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REGULATION OF SALE OF SECURITIES, WITH REFERENCE TO WISCONSIN STATUTES

By G. S. CANRIGHT*

My understanding from the talk I had with those who suggested the desirability of a paper on this subject is that I am expected to present it from the standpoint of the theory and the purpose rather than the explanation or construction of the legislation, and I have prepared the material with that point in view.

On every hand one hears the protest against the rapidly accumulating mass of legislation, and particularly legislation which in some way restricts or controls business. Much of the talk is mere prattle, either for the purpose of impressing one with the speaker's sagacity or the sole purpose of making conversation, like remarks about the weather. To some extent, however, it is justified. Legislation should not be enacted except to meet a well-defined and widespread abuse. Existing laws should not be amended except when the need is apparent and advantage of the change reasonably certain. We may properly protest against the passage of unnecessary laws; we may properly criticise ill-considered legislation; but the person who hopes for a recurrence of times when government played a smaller part in our everyday life has simply failed to learn from the past or to take into account the necessities of the future. It is only to be expected that as society becomes more complex and our country more densely populated that new problems will arise which require new laws governing the relations between men. The practice of law has been regulated by government for so long a time that we seldom think of that as a restriction upon business; so also the practice of medicine. Each session sees some new trade, profession, or business subjected to governmental restriction. Generally there is much objection at the time the legislation is passed, but gradually it becomes an accepted thing, and few would propose a return to the formerly existing order. It is unfortunate that when legislation is enacted the burdens must fall alike on the just and the unjust, but this is not peculiar to government. It is common to every organization where men must live, or

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work, or play together. New rules have to be adopted by clubs from time to time to curb their more thoughtless or unreasonable members. Even business organizations, themselves, must place restrictions upon all their employes by reason of the acts of a small number.

There are always those in society who prey upon the needs and hopes of men. There were quacks who preyed upon men's desire for health; fakers who took advantage of their hope for justice; unjust men who took advantage of the fact that men must work; unfair men who took advantage of the necessity for transportation, light, and heat; and in all these things, and many others, the Government has been obliged to step in to protect its citizens and to promote justice. That is the purpose for which government is organized, and until human beings change so that they are as interested in the welfare of their fellowmen as in their own, men will continue to use government to protect against and right their wrongs. I speak of this, not so much because the law in question has been criticized largely as an unnecessary interference with business, but because in discussing legislation generally I have found men who, when all other arguments failed, resorted to the argument that there was too much legislation—too much interference with business. It is, therefore, necessary in considering any legislation to rid ourselves of that cynical attitude and to ask rather these questions:

(1) Is legislation necessary?
(2) Does or is it reasonably adapted to accomplish its purpose?
(3) Does it create an abuse or evil approximately as great as the one it is designed to prevent?

It is by these standards that I propose to test the law regulating the sale of securities, and by these standards it should be either vindicated or condemned.

America's greatness is attributable in no small measure to the opportunity afforded men to rise above the conditions of their birth, and the inborn desire of her people to provide for themselves an independence. In the earlier years of this country this was comparatively simple. Men wishing an income from sources other than a salary or wage could embark in business with a small amount of capital, but gradually this situation has been changing. Invention of machinery has demanded larger capital, and quantity production has made it impossible for the small
individual ownership of business slowly gave way to partnership ownership, and partnership ownership has given way to corporate ownership. The latter part of the nineteenth and the first part of the twentieth centuries has witnessed a tremendous growth in corporations. The success of some of these corporations has been so pronounced as to create the impression on many persons that ownership of stock in a corporation is the only sure means of accumulating for their old age. The success of five per cent of the corporations has been indelibly impressed on their minds, while the failure of ninety-five per cent has scarcely come to their attention. Thus, corporations have become at once the impediment and the phantom light on the road to independence. It is not surprising, therefore, that persons inclined to live off the cupidity of others should find in the sale of securities a fruitful source of revenue. No one knows the extent of the abuse. Some who have investigated the matter have estimated the cost at billions of dollars per year. There is no question but that the sale throughout the country of securities in fictitious enterprises has run into tens of millions of dollars per year. The Commission has itself, since the present law went into effect, prohibited the sale of millions of dollars of securities of enterprises which obviously were not promoted in good faith, which gives some idea of the extent of the abuse. The laws against fraud, both criminal and civil, wholly failed to meet the situation.

In the first place they afforded a means only for locking the door after the horse was stolen. Every district attorney knows the difficulty of proving intent which is an essential part of a crime for obtaining money with intent to defraud. So also, every lawyer knows how inadequate is the civil action for deceit where his client has become the victim of such promoters. It was imperative that some legislation be passed to meet the situation. It was a new problem, however, which no one was capable of solving. It was to be expected, therefore, that the first acts passed would be more or less crude attempts to curb the evil. Furthermore, the legislatures were quite properly interested in going no further than was necessary to meet the situation. Some of the earlier laws merely required filing with the state full information as to the enterprise, with authority in the state to supplement this by its own investigation. They also required the filing of prospectuses and circulars to be used in the sale of securities.
They were drawn on the theory that publicity was the remedy for the protection of the investing public. They gave no authority to the state to prohibit the sale of securities although it was evident that the enterprise was not promoted in good faith, or that the plan was grossly inequitable to the investor.

The idea was that it would put the responsibility entirely upon the purchaser if he buys after he had had opportunity to secure necessary information as to the company. It was a beautiful theory but of very little value in practice. It was based on the wholly erroneous assumption that the persons it was intended to protect were capable of judging between the good and the bad. As well might the Government allow the sale of poisonous food if only the chemical analysis is printed on the package. Some one may say if he does not know such things he should not buy stock or bonds. As well might one say if a man does not want to be injured he should not go to work in a factory. If citizens of the state are to be flimflammed in the purchase of stocks and bonds you have deprived them of opportunity and hope, and anything that does that strikes at the heart of America. Wisconsin's earlier legislation was of this publicity type, and was found to be wholly inadequate. It was anything but satisfactory to have information filed which revealed to the careful investigator the apparently fictitious character of the enterprise and be powerless to prevent the sale of its securities to the citizens of the state. In some of the worst cases the Commission in desperation prohibited the sale of its securities, and trusted to luck that their right to do so would not be questioned. It was this situation which was largely responsible for the passage of the present act.

The experience in Wisconsin has been not unlike that of other states, and most of the states which originally passed legislation of that character have been obliged to abandon it and to pass laws similar in character to, if not alike in detail, with the present Wisconsin law. There are six fundamental principles underlying the law. First, securities subject to the act may not be sold in the state until the Commission has had opportunity to investigate the proposition. Second, authority to prohibit their sale. Third, authority to prescribe conditions on which the securities may be sold. Fourth, control of persons selling securities, with authority to refuse or cancel their license to engage in the business. Fifth, control of advertisements, circulars, and other printed and
written matter used in the sale of securities. Sixth, classification of securities allowed to be sold.

Time does not permit any extended explanation of how the Commission acts to accomplish the purpose of the law. Sometimes the Commission is able to determine with certainty the fraudulent character of the enterprise. I will give one illustration.

The A Company made application for the sale of its stocks in Wisconsin. It filed a balance sheet showing it to be in good financial condition. The purpose of its issue was represented to be the payment of certain indebtedness and for additional working capital. It stated that it was the successor to the B Company which had been in business for more than a quarter of a century, and filed income accounts of its predecessor showing a splendid earning record. It further represented that the only purpose of the change from the B Company to the A Company was to organize under the Delaware laws instead of the Illinois laws, and that as soon as it could be done they expected to change the name back to the original name. Investigation disclosed, however, that the A Company did not own the assets represented on its balance sheet—that in fact it had no assets at all; that it had not purchased the business of the B Company and in fact did not have a contract or even an option for the purchase of the B Company.

As in all things there are border-line cases which are difficult to determine. In such situations the best means of preventing fraud is taking away the opportunity for or incentive to fraud. Experience teaches one what to look for in the various plans submitted as to the opportunities for fraud which do not constitute a violation of existing laws. The Commission, of course, cannot prevent the doing of unlawful acts. For example, it cannot prevent embezzlement any more than the Banking Commissioner can, and it is not intended that it shall. If the fear of punishment from the violation of the laws will not deter one from acting, then a requirement of the Commission will not deter him. But there are many ways of committing fraud which are not a violation of the law and which many persons will resort to who have not the temerity to act illegally. I will mention two or three which are among the most common.

A company is organized for the purpose of promoting a company to manufacture a patented machine. Stock is to be issued to the patentee for the patents. As matter of fact he does
not expect to conduct the business. He will receive, let us say, $100,000 for his patents. The company proceeds to sell its stock, and he at the same time sells his. It is a matter of small consequence to him whether the company succeeds or not. He will be comfortably fixed even though it fails.

Or let us assume that the promoter intends to make a success of the company, and receives $100,000 of stock for his patents. When the company gets into difficulties and its prospect for success becomes more and more doubtful, he disposes of a substantial portion of his stock so as to be certain of a comfortable sum. He retains a small portion so that if the company eventually succeeds he will still have a substantial interest in it. To prevent this, the Commission requires all such stock to be placed in escrow, generally with some bank or trust company, under an agreement by which it may not be sold or transferred, or interest therein sold or transferred, directly or indirectly, until the company has earned in some twelve months' period a stipulated percentage on its outstanding capital. This is not the only purpose of the escrow agreement, and it is not required only in cases where the Commission is doubtful as to the good faith of the promoter, but that is one of its chief uses. During the three and one-half years that the present law has been in effect the Commission has required to be escrowed something over fifteen million dollars of stock, much of which undoubtedly would otherwise have been sold in the state with no benefit to anyone except the promoter.

Let us take a somewhat different illustration. A company is organized for the purpose of engaging in the manufacture of an unpatented article. After it has secured a permit it then issues stock for a patent which the promoter has obtained either by reason of invention or purchase, and the stock so obtained is sold. To prevent this, the Commission regularly requires in the sale of securities of companies not on an established basis, that unless and until otherwise ordered by the Commission stock shall be sold or issued only for United States money.

Another source of revenue to the promoter is the commissions for the sale of stock. Many times the commissions are as high as fifty per cent, sometimes even seventy per cent, of the price for which the stock is sold. Many times they are one hundred per cent of the cash actually paid for the stock. To prevent this, the Commission uniformly limits commissions which may be
paid in the sale of the securities, fixing as its maximum fifteen per
cent of the cash actually received. Here again this is not the
only purpose for limiting the commissions, but it is effective in
preventing imposition on investors in this way. There is no
purpose in committing a fraud unless one can make money by it.
If you take from him the opportunity to profit by unfair or
fraudulent acts you take from him the incentive to fraud and
unfairness. This probably explains many of the cases of pro-
moters who come in to talk their proposition over but are never
heard from again. We have come now to know pretty well
whether they will return and make application.

The matters just referred to also show the necessity of
authority in the Commission to fix conditions upon which
securities may be sold. Many of the applications presented to
the Commission are such that one cannot say that the promoters
do not intend to honestly and fairly conduct the business, or that
the plan of business is illegal, unfair, or inequitable, and yet it
may be very important that conditions be imposed which eliminate
in large measure the opportunities for fraud and which make it
necessary for the promoters to make their money from the
earnings of the business rather than from the promotion. In
fact, the power to fix conditions on which securities may be
offered is one of the most important parts of the law. It is
necessary that they be imposed even where the promoters are
acting in good faith. Although it is not the purpose of the
Securities Law to prevent investors from losing money where the
loss occurs by reason of poor management of an enterprise, there
are some things that are such a common source of loss to the
investors that the sale of securities in an enterprise where those
things are present constitutes in effect an imposition upon the
purchaser thereof. For example, three of the most common
causes of failure of companies are these:

1. Starting a business on too large a scale—over-capitalization.
2. Starting the use of the company's funds for the erection
   of plant and the purchase of equipment before it is known
   whether the company can be adequately financed.
3. Failure to provide adequate working capital for the
   business.

The huge bond issues floated by the Government during the
war seem to have permeated people's blood, and the thought of
starting a business on even a $100,000 capitalization is quite un-
They want to be a great institution from the start. They are not satisfied to start in a small way and build out of profits. In fact, most companies want to start on a capitalization of from a quarter of a million to two million dollars. The commencement of a new enterprise on such a scale, even by persons well versed in the business and with adequate capital assured, is many times a risky proposition; but the commencement of a new enterprise by persons with only limited experience in the business to be conducted and in fact little, if any, experience in the organization and management of any business, is indeed a very precarious undertaking. Furthermore, there is no justification for risking a half million in an enterprise if it can be conducted efficiently on $50,000. The amount of stock sold in the state—the amount risked by the people of the state—is several million dollars less by reason of this one requirement.

When you add to the over-capitalization the fact that no one will have a large investment in the business, that the stock must be widely distributed, that before the necessary capital is sold so much time will have elapsed that the first purchasers will have lost faith in the enterprise and begun to place their stock on the market, there is added another feature that almost certainly means failure. For the promoters of a company under such plan to use the first moneys received to purchase land and to the erection of a factory is gross negligence, and I think I may say with confidence results in total loss to the investors in eighty percent of the cases. For this reason the Commission has found it necessary to discuss these factors very seriously with the promoters, to have them consider much more carefully than they have the great chances they are taking of failure. Frequently if the promoters are honest and intelligent they see the unwisdom of their proposed plan and willingly agree to deposit the proceeds of stock sold in a bank until they are sufficiently financed to justify commencing business. Sometimes they do not willingly consent to the requirement because it helps a lot temporarily in the sale of securities to start the erection of a plant. But the advantage is only temporary. In operating companies it is not always possible, but in new companies the commission almost invariably requires the money derived from the sale of stock to be deposited in a bank until a specified amount has been so deposited, and the subscriptions for stock to be conditional upon raising of that amount of capital.
The present statutes requiring fifty per cent of the authorized capital stock of a company to be subscribed and twenty per cent to be paid in before the company does business with third persons in no wise meets the question of providing adequate financing. The question is not what percentage of the authorized capital has been sold or subscribed but whether sufficient capital has been raised to assure financing the project if properly managed.

I mentioned working capital that which is turned over from time to time and on which turn-overs the profits, if any, are made. It is an element of business that is many times entirely overlooked by those inexperienced in business, and too frequently overlooked by those who have been conducting business more or less successfully for some time. It is a factor which must be carefully considered in every new enterprise, and the plans of the company must be so made that a sufficient amount of the money raised is reserved for working capital and not invested in fixed assets.

In these matters the Commission manifestly cannot and should not impose its ideas entirely upon the promoter, because there is always a considerable latitude for differences in judgment, but it does much to start companies out on a more stable basis.

I must say a word about advertisements and circulars. When the law went into effect we found that practically all of these were drawn not on the theory of presenting the proposition in a business-like way but of appealing to the emotions; not of stating what might reasonably be expected, but of holding out glowing promises which were impossible of realization; and in some of them, making statements which were far from the facts. All such advertisements and circulars used in the sale of Class B securities have been carefully scrutinized by the Commission before allowing them to be used, and we have been obliged to require a change in some of the circulars used in the sale of Class A securities. It is, of course, necessary if securities are to be sold that the issuing company give the purchaser some idea of what the company plans to do and of the company's outlook for the future, and so long as this is reasonable it cannot be objected to. If anyone wishes to get an idea of what has been accomplished in this respect, let him compare the circulars which are used in the sale of stock in Wisconsin with those which he receives through the mails advertising securities which are not authorized for sale in the state. In this connection, let me say that
early in the administration of the existing law the Commission decided that it was at least very doubtful as to whether it could prevent advertisements in the newspapers of securities not authorized for sale in the state and where the transactions were to be carried on entirely by interstate commerce. We wrote a letter to practically all of the daily papers, and some of the larger weekly papers in the state, frankly stating the case to them and urging upon them the importance of not carrying such advertisements, and I wish to testify to the splendid co-operation which we have received from them. If you will watch the daily papers you will find that seldom, if ever, does such an advertisement appear.

There are two classes of investors which the law attempts to protect. First, those who do not wish to take a chance, who are chiefly interested in protecting their principal and for that reason are satisfied to take a small return on their money. Second, those who wish to speculate, who will risk their principal for the sake of a possible larger return on their money than could be obtained in a more conservative investment. Both classes are equally entitled to protection but the nature and measure of protection afforded each is necessarily very different. The law therefore divides securities into two classes—A and B.

The standards set for Class A securities are such as experience has shown to be necessary for a reasonably well protected investment. When I say experience, I do not mean experience of the Commission alone, but also experience of bankers and dealers in high grade securities. Of course, there are circumstances in which even these standards are not sufficient, and for that reason the legislature in 1921 gave the Commission the right to deny a Class A rating to securities which complied with one or more of these standards if there were other circumstances such as decrease in earnings or financial condition of the company which affected the soundness of the security. This provision has been very helpful and has enabled the Commission to refuse a Class A rating to securities where the then financial condition of the company, steady decrease in earnings, or other like factors made payment of principal and the stipulated interest or dividends quite doubtful. Notwithstanding the very serious financial depression through which this country has gone during the past two years the percentage of loss on securities classified as A has been very small. It is not expected, however, that persons
shall rely entirely on the Commission's rating in buying investment securities for there are naturally many gradations within Class A. Some are little better than the best of Class B, while others are very much better, and where one has opportunity for obtaining competent advice in investment matters he should get such advice as will enable him to select the best of the Class A securities. Furthermore, it must always be remembered that at least outside the field of federal government and the better municipal securities there is always the possibility of the strongest companies failing or getting into financial difficulties, and one who buys his investment securities from a high grade investment house has not only the advantage of their examination of the security but also the advantage of what may be done by the house to protect securities sold by them if the company should be financially embarrassed.

Notwithstanding the record of the securities which have received a Class A rating since the 1921 amendment the Commission has discouraged the use of such rating in the sale of the securities, and as matter of fact you will find very few advertisements or circulars mentioning the fact that a security has received a Class A rating. This is partly due to the fact that the better investment houses want to sell securities on the reputation of the house, and partly because the law requires that if any mention is made of the fact that it has received a Class A rating it must also carry the legend—"Passed by the Railroad Commission of Wisconsin but without recommendation as to value." Although the person who confines his investments to securities which have received a Class A rating will, by that fact, greatly reduce the probability of loss from the purchase of securities, the chief value of the classification lies, not in notifying the purchaser that a security is a Class A security, but, in notifying him that one is not a Class A security—that it is a Class B security. He can then eliminate that security from consideration if he wants a high grade investment security. Relatively few men know what to look for in making an investment and many do not know who can advise them. But it does not take much training to know that a Class B security is not as good as a Class A security, and the inquiries we receive show that the people of the state are beginning to appreciate the distinction.

There is also a wide diversity as to value and safety among Class B securities, and for that reason the law requires that if
the company issuing the securities shall not have been in busi-
ness for at least two years or shall not have earned profits dur-
ing either of the last two years sufficient to pay the stipulated
interest or dividend, the contract of subscription for such securi-
ties and the circulars and other advertisements used in the sale of
the securities must warn the purchaser that he is buying into a
speculative venture. As we stated above, the protection afforded
to the purchaser of Class B securities is very different from that
afforded the purchaser of Class A securities. Safety of principal
or even reasonable assurance of profit is not essential to secure
a Class B permit. One may feel reasonably certain that certain
enterprises will be successful while others have merely possi-
bilities, but the fact they have only possibilities is not ground for
denial of a permit. If it were, initiative would be destroyed,
enterprise would be stifled, and progress be at an end. If an
enterprise is started in good faith, if it is promoted by persons of
good reputation, if it has reasonable prospects of success assum-
ing it to be properly managed, and if the investors will get a fair
share of the profits if successful, the permit should be and is
granted. It may be unfortunate that so many invest in such
enterprises money they cannot afford to risk, but it would be
much more unfortunate if persons were prevented from attempt-
ing to do things. We must never forget that it is the speculator,
not the investor, who has really developed the country. Our
railroads, our public utilities, our mines—yes, even the farms of
this western country, would never have been developed if there
were not among us those who prefer to risk what they have for
the hope of obtaining more, rather than to rest content with a
small return and safety of principal. I do not want to be mis-
understood. I am not advising persons of small means to pur-
chase securities of new enterprises. In fact, I believe that the
financing of new enterprises by the sale of small amounts of
stock to large numbers of investors is fundamentally unsound.

It is impossible for the small investors to keep in close touch
gage the ability of their officers and directors, and this often
leads to a feeling of lack of responsibility, to extravagance, and
sometimes to worse evils. Whether sound or not, it is a situation
which exists and is bound to grow. Even the well-established
company has found that it cannot get sufficient capital from the
large investors. For that very reason it has been compelled to
issue bonds in denominations as small as one hundred and even
fifty dollars, although a few years ago bonds of less than $1,000 or $500 were almost unknown. The new enterprise has even less chance. Not only has the large investor not sufficient capital but invariably he demands control and frequently a rake-off. The necessity for controlling the sale of securities and the service which is to be rendered to the investing public, therefore, cannot decrease but is certain to increase, and the state is obliged, both from the standpoint of protecting the small investor and from the standpoint of future business development, to control, not only in a restrictive way, but also in a constructive way, the raising and distribution of capital.

Not all of the fraud in the sale of securities is due to the type of security. A very considerable portion of it is due to the character of the persons selling securities. For that reason the law gives the Commission the right to license brokers and agents dealing in securities and to deny licenses to those whose business methods are dishonest or unfair. It is a serious matter to take from one his means of livelihood, and the power of the Commission has been exercised with caution. Notwithstanding this, I think it may be safely stated that not fifty per cent of the persons who were selling securities when the law went into effect are selling securities in the state at present. Not all of these have been eliminated by reason of cancellation or refusal of license. Many have voluntarily withdrawn to more profitable fields, but the benefit to the state is the same.

It is not my purpose or desire to weary you with this subject, but I said in the beginning that legislation ought not to be enacted if it created an evil approximately as great as that which it was designed to prevent, and I must briefly cover that point. Some persons approaching the subject from a purely theoretical standpoint have felt that legislation of this character was ill-advised and have advanced one or both of the following reasons:

First, the fact that the state controls the sale of securities will be misunderstood and the purchaser will assume a protection which is neither afforded nor intended.

Second, that it will interfere with business, meaning by this either that it would cause new burdens on established business or that it will discourage new enterprise and impede the development of the country.

As to the effect on the purchaser of legislation regulating the sale of securities it should first be observed that persons who are
influenced to buy securities by the fact that the state controls their sale if there be any would be equally influenced regardless of the type of legislation. Such persons will not know, neither will they care particularly, whether the state is merely a place for filing information, whether it issues permits, or whether it registers securities which are allowed to be sold. They are influenced, if at all, by the fact that the state is controlling their sale and not by the type of machinery used in such control. Therefore, those who disapprove of this legislation on that ground cannot consistently advocate any regulation of the sale of securities.

Our observations lead us to believe that the claim that the legislation in question causes any considerable number of persons to purchase securities they otherwise would not purchase is largely theoretical and based chiefly upon imagination. I have personally talked to many more than one hundred persons who have purchased securities, and for one reason or another have wished they had not, and I have made it a point to inquire of them what it was that induced them to buy the stock, why they thought they could take a chance, and not more than three or four out of the entire number claimed that they had been influenced in any way by the fact that the Commission had allowed the securities to be sold. Knowing the tendency of human beings to blame someone else for their misfortune, I have no doubt that had the leading question been asked—"Were you influenced to purchase these securities by reason of the fact that the Commission is controlling their sale?"—the number that would have answered in the affirmative would have been much greater. And for the same reason, I am confident that had the persons I have mentioned been influenced in any way by the fact that the Commission allows the securities to be sold, that would have been the first thing which would have occurred to them in answer to my questions.

Furthermore, persons certainly will not purchase securities merely because the state has allowed them to be sold. They will still purchase some and refuse to purchase others, depending upon what appears to them to be the probabilities of success. So that after all it will be a matter of their own judgment and not the action of the state which finally influences them to purchase. Assuming, however, that there are some persons influenced by the fact (and there may be) if the law eliminates to a large
measure the sale of fraudulent securities, and we know it does, the fact that some persons may place undue reliance upon the state's action is no more ground for not affording protection against the sale of fraudulent securities than the fact that some persons may place too great reliance upon the police or health departments of our cities is reason for not affording such protection. That is merely a matter of education.

As to the effect of the legislation on established business I believe we may say with confidence that the benefits greatly outweigh the harm. The expense of qualifying securities is trivial; the annoyance due to delay and details probably appreciable; but in dollars and cents we know that established business enterprises, to say nothing of the investors in their securities, are far ahead by reason of the necessity of complying with the requirements of the law. Few persons are familiar with the carelessness with which even reasonably successful enterprises are run. We have known companies who have been systematically robbed year after year and who did not discover it until their attempt to qualify an issue of securities; others who have assumed that their business was profitable when they have been consistently losing money; some who would have embarked in an undertaking with only the most casual investigation, and who abandoned it because of what they learned in an effort to satisfy the Commission. A requirement only that companies do that which prudence dictates is not burdensome, even though annoying. It would be interesting to compile the verbal and written statements of men operating established business enterprises who have admitted the value to their business of the Commission's requirements. The very fact that they are to be subjected to scrutiny causes them to scrutinize themselves, and many times to discover the seriousness of their situation without it even being pointed out to them by the Commission.

As to discouraging enterprises, the facts are all against it. The Commission realized from the beginning that its powers were very broad, and that if they were not exercised with discretion injury might be done. It took the position from the beginning that it was better not to go far enough than to go too far in the exercise of its powers, and so, little by little, the Commission has added to its requirements, being careful as to each step that it was exacting nothing unreasonable, and that the requirement could help, not hurt, a legitimate enterprise.
Nothing encourages enterprise more than success. A greater percentage of new companies must succeed if their plans of organization, the business in which they are to embark, their plans of financing, their ability to get the necessary finances, are carefully considered before they start, than would succeed if, as is ordinarily the case, the promoters, although acting in good faith, have spent most of their time in calculating paper profits.

The full value of the law has not yet been realized. It has accomplished more in the past two years than it did the preceding two. The longer it continues in effect, the more time the Commission has for study of the problem, the more familiar the issuer of securities and the purchasers of securities become with its provisions and purpose the more valuable it will become. We can say with confidence that the sale of fraudulent securities in the state except by the person who dodges in to-day and out to-morrow, has been very largely eliminated. But there is still room for much improvement. Practices are still resorted to that are unfair to the investors and which can be eliminated. How best to do so is matter of study and education. But the path of the future lies in the direction of greater not less control in the sale of securities on the part of the state.