

# NASD News

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Number 1

## THE 5 "W's" OF YOUR WAR JOB— AND THE "H" OF IT

There is no longer any reason why anyone in the securities business should: (1) have a sense of futility about what he's doing to help win the war; (2) wonder why he hasn't been told what he could be doing for his country.

A great many have been provoked by such musings. Many have found the solution to them in action. So can you. The purpose of this article is to give you the who, what, when, where, why and how—the 5 "W's" and the "H" of your war job.

The machinery's been set up. It is running. There is a very special job for you on the line. It's tailor-made for your particular abilities.

You've heard of the Victory Fund Committees. There are twelve of them—one for each Federal Reserve District. These Committees are mostly made up of commercial and investment bankers. They have but one job to do—sell as many government securities as possible. That's a big order—how big will be shown a little later on.

There's not much flag-waving involved. There's not much time for that. It is hard, grinding work; there are no quitting hours; when you finish one assignment, the

thing of which you can be certain is that another is on its way to you. Another thing is sure. You'll get a great deal of satisfaction out of what you do. You'll feel that you are doing your part as a member of a task force that is keeping combat task forces at the fronts supplied with what they need to do their job. You'll also feel a sense of gratification that you are doing your part to maintain the equilibrium at home. For every dollar invested in government securities is an insurance premium against inflation. Winning the war and losing the peace battle is to be dreaded above everything, next to defeat. But winning the war and losing the inflation battle would be almost too high a price for victory.

These Victory Fund Committees were created to put government bond selling on an organized, continuing basis with the assistance and direction of securities men. They provide the rallying point for the last ounce of effort that can be assembled in the drive for dollars.

Each Committee is directly responsible to the United States Treasury, through a National Committee. The "Na-

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### Members Approve Amendments; 62% of Votes Favor Capital Rule

#### 1,939 BALLOTS CAST—73% OF ELIGIBLES

Twenty-seven amendments to the By-Laws and Rules of Fair Practice of the Association, on which the membership voted between June 15 and July 15, have been approved and certified to the Securities and Exchange Commission.

Results of the voting follow:

Members eligible to vote—2,631.

Total votes—1,939.

Per cent of membership voting—73 per cent.

Approvals of Art. I, Sec. 1, establishing minimum capital requirements for membership—1,197.

Disapprovals of Art. I, Sec. 1—738.

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**Get Behind  
Your  
Victory  
Fund  
Committee**

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tional Committee" is made up of Henry Morgenthau, Jr., Secretary of the Treasury, as Chairman; and the Presidents of the Twelve Federal Reserve Banks with Marriner S. Eccles, Chairman, Board of Governors, Federal Reserve System, as liaison officer. George Buffington, Assistant to the Secretary, is in charge of the Victory Fund program. Each President of a "Federal" is Chairman of the Victory Fund Committee of his District. Victory Fund Committees function, in most instances, through a small executive committee made up of representatives of the securities business. From there, they break down into State or Regional Committees which, in turn, can be further broken down into Sub-Regional Committees and to County Committees and even City groups when these are desirable for effective prosecution of the effort.

The actual administration and supervision of Victory Fund Committee work in each Federal Reserve District is centered in one person—the Executive Manager. He is a securities man with lots of experience in the business. He left the ranks of the securities business to accept appointment to his Victory Fund Committee from the Secretary of the Treasury. Executive Managers may be paid or may be serving as volunteers. There are other paid personnel serving Victory Fund Committees, but their number is kept to the minimum of absolute necessity. Otherwise, no one serving in this work is being compensated. That goes for all who participate in the selling effort. There is no compensation except that which one derives from the knowledge that he is doing his part. Provision is made for reimbursement of certain out-of-pocket expenses incurred by volunteer workers on official duties. Each Executive Manager is responsible for funds of this kind. He has or will talk frankly with people in his District on this subject. Employees of commercial banks as well as of investment banking and securities firms are an integral part of Victory Fund sales forces.

Here's what you should do to enlist in this work. Get in touch with the Executive Manager of your Federal Reserve Bank. Write or wire him of your desire to join with other securities people in your District in their efforts to distribute government securities. He'll communicate with you, advising what your next step is. Great progress already has been made in organizing this work so that you will involve yourself in no waste motion. Don't feel that what you can do is too small to warrant enlisting as an official Victory Fund worker. Rather, feel that by throwing in your lot with other people on an organized scale that the whole effort can be made more effective. Your own resources of information and contact do not constitute the limits of your effectiveness. Your field of service may be far beyond your concept of it.

Meanwhile, if you are not already fully informed as to the types of securities that are and have been offered, set about familiarizing yourself with them. They cover a wide field. There are the War Savings Bonds which are issued in three series—E, F and G. The E bonds are for small buyers. The F's and G's are for larger investors and institutions other than commercial banks accepting deposits and can be bought in the amount of \$100,000 annually.

The Treasury distributes these War Savings Bonds through the War Savings Staff but the efforts of that group can continuously be implemented by Victory Fund Commit-

tee workers who know of prospects for the F's and G's. Some War Savings workers also are Victory Fund workers and vice versa.

But the principal Victory Fund assignment comes on regular offerings of government securities. These have been and will be in a variety of forms and terms and maturities. In the last few months the Treasury has sold a 2½ per cent twenty to twenty-five-year "tap" issue in the amount of \$882,000,000; an issue of 2's in the amount of \$1,292,000,000 with a 7-to-9-year maturity; an issue of 4½-year 1½'s in the amount of \$1,119,000,000; \$1,500,000,000 of certificates of indebtedness bearing 5/8 per cent interest and maturing in 7 months; \$2 billion 2's with a 7-to-9-year maturity. In addition, the Treasury in May and June sold \$355,000,000 of Treasury Tax Savings Notes of which there are over \$3,100,000,000 presently outstanding. And every Monday morning the Treasury takes bids on \$300,000,000 of 90-day bills. Each and all of these and others to come are Victory Fund "merchandise."

Summing up—it appears that the Treasury will look to the "regular" channels of investment funds for \$3 billions or more a month. This is over and above \$1 billion monthly wanted from War Savings Bonds. About \$1.5 billions monthly should be derived from Treasury Bill sales, suggesting that \$1.5 billions or more monthly will be realized from sales of other types of issues.

What does the over-all job amount to? The answer is in a bit of simple arithmetic with staggering figures. The nation is spending \$77 billions this current fiscal year. It expects to collect \$23 billions in taxes. It expects to get another \$12 billions from the sale of War Bonds and Stamps. The balance, \$42 billions, must be raised by the sale of government securities of various kinds. Where is that kind of money? Who has or will get it? When? What is to be done with it? How can it be diverted into "governments"? You and your neighbors and your fellow citizens

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### Secretary Morgenthau: "Fine Job!"

NASD members recall being asked to participate last March in the Treasury's sale of certificates of indebtedness. The response and the results of the offering brought the following letter from Secretary Morgenthau:

#### THE SECRETARY OF THE TREASURY WASHINGTON

April 11, 1942.

Dear Mr. Fulton:

I have seen a report on the work done by the securities industry in contacting corporations in connection with the Treasury's offerings of Certificates of Indebtedness. You have done a fine job in the limited time in which you had to work.

I wish you would convey to your members my appreciation of their co-operation.

Sincerely yours,

H. MORGENTHAU, JR. (s)

Mr. Wallace H. Fulton,  
Executive Director,  
National Association of Securities Dealers, Inc.,  
821 Fifteenth Street, N. W.,  
Washington, D. C.

## Chairman Dewar Reviews NASD Problems, Controversies; Expenses, Examinations, Other Policies Covered; Future Discussed

By H. H. DEWAR, Chairman, National Association of Securities Dealers, Inc.

(Speaking before Texas Group, Investment Bankers Association of America)

We have learned a great deal of late about the dangers of complacency. It is one ailment from which the securities business is not suffering, if one can judge from the controversial problems we have had before us in NASD.

We have 2,600 members. Not all of us do the same type of business. We certainly do not all think alike. But, in spite of this, those of us who are charged with the responsibilities of running the Association are called upon to make decisions. Of course, these decisions do not please everyone. They often do not please more than a mere majority of the members of our Board. And yet, through the very democratic processes which are the roots of our Association, we feel that, on the whole, we resolve these problems in the interests of most of our membership.

There probably is no such thing as a "typical dealer." Therefore, I cannot claim to know his viewpoint. But there are a great many dealers in our Association whose situation is similar to that of our firm and I do think that I can claim to know the general viewpoint of this segment of our business. Our firm (Dewar, Robertson & Pancoast, San Antonio) is neither very large nor very small. We are located in a moderate-sized city—not a financial center. We deal in all types of securities and our business is largely with individuals and small institutions in our area. With this as a business background, I am going to state the firm's fundamental philosophy as it may relate to the problems of NASD.

We believe that wide distribution of securities is an integral part of the democratic process and is a great and vital strengthening force for preserving and improving the system of private enterprise. Although we try to look with reality on the gambling instincts of many of our citizens, we do not believe that the securities markets should be an instrument for such activities. Therefore, we have welcomed the principle behind governmental efforts to eliminate the "casino" element from some of our markets. With this has come a broadening of the merchandising principle of securities distribution. We thoroughly believe in this principle, both from a moral and a practical standpoint. We do not think that securities can be properly distributed unless a fair profit can be earned by the dealer in the distribution. We do *not* think that the world owes dealers a living but we *do* feel that if we are allowed to earn a profit, we can gear ourselves so as to render a real service to the public investor and so justify that profit.

The elimination of the "casino" and the growth of the merchandising phase of securities distribution has imposed added public responsibilities on the so-called over-the-counter markets and it has been inevitable that—securities

legislation or no—with this growth, some form of organization and regulation needed to evolve. To assume otherwise smacks of an Olympian attitude which has made us a rather unpopular member of the economic society in the past—a smugness that ignores the human equation.

### Merchandising Problems

As to regulation, the subject is, personally, a sore point with many of us. If the securities merchandising end of the financial community were confined to a relatively few houses of substance, as it was some years back, perhaps we should not need any form of regulation; but I must remind you that it is now scattered far and wide with securities houses ranging in size from one man up. But with this growth comes the inevitable fringe—the sub-marginal crowd whose activities throw discredit on all of us. It is one of the prime objectives of NASD to remove this fringe in so far as that is possible. We were given the opportunity to do this job ourselves with a minimum of interference from the Government. In this day of governmental regulation, such an opportunity is a badge of recognition of which we can justly be proud. Are we going to muff this chance because we individually feel that regulation is unnecessary for us? To take this attitude is to ignore the importance of the rôle of the securities dealer in a democratic nation and the responsibilities it entails to live up to this rôle.

An organization of the membership in the over-the-counter markets, in the minds of the investing public, gives to these markets a character of stability which they have never enjoyed before. And so, from a selfish standpoint as well as to discharge our public responsibility, I feel that some form of organization is desirable, and that the best kind is one of our own making, subject to our own control.

Now as to some of the more specific problems of the NASD and how we are trying to solve them, I should like to say a word or two regarding those which have had the most publicity:

1. *Expenses*—We are trying to do the job before us as inexpensively as we can. Most of the work is done by unpaid volunteers. In the case of the paid staff, we are doing our best to get value received. The criticisms against a few of the top salaries, as well as allegations of bureaucracy, are not justified, in my opinion, and I have given great care to a study of these matters. Your Board shares this opinion. It is my impression that criticisms of this nature are native to important organizations. They usually spring

from ignorance, personal prejudice, or a defense mechanism.

We are still young. We are trying to perfect our technique as fast as possible, but it is, of course, a slow process. We are having many expenses, initial in character, which we feel are not of a recurring nature. The first examination of each member, for example.

### Examinations Necessary

2. *Examinations*—Many members resent these. But if they will reflect, we cannot do the job we are supposed to do without them. As to why we need examinations, the answer seems fairly obvious to me, but from the kicks which have come from some sources it would seem that this is not very well appreciated. Our job is to help prevent trouble, not just to discipline a man after he has caused it. We cannot do this unless we know the trouble spots and we cannot know about these unless we know something about the condition of our members and the practices in which they engage. So the examinations serve a very useful and important purpose, and the questions posed are designed to get the information needed at the lowest possible cost. Most financial institutions have recognized the importance and need of examinations, and I think that most of us do, too. It would appear that the protests come from a small minority, and I hope that most of these are members who have not fully considered the problem. These examinations teach us a lot about our own business that we haven't known. For example, there have been countless technical violations of the law uncovered by these examinations in the most reputable houses. These firms were very grateful to find out about these matters and to learn how they might be corrected. Of course, it goes without saying that the results of examinations are kept in the strictest confidence by the members of the staff.

There is one point in some of the criticisms which I have deplored, however, and that is the "world-owes-us-a-living" attitude. We can never justify profits on such a basis, but only on the basis of performing a service. Surely this is elementary. The NASD was designed on a democratic basis and apathy on a member's part is the only thing that will keep him from getting recognition of his problems.

I should next like to touch on a fundamental point in the original conception of the NASD and how it relates to other questions which have been raised by some of the members. We are constantly asked—"Why doesn't the NASD take a positive stand on such-and-such and fight it out on all fronts?" There may be a specific answer to this question, but such an answer, if given at the moment, might embarrass some outside body with whom we were in conference in an endeavor to settle the question. For this, your confidence, understanding and indulgence are needed.

### NASD "Conference Body"

The NASD grew out of a conference body and it has followed the conference method, rather than the method of public advocacy as the means of attempting to settle problems. In this respect we are different from the usual Trade Association. Our membership should realize that

distinction, because we are organized under a specific law and occupy a quasi-public position and we cannot jump quickly into the rôle of a public advocate. In spite of this we feel that we have been effective as a conferee in settling many problems which have arisen. Most of these have never been known beyond some of our staff and Committee members, and so the achievements of these people in getting them settled in conference have gone unheralded.

I realize that each of you has his own office problems which may be particularly acute during these trying times, and that because of this, these problems do not seem as important to many of you as they do to those who are directly working on them. And yet there is still a widespread interest in group work. There would not be such a splendid turnout for this meeting if this were not so. And furthermore, there would not be the occasion to answer criticisms if this were not so. Therefore, I welcome the lively debates that have prevailed about our problems. It shows the vigor of our business and demonstrates with emphasis the need for a constructive organizing of our activities. The country is only beginning to recognize the importance of the investment banker in a war economy, and as this recognition grows we shall be called upon more often. Therefore, it is all the more important that we have our collective house in order. And afterwards it needs but little vision to see the part we shall be called upon to play in reconstructing and furthering the democratic way of life.

### PURCELL RE-ELECTED CHAIRMAN

Ganson Purcell has been re-elected Chairman of the Securities and Exchange Commission for the fiscal year ending June 30, 1943. Mr. Purcell became Chairman last January, succeeding Edward C. Eicher. He was appointed a member of the Commission by President Roosevelt in June, 1941, to fill the unexpired term of Jerome N. Frank, and was re-appointed for a five-year term.

### Annual Examination Program Adopted by Board of Governors

With its initial program of member examinations practically completed, the Association is preparing plans for an annual examination of all members through a uniform questionnaire.

Before the end of the current fiscal year over 2,500 members will have been examined through one means or another. Mass examinations have been made by staff accountants, questionnaire examinations have been employed in several forms, certified public accountants have been employed and there have also been organized examinations by District Secretaries. The Board of Governors, on the basis of this broad experience, decided that beginning January 1, 1943, the whole membership would be examined, on a District-by-District basis, with a uniform questionnaire.

This questionnaire is now being drafted and shortly will be tested among member organizations. It will cover financial condition and business practices. Whenever disclosures of the questionnaire necessitate such action, a member of the examining staff will conduct follow-up examinations.

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## Revocation Order of SEC Stresses High Standards Inherent in Relationships With Customers

In revoking registration of William J. Stelmack Corporation and at the same time expelling the corporation from membership in NASD, the Securities and Exchange Commission last month released a statement of findings of interest to brokers and dealers. Stelmack, last September, was expelled from NASD by decision of NASD District Business Conduct Committee No. 13 (New York) after investigation and hearings on complaints that the corporation had paid "dividends" to customer-stockholders of its preferred stock out of capital and when it had no surplus. This was one of the bases for revocation of the corporation's broker-dealer registration.

The SEC issued a 30-page release on the case, indicating the importance attached by the Commission to its findings and opinion. Due to the fact that Stelmack admitted charges contained in an amended order to an original complaint and these charges of themselves afforded basis for the consent revocation, the major considerations involved in the original cause for the proceedings were discussed by the Commission in an appendix to the revocation order.

These findings reiterate and emphasize certain previous statements of the Commission in respect to broker-dealer responsibilities in (1) making clear disclosure to customers of the capacity in which he is acting; (2) relationship of price to prevailing market on principal transactions. No attempt will be made here to cover details of the various charges against this former member, all of which can be obtained by interested members from the SEC release ("Securities and Exchange Act of 1934, Release No. 3261").

The Commission recited the fact that the Corporation used an order blank authorizing it "..... as my Agent, for my account and risk to Sell ..... Buy" but also contained the statement that "..... as principal, may buy from or sell to me any or all of the above securities at prices to be fixed by you and I hereby ratify and confirm any transaction effected by you pursuant thereto." In its comment on the use of this form, the Commission said: "To the average investor this language undoubtedly is rather confusing. Its legal effect, however, clearly creates agency." Continuing, the Commission said:

"The words in the second quotation do not alter the basic relationship created by the authorization of the agency. . . ." The Commission examined at some length into this matter and a study of the opinion for its application to individual circumstances would be worth while.

The relevancy of certain of the general comments of the Commission makes their reprinting of current interest to the vast body of the membership and the following are considered among the more significant passages of the release:

### The Question of Price

"We have on repeated occasions held that in transactions with an uninformed customer, a representation by a broker or dealer that he is engaged in the securities business carries with it the implied representation that the customer will be dealt with fairly and in accordance with the standards of the profession. Any other course of dealing, know-

ingly undertaken, makes the representation fraudulent. Similarly, a statement by a broker or dealer with respect to the price of a security carries with it the implied representation that such price bears some reasonable relation to the prevailing market price. When the dealer is aware that such is not the case, the representation is fraudulent. The fraud, we have said, is avoided only by charging a price which bears a reasonable relationship to the market price or by disclosing such information as will permit the customer to make an informed judgment upon whether or not he will complete the transaction. Failure to make such disclosure constitutes a fraudulent omission of a material fact.

### Quality Is Irrelevant

"It is irrelevant in this respect that the securities sold to a customer are of a high quality. Prices greatly exceeding the market are still excessive whether charged for good securities or poor ones. Similarly, it is irrelevant that a customer's financial position is improved despite an excessive charge. A dealer has abused his relationship with his customer whenever he knowingly charges a price which bears no reasonable relationship to the market price.

"It is true that the average mark-ups involved here are not as great as many of those in more flagrant cases where we held the spread to be excessive. Even assuming that the average of mark-ups was moderate, however—and that does not appear to be the case here—the reasonableness of the prices charged by the registrant in relationship to the market price is not determined thereby. Excessive and unconscionable spreads may be concealed in an average of a large number of purchases or sales in most of which only a moderate mark-up is taken. In such cases, the average spread does not mean, of course, that customers were not defrauded by excessive spreads in individual transactions. In the transactions here, we find repeated specific instances of substantial mark-ups deliberately taken by registrant, which, in each such case, resulted in prices charged to customers bearing no reasonable relationship to the prevailing market price.

### Relevant State Statutes

"Our findings on the question of price are based in large part on the premise that the relation of a securities dealer to his clients is not that of an ordinary merchant to his customers. Even apart from the relationship of agency which may exist, the status of a dealer in relation to an uninformed client is one of special trust and confidence, approaching and perhaps even equalling that of a fiduciary. The provisions of numerous state Blue Sky laws governing the revocation of a license conferred upon a broker or dealer underlie, in part, these conclusions and lend strong support to them.

"In addition to setting forth fraud as a ground for revocation, several states explicitly authorized revocation for excessive deviations from market prices or commonly accepted charges.

### "Higher Standard of Trade"

"In *Matthews, Lynch & Company v. Edward J. Hughes*, decided by the Illinois Circuit Court, County of Sangamon, in June, 1939, this subsection of the Illinois statute was held applicable to a series of transactions in which a dealer

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## War Brings Changes on Board— Patton, Scribner, McInnis, Roney Resign as Governors

Four members of the NASD Board of Governors have resigned to devote full time to war work or military duties. They are: Francis F. Patton, A. G. Becker & Co., Incorporated, Chicago, who was a vice chairman of the Board and a member of the Executive Committee; Joseph M. Scribner, Singer, Deane & Scribner, Pittsburgh; Merville W. McInnis, McInnis, Van Dusen & Co., Seattle; and Harvey Roney, Merrill, Lynch, Pierce, Fenner & Beane, Los Angeles.

District 8, Mr. Patton's District, is in the process of electing his successor on the Board. Mr. Patton's term expires in 1944 and Mr. Scribner's in 1945. Governors' terms are for three years. Samuel K. Cunningham, S. K. Cunningham & Co., Inc., Pittsburgh, was elected to serve the balance of Mr. Scribner's term or until 1945.

Beardless B. Merrill, of Richards and Blum, Inc., Spokane, was elected as Mr. McInnis' successor for the balance of the term expiring in 1944.

A successor to Mr. Roney will shortly be appointed. His term expires in January.

Mr. Patton's resignation took effect June 1, the day he became Executive Manager of the Victory Fund Committee of the Seventh Federal Reserve District, Chicago. In a letter to the Board conveying his resignation he said:

"A. G. Becker & Co., Incorporated, have granted me an indefinite leave of absence to assume the full-time duties of Executive Manager of the Victory Fund Committee for the Seventh Federal Reserve District and I believe it is appropriate for me to divorce myself from all outside activities. It is with real regret that I terminate my active participation in the affairs of the Association and I shall always stand ready to do anything I can to co-operate in furthering its welfare."

Early this year Mr. Scribner accepted a position with the War Production Board and soon was devoting full time to his duties in Washington. He then submitted "with great regret" his resignation to his fellow members of the Board. Mr. Scribner was a member of the National Business Conduct Committee. Mr. McInnis is a Captain in the Signal Corps.

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in every city, town and hamlet the length and breadth of the land hold the answers to those questions.

A few general answers can be supplied. The total national income, after taxes, over the next year will amount to at least \$95 billions. Of that sum, \$65 billions, or less, of civilian goods may be available. The difference in these two figures is \$30 billions. That is the reservoir from which to drain off orders for government securities. Where are the outlets that can be tapped? They are everywhere—in the form of pay checks, public and private trust funds and the like. Here is a partial list of institutions and groups which will receive and accumulate a large share of the total national income:

Trusts, estates and the like that have funds and need suitable securities to meet their various needs;

Pension funds—private and public—in need of steady income;

Labor organizations whose funds are accumulating;  
Educational, religious, and endowed institutions which require earnings to meet their obligations;

Fraternal and social organizations of all types;  
Corporations, firms and partnerships that may wish to purchase short-term securities so as to employ their funds arising from surplus earnings, liquidation of current assets such as inventories and receivables, and depreciation accruals;

Governments and their agencies; states, counties, municipalities and school districts;

Mutual savings banks;

Insurance companies;

Savings institutions of all types—building and loan associations and the like.

The commercial banks, of course, are a medium for assimilation of large amounts of government securities. *However, the whole burden of the task is to employ this medium only as a last resort.* Government bond purchases by commercial banks turn up as deposits. As such, they are spendable. Obviously, if the banks are allowed to buy \$50 billions of "governments" and the public spends—*instead of invests*—its \$50 billions, the buying power of the nation would overwhelm the reduced supplies of goods available.

In addition to the above list of prospects are uncounted numbers of small and large investors. It is your job to learn the who, what, when, where and why of the availability of investable dollars in your area. And it is your part to know *how* to get these dollars invested in government securities.

The Treasury will do its part to give you securities you can sell. They will be as attractively priced as sound financing programs will allow; they will, insofar as possible, be of terms that promise to fit market needs as these may change or evolve; above all, they will be the best investment in the world! And you will sell them as a representative of the Treasury of the United States.

Every one of us has a selfish interest in putting over the drive for dollars. Don't mistake it and don't underestimate it. Go back to the figures previously mentioned—\$95 billions income, after taxes, \$65 billions in goods available. One of two things can happen: (1) the surplus of income over goods can be consumed in issues of government securities; (2) it can be loosed upon the sum total of goods available and bid their value up to the aggregate of the money available for their purchase—maybe beyond. If that happens, the nation will learn at bitter cost exactly what inflation is. To the degree that it happens, the cost will be bitter in exact degree.

The task ahead is a tremendous one but its challenge is being met. It is being met by straight thinking, with full knowledge of the facts and practical necessities. The feverish display that attended Liberty Bond drives of World War I is nowhere evident. Those engaged most actively in the work do not believe the job could be done in that way this time. They are proceeding with programs of sharp, intelligent surveying and thorough canvassing of prospects. Highly trained workers in the field are constantly offering their services. More are needed.

Why not be one of those doing his part?

## Securities Men, SEC Meet to Consider Numerous Mutual Problems

Representatives of investment bankers, securities dealers and brokers met with the Securities and Exchange Commission, July 20, in the first of a series of conferences having as their objective (1) co-ordination of the industry's efforts to promote the war effort; (2) solution of problems confronting the confreres mutually; and (3) the fostering of sound policies for the securities business in the interests of self-preservation during the war and in the post-war period as well as to investigate opportunities for increasing its usefulness and prosperity.

The following representatives of several associations and institutions appeared for the securities business at the conference called by Ganson Purcell, SEC Chairman: Wallace H. Fulton, Executive Director, National Association of Securities Dealers, Inc.; John S. Fleek, President, Investment Bankers Association of America; Emil Schram, President, New York Stock Exchange; James F. Burns, Jr., President, Association of Stock Exchange Firms; Fred C. Moffatt, President, pro tempore, New York Curb Exchange; Edgar Scott, President, Philadelphia Stock Exchange; Marshall R. Barbour, President, Pittsburgh Stock Exchange, and Andrew C. Reid, President, Detroit Stock Exchange.

Mr. Purcell issued a public invitation to confer with representatives of the industry for "joint exploration of the problems which confront both of us from time to time, and which should be of mutual concern" in an address before governors of the ASEF in Philadelphia, June 16. Responses were received from those listed above. Each industry representative attended for his own body and spoke at the conference on subjects of general and particular concern to the group he represented.

The subject matter of the conference divided itself into seven major topics and the confreres agreed, by united efforts, through small committees chosen from the business and one or more staff members of the SEC, to proceed immediately with a full study of the various subjects. Reports of these studies will be considered at the next meeting of the SEC and industry representatives called for August 17.

Following are the seven topical matters being studied by specific committees:

1. Activities specifically related to the war;
2. Expenses of operation;
3. Uniform reporting to Federal and state agencies and others;
4. Standards of corporate accounting;
5. General questions relating to trading practices;
6. Co-operation between Exchanges;
7. Assistance by securities organizations in effecting necessary exchanges and allocations of public utility holding company systems' properties and securities to accomplish the ends of the Holding Company Act.

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took 'extremely high' profits, 'running in one case to 25 per cent.' The court said:

"The Legislature has recognized the fact that the broker is experienced in the security field and that the customer ordinarily is not experienced in that field.

## KEENAN SUCCEEDS PAVENSTEDT

Joseph A. Keenan, Jr., a member of the Trading and Exchange Division's staff for the past six years, has succeeded E. W. Pavenstedt as head of the NASD section of the Securities and Exchange Commission. Mr. Pavenstedt left the Commission to join a New York law firm.

Mr. Keenan is 36. He was born in New York City and is a graduate of Holy Cross. After leaving college he was employed by a New York Stock Exchange firm and for some time was its exchange floor broker. He joined the staff of the Commission in 1936 and since has participated actively in numerous investigations and important studies undertaken by the Commission.

It has recognized the fact that the field is one in which the customer has need to be protected against himself. It has created a higher standard of trade in the field of security sales than that required in the sale of ordinary commodities.'

"Based on similar considerations, a number of states, following the general tenor of the statutes quoted, have authorized revocation where a person had done business in an 'inequitable manner' or has 'demonstrated his unworthiness' to conduct a securities business. Similarly, the National Association of Securities Dealers, Inc., of which the registrant is a member, provides in Article III, Par. 4 of its Rules of Fair Practice:

"In 'over-the-counter' transactions, whether in 'listed' or 'unlisted' securities, if a member buys for his own account from his customers, or sells for his own account to his customer, he shall buy or sell at a price which is fair, taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved, and the fact that he is entitled to a profit. . . .'

"It is clear, then, that a large number of state legislatures, as well as the association of members of the securities business itself, have recognized that because of the inequality between dealer and customer, or broker and customer, which arises out of the customer's inexperience in securities transactions, special duties must be imposed as a protection against overreaching. The element of price is one of the factors in a securities transaction to which these safeguards are applied. Where the price exacted from a customer is grossly at variance with the prevailing market price, these duties have been violated."

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Per cent of voting members approving Art. I, Sec. 1—  
62 per cent.

Per cent of voting members disapproving Art. I, Sec. 1—  
38 per cent.

A total of 1,415 "blanket" ballots were cast. Of this total 1,136 approved, 279 disapproved all amendments. In addition, 524 "split" ballots were cast, 61 approving the proposed minimum capital rule, 459 disapproving—four not voting. As to the remaining 26 amendments, they were carried by substantial margins.

## ONLY 5 PER CENT OF MEMBERS IN VIOLATION OF RULES—2,200 EXAMINED

The Association on June 30 rounded out a year of active work in enforcement of its Rules among members throughout the country. Examination of some 2,200 members was a part of this program.

One significant result can be reported out of this unprecedented experience:

Complaints had to be filed against but 5 per cent of the membership!

When the Board of Governors, a little more than a year ago, decided that the Association had passed through its educational phase and should proceed with a membership-wide examination and enforcement effort, it could not be absolutely certain what the program would produce in the way of disciplinary results. The results now at hand provide sound basis for satisfaction of the membership at large as well as to members of the Board.

As has been pointed out in the past, the Association recognized that the securities business included a fringe about the size of which it was impossible to be specific. The Board and members of the Association felt that the vast majority of those engaged in the business were honest and were guided by high principles of trade in their relations with customers. On the other hand, except for Federal and State law enforcement agencies, no searching review of both financial position and business practices of the great body of securities organizations had ever been undertaken, excluding periodic examinations of their members by the various Stock Exchanges. The NASD program of the past year or more is, therefore, the most comprehensive

review of its kind ever undertaken.

The accompanying tabulation contains complete figures on the results of the enforcement part of the program. The salient features of this tabulation, bearing in mind the dominant fact that 2,200 members were reviewed during the course of the program, are:

- 132 complaints filed.
- 130 complaints heard and decisions rendered.

*Resulting in*

- 42 expulsions from membership in the Association.
- 12 suspensions for periods of from 30 to 90 days.
- 47 fines ranging up to \$2,000.
- 32 censures of members' practices.

The number of expulsions and, to a lesser degree, the number of suspensions, reflect the serious violations of NASD Rules disclosed by the program. Some of these were the outgrowth of SEC revocation proceedings and a few the result of actions on the part of other law-enforcement agencies.

Here again, however, it is essential that the over-all picture be kept in mind. Two thousand, two hundred members reviewed and but fifty-four cases calling for maximum penalties!

The tabulation which follows shows by Districts the number of complaints filed and disposed of July 1, 1941, to June 30, 1942, and the disciplinary action taken in each case as well as reviews instituted before the Board for the purpose of passing on decisions of District Business Conduct Committees:

Dist. No.	Complaints Pending as at July 1, 1941	Complaints Filed During Year	No. of Complaints Referred by SEC	Complaints Closed During Year	Complaints Pending at Present	Fines	Members Expelled	Memberships Suspended	Censures Imposed	No. of Complaints Withdrawn or Dismissed	No. of Appeals for Review	No. of Reviews Instituted by Board
1	1	6	..	5	2	2	3	1	..	..	..	..
2	1	10	3	11	..	5	..	1	5	4	..	1
3	..	6	..	6	..	3	..	..	2	3	..	..
4	..	10	1	10	..	8	1	..	9	..	1	..
5	..	1	..	..	1	..	..	..	..	..	..	..
6	..	..	..	..	..	..	..	..	..	..	..	..
7	..	1	..	1	..	..	1	..	..	..	..	..
8	4	19	1	22	1	4	6	3	1	8	1	5
9	..	..	..	..	..	..	..	..	..	..	..	..
10	1	5	..	4	2	3	..	..	3	1	..	..
11	..	12	..	10	2	..	9	..	1	..	2	..
12	..	12	1	10	2	8	..	..	..	1	..	..
13	9	37	11	36	10	8	17	6	5	5	5	1
14	3	13	1	15	1	6	5	1	6	3	3	1
<b>TOTAL</b>	<b>19</b>	<b>132</b>	<b>18</b>	<b>130</b>	<b>21</b>	<b>47</b>	<b>42</b>	<b>12</b>	<b>32</b>	<b>25</b>	<b>12</b>	<b>8</b>

(Continued from page 4)

In the majority of instances, however, it is felt by the Board that unsatisfactory or incomplete answers to the questionnaire will be resolved by correspondence with the member.

The projected examination program is expected to be both effective and economical. It will be so organized as to impose the absolute minimum of burden upon the

member and be co-ordinated, in so far as possible, with comparable reviews by State and Federal agencies, as well as other bodies. In the latter connection, the Board points out that NASD's functions go beyond the scope of the ordinary State or Federal interest in members' activities since the Association is concerned with standards beyond the financial and legal limits of regulatory agencies.