A written statement covering the points testified to by Mary L. Richardson, dated April 5, 1956, bearing signatures of Mary L. Richardson and Hospital Superintendent David B. Williams, was filed with the committee, together with statements dated March, 1956, submitted by Marie Henriques, Lillian Tirado, Artie Garriott, Eva A. Shafer, Grace Day, Beulah M. Moore, Mary Ferreira, Lavada M. Sears, Lucille Amoral, and Bernadine Lambert. These written complaints made no mention of any mistreatment of patients.

Henry Bezore, a state employee at Deuel Vocational Institution, testified that he was Regional Director of the C S. E. A. in the district which includes Modesto State Hospital; that he took part in the investigation of grievances of laundry personnel at the hospital in the spring of 1956; that in the course of this investigation he talked to Laundry Supervisor Batson as follows:

Q. All right, go ahead and tell us what the conversation was.

A. I informed this supervisor of the alleged grievances that these women had offered at this recent meeting, and I informed him of what recommendations and advice I gave to these people Then we got down to the specific instance of this cookie incident, and I informed him that they had told me and the committee of this cookie incident, and at that time these employees were rather perturbed and deemed this incident to be a mistreatment of patients.

He explained to me what he had done to this patient. He said that he was trying to keep the patient away from some room where there was some food, and away from a room which the employees used as a lounge, and the patient became perturbed, and using his own phraseology, "he choked him."

Q. Go ahead.

A. Well now, I do not want to—I do not want to impress this committee or the press, or any employees here with something that would sound brutal when I say "he choked him" We in our service at times do have to restrain inmates, we call them and possibly at times it is the most humane and the quickest way of accomplishing the mission.

Understanding what he referred to was choking, I went a little bit further and I says, "Well, are you somewhat rougher than that? Do you go further? Do you rough them up? Knock them down, and one thing and another?" To which he replied, "No."

Q. Did Mr. Batson indicate at all that Fred Fox had lost consciousness?

A. He said that Fred Fox dropped to the floor.

Fred Fox, the patient referred to in the "cookie incident," was not called as a witness, but was interviewed by the committee chairman He had no recollection whatever of the incident.

On the basis of the charges made before the Senate committee on September 18, 1956, Mr. and Mrs Batson were discharged by Acting Hospital Superintendent Freeman H. Adams that day At the writing of this report the charges against Mr. Batson were being heard on his appeal before the Personnel Board.

The notice of punitive action against Mrs. Batson listed 10 grounds for her dismissal Hearings were held by the Personnel Board on these charges; and on February 1, 1957, the Personnel Board ordered the dismissal revoked The following portion of the decision describes the charges and the evidence:

"VI

"Subsequently, an amended notice of punitive action was filed and served as aforesaid Said amended notice set forth the same causes for discipline and alleged, as the facts upon which said causes were based

"B That in September of 1954 one Virginia Andrews, a hospital patient assigned to said laundry, was working in the distribution room under your direction; that said patient Virginia Andrews desired to leave said distribution room and to go to the women's rest room; that you did shove said patient in order to force said patient to remain in said distribution room, that said act constituted improper treatment and control of a patient assigned to work under your supervision

"C. That in May of 1956, in the said distribution room of said laundry, you did shout in a loud voice and in an angry manner to one Fred C. Jackson, a hospital patient assigned to work in said laundry: 'You're the laziest critter I've ever seen'; that said act had a deleterious effect on the said patient."

"During the hearing on said amended notice of punitive action, said subparagraph B was further amended by changing the date of the incident alleged therein from 'September of 1954' to 'July of 1955.'

"Said facts were further alleged in said amended notice of punitive action to be in violation of Rule 80, Rules and Regulations, of said department, which provides:

> "All candidates for employment and all employees are to be given fair and courteous treatment Their qualifications are to be considered solely in terms of the requirements of the positions involved."

"VII

"The evidence relating to subparagraph B of said amended notice of punitive action was presented at said hearing by the testimony of a female employee in said laundry. Said female employee made a written report of the alleged incident on September 20, 1956, in which she stated that said incident occurred 'about this time, September, 1954.' At said hearing, said employee testified that said incident occurred in July, 1955, and that she fixed said date by reference to a diary which she kept, although said diary contained no reference whatsoever to said incident.

"Said female employee did not make any report regarding said incident to anyone prior to September, 1956, although 'Special Incident Report' forms are provided for use by said department at said hospital Said 'Special Incident Report' forms are required to be made out:

> "Whenever an incident occurs that is either physically or psychologically harmful to a patient, such as abuse, accident, assault, escape, injury, suicide, etc, an immediate investigation shall be made and a report written by the employees listed on this form "

"Said employee did also attend a meeting of the California State Employees' Association chapter at said hospital in June, 1956, which meeting was specifically called for the purpose of affording all of the employees at said laundry an opportunity to voice their grievances Said employee did not complain of said incident at the meeting

"Evidence presented at the hearing herein establishes that the appellant was on vacation in September, 1954."

"VIII

"The testimony of the aforesaid employee relating to the charges contained in said subparagraph B of said amended notice of punitive action is not worthy of belief. Said charges contained in said subparagraph B are, separately and severally, hereby found to be untrue.

"IX

"In May of 1956, in the distribution room of said laundry, appellant did say to a patient named 'Fred,' who was assigned to work in the laundry, that 'You're the laziest critter I've ever

seen.' At the time said statement was made by appellant said patient was carrying laundry from said distribution room and did continue to carry said laundry without giving any indication that he heard said statement by appellant. Said statement was not made by appellant in a loud voice or in an angry manner. Said statement did not have a deleterious effect on said patient There is no evidence that said statement had any effect on said patient or that said patient was even aware that appellant had made said statement."

(6) 1951 Conditions

Various charges were made of abuse or neglect of patients at Modesto State Hospital in 1949-50-51. This committee made no effort to evaluate these charges, as the testimony received by the committee, and the successive state budgets, show that a considerable improvement in conditions at the hospital has taken place since that period, with the introduction of registered nurses, a training program, more technicians, higher minimum standards and higher pay, and an exterior program involving volunteer workers from Modesto.

Dr. Rourke E. Downey, Assistant Superintendent, testified that during the worst of that period there were only four doctors at the hospital for 3,000 patients, including the superintendent, and that he personally handled the assignments of four ward doctors who left.

In that connection, the following order by Dr. Downey received considerable publicity:

(COPY)

"MODESTO STATE HOSPITAL
MODESTO, CALIFORNIA

January 11, 1952

To: ALL CONCERNED

When a death is expected and occurs after 10 p m. the doctor will not be called until 8 a.m. to pronounce death. Normally a patient who is expected to die will be placed in a side room and will be left there to be pronounced dead by the doctor in charge of the ward, his alternate, or doctor assigned.

(Signed)

"R. E. D.
"ROURKE E. DOWNEY, M D
"Assistant Superintendent"

This was publicized in 1956, at which time the Director of Mental Hygiene issued the following order:

"STATE OF CALIFORNIA
DEPARTMENT OF MENTAL HYGIENE
SACRAMENTO

December 12, 1956

To: ALL SUPERINTENDENTS

Subject: EXAMINATION OF DECEASED PATIENTS

It has come to my attention that in one of our state hospitals there was an order directing that in the case of a death after 10.00 p m., in which the doctor had determined that the patient was moribund, the doctor was not to be called until the following morning This order was issued about five years ago when there was a critical shortage of physicians at the hospital Records indicate that less than half of the authorized positions were filled and there were only four ward doctors at the hospital at the time.

I am sure the order was not intended to result in neglect of any patient However, a patient may not be presumed to have expired until an examination is made by a doctor. It is the duty of the hospital to have a physician available

in response to a call at any hour, even though there may be a critical shortage in the medical staff

This communication will serve to advise all concerned that any practice which limits the time during which physicians may be called must cease immediately A physician must be available for call regardless of the time of day or night to examine a patient who is believed to have passed away

Your acknowledgment of this memorandum is requested.

(Signed) "Walter Rapaport
"Director of Mental Hygiene"

At the time of our committee hearings, there were 13 doctors at Modesto State Hospital, full time, counting the superintendent, plus seven part-time doctors.

(7) Unions

In connection with the investigation at Modesto State Hospital, various charges were made One such statement accused the local AFL union of hospital employees with preventing improvement of conditions at the hospital. This charge is contradicted by the following letter:

"STATE OF CALIFORNIA
DEPARTMENT OF MENTAL HYGIENE
MODESTO STATE HOSPITAL
MODESTO, CALIFORNIA

September 3, 1954

MR A E MAHAFFEY
President, Local No 636
California State Employees Union, A F L
Modesto State Hospital, Modesto, California

DEAR MR MAHAFFEY Following our discussion this morning with you and your committee regarding the manuscript on the development of rehabilitation therapy at Modesto State Hospital, I reread some of the article which I now see was poorly written and which possibly gave the impression that some statements were an indictment on the union as an organization This impression was not intended at all and due to the fact that there has been some misunderstanding regarding this poorly written statement, I want to state that there was absolutely no intent whatever to indict the union or to cause the union, and particularly our own local, any embarrassment The article was meant to convey that there were some few employees who did not go along with the development of the therapy program and there was no thought or intent to single out any particular organization as such

I am very sorry that this poorly stated statement got by the proof reading I am aware as are other officials of our department, that the American Federation of Labor, as a union, has been very cooperative with the Department of Mental Hygiene and with the state hospitals and all of us in the Department of Mental Hygiene know that the American Federation of Labor is in favor of improving our hospitals and the entire mental hygiene program throughout the State The American Federation of Labor is a very fine organization and has been of great assistance to the entire progressive program of the Department of Mental Hygiene and I want to apologize to you for any misunderstanding or embarrassment that the statement might have caused our local and state A F. of L organization.

Please be assured that the officials of Modesto State Hospital will continue to cooperate with our local A F. of L to improve patient care, and we would like to enjoy continued cooperation also

"Yours very truly,

(Signed)

"DAVID B. WILLIAMS, M D
"Superintendent and Medical Director"

DBW:h
cc. WALTER RAPAPORT, M.D.
Director of Mental Hygiene"

(8) Civil Service

Another charge was made that because of civil service requirements, it was impossible to discipline hospital employees. This committee obtained summaries of disciplinary proceedings from the Personnel Board as follows:

"DISCIPLINARY APPEALS AND HEARINGS
IN THE CALIFORNIA STATE CIVIL SERVICE
July 1, 1955, to June 30, 1956

"A Punitive Actions for Dismissal	
Total punitive actions for dismissal	52
Appeals from dismissal	37
Dismissal sustained	16
Dismissal revoked	0
Dismissal modified and employee suspended	1
Settlement between agency and employee	12
Pending hearing	8
"B. Punitive Actions for Suspension	
Total punitive actions for suspension	161
Appeals from suspension	25
Suspension sustained	17
Suspension revoked	1
Settlement between agency and employee	2
Pending hearing	5
"C. Punitive Actions for Demotion	
Total punitive actions for demotion	2
Appeals from demotion	1
Demotion modified to suspension	1
"D. Rejections During Probationary Period	
Total rejections	81
Appeals from rejection	23
Action of appointing power in rejecting employee affirmed	17
Appeal granted	2
Settlement between agency and employee	3
Pending investigation	1
"E. Performance Reports	
Appeals from performance reports	18
Appeal denied	10
Appeal granted	0
Appeal granted in part	1
Settlement between agency and employee	1
Pending hearing	6

EXHIBIT NO 7"

"DISCIPLINARY ACTIONS AND HEARINGS
in the
CALIFORNIA STATE CIVIL SERVICE
FOR THE FIVE YEARS FROM
July 1, 1951, to June 30, 1956

"Punitive Actions for Dismissal	
Total punitive actions for dismissal	317
Appeals from dismissal	180
Dismissal sustained	103
Dismissal revoked	10
Dismissal modified and employee suspended	10
Settlement between agency and employee	49
Pending hearing	8

"Punitive Actions for Suspension	
Total punitive actions for suspension	750
Appeals from suspension	85
Suspension sustained	68
Suspension revoked	9
Settlement between agency and employee	4
Suspension modified	3
Pending hearing	1
"Punitive Actions for Demotion	
Total punitive actions for demotion	10
Appeals from demotion	5
Demotion sustained	2
Demotion revoked	1
Settlement between agency and employee	1
Demotion modified	1
"Rejections During Probationary Period	
Total rejections	517
Appeals from rejection	129
Action of appointing power in rejecting employee affirmed	119
Appeal granted	7
Settlement between agency and employee	2
Pending investigation	1

EXHIBIT No. 7"

This, coupled with similar records for mental hospitals, shows that civil service protection does not prevent discharge or discipline of hospital employees.

(9) Intimidation of Witnesses

Following the September 19th hearing at Modesto, the Attorney General was quoted in the press on September 25th as follows.

> "I have information that at least two witnesses before Allen's committee were told in advance that if they repeated what they told my investigator, they would be fired."

The Attorney General was requested to have this evidence presented to this committee at a further hearing at the hospital on October 2d.

At the hearing, Deputy Attorney General William Bennett named witness Constance Norton as having been intimidated by Dr. Everett W. Du Vall, committee consultant. Bennett declined to name a second witness, basing his position "on the right of the Department of Justice."

Mrs. Norton then testified regarding the statement by Dr. Du Vall as follows:

> Q. Mrs. Norton, will you tell us in your own words just what happened in this incident where Dr Du Vall said something to you about losing your job?
>
> A. Well, it is substantially the same as I told the committee that Friday morning. The three of us were in my office and you and I were discussing the two preceding paragraphs of the statement in Mr. Martino's report about inadequacy of numbers of staff, and you and I were discussing methods of correcting it, of recruitment, and of changing—what changes could be made that would improve the release of patients from the hospital for which I feel that our department is pretty much responsible.

You and I were sort of going on with that conversation, and Mr. Du Vall went on with the next paragraph, which had to do with my criticism of the superintendent, and he said, who was I to criticize Dr. Williams? Was I the Director of the Department of Mental Hygiene or what right had I to criticize the superintendent?

And I was a little taken back, because I had been asked to make statements of how I felt about the situation, where I felt the deficiencies lay, and to my ability, which isn't too high, I will admit, I had made the best.

And then Dr. Du Vall went on to say that if I persisted in this —in these charges, I think that was the word, although I am not accurate in my memory, that I should be prepared to—for a discharge or for resignation, and I don't know which term he used, and neither you nor I, Mr. Allen, paid much attention to it, Mr. Allen, at the time, because we were involved in a rather enthusiastic discussion of what changes we could make to improve the release of patients from the hospital.

Q. Did you make any reply to the statement Dr Du Vall made at that point?

A. I don't remember that I did. In fact, I was not giving him my full attention, which I should have done.

Q. Do you remember whether or not I made any statement about it?

A. No, you did not In fact, you were engrossed I was sure as I was in this rather, I suppose I am overenthusiastic, but rather promising program of the change that we could make to better the institution.

Q. Did a statement of Dr. Du Vall's influence your testimony at the hearing?

A. As far as I can determine, it did not

Q. This meeting with Dr. Du Vall where he made this statement, I take it was prior to the hearing before this committee?

A. Yes, I think if I remember rightly, it was on Monday evening. The testimony I gave was on Wednesday, although I didn't keep a diary record, and I am not too sure.

Q Have you had an opportunity to read the transcript of the testimony you gave at this committee's hearing?

A Yes, I have, Mr. Allen.

Q. Do you have any changes or corrections you would like to make in that?

A. No, I think not

Q. How long, or when were you interviewed by the Attorney General's people?

A. Last Friday morning I think it was, I think it was the 25th

Q. And how long—how long did that interview last?

A. I cannot say, Mr Allen. It went on for quite a while because I was writing up the variances, there are I think seven or eight discrepancies between Mr. Martino's report and what I had remembered I had said, or had intended to convey

Questions by Assemblyman Lanterman:

Q. Well, the point that I wanted to bring out, we will keep as a matter of record, your recommendation, but the point I wanted to make was the committee had expressed itself very reasonably I thought to you to encourage you to give a full expression of your opinion and we did not seem to get the impression from you that you had felt that you had been pressured in your interview with the chairman and Dr. Du Vall.

A. The place I had felt pressured was by the Attorney General's committee.

Q You what? You felt that what?

A. The place I had felt pressured was in the Attorney General's Committee as he said I was reluctant, Mr Lanterman, to make these—to make these statements

Q You were reluctant to make them to Mr. Martino?

A I was reluctant to make them to Mr. Bennett and to Mr Martino, and to Mr. Riggs

Q. I see.

A. On September 25th

Q Well now, in that respect, did you feel that you were pressured then to make any kind of an observation?

A. You mean, which time are we talking about?

Q. At the time Mr Bennett, Mr Riggs, and Mr Martino interviewed you?

A Yes, and I told them I was, and I told them I would tell the press that, and I though I would use the term "bulldoze."

Q Did the nature in which you felt pressured and bulldozed, as you have just stated, did you feel the same way about your interview with Mr Allen and Dr. Du Vall, prior to your testimony before our hearing here?

A. No, because what Mr. Du Vall said, didn't make much impression upon me, Mr. Lanterman

Of the 10 confidential informants who had testified at the September 19th hearing, all but Venia Palmer were recalled to the stand and verified their previous testimony. (Venia Palmer had testified on September 19th to the same effect as she was quoted in the Attorney General's Report.) All said they had not been pressured or intimidated, except Mrs Chisholm Mrs. Chisholm testified that subsequent to the September 19th hearing she had been interviewed by Bennett, Martino, and Riggs of the Attorney General's Office and threatened with loss of her job. Ethel Cavanor testified that prior to the September 19th hearing, Dr Du Vall had interviewed her, and that although he had not said anything about her job, his method of approach indicated that he did not want her to use the expression "bug-housers" and she felt that he tried to influence her testimony Mrs. Cavanor then verified in detail her previous testimony and a statement she had given Dr. Du Vall, and explained her definition of "bug-houser"

b. OTHER HOSPITALS

The charges of brutality were not limited to Modesto State Hospital The Attorney General's Report includes the following statement

> "In an effort to ascertain whether the practices of brutality and inhumane treatment noted in the operation of the Modesto State Hospital were unique to this institution or wide-spread throughout the system, Bureau of Criminal Identification and Investigation files reflecting investigations of other institutions were examined In all of these investigations, it was noted that acts of brutality have been uncovered in all of the institutions where an investigation was made and that, therefore, such practices were not restricted to the Modesto State Hospital "

At the October 2, 1956, hearing, Martino testified that this statement referred to files in the Bureau of Criminal Identification and Investigation reflecting investigations of Mendocino State Hospital, Agnews State Hospital, Pacific State Hospital, and possibly others. As a result of this testimony, this committee held a further hearing at Agnews State Hospital on October 9, 1956

(1) Agnews State Hospital

In preparation for this hearing, the Attorney General's office was requested to produce the file on brutality at this hospital which had been referred to by Martino Shortly before the hearing the committee received the following telegram.

> "Department of Justice has no file as such on formal investigation or report of brutality at Agnews State Hospital. We do have unevaluated complaint letters presently under investigation and we do have Attorney General's file relating to 1954 investigation of personal property thefts at Agnews Please advise if you wish file on personal property thefts
>
> WILLIAM M BENNETT,
> Deputy Attorney General"

One specific case of alleged brutality at Agnews was investigated at this hearing as follows:

Henry H. Ladd

On September 8, 1956, a front page story in a San Francisco newspaper charged that Mrs Bonnie Ladd, 62, died from a beating received at Agnews State Hospital in April, 1955

CLAIMS HOSPITAL BEATING KILLED WIFE

The Call-Bulletin
WEATHER
SATURDAY SEPTEMBER 8 1956 10¢ DAILY



BRUISED—Mrs. Bonnie Ladd, 62, as she appeared in the office of Dr. Byron A. Kleeton the day of April 9 [illegible] Florence Schwartz

EXCLUSIVE

Injuries At Agnews Told

By JOHN D. KEYES

[illegible]

Voluntary Patient

[illegible]

Doctor Agrees

[illegible]

Continued on Page 2, Col. 1

Says Hospital Beating Caused Wife's Death





INJURY—[illegible] finger suffered [illegible]

Cont. from First Page

[illegible]

Not Violent

[illegible]

VICTIM—[illegible]

Clay Scion

[illegible]

Mr. Ladd and the physician who was quoted in this story, Dr Byron A. Krebs, were invited to testify at the October 9, 1956 hearing of the Committee at Agnews State Hospital

Mr. Ladd testified that his wife was admitted as a voluntary patient at Agnews on March 17, 1955, that on April 9, 1955, at 2 30 p m , he called at the hospital to pick up his wife and that.

> "I found her terribly beaten She had a black eye surrounded by greenish and blue spots, her face was cut, bruised and abrased, she carried her head low on her chest and chin on her chest, could not hold her head erect Her left hand was injured, was subsequently found from X-rays that the little finger on the left hand was fractured several places."

Mr. Ladd further testified that he was told at the time that his wife had been struck by another patient about 7 a m. that day. She died September 1, 1956

Mr. Ladd further testified that he had been running advertisements in the personal columns of several newspapers for nearly a year as follows:

> "Persons having knowledge of abuse of patients in State Mental Hospitals please communicate with Henry H. Ladd, 35 Walter Street."

Mr Ladd further testified that he is the inventor of a type of sports and recreation center known as the Stadiseum, which involves a playing field which rotates at almost imperceptible speed, thus giving every spectator an equal view of what is going on

All hospital personnel having knowledge of the Ladd incident were called to the stand and testified under oath. This testimony, and the hospital record of the incident, established that Mrs Ladd was struck about the face in the west end toilet of Ward 30 at 7.10 a m on April 9, 1955, by another patient, Rose Parrazzo. No other persons were present. Alma Spencer, technician on duty at that time in that ward, testified that she heard the noise, went to investigate, and found the two patients coming out of the toilet. Mrs Parrazzo admitted beating Mrs Ladd, because "she wanted the woman out of her house" The injuries apparent to the two technicians at the time were that Mrs Ladd had some scratches on her face and neck and later was holding her head to one side

Dr King, the ward doctor, testified that she examined Mrs. Ladd that morning and found ecchymosis (black eye) around the left eye, abrasions on her neck and chest, and that no treatment was indicated.

Dr Hyman Tucker, hospital superintendent, testified with regard to Mrs Ladd as follows:

> A Well, actually Mrs Ladd was suffering from what we scientifically call Alzheimer's disease, but to the layman is a simple deterioration of the brain cells, actually This happens very often in earlier life than we find in arteriosclerotic conditions and she had had extensive studies of treatment by private psychiatrists, also many investigations at the Langley Porter Clinic, all of which record we have in our files.

When she came here, as you were told this morning, she was entirely disoriented, confused, had no appreciation of her situation or what it was all about actually, and she continued so I don't think there was very much change in her mental condition. She was here for a short period of time and medically we are very much surprised she lived for 17 months following her release from this hospital because that is longer than we had expected her to live.

Q. Do you feel these injuries that were described here today had any connection with her death?

A. Absolutely not! I think they were coincidental and had no bearing upon the situation at all, as a matter of fact, actually.

Q. How about this bowing of the head, do you know anything about that?

A. Well actually if you will look at the photographs in the *Call-Bulletin*, you will see the head wasn't bowed at all. It was straight up and down and the mention that was made of here, it is possible she did hold her head to the side. This is not an uncommon condition seen in this type of illness As a matter of fact, I will show you the photograph of her taken the day after she left here, presumably in it with the nurse. She is holding her head straight up. On the second page where she is sitting with her husband, Mr. Ladd testified here, she is also sitting straight up and her head is straight up This is indicated by the pictures.

And I say I am not surprised if she did hold her head to one side as has been indicated, and I wouldn't be too much surprised, as a matter of fact, it is rather interesting despite what the doctor said in the letter, I don't like to contradict a colleague of mine or what he was said to have said in the newspaper, but actually I talked to the doctor personally on the telephone three months after Mrs. Ladd left here. At that time he told me definitely that she had received no serious injuries of any kind, no spinal injuries She had some traumatic bruises simply and that she was getting along very well and he was very optimistic actually about the prognosis."

The testimony showed further that the other patient, Rose Parrazzo, was combative On a visit to some of the hospital wards, the committee found a number of such patients locked in private rooms, either in seclusion or in twos or threes In these rooms the patient is alone most of the time with the lights out all night These patients are locked up this way because they are chronically disturbed and are apt to become combative and strike someone. Their own mental illness is worsened by such treatment. They are the real victims of the Ladd case.

Conclusion

That Mrs. Ladd received minor injuries at the hands of patient Rose Parrazzo No hospital employee was at fault These injuries to Mrs Ladd were most regrettable They have been greatly magnified and exaggerated in ensuing publicity These injuries had no connection with the death of Mrs Ladd over a year later

Hospital employees are most reluctant to endure such publicity and lock up disturbed patients at night to prevent further such incidents

These mentally ill persons are in these cases receiving solitary confinement that makes them worse. With the availability of tranquilizing drugs, there are much fewer cases of violence among disturbed patients It would be far better to release these disturbed patients from seclusion, add more ward personnel for supervision, and endure the occasional bruises and some bad publicity which might result, for the sake of treating these patients as sick human beings who should be cured

Other testimony was received at the Agnews hearing regarding conditions and methods of treatment of patients In addition the committee inspected several of the older wards.

Dr. Walter F. Schaller, private physician with offices in San Francisco, testified as follows:

Q. Are you a specialist in any particular field of medicine?

A. Yes, I am, I specialize in nervous and mental disorders.

Q And how long have you followed that specialty?

A. I would say actively since 1911.

Q. And have you had occasion to be connected with Stanford Medical School for some time?

A. Yes, 1911 I joined the teaching staff of Stanford Medical School, and taught neuropsychiatry, that is nervous and mental disorders, over a period of 35 years, made emeritus professor in 1946 past.

Q. And from your experience in this field, have you had occasion to write articles from time to time on subjects in this connection?

A. Yes, I have, my special interest is in neurology. I taught neurology at the college the first years, when psychiatry was not a separate division of medicine. I also taught neuropsychiatry, am certified in both neurology and psychiatry, that is the National Board of Certification and I still practice in both those specialties.

Q. In your practice do you have occasion to examine persons who are patients at Agnews State Hospital?

A. Only on request, consultation, requests of those who have authority to call me in such instances I have no official connection with the state hospitals, and my visits are always arranged by requests of those who have the authority to request it.

Q Well, persons in authority, who would you mean, relatives?

A. Relative, yes, or friends

Q. Friend, or a relative of a patient?

A. Or perhaps legal adviser.

Q And when was the most recent such consultation you were called on?

A. I think I was down here this year, yes, I believe it was this year, a patient whose wife wished to know whether there was anything more to be done in the way of treatment, and I felt that there was not in this particular case.

Q. And you have come down here on other cases also?

A Yes I am not able to document them just offhand, with the passage of years, but I would say that I come to Agnews on the average of once or more a year, in the last 45 years.

Q And what have you seen from examining these patients, do you do that, do you do that here at the hospital?

A Yes, the routine is that I come down to the medical director's office and ask to see the record Most often I personally interview the medical director who gives me the record I go over that, then he contacts the ward officer who meets me and takes me directly to the patient in his ward, or in the examining room, most often I go into the wards of the patients.

Q. And do you have an opinion on the type or standard of treatment that are given here?

A Yes, I do have an opinion. I personally and I am sure many of my conferees feel that Agnews is the model institution of its kind in Northern California. I have visited institutions in Southern California, but I am most familiar with those in the north, and in none of my contacts with patients or relatives or those in authority over the patients have I had any personal feeling or evidence of brutality or mistreatment or neglect of patients

Q. Do you feel that the standards of treatment of the mental illness of the patients that are examined was appropriate?

A. Yes, I think it is appropriate and compares favorably with treatment accorded in other comparable situations in hospitals conducted for example by the Veterans Administration. One of my appointments now is consulting neuropsychiatrist in the Western Division of the Veterans Administration, and I from time to time make surveys of the different stations, so I have a means of comparison. Veterans hospitals are very new, very modern, but I believe that the care accorded the patients in state hospitals compares favorably with that in the Veterans Administration.

Dr. John J. Wells, a private surgeon in Santa Clara County, testified that he had been employed full time at Agnews State Hospital from February, 1955, through December, 1955, and then part time to September 1, 1956, that he did nothing but surgery during that period, and

Q Did you ever run across any injuries to patients, fractures or any other injuries that which you felt there were indications that might have been caused by an employee?

A. No, no, I can't honestly say that I ever heard or thought any of the fractures I treated were caused by an employee.

Q Did you ever run across any indications that an employee or patient had been mistreated, abused, beaten, by employees?

A Not to my knowledge, no.

Q. What kind of surgery did you do while you were here?

A. Well, I treated the majority of fractures and any indicated abdominal surgery or any emergency surgery, conditions which help to physically rehabilitate the patient, hospital practice.

Q If somebody had a broken pelvis, did you try to fix it or did you leave cases like that?

A. We tried to fix every fracture If I felt in my experience I was not qualified, why we had consultant orthopedic surgeons come in which were board certified.

Dr. Hyman Tucker, Superintendent of Agnews State Hospital, testified to procedures he follows regarding injuries to patients, and complaints·

Q Now, what is your policy as far as slapping, kicking patients around, pulling their hair, that sort of thing?

A. Well, we don't condone any slapping, kicking, abusing, mistreating patients either physically or psychologically at any time, and never have in this hospital, very definitely.

Q. Do you take any steps yourself to see whether or not this occurs?

A. Yes. I have a great many checks and as an administrator, and possibly it might be interesting to mention some of the things that happened in my office to give you a picture as to how we operate

Now I receive various reports in my office. For instance, I received and I have a list of some of those that I have just jotted down. I received for instance daily reports from the Superintendent of Nursing Services. This covers any special incidents that have occurred the previous day.

In addition to that I receive the reports from the officer of the day, that is the doctor who is the administrator from 5 p m of one day to 8 a m. of the next day. In other words, our staff alternates and there is a doctor on duty at all times to take care of emergency admission of patients, and anything else that may develop. I receive his report.

Then all special incident reports are routed to me by the Assistant Superintendent of Nursing of the Medical Services

Now the special incident report is a report which is incumbent upon every employee to make when there is any particular incident, whenever an accident occurs that is either physically or psychologically harmful to a patient such as an abuse, accident, assault, escape, injury, suicide, and so forth, and an immediate investigation is made.

Ordinarily and for the last year or so, these special incident reports have been sent over to my office and I have detailed or delegated my assistant superintendent, Dr. Johnson, to review those. He does. If there is anything special, he contacts me so that we can further investigate the matter if it requires that

Aside from that, in the last two weeks, because of a memo we received from the Sacramento office, I have also been receiving a copy of these special incident reports when they are first initiated before the entire investigation and examinations have been done by the supervisor of nursing and by the ward physician

This is to acquaint me rapidly with what has happened so that if anything is suspicious we immediately investigate that and don't wait because occasionally there is some little delay for the forms to be filled out and brought over to the assistant superintendent's office.

We feel that this is a very fine thing. I get copies of all autopsy reports that come to my desk which I see and initial

Then we have a cause of death reports that are brought over and signed by the assistant superintendent of medical services and he calls to my attention any report that he feels requires further investigation.

We have a practice of advising relatives to direct all their correspondence to the superintendent of the hospital so that I can become acquainted with what is happening and for a year or so I signed all of the correspondence and all the letters that emanated from this hospital, particularly those that the staff sent out At the present time I have delegated that to both the assistant superintendent of medical and clinical director.

However, in getting this correspondence and all of the letters that are opened up by my secretary, she has been instructed to call to my attention any complaints that are received from relatives no matter how trivial the complaint I see the letter and take the necessary action, or refer it to my assistant or to the ward physician or to my clinical director, or even go into it personally, if it is necessary.

Then if it is necessary for any investigation to be made, they make those and make a report of their findings to me and then we reply to that letter.

We also routinely send a letter to the Director of Mental Hygiene in Sacramento, Dr Rapaport, covering any special incident which may involve unusual situations or circumstances

One thing which I initiated when I first came to this hospital, which was in March of 1954, I came back as a matter of fact because I had originally come to this hospital in 1928, left here in 1942, as clinical director at the call of Uncle Sam, and returned in March of 1954, and having made ward rounds for many years and knowing what the situation was, I felt it was quite important that the patients have some outlet directly to the administrative people, and I issued a memo soon afer I came here so that any patient was permitted to write a letter to the superintendent and all the hospital personnel had instructions to see those letters reached my office immediately without being opened

I have had many hundreds of letters from patients and I have read all of these letters and have personally responded to them, signed the letter to the patient. Of course, I couldn't always accede to the patient's request, but I had the matter looked into and in most cases I informed the patient I have your letter, such and such a date, I am sorry you are not well, or I am sure that Dr. Brown or Peschau will be glad to discuss the matter further with you, the ward physician on the ward I sent the letter of the patient with a copy of my letter, so that I felt that the patient would get that particular attention, if there was any problem that he had that he wanted to discuss.

Q What kind of complaints do you get from patients?

A Most of the complaints are requests to leave the hospital, actually Sometimes there are fantastic complaints involving many delusions they have, and so forth Sometimes they write me just to write the hospital superintendent, and I have had a number of patients who have when I have made rounds on the wards, show me the letter and show it to the other patients This gives them a little status and they feel important, they have had a personal letter from the superintendent.

(2) Sonoma State Hospital

Dr. Thomas L. Nelson, acting superintendent at Sonoma State Hospital, testified regarding two cases of alleged mistreatment of patients at Sonoma, and:

Q. Do you feel that brutality or mistreatment or abuse of patients at Sonoma is prevalent?

A. No, although we have had these cases. I think it should be pointed out that we have around 1,200 employees, and when you are speaking of just the hand-full of such cases over a couple-year period, you are really speaking of a fraction of 1 percent of your employees.

I think if you went out in a community of say 1,200 and looked for the police record involving murder or serious injury to cities of 1,200 people, you'd probably find somewhat the same percentage or maybe even greater I wouldn't be surprised but what there has been less among our employees than say in a community of 1,200

Q. What procedure do you follow on checking into incidents to see there isn't any abuse of patients?

A. Can I say this green form, this form we were all looking at when I was back in the audience, you were looking at, is used throughout the department, is used at Sonoma and when an incident is known to occur by an employee, the charge technician or charge nurse on that ward, is required to make out such an incident report, is investigated routinely by the nursing service supervisor, the physician who is on duty at night, O. D. at night, or regular on ward duty hours, makes a report on the case, and then it is forwarded for review by one of the administrative physicians. If I can use the slang term it is a "hot case" why then it is referred on for investigation, this investigation is done by the clinical director or assistant superintendent or superintendent himself.

Q Do these incident reports come to you?

A. Well, in the last few weeks they have, but in the past they come to one of the administrative positions, and then referred on to me, only if it were a case such as abuse by employee, or some other matter almost as serious and which would require investigation at the superintendent's level.

Q. Do you check any of the wards yourself?

A Oh, yes, sir; I am somewhat noted at Sonoma for always being around any hour of the day or night I drop in on wards weekends or 3 a m in the morning occasionally, or 6 a.m. I get around! (Laughter)

Q Has the publicity about abuses in state mental hospitals come out largely since early September of this year, had any effect on your operations at Sonoma?

A Well, it certainly has on parents, at least, for awhile, it first, well, after this hit the headlines, Modesto I am speaking of, the first couple of weekends following that we noted it was reported to me by a number of the employees we had a great increase in the visiting rate.

We had incidents, two of which I am aware of personally, in which relatives who previously had been very well satisfied with our care at Sonoma, came in and very suspiciously undressed their

child, these were children, to look for marks, and we had other relatives who said, well, they were so disturbed by this, that they just wanted to come up and reassure themselves

I would say the majority of parents, the idea was they needed reassurance, they came, they looked, they knew all the time we were doing a good job, and sort of in a way apologized to the employees for the fact that they were here doing this.

This is one way which we have had disturbance Now, as far as it has occurred in the lower level nursing service employees, they haven't talked to me too much, at the upper administrative level I think there has been in the way this reflects it was coming up from below, there has been concern, I don't know, I can explain it any more than that.

I think there has been a feeling that in a way this reflects on the employees at Sonoma, sort of we have a bad cousin sort of thing or at least many people think we have a bad cousin, and how does this change people's opinions and attitudes toward ourselves? I think this was very important.

Q. Have you had any effect on hiring people?

A. Well, only one specific incident that I might elaborate on. We had a physician who came inquiring for employment last month, and for a vacancy we had opening up on October the first, and in the course of talking to this physician and his exploring the job possibilities and our investigating his qualifications and talking about the job, he brought up the Modesto incident, and seemed to want to discuss it and among other things in rather philosophical discussion, we discussed how these incidents such as Modesto might reflect on a physician and how this might change his own feelings about coming to work in a state hospital.

In other words, am I going to find myself having to appear as I am today before a legislative hearing, or am I going to be criticized unjustly?

Q. Has this gentleman taken the job with your hospital yet?

A. No, sir

(3) Mendocino State Hospital

Dr. Daniel Lieberman, Superintendent and Medical Director at Mendocino State Hospital, testified as follows.

Q. What procedure do you follow at Mendocino in checking on acts of violence against the patients?

A. It depends on how the information or allegations come to us If it comes through an incident report, investigation is carried on in a supervisory level, nursing service, and by the physician involved, and reviewed by the administrative physician, either clinical director or myself

If it is something that requires further investigation other people are brought into it If it is something that comes to us through the side door, as it were, usually the investigation is initiated at the supervisory level, of where the action was alleged to have taken place.

Q Do you use this green form for incident reports?

A. Yes, we do.

Q Do you have any checks besides that?

A. Well, I think the most important check that we have is our continuous supervision and training, that is to say, ready availability of personnel on the wards who are there for the purpose of guiding the nursing service personnel who work with the patient.

Q. How many patients do you have in Mendocino?

A. About 2,300.

Q. What type of patients do you have?

A. They are mostly mentally ill, there are a few alcoholic, chronic alcoholics, and a few narcotic addicts.

Q. Do you have any violent patients?

A. If you mean violent in a permanent way, the answer is no. We have patients who become disturbed from time to time.

Q. Do you know of any incidents of mistreatment or abuse of patients by employees at Mendocino?

A. My experience there has indicated that the type of service rendered to the patient by nursing service personnel is remarkably good and I think it is reflected itself in very fine therapeutic release rate at the hospital. There have been isolated incidents of patient mistreatment, if you will, which for the most part involved lack of information or knowledge on the part of the employee concerned, and these things were taken care of in appropriate manner.

Q. What do you mean appropriate manner?

A. Well, for example, if it was brought to our attention that a patient was not handled in a proper manner, the situation was discussed with the employee or employees involved, to find out exactly what the facts are or were as he saw them, and then after the facts were pretty well laid out, then to determine why he behaved in that particular manner, and if it was a matter of our not having communicated information to the employee in a proper fashion, why, that was used as a teaching incident

If, on the other hand, it was a situation which was more serious where the employee did not seem to be emotionally suited for the job, then we could take disciplinary action for his removal from the job.

Q. Have you had occasion to discipline any employees by dismissing them?

A. Yes, I have.

Q On account of mistreatment of patients?

A. Yes, not abuse, but mistreatment.

Q What kind of mistreatment?

A Well, for example, in neglect of a patient, not taking proper care of a patient who needed closer attention

Q. How did you discover this?

A This was discovered through the physician on the ward who reported it to me, and I asked the nursing service superintendent to investigate the situation, and she found that the employee indeed was neglectful of her duty, and the employee was dismissed.

Q. Do you have trouble getting employees?

A Yes, primarily I think because of our relative isolation from a metropolitan center, we have a rather high vacancy rate among our employees

Q Do you furnish housing for the employees at the hospital?

A. To a limited degree, most new employees we have no housing for.

Q Where do they stay?

A. Beg pardon?

Q Where do they live?

A. They attempt to find housing in the community.

Q. At what level do you process these incident reports, how high up do they go?

A. At the present time, they are all brought to the attention of the superintendent as well as to the attention of administrative physicians, such as the clinical director or assistant superintendent of medical services.

Q Do you make any ward rounds yourself?

A Yes, I do.

Q How often?

A Irregularly, I would say two or three times a week

Q. How many doctors do you have there now?

A Approximately 15

Q Do you have any medical physician vacancies?

A I believe we have three or four vacancies.

Q. How many social workers?

A We have three social workers, with three vacancies.

Q Do you know anything about a case several years ago where there were some undercover men put into Mendocino to check on abuse of patients?

A. Yes, I familiarized myself with that situation.

Q Tell us what you know about it.

A 1951, at least with the knowledge of the Department of Mental Hygiene, two undercover agents working for the State Bureau of Investigation, came to the hospital as employees for the purpose of determining whether there was any abuse of patients As a result of their employment, one of the investigators had nothing to report of any serious content, the other investigator, however, alleged that there were four employees who were abusive to patients.

These four employees were dismissed by the hospital. They appealed the dismissal action to the Personnel Board. The dismissal was revoked and they were returned to work.

Q Are they still there?

A. Three of the four employees are still at Mendocino, and the fourth one is working at Napa

Q. Have you ever checked up on any of these three that are still there to see if they are abusing patients now?

A. Yes, I have Of the three, two of them are very satisfactory men, much above average The third is about average

Q And have you ever found any indications in these checks the patients were being abused?

A. No, I have not.

Q Do you feel that a condition of brutality and mistreatment of patients exists at Mendocino?

A. Does not.

Q. Do you use restraints on patients like camisoles?

A. If necessary, we do Of late, the use of restraint has been quite restricted and there have been days when there have been no restraint at all.

Q. How many would you say you have under that type of restraint right now?

A. Well, probably one or two, that is about the way it runs

Q. Do you use straight jackets?

A. I have only seen straight jackets in movies

Q. Do you have use of these tranquilizing drugs at Mendocino?

A. Yes, we do use them.

Q. Do you have what you need?

A. Yes, at the present time, we do.

C. CASES BEFORE THE PERSONNEL BOARD

In addition to the decision on Mrs. Batson, already referred to, the committee has received reports of Personnel Board action in other recent cases of alleged mistreatment of patients as follows:

(1) Boyer and Isaak

Douglas L. Boyer and **Albert Isaak**, psychiatric technicians at Napa State Hospital, were dismissed October 1, 1956, by the hospital superintendent. After a hearing, the dismissals were upheld by the Personnel Board, finding as follows:

"V

"On August 25, 1956, appellant (Boyer) and the said Albert Isaak, a Psychiatric Technician at said hospital, were assigned to Ward T-11 The duty hours of appellant and the said Albert Isaak on said date were from 2 45 p.m. to 11 p m. Ward T-11 consisted of four dormitories to which were assigned approximately 135 men patients, most of whom were elderly. One said patient, No. 55834, was 68 years of age and weighed approximately 140 pounds. At the conclusion of the evening meal for said patients appellant did instruct said patient No. 55834 to pick up the eating utensils from the tables in the dining room. The patient refused to comply with appellant's instruction and stated to appellant, "If you want it done, do it yourself." After said patients were returned from the dining room to the ward, appellant did tell said patient No. 55834 to accompany appellant to one of the dorms in said ward. Said patient was followed into the dorm by appellant and the said Albert Isaak Appellant and the said Albert Isaak did thereupon strike, beat and use physical force upon the person of said patient, resulting in injuries to said patient, including four fractured ribs"

(2) Mary Hahn

Mary Hahn, assistant seamstress at Sonoma State Hospital, was dismissed October 8, 1956, on a charge of slapping a patient Mrs Hahn had been employed by the department since May, 1947, during which she had received performance ratings of standard and outstanding.

After hearing, the Personnel Board found the following as to the facts of the incident, and modified the disciplinary action to that of suspension for 20 days:

"VI

"On September 20, 1956, female patient No 14140 was assigned to work detail in the sewing room at said hospital, which said detail was in the charge of appellant. Said patient No. 14140 is approximately 35 years of age, physically agile and has been involved in numerous physical altercations with other patients and frequently has been verbally abusive toward employees Appellant instructed said patient to mop a portion of the floor of the sewing room The patient objected to said assignment, stating that it wasn't the day to mop. Appellant directed the patient to proceed with the mopping The patient became very angry with and abusive toward appellant, referring to appellant in loud and profane language while performing the mopping.

"Upon conclusion of said mopping, the patient entered a small room adjoining the sewing room for the purpose of cleaning the mop and emptying the bucket which she had been using. Appellant was also in said room and alone with the patient. Upon seeing appellant, the patient became semihysterical and did again verbally abuse appellant with loud and profane language and did throw the bucket which she was carrying on the floor in the vicinity of appellant. Appellant did thereupon slap the patient twice on the left side of the patient's face with appellant's open hand The patient then attempted to strike appellant but was restrained from so doing by appellant who held the arms of the patient. Appellant did then talk to and reason with the patient and succeeded in quieting her.

"As a result of the aforesaid slapping by appellant, the patient's nose did bleed slightly and the left side of the patient's face subsequently became discolored

"Subsequent to the above-described incident and at the hearing of the appeal herein, said patient did state that she was to blame for appellant's conduct and was sorry that she had provoked appellant.

"VII

"The aforesaid slapping by appellant was not premediated and was done in anger and resentment caused by the actions and conduct of said patient Said slapping was not in defense of appellant's person and was contrary to the provisions of said Rule 84 Although said slapping by appellant was without just cause and excuse, appellant was provoked therein by the actions and conduct of said patient."

(3) R. M. Graham

R. M. Graham, a probationary psychiatric technician at Patton State Hospital, was rejected by the superintendent on July 23, 1956, before the end of Graham's probationary period This action was upheld by the Personnel Board on a finding that on July 13, 1956, Graham struck a newly admitted male patient twice in the abdomen.

(4) Helen K. Meyers

Helen K. Meyers, psychiatric technician at Napa State Hospital, received on April 4, 1956, a five-day suspension without pay on charges of verbal and physical abuse of patients. This order was revoked by the Personnel Board after hearing, on a finding that the charges were not true.

In a separate case involving the same person, the Personnel Board revoked disciplinary action of demotion one grade and approved 56 days suspension which had been ordered by the superintendent on September 27, 1956, on charges including physical abuse of patients. Mrs. Meyers had been employed at Napa State Hospital since November, 1947, earning ratings as high as outstanding The board found the facts as follows:

"V

"That in April, 1956, appellant was assigned to Ward T-4 at said hospital in charge of the 6.30 a.m. to 3 p.m. shift; that also assigned to said Ward was Patient No. 46545, a feeble-minded female patient, approximately 46 years of age and weighing approximately 140 pounds; that said patient was not ambulatory and, by order of the doctor in charge of said Ward, said patient was being encouraged to walk while supporting herself with a chair; that said doctor had also ordered that said patient be kept as active as possible during the daytime so that she would sleep more soundly at night and not disturb other patients by screams and chair-walking during the night hours as said patient sometimes did; that, because said patient was also "untidy" (not in full control of her normal regulatory habits), it was desirable that said patient be encouraged to stay out of bed as much as possible during daytime hours in order that she be able to attend to her own needs and not cause the additional work necessitated in frequent changes of bed linens and mattresses

"VI

"That on August 17, 1956, said patient was unusually uncooperative about remaining out of bed and, prior to 2.45 p.m. on said date, it had been necessary for appellant to ask said patient to get up on four separate occasions; that on each of said occasions it was necessary to completely change said patient's bed; that during the patient check, immediately prior to the afternoon change of shifts, appellant and the acting ward charge relieving appellant did find said patient again in her bed, that said patient was lying on her side; that said acting ward charge did ask appellant, 'What is Margaret (the patient) doing in bed?'; that appellant did call to said patient to 'get up' to which said patient did not respond, that appellant did then pull back the bed clothes from said patient and did slap said patient with the open hand of appellant on the buttocks of said patient, that said patient did then rise up in a startled manner; that the sound of said slapping was audible for a substantial distance from said bed.

"VII

"That the said slapping by appellant was not premeditated and was done in exasperation with said patient's repeated failure to

stay out of bed; that said slapping was not done with intent to harm or mistreat said patient; that said slapping did not harm or in any way injure said patient physically; that said slapping constituted the use of unnecessary and unreasonable force by appellant on said patient; that the acts and conduct of appellant were in violation of the aforesaid Rule 84."

(5) Norman W. Guy

Norman W. Guy, psychiatric technician at Porterville State Hospital, was rejected during his probationary period August 1, 1956, on a charge of abuse of patients. This was upheld by the Personnel Board on a finding that:

"III

"During the period from about July 28 to July 31, 1956, while assigned as Senior Psychiatric Technician II in charge of Ward M-1, Porterville State Hospital, appellant either removed or ordered to be removed all clothing from four youthful patients; George Brown, Freddie Navarro, Ted Casio, and Raymond Donato. These patients were then in solitary seclusion on Ward M-1. The removal of all clothing from these patients was accomplished on appellant's own volition and without proper authorization by a physician. The removal of all clothing from these patients was contrary to the established policies of the Porterville State Hospital, the Department of Mental Hygiene and the State Service and was in violation of accepted standards of human behavior, degrading to human dignity and a retardent to the treatment program of the Porterville State Hospital. When questioned, appellant insisted that his was the only effective method of dealing with the particular patients."

(6) Mary L. Doan, Kathleen G. Johnson, and Velma L. Grissom

This nurse and these psychiatric technicians at Stockton State Hospital, were dismissed and the dismissal upheld by the Personnel Board on charges involving the following facts.

"V

"Appellants, and each of them, were assigned to Ward RTC-2 at said hospital during the hours of 10:45 p.m. on October 1, 1956, to 6:45 a.m. on October 2, 1956. Said ward is the female receiving ward at said hospital and patients are assigned thereto for observation in connection with proceedings to determine whether they shall be committed for hospitalization and treatment. Said observation period is of relatively short duration, averaging between three and seven days.

"For many of said patients it is their first contact with a mental institution and many of said patients are inclined to be resistive, frightened and upset during said observation period.

"Employees assigned to said receiving ward are expected to exercise the utmost consideration and understanding in the care and treatment of said patients.

"VI

"On October 2, 1956, one, Alice Wallace, was a patient assigned to said Ward RTC-2, having been admitted to the hospital a few days prior thereto. Said patient, who had been a nurse prior to her admission, had on several occasions after her admission evidenced a belligerent and uncooperative attitude toward some of the patients and employees assigned to said ward. Such conduct is not uncommon on the part of newly admitted patients and, in order to minimize the harmful effects of such conduct, 'restraint and seclusion' is commonly authorized. 'Seclusion' consists of placing the patient alone in a locked room until said patient regains sufficient control of his emotions to be able to mix with employees and other patients without incident. 'Restraint and seclusion' were authorized for said patient Alice Wallace

"VII

"On October 2, 1956, at approximately 6.15 a.m. in a hallway of said ward said patient Alice Wallace did ask appellant Grissom to be allowed to use a telephone and to be furnished a razor Appellant Grissom replied that said request required a doctor's approval Said patient did thereupon set herself in a nearby wheelchair and expose herself to appellant Grissom Appellant Grissom did tell said patient to behave herself and to get herself ready for breakfast. Said patient did arise from said wheelchair and walk toward appellant Grissom and appellant Doan, who was standing nearby. Said patient did then slap appellant Doan in the face, whereupon appellants Doan and Grissom seized the patient's arms and appellant Doan did state to said patient, 'We're going to lock you up.' The patient replied that she wasn't going to be locked up. Whereupon appellants Grissom and Doan began to escort said patient along said hallway toward a seclusion room approximately 90 feet distant Said patient did resist being taken to said room and appellant Johnson, who had been in a nearby office, placed herself behind said patient and did assist appellants Grissom and Doan in moving her along the hallway by shoving said patient from the rear. Said patient did continue to resist the efforts of appellants and did partially set herself on the floor of said hallway, at which time, at the request of appellant Grissom, another patient assigned to said ward as a 'patient-helper' joined appellants in their efforts to move said patient Alice Wallace toward the room Said 'patient-helper' grasped the hair of said patient and did pull the same in an effort to make said patient arise from the floor. Said patient's resistance continued and was accompanied by her screaming and protesting in a loud voice.

"At the entrance to the aforesaid 'seclusion room,' and while the door thereof was being unlocked, appellants Johnson and Grissom held said patient's arms and said 'patient-helper' held said patient by the neck and shoulders and did force the head of said patient to hit the wall behind her several times Said patient did plead with appellants and said 'patient-helper' to stop and did exclaim, 'I have never been treated this way!' Said patient was

then pushed into said room by appellants and said 'patient-helper' and did fall to the floor of said room and strike her head upon a bedpost Said patient continued to resist the efforts of appellants Johnson and Grissom to hold her. Appellant Doan did thereupon slap said patient in the face several times and appellant Grissom did severely twist the arm of said patient, causing her to scream in pain. Appellant Grissom did further slap and kick said patient several times. Subsequently, appellants and said 'patient-helper' departed from said room.

"During all of the aforesaid, other patients assigned to said ward did witness the treatment of said patient and many thereof did evidence signs of fright At approximately 9 a.m. said patient was released from said 'seclusion room' and at approximately 11 a.m. was treated for a scratch on her arm."

d. KANSAS MENTAL HOSPITALS

On December 27, 1956, the chairman of the committee visited Ossowatomie State Hospital in Ossowatomie, Kansas This hospital cares for 1,540 mentally ill patients, of whom approximately one-third are over 65 years of age. In some respects the method of operation is quite different from that in California mental hospitals, thus.

The toilets in the wards are equipped with seats.

Employees get the same food, prepared in the same kitchen, as that served to patients Employees eat in a separate cafeteria.

In the new geriatrics building, the beds are separated by low walls, giving patients semi privacy. Both sexes are in the same ward (geriatrics only).

Doctors assigned to wards have their offices on the wards, easily accessible to patients.

Seclusion in locked rooms is at a minimum. This is under a new program to eliminate seclusion and restraints At this hospital, there were 21,000 hours of seclusion of patients in locked rooms in March, 1955, compared to 400 hours in December, 1956; 8,000 hours of restraints (by use of bed sheets) in July, 1955, compared to 100 hours in December, 1956

More staff—this hospital is authorized 22 doctors (includes four residents), six psychologists, 16 social workers, and 400 nursing personnel for 1,600 patients. All major surgery cases are sent out This is a much greater level of service than that provided in the 1957-58 Budget for Modesto State Hospital for 3,000 patients, of 20.6 physicians and psychiatrists, four psychologists, six social workers, and 658 nursing personnel

Each patient gets a complete examination at least every six months. (Dr. Rourke Downey, Assistant Superintendent at Modesto, testified that this was supposed to be done quarterly but was not always done)

There are three licensed cosmetologists and two barbers, compared to one each at Modesto State Hospital

All ward personnel, except registered nurses, are required to take a three-months' basic aids training course, including the older personnel who were there when the training program started.

Alcoholics are limited to 12 men and 12 women.

EXHIBIT A

STATE OF CALIFORNIA
DEPARTMENT OF MENTAL HYGIENE
SACRAMENTO, January 10, 1957

HON. BRUCE F. ALLEN
Assemblyman, 29th District
State Capitol, Sacramento, California

DEAR MR. ALLEN: During our conversation on January 8th, I discussed with you the fact that resident populations in the state hospitals were not increasing as rapidly as heretofore, that our releases from the hospitals were greater, and that as a result we have eliminated some of the buildings included in the State Building Construction Program.

You requested that I provide you with statements, together with some tables outlining the background of these statements. For your information, I am presenting the following very brief table showing data for the years 1953 and 1956, the percentage of change, and whether an increase or a decrease.

	1953	*1956*	*Percent change*
Civilian population	11,748,000	13,260,000	+13
Resident population	34,845	36,536	+5
Resident patients per 100,000 civilian population	298	275	—7
Annual increase in resident population	1,585	133	—91
Admissions, excluding observations	15,856	17,075	+8
Rate per 100,000	135	129	—4
Deaths in hospitals	2,880	2,655	—8
Releases by discharge or leave, approximate	10,700	13,600	+27
Index of therapeutic release rates	118	131	+11

You will note from the above that while the civilian population has increased 13 percent and the admissions to our hospitals have increased 8 percent, the resident population in our hospitals has increased by only 5 percent. This is accounted for by the figures given above

As an example, our releases by discharge or leave have increased by 27 percent, and the annual increase in the resident population in our hospitals has dropped by 91 percent. You will also note that with an increasing population of 5 percent in the hospitals, our deaths have decreased by 8 percent; indicating better treatment and a prolongation of life.

There is attached a statement dated July 18, 1956, giving various tables to be used as the basis for submitting our 1957-58 Budget. These tables are more detailed than the table above, but present essentially the same information.

There is also attached a statement dated December 21, 1956, which is an analysis of therapeutic release rates In compiling this data, release rates for the year 1947 were considered as an index of 100, and the rates for each succeeding year standardized against the average population for the years 1947-51, so that as of June 30, 1956, we had an index of 131. This means that our release rate in 1956 is 31 percent better than it was in 1947. In other words, the average patient has a 31 percent better chance of being released from the hospital now than he had in 1947.

You will note that between the years 1953 and 1956 the index increased 11 percent, from 118 to 131. This lessening of the rate of increase in resident population, as well as a decrease in the rate per 100,000 civilian population, I feel, is due to a large extent to the improved treatment provided the patients in our hospitals.

This improved treatment is a result of additional personnel, equipment, and other facilities, which have been granted by the Legislature in recent years to improve conditions in our hospitals. In other words, I feel that the increased appropriations granted are now paying large dividends, not only in the rehabilitation and the return of patients to society, thereby making them an economic asset rather than a liability, but also in shortening the length of stay of the average patient in our state hospitals.

At the time of our discussion, we mentioned the cost of care of patients in hospitals of Kansas, and I mentioned an article written by Dr. Alfred P Bay, Superintendent of Topeka State Hospital, entitled "The Economy of Increased Appropriations" A reprint of this article is attached for your information

I feel that this article is applicable to California in that with the increased appropriations granted in recent years by the Legislature, economies have been effected

To apply some of the above data to the State Building Construction Program as adopted by the Legislature, I am showing below the actual increases through June, 1956, as well as estimated future increases in population as compared to the populations shown in the State Building Construction Program You will note the decided drop in the rate of increase in the last year or two, for the future, we estimate increases of approximately 500, rather than 1,000 to 1,400, as provided for in the State Building Construction Program.

POPULATION INCREASES

Contemplated in Five-year Building Program Compared to Revised Actual and Estimated Increases

Year ending June 30th	*Building program estimated increases in rated bed-capacity*	*Actual or current estimated increases in number of patients*
1951	---	724
1952	---	992
1953	---	1,585
1954	---	808
1955	---	750
1956	---	133 *
1957	1,406	305 †
1958	1,010	481
1959	1,143	678
1960	1,241	550
1961	1,313	500
1962	1,365	500
1963	1,405	500

* From July 1, 1955, to June 28, 1956
† From June 29, 1956, to June 30, 1957

The requests of this department for construction allotments to be considered by the 1957 Legislature were first based on the State Building Construction Program booklet After preparing a list of our contemplated construction needs, we compared such requests with the future contemplated populations at the reduced rates, as shown above.

It was found that if the State constructed bed facilities in accordance with the State Building Construction Program, there would be more beds in our hospitals than patients

In cooperation with the Department of Finance, I, therefore, amended our building program by eliminating 1,100 beds; cutting 1,000 beds from our 1957 proposals, and 100 beds from an appropriation already made by the 1956 Legislature It is considered that we shall revert the money so saved. The value of the 1,100 beds eliminated from our building program is slightly less than 8 million dollars without equipment; considering that the buildings would have to be equipped, the total cost would be in excess of 8 million dollars.

ITEMS DELETED FROM 1957 CONSTRUCTION PROGRAM REQUESTS DUE TO REDUCTION IN NEEDED BEDS

Metropolitan Hospital	660 beds	$5,113,670
Agnews Hospital	200 beds	1,558,300
Napa Hospital	140 beds	733,900
	1,000 beds	$7,405,870
Metropolitan Hospital	100 beds	460,000 *
	1,100 beds	$7,865,870

* Portion of Item 376A, Chapter 1-56 to revert

The above is given to you to indicate present trends in hospital populations and appropriations required, both for support and construction, to care for the patients of the future I feel that significant advances have been made in recent years as a result of improved conditions in our state hospitals.

Very truly yours,

WALTER RAPAPORT, M D
Director of Mental Hygiene

EXHIBIT B

STATE OF CALIFORNIA
DEPARTMENT OF MENTAL HYGIENE
SACRAMENTO

ESTIMATES OF ADMISSIONS, SEPARATIONS, AND RESIDENT POPULATION CHANGES FOR THE FISCAL YEARS 1957 AND 1958, STATE HOSPITALS FOR THE MENTALLY ILL

The data for the state hospitals for the mentally ill presented in the following pages and summarized below include estimates of admissions, releases, and resident population increase for each of the two fiscal years ending June 30, 1957 and 1958.

The state civilian population data used were released by the State Department of Finance on June 20, 1956, in a memorandum to all state department directors and heads of other agencies, entitled "1957-58 Budget Requests."

SUMMARY

The actual annual admissions (those admitted for a limited observation period and all other admissions here termed "nonobservation") and resident population data for 1950 through 1956 and estimates for 1957 and 1958 are summarized in the tables on pages 92, 93, 94 and 95

Voluntary admissions declined from 15.2 percent of all nonobservation admissions in 1953 to 12 9 percent in 1955 This decline was a result, at least in part, of administrative action by the department However, voluntary admissions increased again to 15.2 percent in 1956 and are estimated to continue to increase to 16 2 percent by 1958.

Alcoholic commitments averaged about 20 percent of the total of nonobservation admissions over the period 1953-1956 and are estimated to be about 20 percent in 1957 and 1958. Although the Alcoholic Rehabilitation Commission is currently establishing community pilot treatment clinics for alcoholics, no reduction in alcoholic commitments is anticipated for 1957 or 1958, for there is as yet no estimate of the extent to which their program will affect admissions to state mental hospitals.

Drug addict and sexual psychopath commitments totaled about 600 in 1953 and increased 65 percent to over 1,000 commitments in 1956. We estimate these commitments to total about 1,140 in 1958.

SEPARATION RATES

The over-all net separations (from the status as resident in the hospital or on brief visit) per 100 admissions of all legal classifications increased from 91.0 in 1953 to 95.8 in 1955 and 99.2 in 1956. This very high rate in 1956 was due in part to the 807 transfers-out to the Veterans Administration hospitals, 350 of which were made possible by the opening of the new V A hospital at Sepulveda

In 1957 and 1958 we expect a return to a level of about 450 transfers-out annually to V. A. hospitals. However, even after adjusting for the extra V. A transfers in 1956, the over-all rate of separation increased from 91 0 for 1953 to 97.4 for 1956, and we have projected further increases to rates of 97 8 for 1957 and 98 3 for 1958.

The estimated increase in the over-all separation rate is a net result of the projection of trends for specific types of release. These may be summarized as follows: (1) there has been a marked increase in the direct discharge rate for nonobservation admissions; (2) there has been a slight decline in rates of net leave; (3) the death rate has declined and is estimated to remain low; (4) only small increases or no increases were estimated for the other (essentially administrative) types of separation.

RESIDENT POPULATION CHANGE

As a net result of the increased total admissions and the high rates of separation discussed above, there was a decline of 246 in the resident population in 1956, and we estimate an increase of 481 in 1957 and of 481 in 1958. However, the figures for the total of the resident population plus the patients on visit increased by 164 in 1956 and are estimated to increase by 450 in 1957, and by 381 in 1958. The difference in these two measures of increase in patient population is due to the particular day of the week on which the year-end, June 30, falls in each of these years The number of patients on visit on a midweek day is usually about 450, as compared to the weekend figure which may be 200 to 500 patients higher Thus since June 30, 1956, is a Saturday, the

number on visit for year-end 1956 was 934; for June 30, 1957, a Sunday, the on visits are estimated at 700; and for June 30, 1958, a Monday, the on visits are estimated at 600.

TABLE A

POPULATION MOVEMENT DATA, HOSPITALS FOR MENTALLY ILL
Actual Data for 1953-1956 and Estimates for 1957-1958

Type of movement	Year ending June 30					
	Actual number of patients				Estimates	
	1953	1954	1955	1956	1957	1958
Admissions all legal classifications	18,112	18,179	19,128	20,049	20,920	21,820
Observations	2,256	2,410	2,806	2,974	3,100	3,250
Nonobservations	15,856	15,769	16,322	17,075	17,820	18,570
Net separations, total	16,473	17,332	18,324	19,887	20,470	21,439
Direct discharges, nonobservations	4,461	4,903	5,183	6,153	6,593	7,149
Discharges from visit	280	390	362	425	450	470
Net indefinite leaves	5,521	5,617	5,735	5,746	5,920	6,020
Deaths	2,880	2,570	2,708	2,655	2,815	2,935
Transfer to V A hospitals	223	430	410	807	450	450
Deportations of nonresidents	340	411	415	463	460	460
Net unauthorized absences	648	614	769	706	725	750
Direct discharges of observations	2,120	2,397	2,742	2,932	3,057	3,205
Resident and on visit						
At year end, total	35,276	36,123	36,927	37,091	37,541	37,922
On visit	431	470	524	934	700	600
Resident	34,845	35,653	36,403	36,157	36,841	37,322
Annual change, total	1,639	847	804	164	450	381
On visit	54	39	54	410	—234	—100
Resident	1,585	808	750	—246	684	481
Into the hospitals, except admissions						
From visit*	21,501	20,914	33,766	37,632	38,500	40,000
From leave*	3,437	3,389	3,211	3,386	3,374	3,441
From unauthorized absence*	1,840	1,611	1,470	1,427	1,500	1,600
Out of the hospital, selected movements						
Visits	21,835	27,343	34,180	38,467	39,000	40,500
Leaves	8,958	9,006	8,946	9,132	9,294	9,451
Unauthorized absences	2,488	2,225	2,240	2,133	2,200	2,300
Discharges from indefinite leave	5,101	5,711	5,625	5,657	5,732	5,828
Discharges from unauthorized absence	544	1,346	1,058	626	662	700
On indefinite leave at year end	7,899	7,805	7,915	8,009	8,263	8,455
Increase during year	420	—94	110	94	254	192
On unauthorized absence at year end	1,882	1,150	862	939	980	980

* Including returns by transfer while absent

Year	Resident population June 30			Admissions during year ending June 30			
				Excluding observations			Observations, number
	Annual increase	Number	Rate*	Annual increase	Number	Rate*	
Actual							
1950	1,230	31,544	404 9	221	12,188	156 7	1,099
1951	724	32,268	410 6	170	12,358	157 9	1,343
1952	992	33,260	404 4	1,649	14,007	174 2	1,721
1953	1,585	34,845	411 6	1,849	15,856	190 0	2,256
1954	808	35,653	407 8	—87	15,769	183 3	2,410
1955	750	36,403	405 5	553	16,322	184 2	2,806
1956	—246	36,157	388 4	753	17,075	186 8	2,974
Estimate							
1957	684	36,841	383 1	745	17,820	188 3	3,100
1958	481	37,322	375 3	750	18 570	189 9	3,250

* Patients of all ages, per 100 000 estimated state civilian population age 15 and over, as of June 30th for resident population and as of January 1st for admissions

The table above reflects the interaction of three current upward trends. (1) the state civilian population growth; (2) increases in the rates of admissions to the hospitals for mentally ill per 100,000 state civilian population age 15 and over; and (3) increases in the gross ratio of total net separations from the hospitals per 100 total admissions. The estimates assume a conservative continuation of increases in both rates of admission and rates of release

Underlying these conservative estimates of increase in rates are the further assumptions that there will be no major shifts in state legislative policy, general community attitudes toward mental illness, or departmental medical and administrative policy—e g , we assume no marked changes in policy at any governmental level regarding the care and treatment of alcoholics or harmless seniles.

ADMISSIONS

The annual number of nonobservation admissions increased about 750 to a total of 17,075 in 1956 and is estimated to increase similarly in each of the two following years to totals of 17,820 in 1957 and 18,570 in 1958. The 1957 and 1958 increases may be attributed about 80 percent to civilian population growth and about 20 percent to increases in rates of admissions.

The trends in admissions by legal classification from 1953 to 1956 are estimated to continue for 1957 and 1958 On the basis of these trends the annual total of the mentally ill commitments and health officer's application admissions is estimated to increase 13 percent from 1953 to 1958 while the annual total of all other nonobservation admissions is estimated to increase by 23 percent in the same period As a result of this difference in relative increase the percentage for the mentally ill commitments and health officer's application admissions is estimated to decline from 59.4 percent of all nonobservation admissions in 1953 to an estimated 57.2 percent in 1958.

TABLE B

ADMISSIONS AND RATES OF ADMISSION, HOSPITALS FOR MENTALLY ILL, BY SELECTED LEGAL CLASSIFICATION AND AGE GROUP

Actual Data for 1953-1956 and Estimates for 1957-1958

	Years ending June 30					
	Actual data				Medium estimates	
	1953	1954	1955	1956	1957	1958
Admissions						
All legal classifications, total	18,112	18,179	19,128	20,049	20,920	21 820
Observations	2 256	2,410	2,806	2 974	3,100	3,250
Nonobservations, total	15,856	15,769	16,322	17,075	17,820	18,570
Mentally ill and Health Officer's application admissions						
Under age 65	6,972	7,813	7,770	7,719	7,935	8,230
Age 65 and over	2,444	1,946	2,234	2,228	2,300	2,400
Voluntary	2,416	2,171	2,107	2,595	2,850	3,000
Alcoholic	3,409	3,066	3,350	3,521	3,650	3,800
Drug addict	369	445	415	521	585	640
Sexual psychopath	246	328	446	491	500	500
Rates of admission per 100,000 state civilian population age 15 and over						
All legal classifications	217 0	211 3	215 9	219 3	221 1	223 1
Observations	27 0	28 0	31 7	32 5	32 8	33 2
Non observations	190 0	183 3	182 4	186 8	188 3	189 9
State civilian population (in thousands)						
All ages, July 1	11,748	12,254	12,699	13,260	13,775	14,280
Ages 15 and over, July 1	8,465	8,743	8,977	9,309	9,616	9,945
Ages 15 and over, January 1	8,345	8,604	8,860	9 143	9,463	9,781

SOURCE State Department of Finance memorandum to all state department directors and heads of other agencies, "1957-58 Budget Requests," released June 20, 1956

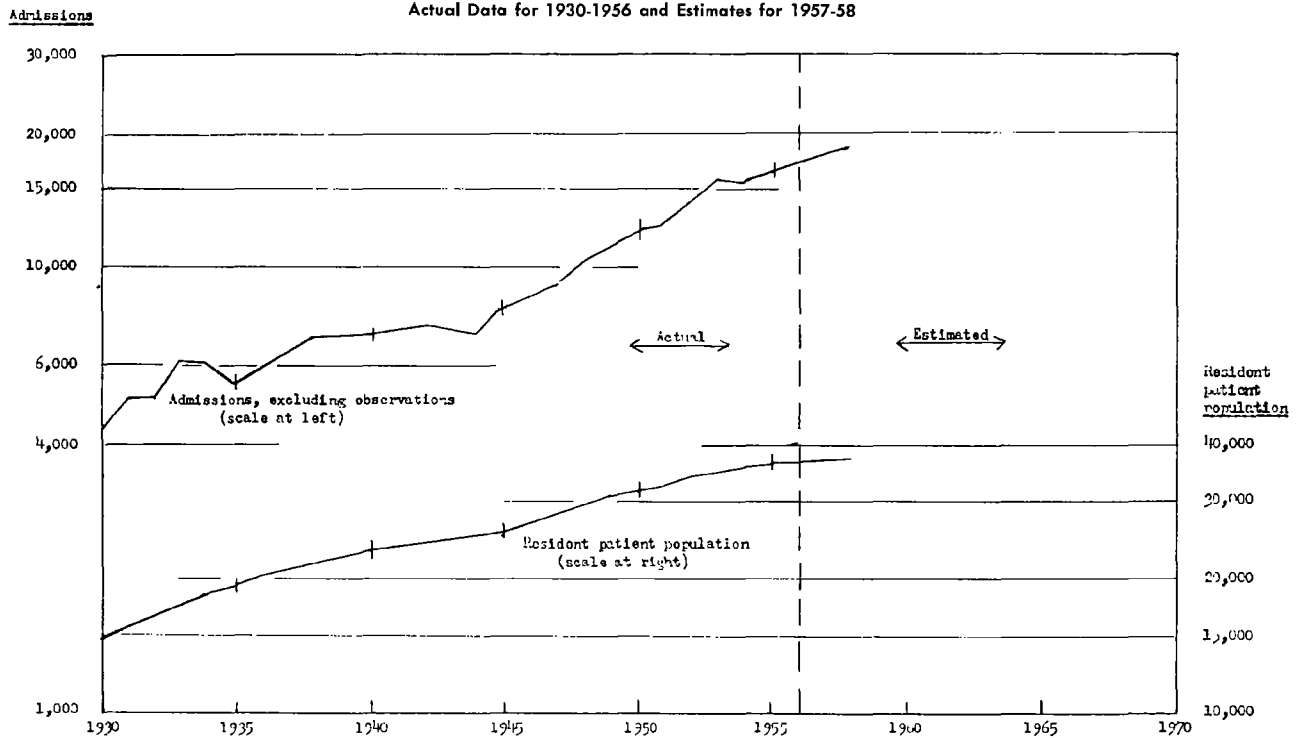
TABLE C

SELECTED POPULATION MOVEMENT RATIOS, HOSPITALS FOR MENTALLY ILL
Actual Data for 1953-1956 and Estimates for 1957-1958

Ratios	Year ending June 30					
	Actual number of patients				Estimates	
	1953	1954	1955	1956	1957	1958
Total net separations per 100 admissions (including admissions for observation	91 0	95 3	95 8	99 2	97.8	98 3
Total therapeutic releases per 100 non-observation admissions	64 7	69 2	69 1	72 6	72 7	73 4
Direct discharges	28 1	31 1	31 8	36 0	37 0	38 5
Discharges from visit	1 8	2 5	2 2	2 5	2 5	2 5
Net indefinite leaves	34 8	35 6	35 1	33 7	33 2	32 4
Deaths per 100 non-observation admissions	18 2	16 3	16 6	15 5	15 8	15 8
Discharge of observation cases per 100 observation admissions	94 0	99 5	97 7	98 6	98 6	98 5
Indefinite leaves granted per 100 non-observation admissions	56 5	57 1	54 8	53 5	52 2	50 9
Returns from indefinite leave per 100 indefinite leaves granted	38 4	37 6	35 9	37 1	36 3	36 4
Discharges from indefinite leave per 100 patients on leave at the beginning of the year plus leaves granted during the year	31 0	33 8	33 6	33 2	33 1	32 9

GRAPH I. ADMISSIONS (EXCLUDING OBSERVATIONS) AND RESIDENT PATIENT POPULATION, HOSPITALS FOR MENTALLY ILL

Actual Data for 1930-1956 and Estimates for 1957-58



GRAPH II. RATES OF ADMISSION (EXCLUDING OBSERVATIONS) AND RESIDENT PATIENT POPULATION PER 100,000 STATE CIVILIAN POPULATION, AGES 15 AND OVER, HOSPITALS FOR MENTALLY ILL

Actual Data for 1930-1956 and Estimates for 1957-58

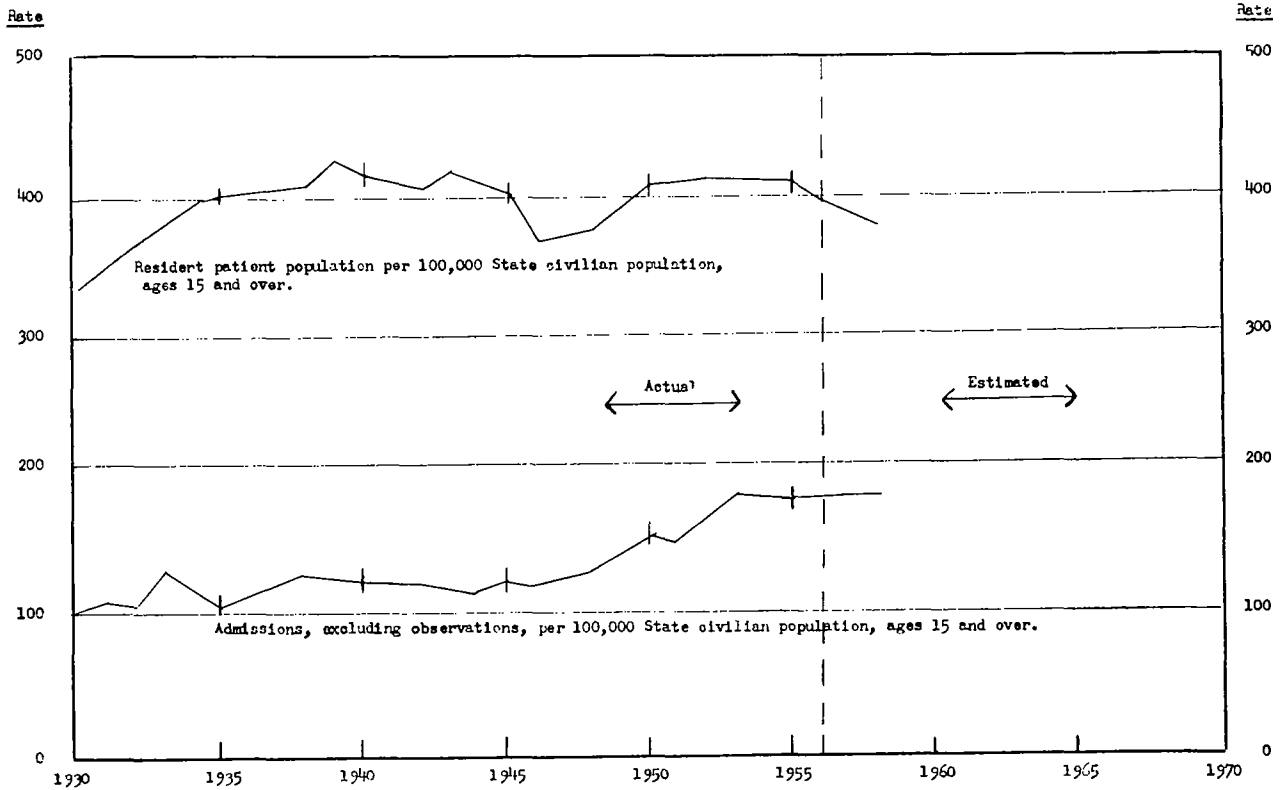
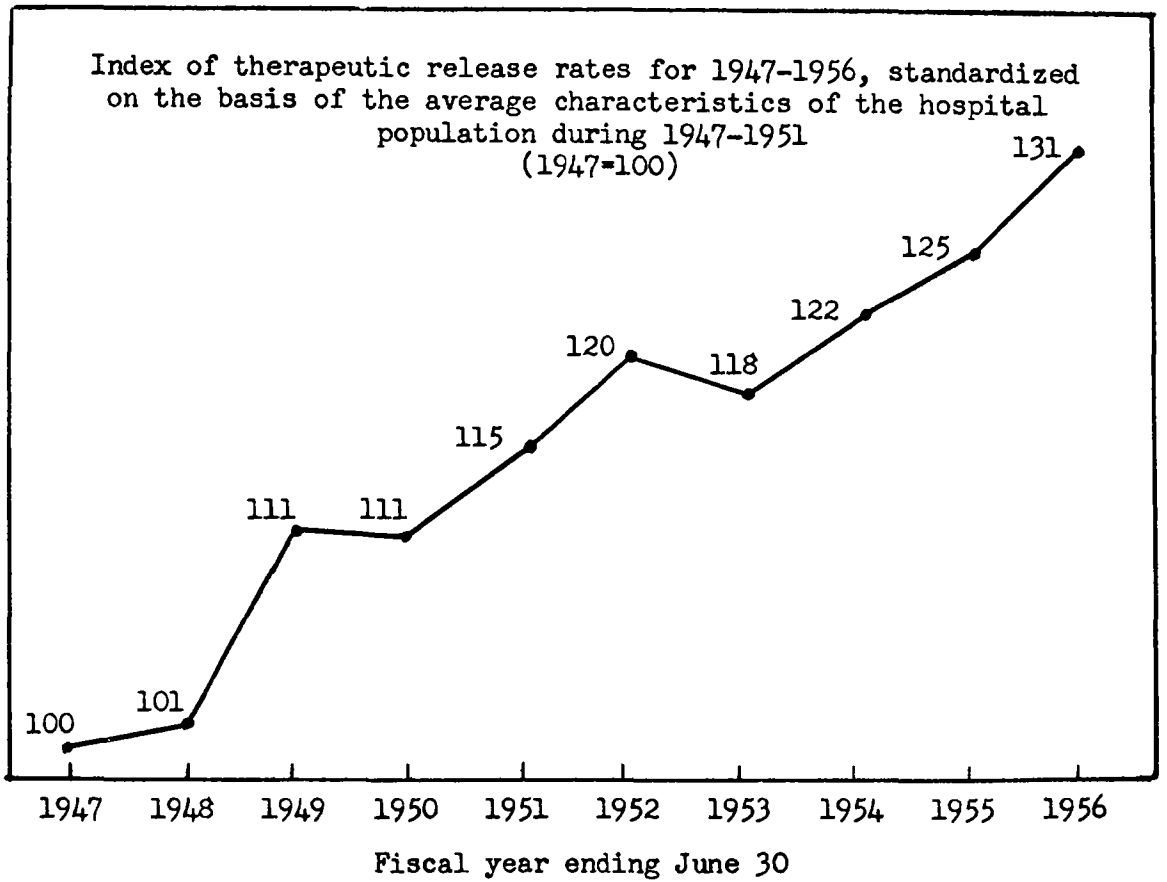


EXHIBIT C
ANALYSIS OF THERAPEUTIC RELEASE RATES, CALIFORNIA STATE HOSPITALS FOR MENTALLY ILL, 1947-1956



STATE OF CALIFORNIA
DEPARTMENT OF MENTAL HYGIENE
SACRAMENTO

ANALYSIS OF THERAPEUTIC RELEASE RATES, CALIFORNIA STATE HOSPITALS FOR MENTALLY ILL, 1947-1956

INTRODUCTION

The following report presents an analysis of the trends in therapeutic release rates during the last 10 years for patients in California state hospitals for mentally ill The therapeutic release rate is the number of net releases (direct discharges plus net indefinite leaves) in a year per 100 patients available for release (patients resident at the beginning of the year or patients admitted during the year).

Direct interpretation of the upward trend in actual therapeutic release rates generally overstates the amount of increase in rates because of the relative increase in the number of patients in recent years who have high release rates To avoid any bias due to shifts in characteristics of the patient population, an index of release rates was developed The index shows the percentage change from 1947 for rates standardized to a number of pertinent characteristics such as sex, legal classification, length of hospitalization, and mental disorder Details regarding definitions, methods for calculation, and consideration of special technical problems of the index have been given in previous reports (copies of which will be furnished on request) and are not repeated here.

Comment is included in this report regarding trends for death rates, and trends for rates of readmission after discharge.

OVER-ALL SUMMARY

The therapeutic release rate index of 131 for 1956 is the highest in the 10-year series This high index indicates that release rates have continued to increase and are now 31 percent above the 1947 rates During this same period the standardized death rate has declined.

The summary data for therapeutic releases and the standardized death rates are given below:

Year ending June 30	Net therapeutic releases per 100 patients available for release		Index based on standardized rate of therapeutic releases	Standardized number of deaths per 100 patients available for release
	Actual rate	Standardized rate		
1947	14 9	16.6	100	6 24
1948	15 8	16.7	101	6 64
1949	18 7	18 4	111	6 08
1950	19 6	18 4	111	5 40
1951	20 0	19 0	115	5 57
1952	21 3	19 9	120	6 12
1953	21 9	19 6	118	6 09
1954	22 9	20 3	122	5 49
1955	23 2	20 8	125	5 64
1956	24 6	21 8	131	5 51

The relative importance (to the increased releases and reduced number of deaths) of each of the many improvements in treatment of patients is not known However, there can be little doubt that several of the most important factors are the following.

1. Increased numbers of personnel per patient.
2. Increased numbers of professional personnel specifically trained in psychiatric and other therapeutic techniques
3. Continued improvement in hospital facilities for treatment—especially the increase in the number of wards designed specifically for the treatment of the acute psychiatric patient
4. Improvement in community attitudes toward patients released from hospitals.
5. Recent advances in drug therapy, including the new ataraxic drugs.
6. Improvement in the treatment of physical conditions which have limited the patients' ability to recover from mental illness—e g. the control of tuberculosis and the increased use of corrective surgery.

SUMMARY FOR SUBGROUPS OF PATIENTS

The following comment regarding the net therapeutic release rates for selected subgroups of patients is based on the detailed information given in Tables I, II, and III attached to this report The standardized results for these subgroups are derived from calculations for the 43 basic cohorts, which are combined selectively to make up the several subgroups in accordance with their respective definitions Except for the long-term group, each of these subgroups includes at least six cohorts. (Further details regarding cohorts can be found in previous reports.)

A Groups by length of hospitalization.

1 *Current Year's Admissions.* The current year's admissions have constituted about 30 percent of all patients available for release. For this subgroup the actual rate of therapeutic release in the year of their admission has increased over 32 percent, from 34 per 100 in 1947 to 45 per 100 in 1956. The standardized rate for this group increased by 21 percent, from 36 per 100 in 1947 to 43 per 100 in 1956.

2. *Patients Available for Release During the First or Second Fiscal Year After the Year of Their Admission* Patients still resident at the end of the first or second year after the year of their admission have comprised 14 percent and 6 percent, respectively, of all patients available for release each year. Actual and standardized release rates for these patients have increased markedly in the last nine years

a The actual rate of release of those patients resident at the beginning of the first year after admission increased 45 percent, from 37 per 100 in 1947 to 53 per 100 in 1956. The standardized rate increased 34 percent

b For patients resident at the beginning of the second fiscal year after admission, the rate increased 108 percent, from 10 per 100 in 1947 to 21 per 100 in 1956. The 1956 standardized rate for this group of patients was 61 percent above the 1947 standardized rate.

3 *Long-term patients.* Patients still resident at the end of the second fiscal year after their admission were an average of about 50 percent of all patients available for release during the 10-year period. In 1956 there were 25,724 patients in this group. Therapeutic releases for long-term patients amounted to only one to three per hundred each year. However, the *rate* of therapeutic release for long-term patients has had a definite upward trend. The rate increased from 1.27 per 100 in 1947 to 3 per 100 in 1956.

B Recent first admissions and readmissions by mental disorder.

The current year's admissions and those patients resident at the end of the first two years following admission are defined (in the following comment and in the attached tables) as recent admissions. The recent first admissions comprised about 37 percent, and recent readmissions have averaged about 12 percent of all patients available for release. (Readmissions represent patients with previous hospitalization in any state or federal hospital for the mentally ill.) Over-all actual rates of therapeutic release for first admissions increased 38 percent, from 31 per 100 in 1947 to 43 per 100 in 1956. The over-all actual rate for readmissions increased by 40 percent, from 35 per 100 in 1947 to 49 per 100 in 1956.

The over-all standardized therapeutic release rates for both first admissions and readmissions increased about 28 percent from 1947 to 1956.

A more detailed analysis shows that over the 10 years the therapeutic release rates have increased significantly for three of the four major subgroups among first admissions and for each of three major subgroups among readmissions. Only the subgroup for patients with senile psychoses and arteriosclerosis has not had rates of release consistently above the 1947 rates.

Additional detailed data for other subgroups of recent admissions are given in the attached tables.

SPECIAL CONSIDERATIONS

The following comments cover two important special considerations which should be kept in mind in the interpretation of these findings.

A *Likelihood of Readmission*

A significant number of patients are readmitted to the hospitals subsequent to their discharge. The current standardization methods for the index assume that the likelihood of such readmission be reasonably stable over the period of the study. On the basis of the following data measuring the likelihood of readmission for patients discharged during the six years 1950-1955 and

readmitted during the seven years 1950-1956, we conclude that there is no evidence of a trend toward either a significant increase or decrease in the likelihood of readmission:

Readmissions, within one year of discharge, per 100 discharges

	Year of discharge					
Data	*1950*	*1951*	*1952*	*1953*	*1954*	*1955*
Number of discharges	7,902	9,053	9,552	10,919	13,159	12,847
Number of readmissions within one year of discharge	1,157	1,419	1,552	1,714	1,880	1,876
Readmissions per 100 discharges	14.6	15.7	16.2	15.7	14.3	14.6

Additional details for the likelihood of readmission are given in Table V. Separate analysis of the discharges and readmissions by type of discharge (direct, while on visit or indefinite leave, or on unauthorized absence) indicate that the likelihood of readmission from each type of discharge has not changed.

B. *Adjustment for Transfer-out to Veterans Administration Hospitals*

The therapeutic releases from the hospitals are comprised of net indefinite leaves and direct discharges. The direct discharges for the years 1947-1955 included all those patients transferred to the Veterans Administration hospitals for the mentally ill in California. Due to the opening of a new V. A. hospital in 1956, there were an unusually high number of those transfers for 1956. An adjustment excluding an estimated number of the "unusual" transfers from the 1956 direct discharges was made before any of the 1956 rates of release included in this report were calculated.

TABLE I

ACTUAL NET THERAPEUTIC RELEASES PER 100 PATIENTS AVAILABLE FOR RELEASE, HOSPITALS FOR MENTALLY ILL

Years Ending June 30, 1947-1956

Patient groups	Patients available‡ for release		Actual patients released† per 100 available‡ for release									
	1947	1956	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956
All patients, total	35,743	53,673	14 9	15 8	18 7	19 6	20 0	21 3	21 9	22 9	23 2	24 6
Recent admissions,§ total	16,010	27,949	31 7	32 7	36 0	37 9	38 8	40 5	39 7	41 7	42 1	44 5
Released in fiscal year of admission	9,372	17,459	34 3	35 4	38 1	41 6	41 3	42 0	41 7	43 6	43 7	45 2
Released in first fiscal year after admission	4,480	7,378	36 5	37 1	42 2	41 3	45 8	47 2	45 4	46 7	50 1	52 8
Released in second fiscal year after admission	2,158	3,112	10 1	10 4	11 9	12 2	13 9	17 5	13 9	19 1	16 7	21 0
Long-term patients, total	19,733	25,724	1 27	0 97	1 92	1 79	1 91	2 53	2 80	2 19	2 34	3 02
Recent admissions only												
First admission	12,933	19,919	30 8	32 5	35 4	37 4	38 4	39 4	38 9	40 9	41 6	42 6
Readmission*	3,077	8,030	35 4	33 1	38 3	39 3	40 0	43 6	42 1	44 0	43 4	49 4
Recent first admissions only												
Senile psychoses and arteriosclerosis	3,299	3,628	8 31	6 63	8 42	7 31	7.13	8 78	7 50	8 90	9 19	8 30
Non-psychotic alcoholic	1,188	2,162	60 2	63 3	64 0	68 2	67 4	66 1	66 2	67.2	68 6	65 7
Schizophrenic and manic depressive	3,795	6,526	30.8	33 0	36 2	35 4	36 8	40 2	38 6	40 0	44 7	45 3
All other first admissions	4,651	7,303	39 3	41 3	43 0	43 3	46.0	43 9	45 5	48 9	46 7	49 3
Recent readmissions* only												
Non-psychotic alcoholic	264	1,112	51 9	53 2	55 0	61 7	60 3	61 8	61 1	63 7	61 5	68 1
Schizophrenic and manic depressive	1,436	2,923	28 8	28 3	31 2	31.0	30 7	35 6	37.3	36.1	33 6	40 4
All other readmissions	1,377	3,695	39 1	44 2	39 4	38 7	41 0	42 9	38 2	43 9	45 0	49.5

* Previous hospitalization in any state or federal hospital for mentally ill.
† Direct discharges plus net indefinite leaves
‡ Patients resident at beginning of year or patients admitted during the year.
§ Patients admitted during the current year or the two preceding years

TABLE II

STANDARDIZED NET THERAPEUTIC RELEASES PER 100 PATIENTS AVAILABLE FOR RELEASE, HOSPITALS FOR MENTALLY ILL

Years Ending June 30, 1947-1956

Patient groups	Five year average number of patients available‡ for release	Standardized number of patients released† per 100 available‡ for release									
	1947-1951	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956
All patients, total	40,102	16 6	16 7	18 4	18 4	19 0	19 9	19 6	20 3	20 8	21 8
Recent admissions, total	19,378	33 2	33 8	36 3	36 1	37 6	38 7	37 7	39 9	40 8	42 4
Released in fiscal year of admission	11,461	35 8	36 6	38 7	39 6	40 3	40 3	40 6	42 1	42 6	43 3
Released in 1st fiscal year after admission	5,408	38 0	38 4	42 7	41 2	43 2	46 0	43 2	45 8	48 4	51 0
Released in 2d fiscal year after admission	2,509	11 5	10 7	12 0	11 8	13 4	15 5	12 8	16 8	16 0	18 5
Long-term patients, total	21,024	1 27	0 97	1 92	1 79	1 91	2 53	2 80	2 19	2 34	3 00
Recent admissions only											
First admission	15,090	32 7	33 5	35 8	35 8	37 1	37 6	36 9	38 9	40 2	40 5
Readmission*	4,288	35 1	34 7	38 3	38 7	39 5	42 7	40 9	43 3	42 8	48 5
Recent first admissions only											
Senile psychoses and arteriosclerosis	3,482	8 23	6 15	8 33	7 68	7 45	8 62	7 36	8 86	9 45	8 23
Non-psychotic alcoholic	1,925	59 4	63 7	61 7	68 2	66 6	66 9	66 5	66 2	69 4	67 0
Schizophrenic and manic depressive	4,357	32 0	32 6	36 0	35 0	36 8	39 8	37 6	39 1	44 0	44 5
All other first admissions	5,326	39 6	41 0	43 2	43 1	46 1	44 0	44 8	48 5	46 6	48 6
Recent readmissions* only											
Non-psychotic alcoholic	550	50 1	52 0	55 8	62 0	60 2	63 2	61 2	63 5	63 8	70 1
Schizophrenic and manic depressive	1,749	26 5	29 7	31 3	31 3	31 0	35 6	37 6	36 2	33 5	41 0
All other readmissions	1,989	38 6	34 4	39 6	38 7	41 3	43 1	38 1	43 9	45 2	49 1

* Previous hospitalization in any state or federal hospital for mentally ill
† Direct discharges plus net indefinite leaves
‡ Patients resident at beginning of year or patients admitted during the year

TABLE III

INDICES OF NET THERAPEUTIC RELEASE, HOSPITALS FOR MENTALLY ILL

Years Ending June 30, 1947-1956

Patient groups	Index†, for year ending June 30									
	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956
All patients, total	100	101	111	111	115	120	118	122	125	131
Recent admissions, total	100	102	109	110	113	117	114	115	123	128
Released in fiscal year of admission	100	102	108	111	113	113	114	118	119	121
Released in 1st fiscal year after admission	100	101	113	109	114	121	114	120	127	134
Released in 2d fiscal year after admission	100	93	105	103	117	135	112	147	149	161
Long-term patients, total	100	76	151	141	150	199	221	172	184	236
Recent admissions only										
First admission	100	102	110	110	111	115	113	119	123	124
Readmissions*	100	99	109	110	112	121	116	123	122	138
Recent first admissions only										
Senile psychoses and arteriosclerosis	100	78	101	93	91	105	90	108	115	100
Non-psychotic alcoholic	100	107	109	115	112	113	112	112	117	113
Schizophrenic and manic depressive	100	102	112	109	115	125	118	122	138	139
All other first admissions	100	104	109	109	116	111	113	122	118	121
Recent readmissions* only										
Non-psychotic alcoholic	100	104	112	124	120	126	122	127	127	140
Schizophrenic and manic depressive	100	112	118	119	117	135	142	137	127	155
All other readmissions	100	89	102	100	107	112	99	114	117	127

* Previous hospitalization in any state or federal hospital for mentally ill

† Standardized rate (see Table II) of each year as percentage of standardized rate for 1947.

TABLE IV

STANDARDIZED NUMBER OF DEATHS PER 100 PATIENTS AVAILABLE FOR RELEASE, HOSPITALS FOR MENTALLY ILL

Years Ending June 30, 1947-1956

Patient groups	Number of deaths		Standardized number of deaths per 100 available† for release									
	1947	1956	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956
All patients, total	2,304	2,633	6 24	6 64	6 08	5 10	5 57	6 12	6 09	5 49	5 64	5 51
Recent admissions total	1,456	1,498	8 35	8 71	8 33	7 00	7 03	7 56	7 76	6 71	6 67	6 70
Released in fiscal year of admission	857	768	8 05	8 61	8 52	6 75	6 66	7 40	7 10	6 19	6 19	5 74
Released in first fiscal year after admission	411	500	8 62	9 15	7 82	7 51	7 58	7 97	7 91	7 43	6 89	7 84
Released in second fiscal year after admission	188	230	9 17	8 45	8 53	7 02	7 51	7 42	9 05	7 53	8 35	8 59
Long-term patients, total	848	1,135	1 30	1 70	1 01	3 93	4 22	4 80	1 56	4 36	1 69	4 41
Recent admissions only												
First admissions	1 357	1 361	9 73	10 5	9 93	8 45	8 38	9 05	9 37	8 01	8 09	8 10
Readmissions*	99	137	3 50	2 71	2 71	1 89	2 29	2 33	2 08	2 01	1 66	1 76
Recent first admissions only												
Senile psychoses and arteriosclerosis	985	1,019	29 8	32 7	30 1	26 1	24 1	27 5	28 9	25 6	26 1	27 9
Non-psychotic alcoholic	8	12	727	727	623	519	364	571	416	779	462	472
Schizophrenic and manic-depressive	61	50	1 61	1 58	1 08	1 17	758	1 15	1 01	872	860	780
All other first admissions	303	280	6 52	6 68	7 36	5 52	7 23	6 50	6 68	5 05	5 00	3 93
Recent readmissions* only												
Non-psychotic alcoholic	3	12	727	545	909	545	727	1 09	182	361	345	926
Schizophrenic and manic depressive	32	23	2 63	1 83	1 54	1 37	1 32	1 83	1 26	1 37	726	869
All other readmissions	64	102	5 03	4 07	4 22	2 71	3 57	3 12	3 32	3 02	2 84	2 82

* Previous hospitalization in any state or federal hospital for mentally ill
† Patients resident at beginning of year or patients admitted during the year

TABLE V

NUMBER OF READMISSIONS† TO HOSPITALS FOR MENTALLY ILL, BY YEAR OF PRIOR DISCHARGE

Discharge Years Ending June 30, 1950-1955

Discharges time to readmission	Year of discharge, ending June 30					
	1950	1951	1952	1953	1954	1955
Number of discharges	7,902	9,053	9,552	10,919	13,159	12,847
Number of readmissions, by time from discharge (cumulative)						
Less than 15 days	356	389	395	489	466	203
1 month	492	543	578	712	661	515
2 months	592	658	690	850	809	703
3 months	676	750	801	992	957	866
4 months	759	844	923	1,104	1,083	1,009
5 months	820	931	1,024	1,210	1,201	1,139
6 months	877	1,006	1,118	1,296	1,332	1,272
7 months	933	1,088	1,215	1,382	1,438	1,404
8 months	981	1,168	1,289	1,462	1,523	1,527
9 months	1,025	1,246	1,357	1,528	1,613	1,617
10 months	1,080	1,307	1,430	1,591	1,698	1,714
11 months	1,121	1,360	1,493	1,652	1,797	1,797
1 year*	1,157	1,419	1,552	1,714	1,880	1,876
2 years	1,552	1,947	2,028	2,297	2,542	
3 years	1,849	2,300	2,386	2,652		
4 years	2,067	2,529	2,664			
5 years	2,252	2,725				
6 years	2,404					
Readmission per 100 discharges, by time from discharge (cumulative)						
Less than 15 days	4 5	4 3	4 1	4 5	3 5	1 6
1 month	6 2	6 0	6 1	6 5	5 0	4 0
2 months	7 5	7 3	7 2	7 8	6 1	5 5
3 months	8 6	8 3	8 4	9 1	7 3	6 7
4 months	9 6	9 3	9 7	10 1	8 2	7 9
5 months	10 4	10 3	10 7	11 1	9 1	8 9
6 months	11 1	11 1	11 7	11 9	10 1	9 9
7 months	11 8	12 0	12.7	12 7	10 9	10 9
8 months	12 4	12 9	13 5	13 4	11 6	11 9
9 months	13 0	13 8	14 2	14 0	12 3	12 6
10 months	13 7	14 4	15 0	14 6	12 9	13 3
11 months	14 2	15 0	15 6	15 1	13 7	14 0
1 year*	14 6	15 7	16 2	15 7	14 3	14 6
2 years	19 6	21 5	21 2	21 0	19 3	
3 years	23 4	25 4	25 0	24 3		
4 years	26 2	27 9	27 9			
5 years	28 5	30 1				
6 years	30 4					

* I e , up to 12 months and 15 days

† Excluding all admissions and discharge as observation cases but including all other discharges while in the hospital or absent from the hospital

PART III

HOSPITALS FOR THE MENTALLY RETARDED

FINDINGS

These needs of the recently admitted patients have so differed from those of previously admitted patients as to justify the change in name from "colony" to "hospital." The newer kinds of patients are younger, are more severely retarded, and have a higher incidence of physical illness. More helpless and in greater need of medical services and nursing care, such patients require a larger and perhaps a somewhat differently trained staff. Consideration therefore must be given to these staff changes and to changes in program, in equipment, in auxiliary services (such as less library and more laboratory), and even in the type of buildings and room arrangements.

As these institutions must increasingly deal with acute illness, the costs of operation will necessarily be more like those of other medical facilities. It has been estimated that a continuance of present trends in the kind of patients admitted will require at least quadruple the present per-patient expenditure to maintain minimum standards of care. Budget requests should therefore be evaluated by comparison with the financial data for general hospitals as well as with previous requests for these state facilities made when they were emphasizing custodial care.

The study of experiences at Pacific and similar hospitals and the testimony of medical staff and of experts from the State Department of Public Health indicate the urgent and immediate need for specialized laboratory services to deal with the problems of infectious diarrhea and dysentery. The staff of such laboratories should include an epidemiologist and a parasitologist. This recommendation was made by a special interdepartmental committee of physicians who studied the problem for more than a year.

Despite the influence of adverse criticism by television and radio and in the newspapers of Southern California, less than 1 percent of the parents of the patients wrote letters of criticism or gave critical testimony at the hearing held by the committee on December 12, 1955. Not all of the critical comments were accurate or valid, but even the much larger number of parents who wrote favorable comments or who testified in behalf of the hospital gave evidence of the desirability of better communication between staff and parents—between the hospitals and the communities from which the patients come. The preadmission clinic and the social service staff are helpful. However, months often elapse between examination at the clinic and admission to the hospitals. The counsel of the social service worker is limited in most cases to the parents who make visits to the hospitals (less than one-half of the patients are visited by parents). One expert witness testified that many parents need supportive therapy which would be a desirable factor in the treatment of the patients, some of whom might

thus be enabled to return to their homes (an economy to the State). **The committee recommends that such needs of parents** (of patients and potential patients) **be considered a part of the hospital's responsibility.** As a means of limiting requests for admission and of facilitating the return of patients to life in the community through such extramural services, **it is recommended that consideration be given to assisting associations for "exceptional" or "retarded" children in their study programs.**

Admission procedures have apparently improved through the services of the preadmission clinic, but such social work services as are available locally under present arrangements in most of the counties are performed by probation officers. It appears probable that insufficient attention is given to the home and community situation and that staff understanding is based largely on information obtained from the parents when they come to the hospital. Even there, both parents may not be interviewed.

Complaints of parents seem to indicate that the limitations of the hospital services, and the difficulties which patients are apt to undergo when adjusting to group life in the institution, are either not made clear to parents or they are emotionally unable or unwilling to accept the interpretation given as part of the present procedure There is a long waiting list for admission, which does not seem to be much reduced by recent increases in hospital capacity It also would appear that some cases might have been better off in their own homes; and not enough is known, or done about, the applicants awaiting admission.

A study should be made of the procedures for selecting and admitting patients, for interpreting the details of the hospital situation, and for preparing the home for the return of patients who improve under treatment.

Much of Chapter 2 (Division 6, Part 1) was written in the period when Pacific State was called a "colony." In 1951 the name was changed to "hospital," with more recent admissions including many severely retarded, younger children (now kept alive by modern medicine in contrast to the former very short life span) who need nursing care and medical treatment rather than custodial care **The commitment procedure should therefore be reconsidered, and the language of the related sections should reflect the present program.** Thought might well be given to the desirability of more clearly **expressing legislative intent with regard to priorities and the types of cases admitted.** Section 7001, which states the "objects" of the hospitals for the mentally deficient, has not been amended for 15 years; and other sections of Chapter 3 (Division 6, Part 4) have not been amended in accord with the somewhat different types of patients and modified programs of these hospitals

While other sections of the Welfare and Institutions Code permit the counties to collect payments from the parents or estates of patients in accordance with their ability to pay, Section 7009 empowers the State to charge only the county from which a patient is committed; and Section 7010 limits the amount which may be charged to $40 per month or less. Present practice is to charge the counties at the rate of $20 per month; and those counties which collect from parents or estates limit their charges to this $20 per month rate, even

when parents volunteer to pay more The maximum charge of $40 per month was set in 1939 In the intervening 17 years, the purchasing power of the dollar has been reduced and a more costly type of service has been found essential It is therefore **recommended that serious consideration be given to the development of legislation which would place the charges for services and care at hospitals for the mentally deficient on the parents, responsible relatives or estates of the patients. The amount charged should be on the basis of average per capita cost** (currently higher than at hospitals for the mentally ill where charges are now made on this basis) as related to ability to pay

CONCISE STATEMENT OF THE SITUATION

Complaints From San Diego County and Elsewhere

In October, 1955, a neighbor of the parents of a child at Pacific State Hospital suggested to a television commentator (also local correspondent for a Los Angeles newspaper) the "news" possibilities of criticisms of the institution. Then came. (1) television and radio programs criticizing and defending the hospital; (2) newspaper stories with very large headlines in one paper "Child Death, Starvation Laid to Hospital," and with subheadline "Parents Complain Children Brutally Abused at Spadra"; (3) the San Diego County District Attorney's request that the grand jury take testimony and that the Attorney General of the State investigate the hospital; and (4) telephone calls, telegrams, visits, and letters from many parents who were alarmed, worried, or deeply angry at the "unjustified accusations."

Subsequent to this publicity, additional complaints were precipitated. Complaints received from the relatives of a total of 19 cases were brought to the attention of the Assembly Interim Committee on Social Welfare by the District Attorney of San Diego County. Eight of these patients came from this county Others were from Los Angeles, Orange, Riverside, and San Bernardino Counties Copies of 12 additional complaining letters from sources outside of San Diego County were made available to the committee by the State Department of Mental Hygiene These included a letter from Oregon written by the sister of a middle-aged patient (the latest in a series of such letters extending over a period of more than 10 years), and a letter from a former patient now living in Texas who was discharged from the hospital years ago. Another letter concerned a patient who had never been in Pacific State Hospital but who was in one of the other state hospitals operated by the Department of Mental Hygiene; and other letters were from parents of patients who had not been in Pacific State Hospital for from 2 to 15 years.

A public hearing was held at Pacific State Hospital on December 12, 1955. All complainants known to the committee, as well as the parents of 12 patients selected from many who volunteered to testify in behalf of the hospital, were invited to be witnesses Invitations were also sent to the Attorney General's Office, to the district attorney, and to the members of the Grand Jury of San Diego County Several competent professional witnesses were invited to give testimony, including representatives of the State Departments of Public Health and Mental Hygiene

From the information volunteered by the witnesses and from their answers to questions asked by members of the committee, it appeared that most of the parents who complained had children who had been patients at Pacific State Hospital for only a few months. Obviously sincere, these parents had not reached an understanding of the hospital situation—its possible services, its limitations, and its problems. Clearly, adequate staff-parent communication had not developed.

ANALYSIS OF COMPLAINTS

All persons known by the committee to have sent letters of complaint were invited to testify at the hearing All complaining parents who attended the hearing were given an opportunity to testify Not all of the parents who wrote letters of complaint appeared at the hearing. The complaints fall within the following six types.

1. Malnutrition—Food Intake and Assimilation

The most common complaint was that patients lost weight after admission to the hospital. No parent used the term starvation; but such terms as anemia, vitamin deficiency, debility, mild emaciation, and dehydration were used to describe the appearance and condition of patients after a period of stay in the hospital. The term malnutrition was even used as a cause of death on the certificate of one of the patients about whose care a parent was complaining

Staff members of Pacific State Hospital made the following comments on complaints of this type

> The weight loss reported by some of the parents was not in accord with the hospital record For example, in one case the parent said the child weighed 70 pounds on admission and dropped to 40 pounds in just a few weeks, but the hospital record shows the child's weight dropped from 58 to 52 pounds in this period. In other cases, the weight loss as reported by the parents was accurate As is true in many such cases, however, the problem of adjusting to group life in an institution is very great. Some children become so homesick, lonesome, and otherwise emotionally maladjusted that they either do not eat or do not assimilate the food when it is given to them.
>
> Over 800, or nearly one-third, of the patients at Pacific State Hospital are unable to feed themselves. Less than 40 percent of those patients who must be spoon or bottle fed are given this service by employees of the hospital. More than three out of five of those who have to be helped are fed by other less retarded patients under the supervision of the staff.
>
> A considerable number of patients have difficulty in swallowing their food, and others regurgitate what they have eaten. Many patients are not only mentally deficient but they are also deficient in anatomical structure or physiological function, causing them to be very difficult nutritional problems. One illustrative case was that of a five-year-old patient who came to the hospital weighing only 17 pounds and died weighing 28 pounds after two years' stay in the hospital. Thus, despite a fairly normal gain in weight during

the two years the child was in the hospital, the problem of providing adequate nourishment for this child was so great that malnutrition was listed as one of the causes of death

The preparation and service of food at Pacific State Hospital are under the over-all supervision of a food administrator in Sacramento, and locally under a trained dietitian. With her staff of three assistants, she makes every effort to see that the patients are provided with the necessary nourishment in the prescribed liquid or solid form. One assistant goes from ward to ward to make sure that the food is properly served The garbage from the ward is double checked to make sure that the food is not being wasted.

In addition to the above provisions, a certain number of cases are fed intravenously or receive nourishment through hypodermoclysis. Blood transfusions are given to patients who are badly undernourished

2. Unsatisfactory Medical Care

Complaints were made that staff physicians were slow in coming to see a child who was having an epileptic fit, that they made wrong or changing diagnoses, that their prognoses were inaccurate, and that they permitted a child suspected of having tuberculosis to be with other children. It was claimed that not all injuries were properly treated, and that the staff did not see that all sores were covered In some cases, the physicians were not able to determine when the death of a patient was going to occur suddenly, and the parents were not given sufficient notice Considerable concern was also expressed with regard to the number of patients suffering from diarrhea or dysentery

Staff members of Pacific State Hospital made the following comments on complaints of this type.

Staff physicians are not only willing but anxious to discuss the health of the patient with the parents, but emergency situations frequently make it impossible for the physician to see the parent at the parent's convenience. Diagnoses of human ailments are especially difficult when the patient cannot talk and is unable to report pain or other symptoms.

There are three medical levels of treatment at the hospital (1) the unit for the seriously or critically ill, which would correspond to a general hospital in a community; (2) the infirmary units, where the more helpless patients and the younger children who have to be given extensive care are placed; and (3) the wards for the ambulatory patients who are relatively healthy A physician checks on the health of all the patients in all of these types of units every day, and he sees any patient on the ambulatory unit who is referred to him by the nursing or attendant psychiatric technician staff. The physicians spend more time in the infirmary, where some cases are seen several times a day, even though the illness is not so serious as to require the type of care which is given in the first unit for the seriously or critically ill.

Many of the patients at this type of institution are prone to upper-respiratory infections; there are a considerable number of epileptic patients who injure themselves when they have seizures;

many of the patients lack the muscular coordination and agility which would enable them to avoid falling or bumping into and knocking other patients down. Also, many of these patients have mental ages of two years or less Their infantile behavior in relation to themeselves and to other patients includes striking, scratching, and biting.

As a part of the nutritional complex, there are medical problems which manifest themselves in skin lesions around the mouth. Also, abrasions from accidents fail to heal, and the patients are such that it is very difficult to keep a dressing on a wound

Intravenous feeding and injections for hypodermoclysis often cause discolorations around the injection which may be interpreted as bruises, in addition to the bruises which the children get in their usual falling or rough play with each other.

Patients infect themselves in their open sores with their own fecal matter and that of other patients.

Children's communicable diseases are a serious problem in an institution of this type Frequent contact with the outside community, the admission of new patients, and the fact that some of the patients have never had an opportunity before admission to acquire any immunity to some of these childhood diseases, all tend to make a very high incidence of this type of medical problem

Outstanding among the medical problems in an institution for the mentally deficient are the diarrheas and dysentaries which seem to be characteristic in this type of institution Prompt diagnosis of the type of infection and discovery of carriers who may be without clinical symptoms, but who are capable of infecting others, require laboratory facilities and staff not now available (Since the hearing in December, 1955, certain additions have been provided for laboratory personnel, equipment, and drugs.) Prevention of this type of disease also requires a level of sanitation and patient cleanliness that is difficult to maintain in this type of institution

Diagnosis and prognosis in all kinds of illnesses are especially difficult with this type of patient It is therefore a difficult medical decision to determine when a patient needs to be transferred from the ambulatory or infirmary ward to the unit for the seriously or critically ill It is not too unusual for a patient to be considered only mildly ill and to be treated on the infirmary ward for the almost chronic upper-respiratory infections which many of the Mongoloid patients suffer, and then for death to occur within 24 or 48 hours after he has been transferred to the hospital unit for the critically ill.

In recent years, the type of patient coming to Pacific State Hospital has changed. Instead of long-time custodial care for the more mildly retarded, the admissions within the past few years have included a very large number of young children who were severely retarded and who were suffering from spastic paralysis, epilepsy, and a number of other physical ailments This change in the service makes appropriate the change in the name of Pacific State Colony to Pacific State Hospital

Although the current death rate is higher than that of former years, the death rate for the past two years has not been as high among the hospital patients as it was among the cases on the waiting list for admission.

3. *Inadequate Education or Training*

Reports of personality changes, loss of skills—eating, dressing, walking, and maintaining balance—and insufficient staff to provide individual attention are included in parental complaints

Staff members of Pacific State Hospital made the following comments on complaints of this type

Parents expect too much, even though careful explanations are made upon admission. To provide constant individual attention, such as is given by many parents, would require more than one staff person to each patient (40-hour work week, sick leave, holidays, and vacation periods considered). Necessity for constant adult attention may be questioned from the point of view of the welfare of many of the patients, and the cost to the taxpayer would be prohibitive. (Parents, administrators of the hospital and the Department of Mental Hygiene, and the Los Angeles and San Diego County Grand Juries agree that a larger staff is needed at Pacific State Hospital)

Some patients retrogress and have progressive loss of skills because of neurological deterioration, regardless of the extent or quality of the medical and nursing care. Many complaints of this type are made on the basis of the patients' first few months in the hospital. Parents of patients remaining for longer periods, associations for exceptional or retarded children, educators, and other qualified persons give Pacific State Hospital high national rank among such institutions for the quality of its educational and training program.

4. *Mistreatment or Neglect*

These reports include failure to keep eyeglasses on patients, patients' "teeth always dirty," patients' "hair wet" when sent out to parents, children and wards dirty and unsanitary, patients' clothing mixed up, patients wearing wrong-sized shoes, and patients seen with no clothing.

Staff members of Pacific State Hospital made the following comments on complaints of this type·

Complaining parents constitute less than 1 percent of the total number of parents of patients now served by the hospital.

It is difficult to maintain patient and ward cleanliness with such retarded patients.

About 10 percent of currently budgeted staff positions are presently unfilled. Employees' services must be supplemented by the aid which older and slightly less retarded patients can give under supervision.

Some of the difficulty about wrong clothing and shoes results from the to-be-expected inefficiency of patients as helpers.

If the present trend toward the admission of younger and more severely retarded patients with complicating physical health problems continues, it will take four times the current expenditures to provide even minimum standards of care The *only* testimony of brutality was given by a former employee who described an incident involving slapping of a patient by an attendant The incident occurred three years previously, and the witness was unable to give the names of any of the participants.

5. Injuries

Parents report bruises, scratches, bites, broken teeth, torn-off toenails, black eyes, cuts, skin abrasions, and contusions

Staff members of Pacific State Hospital made the following comments on complaints of this type·

> Both parents who complain and parents who praise the hospital report the appearance of such injuries Some parents comment that normal children fall, fight, and break or discolor their skin in other expected ways Retarded children with poor coordination are more apt to injure themselves and others accidentally
>
> Infantile minds have not learned that hitting and biting should be inhibited, even though growth in size and strength permits considerable damage
>
> Epilepsy and neurological problems of many patients involve the possibility of injury One parental complaint about a head injury of a fourteen-year-old patient was checked in the record, in which was reported a fall from bed in the hospital for the seriously ill. This unit is well staffed, but the patient fell from his bed during an epileptic seizure Skin discolorations may be the result of intravenous feeding; hypodermoclysis; restraint measures ordered by the medical staff, or, in two cases checked, the services of the mortician.

6. Parent-Staff Communication and Relationship

There were several instances of sudden death with no advance notice of serious illness, or notice of illness by mail or its arrival after notification of death, of acute illness treated for several days or a week before transfer to the hospital unit for the critically ill where the unexpected death of the patient occurred shortly after admission, and of failure to send requested autopsy reports. However, these all indicate relatively few errors in the procedure for notification of parents. Some parents complained of difficulty in consulting the medical staff, and one or two spoke of discourteous responses to questions asked of employees Several parents stated that the difficulties of group life; the possibilities of clothing mixup; the probabilities of weight loss as a result of emotional response to separation from parents and institutional adjustments; and the dangers of contagion, infection or injury; were not made clear to them prior to admission Some parents complained because they do not have free access to all parts of the wards where the children live.

Staff members of Pacific State Hospital made the following comments on complaints of this type.

It is the policy of the hospital to notify parents immediately when a patient becomes seriously or critically ill. Accurate determination of the degree of seriousness of the illness of mentally deficient patients is more difficult than with normal persons. Since the change in the type of admissions and services which has occurred in recent years, many of the patients at Pacific State Hospital are acutely, but not critically, ill at all times

An attempt is made, as part of the pre-admission procedure, to make clear to parents the adjustment problems of the first few months, the extent to which they may hope for improvement in the patient through the hospital services, and the arrangements available for maintaining contact with their children. (About half of the children receive no visits from parents or relatives.) Social service workers are available to parents when they visit the hospital.

Parents whose children remain in the hospital for more than a few months usually become acquainted with the staff and the institution.

FAVORABLE COMMENTS

The alarming criticism of Pacific State Hospital on television and radio and in certain newspapers resulted in three kinds of behavior on the part of parents of patients and caused two county grand juries to take action The publicity given throughout Southern California to the criticisms by several parents in San Diego County precipitated critical letters from a small number of other parents from several counties These criticisms as analyzed above thus involved only about 25 cases. Several hundred parents, however, were alarmed by the newspaper stores or the television and radio comments and made contact with the hospital to determine the situation of their children who were patients in the hospital Others paid hurried visits to the hospital From more than 50 parents who specifically asked to be heard in defense of the hospital, 12 were selected as representing the point of view of the parents who had a real understanding of the program at the hospital and an acquaintance with the staff and the services available.

1. Favorable Testimony

The 12 sets of parents selected to receive invitations to testify at the hearing of the committee included several businessmen a corporation executive, a nurse, a rancher, and a Protestant minister from a nearby community. Of the 12 sets of favorable witnesses invited, only seven had opportunity to testify, although all appeared at the hearing The other five sent their testimony in writing, requesting that it be made a part of the official record of the hearing

Sworn testimony of these witnesses could be summarized by the statements that they considered the staff to be highly qualified and devoted to their work; they recalled having gone through the early days after admission of their children to the hospital when the expected weight loss took place, and their satisfaction as weight was regained and the adjustment was made; several spoke of broken teeth and other injuries and skin abrasions as to be expected even with normal children in their everyday play life, but as even more to be expected with chil-

dren who have poor coordination and limited ability to learn how to handle themselves.

One father, explaining that his grown daughter is a dietitian and that he had consulted with physicians about his testimony, made the statement that he considered the fact that his son ate so much when taken away from the hospital for a visit an indication that the boy was adequately fed while he was at the hospital, saying, "If he had not been given enough to eat at the Hospital, his stomach would not have been able to stretch to the point where he could hold all of the food which he eats on an afternoon when we visit."

Many of these parents testified that they had made an average of 25 or more visits a year to the hospital over a period of years, and that they had never observed any cruelty or abuse or wilful neglect. Several mentioned the fact that their children, although enjoying a visit with parents, seemed happy to return to the hospital at the end of the visiting day. Mention was also made of the satisfaction to the parents of children who are able to be of some assistance to the staff in feeding and helping to take care of more retarded or younger children

One parent stated that he had placed his child in several private institutions, hospitals, and schools appropriate for his child's needs, but that he was more pleased with the results which were being attained at Pacific State Hospital than at any of the other facilities at which his child had been placed at a very great expense

Some of the parents who were witnesses at the hearing are officers in the associations or foundations for exceptional or retarded children and reported that they spoke for these organizations In two specific instances, the organization took official action, passing a resolution as a vote of confidence in the program at Pacific State Hospital

2. *Los Angeles County Grand Jury*

Two of the cases which received publicity were brought to the attention of the District Attorney of Los Angeles County. A committee of the Los Angeles County Grand Jury visited the hospital and included the following evaluative comment* in its report:

The 1955 grand jury received two formal complaints concerning the operation of the Pacific State Hospital at Spadra; and the committee had read newspaper publicity emanating from one other Southern California county. On December 1, 1955, the committee made a formal inspection of this facility So far as we can discover, we are the only agency which has visited it during the present year from any of the counties from which commitments to Spadra are made

We carefully investigated the two complaints made to us One (involving alleged malnutrition) we found to be totally erroneous; the other (which involved the treatment of a serious disciplinary case) we found to have been handled in proper manner. The physical facility is of a high order—the buildings and grounds are clean and well kept and the newer structures are excellently designed for the special types of cases assigned to them The spirit and dedication of the professional staff is outstanding. We commend Dr George Tarjan and his staff for an excellent job well done.

* Pages 32 and 33, *Final Report—1955*, Los Angeles Grand Jury, Harlan G Loud, Foreman

The high professional spirit is the more remarkable in the light of a noticeable inadequacy of staff size and of its pay scale (which contributes to the lack of sufficient personnel) The basic pay for a technician on the staff is $210* per month, out of which must come all food and lodging. Such a pay rate for professionally trained personnel in a highly difficult post is so totally unrealistic as to require no elaborate discussion We found that the lowest classification at Los Angeles Juvenile Hall pays $273 per month and this is recognized as insufficient to attract and retain a full staff of competent people. We recommend to the Legislature a study of the financial needs of the institution so that pay scales in line with present day standards for the staff may be instituted not later than the Fiscal Year 1956-57

Respectfully submitted,

SOCIAL SERVICES COMMITTEE
DORIS KINGSLEY, *Chairman*
A. L EDWARDS
CLYDE E HOPKINS
KATHERINE F. MALKMUS
MABEL M. PHELPS
ETHEL F. TABOR

3. The San Diego County Grand Jury

Sent a committee to represent them at the hearing. The following letter indicates the conclusions reached by this group:

December 19, 1955

GEORGE TARJAN, M.D , *Superintendent*
Pacific State Hospital
Spadra, California

DEAR SIR: From information gained by touring the Pacific State Hospital buildings and grounds and listening to facts brought forth by you and your staff, and by the testimony offered by witnesses before the State Assembly Interim Committee on Social Welfare, we are of the opinion:

(1.) That there is no evidence of abuse or neglect of patients at your hospital;
(2.) That a serious health condition exists which can be controlled by the addition of two additional specialized laboratory technicians who can cope with the dysentery problem and other communicable diseases;
(3.) That a need exists for better public relations, most particularly between parents and responsible relatives and the state hospital staff;
(4.) That the continuous presence of the clergy at your hospital is an important factor in safeguarding the welfare of the patients and should be a source of comfort to the parents and relatives;
(5.) That legislation should be enacted to permit parents or responsible relatives of patients to pay according to their financial ability so to do;

* Salary for psychiatric technician trainee was raised to $231 per month July 1, 1956.

(6.) That a lien law should be enacted to enable the county and the State to collect payments from parents or responsible relatives who fail to meet their obligations through the county;

(7.) That the superintendent, his assistant and staff appear to be well trained and efficient and to be dedicated to a task which is one of our most difficult social problems;

(8.) That the courageous parents who appeared at the hearing should be commended for bringing out into the open their problems and difficulties, thereby making it possible to create a mutual understanding between the hospital staff and parents and to move forward through this constructive criticism to make necessary corrections for the benefit of all parties concerned;

(9.) That the sympathetic and cooperative attitude of the superintendent and his staff toward criticism by the parents was also highly commendable

Very truly yours,

FRANK J. LANTRY, Chairman
Welfare Committee
1955 San Diego County Grand Jury

4. Testimony of Professional Witnesses

In addition to letters praising the quality of the program at Pacific State Hospital (received from such sources as the dean of a university school of social work, a member of the faculty of another school of social work, a professor of psychology at a state college, a professor of education at another state college, a psychiatrist in private practice, and other professionally qualified persons with specific knowledge of the services rendered at Pacific State Hospital), the testimony of those professional persons who were specifically invited to comment on the program was especially helpful to the committee in its analysis of the problems relating to standards of care at this institution.

The Chairman of the Board of Trustees at Pacific State Hospital, which includes prominent persons from various sections of Southern California who have opportunity to visit the institution and to be familiar with its program, pointed out that over the past 15 years there have been important changes in the quality and extent of the services rendered. In his brief statistical presentation, he showed clearly the extent to which the younger, more severely retarded, and physically ill type of patient had been admitted to the hospital This more difficult type now constitutes about 37 percent of the total number of patients. Comment was made on the present personnel shortages (there are fewer employees than there are approved positions which is, in part, the result of increased patient capacity of the hospital) and on the per capita appropriations for the current year which are less than those of 1954-55

The Director of the State Department of Mental Hygiene stated that in contacts with his colleagues in other states he had heard much praise for Pacific State Hospital, which, he declared, "is one of the best hospitals for the mentally retarded in the country." He pointed out,

that, while the California hospitals for the mentally retarded are evaluated as among the best by Federal Government officials and by the Council of State Governments, there are acknowledged deficiencies which are found in all hospitals of this kind throughout the Country.

Comment was made on the harmful effects of the recent publicity given to complaints of a few parents about the hospital; and attention was called to the fact that the persons responsible for the radio, television, and newspaper reports had not made visits to the hospital, nor had they been in contact with the State Department of Mental Hygiene. In closing, the director noted that he had received "many, many more letters of praise" than he had received of complaints. He added, "Some of these complaints are understandable, and some, I feel, are due to misunderstandings which are just as confusing and perplexing to the professional staff as they are to the parents who are making the complaints."

The Superintendent and Medical Director of Sonoma State Hospital, who had also been for a time in charge of Porterville State Hospital, stated that he wanted to make it clear that he considered Pacific State Hospital outstanding among the California hospitals for the mentally deficient. "The problems at this institution are also found at our other California institutions and in similar institutions throughout the United States." Stressing the need for improved communication between the hospital staff and the parents, he suggested that the parents of children of the type who come to these hospitals are often in need of "supportive therapy" which should be given for the sake of the patients. He also pointed out that the more that could be done for parents of patients and for parents of potential patients, the more possibility there would be for care of such cases in their own communities, thereby eliminating the need for admission to state hospitals. "This would, of course, be a great economy."

The Chief of the Bureau of Acute Communicable Diseases of the State Department of Public Health pointed out that, in a very real sense, an institution of this kind is similar to a general community from the public health point of view. "Because so many patients are younger children, the common diseases of childhood are apt to be more prevalent in the institution; also, respiratory and diarrheal diseases are more hazardous for younger persons than for adults." While a certain amount of contagion and infection is apparently inevitable, the provisions made for prevention and control determine in large measure the incidence of such diseases. Major steps in limiting the number of patients who will have diarrhea include adequate laboratory staff and facilities, with regular and frequent testing programs for both patients and staff; high standards of cleanliness and sanitation; and facilities for isolation, or at least a prevention of contact, of those persons who are infected, or carriers, from those who are uninfected.

A former member of the State Department of Public Health staff now an assistant county health officer, described her experiences as a member of a team studying the problems of diarrheal disease in Pacific State Hospital, and as a member of the interdepartmental committee studying the problems involved in the handling of this disease. She pointed out that, since this is a problem in all such hospitals, the

special committee included persons from each of the three hospitals serving mentally deficient patients, in addition to representatives of the State Department of Public Health She called attention to the recommendations of this committee, which were included in the complete report as an exhibit She suggested the need for public health trained personnel at the state level to supervise the standards of prevention and control of communicable diseases.

The Superintendent of Pacific State Hospital outlined present policies with regard to staff-patient relationships, and gave some details of the changing characteristics of patients admitted in recent years, such as very low IQ's, younger admissions, and the complications of physical infirmities including cerebral palsy and epilepsy. He pointed out the fact that more than half of the present patient group are under 10 years of age; more than 1,000 of the patients now in the hospital are unable to toilet themselves, and more than 800 require help in feeding, either by spoon or bottle As the administrative head of the institution, he paid tribute to the consecrated efforts of the members of his staff, told of the measures taken to eliminate those who manifested undesirable attitudes, and expressed the belief that—given an adequate staff and operating budget—the gradual improvement in methods through the utilization of research findings would ultimately result in a much more effective program of service to the mentally deficient patients

With the complete cooperation of the hospital staff, the committee consultant checked all of the complaints in letters made available to the committee against the hospital records. Some of the complaints were found to be entirely valid and accurate; others, partially so; and, in many instances, the need for a better understanding of the hospital's problems, limitations, and efforts was manifested Study of Pacific State Hospital to date, plus limited information about other state hospitals for the mentally deficient, indicates that all of these institutions are confronted with problems The solution of some will involve legislative action, others, more adequate budgetary provision; and still others, changes that can be brought about under present legal and financial conditions by administrative measures now available. The need for further study of this form of state service is clearly apparent

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Report of the

SUBCOMMITTEE OF THE JUDICIARY COMMITTEE ON CAPITAL PUNISHMENT

Pertaining to the

PROBLEMS OF THE DEATH PENALTY AND ITS ADMINISTRATION IN CALIFORNIA

MEMBERS OF THE SUBCOMMITTEE

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BETWEEN PAGES 40 AND 41

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HOUSE RESOLUTION No. 274

Relative to an interim study of capital punishment

Resolved by the Assembly of the State of California, That the Assembly Interim Committee on Judiciary is hereby authorized and directed to appoint a subcommittee to study all matters relating to or bearing upon the subject of capital punishment, and to report thereon to the Assembly not later than the fifteenth day of the 1957 Regular Session of the Legislature, including in its report its recommendation for appropriate legislation.

LETTER OF TRANSMITTAL

January 18, 1957

HONORABLE L. H. LINCOLN
Speaker of the Assembly
State Capitol, Sacramento, California

DEAR MR. LINCOLN: In compliance with the provisions of House Resolution No. 274, directing the Assembly Interim Committee on Judiciary to study capital punishment in California, adopted June 8, 1955 Regular Session of the Legislature, the Subcommittee on Capital Punishment appointed for this purpose does herewith respectfully submit its report with the findings and recommendations of the committee.

Very truly yours,

LESTER A. MCMILLAN
Chairman, Subcommittee on Capital Punishment of the Assembly Interim Committee on Judiciary

FOREWORD

The purpose of this report is to bring to the attention of the Legislature in California certain facts and problems relative to capital punishment in this State. At the outset it should be understood that it is not intended as an argument either for or against the retention of the death penalty, but rather as an attempt to analyze the facts and to point up problems in this important and somewhat neglected field of inquiry. Whatever inferences or conclusions may be drawn from them is a matter for individual opinion. Certain it is that at present there is a widespread interest in this subject in various states of the Union where study groups, sometimes official, are at work, and modifications of death penalty statutes have been contemplated or effected. Notable, also, is the recently published Report of the British Royal Commission on Capital Punishment; and in Canada a report has recently been issued giving the proceedings of a Joint Committee of Parliament on this subject. It is clear, then, that the upsurge of interest in this field in California is in accord with trends both in this country and abroad.

SECTION I

SOME STATISTICAL EVIDENCE

Let us look, first, at some of the statistical evidence on various aspects of this problem in California. It appears that this State is among those that have most frequently administered the death penalty over a period of years, exceeded only by New York and three southern states. This is evident from the following table:

TABLE I

EXECUTIONS IN THE UNITED STATES, BY STATES, 1930-1955 [1]

State	*No. of executions*
Georgia	322
New York	301
North Carolina	258
Texas	247
California	236
Ohio	153
South Carolina	148
Pennsylvania	144
Mississippi	131
Florida	135
Alabama	124
Louisiana	122
30 other states and District of Columbia	1,090
Total	3,411

In the above tabulation the excess of New York over California may be accounted for, in part, by its larger population.

However, the relative excess for California in the use of the death penalty is seen from the most recent data available. In 1955 California with nine executions led the Nation. This State with four others accounted for 39 or over half the executions in 1955.[2] More than that, on December 31, 1955, California led the Nation in the number of prisoners awaiting execution. On that day over half the 125 men awaiting execution throughout the Nation were distributed as follows: California 20, Florida 11, New York 10, Illinois 9, South Carolina 7, Alabama 7.[3]

Lest this California record in the use of the death penalty be attributed to a greater frequency of murders in this State, it may be said that apparently this is not the case. In the annual reports of the Federal Bureau of Investigation urban crime *rates* are presented which cover 96 percent of the urban population of the United States. In the last such report it was indicated that in 1955 the murder rate per 100,000 population of urban areas was 3.7 for California, 3.5 for all Pacific Coast States, 4.3 for Mountain States, 8.9 for West South Central States, 12.1 for East South Central States, 9.4 for South Atlantic

[1] National Prisoner Statistics, Federal Bureau of Prisons, February, 1956
[2] National Prisoner Statistics, Federal Bureau of Prisons, February, 1956.
[3] *Ibid.*

States, 3.4 for West North Central States, 4.4 for East North Central States, 3 for Middle Atlantic States, and 1.2 for New England States.[4] Of course, these variations reflect a great many legal and sociological differences among these areas, but they indicate no great excess in the murder rate for California, certainly none that would account for the relatively high frequency in the use of the death penalty by that state. The conclusion seems inescapable that the relatively high frequency in the use of the death penalty in California is due to other factors than an excess of homicide in that state. This is a fact of prime importance in considering matters of state policy in this field.

In the following discussion certain other statistical facts are presented which throw light on the actual situation in California relative to capital punishment and/or indicate problems that warrant consideration. The data have been supplied through the courtesy and cooperation of Mr. Ronald H. Beattie, Chief of the State Bureau of Criminal Statistics.

TABLE II

COMMITMENTS TO CALIFORNIA PRISONS UNDER SENTENCE OF DEATH, BY YEAR AND OFFENSE—ALSO SHOWING THE NUMBER OF EXECUTIONS DURING EACH YEAR
January 1, 1944, to June 30, 1956

	Death penalty commitments received					
Year	*Total*	*Murder first*	*Assault by life convict*	*Kidnaping*	*Federal murder charges*	*Executions*
1944	19	19	–	–	–	4
1945	8	7	1	–	–	12
1946	15	12	–	1	2	7
1947	15	13	1	–	1	7
1948	10	9	–	1	–	11
1949	9	9	–	–	–	11
1950	17	17	–	–	–	7
1951	11	11	–	–	–	6
1952	11	11	–	–	–	9
1953	17	16	1	–	–	8
1954	10	6	2	2	–	9
1955	9	9	–	–	–	9
1956 (1st half)	9	8	1	–	–	4
Totals	160	147	6	4	3	104

In the above tabulation of the 147 prisoners received on first-degree murder sentences 3 were women, received in 1945, 1948, and 1953 respectively. Two of these women were executed in 1947 and 1955. Also, among prisoners executed were 3 federal defendants executed in 1948. With some fluctuations between given years it appears that the average yearly number of death sentence commitments over the period was 12, and the average yearly number of executions was 8. Most of the execu-

[4] These data are based upon reports to police of murders and nonnegligent manslaughters committed, the same being regarded as the best source for indicating the volume of crime in different areas of the Country. See, Uniform Crime Reports, Annual Bulletin, 1955. Federal Bureau of Investigation, Washington, D C.

tions in any single year were of prisoners committed under the death sentence in previous years.

In the following table is shown the number of nonnegligent homicide cases reported to police for the year 1955 and their passage through various legal stages from the reporting of the same to the police or sheriffs to their disposition by conviction and the imposition of death or life sentences:

TABLE III

CALIFORNIA NONNEGLIGENT HOMICIDES REPORTED TO POLICE, PERSONS CHARGED WITH MURDER IN THE SUPERIOR COURTS, AND CONVICTIONS AND SENTENCES OF PERSONS CHARGED, FOR THE YEAR 1955

	1955
Nonnegligent homicides reported	417
Persons charged with murder in superior courts	234
Persons charged with murder who were convicted	183
Convicted of murder first degree	52
Convicted of murder second degree	62
Convicted of manslaughter	65
Convicted of other offenses	4
Sentences of those convicted of murder first degree	52
Death	8
Life	44
Total executions, 1955	9

One notes in the above table the sharp elimination of cases at the various steps in the process. For example, of the 417 nonnegligent homicides reported to the police in 1955 in only 234 or 56 percent of these cases was anyone charged with murder in the superior courts of the State Even that percentage assumes that all those so charged were indicted for one of the 417 homicides reported in 1955. If any of the indictments were for murders committed in previous years, the ratio of persons charged to murders reported in 1955 would be even less. Then, one sees that of the 234 persons charged with murder 183, or 78.2 percent, were convicted. But of those convicted only 52, or 28 4 percent, were convicted of murder in the first degree. Finally, of these only 8, or 15.3 percent, received the death penalty. Because of the long span in California between the imposition of the death penalty and the actual execution, many, perhaps most, of the 9 executions in 1955 were for capital crimes committed in previous years.

In passing one may note the possible bearing of all these facts on the alleged deterrent effect of the death penalty. But that is a question to be considered in our further discussion.

A somewhat different aspect of the situation is presented in the following table which shows for a 10-year period, 1945-1954, the annual number of commitments to California prisons for murder in the first degree These data are distributed by sex of offenders, the areas of the State from which commitments were made, and the type of sentence, whether death or life imprisonment.

TABLE IV

PERSONS COMMITTED TO CALIFORNIA PRISONS FOR MURDER FIRST DEGREE, 1945-1954

	Total	*Death sentence*	*Life sentence*
Total	454	111	343
Women	19	3	16
Men	435	108	327
Year of commitment			
Total	454	111	343
1945	39	7	32
1946	53	12	41
1947	46	13	43
1948	57	9	48
1949	47	9	38
1950	57	17	40
1951	37	11	26
1952	36	11	25
1953	47	16	31
1954	35	6	29
County or area of commitment			
Total	454	111	343
Southern California	217	40	170
Los Angeles	138	27	111
San Diego	8	3	5
8 other counties	71	17	54
San Francisco Bay area	113	25	88
Alameda	39	12	27
San Francisco	37	6	31
7 other counties	37	7	30
Remainder of State	124	39	85
10 Sacramento counties	41	16	25
7 San Joaquin counties	48	18	30
22 other counties	35	5	30

In the above table an excessive number of commitments are shown for Los Angeles as compared with San Francisco. However, on the basis of population the difference does not appear so great. The *rate* per hundred thousand (1950 population) was 6.1 for Los Angeles and 4.0 for San Francisco. Such variation in commitments for homicide reflect many differing demographic, sociological or legal factors. A slightly higher percent of these commitments for murder carried the death penalty in Los Angeles, as compared with San Francisco. In Los Angeles 27 of the 138 commitments, or 19.5 percent, received the death penalty; while in San Francisco 6 of 37 such commitments, or 16.0 percent, were with the death penalty. Such differences might be due to the comparative gravity of offenses, or to the varying attitudes of courts and juries.

A more disturbing question is revealed in the following table which shows the time lapse by months between admissions to California prisons and the time of executions for the period 1945 to 1955.

TABLE V

CALIFORNIA EXECUTIONS 1945-1955, INCLUSIVE—TIME BETWEEN ADMISSION AND EXECUTION, BY MONTHS

Time in months.	*Total cases.*	*Time in months.*	*Total cases.*
Total cases	93	20 months	6
6 months	2	21 months	3
7 months	1	22 months	–
8 months	5	23 months	5
9 months	2	24 months	1
10 months	4	27 months	1
11 months	13	28 months	1
12 months	12	29 months	1
13 months	7	35 months	1
14 months	4	41 months	1
15 months	5	42 months	1
16 months	3	53 months	1
17 months	2	60 months	2
18 months	2	72 months	1
19 months	4	74 months	1
		90 months	1

The average time span for the whole series of 93 cases was 18.9 months. In 21 cases the time between admission and execution was over 20 months; in 11 cases it was over 27 months; in 6 cases it was over 53 months; and in one case it was 90 months.

It should be said that some delay is highly desirable in such a grave matter; but that it should rise to such proportions in so many cases is nothing short of scandalous, and makes a mockery of the law.

Another question of considerable interest in the public mind concerns what happens to first degree murder defendants who are convicted and imprisoned but not executed. The following table indicates that 373 such persons were paroled during the years 1945-1955, inclusive, and shows in months the median time they served in prison:

TABLE VI

TIME SERVED BY FIRST DEGREE MURDER DEFENDANTS PAROLED DURING 1945-1955, INCLUSIVE

Year of parole	*Number*	*Median time served in months*
1945-1949	169	168 months
1950	27	150 months
1951	44	161 months
1952	40	144 months
1953	33	144 months
1954	29	138 months
1955	31	138 months

From the above table one notes that the 169 such persons paroled in the period 1945-1949 served a median time of 168 months, or 14 years. For those paroled since 1950 there has been a slight dimunition in the median time served. In 1954 and 1955 it was 11 years and 6 months.

It should be noted, of course, that the 373 first degree murder prisoners who were paroled in 1945-1955 represent only a part of those imprisoned for murder. In the same period there were 482 new commitments with so-called life sentences for first degree murder. This group,

or some of them, would not be eligible for parole under California law until the late 1950's, most of them remaining in prison until the 1960's or even the 1970's. Presumbably, under the excellent parole authorities of this State, only the best risks among imprisoned first degree murderers would be selected for parole, in any case.

Just how good a risk these paroled first degree murderers have been appears in the following table. It reveals the number of declared violators among those paroled from first degree murder commitments during the period 1945-1954. The violators include all those so declared up to June 30, 1956:

TABLE VII

MEN PAROLED FROM FIRST DEGREE MURDER COMMITMENTS, 1945-1954, WHO WERE DECLARED VIOLATORS UP THROUGH JUNE 30, 1956

Reason for violation	*Number*	*Percent*
Total paroled	342	100 0
Declared Violators	37	10.8
Returned to prison with new commitment	9*	2.6
Returned to prison after conviction for misdemeanor	11	3 2
Returned to prison for technical violation	11	3.2
Absconded and at large	6	1.8

* The nine returned with new commitments were convicted as follows two each for robbery and lewd acts with children; and one each for second degree murder, assault to murder, sex perversion, abortion and narcotics

It will be noted from the above table that of the 342 men paroled during the 10-year period 37 or 10.8 percent had violated their parole up to June 30, 1956. However, in considering the type of violation for which these paroled men were returned to prison, it will be seen that in only nine cases, or 2.6 percent, was it on account of the commission of new felonies. In the largest proportion of cases—5.8 percent —the recommitments were made because of misdemeanors or the violation of the technical rules of parole. It, therefore, does not seem from these data that the judgment of the parole authorities went far wrong in their estimate of the chances for the successful parole of these men. Most students of the subject would agree to the possibiilty of the rehabilitation and safe release of some murderers, following a prolonged period of incarceration.

The low percentage of parole violations among first-degree murderers can be even more clearly seen in Table VIII. There it is shown that among 5,670 cases of paroled men, covering a four-year period, 1946-1949, 100 were men who had been imprisoned on charges of first-degree murder. Of this number only two, or 2 percent, violated their parole by the commission of a new felony. In contrast one may note the far higher percentages of parole violations by commission of felonies for all other types of offender, except those imprisoned for manslaughter.

TABLE VIII

OFFENSE AND NUMBER OF PAROLE VIOLATORS AND NONVIOLATORS
Men Paroled to California Supervision

FIRST PAROLES—1946-49

Offense	Total	Non-violators	Violators					
			Total		Convicted of a felony		Not convicted of a felony	
			Number	Percent	Number	Percent	Number	Percent
Total	5,670	2,805	2,865	50 6	1,142	20 2	1,723	30 4
Homicide	358	296	62	17 3	9	2 5	53	14 8
Murder 1st	100	84	16	16 0	2	2 0	14	14.0
Murder 2d	85	68	17	20 0	4	4 7	13	15 3
Manslaughter	156	130	26	16 7	3	1 9	23	14 8
Manslaughter—traffic	17	14	3	--	--	--	3	--
Robbery	899	445	454	50 5	187	20 8	267	29.7
Robbery 1st	440	223	217	49 3	96	21 8	121	27 5
Robbery 2d	396	184	212	53 6	80	20 2	132	33 4
Other robbery	63	38	25	39 7	11	17 5	14	22 2
Assault	303	198	105	34 7	24	7 9	81	26 8
With deadly weapon	260	166	94	36 2	22	8 5	72	27 7
Other assault	43	32	11	25 6	2	4 7	9	20 9
Burglary	1 024	438	586	57 2	262	25 6	324	31 6
Burglary 1st	205	85	120	58 6	54	26 4	66	32 2
Burglary 2d	815	352	463	56 8	206	25 3	257	31.5
Other burglary	4	1	3	--	2	--	1	--
Theft, except auto	575	270	305	53 1	100	17 4	205	35 7
Grand theft	450	217	233	51 8	78	17 4	155	34.4
Petty theft with prior	79	24	55	69 6	16	20 3	39	49 3
Receiving stolen property	46	29	17	37 0	6	13 1	11	23 9
Auto theft	373	130	243	65 2	116	31 1	127	34 1
Forgery	919	330	589	64 1	277	30 2	312	33 9
Sex offenses	568	381	187	32 9	35	6 2	152	26 7
Rape	198	137	61	30 8	16	8 1	45	22 7
Lewd and lascivious conduct	228	154	74	32 5	13	5 7	61	26 8
Sex perversion	65	43	22	33 9	2	3.1	20	30 8
All other sex	77	47	30	39 0	4	5 2	26	33 8
Narcotics	172	94	78	45 4	29	16 9	49	28.5
Deadly weapons act	33	19	14	42 5	6	18 2	8	24 3
Escape	212	70	142	67 0	62	29 3	80	37.7
Habitual criminal	79	36	43	54 5	16	20 3	27	34 2
All other	155	98	57	36 8	19	12 3	38	24 5

A final Table in ths array of statistical facts shows the disposition of death penalty case for a period of 12½ years from January 1, 1944 to June 30, 1956:

TABLE IX

DISPOSITION OF DEATH CASES DURING A 12½-YEAR PERIOD JANUARY 1, 1944-JUNE 30, 1956

Disposition	*Total*	*Offense*			
		Murder first	*Assault by life convict*	*Kidnapping*	*Federal murder charges*
On death row January 1, 1944	9	8	1	--	--
Received during 12½-year period	160	147	6	4	3
Disposed of during 12½-year period	143	132	6	2	3
On death row June 30, 1956	26	23	1	2	--
Total disposed of during 12½ years	143	132	6	2	3
Executed	104	97	3	1	3
Sentence modified to murder 2nd	5	5	--	--	--
Sentence commuted to life	10	7	2	1	--
Died or suicide	5	4	1	--	--
Insane in State hospital	1	1	--	--	--
Conviction reversed on appeal	18	18	--	--	--
Final outcome of reversals	18	18	--	--	--
Recommited, murder first, death	2	2	--	--	--
Recommitted, murder first, life	9	9	--	--	--
Recommitted, murder second	2	2	--	--	--
Recommitted, robbery second	1	1	--	--	--
Recommitted, manslaughter	1	1	--	--	--
Found insane on retrial	2	2	--	--	--
Acquitted on retrial	1	1	--	--	--

Certain features of the foregoing Table warrant comment. First, it will be noted that there were nearly three times the number of prisoners awaiting execution on death row at the end of the period as compared with the beginning. Second, of the 143 cases disposed of 104 or 72.7 percent were executed. In 15 of the remaining cases the sentences were modified or commuted; in 6 instances the prisoners died, committed suicide, or were placed in a state insane hospital; and in 18 cases the convictions were reversed on appeal. In the new trials of these 18 cases the sentence of death was reaffirmed in only 2 instances It would be of first-rate importance to know what circumstances or facts occasioned these reversals; and why in only 2 of the 18 cases the death penalty was reaffirmed. It would seem that the factors of

chance, legal uncertainty, or inadequate medical or psychiatric information should be reduced to a minimum where human lives are held in balance. One thinks in this connection of the Prerogative of Mercy exercised by the Brtish Home Secretary in the course of which all death cases are reviewed, extreme effort being made to discover and consider all evidence whch might lead to a mitigation of the death penalty. Thus, in the Report of the British Royal Commission on Capital Punishment it is shown (p. 13) that in a period of 50 years, 1900-1949, of 1210 persons sentenced to death 553, or 45.7 percent, had their sentences commuted or respited. In recent years the number of such modifications that have been due to the finding of mental abnormalities has increased. The presence of such factors among many of those executed in California is indicated in the following section of this report.

SECTION II

SOCIAL AND PSYCHIATRIC STATUS OF MEN EXECUTED

While the available data relative to the mental condition and life situation of executed prisoners in California are not abundant, a few facts on these matters have been ascertained and are presented herewith.

A matter of primary importance concerns the criminal record of these men prior to the crime for which they were executed. From data from the State Bureau of Criminal Statistics it appears that, of the 93 men executed between 1945 and 1955, 52 or 55.9 percent had no known prior criminal record other than misdemeanors. Twenty-five of them had no record even of misdemeanors. The point is that, in the majority of cases, these executed men were not of the habitual criminal class. Their homicides were in the nature of explosive incidents. One should not infer from this that there were no prior dispositions or attitudes that led to their homicidal acts. Human behavior is always conditioned, step by step, by previous experiences. A grave crime such as murder is the product of a disordered life, the cumulative effect of which is likely to be of more compulsive influence than the deterrent effect of an awareness of the penalty.

In line with the above observations are certain facts derived from another series of cases, covering 110 executions from 1938 to 1953.[1] In this series 49 percent of the men had no known previous criminal record other than delinquencies or misdemeanors for which they had been committed to juvenile institutions or jails. Almost 75 percent of this group had come from homes that were broken by death, divorce or legal separation before the men had reached the age of 18 years. Few of the men in this series were steadily employed, the great majority having worked as laborers at seasonal jobs as farm hands or pickers. Such data are meager, but they do indicate something of the backgrounds and low social status of these executed men. Moreover, 22.7 percent of this group were Negroes, and 7.3 percent Mexicans. In each case the proportion was larger than these two groups constitute, respectively, in the State's population.

Information is available concerning the psychiatric status of these 110 men, executed from 1938 to 1953. The following data are derived from psychiatric reports made at San Quentin.[2] Excerpts from a sample number of these reports are made herewith without the names of the men being given:

1. An individual with a "pathologically constricted personality with few inner personality resources." He had a dull normal intelligence. He had trouble expressing aggression in socially accept-

[1] See *Capital Punishment in California, 1938-1953,* by Robert M. Carter. This was a thesis submitted for the degree of Master of Criminology in the Graduate Division of the University of California.

[2] R. M Carter, *op. cit.*

able channels and tended to be "emotionally labile." He was a person "with strong feelings of isolation and alienation, who was emotionally unstable and given to acting out impulses" He was withdrawn, suspicious of people, and lacking in control mechanisms. He had "very poor ego strength, and exhibited fears of his own personality disintegration, as well as being given to psychosomatic displacements."

2. The psychiatric report on this case reads. "We are all agreed that he is mentally defective and partly out of contact with reality, and his mental illness falls into the schizophrenic category. * * * has had catatonic and hebephrenic elements.

"At present he is so depressed and so agitated, despite electric shock treatment, that we are all agreed he is too insane to be executed. We recommend early transfer to Mendocino State Hospital."

3. This man was born with a deformity of the right hand; a right syndactylism, with the entire wrist and hand being smaller. What influence this deformity had upon his personality was partially noted in the psychiatric report which indicated "many psychoneurotic feelings with compensatory hostility." Fits the classification of psychopathic personality.

4. The psychiatric report indicated that the prisoner was a chronic alcoholic with a history of amnesia and blackouts. His over-all picture "resembles that of a psychoneurotic with hysterical and schizoid features." He was of dull normal intelligence and "had deep seated feelings of inferiority, and felt quite threatened by interpersonal relationships."

5. Of this man the psychiatrists wrote, "We are of the opinion that he has fundamentally a psychoneurotic personality, on top of which he has considerable cerebral deterioration of a moderately severe degree; more recently he has become a chronic alcoholic, and he is a definite suicide risk."

6. This prisoner was described as of high average intelligence, but "was depressed and suffered from intense anxiety which he internalized, having few, if any, channels for expression. He felt threatened by a complex world, and had deep-rooted feelings of inadequacy in his dealings with others." This indicated, according to the psychiatrists, a severe psychoneurosis.

7. From the psychiatric and psychological examinations of this man it appears that he had severe emotional disturbances, was highly suspicious of others, irrational and anxiety-ridden; and that his behavior ran the gamut "from overcontrol to impulsive explosions. His personality most closely resembles that of the hysterical psychoneurotic with strong paranoid trends."

8. In this case the man claimed to be under an "influence" that made him say "yes" to everything the police asked. When he first saw the victim of his crime a voice said to him, "Yes, this is the man." The psychiatrists said of this prisoner that "he is a psychoneurotic and psychopathic and has sufficient mental instability to

fall in the group of paranoid schizophrenics. * * * We are all in agreement, however, that though he is medically insane, he knows fairly well the crime he committed and the sentence imposed on him. He is considered to be legally sane at this time." Because of the question of his sanity there was a delay in the execution of 2,200 days.

9. The psychiatric report on this man indicated a neurotic emotional maladjustment and "feelings of insecurity and anxiety in dealing with people. He was overcritical of others because of an intense fear of being rejected, and was disturbed in the sexual area." He was unable to handle aggression adequately, and it often turned into hostile outbursts, as in the case of the murder. "His personality was pathologically constricted and most nearly resembled a psychoneurotic pattern."

10. The examination of this man revealed a severe personality disintegration. A borderline mental defective, he was "severely blocked in satisfying powerful affectionate needs." Subject to uncontrollable and infantile outbursts of rage, aggression and hostility, he was "given to acting out impulses to ward off anxiety. * * * These factors are all indicative of a severe schizoid personality disintegration." he was completely lacking "in good judgment and common sense and had many psychopathic characteristics."

11. This prisoner was of low average intelligence. The psychiatric examination indicated that "his life was apparently barren, drab, and unflattering, and an aura of futility surrounded his personality: he fell into the psychoneurotic personality bracket, was immature and impulsive."

12. Of this man the psychiatric report stated that "we are all agreed that he has a psychoneurotic pathological personality with some hysteroid features."

13. Psychiatric and psychological reports on this man showed that he was of dull normal intelligence with "strong suggestions of organic deterioration: a crude, rigid, constricted individual with poverty of inner life; * * * contact with reality is adequate but at a low level."

14. "A rather disorganized individual with strong emotional, instinctive drives with lack of control for these raw forces. He shows a considerable degree of anxiety and depression. He tends to be obvious, uncritical, without insight, and operating on an instinctual basis without much intellectual control. In general, the pattern would show a poorly integrated person, the victim of his own strong and uncontrollable emotions."

15. This man stated that there was absolutely no motive to the offense other than his desire to do away with himself. He felt that if he could go to the gas chamber he would achieve his own self-destruction which he could not do on his own initiative because of his Catholic belief. The psychiatric report on this case reads, " * * * his deterioration quotient is 38 percent, which is extremely

high, and hard to explain in view of his age, and suggests the possibility of some intercranial damage, as well as emotional incapacity. * * * typically psychopathic."

16. The psychiatric report on this case gave the following diagnosis: He is "suffering from mental instability in which he is somewhat expansive at times, somewhat silly at times, and bizarre at times. He shows considerable detachment * * * gives a history of vague delusions and auditory and visual hallucinations. He has somewhat obsessive compulsive traits, some psychopathic traits, and a history of homosexual activity with poor sex hygiene and poor heterosexual adjustment. * * * an extremely evasive personality with pronounced sex shock, latent homosexuality, and a bizarre and neurotic preschizophrenic personality structure."

17. Of this man it was said in the psychiatric report: " * * * some deterioration was indicated, and his intellectual efficiency was somewhat below expectancy in the areas that had to do with the understanding of the demands inherent in certain social situations. The Rorschach test was highly colored with material usually given by psychotics who have some awareness of their condition and have set up a psychoneurotic defense against the inroads of their psychosis. It is also quite possible that the syphilitic infection of 1930, and the head injuries he claims to have had, had a deleterious effect on his personality structure * * * signs of organic involvement appear."

18. Concerning this case the psychiatrists wrote, "We had a telegram from Western State Hospital, Washington, which said, '(he) is a psychotic of years standing, and is entitled to every consideration which the law will allow chronic psychotics who are mentally irresponsible.' His diagnosis is psychosis with psychopathic personality."

The foregoing sheaf of excerpts from psychiatric reports on a group of men executed for murder in California is sufficient to show the mental picture presented by these men. Similar reports from many more such prisoners could be cited from evidence at hand. The conclusion is unavoidable that in these murderers we have to do with a group of mentally abnormal individuals. This view finds support among psychiatrists in England and America. Dr. Bernard Glueck, Jr., a psychiatrist at Sing Sing prison in New York, has recently stated,

> "It is my personal opinion, based on the examination of men in the death house at Sing Sing, that no person in our society is in a normal state of mind when he commits a murder." (45 *Jour. of Crim. Law and Criminology*, 123, 130-31, 1954).

Another American psychiatrist, Dr. Isadore Ziferstein of Los Angeles, in a memorandum to this Subcommittee on Capital Punishment stated,

> "Psychological studies have shown that the vast majority of those who have been executed for capital crimes were very sick people mentally."

This poses the moot question of responsibility. In law this question has been answered by reference to the rule handed down by English judges in the M'Naghten case in 1843. That rule established the so-called right-and-wrong test, posing the question, "Was the accused so mentally disordered as not to know the nature and quality of his act, or, if he did know it, he did not know he was doing what was wrong?" The issue of responsibility was, therefore, made dependent upon cognition or intellectual apprehension, to the neglect of all other forces—emotions, instinctive drives, mental or somatic disturbances that operate within the individual to influence his behavior. In other words, the M'Naghten rule comports with an entirely outmoded psychology of human behavior. Though two of the men in the above series had been declared medically insane, all of them, including possibly these two, presumably knew what they were doing and that it was wrong. Despite their severe mental abnormalities they, therefore, came within the legal definition of criminal responsibility and were executed.

Many efforts have been made in an attempt to overcome this lag between our scientific knowledge and the purely cognitive frame of reference for determining responsibility and guilt. To cite four proposals:

1. In 1869 a New Hampshire court instructed the jury in a homicide case that if they found the homicide was a *product* of mental disease, they should find the defendant not guilty because of insanity. (State vs. Pike, 49 N. H. 339. 1869). But the courts of other states have never confirmed such a rule.

2. More recently in 1953 the British Royal Commission on Capital Punishment recommended the abrogation of the long established right-and-wrong test, and advocated leaving "the jury to determine whether at the time of the act the accused was suffering from disease of mind or mental deficiency to such a degree that he ought not to be held responsible." (Report of the Royal Commission on Capital Punishment, p. 276. Sec. 19.)

3. A year later, in 1954, the Court of Appeals for the District of Columbia adopted the New Hampshire rule in Durham vs. U. S., holding that, "An accused is not responsible if his unlawful act was the product of mental disease or mental defect * * * where such acts are the product of mental disease or defect, as those terms are used herein, there will not be criminal responsibility." (214 F. 2d 862.)

4. A somewhat more conservative modification of the M'Naghten rule is to be found in a resolution adopted at a meeting of the American Law Institute in May, 1955. Their statement reads as follows:

"A person is not responsible for criminal conduct if at the time such conduct, as a result of mental disease or defect, he lacks substantial capacity either to appreciate the criminality of his conduct, or to conform his conduct to the requirements of the law."

The foregoing suggested modifications of the M'Naghten rule would obviously give to juries greater latitude in determining responsibility than is provided within the narrow confines of that rule. It is likely

that under any one of the above proposals a recogntion of mental abnormalities, such as are described in our series of cases, might have averted the death penalty in some of them. In Scottish law the principle of "diminished responsibility" has long been in vogue, and may partly account for the relatively few executions in that country.

At all events, in view of the wide-spread criticism of the M'Naghten rule, and of the frequency of severe mental abnormalities in homicide cases, it seems wise to suggest in this report that the Legislature authorize some qualified agency or group to make a thorough study of this question, and report its findings for possible action by the Legislature. In the preparation of this present Report of the Assembly Subcommittee on Capital Punishment a questionnaire was framed and circulated among many different groups, including law enforcement officers, educators and others, which included the following question,

> "Do you think that a thorough study should be made by some qualified agency or group of the concept of legal insanity as applied in capital cases in California?"

The returns received indicate that a substantial majority of those who replied answered this question in the affirmative. A complete tally of these replies is made in Section VI of this report.

SECTION III

FACTS AND TRENDS IN REGARD TO THE DEATH PENALTY

The statutes of our American states theoretically provide the death penalty for thirty-one separate offenses. Actually the situation is far less formidable. Most of these capital offenses are now rare or nonexistent, such as dueling, a capital crime in 18 states; or they survive as crimes in only a few state jurisdictions. At present the most frequently designated capital offenses, and the number of states in which they appear as such, is seen in the following list:[1]

Murder, 42 states;
Kidnapping, 37 states;
Treason, 26 states;
Rape, 20 states;
Train wrecking, 15 states.

Among some of the less frequent capital crimes we have perjury in capital cases in 10 states, including California; armed robbery in 7 states; burglary in 4 states; murder committed by prisoners in 4 states, including California; and a scattering of more than 20 other offenses. There thus appears to be little uniformity among the states, except that in all but the six states that have abolished the death penalty (Maine, Rhode Island, Michigan, Wisconsin, Minnesota, and North Dakota) it may be imposed for first-degree murder.

At the present time suggestions are being made for additions to existing death penalty statutes. In California these now include the death penalty for six crimes, namely, murder in the first degree, kidnapping for ransom, train wrecking, treason (mandatory), assault by a prisoner, if the assailant is already doing life, and perjury in a capital case, if the perjured testimony procures the conviction and execution of an innocent person. In a questionnaire circulated in preparation of this present report respondents were asked for suggestions of additions to the above list of capital crimes in California. Several respondents recommended that narcotic peddling (following a recent Federal statute), armed robbery, and certain sex offenses against children be added to the list. That the situation is in flux appears from the fact that periodic attempts are made to restore capital punishment in some of the noncapital punishment states, while at the same time vigorous movements toward abolition of the death penalty are underway in some of the states that now have this penalty.

What, then, are the trends in this grave and important matter? A survey of the facts reveal them to be as follows:

[1] National Prisoner Statistics, 1952, Federal Bureau of Prisons

1. There Is a World-wide Trend Toward Abolition. Thirty-eight foreign countries have abolished the death penalty. These include all the democracies in Western Europe except France. In February of this year the British House of Commons voted for abolition It has been held up by the House of Lords, but cannot be permanently prevented by that body. Abolition has also been effected in the Soviet Union, except for political crimes. Israel, parts of India, most of South and Central America are now included among the abolition countries. Finally, in the United States territories of the Virgin Islands and Puerto Rico provision for abolition has been made in their new penal codes.

2. The Trend Is Toward a Reduction in the Number of Capital Offenses. The most spectacular change in this regard has occurred in England, where in 1780 about 350 crimes were punishable by death. By 1948, at the time of the first attempt to suspend the death penalty, in practice the only crime for which the death penalty was inflicted was murder in the first degree. In America the first move toward reduction of capital offenses took place in the Quaker colony of Pennsylvania under William Penn, 1680-1718. Under his regime they were reduced to two, murder and treason. The rigors of the English law were restored in 1718; but, after the American Revolution, Pennsylvania in its Constitution of 1794 again took the lead among the new states by reducing capital offenses to two. At present, despite the numerous crimes which theoretically bear the death penalty in the United States, as we have noted, in actual practice the number has been reduced, with very few exceptions, to two. This will be seen in the following table:

TABLE X

PRISONERS EXECUTED UNDER CIVIL AUTHORITY IN THE UNITED STATES BY OFFENSES, 1930-1955 [2]

	Numbers executed	*Percent*
All offenses	3,439	100.0
Murder	2,991	86.9
Rape	389	11 3
Other offenses	59	1.7

3. A Trend Toward a Reduction in the Number of Executions. In a period of 26 years (1930-1955) in the United States the annual number has been reduced from 155 to 76. Within this period there were marked fluctuations from year to year. The highest point was 1935 with 199 executions; the lowest was in 1953 with 62 executions.[3] The general trend can perhaps be shown better by the average number for each five-year period. Thus, the average number from 1930 to 1934 was 155; from 1935 to 1939, 176; from 1940 to 1944, 129; from 1945 to 1949, 127; from 1950 to 1954, 83; and in 1955, 76.

During this period there has also been a slight decline in the homicide rate, as shown by figures of the Federal Bureau of Investigation on offenses of murder and nonnegligent manslaughter known to police. But as compared with the decline in the number of executions, the

[2] National Prisoner Statistics, February, 1956, Federal Bureau of Prisons
[3] National Prisoner Statistics, November, 1955, Federal Bureau of Prisons

fall in the murder rate has been relatively small, from 7.1 per 100,000 population in 1933 to between 4.7 (urban rate) and 5 (rural rate) in 1955.[4] Therefore, the 100 percent decline in the number of executions (1930-1955) must be attributed largely to other causes than a decline in the number of murders. It may be indicative of an increasing indisposition of courts and juries to inflict the death penalty.

The existing situation as to the declining frequency of executions was well summarized by Professor Austin MacCormick of the University of California School of Criminology in an address at a hearing of the Subcommittee on Capital Punishment, held on November 13, 1956. He said in part:

> "In the United States, the death penalty is disappearing by disuse, not by the forthright method of abolition. There were 199 executions under civil authority in 1935; in 1955 there were only 76; in 1953 only 62. In 1955 there were executions in less than half (19) of the 44 jurisdictions that retain the death penalty. There was only one execution (Missouri) in the 12 states of the North Central area, which includes such populous states as Illinois, Indiana, Michigan, and Ohio. Massachusetts, under two Governors, has not executed anyone since 1947. Although 11 Southern states accounted in 1955 for 38 executions, half of the Nation's total, Maryland, Virginia, and North Carolina had only one each, and Alabama, Arkansas, Delaware, the District of Columbia, Oklahoma, and West Virginia had none. California had the dubious distinction of leading the country with nine executions, but this is no more than it executed when it had half of its present population"

4. A Trend Toward Greater Discretion for Courts and Juries. In 1918 there were 12 states that made the death penalty mandatory upon conviction of a capital offense. Today only Vermont still retains this mandatory provision. Massachusetts provides a notable instance of such a change. Efforts had been made in that state since 1881 to effect a modification of the mandatory penalty. Finally, in 1951, the change was made after a bitter contest. There is little question that this permissive alternative to juries to impose life imprisonment instead of death has been a factor in the reduction of executions as we have noted. A problem for investigation remains to discover whether this alternative allowed to juries has actually led to an *increase* in chances of conviction in cases of homicide. There is some evidence that this is so, but the problem will bear further research. Certain it is that in English experience juries refused to convict, especially in cases of crimes against property, when they deemed the penalties too severe.

This issue has special significance for California at the present time. In the last Legislature, Assembly Bill No. 2089 was introduced by Mr. Lester A. McMillan, Chairman of the Subcommittee on Capital Punishment. It provided that the death penalty should not be inflicted unless the jury affirmatively declared in favor of it. The law already gives discretion to the jury, but if it is divided on the question of penalty, or makes no recommendation, the practice has been for the court automatically to impose the death sentence

[4] See *Uniform Crime Reports*, Federal Bureau of Investigation, for respective years.

In pursuance of this present study a questionnaire was submitted to a large number of informed persons, covering many aspects of the administration of the death penalty. One of these inquiries concerned their opinion as to whether the jury should be required by law to make an affirmative and binding declaration, if and when they thought the death penalty should be imposed. A substantial number of respondents approved this proposed requirement of juries. However, one district attorney who replied stated that the matter had already been determined in that way by a recent decision of the Supreme Court of the State, and cited the reference as *People* v. *Green,* 47 A. C. 211, October 10, 1956."[5] Other respondents have held that the matter should be confirmed and settled by legislative enactment.

5. The Selective Enforcement of the Death Penalty. This means that it tends more often to be imposed upon the poor, the ignorant, and members of minority groups than upon those who are well-to-do, have prestige in the community, and funds for adequate counsel. Perhaps this selective tendency in law enforcement has always been so, and therefore cannot be called a "trend." The extent that it is so is but evidence of the fallibility of human justice. It is certainly no guarantee of equality before the law. It is a disturbing fact and deserves mention in any realistic understanding of the actual operation of the death penalty. In the sheaf of cases presented in an earlier section of this report (Sec. II) there is some evidence of this selective tendency. That group were shown to be for the most part mentally ill and poor persons.

On this point the testimony of Lewis E. Lawes, formerly Warden of Sing Sing Prison in New York, is impressive. After stating that he has conducted 150 men to their death by execution, he wrote as follows:

> "Thus it is seldom that it happens that a person who is able to have eminent defense attorneys is convicted of murder in the first degree, and very rare indeed that such a person is executed. Incidentally, a large number of those who are executed were too poor to hire a lawyer, counsel being appointed for them by the state."[6]

To the same import is the testimony of Mr. Clinton T. Duffy, formerly Warden of San Quentin Prison in California. In an address before the Annual Congress of Corrections on August 28, 1956, he said:

> "Seldom is a person of means executed. If he has a competent attorney who develops the case, and who can play upon the emotions of the jury, the defendant usually receives a conviction in a lesser degree."[7]

On the matter of racial discrimination we find that in the period 1930-1955 there were 3439 executions in the United States. Of these

[5] The Green case applied only to Section 190 of the Penal Code dealing with first degree murder. It held that the jury must make an affirmative recommendation either for the death penalty or for life imprisonment. This should be contrasted with Assembly Bill No. 2089 which applied to *all* six offenses for which the death penalty may now be imposed in California. In addition, Assembly Bill No. 2089 required that life imprisonment be imposed in the absence of a specific recommendation of the death penalty. A specific recommendation of life imprisonment would not be required.

[6] Lewis E. Lawes, *Life and Death in Sing Sing* (1928), pp 155-156.

[7] From a report of the proceedings of the Annual Congress of Corrections, Section Meeting on Capital Punishment.

45.4 percent were white persons, and 53.4 percent were Negroes.[8] Considering their proportion in the total population of the United States this means that Negroes were greatly over-represented among those executed. In California we have already noted that of the 110 men executed between 1938 and 1953 22.7 percent were Negroes (see Sec. II of this report) which is far in excess of the proportion of that group in the population of California

A further aspect of discriminatory selection could be found in the alleged difference between Superior Courts of the State respecting their policies in regard to the death penalty. It is said that some courts are prone to inflict it in all cases of conviction of a capital offence, while other courts are inclined to impose the milder penalty of life imprisonment.[9] While a careful statistical confirmation of such a charge is not at hand, it would be unquestionably, if true, in line with the well-known fact of a variance between penalties for identical crimes, depending upon what judge or what court inflicts them. The consequences of this fact reach into our prisons, giving rise to smouldering resentments, and making for difficulties in prison discipline.

6. Private Executions and the Search for More Humane Methods. Such obvious developments in the use of the death penalty need but little comment. Capital punishment is retained chiefly as an alleged deterrent to homicide through the fear and horror that it inspires. Our English forebears were therefore logical in making it a public execution. Today it is done in secrecy with very few witnesses. One might question the logic of trying to find more painless and less terrifying methods of execution if the object is to get the maximum deterrent effect. Some of the witnesses whose testimony is presented in Section V of this report strongly urge that judges, prosecutors and other law enforcement officials be obliged to attend executions What effect it might have on their attitudes is an open question

The search for more humane methods of execution accounts for the change from hanging [10] and other historically unpleasant methods to death by shooting, by electric shock, and by the administering of lethal gas. There is probably no really aesthetic way of putting people to death. Mr. Duffy, former Warden at San Quentin, though strongly opposed to the death penalty, thinks that the gas chamber has certain advantages over other methods, in that it leaves the bodies of the executed men in a less mutilated condition.[11] If the death penalty is to be retained, it is to be hoped that science may devise an even more painless and efficient method. But whatever method is used, the agonizing delay in the performance of the execution still remains Some members of the British House of Lords found some value in retribution. If that is what is desired, it is assuredly provided for in the death penalty.

[8] National Prisoner Statistics, Febraury, 1956, Federal Bureau of Prisons
[9] See testimony of Professor Rollen N. Perkins and of Mr. Ellery E. Cuff in Section V of this report.
[10] Still the method in nine states.
[11] In an address at the Annual Congress of Corrections in Los Angeles, August 28, 1956.

SECTION IV

THE DETERRENT THEORY REGARDING THE DEATH PENALTY

The deterrent effect of the death penalty is, perhaps, the most vital question in any discussion of this form of punishment. If it could be demonstrated that capital punishment is really an effective deterrent to murder, few persons would wish to abolish it, even though they might hold otherwise strong reasons for its abolition The safety and security of society is the most necessary sanction of legal punishment. On the other hand, if it can be shown that the death penalty is no really effective deterrent to the crime of homicide, this most compelling argument for its retention loses its force.

What, then, is the evidence regarding this all important question? Many studies have been made of it in the United States and abroad. The most thoroughgoing of these is that conducted by the British Royal Commission on Capital Punishment from 1949-1953. After carrying on statistical studies for four years, and hearing expert witnesses from many parts of the world, they came up with this arresting statement,

> "The general conclusion which we have reached is that there is no clear evidence in any of the figures we have examined that the abolition of capital punishment has led to an increase in the homicide rate, or that its reintroduction has led to a fall."

Included in the wealth of data on which the above statement was based is a comparison of the statistical facts regarding homicide as between the six noncapital jurisdictions in the United States and their neighboring states in which the death penalty has been retained. The differences that are thus revealed in the homicide rates per 100,000 population of the respective states are slight, and, if anything, favorable to the noncapital punishment states. The Royal Commission concluded that factors other than the presence or absence of the death penalty influence the number of homicides in a given area

Extreme caution will be observed in the above statement by the British Royal Commission. The crux of the matter is that there is no way of telling how many homicides may have been prevented by the presence of the death penalty. Nevertheless, the proposition stands: *A world-wide survey shows that nowhere has the abolition of the death penalty led to an increase in the number of homicides.*

Even if one assumes that the death penalty might conceivably deter from crime, the vast discrepancy between the number of known homicides and the number of executions must of a certainty attenuate its effects. In a previous section of this report (Sec. I, Table III) evidence was presented on this point from California in 1955. In that year in California 417 non-negligent homicides were reported; 234 persons were charged with murder in the superior courts; 183 were convicted of

murder; 52 were convicted of murder in the first degree; 44 were sentenced to life imprisonment; 8 were sentenced to death; and there were 9 executions, presumably most of them for offenses committed in previous years. From all this the proper conception of the law would be not as a snare, but as a sieve.

There is a tendency in certain quarters, notably in the debate on capital punishment in the British House of Lords, to view statistical conclusions as to the effect of the death penalty with some disdain, and to rely upon the traditional opinion that it must be a deterrent. In reply to such a widely held traditional view one may only note that statistics are an increasingly valuable tool in many forms of human endeavor. No high-powered business concern would think of conducting its affairs without a statistical appraisal of market conditions and consumers' wants. Tables predictive of longevity and mortality are indispensable to insurance companies. No public health department could function without statistics. The incalculable benefits of polio vaccine are based upon elaborate statistical studies. The National Safety Council predicts fairly closely by statistics the behavior of people on the highways; and election statistical polls are increasingly canny in forecasting results. Why, then, this scorn of the application of statistics in testing the effects of the death penalty? The answer is, of course, because their findings run smack against traditional views of human behavior. Against all evidence to the contrary it is still vehemently repeated that the death penalty is a deterrent.

However, all statistics need interpretation. They do not speak for themselves. Reverting to the view of the British Royal Commission that other factors than the presence or absence of the death penalty are more influential in determining the rate of homicide, one may cite the role of culture: that is, the attitudes, values and social conditions of a given time and place. A striking example of this is the fact that some of the highest homicide rates in the United States are to be found in the feud counties of Kentucky. Furthermore, the generally high homicide rates in our Southern States reflect cultural conditions in those areas. A little noticed fact is that in the South not only is the homicide rate high among Negroes, but for whites it is far higher than among white people in other parts of the Country. All this despite the fact that executions in our Southern States have been far more frequent than in other regions. Thus, from 1930-1955 there were 3,439 civil executions in the United States. Aside from 28 federal cases the distribution was as follows: Northeast Section, 565; North Central Section, 366; South, 2,058; and West, 422. It would seem from these figures that the more frequent the executions, the more numerous are the homicides, a conclusion that hardly comports with the deterrent theory of the death penalty. Both phenomena are aspects of a cultural situation, as were the great number of executions and capital crimes in the England of the 18th century.

Intangible evidence of this relation between culture and violent crimes is seen in the fact that we live in an age of violence which dulls the sensibilities of people to the value of life. That some 40,000 people are killed each year on our highways is taken with a degree of nonchalance. A large part of our TV and radio programs is given over to episodes of murder and other forms of violence It fairly oozes from

comic strips and our drug store literature. What, then, becomes of the alleged horror of killing which the British House of Lords so eloquently proclaimed to be our main defense against homicide, demanding the death penalty as an expression of the abhorrence of the community? Many young people are more affected by these violent patterns of behavior than by pious admonitions or legal injunctions as to how one ought to behave. The fact is that the death penalty operates on an assumption that has been grossly impaired by the disorder of our times.

There is a still further psychological reason for questioning the efficacy of the death penalty. It is the false assumption that people in their behavior are governed by a nice calculation of the consequences to them in terms of pleasure and pain. This is known in academic parlance as the "hedonistic calculus." Such a theory of human motivation is utterly outmoded in modern social psychology. People do what they want to do in spite of the hazards; or they are driven by deep emotional and instinctive forces that make them oblivious of the consequences. Prison wardens, and others who have talked with men in death cells, report that these men testify that they gave no thought to the consequences at the time of the commission of their crimes.

Though most members of the legal profession canvassed in the making of this report hold to the deterrent value of the death penalty, this view is by no means unanimous among them. Here, for example, is the testimony [1] of Professor John B. Waite, who for over 30 years was Professor of Criminal Law at the University of Michigan:

> "I am satisfied that capital punishment accomplishes no good and does some harm. As a deterrent of murder it can not be any more effective than the threat of long imprisonment. That is the only logical conclusion. The man who kills on sudden impulse does not think at all of the consequences. The man who plans his killing does not weigh the consequences because he does not care—he believes he will not be caught and is therefore indifferent to the consequences. The man who realizes that he may be convicted, but kills, nevertheless—if there ever was such a person—is willing to chance the consequence whatever it is. He is no more fearful of death than he is of a lifetime in prison.
>
> "As to 'proof' in addition to logic, there is nothing which affirmatively indicates deterrent values in capital punishment, and there is much to show its lack of effectiveness. After Henry VIII had sent 16,000 criminals to his axe and gibbet, still 16,000 more came to them undeterred. After the death penalty for crimes less than murder was abolished in England there was no increase in the frequency of such crimes. After the Lindbergh kidnaping case, when some jurisdictions set up a death penalty for kidnaping, not only did kidnaping increase in frequency, but it occurred as often in the death penalty jurisdictions as in others. Nowhere have I found evidence of deterrent value in capital punishment."

We may now conclude this discussion of the deterrent effect of the death penalty. What has been said is in no way a conclusive agrument against that penalty *per se*. It simply avers from statistical and theoreti-

[1] In a letter to the present writer.

cal considerations that capital punishment is no effective deterrent to crime. There may well be other valid reasons for retaining it. For example, one may hold to it as a means of retribution on the theory that killers deserve to die. There is little question that such a view strongly motivates an adherence to the death penalty, regardless of whether it deters or not. One can easily understand this attitude, and even share in it when a horrible crime is committed. Such a view is widely prevalent, and naturally so. But one must observe that it is a departure from the accepted principles of modern penology. We at least profess to believe that the treatment of all criminals should, as far as possible, be rehabilitative. Be it said emphatically that this does not preclude a recognition of the necessity for keeping dangerous criminals incarcerated for as long as their dangerousness persists. A scientific penology would make the protection of society its first principle. The whole burden of this discussion is that the death penalty affords an illusory protection. Far better would it be if more effective efforts were made to discover the really dangerous persons before they commit their crimes; and then to incarcerate them permanently, or until their attitudes and dispositions have changed for the better.

SECTION V

TESTIMONY FROM HEARINGS

Hearings were held by the Subcommittee on Capital Punishment in Los Angeles on December 8 and 9, 1955, and in San Francisco on November 13, 1956, with Assemblyman Lester A. McMillan as chairman. Discussion at these hearings was given a broad scope, including policies of the State of California in regard to capital punishment, as well as any changes in present laws and procedure that would make for greater efficiency in the administration of the death penalty, if it is to be retained. Special attention was given to Assembly Bill No. 2089 that was passed by the last Assembly, but defeated in the Senate. This bill required that the death penalty be not imposed after conviction for a capital crime unless the jury makes an affirmative declaration that it be imposed. Much of the discussion at the hearings centered about this proposal. Every attempt was made to secure as witnesses at these hearings persons who, because of their professional interest or official position, were qualified to make contributions of value. Accordingly, among those who appeared as witnesses before the committee were superior court judges, attorneys with experience in criminal law, public defenders, psychiatrists, ministers, educators, public officials, and others with informed opinions on the subject.

It has seemed desirable in this report to include a resume of some of the views expressed by the foregoing witnesses, especially those presented by members of the legal profession. The following discussion will, therefore, endeavor to make such a summary from the stenographic reports of the hearings.

TESTIMONY AT HEARINGS IN LOS ANGELES

DECEMBER 8-9, 1955

Robert Kingsley, Dean of the School of Law of the University of Southern California. He expressed no opinion as to the value of capital punishment, but thought that several issues should be given consideration, regardless of how one felt about the death penalty. He thought that Section 190 of the Penal Code could have been construed by the courts as requiring that juries specifically direct capital punishment, after a verdict of guilty of a capital offense, if that was their intent. However, since the Supreme Court has not interpreted Section 190 in that way, such a requirement of juries must be made by specific legislation.[1] From this is would appear that Dean Kingsley favors Assembly Bill 2089 mentioned in the first paragraph of this section. He cited the inconclusiveness of statistics relative to the deterrent effect of the death penalty, and recommended that an exhaustive study be made of this question with large funds from some private foundation.

[1] Since Dean Kingsley testified the Supreme Court has ruled on this point, and a bill to clarify the law will be introduced in the current session of the Legislature.

More particularly, Dean Kingsley's conclusions were set forth in four points:

1. That juries be required by law to direct the penalty specifically after a verdict of guilt in capital cases.
2. That stays in execution be granted for a minimum time.
3. That a study be made of the practice of the issuance of writs of *habeas corpus* and *coram nobis* with a view toward reducing their incidence in capital cases.
4. That a study be made of the existing laws of homicide to see if they are consistent and clear.

Judge Charles Fricke, Superior Court, Los Angeles. Judge Fricke testified that the death penalty should be retained in "extreme" cases, e.g. assault by prisoner with deadly weapon, child molestation, and for the man who kills while a sentence for life imprisonment is hanging over him. He declared that there should be earlier decisions in appeal cases. The *Chessman* case drags on because judges issue writs without cause. He argued that there was some truth in the deterrent theory: Robbers use unloaded guns because of the stiff penalty, and drunk driving is less in Los Angeles because doing so means loss of license. His most fundamental point was that he thought that the function of imposing the penalty should be taken from juries and left to the judge. This would prevent juries from voting acquittals, because they thought the penalty too severe; and it would get speedier verdicts He thought that there should be some sort of intermediate penalty, such as life imprisonment without possibility of parole. Any reduction of the penalty from death to life should have the concurrence of the Supreme Court; and in such cases the trial judge and prosecutor should be notified. Background material on life history of an offender is now inadmissible evidence to juries, but judges could make good use of it in determining penalty. He recommended that, after the Supreme Court had decided a case on appeal, no judge of a lower court should have the power to issue writs. The Supreme Court should speed up appeal cases; and no continuous extension of time for filing briefs on appeals should be permitted. The Supreme Court has interpreted Section 190 of the Penal Code as meaning that first-degree murder was punishable by death; but that if the jury *unanimously* agrees on a life sentence, it then was life. If they disagreed it was death. Verdicts are not signed by the entire jury, and there is no law requiring a written verdict. Juries cannot tell you why they vote as they do.

Judge Evelle Younger, Municipal Court, Los Angeles. Judge Younger presented material relative to historical trends of the death penalty, and to statistical studies bearing upon the deterrent effect of that penalty. He thinks that such studies are inconclusive as to whether or not the death penalty has any deterrent value. But he stated that he *suspects* that it does not deter; and that, if his suspicions could be proved to be true, he would be against capital punishment. He declared himself to be much in favor of Assembly Bill 2089, for it definitely gives responsibility for fixing the penalty to the jury. He said that the present law does not require the jury to find extenuating circumstances in order to make the penalty life imprisonment. Such an

interpretation has been condemned by the Supreme Court, though it has never reversed a verdict in cases when juries have been instructed that they must find such mitigating circumstances. Possibly Judge Fricke is right in saying that penalties should be left to judges to decide, but the Legislature would never support such a rule. The jury should fix the penalty, and, if the courts do not make them do so, the Legislature should. He called attention to the absurdity of the California practice in demanding that juries find extenuating circumstances in order to impose a life sentence, while at the same time forbidding their consideration of the facts in the life history of offenders. He thinks that the M'Naghten test for criminal responsibility is disgraceful, and favors modification of that test, such as may be found in the Report of the British Royal Commission, in the *Durham* case in the United States (214 Fed. 2d 862), and in the recommendation of the American Law Institute. (See Sec. II of this report.) Finally, Judge Younger argued that the issues of guilt and of punishment should be considered in separate sessions of the jury. Where they are combined, as now, it interferes with their judicial determination of the question of guilt.

Professor Rollen N. Perkins, Law Department, University of California in Los Angeles. Professor Perkins presented an illuminating discussion of the role of the jury in capital cases. Though the theory is that the jury considers only the facts in a case, having nothing to do with the penalty, in reality it has never worked out that way. Juries can always bring in a verdict of acquittal, and at times may do so, regardless of the facts or of the instructions of the judge. This was often done in England at a time when all felonies were punished by death, and juries felt the penalty too severe Or, they might bring in a conviction for a lesser degree of the crime involved. Such practices have been continued in the United States, and they help to explain the reason for giving discretion to the jury in the matter of the penalty. For where such discretion exists a jury may convict a man of murder in a case in which they might not have done so had the penalty been confined to death.

However, Professor Perkins testified there is a variable factor to be found in the human element. In a particular case, with a given judge and jury, the ultimate result is a death sentence; while with a different judge and jury the outcome might have been life imprisonment, or even acquittal. There is little that we can do to prevent such a variable factor, though we aggravate it by two very different types of instruction given to juries. One instruction tells the jury that it has discretion in the matter of the penalty in capital cases, but that they should leave it at death unless they find extenuating circumstances which would be sufficient to reduce the penalty to life imprisonment. The other instruction tells the jury that they have discretion, and if they find the defendant guilty of first degree murder, they can determine whether the sentence shall be death or life imprisonment. The ultimate result, in the opinion of Professor Perkins, is that there is a far greater chance of a death sentence under the first type of instruction than under the second. We should not have a system which allows such variation. The instructions should be the same no matter what particular judge is sitting on the case.

With regard to the need for the retention of the death penalty Professor Perkins stated that, without having made any research on the subject, he would question the wisdom of abolishing it entirely—at least, with our present state of knowledge. When questioned as to how the administration of the death penalty might be improved or made more equitable, he replied that he had no specific recommendations to make other than having instructions to juries made uniform.

Morris Levine, Attorney, Los Angeles. Mr. Levine began by telling of his experience in criminal cases, especially those involving the death penalty. He followed by giving a brief review of state laws relative to capital punishment. He stated that under Section 1181 of the Penal Code of California the Supreme Court has power to modify the death penalty upon motion for a new trial, or even upon appeal. But this section was construed out of existence in the case of *People* versus *Otel.* He said that discretion should be exercised by the jury by an affirmative declaration on its part. In reply to a question as to the Senate's objection to Assembly Bill 2089, on grounds that it would mean the abolition of the death penalty, Mr. Levine pointed out that 15 states require juries to specify as to whether the sentence should be death or life imprisonment, and that in none of them had there been any reluctance to impose the death penalty. The decision of the jury on the penalty should be made on a separate ballot, and it should be *unanimous.* Section 1181 of the Penal Code should be made clear, giving courts power to modify a penalty if there was good cause for doing so. Because juries are sometimes told by the judge, upon their request for information, that a life sentence may mean only seven years, they are then inclined to bring in a verdict of death. In the opinion of Mr. Levine such questions should not come before the jury. Because some of the instructions given to juries in capital cases have not been in accord with the language of the Legislature, it should adopt some uniform and binding type of instruction. The alleged necessity for finding "extenuating circumstances" in death penalty cases is a perversion of the law. Moreover, the discretion of the jury should be without directives or "guide posts" from the judge for they tend to limit discretion. Even the language of some statutes limits the discretion of the jury. Mr. Levine concluded by saying that he thought the death penalty served no useful purpose.

Ellery E. Cuff, Public Defender, Los Angeles County. Mr. Cuff declared himself in favor of giving the trial judge power to modify the penalty of death when that is imposed by the jury. He also thought that the jury should be required to sign the verdict. He thinks that the death penalty is more likely to be imposed on defendants who are not cooperative than on those who are so. (To the extent that this is true it introduces another variable or chance factor in the infliction of the death penalty.) Mr. Cuff strongly urged the enactment of Assembly Bill No 2089, and declared himself to be for the abolition of the death penalty. He thought that a verdict of life imprisonment without parole would be unwise, as it would take away all incentive, and create serious problems for prison administration. He said that

the possession of money by the defendant in capital cases greatly increases his chances of avoiding the death penalty.

Judge John Gee Clark, Superior Court, Los Angeles. Judge Clark favors giving the jury power to fix the penalty. But the instruction that the jury must find extenuating circumstances leads to confusion among jurors, forcing them to stultify themselves with a verdict of not guilty, if they wish to avoid the death penalty The Supreme Court has declared that there can be no interference with the discretion of the jury, yet refuses to reverse the verdict when there is, as in the instruction that the death penalty be imposed unless there are found extenuating circumstances This amounts to judge-made law. Moreover, a unanimous agreement should be had, both on the question of guilt and on the penalty. If such unanimity is not obtained there should be a mistrial.

In a separate communication to the chairman of the Assembly Subcommittee on Capital Punishment, Judge Clark elaborated upon his views. He suggested an amendment to Assembly Bill No. 2089 so as to avoid the Senate's objection that, as presented, it would amount to the abolition of the death penalty. He suggested two forms that the amended bill might take:

1 Whenever the law requires the jury to determine a penalty as punishment for a crime committed, it shall set forth the penalty in its verdict.

2 In all cases where a jury determines a penalty to be death, it shall expressly so state in its verdict.

He further commented on cases cited by Mr. Cuff where the death penalty had been inflicted in spite of the fact that some jurors had disagreed with that penalty. He also called attention to the popular misconception that the jury "recommends" the penalty. The law requires them to *fix* it, and their function should not be subject to judicial interference of any sort.

Richard E. Irwin, Attorney, Los Angeles, Vice President of the Criminal Courts Bar Association of Los Angeles. Mr. Irwin again brought out the fact of the confusion in the minds of jurors, and that the death penalty has been inflicted when six of them have been against it. This is so in spite of the fact that the law requires that agreement on the penalty should be unanimous. If the jury makes no recommendation there is no way of telling whether their decision was unanimous or not. If the disagreement were in the record it would amount to a hung jury, and it does not get into the record unless a poll is taken by the judge Mr. Irwin expressed himself as strongly against the death penalty because of the presence of neuroses, because of the possibility of executing innocent persons, and because cash can usually get one off, or delay an execution. He said that secret executions impair the alleged deterent value of the death penalty. Murderers should be "drawn and quartered" on Seventh and Broadway if we really want to scare people by the penalty!

Kenyon Scudder, Former Superintendent of the California Institution for Men at Chino, and now Director of Field Service of the Osborne Association. Thus far the testimony presented has been concerned with legal matters Mr. Scudder, on the other hand, is a man

with long and successful experience as a prison administrator. He came out emphatically against the death penalty and gave his reasons. He did not think that it had any deterrent effect. He has talked with a great number of murderers who have been committed to his custody, and has never found one who had stopped to think of the possibility of execution. Most of them have made excellent prisoners, and have made good on parole Mr. Scudder thought that the Deadly Weapons Act should be modified so as to allow probation for some of the men committed for robbery—armed. He called attention to the great element of chance in cases where the death penalty is imposed; for example, the locale of the court, and the varying attitudes of judges and juries. Another point of importance is the legal service that a man may have. If he has money he can get good legal talent and obtain numerous delays; if he is without funds, he is likely to have only the automatic appeal provided by California law.

Mr. Scudder had high praise for the California Department of Corrections and the work it is doing for the rehabilitation of men. Again, he found that the men who were in for first-degree murder had some of the best work records Moreover, their parole records were among the best. He declared against a sentence of life imprisonment without parole, as taking away hope and turning a man into a beast He raised a point that has been made by others in this review of testimony, namely, that defendants who deny the charge against them and refuse to cooperate are more likely to avoid a death sentence than those who make a clean breast of things and confess. This is so because the former type raises doubts in the minds of the jurymen.

In his concluding remarks, Mr. Scudder thought that it would be a good idea if legislators would go up to San Quentin and witness an execution. If they did so, there is little doubt but that the death penalty would be abolished.

Rex Cowan, Solicitor of Her Majesty's Supreme Court in England. Mr. Cowan gave a brief but vivid picture of the present status of capital punishment in England. He cited the fact that England has one of the lowest homicide rates in the world. Though very few people are executed, the death penalty is mandatory, and there is no other that the court may impose when there is a conviction of murder. The imposition of the penalty is a function of the judge, not of the jury. However, convicted murderers may be reprieved through the exercise by the Home Secretary of the Queen's prerogative of mercy. For this purpose he conducts a thorough investigation into the life history of the convicted man with the help of psychiatrists, police, prison authorities and all others who might give significant information. A reprieve means an indeterminate period of detention called life imprisonment. In effect it has now a duration of approximately nine years, though the Home Secretary may release a man any time after he has been imprisoned. Convicted murderers are kept in open prisons, like Chino.

In 1948 capital punishment was almost abolished in England, a bill for abolition having passed the House of Commons by a vote of 245 in favor and 222 against. But it failed to pass in the House of Lords.

However, for a period of five months the death penalty was suspended, during consideration of the measure in Parliament. In that period of suspension there was no increase of murders in England, but one month after suspension was ended there was almost double the number of murders as compared with the months previous to suspension.

Coming to the recent Report of the British Royal Commission on Capital Punishment Mr. Cowan pointed out that its frame of reference did not allow it to consider the abolition of capital punishment, but rather to give consideration to the administration of that penalty with a view toward any improvements that might be made therein. He then cited the conclusions of the commission as to the deterrent effect of the death penalty. This appears in their statement that "There is no clear evidence in any of the figures we have examined that the abolition of capital punishment has led to an increase in the homicide rate, or that its reintroduction has led to a fall." This was followed by the observation that "premeditated murders are committed in spite of the existence of the death penalty. In them the offender will often calculate on escaping detection."

Mr. Cowan then commented on the high proportion of insane people among known murderers in England, a fact, he stated, which diminishes any deterrent value the death penalty may have.

On the question of the possible release of murderers who have been reprieved and imprisoned he thought that there should be no time limit before which they cannot be paroled. The term of detention should be flexible, and it should be left to scientific experts to determine when a man is safe for release. Mr. Cowan then referred to two cases of men who were executed in England and concerning whose guilt serious doubts subsequently arose. It is likely that these cases, together with the doubts as to the deterrent value of the death penalty, have led to the very strong movement in England for the abolition of that penalty.

Two more conclusions of the Royal Commission were referred to by Mr. Cowan. One was a recommendation for the abrogation of the M'Naghten rule in murder cases; and the other was for giving the jury the function of deciding the penalty.

Finally, Mr. Cowan quoted the man who introduced the last bill for the abolition of the death penalty in England as saying, "It is about time we abolished this obscene futility!"

There remains a brief reference to other witnesses who testified at the Hearings of the Assembly Subcommittee on Capital Punishment, held on December 8 and 9, 1955, in Los Angeles:

James Alverson, an Engineer, Los Angeles. He expressed a very strong conviction that capital punishment should be abolished. He told of his father, who was a doctor, having been killed by a man who tried to steal some opiates. This happened 30 years ago. As a young man Mr. Alverson had opposed the execution of the man who had murdered his father. He said that he had seen much of death, having been at Pearl Harbor in December, 1941, and since then had known of many men executed by the Army for rape and murder. He thinks that the death penalty is a way of disposing of a problem without solving it, and argued for its complete abolition.

Dr. William Graves, Formerly Physician at San Quentin. Dr. Graves expressed strong objections to the death penalty, saying that it gravely interfered with the rehabilitative work of the prison, and held up an example of retaliation, or getting even, which is not in accord with the ideas of civilized society.

Gerald H. Gottlieb, Formerly Attorney General in Samoa. Mr. Gottlieb told of his work in drawing up a new Penal Code for the Island of Samoa. Murder there is rare, but happens at times in areas where the native culture has broken down. The code provides for a separate trial on the question of the penalty, and, if it reveals that the defendant is suseptible to measures of rehabilitation, the death penalty is not inflicted.

Reverend William A. Gilbert, Rector of St. Paul's Episcopal Church in Ventura. Reverend Gilbert spoke of his long experience as chaplain in correctional and penal institutions. He has known many men imprisoned for murder, some of whom were executed. In his opinion none of them thought of the consequences of their criminal acts. His own experience, and all the statistics that have been gathered on the question, have convinced him that there is no deterrent effect in the death penalty. Murderers are usually not professional criminals; and, if they consider the penalty at all, they figure that they can escape detection. Then there is the matter of discrimination. Men with funds for their defense escape execution. Also, there is a variance between counties as to the likelihood of a defendant receiving the death penalty. There is the danger of executing innocent persons, and the Reverend Gilbert cited examples of that having been done. He told of the successful adjustment of many convicted murderers who had been imprisoned and paroled. He spoke of the unfortunate effects of an execution on the courts, the prison, the community, and especially on the families of the executed men. Churches of most denominations have denounced the death penalty, and Reverend Gilbert declared it his intention to work vigorously for its complete abolition.

N. D. Meyer, Public Defender of Orange County. Mr. Meyer stated it as his opinion, from his long experience as attorney and as a public defender, that the death penalty, as it is administered, serves no useful or effective purpose.

George Putnam, Representing Television Station KTTV, Channel 11, Los Angeles. Mr. Putnam regretted the lack of publicity given to the hearings on capital punishment by the newspapers, radio and television in Los Angeles. However, he then went on to give the results of a poll conducted by Television Station KTTV. The question asked respondents to indicate whether or not they believed in capital punishment. There were 15,000 postcard replies received. Nine thousand of the people replying said that they were not in favor of capital punishment, while only 6,000 said that they were. Whether such a result would be obtained from a wider poll of opinion is a matter of conjecture. As it stands it is, at least, a partial answer to those who assert that the general public are in favor of the death penalty.

TESTIMONY AT HEARING IN SAN FRANCISCO NOVEMBER 13, 1956

Dr. Douglas M. Kelley, Professor of Criminology, School of Criminology, University of California. Dr. Kelley first directed attention to a criticism of the M'Naghten formula which stipulates a knowledge of right and wrong as a test for criminal responsibility. He cited three types of criminal: the mentally ill, the so-called psychopath, and the normal person who commits crime under great stress. Of the mentally ill all except a very small proportion know what they are doing, and that it is wrong. But their judgment of what is right and wrong is profoundly warped by delusions. The M'Naghten principle assumes that knowledge of right and wrong functions through a kind of compartmentalized brain with one area for knowledge, one for will, one for memory, and so on. Actually the brain functions not in compartments, but as a whole; and if one is mentally ill his total judgment is impaired. There is no such thing as partial insanity. It is a distortion of medicine to assume that the brain works perfectly in one area, but not in another. It is equally absurd to rely on a psychotic's opinion of himself when he declares that he knows his act was wrong. The upshot of all this is that Dr. Kelley urged that a study be made of the M'Naghten formula according to which, at present, we convict people of first-degree murder when they actually are mentally ill.

Of even more importance was Dr. Kelley's discussion of the psychopath. It is a poor term, because literally it means "sick mind," and this type is not sick mentally. Rather, they are persons who have never developed emotionally. In intelligence and physical structure they are adults, but in all their personal relationships they behave like little children. They constitute a very large proportion of the men in death row at San Quentin. They have no recognized place in California law. They make up the bulk of our repetitive criminal population. They are a menace, but as their defect is moral, or developmental, rather than organic, we know very little as to how to treat them. They should be taken out of society, detained and studied for the purpose of finding out, if possible, why they behave as they do. Some type of legislation should be adopted which would specifically recognize this group and provide for their custody.

Dr. Kelley then entered a critical protest against the bifurcated trial system by which attempt is first made to determine a man's "capacity to form intent," and then another trial to find if he is sane. It leads to the utmost confusion of lay jurors The entire pattern should be overhauled The M'Naghten rule should be abandoned and effort made to strike out in a new direction in line with the New Hampshire law, the Durham case, or the proposal of the American Law Institute. (See, Section II of this report).

The third group considered by Dr. Kelley are those who are essentially normal, but who under sudden pressure commit homicide. They are ordinarily not deterred by the death penalty because under extreme emotional pressure they become upset, and give no thought to the consequences. When a normal or psychopathic person is calm he does not commit a crime. So that all that capital punishment does is to

prevent a person who would not commit a crime from committing one. Otherwise it seems useless.

The foregoing views of Dr. Kelley were confirmed and elaborated upon through an extended period of questioning by members of the subcommittee.

Professor Austin MacCormick, School of Criminology, University of California. Professor MacCormick spoke from a very extensive background of experience in dealing with offenders, as administrator, consultant and research investigator. He was also for many years the Executive Secretary of the Osborne Association, an organization that has served prison administrations all over the country in an advisory capacity. He first confirmed all that Dr. Kelley had said of the need for abrogating the M'Naghten rule for testing criminal responsibility in murder cases. In this connection he cited the recommendations of the British Royal Commission regarding a new principle. This would stipulate that "the jury should be left to determine unfettered by any formula whether at the time of the act the accused was suffering from a disease of mind or was mentally deficient to such a degree that he ought not to be held responsible."

On the question of the psychopathic offender Professor MacCormick thought that the term should be used with extreme caution. He told of his connection with the Army program in World War II when 84,000 general court-martial prisoners were screened to discover which ones were susceptible of therapeutic treatment. Through a careful training program about one-half of these men were restored to active service. Meanwhile, there was the greatest divergence among the army psychiatrists as to how these men should be classified. The range of difference in the application of the term *psychopath* was from 70 to 2 percent. At last it was determined that only in cases of clear psychosis should the term be used. The true psychopath is incurable; but many of these men were capable of rehabilitation because their difficulties arose from a disrupted and disturbed childhood. Their condition would improve under a well-directed training program. The point that Professor MacCormick was making was that in any legislation concerning psychopaths distinction should be made between those who are definitely of that type and those merely disturbed people who will respond to corrective treatment.

He next expressed concern over the delays occasioned by appeals in California. But he thought that the automatic appeal to the Supreme Court, following a death sentence, was a forward-looking step; and, rather than having it crippled in any way, he would be disposed to tolerate the devious legal circumlocutions by which delays were multiplied.

Professor MacCormick then came out strongly in favor of Assembly Bill No. 2089 which would make juries responsible for fixing the penalty for conviction of a capital offense. If this would mean a step toward the abolition of the death penalty, he would still be for it. In all probability, under this rule, juries would reserve the death penalty for the most atrocious cases, giving a life sentence to those more ordinary cases that now coast through to the death sentence because there is no one effectively to battle for them. He referred to the recommenda-

tion of the British Royal Commission for two trials, one on the question of guilt or innocence, and another, permitting the introduction of evidence on extenuating circumstances.

Final contentions of Professor MacCormick were in favor of a moratorium and/or the complete abolition of the death penalty. He admitted that with a moratorium an atrocious murder might lead to a restoration of the death penalty. He thought that an abolition bill should be introduced in each session of the Legislature, so as to keep the issue before the public.

After presenting statistics on the death penalty, showing its increasing disuse, and questioning its deterrent value, Professor MacCormick concluded with an eloquent statement of his opposition to it. He attacked it as bad law, for it creates a cynical distrust of all law, because of its discriminatory application. If it has any effect on the murder rate at all it is to increase it by making conviction more difficult. Even more strongly he attacked the death penalty on moral grounds as an odious survival of savage, archaic, half-civilized notions. The following is an excerpt from his written statement, read at the hearing:

> "That the death penalty will eventually be eliminated from American penal practice nobody who reads the signs of the times can doubt. It cannot go too soon, not merely because it is a thing well nigh as evil as the crimes it punishes but also it helps to keep alive the public's mistaken belief in the efficacy as a crime deterrent of severe penalties inflicted on a few, and delays the day when an effective attack on crime can be made by sustained preventive measures, vigorous law enforcement, and fully-staffed correctional services."

There was an extended discussion of Professor MacCormick's remarks.

Dr. Bernard L. Diamond, Psychiatrist, San Francisco. Dr. Diamond's remarks were first concerned with the M'Naghten rule of which he has made an extended, historical study. He declared it to be older than when it was promulgated by an English court in 1843. In the United States it was first applied by a Massachusetts court in 1844; and since then it has spread to other states, becoming an almost universal rule. Dr. Diamond then attacked the rule on various grounds: 1. It is unrealistic, because more important than *knowledge* in determining ability to conform to social requirements are the unconscious emotional impulses that lie behind any given act. 2. It is very inequitable, because a successful defense under the M'Naghten rule requires large funds and the best psychiatric talent available. 3. It is unscientific, for it requires a psychologist to give a moral judgment, and there is nothing in scientific psychology that can throw any light on the ability of a given individual to tell right from wrong. 4. It is capricious, depending on the individual psychiatrist's conception of right and wrong. Only a driveling idiot has no conception of right and wrong. Most of the insane do have some idea of it; though any mental disturbance may impair their understanding of it. Moreover, there is no agreement among psychiatrists as to what the word *know* really means. The result is that a given psychiatrist will answer, as to the knowledge of right and wrong on the part of an accused person, in

accordance with his own prejudices, or (worse yet) with the wishes of the side that hires him. The conclusion is, therefore, unescapable that the right and wrong test satisfies the requirements of neither psychology nor medicine, nor, indeed, of the law itself.

Dr. Diamond then went on to say that he did not think it possible to get a test of criminal responsibility that will satisfy both the medical and legal professions. It can best be determined by a jury that has before it all the circumstances in a given case. In this the jury should not be hampered by any unrealistic medical testimony as to the defendant's knowledge of right and wrong. Rather, it should be guided by the formula expressed in the New Hampshire law, or in the Durham case in the District of Columbia. The jury should have all the medical evidence, not just that which is admissible under the M'Naghten rule.

The witness then spoke of certain desirable changes in procedural matters. There should be more adequate quarters for conducting psychiatric interviews with defendants. At present these have to be carried on in a crowded section of some jail, without privacy and without sufficient time. Again, he urged that judges take greater responsibility in seeing that adequate psychiatric facilities are made available to defendants. He thought that insanity pleas should more often be made in other than capital cases. This should be done not with the idea of getting people off, but for the protection of the public. Often mental illness is involved in these minor cases in which men get by with a brief prison sentence, only to appear later in court on a graver charge. Therefore, whenever there is evidence of mental illness, the judge should encourage a plea of "not guilty on account of insanity," so that the offender may be incarcerated in a mental institution. It was further recommended that in insanity trials the burden of proof should rest with the prosecution for showing that the accused is legally sane.

These significant comments were followed by a number of questions from members of the subcommittee. When asked whether he favored two trials, one on the facts, and another on the insanity issue, Dr. Diamond replied that, since the Supreme Court decision in the Wells case, the double trial system might well be abolished In that case the Supreme Court held that psychiatric evidence is admissible in the trial, as bearing on such questions as intent, premeditation and malice aforethought. He, furfthermore, thought well of the Michigan system in which examination as to sanity takes place *before* and not after the trial.

Finally, when asked if he thought capital punishment was a deterrent to crime, Dr. Diamond replied with an emphatic "No." He thought that criminals are too unrealistic and magical in their thinking to imagine that the death penalty could ever happen to them. But he did say that the *certainty* of some sort of punishment has a deterrent value. Capital punishment by making the administration of justice less certain really tends to breed crime. The kind of person who would be deterred by it is not the sort of person who commits murder.

Melvin Hawley, Sheriff, Santa Clara County. The testimony of Mr. Hawley is of particular interest as he is one of the two sheriffs that favored the abolition of capital punishment on the questionnaire that was circulated. He began by saying that there is no saving in

public expense by the death penalty. This is so because lifers are the best workers in the prison, earning their keep if any do; and because of the great expense involved in the appeals, stays and writs that follow a death sentence. He thought that there is no deterrent value in the death penalty, and cited the experience of England where the speed and certainty of punishment are the real deterrents. The feeling of many pepole that one can avoid the death penalty, provided that he has funds and good legal talent, is bad for the prestige of the law. He said,

> "I have talked to many attorneys who have been active in the field of defense work, and I think it is their consensus that a well-defended case by competent counsel, with adequate funds, will rarely end up in the loss of the life of an individual who is being defended, that at this level the competence of the attorney is enough to take his defendant out of that particular danger."

The sheriff then expressed his view that the question of sanity should be taken from the lay jury and placed with a panel of experts. He thought that, if we did not have the death penalty, more cases would go to a court trial, without jury, and that in more of them a plea of guilty would be entered. He thought that more often murder was a stroke of chance than premeditated. Morally, Sheriff Hawley thinks of capital punishment as a form of retribution—an eye for an eye—which is against all principles of modern penology.

The final recommendations of this witness were for the abolition of the death penalty or a moratorium, if abolition is not possible at present. He also favored the abrogation of the M'Naghten rule, and the passage of the law requiring the jury to fix the penalty.

Alfonso J. Zirpoli, Attorney, San Francisco. Mr. Zirpoli explained that his interest in the problem of the death penalty had been increased through his appointment by a federal court to represent three different men in death row. He first commented on the delays in execution, attributing them, first, to the automatic appeal to the State Supreme Court. This he thought was a good and necessary provision. Then, he thought that the delays were extended by the ingenuity of counsel in filing petitions for writs of habeas corpus before the Supreme Court. These writs are usually denied without comment and prevent a hearing on the merits of a case. They are then followed by numerous appeals for the determination of jurisdictional questions, and the case may drag on for years. To illustrate, Mr. Zirpoli was appointed counsel to represent Thomas one hour before his projected execution But a stay was obtained, followed by legal maneuvers which delayed the execution until 1956. Mr. Zirpoli stated that he fought hard because he thought that Thomas should not be executed. The facts in the case are as follows:

> Henry Thomas and William McCain entered a grocery managed by Mr. and Mrs Ainsworth for the purpose of robbery. Thomas ordered soft drinks. McCain drew a pistol and stated it was a holdup. Mr. Ainsworth grasped the barrel of the pistol held by McCain, and in the ensuing struggle it was discharged, a bullet

striking and wounding Mr. Merrill who entered the store at that time. After McCain's gun discharged, Thomas fired several shots from his pistol, two of which struck Mrs. Ainsworth, causing her death. Thomas and McCain fled and were finally apprehended in Bakersfield.

Thomas was permitted to plead guilty in the ensuing trial by his court-appointed attorney, who was fully aware that the judge was inclined to impose the death penalty in such a case. During the trial the attorney said not a word concerning the previous good record of Thomas, or his honorable discharge from the Army. The death sentence was imposed and Thomas was executed in July, 1956. McCain, on the other hand, pleaded not guilty, and a life sentence was imposed on him on recommendation of the jury.

Though Mr. Zirpoli is not in favor of the abolition of the death penalty at the present time, he strongly feels that the above case shows a gross inequality in its application.

In conclusion he made two recommendations: First, that Section 4801 of the Penal Code be amended so as to give the Adult Authority power to review death sentences, and, if the circumstances warrant, to recommend a commutation of sentence to the Governor. Secondly, he urged that either through legislation or judicial action, before a plea of guilt is entered, a thorough investigation of the accused be made in capital cases to determine whether the accused is aware of the nature of his crime and of the possible consequences of a plea of guilty. Such inquiry should be made a matter of court record.

Finally, Mr. Zirpoli went on record as favoring Assembly Bill No. 2089 which obligates the jury explicitly to fix the penalty for conviction of a capital offense.

Honorable Edmund G. Brown, Attorney General of California. Mr. Brown began by stating his opinion against the abrogation of the M'Naghten rule. Apparently he feared that it would release many dangerous men on plea of not guilty on account of insanity. The New Hampshire rule, or that laid down in the Durham case in the District of Columbia, would lead to greater evils than they were designed to correct. He said that the Adult Authority now has the power to review death sentence cases, and has done so. However, because of the reluctance of juries to impose the death sentence, he favored a life sentence without the possibility of parole. He went further, and spoke in favor of a moratorium on the death penalty for a period of five years. He thought the death penalty no deterrent, and its administration, that is, the variance between counties in its application, was bringing the law into disrepute. He expressed himself in favor of Assembly Bill No 2089. Though a recent Supreme Court decision gives the jury full discretion, without the necessity of finding extenuating circumstances, that decree did not say that, if the jury is silent as to verdict, life imprisonment must be imposed. This latter provision would follow from Assembly Bill No. 2089. He would especially favor that bill if a moratorium cannot be obtained.

While he thought the death penalty no deterrent, he believed that there was deterrent value in the fear of apprehension. The suspension

or abolition of the death penalty would result in speedier trials, because in nearly all homicide cases the main issue is not the guilt or innocence of the crime committee, but rather the matter of the penalty, life imprisonment or death. He cited the Michigan experience where, following a conviction for homicide, the man is quickly shunted off to prison. Finally, Mr. Brown thought that during a period of moratorium a thoroughgoing study should be made of the question of capital punishment with funds from some foundation.

Richard A. McGee, Director of the Department of Corrections. Mr. McGee opened his discussion by reference to the statistical trends in regard to the death penalty. Not only is there a world-wide trend toward abolition, but in the United States capital punishment is falling into disuse, even in those states where it is authorized On the question of the deterrent effect of the death penalty Mr. McGee thought that there was no conclusive evidence either way, that it was or was not a deterrent to homicide. He referred to the attitude of some prison workers who think that they need such protection as the death penalty is supposed to afford. On that point he said that violence in prisons is on the decrease, not because of the existence of the death penalty, but because of the great improvements that have been made in prison administration. He expressed his personal opinion that the excitement and publicity given to executions were such as to stimulate unstable people in the prisons into the commission of more crimes.

Above all, Mr. McGee made a plea for the adoption of a scientific attitude toward the problem of the death penalty. This means an effort to discover things by experiment. Thus, when the assertion is made that parole violations would be fewer if parole officers had smaller case loads, the proposal should be tried out to see if it is sound So, the State at no great risk might try out a moratorium on the death penalty. The few executions that now take place, as compared with the great number of homicides, certainly give no evidence of a deterrent effect.

On the other hand, this witness emphasized the great burden which is put upon prison administration by executions. For one thing the supervision of men in death row (now 26) requires additional prison personnel who could well be used for more constructive purposes in the prison An administrative study of San Quentin Prison, made by the staff of the Corrections Department, revealed that about 20 percent of the warden's time is devoted to the cases of the condemned men. There are tasks which the warden cannot delegate, such as the necessity for making frequent reports, interviews with the press and the defense attorneys, and other time-consuming details All this is done, without the provision of special assistance, in this, the most difficult prison in the United States.

As to the expense involved in maintaining the condemned men, Mr. McGee said that it amounted to far more than would be the case if they mingled with the general prison population This he did not think wise, as the condemned were marked men, and could be a disturbing influence. When the burden and costs to the prison of maintaining death row are added to those of the judiciary in the trials of capital cases the total expense becomes very great. Concerning the execution itself he said:

> "It is a nasty, unpleasant task at best. And then when you consider the tremendous sensational interest this thing creates on the part of the public, it throws the burden on the people that have to administer it, it throws it way out of proportion to its importance in respect to the total problem of dealing with the administration of our institutions."

When asked about the possibility of a sentence of life imprisonment without parole, Mr. McGee seriously questioned the wisdom of that kind of sentence. There are a few kidnappers in San Quentin now with that sentence, under Section 209 of the Penal Code. He seemed glad that there were no more, as they are a potentially disturbing influence, and he did not think that denial of parole was a greater deterrent than just life imprisonment.

In all the foregoing remarks, Mr. McGee wished it to be understood that he was speaking as a private citizen and not representing any views of the Department of Corrections. Its job is to enforce the law.

Thomas C. Lynch, District Attorney, City and County of San Francisco. At the outset of his remarks Mr. Lynch expressed himself as being not in favor of the abolition of capital punishment. He thinks that, due to numerous interpretations of the Supreme Court, there are few legitimate first-degree cases today. They must be plainly shown to be premeditated, that is, the result of deliberation. He does not think that this type of case has increased in recent years. He then went on to urge that instructions to juries be simplified. At present they are complicated and confusing. Hardly a day passes when some formerly approved type of instruction is not disapproved by the Supreme Court. For example, the rule requiring extenuating circumstances, if the death penalty is to be averted, was reversed in the *Green* case. In that case, also, the so-called silent verdict of juries was disapproved of. Mr. Lynch then declared himself in favor of Assembly Bill No. 2089, requiring juries explicitly to state the penalty; and he said that his office had been in the practice of requesting judges to require juries to do just that. On the question of a moratorium he said that he did not see what we could discover by that means. Moreover, contrary to views that have been expressed at the hearing, he thinks that there is a strong public demand for additions to death penalty statutes, especially for certain narcotic offenses. He said that the death penalty has value not only as a deterrent, but also as a response to the public demand for it.

Trevor Thomas, Executive Secretary of the Friends' Committee on Legislation of Northern California. Mr. Thomas submitted in writing an extended statement of his views on capital punishment which is included as a supplement to the stenographic report on the hearing in San Francisco. This supplement includes very strong statements in opposition to capital punishment made by governors, attorneys general, prison wardens and others from states that have abolished the death penalty and those which still retain it. In his oral statement at the hearing he made a clear and eloquent statement of his own views which have been those of the Friends for over 300 years. He opposed capital punishment not only on moral grounds, but because its deterrent effect

has not been proved, and, therefore, the argument for it is reduced to a desire for vengeance. With 7,000 homicides and 62 executions in the United States in 1955, the uncertainty of the death penalty precludes any real deterrence. About three-fifths of the murders in California are in association with armed-robbery in which there is no time for premeditation. Mr. Thomas called attention to the excellent work of rehabilitation which is being done by the California Department of Corrections. Over 400 men are now incarcerated for varying degrees of murder. Not only do they have the best prison records, but their record for parole violation is the lowest for any group of offenders. Consequently, he was opposed to a sentence of life imprisonment without the possibility of parole. He denied the contention of Mr. Lynch that there is a public demand for the death penalty, and cited a poll taken by Mr. Paul Coates in which there were 15,000 replies. Of these, 9,000 were for the abolition of the death penalty, while only 6,000 were in favor of its retention.

Reverend C. Lester Kinsolving, Vicar of St. Phillips Episcopal Church, El Sobrante, and of St. Thomas Episcopal Church, Rodeo. Formerly Interne Chaplain and Teacher of the School of Religion at San Quentin Prison. The testimony of the Reverend Kinsolving is of special interest, because of his experience within the prison at the time of an execution. He likened the ritual of an execution to the ceremony among the ancient Aztecs at the time of a human sacrifice. In the case of an execution there is the same ceremonial precision. We give a man a sumptuous meal, march him along condemned row, take him down the elevator, spread out a green rug, and gather the witnesses together for the killing. Before all this happens the man has been kept, often for years, in a 4-foot by 12-foot cell. No wonder that in the last four years there have been four or five suicides among these condemned men. No one can say how much pain a man suffers in the gas chamber. The Aztecs killed their victim in a few seconds; our executions take approximately 14 minutes. This is not the way to show young people that we disapprove of murder, for this is murder. As for its deterrent value, the death penalty has none. If we really want to deter people by horror we should have public executions. As a final argument against the death penalty, Reverend Kinsolving spoke of the possibility of executing innocent people. It has been done. Professor Borchard in his book "Convicting the Innocent" revealed 126 cases of a false conviction. In conclusion, Reverend Kinsolving referred to the resolutions against capital punishment that have been adopted by the leading Protestant denominations in California.

SECTION VI

CONCLUSIONS FROM THE QUESTIONNAIRE

In the course of this study made for the Assembly Subcommittee on Capital Punishment several hundred questionnaires were prepared and sent to five groups of citizens in order to obtain a sample of public opinion on various aspects of the problem of the death penalty in California. The groups were as follows: superior court and municipal judges, district attorneys, sheriffs, professors in the social science departments of the University of California, and clergymen. Obviously, these groups are not all whose views might have been solicited, but they do represent important segments of the population, and a summary of their replies is herewith submitted. The questions asked and a tabulation of the replies are shown on the accompanying chart.

Replies were received from 169 of the persons whose opinions were solicited. This represents approximately one-third of the questionnaires sent out. The sample is thus admittedly small, but it is believed that the results are significant. The most striking result is the difference of opinion shown between the law enforcement groups—judges, district attorneys, and sheriffs, on the one hand, and the university group and clergymen, on the other.

Let us first look at the total results from the 169 replies received. On Question IA, which asked, "Do you think the death penalty should be abolished in California for murder in the first degree?" the replies indicated, "yes" 58 (34.3 percent), "no" 103 (60 percent), and "no opinion"[1] 8 (4.7 percent). This total shows a preponderance of opinion against the abolition of the death penalty. But that is accounted for presumably by the fact that the returns were heavily weighted by those that came from the law enforcement group. Returns from this group constituted 97 or 57.3 percent of the total (169) while returns from the university professors and clergymen accounted for 72 or 42.6 percent of the total. If the weighting had been the other way the results would have shown in all probability a majority for the abolition of the death penalty.

Taking the returns on Question IA by groups we find the following:

Law enforcement group	*"Yes"*	*"No"*	*"No Opinion"*
Judges	8	29	1
District attorneys	4	29	3
Sheriffs	3	20	0
Totals	15	78	4
University professors	24	21	4
Clergymen	19	4	0
Totals	43	25	4

[1] "No opinion" indicated that the respondent made no reply or indicated "no opinion."

The above figures reveal the profound cleavage of opinion that exists on the question of the death penalty between the law enforcement group and the university professors and clergymen. This is perhaps no more than was to be expected, and a similar result would probably have been found had the number of returns, with the same weighting, run into the thousands instead of the 169 that were received.

As to which group is the better guide for the Legislature in the matter of policy, there is little question that in the opinion of many, greater authority would be accorded to the law enforcement group. But one eminent attorney has taken a different view. In a recent publication he wrote:

> "Discussions concerning the death penalty have been especially confused by the voices of unqualified 'authorities.' For nearly a century and a half change has been delayed and the acquisition of real knowledge hampered by sonorous pronouncements of the eminent, but uninformed. When in 1810 Sir Samuel Romilly introduced a bill in Parliament to abolish capital punishment for stealing five shillings or more from a shop, it was unsupported by a single judge or magistrate. Speaking for the unanimous opposition to the bill by his judicial colleagues in the House of Lords, Lord Ellenborough, Chief Justice of the King's Bench, predicted that the repeal of this law would lead to the abolition of the death penalty for stealing five shillings from a dwelling house, in which case no man could 'trust himself for an hour without the most alarming apprehensions that, on his return, every vestige of his property will be swept away by the hardened robber.'
>
> "These and similar laws were eventually repealed without any increase in the number of offenders in the particular class of crime. In fact, the absolute number of such offenders diminished. As lawyer and judge, Lord Ellenborough was no fool. Although inclined to be harsh in criminal cases, he did much to bring the civil law into harmony with mercantile practice. He was a profound legal scholar. He knew the value of evidence. Yet, when it came to the death penalty, he felt qualified to pronounce an authoritative judgment without the aid of any evidence whatsoever other than his own emotional reflexes. His contemporaries accorded his words the respect due his high position; but history has proved that the great Lord Ellenborough, in discussing capital punishment, was talking nonsense."[1]

Two more items in regard to Question I may be mentioned. First, it will be observed that there is a slightly larger number of "yes" answers in favor of the abolition of the death penalty for other capital offenses than for murder in the first degree. A great variety of opinions was displayed in regard to these other capital offenses. Secondly, a study of the figures on the chart indicates that the sheriffs appear to be the most conservative among the law enforcement groups.

[1] Herbert B. Ehrmann, "The Death Penalty and the Administration of Justice," *The Annals of the American Academy of Political and Social Science,* November, 1952. Mr Ehrmann is Chairman of a Joint Committee of the Boston Bar Association and the Suffolk District Medical Society dealing with mental responsibility in crime He is a member of the Council of the Boston Bar Association and of the Massachusetts Civil Service Commission.

On Question II, as to whether additions should be made to the list of capital offenses, it will be noted that the majority of every group think that no additions should be made. But, again, a larger proportion of the sheriffs want additions than of any other group One sheriff thinks that "all habitual criminals" should be executed! Among the more frequently mentioned crimes that were cited as warranting the death penalty were sex offenses against children, forcible rape, and narcotic peddling to youths. Moreover, one attorney wrote very strongly that robbery—armed should bring the death penalty, and another thought that killing by drunken drivers merits the death penalty. For all groups the preponderance against any additions to the number of capital offenses was 114 (67.4 percent) to 36 (21.3 percent), with 19 giving "no opinion."

Question III, which relates to the requirement that juries specifically recommend the death penalty if it is to be imposed, brought some interesting results. The percentage distribution for all respondents was 45.1 percent "yes," 46.7 percent "no" and 11.2 percent expressing "no opinion." However, the judges answered 22 to 16 in favor of this requirement, while the district attorneys answered 21 to 12 against it, with 3 having "no opinion." The sheriffs responded 20 to 2 against it with 1 giving "no opinion." Meanwhile, as may be seen on the chart, the university professors and the clergymen showed themselves to be strongly in favor of it.

On Question IV, regarding changes in legal procedure in the matter of appeals so as to reduce delays in carrying out the death penalty, the choices of the respondents tended to favor such changes. On this issue 52.0 percent indicated "yes," 30.7 percent "no" and 17.1 percent gave "no opinion." Rather more of the university professors and clergymen were of "no opinion" than of the law enforcement groups. This was apparently accounted for in part by their not being familiar with the legal involvements. Of greater import was the fact that a large percentage of the university professors and clergymen went on record as against any change that would reduce delays in carrying out the death penalty. This is explained by the fact that a majority of both these groups were against the death penalty, and, consequently, were against any proposal for reducing delay in applying it.

An adjunct to Question IV requested those who answered favorably to the main issue to specify what particular changes should be made in legal procedures which would reduce delays in carrying out the death penalty. Almost without exception the replies indicated that something should be done judicially, or by the Legislature, to limit the issuance of writs by which delays were effected. Also, resentment was expressed to interference by the federal courts.

Question V asked the respondent if he favored the appointment of some qualified agency to make a study of the legal concept of insanity as applied in capital cases. This question gave rise to very little difference of opinion among the five groups. The three law enforcement groups were strongly in favor of such a study, and the university professors and clergymen were even more so. In view of the importance of this issue, and the severe criticisms of present methods of handling

it, as discussed in Sections II and V of this report, it would seem that the Legislature might well authorize such a study, being confident that it would find strong public support for it. Many of the respondents to this question urged that such a study be not confined to capital cases, but extended to cover all types of offense.

Question VI again gave rise to sharp differences of opinion. This question asked respondents if they thought there should be a moratorium for a period of years during which the death penalty should not be carried out. If they favored such a moratorium, they were then asked for how long a period it should be in effect. Total responses indicated 52 (30.7 percent) in favor of such a moratorium, and 112 (66.2 percent) against it, only 5 expressing "no opinion" on the question. As seen on the chart the law enforcement groups showed the strongest sort of disapproval of such a measure. The university professors were divided equally on the question, with 24 "yes" and 24 "no" answers, and only 1 of "no opinion." However, these "no" answers were sometimes explained by respondents as being due to the fact that they were opposed to the death penalty and did not want any compromise measure. Among the clergymen the same four answered "no" on the moratorium issues as they had done on the question of the abolition of the death penalty for murder in the first degree. There were relatively few "no opinion" answers on the question of the moratorium. With all groups opinion seemed emphatic, one way or another.

As to how long a period the moratorium should last the modal answer of those who favored it was from three to five years.

SECTION VII

GENERAL SUMMARY AND RECOMMENDATIONS

The foregoing sections of this report have presented salient facts in regard to capital punishment in California and its administration. Section I is concerned with statistics of death penalty cases over a period of years from data obtained from the State Bureau of Criminal Statistics. Section II presents facts relative to the social and psychiatric backgrounds of executed men. Section III indicates trends regarding capital punishment in both foreign countries and the United States. Even Section IV, which discusses the deterrent theory of the death penalty, is intended not as a polemic against that penalty, but as a statement of the *fact* that scientific studies in the United States and abroad have seriously questioned the deterrent value of the death penalty. The justification of its continued operation must therefore rest upon other grounds than as a deterrent. Section V gives a summary of the testimony offered by distinguished and informed citizens on problems of the death penalty in California with their views as to the desirability or undesirability of its retention. Here we find witnesses taking sides for or against the enforcement of capital punishment in California. This was to be both expected and wanted in such an open forum for the expression of public opinion as the hearings provided. The comments of these witnesses afford valuable clues for consideration by the Legislature, not only to the question of the validity of the death penalty as a matter of public policy, but also to certain defects in its present administration. These discussions by witnesses deserve wider publicity than was afforded by the small public attendance at the hearings. Section VI speaks for itself as a summary of the opinions indicated by responses to a questionnaire sent to a large number of citizens, representing different professions. This questionnaire sought from respondents their views not only as to the abolition or retention of the death penalty, but also as to the desirability of proposed legislation, such as Assembly Bill 2089, and of certain procedural changes in regard to appeals.

The most striking result from a study of the responses to the questionnaire was to show the wide cleavage of opinion on the question of the death penalty and its attendant problems between the law enforcement groups—judges, district attorneys and sheriffs—and two other groups—university professors and clergymen. Perhaps no survey of opinion was needed to reveal this cleavage. It is well-known that law enforcement people are generally strong advocates of capital punishment, as it is in line with their legal tradition. However, one of the legal witnesses, included in Section V, declared that his support of capital punishment was due in part to the strong public demand for it. An offset to this view is the evidence in the questionnaire relating to the adverse opinions of the university professors and clergymen. Also,

in line with their view is the testimony of Mr. George Putnam of Television Station KTTV in Los Angeles. In a poll conducted by that station on the question of the abolition of the death penalty 15,000 replies were received, 9,000 in favor of abolition and 6,000 opposed. However, this may not be conclusive. Really to discover what is popular opinion in California in regard to the abolition of the death penalty would take a state-wide referendum on the issue Some day the question may be settled in that way.

This brings us, finally, to a discussion of the recommendations to the Legislature on the basis of this report. They are presented tentatively with full recognition that this grave problem warrants a more exhaustive study than has been possible in the time allowed for this report.

On the main issue as to the abolition or retention of the death penalty there are various alternatives for the Legislature to consider:

1. The abolition of the death penalty. This is the most thoroughgoing proposal that can be made. Its advantages may be cited. It cuts the Gordian knot of the whole problem. If it seems too extreme we may remind ourselves that California has often been in the forefront of social legislation. Today it leads other states in many fields of social welfare. Its standards for social security, welfare legislation, teachers' salaries, school construction, and in many other areas are among the highest in the Nation. It leads, too, in the field of corrections, with its widely differentiated system of penal and correctional institutions, its Adult and Youth Authorities, serviced by trained and devoted men and women, and its provisions for wayward and delinquent children. Only the death penalty and its defective administration casts a shadow over these fine social achievements. As the people of the Country continue their westward migration California will become the most populated state in the Union. They come attracted not only by the natural but also by the social climate of this beautiful state. This exciting prospect makes for a challenge to the imagination and social inventiveness of the Legislature. If it is disposed to give serious consideration to the abolition of capital punishment, it can do so with the assurance that such a step is in line, as we have seen, with the policies of most of the countries of western civilization. It is furthermore confirmed by the opinions of many of the distinguished people who have testified at the hearings of this subcommittee

2. A less venturesome proposal is for the establishment for a period of years of a moratorium on the application for the death penalty in California. With only the eight or nine executions that take place each year such a proposal involves no risk. If for any reason the experiment proves unwise, capital punishment can be restored. In the hearings this proposal found support among many witnesses, including Mr. Richard A. McGee, Director of the Department of Corrections, who expressed merely his personal opinion. Attorney General Edmund G. Brown also declared himself in favor of a moratorium. Reasons for their opinions will be found in Section V where a summary of their testimony is presented. Willingness to experiment where no real danger is involved is part of the art of government, and of business enterprise, as well. In essence it partakes of the scientific spirit by which truth is discovered.

3. A third alternative would be the retention of the death penalty. This would satisfy those who fear the consequences of change, and who hold that capital punishment is necessary for our security. However, all the legal witnesses who testified at the hearings recognized defects in the present administration of the death penalty. Some of them favored legislation providing uniform instructions to juries in capital cases. Nearly all of them were in favor of Assembly Bill No. 2089 that would require juries affirmatively to fix the penalty in capital cases, whether death or life imprisonment. Again, the great majority of these legal witnesses favored some means of preventing the delays in the application of the death penalty, though some thought that this was a problem for the judiciary rather than for the Legislature. Only one witness, a superior court judge, thought that additional death penalty statutes should be adopted.

If the death penalty is to be retained, nearly all who favored it at the hearings thought that some revision of the M'Naghten rule should be made That rule provides the right and wrong test for insanity in capital cases. It was generally agreed that it should be modified so as to bring such procedure in line with modern psychiatric knowledge. Such a modification was emphatically urged by the psychiatric witnesses at the hearing in San Francisco; and, of course, it was favored by all opponents of capital punishment. Moreover, on the questionaire, when respondents were asked if they favored some qualified group making a study of the matter, their answers were strongly in favor of it. It would therefore seem that a revision of the M'Naghten rule, or the authorization of a study of it, comes as a mandate to the Legislature.

Unfortunately, some of the acknowledged defects of the operation of the death penalty, such the vagaries of juries, and the different attitudes of judges in passing sentences, cannot be avoided or remedied by law, except by the abolition of the penalty itself.

RECOMMENDATIONS

I. A majority of six members of the subcommittee favor either the outright abolition of the death penalty or a moratorium on the death penalty. It is therefore strongly recommended to the California Legislature that a moratorium on the imposition of the death penalty be enacted during the present session of the Legislature.

II. In the event that the Legislature does not adopt a moratorium, the subcommittee recommends the enactment of a jury responsibility act to provide that the death penalty be imposed only upon the specific recommendation of the jury.

III. It is further recommended that the Legislature provide for the creation of a committee to study the present application of the M'Naghten test of criminal insanity and to study the advisability of change in the law relating to mental illness in criminal cases.

Members of the subcommittee:

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ERNEST R. GEDDES
ALLEN MILLER
LESTER A. MCMILLAN, Chairman
CLARK L. BRADLEY
PATRICK D. MCGEE
JOHN A. O'CONNELL

* As to Recommendations II and III

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ASSEMBLY SUBCOMMITTEE ON WAYS AND MEANS

REPORT ON PROPOSED DEVELOPMENT OF THE LA JOLLA CAMPUS OF THE UNIVERSITY OF CALIFORNIA

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January, 1957

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LETTER OF TRANSMITTAL

INTERIM SUBCOMMITTEE ON WAYS AND MEANS, January 16, 1957

HON. L. H. LINCOLN
Speaker of the Assembly
State Capitol, Sacramento, California

DEAR MR. LINCOLN: Pursuant to House Resolution 192, 1956 Regular Session, I am transmitting the Report of the Subcommittee on the Proposed Development of the La Jolla Campus of the University of California, with the request that it be printed as a separate document.

Respectfully submitted,

THOMAS L. CALDECOTT

SCOPE OF REPORT

The hearings upon which this report is based were held to determine the need, and planning in line with that need, for a school of science and technology on the La Jolla Campus of the University of California so that proper consideration may be made by this committee to budgetary requests from the university for planning of the projected expansion.

Testimony was heard from officials of the university, from the Legislative Auditor, and from civic, educational and industrial leaders of San Diego who, without exception, endorsed and urged adoption of the development program.

FINDINGS

1. Expansion of the La Jolla Campus of the University of California into a school of science and technology would materially contribute to satisfaction of the State's need for additional facilities for training of graduate students in the sciences and engineering.

2. Establishment of a highly qualified faculty of science and technology in the San Diego area would provide advice and leadership to the industrial and military scientists already established there, and, by furnishing a center for advanced studies available to them, would bolster technical recruitment programs. Scientific leadership in the San Diego area would further strengthen the national position of California industry.

3. Greater diversification of industry in the San Diego area, benefiting the entire State, will be encouraged by implementation of the expansion program.

4. Expansion of the La Jolla Campus will be cheaper than similar expansion of either the Berkeley or Los Angeles Campuses, and will still be of great benefit to the other campuses and to the State as a whole by increasing the over-all facilities of the university.

5. Enlargement of student capacity at La Jolla would provide needed university facilities for the almost 1,000,000 people of San Diego and Orange Counties.

RECOMMENDATIONS

1. That necessary funds be appropriated by the 1957 Legislature for planning of the La Jolla expansion program

2. That the La Jolla expansion program be integrated into the general university expansion program with appropriate priorities.

3. That the Legislature be kept informed of the status of planning for the expansion of the La Jolla Campus, and of its relationship to the general university expansion program.

FULL REPORT

SECTION I. PROPOSAL FOR EXPANSION OF THE LA JOLLA CAMPUS OF THE UNIVERSITY OF CALIFORNIA

Responding to the impetus of an expanding population, the University of California now occupies eight campuses located in widely separated sections of the State. Among them is the La Jolla campus, home of the Scripps Institute of Oceanography. Proposals that this campus be expanded to encompass a more generalized program of research and instruction in engineering and the sciences led to the hearings, held by this committee in La Jolla on October 4, 1956, from which this report has been developed.

The university now owns a campus of 156 acres on the La Jolla coast Only a small segment of university property is actually in use by Scripps Institute, the remainder being undeveloped hills and ravines. Exclusive of land value, the university's La Jolla plant is valued at $4,500,000. It supports an extensive research program and a student body of 50 graduate students on an annual budget of $3,300,000, of which $1,300,000 is appropriated by the State and $2,000,000 is derived from endowments, donations and federal contracts.

Expansion of the campus to include research and instruction in engineering and other sciences in addition to oceanography on the scale of the California Institute of Technology is being actively advocated by civic, industrial, and educational leaders of the San Diego area. The Regents of the University of California, on August 24, 1956, translated the proposals of these leaders into university policy by adopting an educational policy calling for development of a graduate school of science and technology which will include a small undergraduate student body. As a first step toward implementation of this policy, funds will be requested from the Legislature in its 1957 Session for planning and construction of facilities for the planners.

DETAILS OF THE EXPANSION

Objective of the expansion program is a plant capable of providing facilities for a faculty of about 200 top men who will provide advice and leadership in technical problems as well as instructing and supervising a student body, predominately at the graduate level, of about 1,000 students. The California Institute of Technology, on which the university has patterned the proposed expansion, supports a student body of 500 undergraduates and 700 graduate students with a physical plant valued in excess of $25,000,000 and a budget of $4,000,000 annually.

The expansion program has been designed to fulfill two state-wide needs: production of the research scientists and engineers necessary to maintain the United States' technological lead, and maintenance of a research program which cannot be done by industry because it

is not immediately practical or is in the general public interest rather than just that of industry. In connection with the first need, it has been noted that the Soviet Union, in 1950, graduated 20,000 scientists and engineers while the United States graduated 50,000 By 1956 the positions of the two nations had been reversed with the Soviets graduating 50,000 students and the United States only 20,000.

Primary instructional emphasis, in line with the stated needs, will be on the training of graduate students. However, to support the graduate program, the university has felt that a small undergraduate program will probably be needed. Enrollment would be limited to students at the upper division level who are primarily interested in the sciences or technology. Although planning is necessarily far from complete on curriculum matters, it is felt that a well-rounded undergraduate program can be maintained by cooperating with San Diego State College in nontechnical classes.

The San Diego City Council formally expressed its support of the expansion program and offered to the University an area of 40 to 45 acres contiguous to the present campus on December 13, 1955. The land offer was approved by the people of San Diego by almost three to one in the June, 1956, election. The council's resolution, in part, reads:

> That the city council herein and hereby desires to express its willingness to aid in every way feasible and practicable the establishment of a branch of the University of California in connection with the Scripps Institute of Oceanography, training and teaching of students in scientific and technical studies, and hereby offers under reasonable conditions for the public interests the use of certain city-owned lands for such proposed school, provided that this offer be accepted within a reasonable time, and as an expression of such attitude, the city manager be, and he is hereby authorized to attend any hearings conducted by the Regents of the University of California for such purposes and to present to them the attitude of this council by furnishing to them for their consideration a certified copy of this resolution.

SECTION II. ENDORSEMENT OF SAN DIEGO EDUCATORS

Local witnesses from the San Diego area were unanimous in endorsing the proposed expansion of the University of California's La Jolla Campus, though it is interesting to note that they did so from a variety of motives and viewpoints. Within San Diego there is already a fine educational system, including several institutions of higher education. Educators representing all phases of education expressed views in accord with the plans of the university.

Dr. William Rust, President of California-Western University, emphasized the postwar shift in enrollments from private to public colleges and the corollary changes in academic emphasis which must accompany this shift:

> One of the things that has happened to change it from two-thirds of the students in the United States going to private colleges to one-half has been the very sharp rise in the cost, and one of the most significant areas of the rise in cost is in the field of sciences, and scientific research in such areas as engineering. * * *

For one thing we think practically all scientific education is going to have to be done by state institutions. It is important to the entire community, it is important to the entire country, it is tremendously costly. * * *

So we think this is an excellent thing of having this type of campus that is mentioned here, and being talked of all today on Scripps where they bring select students into a place, give them a chance where they not only can learn, but think creatively because these are the things that are most desperately needed, not only in the area of science and engineering, but in all fields. * * *

I think every part of this community, educational, economic, any part you can say is enthusiastic about what is being contemplated here, we are back of it, we think it is desperately needed, we think it fills a tremendous niche.

Following the line of reasoning advanced by Dr. Rust, Mr B. R. Van Vleck, speech instructor of the University of San Diego, spoke of the limitations on graduate work as planned for La Jolla being performed at his institution:

Let me say that the only word of instruction I have had is that we, the University of San Diego, favor the proposed development that is now being discussed here by you. * * *

As I have been affiliated with the college now, and the college for men as well as the college for women for the last three years, I see here the liberal arts institution, I see there no graduate work as you would envisage it, or as you would certainly have at the wonderful proposed development that is being considered for Scripps on the University of California.

San Diego City Schools Superintendent Dr. Ralph Dailard dwelled at length on the rapidly growing elementary school population, coupled with the growth of San Diego's unique industrial plant, as demanding the facilities being considered for the La Jolla Campus:

The first point I'd like to make is, I think this institution is essential to the economic health of the third largest metropolitan area in California San Diego has been growing rapidly, and is one of the most rapidly growing cities in this country. It is reaching a population now above 600,000 so far as metropolitan area is concerned.

In the mean time, in recent years, it has developed its own unique industrial areas and scope, and * * * that industrial development is in what you might call frontier areas. It is in the aircraft and all of the things related to aircraft, and those are many. It is in electronics and related fields there. It is in areas where knowledge is changing and where the enlistments of hundreds and thousands of highly trained technicians and engineers is necessary. * * *

Now that means that many young men with engineering background and scientific background must be enlisted and come to San Diego, and those are, because of the kind of men they are, are ambitious young men, they want to go on, they want to advance their training. * * * It is a very significant thing that California

made the Solomon's decision and actually divided the baby as far as education is concerned. State colleges cannot assume the obligation for the higher level training in science, research areas, Ph.D. in science and so forth. To do that we must look to the University of California.

So we have then here a community of 600,000, the third largest in the State, whose economic future is hinged around these frontier areas in which there is a tremendous demand for advancement to secure and hold men of science. * * * If those men of science are to be held, they must have the opportunity to advance their own information. * * *

Within the economic health of the community lies some of the answers to your Legislative Auditor. * * * Look what our budget is *now*. But we are *spending a half a billion dollars on education* and there is still a surplus in the treasury. Why? Because California is healthy economically. * * * It is movements like this and things like this in building the economic health of the communities that will make it possible for the State to serve the people of those communities. * * *

Last spring seven senior high schools of the city, we graduated 2,400 senior class members, a number of whom are entering college this fall. There are perhaps an equal number graduated from the high schools in the area around San Diego.

Two weeks ago, when we opened school, we enrolled in the kindergarten of the city schools, not 2,400 students, 8,000 students. And there are 8,000 in the first grade, and 8,000 in the second grade, and there are 7,000, almost 8,000, in the third, up to the fifth grade in front of that wave. * * * It takes here years, five years, to get a start on this institution, but in six years this 2,400 is going to be more than 5,000 that is graduating, so at the time this institution is designed to start there will be twice as many people in this community seeking higher education as there are now. * * *

Vice President Shetler of Palomar Junior College expressed the hope of his school that the La Jolla expansion program would be approved so that more avenues would become available for the advancement of Palomar graduates:

> We are very happy that there is a possibility and a probability that the Scripps Institute will be expanded to house the higher, more advanced training in graduate work for we have had in the past many transfer students going to the university, producing very fine academic records, now working in industry and in research.
>
> We could send more of our students through this path if the facilities for such instruction were more available, which they would be if the institution were developed. Therefore, we are very happy that we can foresee an institution of this kind in San Diego County.

Summing up the general attitude of San Diego educators that the projected school of science and technology at La Jolla would be an

ideal complement to an already fine educational system, Dean Ernest O'Byrne of San Diego State College detailed the cooperation that would be possible between his college and La Jolla:

> I would like to state first of all that San Diego State College is most enthusiastic about the projected research institution here in La Jolla There is no question * * * about the desirability of added training at the research level in San Diego This is absolutely essential to our industry, to General Atomics, Convair, other aircraft companies. * * *
>
> We have, I think, one of the finest educational systems in San Diego of any city in the United States. We have a public school system that is recognized throughout the country as absolutely first quality. We have a fine junior college and vocational training. San Diego State is one of the 5 percent largest institutions in enrollment in the United States. * * * We have some 35 different majors that students, graduate and undergraduate, in which students can enroll. The private University of Cal-Western and San Diego University offer the advantages that church-related institutions can give and small classes can give. * * * All in all we feel that this institution at the top graduate level will be a fitting climax and capstone to our educational system here in San Diego. * * *
>
> If these people need a bit of work in some foreign languages, we have a very adequate foreign language staff. There is no reason why we could not come out to this campus, or if it is more convenient, have their people go to our campus to pick up some of these courses. The same way to a certain extent with humanities. * * * We will try in every way to cooperate with Scripps in this new addition in bringing to these people, if we can, any sort of additional training required. We will also * * * be more than happy to assist in any planning of the new institution, and in any articulation of our respective science programs.
>
> Without getting into details, because their program is too new and our program is expanding, I don't think there is any tremendous danger of overlapping of the two sorts of programs. We are just simply not aiming at the same things. Certainly we hope to have some fine minds in the sciences on our campus. We have had in the past, and I am sure we will have in the future. We devoutly hope some of the finest minds will go on to the new scientific institute at La Jolla.
>
> On the other hand, our primary function is not that of the university. We are not a research institution We do not pretend to be and are not seeking to be. In the sciences we are hoping that the people who are primarily interested in research, as opposed to going down to Convair and making a million dollars, we are hoping that these people will go to this institution. We are hoping that our people who are interested in production, in science for youth, will be well-trained, will go on in some instances to other institutions to get graduate degrees, and in some instances will go down and work in our local industry. * * *

San Diego State College welcomes the new institution. We are very happy with the development. We will do everything we can to enhance it.

SECTION III. ENDORSEMENT OF SAN DIEGO INDUSTRIALISTS

Industrial leaders in San Diego were equally emphatic in their espousal of the need for development of a school of science and engineering at La Jolla. Dr. E. C. Creutz of the General Atomics Division of General Dynamics dealt with the importance of the "biological potential" of San Diego, reinforced by the presence of the projected school, in producing badly needed scientists and engineers:

> I should like to say why I feel it is so essential that this new campus develop rapidly. For a young man to become effective in research and the advancement of our knowledge of the world about us it is essential that he begin active work along these lines at an early age. Scientists are most productive in general in their twenties. It is desirable that we find such people early, and that they live with a spirit of research in an institution where research is one of the foremost activities even from the time they enter as undergraduate students. * * * One can really only learn physics and mathematics and find new knowledge in these fields by living with research and having it become a true part of one's everyday life.
>
> The high concentration of technically trained people in the San Diego area makes this an unusually appropriate place for a great university. In general, technical people want their children to get the best possible technical education. By combining this sort of students with the best facilities for higher education we have a chance to make the most efficient use of this so-called biological potential to increase our standard of understanding nature, and thus the degree of effectiveness that our country can have in the course of history. * * *
>
> We are all most grateful, therefore, that the university and the State have seen the important new possibilities of increasing the strength of our entire Nation by planning to bring high-level education and research facilities to San Diego

Convair's director of scientific research, Dr. Charles Critchfield, explained the importance of having an academic research and teaching center located in an area already housing a large scientific community:

> Convair is a large company in this area, has produced a noticeable addition to our professional community. * * * It is part of my job to represent the professional man in his relationship with the company. My general job is to bring into consideration the results and standards and the experience of the academic world to the management of the company.
>
> Our point of view, then, is this: that these are men who take a fair fraction of their satisfaction in life from their work. They work not only to get money, because they like it they create things. * * * It is the responsibility of the company to see that such men are kept in the company, kept in the community, in a competitive way with the rest of the country.

> This means to me three main things: one, a man of this kind has to have a stimulus, and the stimulus that he needs is the kind that you get in the research laboratory, and that you get from creative thinking. He also has to have recognition in his professional life which again means the interaction with critical professionally competent people elsewhere, the publication of results and so on. Thirdly, since many of these men are still young, they need some opportunity to advance in their formal training to get higher degrees.

Now all three of these things, as I see it, are exactly what the establishment of the graduate school, graduate center, research center in La Jolla will provide.

The viewpoint of a firm which has been working closely with Scripps Institute of Oceanography for many years was expressed by Mr Donald Clark, president of the Kelco Company:

> Our company is getting a living now out of the sea. We are doing this in the 25 years we have been using Scripps Institute of Oceanography every one of those years. We have had fellowships there right along, and we are now building a new quarter of a million dollar laboratory for getting chemicals out of the water. We will produce Ph.D.'s and everything else, and we feel very strongly that this graduate school will be very beneficial not only to us, but primarily to California.
>
> I tell you why since we made our living out of the sea. We go out here, we have the biggest ocean in the world. Plenty of water, plenty of energy out there. Scripps has done a terrific job in telling us what is out there, and now you add to that this graduate school with your top chemists and zoologists and biologists and physicists. * * * If anyone is going to crack the problem of fresh water with the sea, you are starting the nucleus of it here, and that will benefit all of California because we all know the problem of water. * * *
>
> It will be a good investment for California. Put this graduate school here for scientists. I don't regard it as an expense any more than I spend money now for research. We get it back. It is a good investment I certainly hope it goes through.

Richard Silberman of Kay-Lab, a small manufacturer of proprietary electronic products, pointed out that technical industries tend to cluster around technical institutions, indicating that the development of La Jolla would benefit not only San Diego, but the whole State by expanding its industrial base:

> We believe that, going back to some of the comments Mr. Post made so aptly, that this institution cannot just serve San Diego, but must fill the basic need in the entire graduate system of the State. * * * We see a need there in this field of taking the knowledge that we have developed through expenditures for military products, for military devices, and applying that technique to basic industrial processes.
>
> We are not thinking necessarily of automation, but we are thinking of simple industrial controls. * * * This is the kind of

industry San Diego is now breeding in large quantities, but is also springing up throughout the State. * * * As has been pointed out, in the area around the Stanford University and area around Cal Tech we have seen small technical industries come into existence, and more and more of these small companies today are developing products for industry in general.

I think it is important to reiterate the point that the technical industry that we think of is not merely an industry to serve the military effort, but a technical industry that will have impact on every phase of our economy.

Reiteration of the need for a graduate technical school as a prerequisite for recruiting and holding qualified scientists and engineers was provided by Mr. Philip M. Klauber of Solar Aircraft Corporation:

It is of interest in a job like mine to review the inquiries that we have by correspondence from engineers and scientists in other parts of the country. The men we are looking for are largely mechanical engineers, aeronautical engineers, physicists, chemists, and metallurgists. An amazingly high percentage of these inquiries ask one question consistently, "What are the facilities in San Diego for furthering my technical education?"

I believe these people ask the question for two main reasons: first, they recognize as has been said so often here today that the world is becoming increasingly technical, a fantastic rate of speed, and that to continue to excel in their jobs they must continue to improve themselves with formal education. But second, they are thinking of their own children They want their children to have as fine an opportunity for a superior education close to home as can be provided in future years.

We like, if we possibly can to recruit our scientific and technical people from the people who have roots in San Diego. These people will be more stable employees, more reliable to stay with us indefinitely for the length of their working careers. We can only do this if San Diego affords them a superior class of education in the technical field they have chosen.

Admiral L. E. Gehres, Ryan Aircraft's personnel director, not only corroborated the need for a graduate scientific institution in San Diego as a stabilizing influence for industry, but pointed out the advantages of the La Jolla area for producing engineers who have a well-rounded, human outlook:

I can corroborate what has been said here about not only the need, but the difficulty of obtaining scientific personnel in our industry here, which dominates the employment picture in San Diego. About half the people gainfully employed in San Diego gain their livelihood and support their families through employment in the aircraft industry * * *

We have a responsibility to the Department of the Defense of the United States to investigate, to research, to develope new weapons and new applications of weapons, and in our daily work we are constantly treading along the frontiers of new knowledge and exploring fields as yet unexplored * * *

> We are also citizens of this community, and, because we provide the livelihood for so many of our families, we have a feeling of responsibility to continue this stable employment for these people. * * * We cannot do it unless we can obtain the services of the scientific, highly educated research personnel on whom our day to day production jobs depend. If we cannot get the young engineers, the young scientists, to come out here and work with us and for us in this community, we are not going to be long in this business and San Diego will lose its greatest source of employment * * *
>
> Dr. Revelle, Director of Scripps Institute, said they were also interested in bringing about or producing a type of engineers who are also complete human beings. * * * If there is any community in the United States, or anywhere I have ever been, which is better adapted to produce a complete and well-rounded human being, than this lovely, hospitable community of La Jolla, I have yet to see it. * * *
>
> We need this expansion of this school down here, and I do hope that you will prevail upon your colleagues in the Assembly and in the Senate of the Legislature of our state to move forward with this rapidly, and on a big scale so that we can do the job we have to do here in the surroundings best fitted to do it.

Further evidence of the serious obstacle to recruiting of technologists thrown up by the lack of an institution of higher scientific learning was presented by Mr. Harold P. Field, manager of the San Diego branch of General Dynamics' Stromberg-Carlson Division:

> San Diego is rapidly growing as the center of an electronic industry, so that it feels the lack of engineering manpower particularly acutely. To meet its requirements it must now attract personnel from other areas of the country. Yet today it finds itself seriously hampered in this effort by the lack of an institute of higher learning. Therefore, the need for such an institute in the San Diego community is a pressing problem.

SECTION IV. ENDORSEMENT OF OTHER SAN DIEGO LEADERS

The viewpoint of the professional engineer that the need is for training of highly qualified engineers rather than just technicians, of which there is an ample supply—quality not quantity, was presented by Mr. C. H. Seaton of the San Diego Chapter, Engineers and Architects Association:

> We represent a great portion of the total engineering group here in the San Diego area, and, as such, we strongly support the improvement of the educational facilities in this area, particularly where they will tend to improve the quality of the engineering and scientific personnel currently practicing in these fields. As one of the items in this category we strongly endorse the proposed expansion of the University of California facilities in San Diego, and respectfully urge that you give it your approval. * * *
>
> We do feel, however, now that the principal justification for the expansion of the university facilities in San Diego is the demand

for more highly qualified engineers and scientists as opposed to the so-called numerical shortage.

In a speech at the Air Force Association symposium in New Orleans this year, Dr. Alan Waterman said that a really accurate statement is that there are critical shortages in some, but not in all fields, and that there is a constant demand for highly qualified personnel in all of the fields of science and engineering.

In his charge to the National Committee for the Development of Engineers and Scientists, President Eisenhower stated to Dr. Howard Bevis, president of Ohio State University and chairman of this committee, that for the last several years there has been a growing awareness within the government and among private citizens in general that, as a result of our continuing shortages of highly qualified scientists and engineers, we are running the danger of losing the position of technological pre-eminence we have long held in the world.

You will note in each of the cases the emphasis is on highly qualified, it is not on the numerical shortage. By the term highly qualified we think that it means not academic degrees alone, nor does it mean long years of practical experience, but rather a blending of academic training and experience that will enable the people to tackle and solve the many complex problems that lie ahead. In the industrial plants of San Diego we already have half of this combination—the expansion of the university facilities could provide the other half.

Not all scientific effort in the San Diego area is industrial. Commander James McAllister of the Naval Electronics Laboratory pointed out that the needs of the Navy for scientists and engineers are just as pressing as those of industry:

First, the nationwide scarcity of engineers is seriously aggravated here by both the record breaking expansion of research and industry in this area, and also by the limited sources of trained manpower available. For example, our associate, the Naval Research Laboratory in Washington, D. C., has training programs with five colleges and universities in that area which practically solve their more difficult recruiting problems.

We, on the other hand, are forced to rely almost entirely on distant recruiting with a discouraging number of returns as the usual result. * * * In spite of the excellent San Diego climate, fine civic attractions and the interesting work available, we must face the fact that to recruit enterprising young scientists and engineers from other areas we must be able to guarantee them further opportunities for the advancement of their careers, both personal and professional. * * *

Naturally, many of our personnel are interested in advancement to the doctorate degree. We are able to send only a very few away on scholarships for this purpose. * * * Finally, as the technical work increases in complexity * * * no individual, regardless of his initial educational background or degree * * * can keep abreast of important matters within his field without access to a vast educational center.

Civic leaders, as previously indicated by the resolution of the San Diego City Council offering a gift of land to the proposed school, were also unanimous in their endorsement of the project. Mr. Roy Drew, president of the La Jolla Town Council, mentioned some of the advantages of La Jolla as a site for a school of science and technology:

> Here in La Jolla we have what we think is an ideal location for a campus community. Now if you think about your campuses about the country, probably the ideal background for a university, for a campus, is a small town or small village. * * *
>
> We also have one additional thing here, we have a town of people, citizens who are tremendously anxious to have an expanded cultural center in this area. We think the stimulation both ways, both to the students and the people who will come with the university, will be enhanced by the citizens who are here and waiting for their arrival. That we think is important.

This committee has carefully studied the wide variety of reasons for development of a school of science and engineering which have been advanced by the many witnesses who appeared before it. Expansion of the La Jolla campus of the University of California is recommended as a wise investment in the future of the whole State for the reasons presented in the introductory sections of this report.

SECTION V. RESERVATIONS OF THE LEGISLATIVE AUDITOR

Legislative Auditor A. Alan Post has raised several points which are worthy of consideration in connection with any appropriations for expansion of the La Jolla Campus of the University of California.

Although California is expected to end this year with $30,000,000 in the bank, General Fund expenditures are now at a rate exceeding $1,000,000,000 annually, of which $500,000,000 are for education. The university, a large recipient of the State's educational appropriations, is now spending $100,000,000 annually. $67,000,000 of this is derived from the General Fund. Without additional taxes it is becoming increasingly difficult to finance these present programs—education will need $31,000,000 more next year and the water program will require more millions. The $200,000,000 bond issue approved in the last election, together with another $200,000,000 which will probably be added to complete the five-year expansion program needed to keep up with the demand for schools, mental hospitals, correctional institutions and other state buildings, will temporarily ease the financial pressure. University enrollment, however, will increase about 20,000 in the next decade. Together with an even greater expansion of the state college program, this will require greatly increased appropriations from the General Fund.

At present the university has a well defined set of priorities for its expansion to accommodate the anticipated growth in enrollment. Unless the La Jolla expansion program is incorporated in these priorities it will merely displace in terms of money some of the development necessary for the anticipated student load.

The university is a state-wide institution. Any expansion of its facilities should, therefore, be designed to satisfy state-wide, not local,

needs. Students must expect to leave home if they wish to receive instruction of the caliber given by the university and envisaged for the La Jolla Campus because such instruction simply cannot be given on too local a basis.

Lack of capacity does not seem to be the major reason for the reversal with Russia in graduation rates of scientific and technological students. Rather it would appear to be a voluntary change in academic emphasis by American students.

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