

Address of

EARL F. HASTINGS

Commissioner
Securities and Exchange Commission
Washington, D. C.

before the

NATIONAL ASSOCIATION OF SECURITIES

ADMINISTRATORS

Thirty-Ninth Convention

Hotel Samoset

Rockland, Maine

September 11, 1956

It is with extreme pleasure that I join you here in Maine to participate in the 39th Annual Convention of the National Association of Securities Administrators as well as to have the opportunity of renewing the many refreshing associations which developed during the course of the last annual meeting in Vancouver and Victoria, B. C. Little did I know during that pleasant period in which we were the guests of one of our favorite hosts, the genial and gracious "Stew" Smith, that I would this year meet with you in a slightly different role and from this side of the rostrum.

I started to characterize my position on this side of the rostrum as being "on the other side of the fence" but immediately realized how inaccurately any such colloquialism would depict our true relationship as it presently exists. For in a sense, in a very real sense, the overwhelming majority of those who are sufficiently interested to attend and participate in these functions are, in fact, all on the same side of the fence.

There are here in attendance persons representing groups and associations which in turn represent various segments of the financial industry or community and they therefore have interest of a particular nature in these proceedings as well as in our routine administrative practices throughout the year. Representatives of these groups recognize, perhaps even better than we do as administrators, the importance of public confidence in securities and securities markets as a necessary element to their business survival and certainly as a necessary ingredient to their future growth. They know, at least equally as well as we do as administrators, the need of a firm and effective regulation to produce, maintain and fortify that public confidence. Such groups cannot afford to, and I believe do not intend to, confine their interest or activity to obtaining temporary gains or intermediate advantages only to avoid inconveniences to themselves in the administrative processes surrounding the regulation of securities distribution; they incline generally toward the longer range and more stable benefits which may be anticipated through their participation on a broader cooperative basis and constructive scale.

Among the groups here represented are those which, under Federal law, are endowed with statutory recognition. These include the stock exchanges and the NASD, both of which exercise regulatory authority through their respective rules, regulations and codes of ethics which have an immeasurable impact upon the entire industry.

The degree to which they effectively perform their function creates favorable influences and establishes standards reaching far beyond the breadth of their immediate membership.

There are here present attorneys and technicians whose primary interests lie in the basic mechanics of the processing through which securities are made available for public offering and sale. As a State administrator, where my contact with them was more direct and frequent than now, I found such persons interested in strict, technical compliance with, rather than evasion or circumvention of, the various and sundry laws and regulations to which they and their clients were subject. While always desirous of utilizing such exemptions as were validly available to them, they were invariably reluctant to utilize one concerning which there could be any question. Routine inquiries and requests for interpretative or advisory opinions originating with this group were frequently found to be clues to ambiguities or inadequacies of language pointing up the need of either statutory clarification or bolstering with an appropriate interpretative rule or statement of policy.

All of the foregoing classifications of the representation in attendance here serve many useful purposes to the administrator should he care to utilize them in the exercise of his duties. Their comments, whether specifically solicited or volunteered, whether in assent or in protest, are almost without exception moderately tempered, carefully conceived and frankly presented. The very fact that there exists such groups of interested and informed persons serves as a deterrent to any inclination toward thoughtless or capricious use of those broad administrative powers which are necessarily conferred upon the administrator as a tool designed for his use in the service of the investing public. It may be said with assurance I think that these groups materially contribute to the effectiveness of securities regulation, that they desire to and do aid rather than obstruct sound administrative practices and may be considered as among the administrator's able and willing allies in the fulfillment of the functions of his office.

Let us turn now to the administrators themselves who, after all, provide the hard core of the control which must be vigilantly and diligently exercised over the entire scope of securities distribution if the public interest is to be protected and served.

The nature of certain material which is emanated from the vicinity of Cambridge from time to time in the past and the address of Professor Louis Loss at this and your last annual meeting leads one to believe that there is room for doubt that the laws, philosophies and administrative practices of all states are identical in all of their ramifications. At first blush this situation would appear such as to preclude concerted action in any form by the administrators of these diverse state statutes, or with their Federal counterpart, the S.E.C. Fortunately, however, there are several areas in which cooperative effort can, and does with ever-increasing effectiveness, prevail in spite of wide variance in our respective approaches.

This cooperation is made possible by a single basic fact; that is, that we both have but one and the same common objective - investor protection through the suppression of fraud. While we may each attempt to achieve this objective by different approaches, the existence of a common cause provides a firm bond between us and should serve to stimulate us to bridge any chasms created by our respective philosophies and statutes. Our compatability is founded upon our common goal, for in it we find the potent ingredients for a communion of thought and concentration of action. What is false and misleading, what is onerous, and what is sought to be eliminated is essentially the same in one jurisdiction as it is in another. This will be found generally true irrespective of the fact that the statutory language by which an offensive act is characterized, or the procedural details by which its suppression is to be accomplished, may widely differ.

In the enforcement of our respective laws, as an example, there is a broad field in which we may beneficially apply a liberal measure of coordination of effort. Our common objective makes it not only possible but extremely desirable that we so exert ourselves. In many respects the State laws endow the administrator with more extensive powers to regulate the issue and sale of securities, and provides him with the authority to more quickly exercise such powers than do the Federal laws administered by the S.E.C. On the other hand, the area of jurisdiction, geographically speaking, presents a greater opportunity for the S.E.C. to attack some of the problems which are difficult and some which are impossible for the State administrator to resolve. Each of us has a vital position in the intricate over-all pattern which has slowly evolved over the many years of government's continuing efforts to protect one class of persons from another without impairing access to the capital markets to the detriment of industry in general. Our areas of jurisdiction may sometimes overlap,

but it was not the intent of the Congress of the United States that they should conflict, and special provision was made in the Federal law to prevent infringement upon the affairs of the State.

It becomes obvious that the principal theme of this address is cooperation - and more cooperation. I have perhaps over-simplified my concept of the issue to the extent that it might appear that we need only relax and, as the poet put it, "tread the primrose path together." This is, of course, not the case for there are problems, though none that are insurmountable. The gratification which comes from achievements on a cooperative basis can be gained only by a continuing and unfaltering determination to apply our facilities, abilities and talents to that end.

During the seven years as the securities administrator for the State of Arizona I was gratified observing a continuing and accelerating cooperation between the offices of that State and the S.E.C., and I am even more pleased to observe it from this new vantage point. Clarence H. (Ted) Adams, well known to most of you as a former State administrator, a past President of your association, and as a former Commissioner of the S.E.C., publicly expressed himself on innumerable occasions as to the advantages of a closer relationship between the activities of the State and Federal administrators, and to that end he addressed himself with diligence and with marked success. He was not alone in his beliefs along this line for I feel sure that many of you experienced, as I did, the expanding pattern, and the frequency of use, of that relationship.

I can assure you that the Commission as it is presently constituted is inclined to vigorously pursue this mutually pleasant and beneficial condition. Further, by way of disclaimer, I will say that the Commission's interest does not stem alone from the fact that there is now and has been for several years past a member with a State administration background.

Our Chairman, J. Sinclair Armstrong, is privileged to serve on the Advisory Committee with many of your members in connection with the study of State securities regulation and the draft of a proposed uniform act which was conducted by Professor Louis Loss. He regards the study as extremely important in pointing up the diversity between the State acts and the manifold problems thus created. He and other members of the Commission may be relied upon, however, to exploit all possible means by which our cooperative methods may be further improved and extended now and under existing laws, rather than await results of the impact of that study upon future trends in State legislation.

During the past year the S.E.C. and members of its staff have met with your Liaison Committee and discussed a multitude of matters of mutual interest. In our forum yesterday those prior discussions were further expended and a variety of subjects ranging from investment clubs and variable annuities to Regulation A were included in the agenda.

It is of particular significance that the Canadian authorities engage in and contribute materially to these discussions. Perhaps nowhere else in the world are the representatives of political subdivisions of two great nations so intent upon resolving mutual problems that the normal barriers of international boundary lines are barely perceptible. I say this in the sense that we meet on a shirt-sleeve rather than on a diplomatic pin stripe basis.

It is apparent that we have thus far progressed on a true course. We should not rest at this juncture, however, but press on to consolidate our gains, complete those things which have been started but not yet resolved and probe and explore every new avenue which might offer any opportunity for a closer and more effective cooperative effort. It is not only logical that we do this, but it seems mandatory. There appears to be no immediate relief from demands upon our facilities.

During the last fiscal year the volume of filings with the S.E.C. reached an all-time record of 14-1/2 billion dollars. It is presumed that in your respective jurisdictions you are experiencing similar proportionate increases. Forecasts for the coming year indicate that new capital requirements of industry will be greater than in any prior year. It is essential that we accommodate these needs, not only in the mechanics of processing individual filings yet to be made, but also by remaining ever alert to the maintenance of healthy conditions in the financial community as a whole. The regulatory service which we perform is needed to protect the investor -- which in turn tends to establish investor confidence -- which in turn contributes to a healthy financial community -- which in turn permits business to more readily obtain its capital.

In the application of our regulatory service and in our attempts to prevent, or root out as the case may be, unhealthy situations in the money market, we are not infrequently charged with restricting free enterprise and being an obstacle in the growth of industry, particularly small industry. These allegations are, of course, time-worn and wholly unsupported by fact. In the long famous Halsey case the court said of an early blue sky law:

"It burdens honest business, it is true, but burdens it only that under its form dishonest business may not be done."

That observation is as applicable now as it was in 1917 when made.

Actually the cost and inconvenience to business in complying with securities laws is probably inconsequential if compared to the costs, inconveniences of competition and frequent inability to procure capital from any source which was and would be again encountered by the business without the benefit of those laws.

We all have the occasional problem of defending both at the same time, the laws and regulations which we administer from those who feel that they do not adequately protect some segment of the investing public and from those who take a diametrically opposite view that the same laws are oppressive to business. At best, we appear to have educational, publicity or similar problems although we shall undoubtedly always remain squarely in the middle.

To summarize, I have here reviewed a few of the elements of our common interests and objectives and a few of the reasons which to me would justify, if not impell, a coordination of our efforts whenever possible. I have assured you that the Securities and Exchange Commission is acutely aware of the need for and the benefits to be derived from the closest possible association with State and Provincial administrators and will continue to support any such program to the fullest extent possible under the laws which it administers.

I have refrained from suggesting specific items upon which, and manners in which, we might fortify our cooperative program. The wide range of interests which are encompassed within the representation at this meeting would be impossible to touch upon even lightly. We are, however, willing and anxious to have any expression of views as matters may occur to each or any of you.

During recent months there has been an internal reorganization in the Commission and a realignment of certain functions including, among other things, creation of a branch devoted to small issues, as well as a substantial increase in personnel needed to augment the staff of both the regional and Washington offices. These factors will favorably affect our ability for a reciprocal program with you.

All of the members of the staff who are in attendance join me in thanking you for the opportunity of being with you, and Chairman Armstrong asked me to express regrets that he was unable to arrange his schedule so that he could attend at least some of your sessions.