

By means of this classification into different groups, the investor is enabled to select those types or classes of securities most nearly fitting his particular investment objectives. In addition he obtains broad diversification, from 30 to 70 securities in each Keystone fund, as well as constant supervision by an investment counsel organization which has been developed to perform the highly specialized work incident to the typing, classification and analysis of over 4,000 listed securities. While each of these Keystone funds is separate and distinct from the others, they are all part of the Keystone plan. Each fund is appropriately named to identify the type of security in the portfolio and the individual securities may be changed only through transfer of securities from the reserve lists for each fund, which are revised periodically by investment counsel and must be sent to all certificate holders before they become effective. All of the funds are operated by Keystone Custodian Funds, Inc., pursuant to trust agreements substantially identical in form. These trust agreements provide important safeguards to the investor, requiring, among other things, the custody of the securities and cash with a bank, the semiannual audit of accounts by public accountants and the selection and supervision of the securities by investment counsel, which is named in and is a party to the agreements.

In its work of typing, classifying, selection, and supervision, investment counsel naturally performs these services for all 10 Keystone funds, a circumstance obviously essential to the sound operation of such a plan, but which apparently would not be permissible under the bill as presently written. To require a different manager for each fund, as would apparently be necessary under section 10 (d), would create serious operating problems and would certainly increase expense to investors. There are other problems of a similar nature. For example, the trust agreement for each fund has a termination date in 1945. In order to provide a continuing service to investors, this date will have to be extended, or the funds replaced by others, but we might be restricted from so doing by section 11, having to do with the "recurrent promotion of investment companies." Similarly, should it appear advisable in the interests of investors to introduce additional Keystone funds including types of securities not presently covered by the Keystone plan, it might be difficult to do so under this same section 11.

In the typing of listed securities, the bonds, preferred stocks and common stocks of investment companies fall into different groups and in some instances might be attractive for use in the various Keystone funds. Since the trusts agreements themselves, as well as the practical limitations under the revenue act applying to mutual investment companies, limit the percentage that may be invested in the securities of any one company, the question of control does not apply in the operation of the Keystone funds. Yet section 12 of the bill would not permit the inclusion of listed securities of investment companies, no matter how attractive they might be.

One of the important objectives in the Keystone plan is to closely link the interests of investors and management throughout the life of the investment. It is felt that such a linking of interests is best achieved by compensating management in proportion to and at the time when the investor himself profits from his investment. For this reason the management compensation in the Keystone plan is based on a percentage—one-tenth of the appreciation or profit to each individual investor at the time he liquidates his interest. Should any net realized profits be distributed as capital distributions while his shares are held, a circumstance which might be necessary in order to qualify as a mutual investment company under the revenue act, and obtain the tax advantages thereof, the investor would receive nine-tenths and the management one-tenth of such net realized profits distributed. But otherwise management would receive nothing until the investor liquidates his certificate and then only if such investor realizes a profit over and above his original purchase price. In the Keystone plan, each fund is limited to a particular type of security, cash must be fully invested and buying on margin or borrowing is not permitted by the trust agreements. Thus, incentive to speculate to increase management fees, which presumably is the basic criticism of contingent compensation, does not apply. Section 15 (a) of the bill would require compensation of management to be based on a definite sum on money or an amount representing a definite percentage of income or of net assets. In other words, contingent fees are banned.

Section 15 (b) defines a "diversified investment company," one of the requirements being that its portfolio turn-over must not exceed 150 percent. The purpose of this ratio is obviously to measure the extent of voluntary trading in portfolio securities. This definition of turnover, as it now appears in section 45 (a) (30), however, does not measure voluntary trading but includes involuntary

or automatic transactions arising from the purchase or liquidation of trust shares by investors. To be accurate the definition of portfolio turn-over should cover only voluntary transactions and should exclude involuntary or automatic transactions as the management obviously has no control over purchases and liquidations of trust shares by investors.

In this brief discussion of the proposed bill, I have not touched on all the problems pertinent to Keystone Custodian Funds, but a few of the major ones. Certainly, such changes as may be made in the bill should take these problems as well as those raised by representatives of other investment companies into account. Unless great care is taken in studying all possible effects of the detailed definitions and regulatory provisions of the proposed bill, there are bound to be "accidental results" which work to the detriment rather than the benefit of investors, that handicap or destroy legitimate businesses and that accomplish no desirable or beneficial social result.

MEMORANDUM RELATIVE TO S. 3580 "TO PROVIDE FOR THE REGISTRATION AND REGULATION OF INVESTMENT COMPANIES AND INVESTMENT ADVISERS AND FOR OTHER PURPOSES"

(Prepared by Francis I. Amory, vice president, and E. Roy Kittredge, treasurer, of General Capital Corporation. Submitted to Senator Robert Wagner, chairman of the Senate Banking and Currency Committee, April 22, 1940)

This memorandum has been prepared by two of the principal officers of General Capital Corporation, an investment trust of the open-end management diversified type located in Boston, and is submitted to express the point of view of the management of the corporation.

GENERAL CAPITAL CORPORATION

General Capital Corporation is an outgrowth of Capital Managers, Inc., a privately owned investment company formed in 1927 by a group of five well-to-do Boston investors and a group of investment analysts. The object of the company was to develop an investment management organization which would be useful not only to the group but to each of the stockholders. Great care was taken, and always since has been taken, to make sure that nobody gained advantage at the expense of any stockholder from information obtained.

At the end of its first year, in May 1928, five more substantial investors joined the group and at about the end of its second year it was decided to form a publicly owned company.

Closed trust 1929-34

This company, General Capital Corporation, began business in August 1929, as a closed-end company. Over 29 percent of its capital was paid in by the management and their associates. Of this amount Capital Managers, Inc., invested an amount approximately equal to its paid-in capital. At the same time Capital Managers became General Capital's investment adviser and manager under a contract which could not be terminated except by mutual consent prior to December 31, 1934.

Open-end trust 1935 to date

At the end of 1934, by vote of stockholders, the original contract with Capital Managers was terminated and a yearly contract with Capital Managers was entered into. At the same time General Capital's charter was amended to require the company to redeem shares presented for redemption at liquidating value. Stockholders thus had the opportunity to vote on the new arrangement and then to redeem their shares if they wished to.

Although General Capital became an open-end company in December 1934, and registered with the Securities and Exchange Commission under the Securities Act of 1933 in March 1935, it was not until the fall of 1936 that it began actively to promote the sale of its shares to the public.

Present size and present management investment

At the present time, April 11, 1940, General Capital has approximately \$3,551,000 of assets at market value, 114,760 shares outstanding and 1,150 to 1,200 stockholders. Of the shares outstanding approximately 30 percent, with a

value of over \$1,000,000, are owned by Capital Managers and the present directors and officers of both corporations or held by such individuals as trustee or cotrustee or held by wives and children of such individuals.

Management compensation

The management's compensation for its services (since the time when General Capital became an open-end company) is paid quarterly at the rate of one-eighth of 1 percent of the value of the assets at the beginning of the quarter. In addition directors receive directors' fees for attendance at meetings. The management is, and always has been, prohibited from participating in any profits which may be made from sales of shares.

Services and facilities provided by management

For the above compensation the management provides the company with its board of directors; a full-time research and administrative organization consisting of seven persons, and recently, in addition, the personal advisory services of one of the country's leading economists and of his staff of assistants; and office space, office facilities, etc. The management also relieves the company of all costs of qualification of its shares for sale under the Federal and State laws and all other costs relating to the sale of shares.

Directors

From the beginning a majority of the directors of General Capital have been important trustees and investors and their ownership of shares in the company has been substantial.

PRESENT REGULATION OF GENERAL CAPITAL

Information filed with the Securities and Exchange Commission

General Capital is registered with the Securities and Exchange Commission under the Securities Act of 1933 both as an issuer and as a dealer, and under the Securities and Exchange Act as a listed company on the Boston Stock Exchange. It has also been, and still is, subject to the investigation of investment trusts by the Securities and Exchange Commission.

A partial list of papers filed by General Capital with the Securities and Exchange Commission follows:

Date	Subject	Approximate pages
Under Securities Act of 1933:		
Mar. 19, 1935	Registration of shares for sale	40
Apr. 17, 1936	do	45
Feb. 23, 1937	Registration of shares for sale (amendment)	26
Mar. 19, 1935	Prospectus	16
May 11, 1936	do	20
Jan. 19, 1937	do	20
Jan. 19, 1938	do	16
Jan. 25, 1939	do	16
Dec. 12, 1939	do	16
Under Securities and Exchange Act:		
Aug. 12, 1935	Registration with the Securities and Exchange Commission for listing on Boston Stock Exchange.	42
Apr. 24, 1936	do	19
Apr. 27, 1936	Annual report to Securities and Exchange Commission and Stock Exchange.	28
Apr. 28, 1937	do	29
Apr. 26, 1938	do	30
Apr. 26, 1939	do	30
Under Securities and Exchange Commission investigation of investment companies:		
Mar. 24, 1936	Answers to questionnaire	115
Feb. 17, 1937	do	10
Oct. 14, 1939	do	5

Hearings before Securities Exchange Commission

On June 29, 1936, the treasurer of General Capital, at the request of the Securities Exchange Commission, testified at an informal oral investigation of General Capital, conducted by Dr. Gourrich and attended by Mr. Schenker and 10 or 15 members of the Securities Exchange Commission investigating staff, lasting all afternoon, after preliminary work lasting all forenoon. Later the treasurer and legal counsel of General Capital, at the request of the Securities Exchange Commission, attended a formal investigation of General Capital before Commissioner Healey.

A verbatim report of both of the above hearings was made by Securities Exchange Commission stenographers. We have seen, but have never had copies of, these reports. As we recall them they amounted to more than 100 pages.

Information filed with States

General Capital has qualified its shares for sale by registration in the following States: California, Indiana, Iowa, Maine, Michigan, Minnesota, Missouri, Ohio, Oregon, Rhode Island, and Washington. In connection with such registration most of these States require the filing of information concerning the company and its officers in great detail and require the filing of detailed annual or semiannual reports. They also require that the business be conducted in conformity with high standards.

An example of these standards is contained in Regulation Q3 from the Ohio regulations, which is substantially the same as the regulation approved by the National Association of Securities Commissioners. This regulation is very comprehensive and contains 25 specific requirements, restrictions and prohibitions. We understand that this regulation is being filed with the committee by an investment trust representative appearing before it. We should be glad to submit a copy of the regulation if desired.

Examiners from some of these States have examined General Capital at its office.

Record with Securities and Exchange Commission, with States and with stockholders

Insofar as General Capital, or we, have any knowledge neither the Securities and Exchange Commission nor any of the States have ever criticized or have ever found any cause for criticism of General Capital. No State has ever denied General Capital's application for qualification and the only State in which such an application has been withdrawn is Wisconsin, where technical problems have not yet been solved and where the official in charge has advised that he will do nothing further until the question of Federal legislation is settled. No dissenting vote has ever been cast at a stockholders meeting of General Capital Corporation.

Summary

We know of nothing in General Capital's history, in its dealings affecting stockholders, in its dealings affecting the public, in disclosures developed by Securities and Exchange Commission examiners and by State examiners, etc., which gives any basis for the view that any further Federal regulation of it is needed or would be advisable. There is ample evidence, on the other hand, that General Capital is burdened by existing regulation and that this regulation is already cumbersome and expensive.

We believe that proper, intelligent regulation is desirable.

NEED FOR FURTHER FEDERAL REGULATION

A tremendous mass of material has been prepared by the Securities and Exchange Commission from its investigations, extending over several years, for the purpose of establishing grounds for further Federal regulation of investment companies. These reports, however, are, in our opinion, one-sided. We believe that the industry as a whole is condemned on the basis of the sins of the sinners without any counterbalancing evidence of the merits of the meritorious.

Such a method of approach is, in our opinion, distinctly unsound as a basis for legislation.

We believe the Securities and Exchange Commission investigation should have been made from an impartial point of view and should have reported on the merits as well as the evils of the industry, and on the scope of present Federal regulation and present State regulation, and that such an investigation and report by an impartial body is necessary as a guide to sound legislation. It seems hardly

necessary to say that we believe the evils disclosed by the Securities and Exchange Commission reports should be stamped out by further Federal legislation if such legislation is actually necessary and if such legislation will not on balance do more harm than good.

We wish to state that no invitation has ever been extended to us by the Securities and Exchange Commission to give the Securities and Exchange Commission our views regarding the proposed legislation and that a letter which we wrote to the Securities and Exchange Commission regarding the proposed legislation was not acknowledged. We were told about the proposed legislation by representatives of other investment trusts but were informed that if we wished to present our views to the Securities and Exchange Commission we would be prescribed and limited, and it seemed to us we would, therefore, not be able to make a proper presentation.

On the only other occasions when we offered suggestions to the Securities and Exchange Commission we had similar experiences. In the first of these a suggestion for making procedure much less cumbersome and expensive was passed over apparently without much consideration, and in the second our letter was not acknowledged.

These comments are not intended as criticism of the Securities and Exchange Commission's performance of its functions as a whole, for we realize that in many respects it has accomplished great and useful things, and that the Commission and its staff have in general labored hard with their superhuman tasks. The incidents we refer to, however, seem to us to indicate that any governmental body, with such far-reaching powers and responsibilities as the Commission now has, is bound to be rigid and slow in action, with resulting discouragement and uncertainty to businessmen who have to submit proposals for approval or other action. If this bill were to add further duties and discretionary responsibilities to those the Commission now has, we cannot help but feel that its performance would be more hampered and unpredictable than it now is, and would interfere with the necessary process of simplifying and clarifying the laws and regulations under which the Securities and Exchange Commission now acts, to which we think the Commission should devote much more of its energies.

PRINCIPLES ON WHICH FURTHER FEDERAL LEGISLATION SHOULD BE BASED

If further Federal legislation is needed we believe it should be based on the following principles:

1. Investment trusts are desirable institutions and their development should not be stifled.
2. Investment trusts can for the most part be satisfactorily regulated by the States. They are not like transportation, food, etc., which must cross State lines. States can refuse to admit the securities of investment trusts if they so desire. The Federal Government should not force its will on the States in this field.
3. Regulation should be reduced to minimum needs.
4. The regulatory body should be specifically restricted by law and should have a minimum of discretion on specific matters, for definite purposes and within specific limits.
5. Regulation should not be cumbersome or expensive. It should not overlap and duplicate other Federal regulation.
6. The regulatory body should not be prosecutor, jury and judge or become an octopus.
7. The Federal Government should not continue to concentrate power in itself and in its agencies.

OUR OPINION OF PRESENT BILL IN GENERAL

Our opinion of the present bill in general follows:

1. The bill is based on extremely one-sided and unsound premises.
 2. The bill fails to recognize the desirability of investment trusts and threatens the life of all trusts in its zeal to abolish the evils of a few.
 3. The bill provides for a maximum of regulation.
 4. The bill gives the regulatory body almost unlimited discretion.
 5. The bill provides for regulation which would be extremely cumbersome and expensive both to the Government and to investors. The bill overlaps and duplicates present Federal regulation.
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6. The bill gives tremendous additional and quite possibly conflicting responsibilities and powers to a Federal agency which is already overburdened with duties some of which might better be delegated to more than one body.

7. The bill unnecessarily forces its will on States.

8. The bill would encourage people to rely on the Federal Government and not on themselves to an undue degree.

9. The bill is an important and significant step toward further undesirable concentration of power in the Federal Government and its agencies.

10. The bill is so unsound in its general point of view and structure that we believe it would be impractical to try to revise it. We believe an entirely new bill, if a bill is desirable, should be written based on the principles which we have suggested.

THE BILL AS IT APPLIES TO OTHER THAN OPEN-END INVESTMENT COMPANIES

Although many of our comments on the bill in this memorandum are applicable from the point of view of the bill's treatment of all investment companies, the memorandum is intended primarily to cover, solely because of limitations of time and space, only certain phases of the subject which relate to open-end management companies.

THE BILL AS IT APPLIES TO OPEN-END COMPANIES

The remainder of this memorandum will confine itself to the bill as it applies to open-end management diversified investment companies which are capitalized solely with redeemable securities.

The definition of investment companies of this type in the bill (secs. 3, 4, and 5) is not correct as such companies now in existence are constituted. These companies are correctly defined as follows: "Open-end management diversified investment company" means an investment company which has outstanding or is offering for sale only redeemable securities of which it is the issuer, which has a board of directors or trustees which is entrusted by the stockholders with the management of the company and the investment of its funds, and which diversifies its investments according to the laws and regulations of the various States in which it offers its securities for sale.

Redeemable security is defined both in the bill and in this memorandum as follows:

"'Redeemable security' means any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer or to a person designated by the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof."

Brief description of open-end management diversified investment companies

The type of investment company dealt with in this memorandum is designed to fill the investment management needs of the investor who (1) cannot, or does not wish to, manage his investments himself, and (2) cannot, or does not wish to, keep direct control of his investments and manage them with the advice, paid or unpaid of others. Most of these investors are people of moderate means and their average potential investment in any one investment company would be relatively small.

This type of company is a medium by which such investors are able to group their interests into a unit of sufficient size to enable them to get at reasonable cost qualified management and adequate diversification (which they could not otherwise have) with the same liquidity which they would have if they managed their investments themselves. In these respects these companies are somewhat similar to savings banks, cooperative banks, mutual insurance companies, etc.

If such investors were deprived of this medium they would be deprived of the means of obtaining satisfactory investment management and of obtaining adequate diversification. In our opinion there is no other way in which such investors can obtain satisfactory management, satisfactory diversification, and satisfactory liquidity except at prohibitive cost.

The relative importance of this type of company is indicated by the amount of sales of securities of this type of company from 1927 to 1936 and the proportion of all sales of investment company securities which these sales represented, shown in the following table. This table shows a very great increase in the sales of this type as compared with other types in the later years.

Sales of securities of open-end management investment companies

[Report of the Securities and Exchange Commission, pt. 2, vol. II, p. 11]

Year	Sales	Percentages of total sales of investment company securities	Year	Sales	Percentages of total sales of investment company securities
1927.....	\$20,000,000	5.2	1933.....	\$32,000,000	66.2
1928.....	40,000,000	4.1	1934.....	69,000,000	45.4
1929.....	89,000,000	2.9	1935.....	86,000,000	50.3
1930.....	29,000,000	3.5	1936.....	123,000,000	61.1
1931.....	22,000,000	6.6			
1932.....	26,000,000	21.0	Total.....	586,000,000	9.3

Different from other types of investment company

This type of investment company is different from other types. In this type of investment public company the shareholders and the investing public are the masters and the company depends for its continued existence on confidence on the part of its shareholders and the investing public. By failure of the investing public to continue to purchase the securities of such a company or by redemption of the shares of such a company by its shareholders, or by a combination of both processes, liquidation of such a company could take place in short order. For these reasons these companies have a certain natural immunity to abuses. And for these reasons these companies, at least, are not properly a subject for legislation which does not clearly differentiate these companies from companies of other types.

Open-end management diversified investment companies are not subject to the shortcomings and abuses enumerated in the bill's "findings" and "declaration of policy"

That part of the report of the Securities Exchange Commission on investment trusts and investment companies entitled "Abuses and Deficiencies in the Organization and Operation of Investment Trusts and Investment Companies" (pt. 3), contains 2,124 pages, of which only 91 pages (pt. 3, ch. III, pp. 1 to 91), or about 4 percent directly relate to open-end management companies. These 91 pages are devoted almost entirely to "problems" relating to the sale of shares, as distinguished from "abuses" of the type specifically mentioned in the bill. The only substantial instance of abuse cited in these pages relates to an abuse which was eliminated when discovered by the Securities and Exchange Commission under the authority given by the Securities Act of 1933 and for which no further legislation is needed. These 91 pages give no substantial basis for the application of the "Findings" and the "Declaration of Policy" in this bill to open-end management investment companies. On the contrary these relatively few pages, representing the results of a vast amount of formal, detailed investigation of each company by the Securities and Exchange Commission, are convincing evidence that open-end management companies are already subject to adequate regulation and that these companies should be completely exempt from the provisions of the bill.

The "problems" outlined in the 91 pages referred to in the foregoing paragraph are of relatively minor importance and can be satisfactorily solved without further legislation. See pages 11 to 14 of this memorandum.

These companies are highly regarded by an increasing number of intelligent, experienced investors and are supervised by State regulatory bodies. They are not and have not been subject to a material degree, to the abuses which this bill is intended to mitigate or eliminate, as follows:

These companies do not "dominate and control * * * the policies and management of, companies engaged in business in interstate commerce" and have not done so in the past, other than in the interest of investors in their shares and then only to a minor degree as would be the right of any stockholder. (Quotations from the bill, sec. 1 (3).)

These companies do not "have a vital effect upon the flow" of the "national savings * * * into the capital markets." (Quotations from the bill, sec. 1 (4).)

These companies are subject to effective State regulation. (See the bill sec. 1 (5).)

Investors do not "purchase, pay for, exchange, receive dividends upon, vote, refrain from voting, sell, or surrender securities issued by" these companies "without adequate, accurate, and explicit information, fairly presented, concerning the character of such securities and the circumstances, policies, and responsibility of such companies and their management." These companies are all subject to supervision by the Securities and Exchange Commission under the Securities Act of 1933, subject to the general investigation of investment companies by the Securities and Exchange Commission, subject to the Securities and Exchange Commission through the National Association of Securities Dealers under the Securities Exchange Act, subject to laws and regulations of the various States, and subject to the necessity of dealing fairly with their shareholders if they are to keep their shareholders from redeeming their securities and thus liquidating the companies. (Quotation from the bill, sec. 2 (1).)

These companies are not "organized, operated, or managed in the interest of directors, officers, managers, investment advisers, depositors, or other affiliated persons thereof, in the interest of underwriters, brokers, or dealers, in the interest of special classes of their security holders, or in the interest of other investment companies or persons engaged in other lines of business, rather than in the interest of all classes of such companies' security holders and of the public." (Quotation from the bill, sec. 2 (2).)

These companies do not "issue securities containing inequitable, discriminatory, or anomalous provisions, or fail to protect preferences and privileges of their outstanding securities." (Quotation from the bill, sec. 2 (3).)

These companies do not have "control or management" which "is unduly concentrated, inequitably distributed, or irresponsibly held." (Quotation from the bill, sec. 2 (4).)

These companies "in keeping their accounts, in maintaining reserves, and in computing their earnings and the asset value of their outstanding securities," do not "employ unsound or misleading methods," and they are "subjected to adequate independent scrutiny." (Quotation from the bill, sec. 2 (5).)

These companies cannot as a practical matter be "reorganized, dissolved," and cannot "become inactive or change the character of their business," and "the control or management thereof" cannot be "transferred, without the consent of their security holders and without adequate public supervision." (Quotation from the bill, sec. 2 (6).)

These companies cannot as a practical matter "engage in manipulative or unduly speculative transactions, have excessive investments in securities or property of a speculative or unmarketable character, or by borrowing and the issuance of senior securities¹ increase the speculative character of their junior securities." (Quotation from the bill, sec. 2 (7).)

These companies do not "operate without adequate assets or reserves, or attain such great size as to preclude efficient investment management and to have excessive influence in the national economy." (Quotation from the bill, sec. 2 (8).)

In short these companies have not been and are not now guilty of "the abuses enumerated in this section" (sec. 2) of this title. (Quotation from the bill, sec. 2 (8).)

Further Federal regulation of open-end management diversified investment companies is unnecessary and might be harmful

Further Federal regulation of these companies as proposed, in addition to that now provided by Federal laws, would in our opinion be expensive, impractical, unreasonable, and unnecessary, and would impede the operation of the economic system. Such regulation would duplicate and conflict with present effective regulation by the States and present supervision by the Securities and Exchange Commission under the Securities Act of 1933 and under the Securities Exchange Act of 1934. Such regulation might impair the operation, and impede the development, of this type of company and would be contrary to the national public interest and to the protection of investors. Such regulation would probably add unnecessary abuses which are inherent in Government restrictions and regulations which would more than offset any abuses which such regulation might be intended to mitigate or eliminate.

These companies are especially vulnerable to imputation of guilt, even though unfounded, because of the fact that investors may redeem their shares on demand

¹ Over 95 percent of the capital invested in open-end companies, we understand, is in companies having no senior capital.

and thus liquidate the companies and because of the fact that these companies are all relatively young and not many of them have attained sufficient size and standing to withstand such imputations. They are in this respect much like savings banks and insurance companies, but unlike savings banks and insurance companies these companies are not sufficiently old to have the standing in the public mind which savings banks and insurance companies have. A "run on the bank" can be started much more easily.

Passage of this bill without exemption to these companies, or failure to act on this bill, would do inestimable harm to these companies, to their present and prospective investors, and, to that degree, to the national public interest.

The extremely one-sided point of view of the bill

A one-sided point of view—in the bill and its sponsors—is shown in the "Findings" and in the "Declaration of Policy," sections 1 and 2 of the bill. This evidence of bias in itself should cast doubt on the soundness of the bill.

We believe the Securities and Exchange Commission is already overloaded with responsibilities, authorities, and duties, and we believe so much concentration of power in a governmental agency should be the subject of concern.

Although this bill might succeed in preventing some abuses which have happened with some types of investment and holding companies (many of which abuses were contrary to existing law or have been dealt with in existing State or Federal regulation), in attempting to add further checks on such abuses we believe the bill would substitute other evils equally bad, or even worse, unless drastically changed.

THE PROBLEM OF FAIRLY PRICING SHARES OFFERED TO THE PUBLIC

Securities and Exchange Commission has authority and responsibility on pricing under Securities Act of 1933

Although much has been made in the Securities and Exchange Commission's testimony before the committee of the problem of pricing, only one side of the problem has been presented and no constructive solution has been proposed by the Securities and Exchange Commission.

We believe the Securities and Exchange Commission has the authority and the duty to solve this problem completely and satisfactorily both in the interest of the public and of the investment trusts. We believe it is only the failure of the Securities and Exchange Commission to perform its duties under the Securities Act of 1933 which has permitted pricing abuses to exist to the detriment not only of investors but of investment trusts as well.

General Capital's prospectus states: "By reason of the execution of purchase orders on the basis of the previous day's close, on any day when the net value of the corporation's assets measured by market quotations has increased it will receive (and the investor will pay) for shares sold less than the proportionate part of such net value * * *. The corporation considers, however, that no material inequity to it or to investors results from this situation."

Other investment trust prospectuses contain somewhat similar statements. If the statements in these prospectuses are not true or are misleading it seems to us the Securities and Exchange Commission should either require that the prospectuses or the pricing methods be revised or should stop the sales of the shares.

Principles on which problem should be approached

We believe the pricing problem should be approached on the basis of the following principles:

1. Sale of shares is desirable from the point of view of both present and prospective stockholders of investment trusts as well as from the point of view of the management. Without such sales sufficient size cannot be attained or maintained to give stockholders satisfactory and economical management.

2. Asset value, or liquidating value, computed on the basis of last sale or bid prices does not represent the amount for which the assets could be purchased or could be liquidated at that particular time. Such value is only an approximation of the amount for which the assets could be purchased or liquidated.

3. Dilution measured by the difference between the price at which a share is sold and the asset value per share, based on the latest market quotations at the time of sale, is only approximate and is clear dilution only to the shareholder who liquidates his shares at that particular time. Such dilution is not likely to be greater than the accretion gained by the same shareholder when he