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NOMINATIONS—1970

HEARINGS BEFORE THE COMMITTEE ON COMMERCE UNITED STATES SENATE NINETY-FIRST CONGRESS

SECOND SESSION

ON

NOMINATIONS OF

AUGUST 25, 1970

RUDOLPH A. PETERSON, TO BE A MEMBER OF THE BOARD OF
DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION

JOHN HAY WHITNEY, JACK WRATHER, SAUL HAAS, FRANK
SCHOOLEY, AND TOM MOORE, TO BE MEMBERS OF THE BOARD OF
DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING

SEPTEMBER 30, 1970

✓ DR. GEORGE F. MANSUR, JR., TO BE DEPUTY DIRECTOR, OFFICE OF
TELECOMMUNICATIONS POLICY

WILLARD J. SMITH, TO BE ASSISTANT SECRETARY OF TRANSPOR-
TATION FOR SAFETY AND CONSUMER AFFAIRS

OCTOBER 1 AND 6, 1970

DAVID S. DENNISON, JR., TO BE A COMMISSIONER OF THE
FEDERAL TRADE COMMISSION

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RUDOLPH A. PETERSON, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORP.; AND JOHN HAY WHITNEY, JACK WRATHER, SAUL HAAS, FRANK SCHOOLEY, AND TOM MOORE, TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING

TUESDAY, AUGUST 25, 1970

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met at 2:35 p.m. in room 5110, New Senate Office Building, Hon. John O. Pastore, presiding.

Present: Senators Pastore, Magnuson (chairman of the committee), Baker, and Goodell.

Senator PASTORE. Having passed by 5 minutes the hour of 2:30, I think we can proceed. I have a very short opening statement.

OPENING STATEMENT OF SENATOR PASTORE

Senator PASTORE. Today the committee considers the nomination of Mr. Rudolph A. Peterson to be a member of the Board of Directors of the Communications Satellite Corp., and the nominations of Mr. John Hay Whitney, Mr. Jack Wrather, Mr. Saul Haas, Mr. Frank Schooley, and Mr. Tom Moore to be members of the Board of Directors of the Corporation for Public Broadcasting. Two of the gentlemen—Mr. Haas and Mr. Schooley—are reappointments, both having served with distinction on the Board of Directors of the Corporation for Public Broadcasting since its creation. During the course of this hearing, I would hope that they will give the committee their assessment of the Corporation's progress and future plans, or submit your views for inclusion in the record at a later date.

The Communications Satellite Corp. was created by the Communications Satellite Act of 1962, and the Corporation was incorporated under District of Columbia law on February 1, 1963.

Under the provisions of that act three of the 15-member Board of Directors of the Corporation are appointed by the President with the advice and consent of the Senate. Mr. Peterson has been appointed to the Board of Directors by the President to succeed Mr. William Hagerty.

The advances in communications technology in the post-World War II era have been nothing short of stupendous, and none is greater than the ability to communicate via satellite.

From the beginning the United States, through its chosen instrument in the international field—the Communications Satellite Corp.—has been the leading developer and user of this new technology—all countries of the world have been its beneficiaries, however.

Currently the United States and other member nations of the International Telecommunications Satellite Consortium are meeting in a plenipotentiary conference to adopt definitive arrangements for a global satellite system. I have repeatedly urged that the United States not give away its birthright in these negotiations, and I mention it again today not only to emphasize my concern, but to impress its importance on Mr. Peterson and all members of the board of directors of the corporation.

Despite our leadership in international satellite communications, a domestic satellite system for the United States is still not a reality. The reasons, of course, are not technological, they have to do with matters of policy. Nevertheless, our failure to have such a system is a loss to the American people.

Recently the FTC has indicated that it is prepared to process applications for domestic satellite systems and I would hope that soon the people of our country will have the benefits of a domestic system.

No less important, and in its own way just as innovative, is the Corporation for Public Broadcasting created by the Public Broadcasting Act of 1967. The corporation is a federally chartered, independent, nonprofit corporation whose mandate is to encourage and facilitate the expansion and development of noncommercial broadcasting and program diversity in that medium.

The board of directors consists of 15 members, appointed by the President, with the advice and consent of the Senate. Not more than eight may be members of the same political party. All are distinguished Americans, from the business, broadcast, and educational sectors of our society. And, I must say, the nominees before us today are in that same illustrious mold.

The Corporation for Public Broadcasting—its directors and officers, and the men and women who have devoted their time and talent to its operation—have illustrated once again that American talent and ingenuity, if given the necessary support and encouragement, cannot only mirror the ideal but achieve it.

The potential of public broadcasting is, of course, far from being realized. Essential to its full development is a plan for long-range financing. This committee has urged this administration and its predecessor to submit such a plan. Again—just as with our failure to develop a domestic satellite system—the American people are the losers when we fail to utilize our potential.

I again wish to express my hope that during the course of these hearings all of the nominees will feel at liberty to express their views and any ideas or opinions they might have.

Mr. Rudolph Peterson will be the first one we will call upon and then all the nominees of the Corporation for Public Broadcasting in successive order.

Mr. Peterson, first of all, we welcome you to this hearing.

STATEMENT OF RUDOLPH A. PETERSON

Mr. PETERSON. Thank you, sir.

Senator PASTORE. We congratulate the President of the United States for the wisdom and the judgment that he has displayed in choosing you. You are an illustrious man of tremendous renown in

the banking community and we know, that is the members of this committee know, that you will render distinguished service to this new public service.

Mr. PETERSON. Thank you.

Senator PASTORE. We have your biography which we will place in the record which is a very imposing one.

(The biographical sketch follows:)

BIOGRAPHICAL SKETCH OF RUDOLPH A. PETERSON

When Rudolph A. Peterson was born, December 6, 1904, Bank of America was seven weeks old, and had on the books in its single office in San Francisco's North Beach section only \$68,761 in deposits. Fifty-nine years later, on November 1, 1963, Peterson became president of Bank of American, which then had deposits in excess of \$12 billion and resources of nearly \$14 billion. Deposits now exceed \$21 billion and resources have passed the \$24 billion mark.

The Chairman of the Executive Committee of the world's largest non-government bank was born in the rural community of Svenljunga in Sweden. Mr. Peterson was brought to California when he was two years old and spent his boyhood in Hilmar, then a community of Swedish immigrant farmers near Turlock California.

While attending high school in Hilmar he expressed interest in a medical career, but when he entered the University of California at Berkeley, he chose money and banking as his major because family finances would not permit a medical education. He worked at various jobs to put himself through college receiving a Bachelor of Science degree in 1925.

His first job in his chosen profession was as a field representative for Commercial Credit Company, a nationwide installment financing firm. He advanced rapidly to assistant manager in San Francisco.

Mr. Peterson was next promoted to vice president and general manager of Commercial Credit Company in Mexico City, arriving just as Mexico went off the gold standard.

He was in charge during the drastic re-evaluation and renegotiation of outstanding business that followed. His experience led him to be chosen for the same task later when Cuba's economy crumbled.

During the difficult depression period of the 1930's in the United States, he was moved into the key position of division operations manager with headquarters in Chicago.

It was at this time that Mario Giannini, president of Bank of America, conceived the idea of large-scale bank installment lending to consumers and small businesses. Mr. Peterson, with his background in installment financing, was a natural choice to assist the bank with its development. He joined the bank in 1936, starting as district manager in Fresno, where he helped pioneer the innovation in the rich agricultural section of California. Five years later, he was promoted to vice president at the head office in San Francisco, having statewide responsibility in the lending field.

In 1946, at the bank's request, Mr. Peterson joined Transamerica Corporation as president of Allied Building Credits, a subsidiary of that organization. Six years later he was appointed as vice president of Transamerica in charge of the corporation's banking interests in five western states.

Mr. Peterson was invited to join the Bank of Hawaii in 1955 and became president early the next year. He instituted a vigorous program under which Bank of Hawaii became one of the first banks to enter the credit card field, conducted an education program in bank use for Hawaii's minority groups and stressed the personal approach to business development and customer relations.

Under his direction, Bank of Hawaii's resources grew in five years from 155th to 92nd in the nation, the bank added 22 branches and more than trebled its earnings.

Mr. Peterson is also credited with making a major contribution to the Island's economy by attracting capital from the mainland. At his direction, the bank began publishing periodic economic bulletins highlighting Hawaii's progress and potential.

During his residence in Hawaii, he served as a director of Alexander & Baldwin, Ltd., Oahu Railway & Land Company, Alexander Young Company, Ltd., Sheraton-Hawaii Corporation and Dillingham Corporation.

In 1961, Bank of America invited Mr. Peterson to fill the major executive position of vice chairman of the board of directors. Subsequently, the board of directors conferred upon him responsibility for the general management of the bank under President S. Clark Beise. On October 15, 1963, the board elected him president, to become effective upon Mr. Beise's retirement November 1. On October 25, 1968, he became President of BankAmerica Corporation, the one-bank holding company for Bank of America. Upon his retirement as president of the bank and holding company on January 1, 1970, he became Chairman of the Executive Committee.

Since his return to San Francisco, Mr. Peterson has been called upon to fill a growing number of commitments with leading civic and business organizations.

He is chairman of the Presidential Task Force on International Development.

He is a director of the Societe Financiere Europeenne, Alza Corporation, Business Committee for the Arts, Inc., California State Chamber of Commerce, Communications Satellite Corporation, Consolidated Foods Corporation, Di Giorgio Corporation, Fireman's Fund Insurance Company, International Executive Service Corps, Kaiser Aerospace & Electronics Corporation, Kaiser Aluminum & Chemical Corporation, Kaiser Broadcasting Corporation, Kaiser Industries Corporation, Kaiser Steel Corporation, National Park Foundation, Overseas Development Council, Partnership Pacific Limited, Partnership Pacific N.V., Private Investment Company for Asia, San Francisco Opera Association, Schlage Lock Company, and Time, Inc.

He is a trustee of the California Alumni Foundation, California Institute of Technology, Committee for Economic Development, Council for Latin America, National Industrial Conference Board, and San Francisco Museum of Art. Also he is a trustee and Executive Committee member of the United States Council of the International Chamber of Commerce, as well as vice chairman of the International Chamber of Commerce.

He serves on the National Advisory Committee on Banking Policies and Practices, Advisory Council of the Stanford Graduate School of Business, Emergency Committee for American Trade, Advisory Committee of the Brookings Institution, Board of Governors of the San Francisco Bay Area Council, and as a member of the Finance Committee of the National Industrial Conference Board, and Executive Committee of the Private Investment Company for Asia, and National Committee for Development—Asia Foundation.

On January 21, 1964, he was named Commander of the Royal Order of Vasa by His Majesty King Gustav Adolph VI of Sweden. On August 1, 1965, he received the Vasa Order Award as "Swedish-American of the Year." On October 13, 1965, he received the Spanish government's highest civilian honor, the Grand Cross of Civil Merit. On June 4, 1967, he received an honorary degree of Doctor of Humane Letters from the University of Redlands. On June 14, 1967, he received the Order of Merit of Italian Republic. On February 8, 1968 he was named "Man of the Year" by the Consulting Engineers Association of California "In recognition for singular and outstanding contributions to the American Philosophy of Private Enterprise." "On March 10, 1968 was named University of California "Alumnus of the Year." On March 23, 1968 he received an Honorary degree of Doctor of Laws from the University of California. On May 8, 1969 he was named "California Industrialist of the Year" by the California Museum of Scientist and Industry.

He is a member of the Bohemian Club, Villa Taverna, Commonwealth Club, Il Cenacolo, and Pacific-Union Club, all of San Francisco; California Club, Los Angeles; the Links Club, New York; and the Cypress Point Club, Pebble Beach.

Married in 1927 to the former Miss Patricia Price, Mr. Peterson has a son, Dr. R. Price Peterson, who is a member of the faculty of the University of Pennsylvania Medical School, and a daughter, Mrs. Stephen W. Bennett of New Orleans. Mrs. Peterson died in 1960.

Mr. Peterson was remarried in December 1962, to Barbara Welser Lindsay. They maintain residence in suburban Piedmont.

His hobbies are swimming, fly fishing and good books.

Senator PASTORE. Are you prepared to make a statement, sir?

Mr. PETERSON. I do not believe I have any statement. I should be very happy to serve if it is the decision of the committee.

Senator PASTORE. Well, in that connection we will call upon Senator Jackson.

Senator JACKSON. Mr. Chairman, may I just make a brief statement in presenting Mr. Saul Haas of Seattle, Wash., who is here for reappointment to the Board.

Senator Magnuson and I have known Mr. Haas for over 30 years. He has had a distinguished career in the field of communications, first as a newspaperman and then in the radio broadcasting field and then in television and radio.

He retired from ownership and day-to-day operation of private broadcasting a few years ago. Since that time he has been extremely active in public affairs. He has taken a lifelong interest in the field of communications. He is a wise counselor and an innovative type that I believe can continue to bring a lot of good advice and counsel to the board. I am very pleased to again present him to the committee as I did when he was first nominated.

The CHAIRMAN. Mr. Chairman, I could add a great deal to the discussion of Mr. Haas other than what my colleague has stated. I heartily concur with what he said.

Mr. Haas has been a friend of mine for almost 40 years. He is very dedicated to do this particular job as I know from many contacts with him since he was appointed.

Of course, as a member of the committee, I heartily recommend his reappointment.

Senator PASTORE. The only trouble I find with that is that Washingtonians are too selfish. He is a good friend of mine, too, and I come from Rhode Island and I concur with everything that has been said. We will get around to you, Mr. Haas, in just a minute.

Senator Javits.

Senator JAVITS. Thank you very much, Mr. Chairman. I appear to present to the committee a very distinguished New Yorker, John Hay Whitney, who has been nominated to be a director of the Corporation of the Public Broadcasting.

I know of few appointments that could be as good for the United States. These gentlemen are all very eminent and I am very proud that New York has such a very distinguished member of the group.

Mr. Whitney is most famous for having been prisoner of war in Germany but he has also been Ambassador to the United Kingdom from the United States. As publisher of the New York Herald Tribune, he has had vast experience in business and indeed in broadcasting for a great company called the Corinthian Broadcasting.

Personally I have tried to get him to take an active part in one of these Government corporations or commissions for years. I have known him for 25 years and I can vouch for his character as well as his distinction as an American.

It is a great thing that he has undertaken this task and I know he will serve the American people most adequately. I yield to my colleague, Senator Goodell, as a member of the committee, and he has also known Mr. Whitney for years and I am sure he can speak for himself.

Senator PASTORE. Senator Goodell.

Senator GOODELL. Mr. Chairman, I join my Senior Senator, Senator Javits, in introducing the committee to Mr. John Hay Whitney who was nominated for membership of the board of directors of the Corporation of Public Broadcasting.

Mr. Whitney's talent and experience I am sure will be invaluable in the continued success of the corporation and its efforts to extend and improve the Nation's educational television system.

In breadth and depth, Mr. Whitney's accomplishments in the field of communications and education make him the ideal man for this position of leadership and responsibility.

Mr. Chairman, as a member of the board of directors of the Whitney Communications Corp. and member of the board of the Corinthian Broadcasting Corp., he brings to the new post a firsthand knowledge of the broadcasting industry. Mr. Whitney's willingness to serve on the Corporation for Public Broadcasting reflects his deep sense of public responsibility which we have seen in many other areas. The number of philanthropic, cultural, humanitarian organizations in which he has served as trustee, chairman, and director is legion. His dedicated service has won the confidence and respect of all who know him.

If these past and present achievements are any indication of Mr. Whitney's contributions to the public broadcasting, the organization's future is bright indeed and I am very proud to join my colleague, Senator Javits, in recommending him.

Senator PASTORE. Is there anyone else in this room who desires to speak for or against any of these nominees?

(No response.)

Senator PASTORE. I think it can be rightfully said to my colleagues and the people who are here that we have before us today six of the most distinguished businessmen that I know of in these United States of America. Men who have dedicated their lives to the growth of this great country of ours in various areas, and the remarkable thing about it is that we still have the faculty and facility of getting some very busy people to take on some public responsibilities in times of stress when so much is at stake. All of us are proud of the fact that you gentlemen have agreed to assume these responsibilities at the invitation of the President.

I think the President deserves the congratulations of the country for choosing such distinguished people. I am not going to burden you today with asking you about what your function is going to be or what it is not going to be. I have sufficient confidence that each of you knows his responsibility.

I have been rather critical from time to time, not only at this present time but even under previous administrations, about the slow progress we have made with relation to developing a domestic satellite system which I think needs to be done. Also in the international area America has led the field. I know that many other people would like to play a part in this whole field because communications is the lifeblood of our relationship with all the peoples of the world but I would hope—and I have said this time and time again—I said it to Mr. Scranton and I said it to his predecessor—I would hope that in our negotiations we would not sell the American taxpayers short, that while we want to share this boon with all the nations of the world I do not think we ought to give away the American birthright in the process.

You have not done it with your bank. You have not done it with your interests, and none of you have done it in anything that you have been associated with. I mean, you have always been ready to

protect your stockholders and that was your duty. I would hope that in this process you would protect the stockholders of America who are the taxpayers of America. I hope that becomes a primary goal for all of us.

Now, that does not necessarily mean that we do not have to be cooperative. We want to be cooperative, but my experience has been that once we develop something then someone else comes along and they will not play ball. They will not play ball unless we give them 50 percent of the stock. Well, I don't know how readily we ought to be in doing things of that kind.

I think we ought to maintain good relations with all countries of the world, but I have nothing further to say unless you gentlemen want to say something.

Mr. Peterson, do you want to say something?

Senator MAGNUSON. I have a couple of questions of Mr. Peterson.

Senator PASTORE. All right.

The CHAIRMAN. Mr. Peterson, Comsat had a meeting here this last week I believe of the board. You were not there.

Mr. PETERSON. Yes; I think it was last week.

The CHAIRMAN. But you are familiar with their operation, I know that. Are they in the black now?

Mr. PETERSON. Yes, definitely.

The CHAIRMAN. And they submit quarterly reports, as I understand it, do they not?

Mr. PETERSON. Correct.

The CHAIRMAN. And this mainly comes from rental of the services through the satellites?

Mr. PETERSON. Yes.

The CHAIRMAN. Now, for the record—A.T. & T. uses the satellite occasionally and pays the fee, is that correct?

Mr. PETERSON. They pay the regular fee and they use—in their overseas communications they use the satellites considerably.

The CHAIRMAN. Yes. Now, does Western Union use it, do you recall? I think they do.

Mr. PETERSON. I think they do to a very limited degree, if they do at all. They are not a major factor.

The CHAIRMAN. Then the networks use it, is that correct?

Mr. PETERSON. The networks use it on overseas broadcasting; yes.

The CHAIRMAN. When we see now an event taking place in Europe, for instance, on a network program, that may come through the rental of the services of your satellite?

Mr. PETERSON. Correct, sir; and this has been increasingly so in recent years.

The CHAIRMAN. Then when you put up a satellite your expenses, of course, are the running expenses and also you pay NASA for the service that they do in putting it up?

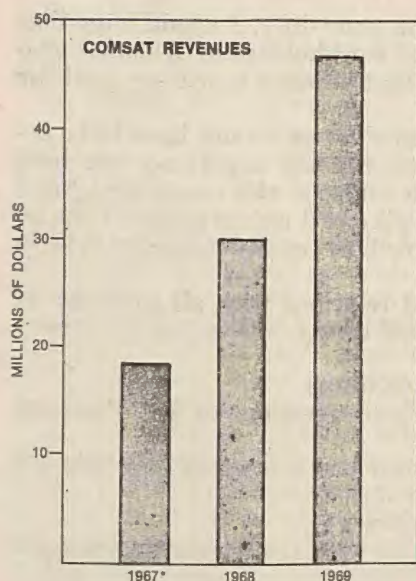
Mr. PETERSON. Correct. We pay them a fee for launching it.

The CHAIRMAN. In between the two you have to get enough fees to break even or make a profit?

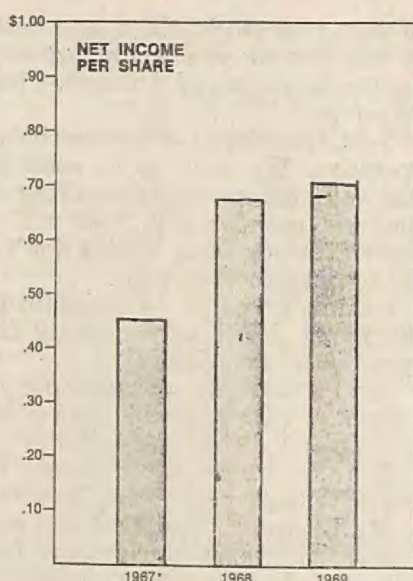
Mr. PETERSON. Make some money; yes, sir.

The CHAIRMAN. And as of now, as I understand—and I will get the figures for the record—Comsat is in the profit margin?

(The information referred to follows:)



*From May 1, 1967, the date of commencement of commercial operations.



*From May 1, 1967, the date of commencement of commercial operations.

STATEMENT OF FINANCIAL POSITION AT DECEMBER 31 (In thousands of dollars)

ASSETS		1969	1968
Property—At original cost (Note 1):			
Satellites		\$ 47,896	\$ 21,665
Earth stations		36,863	24,572
Headquarters and laboratory		22,437	5,481
Total		107,196	51,718
Accumulated depreciation		(25,080)	(20,342)
Construction in progress		29,780	47,136
Satellite system development costs, being amortized		18,433	20,928
Research and development costs, being amortized		8,196	3,612
Property—net		138,525	103,052
Current Assets:			
Cash		716	800
Temporary cash investments (at amortized cost which approximates market)		101,401	133,324
Accounts receivable		14,977	11,525
Accrued interest receivable		1,756	1,948
Other current assets		1,272	782
Total current assets		120,122	148,379
Deferred Charges and Other Assets (Note 2)			
Total		2,705	1,767
		<u>\$261,352</u>	<u>\$253,198</u>
CAPITALIZATION AND LIABILITIES.			
Capitalization:			
Common capital stock—without par value—authorized, 10,000,100 shares, issued and outstanding, 10,000,014 shares (at December 31, 1969: 6,296,639 shares of Series I and 3,703,375 shares of Series II)		\$196,001	\$196,001
Retained earnings		29,907	22,778
Capital stock expense (deduction)		(788)	(788)
Total capitalization		225,120	217,991
Accounts Payable and Accrued Liabilities—Current		11,632	17,132
Deferred Income Taxes (Note 3)		24,600	18,075
Total		<u>\$261,352</u>	<u>\$253,198</u>

See Notes to Financial Statements.

STATEMENT OF OPERATIONS AND RETAINED EARNINGS
(In thousands of dollars)

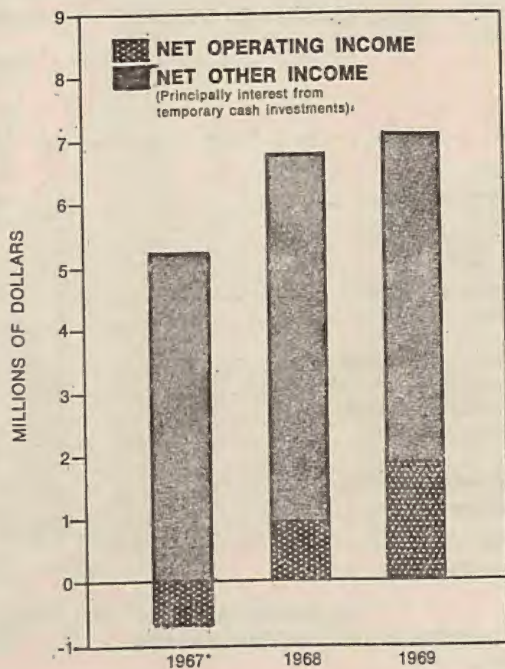
	Year Ended December 31	
	1969	1968
Operating Revenues	\$47,034	\$30,495
Operating Expenses:		
Operations and maintenance	25,067	18,758
Depreciation (Note 1)	14,014	7,176
Amortization of property (Note 1)	3,467	2,403
Federal income taxes (Note 3)	2,654	1,170
Total operating expenses	45,202	29,507
Net Operating Income	1,832	988
Other Income:		
Interest from temporary cash investments	7,485	8,574
Federal income taxes (deduction) (Note 3)	(3,871)	(4,485)
Interest during construction (Note 6)	1,683	1,764
Total other income	5,297	5,853
Net Income	7,129	6,841
Retained Earnings at Beginning of Year	22,778	15,937
Retained Earnings at End of Year	\$29,907	\$22,778
Net Income Per Share	\$.71	\$.68

See Notes to Financial Statements.

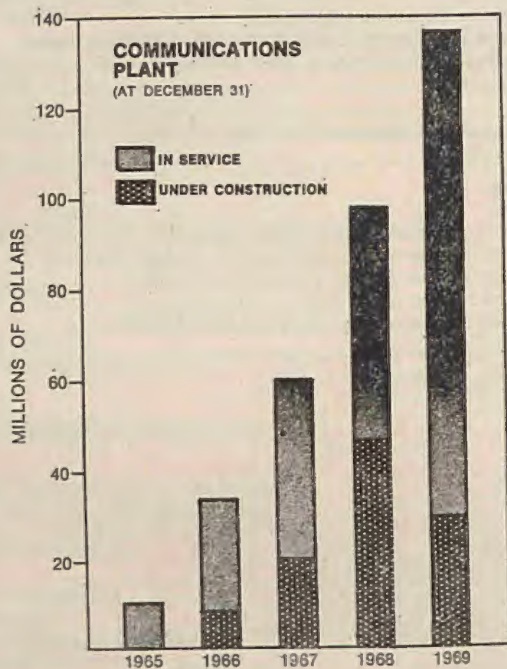
STATEMENT OF SOURCE AND APPLICATION OF FUNDS
(In thousands of dollars)

	Year Ended December 31	
	1969	1968
Source of Funds:		
Net income	\$ 7,129	\$ 6,841
Charges not requiring the current use of funds:		
Depreciation and amortization of property (including \$840,000 depreciation charged to asset accounts in 1969; \$459,000 in 1968)	18,321	10,038
Deferred income taxes	6,525	5,655
Total	31,975	22,534
Net decrease in cash and temporary cash investments	32,007	21,475
Total	\$63,982	\$44,009
Application of Funds:		
Property additions:		
Satellites, earth stations and other tangible property	\$48,238	\$39,554
Research and development and satellite system development costs	5,556	2,967
Net increase in accounts and accrued interest receivable	3,260	3,217
Increase in deferred charges and other current assets	1,428	1,347
Decrease (increase) in accounts payable and accrued liabilities	5,500	(3,076)
Total	\$63,982	\$44,009

See Notes to Financial Statements.



*Net operating loss from May 1, 1967, the date of commencement of commercial operations; net other income for the entire year 1967.



Mr. PETERSON. They are, Senator; yes.

The CHAIRMAN. I see that you wanted to study medicine but it was too expensive.

Mr. PETERSON. That is right.

The CHAIRMAN. I just finished hearings on the HEW appropriations bill and I want to tell you it is just the same today as when you started to school.

Mr. PETERSON. I know.

The CHAIRMAN. And that is why we are short 50,000 doctors in this country.

Senator PASTORE. But look how much better off he is by not studying it.

The CHAIRMAN. He is not about to fulfill that shortage now, but it is just as true today, that tremendous cost of delivery of health.

Now, the law provides that no more than eight members can be a member of one political party. Now, we will have to ask them again what their political affiliation is by law.

Senator PASTORE. We are going to do that one at a time.

The CHAIRMAN. One at a time. Not Comsat.

Senator PASTORE. Any further questions of Mr. Peterson? Mr. Goodell?

Senator GOODELL. No.

Senator PASTORE. Mr. Baker?

Senator BAKER. Mr. Chairman, I have a question or two. It will not take very long, but I wonder for my information and for the record if Mr. Peterson could briefly describe in just a minute or so the relationship of the directors to the actual management operation of the corporation.

Mr. PETERSON. Yes. Our main responsibilities are twofold; policy and the overall operation and our relationships with our customers who are rather substantial ones as the chairman has indicated, particularly overseas; and second, the approval or disapproval of management's recommendations on capital expenditure.

Now, there are legal problems and other interim problems that come along on a month-to-month basis but I think principally those are our two major responsibilities and, of course, as we enter this domestic scene now that a policy has been established, the policy considerations will probably be considerable. I have not been there since then but for several months—

Senator BAKER. Would you feel it the responsibility of the directors of the corporation to recommend to the President and the Congress any changes in the act itself, the generic law, which might be necessary to implement the policies that you might decide from time to time? Do you feel a continuing responsibility to the Congress and the President to monitor the performance that you have undertaken?

Mr. PETERSON. Unquestionably.

Senator BAKER. Thank you, Mr. Chairman.

The CHAIRMAN. I think, Senator Baker, the real problem Comsat has is in the future, looking down the line, the question of the satellite competition.

Mr. PETERSON. That is right.

The CHAIRMAN. For instance, the telephone company or some of the other people that now use these services possibly, and maybe

that is what they should be thinking about, doing it themselves—or even, I read once where the networks were thinking about putting up a domestic satellite of some kind.

Mr. PETERSON. That is correct.

The CHAIRMAN. And this is a problem that they have to solve in the future or work out with these people so that the Comsat can stay alive.

Senator PASTORE. Of course, there was a lot more enthusiasm in the beginning. It looked a lot easier than it actually is. This is a very, very expensive operation and I think myself there are only two or three industrial giants in this country that could undertake it. I think Comsat is one. I think A.T. & T. is another. I am afraid that the networks, unless they acted under a consortium—and that would run right into the face of the antitrust laws as to whether or not they could undertake that and I think it is a matter of policy, of course, that the administration has looked into. They have decided that there ought to be open competition but it is one thing to say it and another thing to do it, and I know that Comsat is very, very much interested and I understand that they have been working closely with other carriers to see if some kind of a conclusion could not be reached to bring this about.

One thing that we have been somewhat disturbed about is the fact that there has been a lot of talk and very little action. I think the time has come unless we want to lose out that we ought to do something about developing a domestic satellite system.

I do not know if Comsat has made an application. Has Comsat made an application? Do you know?

Mr. PETERSON. I have not been in attendance or a member of the board for some time; however, I can say, Mr. Chairman, that, No. 1, action was deferred for some months awaiting a policy position of the administration, and before I did step off the board a decision had been made to actively pursue it under that policy decision.

Senator PASTORE. Of course, A.T. & T. is a substantial stockholder of Comsat as well.

Mr. PETERSON. That is right.

Senator PASTORE. I would hope that a man with your energy and a man with your drive will put a little bit of a burr on the corporation and that we will get some results.

I only have one further question. Would you say as a businessman who has associated for so long in the business community and knows the intimacy of the board of directors to the management, following up Mr. Baker's question, would you say that the same is true with Comsat? I mean, are the directors really as interested in Comsat as the management of the corporation, intimately and with concern and interest, as they would be in a private corporation like you have been interested in?

Mr. PETERSON. Yes, emphatically yes.

Senator PASTORE. I am very happy to hear you say that. Any further questions of Mr. Peterson?

(No response.)

Senator PASTORE. Thank you very much, Mr. Peterson.

Mr. PETERSON. Thank you, sir.

Senator PASTORE. Now, we will turn to the public broadcasting. Mr. Haas, I will begin with you because both of the Senators have spoken for you. We will insert your biographical history in the record. Have you anything to say?

BIOGRAPHIC DATA

Haas, Saul: Age 78, (born June 12, 1892 New York City); residence: 216 40th Avenue East Seattle, Wash.; office: 1530 Queen Anne Avenue, Seattle, Wash.

Present position: Chairman of the board, KIRO, Inc.; licensee of KIRO-AM-FM-TV; director, CBS Radio Affiliates Association; director, Washington State Association of Broadcasters; director, Corporation for Public Broadcasting.

Education: Public schools of New York; attended North Idaho College of Education.

Family data: Married with one child.

Additional activities: Director, Providence Hospital, Seattle; chairman, Saul Haas Foundation; member, Radio & TV Executives Association; member and committeeman, Seattle Chamber of Commerce.

Clubs: Seattle Advertising Club; National Press Club; Municipal League of Seattle; Elks; Lotos Club, New York City.

Military data: Coast Guard Reserve; World War II, 1943-45, commander.

STATEMENT OF SAUL HAAS

Mr. HAAS. First, let me sincerely thank those senators who have made kind remarks about me and expressed their faith in my ability and dedication to the job for which you are now considering me. I will do my best to continue to earn the faith so generously expressed.

I assume that you, in line with what you have previously said, want me to address myself to what has happened since we were born and to what Senator Baker asked the Comsat nominee as to the relationship of the board and its actual involvement in the operation of the corporation.

Gentlemen, when we were born, we were born as a product of legislation which contained many compromises which appeared necessary to resolve the fears and misgivings of those who regarded public and educational television with doubt and uncertainty. This fact has given us some built-in difficulties. It is my hope that your committee, sir, will, at some date—perhaps by the end of the year, or when you are less pressed—review the legislation under which this corporation operates, under which it undertook to broaden broadcast communications in a manner which would amount to continuing education for all the American people so that it could better face the crises which confront now and the new ones which will continually develop in a growing and complex society. This, we must do if we are to make any substantial contribution to the functioning of democracy and the development of our country. This, we have made some start on but, of course, we too have been underfinanced, as I am sure you know.

In the beginning we operated almost entirely on private grants which included a million dollars each from the Carnegie Foundation and the Columbia Broadcasting System. We had to concern ourselves with the whole spectrum of what had been called educational—often called noncommercial—broadcasting, but which is now generally known as public broadcasting which, in turn, now, by statute, has a portion designated as instructional and is largely, but not entirely, used in classrooms. It seems to me that our function should include instructional as well as the other facets of public broadcasting so that

what we do will amount to a continuing educational process for Americans, bringing the dropout and the Ph.D. alike up to date on the things that are going on in America and in the world which affect them so that we would eventually become the most interesting and useful school of continuing education in the world.

When we first got organized, I was chairman for a while of a committee of the board—the radio committee. I found some 450 stations which, for the most part, were undermanned, understaffed, underfinanced, underinspired, and uninspiring. The facilities in many States were few. In Alaska I found that they had one small public or educational radio station, no television station serving this function at all. Montana, Wyoming, North Dakota, and South Dakota, are also poorly situated with respect to facilities. Yet these States are parts of America, generally thinly populated with little economic base to support even a substantial number of commercial stations.

In your own State, Mr. Chairman, there were a considerable number of radio stations operating on the power of 10 watts, or one-quarter of the power of an ordinary kitchen electric light. They were not ordinarily subjected to the rules of the FCC which a commercial station must observe. So it was hard to tell how many of the stations in America covered how much area. The FCC didn't seem to apply either the rules of the fairness doctrine or the personal attack doctrine, and it is my hope that the Corporation may help to take care of this lack. So far it hasn't.

I want to pause to pay tribute to Mr. Macy who, in the face of what was really an awesome mess, has made a very considerable contribution. The Corporation is still a baby and it has soiled a number of diapers and still occasionally does so, but the challenge it faces as it grows up staggers the imagination. The potential for good or ill is beyond my ability to recite.

It is my hope that the board of the Corporation for Public Broadcasting will have a greater involvement in policy and oversight and allocation of expenditures than it has had recently. We have been meeting for a couple of years—perhaps two and a half hours or a little more—every other month. We are not fully informed as to what is happening beyond press releases and similar material. I could not answer questions as fully as Mr. Peterson, of Comsat. But this has been discussed as recently as today and yesterday, and it is my hope that steps will be taken so that the corporation can utilize to the fullest so much of the time and experience of its directors as they are able and free to give.

Of course, much derives from the fact that we are even today living from month to month on last year's appropriations, which certainly hampers planning and commitments. And even now we don't know how far we can go, or where, until there is some action by the Congress and the President on the Corporation's appropriations. I think that the matter is now building and may be acted upon soon after Labor Day in the House.

So I thank you not only for the kind words which have been spoken about me here today, but for the opportunity and challenge which could give any man a sense of purpose.

Senator PASTORE. I quite agree with you, Saul. I mean, one of the things that we have had to really contend with on this committee, and fortunately enough, Senator Magnuson and myself and Senator Cot-

ton on the Appropriations Committee have always been able to raise some money on the Senate side but we have had some difficulty in the Congress bringing about an understanding as to the need of the money, and the whole thing is underfinancing, there is no question about it, and more money needs to come out.

There has been a lot of talk about how it should be done and I understand a task force was formed to come up with suggestions to the President and we have not had the suggestions yet. Of course, that runs into a very, very complicated ramification, too, as to how you are going to do this. It is easy to come up with these ideas but sometimes to put them into practice is another thing, especially in a competitive world that we live in.

Mr. HAAS. I know quite well the difficulties you face in helping us and I mention it not by way of complaining but by way of explaining why we have not done more and better than we have.

Senator PASTORE. I would hope that all of you gentlemen would take a good, hard look at that law, including Mr. Macy, and if you feel there are things that we should do or any recommendations that you should like to make we would welcome it. We are very much interested in this.

This was heralded in the world with a tremendous amount of electrifying publicity, you remember that, and we surely do not want this thing to die on the vine and I do not think the caliber of people who have come before us here are the kind of people who want to get on a sinking ship.

Mr. HAAS. May I say again, in closing, that we do have in mind reviewing the legislation which gave us birth so that built-in competitions and inefficiencies may be remedied.

Senator PASTORE. You will find us very receptive.

Do you come to us as a Democrat or as a Republican?

Mr. HAAS. I am a Democrat.

Senator PASTORE. Now, the next witness is Mr. Frank Schooley. We will submit his biography for the record.

BIOGRAPHICAL DATA—FRANK E. SCHOOLEY

Frank E. Schooley, 504 West Springfield Ave., Champaign, Illinois. Born March 1, 1906, Effingham, Illinois, son of Ellsworth B. and Viola H. Schooley. Educated, Effingham public schools, and University of Illinois, B.S. in Journalism, 1929. Director of University Broadcasting, Manager of WILL-AM-FM-TV, and Professor of Radio-Television, University of Illinois; Acting Head, Department of Radio and Television, 1968-70; Past President of the National Association of Educational Broadcasters (1944, 1945, 1954, 1955, 1958); former member of the Joint Council on Educational Television (1955-56); Past President of the University of Illinois chapter of the American Association of University Professors (1953-54). Council on Radio Journalism intern (N.A.B.) 1945, WSYR, Syracuse, N.Y. NAEB Fellow, 1949, 1950, 1953, and 1957. Member, City Council of Champaign, Illinois, 1959-1969. President, Illini Publishing Company, Urbana (1951-1961). Past President, Illinois State Exchange Clubs (1950-51). Chairman, Board of Directors, Champaign County Chapter, American Red Cross (1960-62), Member 1960-1969; Member, Inter-Club Council, Champaign-Urbana; Member, Kappa Tau Alpha, Sigma Delta Chi, Association for Education in Journalism, N.A.E.B., A.A.U.P., and Alpha Chi Phi. Republican. Presbyterian. Married Eleanor Brown, 1937. Six children.

He served on the People-to-People Radio-Television Committee, 1957-58.

He served on the Urbana U. of I. Faculty Advisory Committee, 1953-54.

He has been a member of the U. of I. Urbana Campus Planning Committee for the past decade.

He is secretary of the College of Communications Alumni Association and a member of the University Alumni Association Board of Directors.

He was nominated by President Johnson and served on the Board of directors of the Corporation for Public Broadcasting, 1968-1970.

STATEMENT OF FRANK SCHOOLEY

Mr. SCHOOLEY. Mr. Chairman, I think I can assure the Senators that I have observed the birth of the Corporation, the young Corporation of CPB, and I have noted the dedication of the members of the Board of Directors and of the staff.

I think much progress has been made in the 2-year period. I think the real challenge, however, really lies ahead of us, if we are to carry out the mandate prescribed in the act of 1967.

I am grateful for this opportunity of being here and I am grateful for the opportunity to serve.

Senator PASTORE. And your political affiliation?

Mr. SCHOOLEY. Republican.

The CHAIRMAN. Mr. Chairman, at this point I would like to ask either Mr. Haas or both of them just one question.

When Congress created this Corporation we made it explicitly clear that you would be completely free of what we, for want of a better term, said Government control, and you gentlemen have served on the Board of Directors since the beginning, and could you just in one sentence tell us, has the Corporation been completely free? What has been your experience in this respect?

Mr. SCHOOLEY. Senator Magnuson, I think as a member of the Board and as an observing—

The CHAIRMAN. I do not suggest we have come to any conclusions or heard anything to the contrary, but we wanted to get your word.

Mr. SCHOOLEY. I have noticed no attempt of any member of Congress or the Government or the administration to interfere in the operation of the Corporation. I think what remains—this is like the challenge of the future—is some kind of long-range financing that will isolate the Corporation from the potential problems, the problems we have not run into, and hopefully never will.

The CHAIRMAN. Well, at this point, Mr. Chairman, it might be well to apprise the members, and particularly the new members that are going to be selected, the situation on the money.

The authorization bill, S. 3558, which was handled by the Senator from Rhode Island, in this committee, for the Corporation was passed in the Senate on May the 19th, and it is ready for floor action in the House. A rule has been granted for House action after the recess that ends September 9, the Labor Day recess. Now, it would not be possible to provide funds under this new authorization unless the House clears the bill and it becomes public law after you complete a conference which I do not think would take long.

Now, the budget request from the Bureau of Budget is for \$15 million in direct appropriations with an additional \$7.5 million in matching funds. That totals \$22.5, John.

Mr. MACY. That is correct, sir.

The CHAIRMAN. And Mr. Macy, in the Senate hearings suggested \$30 million in direct appropriations with an additional \$5 million for matching funds or a total of \$35 million, as between \$22.5 and the \$35 million suggested.

The Senate passed bill and the House reported bill—it is reported on the floor—is more in line with this request and I suspect from experience that we will be somewhere in between when we get through with this.

Senator PASTORE. I hope that the appropriation will match that authorization. That is your problem. You never have any trouble on authorization but we have a lot of trouble on the appropriations.

The CHAIRMAN. I thought it would be good to put it in the record.

Senator PASTORE. Any further questions?

The CHAIRMAN. No.

Senator PASTORE. Our next witness is Mr. John Hay Whitney. We will place his biography in the record also.

(The biography follows:)

BIOGRAPHICAL SKETCH OF JOHN HAY WHITNEY

Born: August 17, 1904; Ellsworth, Maine.

Education: B.A., Yale University, 1926; Graduate work at Oxford University, England, 1926-27; M.A. (Hon.), Yale University; L.H.D. (Hon.), Kenyon College; LL.D. (Hon.): Colgate University, Brown University, Exeter University, England; Colby College, Columbia University.

Military: Captain, 1942; served in AAF, England. Later was staff officer for Commander, Allied Air Forces in Mediterranean; advanced to Colonel. Legion of Merit and Bronze Star.

Business Affiliations: Chairman of the Board, Whitney Communications Corporation; Partner, Whitcomb Investment Company; Partner, J. H. Whitney & Co.; Chairman, The International Herald Tribune (Paris); Member, Board of Directors, Corinthian Broadcasting Corporation; Chairman, Board of Directors, W.C.C. Publishing Company, Inc.; Chairman, John Hay Whitney Foundation; Member, Board of Directors, American Society of the French Legion of Honor; Honorary President, American Friends of the Tate Gallery (London); The Business Council (Graduate Member); Governor, The Ditchley Foundation Ltd.; Honorary Member, The English-Speaking Union of the United States; Member, Board of Directors, Friends of the Whitney Museum of American Art; Steward, Jockey Club; Trustee, Museum of Modern Art; Vice-President & Trustee, National Gallery of Art (Washington, D.C.); Trustee, National Museum of Racing (Saratoga Springs, N.Y.); Trustee, New York City Public Events Committee; Governor, New York Hospital; Trustee, New York Racing Association; Co-Chairman, Board of Trustees, North Shore Hospital; Vice-President, Pilgrims of the United States; Member, Saratoga Springs Commission; Vice-President, Saratoga Performing Arts Center; Member, Helen Hay Whitney Foundation; Corporation Fellow, Yale University; Member, Board of Directors, Channel 13 (Educational Broadcasting Corporation).

Awards and Decorations: C.B.E., Commander of the Order of the British Empire; The Hundred Year Association Gold Medal, 1953; Yale Medal, 1954; Tuition Plan Award, 1955; Albert Einstein Commemorative Award, 1957; Chevalier, Ordre National de la Legion d'Honneur, France, 1962; La Grande Medaille de Vermeil, Conseil Municipal de Paris, 1962; Associate Knight of the Grand Priory in the British Realm of the Most Venerable Order of the Hospital of St. John of Jerusalem, 1963; Benjamin Franklin Medal, The Royal Society of Arts, London, 1963 (First American Recipient); Elijah Parish Lovejoy Award, Colby College, 1964.

Former Posts and Affiliations: Editor in Chief and Publisher, New York Herald Tribune, 1961-66; Ambassador of the United States of America to the

Court of St. James's, 1957-61; Carnegie Endowment for International Peace, 1961-64; Member, Committee on Foreign Affairs Personnel, 1962; Chairman of the Board, Freeport Sulphur Company, 1934-42 and 1948-57; Chairman, United Republican Finance Committee, 1954-57; Member, Secretary of State's Public Committee on Personnel (Wriston Committee), 1954-55; Member, President's Commission on Education Beyond High School, 1956; Finance Chairman, Citizens for Eisenhower-Nixon, 1952; Office of Coordinator of Inter-American Affairs—Director, Motion Picture Division (Washington, D.C.), 1940-42; Chairman of the Board, Selznick International Pictures, 1936-40; Trustee, Committee for Economic Development; Trustee, National Planning Association; Member, New York State Banking Board; Governor, The Hundred Year Association of New York; Member, Board of Directors, Great Northern Paper Company; Member, U.S. National Commission for UNESCO; Member, Board of Directors, Pan American Airways, 1931-42.

STATEMENT OF JOHN HAY WHITNEY

Mr. WHITNEY. Mr. Chairman, I have no statement to make at this time. I would also like to thank Senator Javits and Senator Goodell for their very kind introduction and just to add that I have never approached any job or assignment with any more enthusiasm than I do for this work. That is particularly and especially to include being prisoner of war.

Senator PASTORE. And you came to us as a what?

Mr. WHITNEY. Republican.

Senator PASTORE. Any questions of Mr. Whitney?

(No response.)

Senator PASTORE. The next one is Jack Wrather and I have a letter here from Senator Murphy of California and I would like to read it and place his biography in the record.

I regret that a previous commitment makes it impossible for me to be present today at the confirmation hearing of Mr. Jack Wrather who has been nominated by the President to the Board of Directors of the Corporation for Public Broadcasting.

You already have Mr. Wrather's biographical data before you but I would like to add that I have known Jack Wrather for many years and cannot imagine anyone better qualified for such a post.

Mr. Wrather brings with him a wealth of experience in both the field of actual work task management and the production of the highest quality program material. He has achieved much in the area of civic endeavor and is dedicated to his country and fellow Americans. I cannot recommend him too highly.

Therefore, Mr. Chairman, I have the pleasure to endorse this nomination and respectfully recommend Mr. Wrather's early confirmation as I am most confident that he will discharge his duties with the same excellence that has always exemplified his career.

With best wishes,

GEORGE MURPHY,
Senator from California.

BIOGRAPHICAL SKETCH OF J. D. WRATHER, JR.

Mr. J. D. Wrather, Jr., was born May 24, 1918, at Amarillo, Texas. He attended grammar school in Long Beach, California, moving to Dallas, Texas in 1930, and to Tyler, Texas soon thereafter. He lived in Tyler from 1931 to 1941, attending high school there. In 1939 Mr. Wrather received a B.A. degree from the University of Texas, with honors. He was a member of Phi Eta Sigma, honorary freshman fraternity, and of the honorary government fraternity Pi Sigma Alpha.

In 1940, after a year of "roughnecking" on drilling rigs in the Texas oil fields, as a pipeline walker and finally as a "wild-catter", Mr. Wrather supervised the construction of a refinery for Overton Refining Company in Evansville, Indiana.

Construction was completed in 1940, and in the same year Jack Wrather accepted the presidency of the family oil company because of the illness of his father.

In 1942 Mr. Wrather joined the United States Marine Corps and went through officer training at Quantico, Virginia. He was subsequently stationed in San Diego, California, from November 1942 until 1944. His executive experience in the Marine Corps began as Training Officer for Aviation Training Squadron 131, after which he advanced to becoming Executive Officer, and then Commanding Officer of this squadron. Mr. Wrather went overseas in 1944, as Commanding Officer of Headquarters Squadron of MAG-24, 1st Marine Air Wing. His combat service included Bougainville, Solomon Islands; Luzon, Philippine Islands; and Mindinao, Philippine Islands. He was awarded three combat stars, and participated in landings at Lingayen, Luzon, and Parang, Mindinao. Returning from overseas in October 1945, he was released from active duty in December with the rank of Captain. He retired from the Marine Corps with the rank of Major in 1950. Resuming his business career after the war, Mr. Wrather has since been active in a number of business enterprises. Until 1957, he was President of Wrather Petroleum Corporation, a company with headquarters in Dallas, producing and transporting petroleum in Texas. He is Managing Director and owner of "J. D. Wrather, Jr., Special Account". This account is an independent oil operation for the purpose of drilling for and producing oil, and for purchase and investment in minerals.

Since 1946, the J. D. Wrather, Jr., organization has drilled and has participated in the drilling of more than 300 exploratory and producing wells.

Diversification of Mr. Wrather's business interests began in 1946, when he became President of Jack Wrather Pictures, Inc., producers of motion pictures, with headquarters in Beverly Hills, California. Wrather Television Productions, Inc., of which he was President, was organized for television film activity and the company subsequently produced a television series sponsored by Proctor & Gamble. Between 1946 and 1955, Mr. Wrather produced seven feature motion pictures for Allied Artists, Eagle Lion, Warner Bros., and United Artists release.

In 1952, Mr. Wrather purchased KOTV, a CBS-TV affiliate in Tulsa, Oklahoma, for \$2,000,000, and in the next few years added to his television interests by the purchase of KFMB-TV and AM, San Diego, California, and KERO-TV in Bakersfield, California, for a total of \$4,250,000. In 1959, Mr. Wrather merged his television interests into Transcontinent Television Corporation, a company owning, in addition to Mr. Wrather's properties, TV and radio stations in Buffalo, New York; Kansas City, Missouri; and Scranton, Pennsylvania, in which corporation he became a major stockholder and a member of the Executive Committee. This company was sold in 1964 to Taft Broadcasting plus others. In 1954, Mr. Wrather purchased the television and radio property, "The Lone Ranger". In 1955, he constructed the Disneyland Hotel at Disneyland Park, which is a \$30,000,000 property with 1000 rooms, and convention facilities. In 1956, Mr. Wrather acquired the "Lassie" television show, and "Sergeant Preston of the Yukon", another television property, in 1957 for a total of \$4,500,000. The "Lassie" television show is produced as a Jack Wrather Production and begins its 17th year on the CBS network in the fall of 1970. Also, in 1957, he purchased the world's largest radio station, WNEW, New York City, for \$3,500,000, and Muzak Corporation for \$4,150,000. In 1958, with Associated Television Ltd., London, England, Mr. Wrather founded Independent Television Corporation, which purchased for more than \$12,000,000 Television Programs of America. ITC became one of the leading companies in the production and distribution of television series.

In June 1961, Wrather Corporation became publicly owned. This company consists of the Disneyland Hotel, Muzak Corporation, "Lassie", "The Lone Ranger", and "Sergeant Preston of the Yukon". Jack Wrather is President and Chairman of the Board of Wrather Corporation.

Outside of corporate interests, Mr. Wrather personally is principal owner of the famed Balboa Bay Club in Newport Beach, California, L'Horizon Hotel in Palm Springs, oil interests in Texas and Oklahoma, and large ranching and agricultural acreage in Australia. He is a member of the Board of Directors of TelePrompter Corporation. TelePrompter is a prominent company in the CATV business.

Mr. Wrather was a founder of KCET, Channel 28, Los Angeles, an educational television station, and served for several years from its inception on the Executive Committee and on the Board of Directors.

Mr. Wrather has long been a strong supporter of Chambers of Commerce in cities where his business interests are located, and has actively supported the Red Cross, Motion Picture Relief Fund, Community Chest Campaigns, Boys' Town, Menninger Clinic, and Variety Club charities. He is a member of the Marine Corps Reserve Officers Club in Washington, D.C., the Dallas Petroleum Club and the Dallas Athletic Club in Dallas, Texas, as well as the Players' Club of New York City, the Balboa Bay Club in Newport Beach, California, and he is also a member of the Development Board of the University of Texas, and of the Executive Committee of the Chancellor's Council of the University of Texas, and a member of the Advisory Council of Robert Louis Stevenson School in Pebble Beach, California. He was a director of the Hollywood Museum, and is on the Board of Directors of American Foundation of Religion and Psychiatry. He is a sponsor of the Los Angeles Orphanage Guild, and a Founder Member of the Performing Arts Council of the Music Center. He is a member of the International Radio & Television Society; a member of the Independent Petroleum Association; and the California Hotel Association. In 1970 he was appointed to the National Petroleum Council, an advisory committee under the Department of the Interior.

Jack Wrather is married to the former Bonita Granville and has 4 children, 2 boys and 2 girls. He lives in Holmby Hills, Los Angeles, California, and Newport Beach, California, with business headquarters in Beverly Hills.

Senator PASTORE. You would not want to add anything to that, Mr. Wrather?

STATEMENT OF J. D. WRATHER, JR.

Mr. WRATHER. That is very nice and I appreciate Senator Murphy—even though I understand he is on his way to Israel—having taken the time to say those kind remarks.

Senator PASTORE. Would you like to add anything?

Mr. WRATHER. Just one word. I look on this as a great challenge and if I am confirmed I certainly hope to meet that challenge.

Senator PASTORE. And your political affiliation?

Mr. WRATHER. Republican.

Senator PASTORE. Now, we have Mr. Thomas Moore and his biographical sketch will be included in the record.

BIOGRAPHIC SKETCH OF THOMAS W. MOORE

Age: 51 (Born September 17, 1918, Meridian, Miss.).

Residence: 91 Dorchester Road, Darien, Connecticut.

Office: 375 Park Avenue, New York, New York.

Present position: Chairman of the Board and Chief Executive Officer Ticketron, Inc.

Education: 1935-38, Mississippi State University; 1939, University of Missouri.

Family data: Married Claire Stirrat, February 18, 1943; Son, Thomas W., Jr., student at Stanford University; Daughter, Jean, student at Stanford University.

Previous experience: 1939-40, Meridian, Miss. STAR—advertising salesman; 1945-50, Forest Lawn Memorial Park—public relations; 1950-55, Columbia Broadcasting System—programming and sales; 1955-68, American Broadcasting Company—programming, sales; 1962-68, President, ABC-TV Network; 1968, President, Ticketron, Inc.

Military data: 1941-45, Lt. USNR—Naval Aviator, North Pacific area.

Also: Member, American Revolution Bicentennial Commission; President, Naval Aviation Museum Association; Board of Directors, Abercrombie and Fitch; World Wildlife Fund.

Clubs: Sigma Alpha Epsilon; Boone and Crockett; Los Angeles Country Club; Wee Burn Country Club; Explorers Club of New York; Bohemian Club, San Francisco.

Honors: Horatio Alger Award, 1968; Honorary LL.D. University of Alabama, 1967.

STATEMENT OF THOMAS W. MOORE

Mr. MOORE. Mr. Chairman, I have nothing formally to say. I have been fortunate enough to spend most of my life in the commercial broadcast field up to the last 18 months or 2 years. Having headed a commercial network and seen television grow to become almost the extension of the human nervous system in our country, I had a first-hand opportunity to observe what with all its accomplishments the frustrations of trying to do some things within the commercial framework are and I approach this assignment with a great deal of enthusiasm and I sincerely hope that I will be able to bring something to it.

Senator PASTORE. Thank you very, very much, and I think you are going to be a great help to this operation.

Senator MAGNUSON. Mr. Chairman, I might say for the information of Mr. Moore, the President submitted your name this morning to us so that we could get you quickly confirmed.

Mr. MOORE. Thank you.

Senator PASTORE. And your political affiliation?

Mr. MOORE. I am a Republican.

Senator PASTORE. Out of Mississippi?

Mr. MOORE. I was born in Mississippi but I married a Washingtonian from Seattle and lived in Connecticut and worked in New York.

Senator PASTORE. Any further questions?

Senator MAGNUSON. One thing I wanted to ask Mr. Wrather, who has had considerable experience in the producing end, as the committee knows, such as the "Lone Ranger" and "Lassie" and all these, which are the type of programing that appeals to everybody, and I am hopeful that you will give a lot of help to this board in their very necessary work of producing these things that you are going to try and use in public broadcasting. There is an expertise there that a lot of us do not know that you would have and that is why I am very pleased that you are on here because if for nothing else for that experience and because I understand you have not lost any money doing it.

Mr. WRATHER. Not yet.

The CHAIRMAN. At least the ones I know about. Maybe you had some duds.

Mr. WRATHER. We do not talk about those. They are not on there.

Senator PASTORE. Do you have another collie in training?

Mr. WRATHER. Yes. That is always a question we get asked so I am prepared with an answer for that. We only have one Lassie, Senator, and we keep several Lassies in training because we only use a Lassie 3 or 4 years. We are fortunate enough, as Senator Magnuson pointed out, to be commercially acceptable. We start our 17th year this September on the CBS network.

Senator PASTORE. It is one of the oldest films on television.

Mr. WRATHER. Yes; it is the oldest film showed. We hope to be on for a long time.

I do hope to be able to contribute any experience and expertise I might have toward what you were speaking on which is the programing capability of this broadcasting.

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Senator PASTORE. Well, John Macy is always a welcome guest. Do you have anything to say, John?

Mr. MACY. Mr. Chairman, thank you. I merely want to add my word of welcome to the men that are here before you for your consideration and say how pleased I am that the President named them to serve on this distinguished board and I look forward to close collaboration with them in the period immediately ahead.

Senator PASTORE. I repeat again, is there anyone here who wants to venture anything for or against these nominees?

(No response.)

Senator PASTORE. Thank you very much. We will adjourn.
(Whereupon, at 3:30 p.m., the committee was adjourned.)

DR. GEORGE F. MANSUR, JR., TO BE DEPUTY DIRECTOR OF THE OFFICE OF TELECOMMUNICATIONS POLICY

WEDNESDAY, SEPTEMBER 30, 1970

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met at 9:30 a.m. in room 5110, New Senate Office Building, Hon. John O. Pastore, presiding.

Present: Senators Pastore and Baker.

OPENING STATEMENT OF SENATOR PASTORE

Senator PASTORE. The hearing will please come to order.

Today the committee considers the nomination of Dr. George Frank Mansur, Jr., to be Deputy Director of the Office of Telecommunications Policy. Reorganization Plan No. 1 of 1970 abolished the Office of Assistant Director of the Office of Emergency Preparedness held by the Director of Telecommunications Management, and established in the Executive Office of the President the Office of Telecommunications Policy.

On July 24, 1970, the Senate confirmed the nomination of Dr. Clay T. Whitehead to be the Director of that new office and now Dr. Mansur's nomination is before this committee to be the Deputy Director.

When Dr. Whitehead was before the committee, I set out in some detail the history of the committee's attempts to urge the interested agencies of Government to adopt an overall communications policy because it is apparent to me that their failure to do so has contributed significantly to many of the problems and uncertainties that we now face in the field of communications.

(The article follows:)

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 1 OF 1970

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *February 9, 1970.*

To the Congress of the United States:

We live in a time when the technology of telecommunications is undergoing rapid change which will dramatically affect the whole of our society. It has long been recognized that the executive branch of the Federal government should be better equipped to deal with the issues which arise from telecommunications

growth. As the largest single user of the nation's telecommunications facilities, the Federal government must also manage its internal communications operations in the most effective manner possible.

Accordingly, I am today transmitting to the Congress Reorganization Plan No. 1 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code.

That plan would establish a new Office of Telecommunications Policy in the Executive Office of the President. The new unit would be headed by a Director and a Deputy Director who would be appointed by the President with the advice and consent of the Senate. The existing office held by the Director of Telecommunications Management in the Office of Emergency Preparedness would be abolished.

In addition to the functions which are transferred to it by the reorganization plan, the new Office would perform certain other duties which I intend to assign it by Executive order as soon as the reorganization plan takes effect. That order would delegate to the new Office essentially those functions which are now assigned to the Director of Telecommunications Management. The Office of Telecommunications Policy would be assisted in its research and analysis responsibilities by the agencies and departments of the Executive Branch including another new office located in the Department of Commerce.

The new Office of Telecommunications Policy would play three essential roles:

1. It would serve as the President's principal adviser on telecommunications policy, helping to formulate government policies concerning a wide range of domestic and international telecommunications issues and helping to develop plans and programs which take full advantage of the nation's technological capabilities. The speed of economic and technological advance in our time means that new questions concerning communications are constantly arising, questions on which the government must be well informed and well advised. The new Office will enable the President and all government officials to share more fully in the experience, the insights, and the forecasts of government and non-government experts.

2. The Office of Telecommunications Policy would help formulate policies and coordinate operations for the Federal government's own vast communications systems. It would, for example, set guidelines for the various departments and agencies concerning their communications equipment and services. It would regularly review the ability of government communications systems to meet the security needs of the nation and to perform effectively in time of emergency. The Office would direct the assignment of those portions of the radio spectrum which are reserved for government use, carry out responsibilities conferred on the President by the Communications Satellite Act, advise State and local governments, and provide policy direction for the National Communication System.

3. Finally, the new Office would enable the executive branch to speak with a clearer voice and to act as a more effective partner in discussions of communications policy with both the Congress and the Federal Communications Commission. This action would take away none of the prerogatives or functions assigned to the Federal Communications Commission by the Congress. It is my hope, however, that the new Office and the Federal Communications Commission would cooperate in achieving certain reforms in telecommunications policy, especially in their procedures for allocating portions of the radio spectrum for government and civilian use. Our current procedures must be more flexible if they are to deal adequately with problems such as the worsening spectrum shortage.

Each reorganization included in the plan which accompanies this message is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the government to the fullest extent practicable."

The reorganizations provided for in this plan make necessary the appointment and compensation of new officers, as specified in sections 3(a) and 3(b) of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

This plan should result in the more efficient operation of the government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

The public interest requires that government policies concerning telecommunications be formulated with as much sophistication and vision as possible. This reorganization plan—and the executive order which would follow it—are necessary instruments if the government is to respond adequately to the challenges and opportunities presented by the rapid pace of change in communications. I urge that the Congress allow this plan to become effective so that these necessary reforms can be accomplished.

RICHARD NIXON.

REORGANIZATION PLAN NO. 1 OF 1970

(Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 9, 1970, pursuant to the provisions of chapter 9 of title 5 of the United States Code)

OFFICE OF TELECOMMUNICATIONS POLICY

SECTION 1. *Transfer of functions.* The functions relating to assigning frequencies to radio stations belonging to and operated by the United States, or to classes thereof, conferred upon the President by the provisions of section 305(a) of the Communications Act of 1934, 47 U.S.C. 305(a), are hereby transferred to the Director of the Office of Telecommunications Policy hereinafter provided for.

SEC. 2. *Establishment of Office.* There is hereby established in the Executive Office of the President the Office of Telecommunications Policy, hereinafter referred to as the Office.

SEC. 3. *Director and deputy.* (a) There shall be at the head of the Office the Director of the Office of Telecommunications Policy, hereinafter referred to as the Director. The Director shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(b) There shall be in the Office a Deputy Director of the Office of Telecommunications Policy who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Director shall perform such functions as the Director may from time to time prescribe and, unless the President shall designate another person to so act, shall act as Director during the absence or disability of the Director or in the event of vacancy in the office of Director.

(c) No person shall while holding office as Director or Deputy Director engage in any other business, vocation, or employment.

SEC. 4. *Performance of functions of Director.* (a) The Director may appoint employees necessary for the work of the Office under the classified civil service and fix their compensation in accordance with the classification laws.

(b) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance of any function transferred to him hereunder by any other officer, or by any organizational entity or employee, of the Office.

SEC. 5. *Abolition of office.* That office of Assistant Director of the Office of Emergency Preparedness held by the Director of Telecommunications Management under Executive Order No. 10995 of February 16, 1962, as amended, is abolished. The Director of the Office of Emergency Preparedness shall make such provisions as he may deem to be necessary with respect to winding up any outstanding affairs of the office abolished by the foregoing provisions of this section.

SEC. 6. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, or used by, or available or to be made available to, the Office of Emergency Preparedness in connection with functions affected by the provisions of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Office of Telecommunications Policy at such time or times as he shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 7. *Interim Director.* The President may authorize any person who immediately prior to the effective date of this reorganization plan holds a position in

the Executive Office of the President to act as Director of the Office of Telecommunications Policy until the office of Director is for the first time filled pursuant to the provisions of section 3 of this reorganization plan or by recess appointment, as the case may be. The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office of Director. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

Senator PASTORE. I want to say parenthetically at this point I do not make this a criticism of this administration. This is something that has been pending for some time and this committee has been very concerned about the development of a domestic communications system and also as to what is going to happen.

I will not take time to repeat what I said then, but I will insert that statement in the record at this juncture because I wish to impress on all concerned the necessity for proceeding as expeditiously as possible in the formulation of an overall communications policy.

In this connection I might also mention that I am chairman of the Independent Offices Appropriations Subcommittee, and I would hope that when you and Dr. Whitehead appear before that committee you will be able to report some action on this matter.

When the President created the Office of Telecommunications Policy, he explicitly said he expected the Office of Telecommunications Policy to be a more effective partner in discussions of policy with both the Congress and the Federal Communications Commission. Since then he has issued an Executive Order No. 11556, assigning telecommunications functions to the new office.

At this point I wish to include a copy of that Executive order in the record.

(The document follows:)

[From the Federal Register, Sept. 9, 1970]

THE PRESIDENT—EXECUTIVE ORDER 11556

ASSIGNING TELECOMMUNICATIONS FUNCTIONS

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, and in consonance with the intention expressed in my message to the Congress transmitting Reorganization Plan No. 1 of 1970, it is hereby ordered as follows:

SECTION 1. *Amended and suspended orders.* Executive Orders Nos. 10705 of April 17, 1957, 11051 of September 27, 1962, 11191 of January 4, 1965, and 11490 of October 28, 1969, and the President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413) are amended as provided herein. Executive Orders Nos. 10695-A of January 16, 1957, 10995 of February 16, 1962, and 11084 of February 15, 1963, to the extent not heretofore made inapplicable, are hereby revoked.

SEC. 2. *General functions.* Subject to the authority and control of the President, the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director) shall:

(a) Serve as the President's principal adviser on telecommunications.

(b) Develop and set forth plans, policies, and programs with respect to telecommunications that will promote the public interest, support national security, sustain and contribute to the full development of the economy and world trade, strengthen the position and serve the best interests of the United States in negotiations with foreign nations, and promote effective and innovative use of telecommunications technology, resources, and services. Agencies shall consult with the Director to insure that their conduct of telecommunications activities is consistent with the Director's policies and standards.

(c) Assure that the executive branch views are effectively presented to the Congress and the Federal Communications Commission telecommunications policy matters.

(d) Coordinate those interdepartmental and national activities which are conducted in preparation for U.S. participation in international telecommunications conferences and negotiations, and provide to the Secretary of State advice and assistance with respect to telecommunications in support of the Secretary's responsibilities for the conduct of foreign affairs.

(e) Coordinate the telecommunications activities of the executive branch and formulate policies and standards therefor, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.

(f) Evaluate by appropriate means, including suitable tests, the capability of existing and planned telecommunications systems to meet national security and emergency preparedness requirements, and report the results and any recommended remedial actions to the President and the National Security Council.

(g) Review telecommunications research and development, system improvement and expansion programs, and programs for the testing, operation, and use of telecommunications systems by Federal agencies. Identify competing, overlapping, duplicative or inefficient programs, and make recommendations to appropriate agency officials and to the Director of the Office of Management and Budget concerning the scope and funding of telecommunications programs.

(h) Coordinate the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency, and be prepared to administer such resources in any emergency under the overall policy direction and planning assumptions of the Director of the Office of Emergency Preparedness.

(i) Develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.

(j) Conduct and coordinate economic, technical, and systems analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

(k) Conduct studies and analyses to evaluate the impact of the convergence of computer and communications technologies, and recommend needed actions to the President and to the departments and agencies.

(l) Coordinate Federal assistance to State and local governments in the telecommunications area.

(m) Contract for studies and reports related to any aspect of his responsibilities.

SEC. 3. Frequency assignments. The functions transferred to the Director by section 1 of Reorganization Plan No. 1 of 1970 include the functions of amending, modifying, and revoking frequency assignments for radio stations belonging to and operated by the United States, or to classes thereof, which have heretofore been made or which may be made hereafter.

SEC. 4. War powers. Executive Order No. 10705 of April 17, 1957, headed "Delegating Certain Authority of the President Relating to Radio Stations and Communications", as amended, is further amended by:

(a) Substituting for subsection (a) of section 1 the following: "(a) Subject to the provisions of this order, the authority vested in the President by subsections 606 (a), (c), and (d) of the Communications Act of 1934, as amended (47 U.S.C. 606 (a), (c) and (d)), is delegated to the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director). That authority shall be exercised under the overall policy direction of the Director of the Office of Emergency Preparedness."

(b) Substituting for the text "subsections 305(a) and 606(a)" in subsection (b) of section 1 the following: "subsection 606(a)".

SEC. 5. Foreign government radio stations. The authority to authorize a foreign government to construct and operate a radio station at the seat of government vested in the President by subsection 305(d) of the Communications Act of 1934, as amended (47 U.S.C. 305(d)), is hereby delegated to the Director. Authorization for the construction and operation of a radio station pursuant to this subsection and the assignment of a frequency for its use shall be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Federal Communications Commission.

SEC. 6. *Office of Emergency Preparedness.* (a) Executive Order No. 11051 of September 27, 1962, headed "Prescribing Responsibilities of the Office of Emergency Planning in the Executive Office of the President", as amended, is further amended by:

(1) Deleting subsection 301(4) and renumbering subsection 301(5) as subsection 301(4).

(2) Substituting for section 306 the following:

"SEC. 306. *Emergency telecommunication.* The Director shall be responsible for providing overall policy guidance to the Director of the Office of Telecommunications Policy in planning for the mobilization of the Nation's telecommunications resources in time of national emergency."

(3) Deleting section 406.

SEC. 7. *Emergency preparedness.* Executive Order No. 11490 of October 28, 1969, headed "Assigning emergency preparedness functions to Federal departments and agencies," as amended, is hereby further amended (1) by substituting "Policy (35 F.R. 6421)" for "Management (OEP)" in section 401(27), and (2) by substituting the number of this order for "10995" in section 1802 and in section 2002(3).

SEC. 8. *National Communications System.* The President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413), is amended by:

(a) Substituting the following for the first paragraph after the heading "Executive Office Responsibilities":

"The Director of the Office of Telecommunications Policy shall be responsible for policy direction of the development and operation of the National Communications System and shall:"

(b) Substituting the term "Director of the Office of Telecommunications Policy" for the term "Special Assistant to the President for Telecommunications" wherever it appears in said memorandum.

SEC. 9. *Communications Satellite Act of 1962.* Executive Order No. 11191 of January 4, 1965, headed "Providing for the Carrying Out of Certain Provisions of the Communications Satellite Act of 1962", is amended by:

(a) Substituting the following for subsection (c) of section 1:

"(c) The term 'the Director' means the Director of the Office of Telecommunications Policy," and

(b) Substituting the following for the catchline of section 2: "*Director of the Office of Telecommunications Policy.*"

SEC. 10. *Advisory committees.* As may be permitted by law, the Director shall establish such interagency advisory committees and working groups composed of representatives of interested agencies and consult with such departments and agencies as may be necessary for the most effective performance of his functions. To the extent he deems it necessary to continue the Interdepartment Radio Advisory Committee, that Committee shall serve in an advisory capacity to the Director. As may be permitted by law, the Director also shall establish one or more telecommunications advisory committees composed of experts in the telecommunications area outside the Government.

SEC. 11. *Rules and regulations.* The Director shall issue such rules and regulations as may be necessary to carry out the duties and responsibilities delegated to or vested in him by this order.

SEC. 12. *Agency assistance.* All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Director and to furnish him such information, support and assistance, not inconsistent with law, as he may require in the performance of his duties.

SEC. 13. *Functions of the Secretary of Commerce.* The Secretary of Commerce shall support the Director in the performance of his functions, shall be a primary source of technical research and analysis and, operating under the policy guidance and direction of the Director, shall:

(a) Perform analysis, engineering and administrative functions, including the maintenance of necessary files and data bases, responsive to the needs of the Director in the performance of his responsibilities for the management of the radio spectrum.

(b) Conduct technical and economic research upon request to provide information and alternatives required by the Director.

(c) Conduct research and analysis on radio propagation, radio systems characteristics, and operating techniques affecting the utilization of the radio spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

(d) Conduct research and analysis in the general field of telecommunication sciences in support of other Government agencies as required and in response to specific requests from the Director.

(e) Conduct such other activities as may be required by the Director to support him in the performance of his functions.

SEC. 14. *Retention of existing authority.* (a) Nothing contained in this order shall be deemed to impair any existing authority or jurisdiction of the Federal Communications Commission. In carrying out his functions under this order, the Director shall coordinate his activities as appropriate with the Federal Communications Commission and make appropriate recommendations to it as the regulator of the private sector.

(b) Except as specifically provided herein, nothing in this order shall be deemed to derogate from any existing assignment of functions to any other department or agency or officer thereof made by statute, Executive order, or other Presidential directives.

RICHARD NIXON.

THE WHITE HOUSE, September 4, 1970.

[F.R. Doc. 70-2017; Filed, Sept. 4, 1970; 4:58 p.m.]

Senator PASTORE. Dr. Mansur, as the Deputy Director, you will have occasion to act for the Director. I assume you are thoroughly familiar with Reorganization Plan No. 1 and Executive Order No. 11556. If there is any question in your mind about the authority or lack of it that is given the Director to participate in discussions of policy with Congress and the Federal Communications Commission, I would hope you would bring it to the committee's attention today, or any other day.

In addition, the Executive order sets out in broad outline the functions being assigned to the Office of Telecommunications Policy. Some of the responsibilities are spelled out in a specific manner, others in general terms. I know that Dr. Whitehead has only been sworn in recently and you will be assuming your responsibilities, if the Senate confirms you, very shortly.

Would you submit to this committee at an early date a more detailed outline of the manner in which the Office of Telecommunications Policy intends to implement the Executive order: What areas do you intend to cover? ¹

Again I cannot impress on your office and the other interested agencies of Government strongly enough the necessity and urgency of developing an overall communications policy for the United States.

I merely want to add this in conclusion. I want you and Dr. Whitehead at all times to feel free to communicate with any of the members of this committee and particularly Mr. Zapple who is director of the staff assigned by the chairman of the Commerce Committee because we want the proper liaison between the executive and the legislative in this very important field of concern and in this thing we are partners and I want that relationship to continue.

Dr. MANSUR. I will do so.

Senator PASTORE. I have your biographical sketch which we will include in the record. Is there anything you want to add to it?

¹ See p. 32.

BIOGRAPHICAL SKETCH OF DR. GEORGE F. MANSUR, JR.

Dr. George F. Mansur, Jr. was born in Hardin, Missouri, April 23, 1928.

He received his Bachelor of Science degree in 1949 and the Master of Science degree in 1956, both in electrical engineering from the University of Missouri. He received his Ph.D. in electrical engineering from Iowa State University in 1963.

Following his graduation in 1949, he joined Emerson Electric Company of St. Louis, Missouri, and subsequently in 1952, the Signal Corps Engineering Laboratories as a member of the Armed Services. During this period he contributed to the design and test of radar fire control systems.

He joined Collins Radio Company in 1953 where his initial responsibilities included design of equipment for surface-to-air missiles. In 1957 he became Project Engineer for the AN/SRN-4 radiometric sextant for the Polaris Program and subsequently Technical Director for the Navy's tactical data link (NTDS) and high Capacity Communication System.

In 1964 he directed Collins activities in the successful competition for the Apollo Manned Space Flight Network for NASA, and served as Program Manager until completion of this program. During this period he was promoted to Director of Space Systems Division and in 1969 was appointed Director of Microwave and Space Systems when the two organizations were merged.

As Director of the Microwave and Space Systems he was responsible for the total operating budget of the division whose sales were \$30-\$40 million annually. The division employed 240 salaried personnel plus appropriate draftsmen and technicians from supporting service organizations. Projects ranged in size from \$1,000 to \$50 million and encompassed both government and commercial activities.

In 1969 he was given NASA's Public Service Award "for his outstanding contributions as a key leader of the government-industry team which made possible the exceptional success of the Apollo program."

He holds several classified patents and is the author of a number of papers and addresses.

He is married to the former Mary Lu Jones. They have two children.

STATEMENT OF DR. GEORGE FRANK MANSUR, JR.

Dr. MANSUR. There is nothing I want to add to the biographical sketch. I do have a prepared statement I would like to have placed in the record.

Senator PASTORE. Is there anything my colleague wants to say before he reads the statement?

Mr. BAKER. Nothing at all.

Dr. Mansur, Senator Pastore is preeminent in the field and has been very cooperative in trying to formulate the best policy now and in the previous administration.

As he pointed out he is also chairman of the Independent Office Subcommittee which I believe will have jurisdiction over your mundane matter and concern, as a matter of fact, for the disparity between the funding level this year and the \$3 million that I understand the agency has requested.

I would join with the chairman hoping we have not only the cooperation of the Commerce Committee but also full funding.

Senator PASTORE. In this regard, the predecessor of Dr. Whitehead didn't sit down with the President from the time he was sworn in and yet he was supposed to be the one directly responsible to the President. I think it was this situation that disenchanted the Congress as well.

I think if you people come up with an affirmative program with recommendations that are good and begin to dramatize what you are trying to do because you have to do, I don't think you will have the same reluctance on the part of the Congress to appropriate the money.

The trouble has been what good would it do to appropriate the money, you people never settle anything or do anything and the prob-

lems existed and the Congress didn't appropriate the money. I think in the future, I think myself if you people come up with a dramatic program, one that makes sense in a very effective way, I think we will have better luck in the House.

The trouble has never been in the Senate because I happen to be involved in this both ways. But that isn't quite true in the House. What they do is look at the record and see nothing effectively being done and naturally they become disenchanted.

Now, I have a letter here from Senators Tower and Symington in high praise of the nominee and I ask that they be inserted in the record here and we also have your financial statement which has been scrutinized and that will be made part of the committee's record.

(The letters follow:)

U.S. SENATE, September 29, 1970.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I regret that business in Texas prevents me from appearing before your committee on behalf of Dr. George F. Mansur, nominee for the post of Deputy Director of the Office of Telecommunications Policy.

Dr. Mansur has a rare blend of academic preparation and business experience which will enable him to serve his country well in this post. He possesses Bachelor of Science and Master of Science degrees in electrical engineering from the University of Missouri as well as a Ph. D. in the same subject from Iowa State. He became a Texan in 1953 when he joined a Texas corporation. In the course of his service there he supervised technical programs involving over two hundred individuals and ranging in value from 1,000 to 50 million dollars.

I feel confident that he will provide valuable assistance to the Office of Telecommunications Policy. Consequently, I respectfully urge the Committee to act favorably upon Dr. Mansur's nomination as soon as its schedule and work load permit.

Sincerely yours,

JOHN G. TOWER.

U.S. SENATE,
Washington, D.C., September 30, 1970.

HON. JOHN O. PASTORE,
Chairman, Commerce Subcommittee on Communications,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We have only recently learned that Dr. George F. Mansur, Jr., whom the President has nominated to be Deputy Director of the Office of Telecommunications Policy, is a native of Missouri and will appear before your subcommittee this morning.

Dr. Mansur was born in Hardin, Missouri and is a graduate of our State University. He has worked for an outstanding company in St. Louis, Emerson Electric.

I note that he has had a successful career with Collins Radio Company and has won high honors in public service from NASA for his outstanding contributions as a key leader of the government-industry team which made possible the exceptional success of the Apollo program.

Although I do not know Dr. Mansur personally, his record and reputation in our State I am confident is of high order and it is, therefore, a privilege by this letter to join in the courtesies and considerations I know your subcommittee will extend to him.

Sincerely,

STUART SYMINGTON.

Senator PASTORE. All right, you may proceed with your statement.

Dr. MANSUR. I would like to insert the following statement in the record, if I may, and very briefly summarize it.

Senator PASTORE. Fine.

Dr. MANSUR. Certainly I and this committee recognize the importance of telecommunications. I think we will see in the next decade a

very rapid expansion in telecommunications, not unlike, I suspect, that which we have seen in the growth of the computer industries in the last 10 years.

The growth in telecommunications in some measure will be stimulated by the computer industry itself. I think it is important for telecommunications to grow within a framework of policy which assures it will grow within the national interest and meet the needs of the users.

The second part of my prepared statement relates to my financial posture. All of my holdings with the exception of some minor stockholdings are in cash or real estate. There has been an opinion offered by the Department of Justice to the effect that none of my stockholdings should produce conflict of interest.

Further, I am not associated with in any way any business or commercial enterprise at this time.

Senator PASTORE. Any questions of this nominee?

Senator BAKER. I have no questions, Mr. Chairman.

(The statement follows:)

STATEMENT OF GEORGE F. MANSUR, JR.

Mr. Chairman and Members of the Committee I am pleased and honored to be appearing before you today. I hope that you will view my nomination as Deputy Director of the Office of Telecommunications Policy favorably and, if so, I will do my best to assist the Director in the duties of his office.

I personally believe that telecommunications is on the threshold of a rapid expansion not unlike that which we have observed in the computer industry during the last decade, and stimulated in part by the computer industry itself. The growing requirements for telecommunications, coupled with recurring economic breakthroughs in technology, will result in substantial growth and new service offerings over the next ten years. Congress and this Committee have long recognized the expanding role of communications in our society as is evidenced by its support in establishing the Office of Telecommunications Policy to work in conjunction with the FCC and other departments and agencies.

As indicated in my biography, I have had a number of years of experience in telecommunications and electronics in general, and I believe that I can bring to the office a practical knowledge of telecommunications systems and organizations that will be beneficial.

With regard to my personal affairs that may have a bearing in this hearing, I have filed with the Chairman of the Committee my financial statement along with a Justice Department opinion to the effect that none of my rather modest stock holdings should result in a conflict of interest. Further, I have no connection in any capacity with any business or commercial organization.

In conclusion, let me state that there is much to be done and if confirmed I am looking forward to being a part of this growing telecommunications community.

(The information requested by Senator Pastore follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF TELECOMMUNICATIONS POLICY,
Washington, D.C., November 23, 1970.

HON. JOHN O. PASTORE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PASTORE: On the occasion of Dr. George F. Mansur's confirmation hearing you requested an outline of the manner in which the Office of Telecommunications Policy intends to implement Executive Order No. 11556 and what areas we intend to cover. I am pleased to comply with that request and to tell you something of our progress to date. The Office will be concerned with a wide range of issues reflecting the broad impact of telecommunications in government, the economy, and our society. The growing recognition that telecommunications policy matters facing the government are so broad, as well as being so complex, was one of the major factors behind the wide support for the establishment of

this Office. We will, of course, be concerned with the specific major issues of telecommunications facing the country, but we will also be concerned with the broad sweep of telecommunications policy, reflecting your concern about the need for the development of an overall national communications policy.

The responsibilities of this Office fall into two major categories: (1) the Federal Government's own use of telecommunications, and (2) national communications policy. Additionally, reflecting our location in the Executive Office of the President, the Director of the Office is designated as the President's principal advisor on telecommunications.

We will be concerned with all aspects of the Federal Government's own use of communications. Major policy, planning, and operational areas that can be identified immediately are: coordination of telecommunications preparedness activities; techniques and organizational arrangements for management and procurement of federal communications resources; allocation of spectrum resources to federal users; criteria and standards for interoperability and efficiencies in federal communications systems; identification of specific telecommunications program economies; and interface with civilian communications systems.

Our responsibility in this area of government telecommunications is twofold. We have first of all a responsibility to the public through the President to see that the Federal Government's overall use of telecommunications is both efficient and effective. In addition, we have a responsibility to the federal departments and agencies who are users of telecommunications to see that a policy and management environment exists in which they can obtain and operate the communications they need to perform their missions. It is a considerable management challenge to find ways to further both these goals simultaneously.

In implementing these responsibilities for the Federal Government's use of telecommunications, we will work with and through the user agencies rather than attempting to take over or duplicate their functions. We will address general management issues or will deal with specific program issues as appropriate, putting great stress on a close working relationship with the agencies to identify their needs and problems. The practical authority to implement the kinds of decisions this Office is expected to make will be exercised in three major ways: first, review and make recommendations to the Office of Management and Budget on federal agency plans and budgets for telecommunications; second, assign radio spectrum to federal users, and third, establish telecommunications standards and criteria.

In the area of national telecommunications policy, our scope will be similarly broad, although our role will be different. Here, the executive branch is a partner in the public policy dialogue and decision process with the FCC, the Congress, and the public. This Office will be the principal spokesman for the executive branch on communications policy matters. The areas we will cover under this responsibility will vary as the issues facing the nation vary.

At the present time, there appear to be several major areas where the executive can have an effective role in policy formulation. These include: (1) the provision of specialized bulk communications, particularly data communications, and the role of competition and monopoly in these new services; (2) international communications including INTELSAT, U.S. industry structure, international negotiations regarding frequency usage, and the mix of cables and satellites in high density overseas routes; (3) mobile communications; (4) the general problem of mass telecommunications media, including industry structure, access to the media, and cable TV and its relation to over-the-air broadcasting; (5) the associated services that widespread, wide band, wired access to the home make possible; (6) financing of public broadcasting; (7) efficient, effective, and flexible use of the spectrum; and (8) a more general awareness of the impact of communications on our society and our economy.

The areas I have discussed illustrate how broad telecommunications policy must be and indicate the importance of a Presidential perspective on telecommunications policy. Because of this breadth and because of the high degree of interrelation among the various issue areas, the President's broader perspective on the economy and the society and his associated responsibilities make it imperative that the executive branch become a more effective and more responsible participant in the discussion of these policy issues. We also feel that this role is connected in many ways to the Federal Government's own use of communications, and that there will be great benefits from looking into both areas simultaneously. In short, OTP will permit the President to fulfill his responsibility in communications policy, just as he does other important areas of public policy.

As you can appreciate, our Office is quite new, and the above description of areas of involvement and expected implementation is still somewhat less specific than we would like in the future. However, I am pleased to report that the Office

is, in fact, established and at work. There are, of course, problems of establishing ourselves organizationally, establishing relations with the other departments of government, and dealing with specific policy projects. As you know, we also have some budgeting difficulties which are, in turn, causing delays in staffing and in addressing of specific policy needs. We are attempting to deal simultaneously with all these problems.

We are placing great emphasis on developing work relationships with the appropriate departments and agencies of government, with knowledgeable people in industry, and with concerned members of the public. As you know, the role of this Office is one of coordination, not operation. While the Office has considerable decision making authority, all our efforts would be counter-productive if we did not work with and through the federal departments and agencies.

We are putting particular emphasis on a cooperative and complementary relationship with the Federal Communications Commission, and that experience has been most satisfactory to date. We and the FCC will be concerned with many of the same areas, and we expect that the policy and Presidential perspective of OTP will complement rather than duplicate or compete with the regulatory focus of the Commission.

We have put particular emphasis also on developing the role of the Secretary of Commerce in support of this Office as assigned by the Executive Order. We are making quite satisfactory progress in spite of some stringent budgetary constraint. The Department of Commerce has been most cooperative in recognizing their role in support of the Office of Telecommunications Policy, and I am confident that arrangement will work out well. In particular, we have agreed with the Department of Commerce on certain principles regarding their research work program in support of this Office, and I have attached those for your information.

I am pleased to have this opportunity to be somewhat more specific about the Office's plans and to give you a very preliminary progress report after our first two months of operation. I intend to keep the Congress well informed of our progress and plans and look forward to working with you in that regard. I hope that my future reports will be increasingly more specific and will show substantial progress in dealing with the issues before us. In particular, I hope that my future reports will be increasingly more specific and will show substantial progress in dealing with the issues before us. In particular, I hope to have within the next six months a statement of what the de facto policies of the government are in the communications area; how they relate to pending and foreseeable issues; and what needs to be done to close the gaps to bring about some cohesion in overall policy. As soon as this review is completed, I would hope to have the opportunity to discuss it with interested members of the Congress. In the meantime, if we can be of any assistance, please let me know.

Sincerely,

CLAY T. WHITEHEAD.

Enclosure.

COORDINATION ARRANGEMENTS BETWEEN OTP AND DOC

1. The Director, OTP, should approve the work statements for all major contract studies executed in support of OTP responsibilities.
2. The Director, OTP, should be provided at least 15 days in advance of any public release, the results of all studies undertaken by DOC in support of OTP responsibilities.
3. Requests from the Director, OTP, for information or analyses will receive priority over other tasks undertaken by DOC in the spectrum management area.
4. The Director, OTP, shall keep the Secretary of Commerce fully informed on current and planned programs and activities, and the Secretary shall afford the Director the opportunity to review in advance DOC submissions to OMB and the Congress that are to be undertaken in support of OTP.
5. There should be free and frequent informal contact between the staff of OTP and the staff of DOC in the telecommunications area, except that any changes in the scope and activities of either office shall be coordinated only by the Director of OTP and an appropriate official of the Department.
6. The Director, OTP, and the senior DOC official in the telecommunications areas should meet frequently and periodically to assure that the programs and activities of the two offices are in accord.

Senator PASTORE. Is there anyone in this room who desires to speak for or against this nominee?

There being silence the meeting is adjourned.

(Whereupon, at 9:40 a.m., the committee was adjourned.)

ADM. WILLARD J. SMITH, OF MICHIGAN, TO BE ASSISTANT SECRETARY OF TRANSPORTATION FOR SAFETY AND CONSUMER AFFAIRS

WEDNESDAY, SEPTEMBER 30, 1970

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met at 9:20 a.m. in room 1114, New Senate Office Building, Hon. William B. Spong, Jr., presiding.
Present: Senators Spong, Cotton, and Griffin.

OPENING STATEMENT OF SENATOR SPONG

Senator SPONG. The committee will come to order.

The first order of business this morning is the nomination of Willard J. Smith, of Michigan, to be an Assistant Secretary of Transportation.

We have with us this morning a member of this committee, Senator Griffin of Michigan, and I believe he will introduce Admiral Smith to the committee.

Senator GRIFFIN. Thank you very much, Mr. Chairman.

It is a real pleasure to introduce a native son of the State of Michigan who has been nominated for this important post of Assistant Secretary for Safety and Consumer Affairs.

Although he was born at Suttons Bay, Mich., which is not very far away from my hometown, he has been a very busy person and has spent a great deal of time away from Michigan during a long and distinguished career in the U.S. Coast Guard. He has served in many different capacities, including the Commandant of Cadets at the Coast Guard Academy, as well as the Commanding Officer of the entire Coast Guard.

I want to emphasize the great role and important role that the Coast Guard plays insofar as safety is concerned. Here is a man who has great experience and expertise so far as safety is concerned, and who, I might add, from a personal acquaintance is a very compassionate person. I know he is very much concerned about the problems of people in general, and that would include consumers.

I am convinced that he has an excellent background and I commend him to the committee.

Senator SPONG. Thank you, Senator Griffin.

Senator Hart of Michigan will not be here this morning, but has expressed his approval of this nomination.

I am going to place in the record at this time the biographical sketch of Admiral Smith, and also say to the committee that we have in the file a financial statement which Admiral Smith has presented in connection with this, and this will be available to any of the members of the committee who wish to see it.

(The biography follows:)

BIOGRAPHICAL SKETCH OF ADM. WILLARD J. SMITH, U.S. COAST GUARD
COMMANDANT (RETIRED)

Willard John Smith was born at Suttons Bay, Michigan, on May 14, 1910, the son of Emma and Oscar Smith, who retired from the U.S. Coast Guard as a Commissioned Warrant Officer. Admiral Smith was graduated from Charlevoix High School, Mich., in 1927, and attended the University of Michigan at Ann Arbor for three years.

He entered the U.S. Coast Guard Academy, New London, Conn., with an appointment as Cadet in August 1930, graduating with a commission as Ensign on May 15, 1933. Subsequently, he advanced in rank to Lieutenant (jg), May 15, 1936; Lieutenant, August 5, 1939; Lieut. Commander, October 2, 1942; Commander, January 1, 1944; Captain, November 1, 1955; Rear Admiral, July 1, 1962; and four-star Admiral, June 1, 1966.

He served his first assignment as a line officer on board the Coast Guard Cutter SARANAC, based at Galveston, Texas. Stationed next at Coast Guard Headquarters, Washington, D.C., he served as Aide to the Commandant from November 1936 to May 1939. From there he was assigned to flight training at the Naval Air Station, Pensacola, and received his wings on June 14, 1940.

WORLD WAR II

His first assignment in the aviation branch of the Service was in connection with the construction and commissioning of the Coast Guard Air Station at San Francisco. While attached to that station until February 1944, he was temporarily assigned to duty at the beginning of World War II with Navy Patrol Squadron VP-44 conducting anti-submarine patrols in the Pacific. In addition, during the summers of 1941 and 1942, he commanded an aircraft conducting urgently needed aerial surveys in Alaska. He received a Letter of Commendation from the Commandant of the Coast Guard for landing a PBY plane in open sea 200 miles southwest of San Francisco on February 13, 1943, to remove an officer from a naval vessel to a naval hospital in time to save the patient's life. During the remainder of the war, he again served as Aide to the Commandant of the Coast Guard.

POSTWAR

From October 1946 to June 1948, he commanded the Coast Guard Air Station at Traverse City, Mich. He then returned to Coast Guard Headquarters to serve as Assistant Chief, Aviation Division for two years.

He was assigned as student at the Armed Forces Staff College at Norfolk, Va., from August 1950 to January 1951. That was followed by several weeks of instruction in Loran operations at the Aids to Navigation School, Coast Guard Training Station, Groton, Conn., and an assignment in April 1951, as Commanding Officer of the Coast Guard Depot on Guam Island and as Commander, Western Pacific Section. In mid 1952 were added the duties of Commander, Marianas Section.

From September 1952 to August 1954, he commanded the Coast Guard ice-breaker Mackinaw, based at Cheyboygan, Mich., a vessel specially designed for icebreaking and aids to navigation work to help shipping commerce in the Great Lakes. The next three years marked his fourth tour of duty at Coast Guard Headquarters, this time as Chief, Administrative Management Division.

In June 1957, he became Commandant of the Cadets at the Coast Guard Academy. In July 1960, he was reassigned to duty as Chief, Operations Division of the 13th Coast Guard District, Seattle, Wash.

By nomination of the President on January 31, 1962, and approval of the Senate, the then Captain Smith was appointed to rank as permanent Rear Admiral from July 1, 1962. At that time he left Seattle to assume the post of Superintendent of the U.S. Coast Guard Academy (relieving retiring RADM Stephen H. Evans, USCG).

Two extraordinary occasions highlighted his tenure of office at the Academy. In August 1962, ADM Smith brought the Academy's 295-ft., three-masted training bark *Eagle* on her first trip to Washington, D.C., upon returning with that vessel from a Cadet Practice Squadron Cruise to Europe. At that time he was host on board the bark to such distinguished visitors as the late President John F. Kennedy, the then Vice President Lyndon B. Johnson, various members of Congress, and Admiral Edwin J. Roland, Commandant of the Coast Guard.

He also cooperated in the planning of Operation Sail, July 1964, involving the massing of many of the world's remaining tall masted windjammers in a spectacular marine parade in New York Harbor, led by the Coast Guard Academy bark *Eagle* as host ship.

Admiral Smith was awarded the Legion of Merit for his service at the Academy. He was cited for making major changes up-dating the Academy curriculum to keep in step with modern advances in technology and management. Also, for proposing and developing an electives program which provides incentives and opportunities for cadets to broaden their education—improving their capabilities as future Coast Guard officers, and for vigorously supervising a building program of improving laboratory, classroom, and other facilities.

Admiral Smith's tour of duty at the Academy was terminated in July 1965, with his transfer to Cleveland, Ohio, to the post of Commander, 9th Coast Guard District which covers Coast Guard operations in the Great Lakes region.

Admiral Smith was appointed Commandant of the U.S. Coast Guard with rank of full four-star Admiral effective June 1, 1966. He relieved retiring Admiral Edwin J. Roland, USCG, on May 31st at formal change-of-command ceremonies held on board the 327-ft. Coast Guard Cutter *Campbell* (WHEC-32) at the Navy Yard, Washington, D.C.

Admiral Smith retired at the end of his four-year term as Commandant on June 1, 1970. On that day he turned over his duties to Adm. Chester R. Bender, USCG, at change-of-command ceremonies held on board the 378-ft. Cutter *Gallatin* (WHEC-721) from New York, at the Navy Yard, Washington, D.C. Standing alongside with additional guests on board was the 210-ft. Cutter *Alert* (WMEC-630) from Cape May, N.J. During these ceremonies Admiral Smith was presented a Gold Star in lieu of a Second Distinguished Service Medal for exceptional meritorious service for his responsibilities as Commandant by Secretary of Transportation John A. Volpe.

Admiral Smith received his First Distinguished Service Medal for meritorious achievement in assisting in the formation of the newly created Department of Transportation, effected April 1, 1967, which included the Coast Guard. The presentation was made by Under-Secretary of the Treasury Joseph W. Barr.

Prior to retiring, Admiral Smith was honored in ceremonies at the Embassy of Italy (May 28, 1970) at which he was presented the Order of Merit of the Republic of Italy (Ordine al Merito della Repubblica Italiana) by Ambassador Edgido Ortono.

In addition to the Legion of Merit for his tour of duty as Superintendent of the Academy, Admiral Smith's other awards include the following World War II campaign medals and ribbons: American Defense with sea clasp; American Area; Asiatic-Pacific Area; World War II Victory. He also has the National Defense Service Ribbon, the Command-at-Sea Insigne, and the Expert Pistol Shot Medal.

He received the American Legion Distinguished Service Medal in November of 1969.

Admiral Smith's wife is the former Harriet A. Lary of Los Angeles, Cal. They have one daughter, Lary, and one son, Jeffrey.

Senator SPONG. Senator Cotton, do you have any questions?

Senator CORRON. Thank you, Mr. Chairman.

I have no particular questions for Admiral Smith. He is a long time friend of this committee, and this committee is well acquainted with Admiral Smith. We have known him through the years and admire him greatly. I cannot imagine anybody on the committee not being appreciative of the opportunity to vote to confirm him.

There is one matter, however, on which I would like to seek clarification. It concerns the duties of the new Assistant Secretaryship to which Admiral Smith has been nominated and most particularly consumer affairs.

In this connection, I would like to read into the record, Mr. Chairman, if you will permit me, a portion of the letter sent up by Secretary Volpe in reply to an inquiry of this committee regarding this matter.

On page 2 of his letter the Secretary notes the following: The consumer upon whom the new Assistant Secretary will focus will be the *individual* user or purchaser of transportation, the traveler by common carrier, privately owned vehicle, the purchaser of private vehicles (such as an auto or boat) or the individual purchaser of transportation (as a shipper of household goods).

This is differentiated from the corporate or industrial users, principally engaged in the shipment of quantities of goods in commerce whose interests are adequately represented by well established industry associations and whose needs and preferences are already carefully considered by other segments of the Department. By establishing an Assistant Secretary to focus on the problems and interests of the largely unorganized and unrepresented individuals who comprise the general consumer public, I propose to have equal consideration given to the heretofore imperfectly known and insufficiently represented needs and preferences of the individual users and purchasers of transportation.

Now, Admiral, I do not know whether you have had an opportunity to consider or whether in your conferences with the Secretary you have had a full opportunity to discuss this situation. But, what do you visualize as the duties that you are going to undertake on behalf of the consumer?

STATEMENT OF ADM. WILLARD J. SMITH

Admiral SMITH. Senator, I think there are two things I would like to mention here. First, I think the Secretary's purpose in establishing this part of the office is to provide a focal point within his office to which he can turn for advice on matters concerning individual consumers of our transportation services. I think that he would like to—

Senator COTTON. Excuse me, Admiral, would you pull the microphone a little nearer so all may hear you?

Admiral SMITH. Yes.

I think what we would like to do through this office is to inform the using public a little more clearly of some of the things that our Department is trying to do with respect to transportation problems that affect the individual, and to find from the individual some of his preferences and some of his problems with the transportation systems that can be useful to the Department in deciding the programs and policies that we will carry forward.

Senator COTTON. Well, in this letter it talks about protecting the purchase of private vehicles such as automobiles and boats. Now, the Department of Transportation already has statutory authority resulting from legislation passed out by this committee with respect to automobile safety.

Mr. Nader has practically made it a household word throughout the country. We have now rules and statutes that cause every new automobile to have displayed on it an itemized price. It must indicate how much you pay for the air conditioning, how much you pay for the power brakes, and all of the additions.

We are all for such disclosures but I cannot quite visualize how the Department of Transportation is going to get into that without a lot of duplication.

Can you comment on that? That is just an example.

Admiral SMITH. Senator, I am aware of this side of the problem. I do not think that we within the Department are thinking in terms of a duplication of things that are going on in other elements of the Federal Government, particularly with respect to some of the consumer protection problems which I find are carried out principally through the Federal Trade Commission.

I think that the purpose in having this function in the Secretary's office is to provide a single point through which he can deal with the other agencies, the consumer groups, the private groups, and the other elements of the Federal Government regarding problems of common interest.

There is a tremendous amount of correspondence that comes into our Department relating to problems with the public transportation system and relating to problems with automobiles. I think the purpose of our office here is to try to coordinate this material and see that it reaches the place where proper action can be taken.

Senator CORRON. Yes. Now, the Secretary's letter also refers to the "individual user or purchaser of transportation." This committee is constantly dealing with rates paid by travelers on air transportation, the cost of plane tickets, all of that sort of thing. Do you visualize that issues such as these rate will come under your jurisdiction for study and recommendation?

Admiral SMITH. Within the Department of Transportation, up to this point, the Assistant Secretary for Policies and International Affairs has been dealing with this problem before the CAB and before the Interstate Commerce Commission. I have had some discussions with him.

I think that my office could very well have an input into some of these problems, specifically those aspects which are appropriately our responsibility.

Senator CORRON. Well, I thank you.

Mr. Chairman, I will not take more time. I still find myself a little confused about who does what in this matter within the Department, not to mention the other departments and agencies of Government. My questions are in no sense a reflection on you, Admiral. I simply wanted to bring out this matter.

Admiral SMITH. Senator, perhaps I could clarify this very briefly in another way. Our Department is organized with a group of administrations, the Coast Guard, FAA, Highway Administration, the National Highway Safety Bureau and so forth. Each one of these administrations is quite autonomous in carrying out their operating responsibility. Each one of them deal with a number of consumer problems.

I think one of the purposes the Secretary has in establishing this office is to have a focal point where these things can be pulled together for his review and policy determination.

Senator COTTON. Then, you visualize your responsibility as being an attempt to coordinate these various activities?

Admiral SMITH. Yes, sir, that is basically what we are talking about.

Senator COTTON. Well, I thank you. Again may I say it is always a privilege to have you before us. It will be a pleasure for me to act favorably on your nomination. I am sure the rest of the committee feels the same way.

Senator SPONG. I am going to place in the record a document outlining the organizational powers and duties. Also, we will place in the record a letter from Senator Magnuson to Secretary Volpe inquiring as to the specific duties envisioned under this office.

I believe you read from the reply of the Secretary. We will place that letter also in the record.

(The letters follow:)

U.S. SENATE,
Washington, D.C., September 1, 1970.

HON. JOHN A. VOLPE,
Secretary of Transportation, Department of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: On August 7th the President sent the nomination of Admiral Willard J. Smith to the Senate for advice and consent to assume the newly-created position of Assistant Secretary of Transportation for Safety and Consumer Affairs.

However, prior to submitting this nomination to the Senate, this Committee was not apprised of the abolition of the Assistant Secretaryship for Public Affairs and the simultaneous creation of the new position. Because the Committee was not consulted on this change prior to the nomination, we cannot proceed with consideration of the nominee without first having the benefit of the background on the creation of the new position and the abolition of the previous one. As you would I am sure agree, it would be difficult for us to evaluate the nominee without some understanding of his prospective duties and qualifications for such position.

Since the nomination was submitted, the Committee has been given certain DOT internal memoranda explaining the newly created position. This explanation has given rise to certain questions about which I now write.

I hope that you will provide me with an explanation why, after four years, you found it prudent to abolish the Assistant Secretaryship for Public Affairs and why the Departmental Office of Civil Rights, the Office of Public Affairs and the Office of Congressional Relations should now report directly to the Secretary rather than to an Assistant Secretary who in the past acted as Departmental coordinator for these affairs. It seems peculiar that at this time you would seek to increase your burdens in administering the Department with the additional responsibilities of directly overseeing these important but diverse activities.

In your internal memo the Department states, "... no single office in the DOT is devoted to maintaining a broad and independent overview of transportation safety or to monitoring and responding to the interests and concerns expressed by the transportation consumer." How might the new Assistant Secretary respond to consumer transportation interests, and more precisely, what exactly are these interests which up to now apparently are not being focused upon within the Department?

With the responsibilities for Transportation safety generally assigned by law to the four operating agencies of the Department and to the independent NTSB, how can an Assistant Secretary, to whom no agency is responsible, affect improvements in transportation safety which are presently not being affected by the FAA, FRA, NHTSB or the Coast Guard? Is not the proposed role of the new Assistant Secretary a duplication and overlap of pipeline safety and safety of hazardous materials?

Please cite specific instances of how transportation safety programs as affected by the operating agencies within the DOT, are not being properly coordinated or reviewed by Departmental personnel.

Provide the Committee with examples of "Department wide safety and consumer-oriented programs" which you propose to be coordinated and improved

by the proposed new Assistant Secretary, and review why you believe that these interests are not now receiving adequate attention either through the operating agencies or through the office of the Assistant Secretary of Urban Systems and Environment.

The Office of Gas Pipeline Safety and the Office of Hazardous Materials are now under an Assistant Secretary—how will the proposed reorganization improve the functions of these offices?

It is not proposed that the Oil Pipeline Safety program be included among the new Assistant Secretary's functions—is such a proposal contemplated? Why or why not?

It appears that the proposed Office of Consumer Affairs is largely a liaison office for matters affecting the "transportation user."

a. Who is a "Transportation user"?

b. What will be the benefits to the purchaser of, for example, automobiles? How about purchasers of other products?

These are some of the questions which have arisen as a result of your proposal and the Committee would appreciate your prompt attention to providing us the Department's thinking and views of these matters.

Sincerely yours,

WARREN G. MAGNUSON, *Chairman.*

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 9, 1970.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I appreciate the opportunity presented by your letter of September 1, 1970, to state the background and reasons for creating the position of Assistant Secretary for Safety and Consumer Affairs in the Department of Transportation.

As you know, the Department of Transportation Act established five Assistant Secretary positions in the Department, only one of which was named by title—the Assistant Secretary for Administration. The Act gave the Secretary discretion to define and, if necessary, redefine the duties of the other four. The appointment to each of the four is, of course, subject to confirmation by the Senate.

When I took office, I found that the prior administration had, after 18 months experience, concluded that there should be a substantial reorganization of the functions being performed by the Assistant Secretaries of the Department. Immediately upon taking office, I disestablished the Office of Assistant Secretary for International Affairs, transferred the functions of that office to the Assistant Secretary for Policy Development, and used the space to create the Office of the Assistant Secretary for Environment and Urban Systems. However, with respect to public affairs it was our feeling that the situation should be studied in more detail, and that we should obtain our own experience before instituting such a change. Therefore, we did fill the position of Assistant Secretary for Public Affairs. It soon became apparent to me that the nature of the functions of the chief Departmental officers for public affairs and Congressional liaison were of such a personal nature that they required day-to-day contact directly with the Secretary. The Assistant Secretary position created an unnecessary layer between the Secretary and those small but vital offices. Our conclusion was supported by the fact that in virtually all other Cabinet Departments, the chief public affairs and Congressional liaison officers report directly to the Secretary concerned.

Shortly after my appointment to the position of Secretary of Transportation, I recognized and have since publicly stated several times that one of the primary functions of the Department is to promote transportation safety. It soon became evident that there was no single office within the Office of the Secretary whose primary interest covered the complete spectrum of transportation safety or of consumer affairs. The desirability of focusing increased attention within the Office of the Secretary on the total safety responsibility of the Department became increasingly apparent as time went on. As we realized the desirability for a change in the public affairs/Congressional liaison setup and the need for increased attention to safety and consumer affairs, it also became apparent that action on one of these problems could facilitate action on the other. Thus, it was

decided to abolish the position of Assistant Secretary for Public Affairs and to use the space gained thereby to establish a new Assistant Secretary for Safety and Consumer Affairs. I might point out that the creation of an Assistant Secretary to have overview of safety functions has been under consideration since the early days of the Department. The Office of Civil Rights was never part of the Office of Public Affairs and thus is not involved in this reorganization.

The "consumer" upon whom the new Assistant Secretary will focus will be the *individual* user or purchaser of transportation—the traveler by common carrier or privately owned vehicle, the purchaser of a private vehicle (such as an auto or boat) or the individual purchaser of transportation (as a shipper of household goods). This is differentiated from corporate or industrial users principally engaged in the shipment of quantities of goods in commerce whose interests are adequately represented by well-established industry associations and whose needs and preferences are already carefully considered by other segments of the Department. By establishing an Assistant Secretary to focus on the problems and interests of the largely unorganized and unrepresented individuals who comprise the general consumer public, I propose to have equal consideration given to the heretofore imperfectly known and insufficiently represented needs and preferences of the individual users and purchasers of transportation.

The concept of "consumer rights" is more than a catch word; it is an accepted fact. It is being absorbed into our legal system and gradually is effecting significant changes in our processes of government. Thus I view the establishment of this new office also as a response to a present and growing change in our nation's way of doing business. In this regard, the Department of Transportation Act declares as a purpose of my Department "the identification and solution of transportation problems . . . with full and appropriate consideration of the needs of the public. . . ." The new organization will enable us to better carry out that responsibility.

Much of the consumer input we have received is random and unsolicited and has been treated largely on an ad hoc basis by the individual operating administrations, to whom it is generally directed. I believe that this situation can be greatly improved by establishing an Assistant Secretary to whom the consumers can communicate their requirements and preferences with assurance that they will be considered by those with the responsibility and authority to implement them. To that end, I expect the Assistant Secretary to perform a number of important functions. One will be to assure that the consumer is aware of our transportation programs—what we are doing and why we are doing it. A second will be to evaluate program issues to determine how they pertain to the consumer. A third will be to see that consumer views are sought out with respect to transportation needs in general and DOT programs in particular. Another will be to assure that those views are then translated into terms of consumer transportation needs and preferences. The Assistant Secretary will be the means of introducing such information regularly, systematically, and at the highest level, into the mainstream of Departmental policy and decision making processes.

In addition, the DOT Act declares it in the national interest to develop "national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation. . . ." The Department, in considering the individual traveler, has always emphasized the safety of vehicle and systems. These considerations have been addressed most properly by the operating administrations, and I intend that it remain so. While I expect the new Assistant Secretary (in his safety role) to assist in the development of more comprehensive, coordinated and cohesive vehicle and system safety programs in and among the operating administrations, I expect him to go beyond that in his consumer affairs role. I expect him to bring into focus, equally as sharply as safety concerns, consideration of service to the consumer—the efficiency and convenience of our transportation system to the individual users and travelers. This consideration cuts across modal lines and to a large degree cannot effectively be dealt with by the individual operating administrations.

It requires an overview and degree of coordination that can be achieved best at the level of an Assistant Secretary.

The Assistant Secretary for Environment and Urban Systems is concerned with the impact of transportation activities on the general population and ecology, both in general and in specific instances. He is also concerned with urban transportation systems. Thus to a degree he shares some of the concern of the new Assistant Secretary, although his interest is focused on definable segments of the public (such as commuters) and on urban transportation as a system rather than on individual users. The new Assistant Secretary will provide valuable

increased emphasis and consideration of service to the individual user in that area as well as over the entire national transportation system.

Concerning safety, some of the statutes administered by the Department assign particular safety functions to the operating administrations. They in turn carry out special modal safety programs but their primary concern and authority is limited to their own particular mode. The Secretary, as head of the Department, however, has broad interest and ultimate responsibility for transportation safety as a whole. To meet this responsibility, he must be able to evaluate and where necessary coordinate the individual performances and programs of the operating agencies. The new Assistant Secretary will place on his staff at the highest level for the first time an official with the principal function of advising and assisting him to meet his responsibility.

Because the Department brought together several separate functions being carried out under a variety of statutes, the Department's safety programs are now administered under differing philosophical and procedural concepts. Some of these differences are caused by the various statutes which created the programs, and some have been a matter of administrative choice. I believe that all of these safety programs, although administered by different elements of the Department, should be administered under uniform policies to the extent possible. The new Assistant Secretary will assist in establishing uniform policies and practices, exercise oversight over safety activities, and evaluate the responsiveness of our safety programs to the public need.

Finally, many of the safety programs are interrelated or have intermodal aspects, such as railroad grade crossings, pipeline highway crossings, and the transport of hazardous materials. Thus policy-making functions must be exercised through the Office of the Secretary to assure that these interrelationships and intermodal aspects are fully and properly considered and coordinated. This is especially true in the area of new or evolving programs and in determining legislative needs. It is my intention that the new Assistant Secretary will perform these functions but without interfering with or attempting to manage the specific functions and programs assigned to the operating administrations.

It is my understanding that, when the Department was initially organized, the Office of Hazardous Materials was placed under the then Assistant Secretary for Research and Technology (now Systems Development and Technology), not because that was the ideal placement, but rather because the other available choices were even less logical. Similarly, when the Natural Gas Pipeline Safety Act was passed, the new Office of Pipeline Safety was placed under the same Assistant Secretary more because of its relationship to the Office of Hazardous Materials than because it was the type of regulatory function to be supervised by an Assistant Secretary for Research and Technology. While the individuals who have filled the position of Assistant Secretary for Research and Technology since the creation of the Department have provided overall guidance to these two offices, the nature of the research and technology function is inconsistent with the day-to-day supervision of offices that perform essentially regulatory functions. With the creation of an Assistant Secretary who would perforce be devoting a large percentage of his time to transportation safety, it becomes apparent that his office is an appropriate "home" for the Offices of Hazardous Materials and Pipeline Safety. The pipeline safety program is still in a formative stage. It is therefore important that during this period it receive more of the attention of an Assistant Secretary than can be provided by the Assistant Secretary charged primarily with systems development and technology.

While it is true that the proposed functional statement for the new Assistant Secretary does not at this time include the oil pipeline safety program, omission is not because of a lack of recognition that both the gas and oil pipeline safety programs should be under one office. On the contrary, it is our intention to centralize these functions in the Office of Pipeline Safety just as soon as we are able to obtain the necessary authority under either an executive reorganization plan or an amendment to the Department of Transportation Act. Under the present requirements of the Department of Transportation Act (Section 6(f) (3) (A)), the liquid pipeline safety program is delegated to the Federal Railroad Administration and Section 9(e) (3) of the Act prohibits delegation outside of that administration.

I am convinced that my action in establishing a new Assistant Secretary for Safety and Consumer Affairs will enhance the ability of the Department to carry out the objectives and policies expressed by Congress in the DOT Act. I hope that the above answers to your questions will also convince you that such will be the result.

Sincerely,

JOHN VOLPE.

Senator SPONG. Admiral Smith, in the Airport-Airways bill and in other legislation enacted by the Congress recently, certain responsibilities have been placed upon the Department of Transportation with regard to environmental impact. Do you see that the duties of your job would in any way be focused upon this?

Admiral SMITH. No, sir. We now have a point in our Department in the Secretary's office, the Assistant Secretary for Environment and Urban Systems, that is dealing with environmental problems.

Senator SPONG. Well, thank you very much. It is nice to have you before this committee in a new capacity. We appreciate your being here.

Admiral SMITH. Thank you, sir.

Senator SPONG. Senator Griffin, do you have any questions in addition to your remarks?

Senator GRIFFIN. No, I was perhaps going to focus again as I did in my introduction upon the fact that while consumers affairs is a part of the responsibility of Admiral Smith in his new job, as I see it, an equally or even more important responsibility has to do with safety and the overseeing and administration of some of the safety laws that have come out of this committee.

Admiral SMITH. That is correct, Senator. I think this encompasses perhaps the major part of the office. We will have the responsibility for the regulation of the transportation of hazardous materials and gas pipeline safety as well as coordination and policy matters for the safety programs of the administration.

Senator GRIFFIN. I think that is worth noting. You are not going to be spending all of your time tripping over the consumer affairs officers.

Admiral SMITH. Thank you.

Senator SPONG. Thank you, Admiral.

That concludes the hearing on the nomination.

(Whereupon, at 9:45 a.m., the committee was adjourned.)

DAVID S. DENNISON, JR., TO BE A COMMISSIONER OF THE FEDERAL TRADE COMMISSION

THURSDAY, OCTOBER 1, 1970

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met at 9:30 a.m. in room 5110, New Senate Office Building, Hon. Philip A. Hart, presiding.

Present: Senators Hart, Cotton, Pearson, Griffin, Baker, and Saxbe.

OPENING STATEMENT BY SENATOR HART

Senator HART. The committee will be in order.

We meet to consider the nomination of David S. Dennison, Jr., of Ohio, to the Federal Trade Commission. If you have no objection I will put his nomination reference and report in the record at this point.

(The information follows:)

NOMINATION REFERENCE AND REPORT

IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
September 22, 1970.

Ordered, that the following nomination be referred to the Committee on Commerce:

David S. Dennison, Jr., of Ohio, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1970, vice Philip Elman.

Senator HART. The nomination was received by the Senate on September 22 and referred to this committee. This nomination represents the President's recommendation for a successor to Commissioner Elman. Such successor will have shoes to fill.

It is a nomination that comes at a very critical time in the life of the Commission. The degree of commitment that Mr. Dennison brings to his new post may well determine which course of action the Commission pursues.

Although Mr. Dennison has not historically been a consumer activist, and although the President did not consult with consumer groups before selecting Mr. Dennison and although I think the President was unwise in not doing so, I do not believe that the nomination can be opposed on those grounds alone.

I look forward to this hearing to give the committee an indication of the commitment of Mr. Dennison to make the FTC a viable institution for regulating economic practices for the benefit of the society as a whole.

The time has come for us to look upon the Federal Trade Commission as a regulator in a new sense—a sense which embodies careful study and action to design intelligent principles of competition policy and trade regulation rules that will bring ultimate benefit to American consumers.

What is not needed is a Commission concerned only with fraud on Main Street, U.S.A., or one totally preoccupied with protecting company A from company B without concern for the effect of that protection on the consumer.

What is needed is a balanced regulatory approach built upon studied, consumer-focused priorities—an approach which carefully examines economic concentration while formulating sound rules proscribing unfair and deceptive acts or practices.

Senator COTTON, did you have a statement you wanted to make?

Senator COTTON. With complete respect to the chairman, I want to make this one comment.

Any problems which might arise in connection with Mr. Dennison's nomination will be developed in the hearing, so I am a little bit surprised that the chairman is suggesting who the President of the United States should consult and who he did consult in making the nomination. Certainly there are consumer groups. There are 200 million consumers in this country and I don't know how the chairman would know whether or not the President of the United States consulted with any consumers before he made this appointment.

I think in fairness I should make that comment.

Senator HART. I think the Senator's comment is not only fair but accurate. It is possible he did consult with consumer groups. I made my statement based on the statement made to our chairman, Senator Magnuson, from the Consumer Federation of America which recites that although the question had to do with consumers they were not consulted.

Senator COTTON. I understand they are going to testify anyway, so we don't have to go into that now. I merely wanted to make that statement.

Senator HART. Fair enough.

Senator PEARSON?

Senator PEARSON. No; thank you, Mr. Chairman. I don't have any statement to make.

Senator HART. We welcome our distinguished colleague from Ohio, Senator Saxbe.

STATEMENT OF HON. WILLIAM B. SAXBE, U.S. SENATOR FROM OHIO

Senator SAXBE. Mr. Chairman, members of the committee, it is my pleasure to introduce to you Mr. Dennison who I have been acquainted with for a number of years in Ohio. I know this law firm and of his work and when I was attorney general of Ohio for a number of years he served as a special counsel for me, so I am more particularly acquainted with the nature of his law firm and the nature of his capacity as a lawyer.

Based on that and my long knowledge of his activities in the State and his interest and because of his previous service as a Congressman, I believe in the 85th Congress, I believe he is eminently qualified to fill this position.

With that, I submit this recommendation to the committee. I believe the President has made a wise selection and I hope the committee will see fit to recommend his appointment to the Senate.

Thank you.

Senator HART. Thank you very much, Senator.

Given that background, do any of my colleagues have questions of the Senator?

Senator PEARSON. I have none.

Senator HART. I suspect that your schedule is one that requires you to be three other places at this moment.

Senator SAXBE. Yes; thank you.

Senator HART. Mr. Dennison, you have filed a financial statement with the chairman of the committee and a biography. It is the practice of this committee, as I understand it, to receive the financial statement for our file and it is made available to anyone wishing to see it on request.

(The biography follows:)

BIOGRAPHY OF DAVID S. DENNISON, JR.

September 29, 1970.

Personal

Address: Route 2, Warren, Ohio 44482.

Age: 52, Born at Poland, Ohio, July 29, 1918.

Married: To the former Margaret G. Kroehle of Warren, Ohio.

Children: Jennie—aged 20; David Whitman—aged 18.

Education

Warren, Ohio—public schools; Western Reserve Academy, Hudson, Ohio—graduate 1936; Williams College—AB degree 1940; majored in government and political science; Western Reserve University School of Law—LLB degree in 1945; Order of the Coif.

Present status

(1) Admitted to practice law in Ohio and District of Columbia, including Supreme Court of the United States.

(2) Senior partner in law firm of Dennison, Wern & Turner, 106 East Market Street, Warren, Ohio 44481; Telephone (216) 399-3633.

Type of work: General civil practice, including corporate, tax, probate and trust matters; also trial practice and administrative law.

Business and professional experience

- (1) Practicing lawyer from 1945 to present.
- (2) 1945 to 1956; 1963 to present—Special Counsel to Attorney General, State of Ohio.
- (3) January to May 1959—Consultant and legislative analyst to U.S. Civil Rights Commission, Washington, D.C.; duties included preparation of Commission's presentations to Congressional Committees and analysis of pending legislation.
- (4) 1957 and 1958—Republican member of 85th Congress from 11th District of Ohio and served as:
 - Member of the Committee on Post Office and Civil Service.
 - Member of the Manpower Utilization Subcommittee.
 - Member of Subcommittee on Civil Service Retirement.
 - Member of Special Committee to Investigate Campaign Expenditures for the House of Representatives.
- (5) 1945 to 1950—Associated with law firm of Hoppe, Day and Ford, Second National Bank Building, Warren, Ohio 44481.
- (6) 1944 and 1945—worked part time while in law school for Travelers Insurance Co., Cleveland, Ohio as an adjuster.
- (7) 1943 and 1944—worked full time while in law school, as an inspector for Thompson Products Co. (now T. R. W., Inc.), Cleveland, Ohio.
- (8) 1940 to 1942—worked for Pittsburgh Steel Co., both in Monessen and Pittsburgh, Pa., as sales trainee and later in charge of stainless steel order department.
- (9) While in college, worked at various times for:
 - Republic Steel Corp., Cleveland, Ohio—laborer.
 - National Fireproofing Co., Canton, Ohio—laborer.
 - Western Reserve Academy, Hudson, Ohio—laborer.
 - Dollar Savings & Trust Co., Youngstown, Ohio—clerk.

Service background

Volunteer ambulance driver with American Field Service, 1942 and 1943, serving with British Eighth Army in the Middle East and North Africa; awarded Africa Star.

Political

Chairman, Trumbull County (Ohio) Republican Central and Executive Committees, 1964 to 1966.

Member, Ohio State Republican Central Committee, 1966 to present.

Member, Trumbull County Board of Elections, 1964 to 1968.

Delegate from Ohio's 19th Congressional District to 1968 Republican National Convention; member of Convention Committee on Rules.

Professional activities

Member of Trumbull County (Ohio), State of Ohio and Federal Bar Associations.

Formerly Secretary of Committee on Unauthorized Practice of Law, Ohio State Bar Association.

Offices previously held in Trumbull County Bar Association:

Secretary.

Chairman, Grievance Committee.

Chairman, Bar Applicants Committee.

Member of various working committees including:

Legal Aid.

Legislation and By-Laws.

Currently a member of Task Force reviewing Ohio's Environmental Law; auspices of Ohio Conservation Association.

Civic and community interests

Member of the Corporation, Trustee and Assistant Secretary of Board of Trustees, Western Reserve Academy, Hudson, Ohio; also member of its Executive and Policy Committee.

Chairman of Trumbull County Building Fund Committee for Western Reserve University Law School.

Member of:

Buckeye Club.

Warren Library Association.

Eden and Pomona Grange, Trumbull County, Ohio.

Delta Upsilon Fraternity.
 Phi Delta Phi Legal Fraternity.
 Capitol Hill Club.
 National Lawyers Club.

Member of American Society for Testing and Materials; also former Secretary of Committee D-29 on Peats, Mosses, Humus, and Related Products.

Former President, Western Reserve Academy (Hudson, Ohio) Alumni Association.

Elected in 1948 Outstanding Young Man of the Year by Warren Junior Chamber of Commerce.

Former President, Warren Urban League.

Former Member, N.A.A.C.P.

Former Vice President, Warren Community Chest and member of its Budget Committee.

Religious and cultural affiliations

Member of Christ Episcopal Church, Warren, Ohio—former vestryman.

Patron, Butler Art Gallery, Youngstown, Ohio.

Patron, Trumbull Art Guild, Warren, Ohio.

Patron, Trumbull County Heritage Association.

Senator HART. Am I correct in assuming that you are placing all securities that you presently control in a blind trust?

STATEMENT OF DAVID S. DENNISON, JR.

Mr. DENNISON. Mr. Chairman, and members of the Senate committee, I propose to put all securities which I control in a blind trust with the exception of those which I hold as custodian for my two children which I understand under the law of Ohio is impossible to do. Those belonging to the children are mutual funds. I do not propose to sell them or make any other disposition of them.

Senator COTTON. I'm sorry, Mr. Dennison. You will have to pull the microphone a little closer. I didn't quite understand you.

Mr. DENNISON. My answer to the chairman's question was this, that I propose to put all securities which I own or control in a blind trust with the exception of some securities which I hold as custodian for my two minor children under the Uniform Gift to Minors Act in Ohio.

I understand it is impossible for me to do so. These are in mutual funds. I do not propose to make any sale or other distribution of them until my children become 21, at which time I will turn them over to them.

Senator HART. I believe those trusts for the children are included in your financial statement, are they not?

Mr. DENNISON. Yes, they are.

Senator HART. May I ask if you intend to sell any of the securities that you list as held in your name before placing them in trust?

Mr. DENNISON. Mr. Chairman, I may sell some of them, I do not intend to sell very many of them at this time.

Senator HART. Is there any reason except for the state of the market?

Mr. DENNISON. Except for the state of the market or for personal financial reasons.

Senator HART. I have some questions but I would invite you to make any statement at this time that you care to make.

Mr. DENNISON. Mr. Chairman, I have no prepared statement and I am prepared at this time to answer any questions that you might have.

Senator HART. As we reviewed the clients which you or your firm or both have represented and which you list on your statement in a

letter to Senator Magnuson of September 29, one is noted as the Automatic Vendors, Inc. If I was in the automatic vending business and some one on the Senate committee picked that one out for questions I would be offended unless I indeed was one of the criminal elements who on occasion moved into the vending machine business.

It is for that reason that we ask the question. What does that firm do and what has been your involvement with the firm?

Mr. DENNISON. The Automatic Vendors, Inc., is an Ohio corporation which was incorporated in about 1964 by our office. I have served in various capacities, most recently as secretary-director and I did own about 20 percent of the interest in this company.

This company is what is commonly known as a straightline vending company. We make contracts with various companies, in the Trumbull County, Ohio, area. We provide cafeteria services for such companies as Copper Weld Steel Co., General Electric, and others.

Our major competitor is Servomation and incidentally I had some stock in Servomation which I have sold, since that is exactly the same type of business.

We serve meals to about 10,000 people a day. We make our contracts with management of these corporations. Once the contracts are made we have to work very closely with the leadership of the unions.

These plants are all very well organized. Because if they have any grievances they will—

Senator COTTON. Mr. Chairman, I am sorry, but there are interested people in this room other than the committee. I can hear what you are saying but I don't believe the microphone is working as it should.

Mr. DENNISON. All right. I will speak very closely into the microphone.

About 90 percent of our business in the Automatic Vendors Corporation is business, corporations, industrial concerns and institutional businesses. We have no State business except a small account with the Kent State branch in Warren, Ohio, which I understand was just acquired recently.

I have sold my stock in the Automatic Vendors, Inc., and I have resigned my position in anticipation of serving on the Federal Trade Commission. I resigned my position as secretary and director. I have no association with the company at all at this time.

However, I have been active up to this point. In response to the other aspect of the question, it has no relationship whatsoever with any underworld or Mafia group of any kind. It is simply not that kind of a corporation.

Senator HART. What is your involvement with the Lincoln Mercury dealership—Kroehle it is?

Mr. DENNISON. Yes.

Senator HART. That is listed here as a client. The matter of automobile warranties is important in the minds of all of us, I hope. What is the nature of your relationship with the Lincoln Mercury dealer?

Mr. DENNISON. I am not general counsel for Kroehle, Lincoln Mercury. I have listed them as a business client because I have recently been involved in acquisition of properties for them for their dealership and they may have to make some move.

To answer the other part of your question, my relationship with them would in no way affect my situation and my position on warran-

ties. I think you might be interested to know, as a matter of fact, that our office, not I personally but our office, has two suits against the Ford Motor Co. at the present time.

One of them is not directly related to warranties and the other one is. So we hopefully represent our clients well when we are asked to. Senator HART. And you are knowledgeable in the area?

Mr. DENNISON. Yes.

Senator COTTON. I hope the chairman isn't preparing to disqualify me from sitting on on this nomination. I am one of the Senators that had one of those leased Lincolns.

Senator HART. If I am upset, it may be because I didn't have one.

Mr. Dennison, this nomination has created some controversy and it is my intention to hear from consumer witnesses, after listening to you this morning, if they feel they do want the opportunity to be heard. Perhaps in anticipation, but whether that factor is in the wings or not, I would comment that this biography which you have given us, while lacking activities which except as you just indicated—two suits involving Ford—would characterize you as consumer-oriented. It is a biography that is most impressive with respect to civic activities in your community: A good healthy interest in politics, which without reference to party label I think is good; activity in the bar associations in your State and county; responsible leadership in educational efforts; service for a period as president of the Urban League of your community; membership in the NAACP; active church member; also service as a volunteer ambulance driver with the American Field Service during the war in North Africa.

Now, against that background, how would you predict the degree of your interest for those who buy goods and services in our society?

Mr. DENNISON. Sir, against my background, I think it indicates a general interest throughout my life in public affairs, in the affairs of my fellow citizens. To the extent that the interest of those who are buying and selling goods in the marketplace are involved in current economic affairs, I certainly would develop and be persuaded of a healthy interest in it.

Senator HART. The legal experience as reflected in the letter you filed with us would suggest that you would be characterized as having engaged in a general business practice. Is that a fair statement?

Mr. DENNISON. I think that is not exactly correct. I listed the business clients that I had represented and the precedent that was set for this was the statement that Chairman Kirkpatrick filed when he appeared before the same committee for confirmation.

I also noted in my statement that I represented a variety of individual clients. I would characterize my practice as a very general practice. We have, I would say, many more individual clients than we do business clients. But I did want to inform the committee of those business clients that I have personally been involved in, so you are fully aware of any potential conflicts of interest.

However, we have filed, as I indicated, suits against the Ford Motor Co. in the State of Ohio, and in Federal court in what would normally be considered a part of a general practice.

Senator HART. I think you are to be commended for having the sensitivity to recognize the possibility that questions might be raised

had you not identified so-called business clients. It should not be assumed a lawyer is not able to transfer his allegiance, when he has a business client as a lawyer, to the public. What is your response to that?

Mr. DENNISON. As a former Member of Congress I felt I was adequately able to do that and I know most Members of Congress who are lawyers are able to consider the public interest first. I have no fears in that regard. If I am confirmed for this office my client is the United States of America, with particular reference to the Congress of the United States and the President.

Senator HART. My question, I sense, may have indicated that upon occasions I shared that view, that you can't change your uniform. I have never bought that idea.

Senator COTTON. May I make one observation?

Every lawyer who is appointed to the bench has to divorce himself from former clients. Perhaps there have been isolated instances where they haven't but I think the record of the bench and the judiciary in this country would indicate that that duty was performed faithfully.

Senator HART. I have heard people argue rather persuasively that a man, especially a lawyer, who has represented business interests generally, can use that experience, that advocacy effectively on behalf of consumers if he has the will to do it and is put in a consumer protection position.

You are entitled, I am told, as a member of the Commission, to three professional staff assistants. Your background is that of a lawyer. Many issues that present themselves to this Commission involve economics, even theoretical economics.

Would you contemplate the employment of an economist, as one member of your staff?

Mr. DENNISON. Mr. Chairman, I cannot make a commitment in that regard. I frankly haven't given a great deal of thought to staffing my office up to this point. I understand that other members of the Commission, previous members of the Commission have employed economists on their staff and I understand one of them perhaps has all economists. I am considering that proposition and will consider it as I go about forming the staff if confirmed.

Senator HART. Certainly the question was not intended to elicit a commitment.

Mr. DENNISON. I appreciate that.

Senator HART. This committee on commerce has reported bill S. 3201. It is the Consumer Protection Act. It would increase or give substantially new powers to the Commission. In testifying some months ago, Chairman Weinberger told our committee that he considered those powers extremely important proposals, the enactment of which would enable the Commission to give the country's consumers protection from unfair and deceptive practices to which they are entitled.

May I ask, do you agree with that statement?

Mr. DENNISON. Yes, I agree with Mr. Weinberger. I think he absolutely expresses my views generally on the subject.

Senator HART. That same bill would grant a right of class action to the consumers. What is your view with respect to the proposed class action?

Mr. DENNISON. The only quarrel I have with the class action section in that particular bill is this: As I understand the bill, a class action may be brought for a consumer fraud upon giving notice to the Justice Department or to the Federal Trade Commission and permitting either of those departments 90 days within which to make a determination whether to bring the suit themselves and then within 90 days after that, the suit must be brought.

Frankly, as a practical matter, I don't believe it is reasonable to expect the Commission or the Justice Department to make a judgment, a really valid judgment, within a 90-day period. I would prefer to see a longer period of time within which an effective study could be made by the Commission. But otherwise I have no objection to the bill.

Senator HART. Would it be fair to interpret that as indicating that you agree with the judicial trigger, if that is the word for it, in the bill as opposed to the executive trigger?

Mr. DENNISON. Yes, as long as the class action is—must be maintained within the rules of the Federal rules of civil procedure, yes.

Senator HART. Turning to another matter that this committee has been involved with and the Commission will be beginning next year, cigarette advertising. It is going to totally disappear from the electronic media. This committee was concerned that when the TV advertising ceases, that cigarette advertising will step up enormously in the printed material. If you become a member of the Commission, this member of the committee, at least, would hope that you would have the staff of the Commission monitoring closely the practices of the cigarette company. At the end of June of next year, under the terms of the Cigarette Labeling Act, the Commission will be free to proceed with trade regulation rules to require warning on printed advertising.

Would you be prepared to require a warning on all cigarette advertising if the behavior of the companies warrants such action?

Mr. DENNISON. Mr. Chairman, as one member of the regulatory agency, I would certainly recommend that the mandate of Congress be fulfilled and that close watch of the advertising and the media be maintained. I think it would be premature on my part to make any observations as to what I might do, depending on the results of the investigation and I fear that I might disqualify myself in any future determination, if I would suggest what my views might be. I have no idea what the quality or quantity of the evidence is or what it may produce and I would prefer, with your permission, not to answer a hypothetical question on that score.

Senator HART. Whether I was sensitive enough to this problem in my question, I am glad you are sensitive enough in your answer to avoid a prejudgment. I think I may have unwittingly phrased my question so that I was asking for a judgment, in effect. That was not my intention.

I am sure you are familiar with the American Bar Association's report on the Trade Commission?

Mr. DENNISON. Yes, I am.

Senator HART. The report criticized the Commission for its secrecy. Everybody is as in favor of an open door policy as they are clean air and water. But when it gets down to specifics, the requirement is with respect to the appropriateness in that particular instance.

Now, recognizing that, what is your feeling with respect to an open door policy of the Commission, particularly with respect to the right of consumer intervention?

Mr. DENNISON. I am not sure I know exactly what is meant by an open door policy. But let me say this, as far as I am concerned, and on the basis of what I know of the Commission, and it must be understood that I am not a professional antitrust lawyer or a person who is fully acquainted with the operations of the Federal Trade Commission, I believe certainly that matters which are in an investigative stage perhaps should be held in confidence. I rather tend to believe that once the investigative stage is over there should be some type of public disclosure. I also think that where, and I realize this is not a precise word, but where appropriate there should be permission for any interested party to intervene in the matter. I know in the State court, for example, it is quite possible, if I can demonstrate, we will say the Supreme Court of the State of Ohio, that I, represent a client having a bona fide interest in the case, I at least have a right to file a brief *amicus curiae*.

Using that same general philosophy and approach, I would think anybody who can demonstrate a bona fide interest in a matter before the Commission should have the privilege of making their views known.

Senator HART. The only trouble I have with that answer, and it is one that can't be resolved in a hearing such as this, is your quite appropriate lawyer-like reservation about matters, when under investigation, should not be in the public domain. Sometimes it has been said that this "investigative" label is invoked to sort of hide the whole game. I would have you would be conscious of that sort of criticism having been voiced on occasions when responsible sources assure that the proper right of one subject to investigation is not to have public disclosure in any premature way, does not run wild and prevent the very legitimate intervention of public interest at the appropriate time.

Mr. DENNISON. I appreciate those comments.

Senator HART. In the matter of voluntary settlements reached with the Commission, I believe there is now public reporting of the disclosure of those settlements.

Would you anticipate that you would support the continuance of this policy?

Mr. DENNISON. I would support the policy of disclosure, yes, on voluntary settlements.

Senator HART. In recent years there has developed a competence and expertise, this is all to the good, of consumer groups in this country. Would you anticipate taking advantage of such advisers as the source of identification with developing consumer concerns and consumer complaints?

Mr. DENNISON. Mr. Chairman, I would certainly welcome the counsel and the expertise of any group, including the consumer group, who are interested in the matters which are properly before the Federal Trade Commission.

As one Commissioner, I would certainly support the solicitation of such ideas. As I understand, the Commission has met with the consumer groups in the past and I think it would be appropriate in the future for the full Commission to do so as well as meeting with other interested groups which may have an interest in matters pending before the Commission.

Senator HART. Some basic reforms were proposed by the former Chairman, Mr. Weinberger. Are you familiar with his recommendations and proposals?

Mr. DENNISON. I am peripherally familiar with them.

Senator HART. Would it be your intention to support those reforms?

Mr. DENNISON. To the extent that I understand them, yes, sir, fully. And I believe—I cannot, of course speak for the Chairman, but I believe Chairman Kirkpatrick is also in favor of them.

Senator HART. Yes, he advised the committee that he does support them and will continue to support them. You would give him support in that effort?

Mr. DENNISON. Yes, sir.

Senator HART. Do you have any ideas of the proper relationship between the Congress and the Commission?

Mr. DENNISON. Well, I am quite aware of the relationship between the Congress and the Commission. I have been a Member of Congress and I view the Commission essentially as an independent regulatory agency responsible to the mandate of the Congress.

Senator COTTON. Excuse me, but would you please repeat your last statement?

Mr. DENNISON. I'm sorry. I say that I'm quite aware of the responsibility of a regulatory agency to carry out the mandate of Congress as well as its responsibility to the President.

I would certainly look forward to the recommendations and advice of Congress in the future.

Senator HART. What about the relationship between the Commission and the White House?

Mr. DENNISON. I think that under the Federal Trade Commission Act, the agency also has a responsibility to the White House. But Congress, as we know, writes the laws and it is the laws that the gentlemen of Congress write that we are required to carry out.

So I would assume that on the basis of that that our primary responsibility is to see that the wishes of Congress are carried out.

Senator HART. How do you conceive that the wishes of the White House would be carried out?

I've never asked myself that question; I just wondered.

Mr. DENNISON. I think the wishes of the White House are carried out to the extent that any legislation proposed by the White House is enacted into law. That would be as I conceive it.

Senator HART. Would you, as a Commissioner be willing to battle with something that has grown in strength since you were in Congress; namely, the Bureau of the Budget?

Mr. DENNISON. I would certainly, insofar as the Federal Trade Commission is concerned. I would battle to see that we were properly funded to accomplish the objectives which you have assigned to us.

Senator HART. Chairman Kirkpatrick recommended and strongly advocated that the Commission, using its field offices, step up a real attack on hard-core fraud in specific cities. Would this have your support?

Mr. DENNISON. Yes, it does. Although I am not thoroughly familiar with his recommendations, it is my understanding that these are recommendations to proceed in ghetto areas.

I support this fully and hopefully this will give us some more precise information upon which we can make more general economic conclusions and judgments.

Senator HART. Well, that really ties in with the balancing question that we had planned to ask. You say that given this zeroing-in program on hard core fraud, it would give you a basis for future actions. I wanted to ask you about how you would balance this war on fraud, this attack on fraud, with the need to develop broad national economic policies, the role in which I think the Trade Commission should more actively involve itself?

Mr. DENNISON. Well, this is tough for me to say but in your ghetto areas you are going to have a much more demonstrable, much more specific problem than you have in other areas.

This may simply dramatize conditions which exist throughout the country but to a lesser extent. I think it is going to give us better guidelines on the kind of things that are perhaps occurring throughout the rest of the country.

I think they will be helpful in making ultimate conclusions as to broad economic policies.

Senator HART. There has been criticism of the Commission that it has not applied adequate resources to, not alone the study but the evaluation of the significance of economic concentration as it has developed in this country and the emergence of oligopoly power.

Specifically the Consumer Subcommittee of this committee recently held hearings on cereal marketing practices and there was in the eyes of some of us disturbing evidence in those hearings that concentration in the food industry had led to marketing practices which served the consumers of this country very poorly.

Do you have any comment on either the criticism of the Commission for not applying sufficient resources in terms of analysis of economic concentration or your intention, tentative at this point, as to what you would do?

Mr. DENNISON. Again I am fearful of disqualifying myself, perhaps, with reference to future action of the Commission in this regard. I am aware of the problem only through what I have read in the press and reports of the subcommittee and this committee. I would say that I would certainly examine the matter carefully but I do not feel I could make a comment on it at this time, other than to say that I am aware of the problem; I am aware that there is a complaint and as I understand it there are matters pending within the Commission at the present time which I may be asked to pass upon and I think I should withhold any other comment.

Senator HART. I don't know whether in your private practice you ever took on a case which involved warranties. But the Trade Commission, after a rather long study, issued a report on the matter of automobile warranties. Are you familiar with that report?

Mr. DENNISON. Yes, I am familiar that a report has been made; I have not read it in detail but I am familiar with the general propositions in the report.

Senator HART. Now, one of the propositions in the report, particularly as they relate to prohibiting the disclaimer of implied warranties, was that the consumer should be the subject of first and overriding concern in the development of any warranty arrangement.

I would hope you would support the recommendations in the report, particularly as they relate to prohibiting the disclaimer?

Mr. DENNISON. Yes, I am familiar with that part of the report and I do support the position of the Commission in that regard.

Senator GRIFFIN. Mr. Chairman, would you permit a brief interruption, because I have to leave to go to another committee.

Senator HART. Yes.

Senator GRIFFIN. I made a special point of being here because I have known the nominee for a good many years. We came to Congress together in the election of 1956.

Unfortunately, for the Republicans, the winds didn't blow too favorably in some parts of Michigan and Ohio in 1958 and Dave didn't get back to Congress. But since then we have kept a close relationship. I have known him, his family, and his work in Congress; and I just wanted to indicate on the record that although I didn't have anything to do with his nomination, I think this was one of the best nominations that the President has made to any commission or any office.

He is a man of not only keen intellect and good background in terms of his training, which I think has already been demonstrated, but I also know he is a man of outstanding integrity and character.

I had to smile when I read in one of the local papers that he was referred to as a conservative. I recall when we served together in that Congress, some Republicans looked on him as a liberal. I don't know where he would stand today but I do know he has a warm and genuine concern about the people and he has served his community, as the chairman has already observed, in many capacities. I know he will do an excellent job and I want to commend him to the committee before I leave, and in case I'm not here I vote yes for his confirmation.

Mr. DENNISON. Thank you, Senator.

Senator HART. Thank you, Senator. I think I should be more specific before leaving that warranty question.

Our committee saw no reason why a written warranty should be used to limit the rights of the buyer, the consumer, rights he would have except for the written warranty. It is specifically to that point that I would ask your opinion.

Mr. DENNISON. Yes, I do not think that the implied warranties as to merchantability and fitness should be limited.

Senator HART. And it would follow that all warranties should clearly and conspicuously expose their terms?

Mr. DENNISON. Right, as to parts and labor and exactly what they warrant in understandable language.

Senator HART. Do you believe there should be some direct and simple means for consumers to identify warranties that are full and complete and offer total protection against malfunction from those that offer warranties for parts and not for labor?

Mr. DENNISON. My answer is yes; I think my previous answer answered that, also.

Senator HART. I think you did. The Commission is taking initiative in important consumer areas in making use of its inherent rulemaking authority.

Do you support the intelligent and vigorous exercise of the Commission rulemaking?

Mr. DENNISON. Yes, I do. It is a help for both the consumer and the producer. I think they set guidelines and rules, the rules of the game under which goods and services are sold and produced. I do support that.

Senator HART. Is it your feeling that the rulemaking process helps the businessman as well as the consumer by advising all parties that particular acts or practices are to be considered unfair and deceptive?

Mr. DENNISON. Yes, I do. Once business understands what the rules are they are put on notice to live up to them.

Senator HART. I will ask just two more questions and I will try to catch up with my colleague from Michigan who has recommended to the President who has nominated and the nomination is before the Senate Judiciary Committee, an extremely able lawyer to the district court and Commission.

It happens she is also a lady.

Do you think the Commission can use more imagination in structuring its orders, especially those that have the potential of undoing the harm which the deceptive act or practice may have caused?

Mr. DENNISON. I think they can; yes, sir. The extent to which more imagination might be exercised, I am not prepared to say. But I certainly think that where there has been a violation of the law, perhaps some imaginative devices might be developed which would serve notice to those who violate the law that the penalties are a little more severe than a cease and desist order.

Senator HART. I am not asking you to reply to this with any specific case or industry or service trade in mind. But as a general proposition, can you conceive that it might be appropriate, under a given condition, that a Commission order require affirmative disclosure in advertisements of previously erroneous statements about a product?

Mr. DENNISON. Again, I don't want to get myself in a position where I am disqualifying myself on future matters. I think I can say generally this is a type of relief which might well be considered.

Senator HART. This completes the questions that the staff and I have developed to raise with you. Because of the Judiciary Committee matter I must ask leave to be discussed. I am grateful that Senator Cotton will remain to act as chairman.

Before leaving, might I say that this morning I learned that requests for postponement had been made of this hearing by the president of the Consumer Federation of America. It was not that that caused me to wait. I could not recall in what form it was made. I am advised that it was by telegram to the chairman of the committee with a copy to me. I am advised that the chairman of the committee has not as yet received the telegram. I know I have not.

However, in view of the press release which advises of this request, Senator Magnuson has directed that at the completion of the questioning of the nominee that the committee recess to October 6 at 9:30 a.m. at which time consumer groups who want to appear will be heard.

Senator COTTON. Mr. Chairman, while you are still here I would like to request that the press release of the Consumer Federation of America criticizing this nomination be inserted in the record at this point.

Senator HART. It will be inserted.

(The article follows:)

CONSUMER FEDERATION OF AMERICA

WASHINGTON.—The President of Consumer Federation of America, Howard Frazier, tonight protested to the Senate Commerce Chairman the lack of opportunity for consumers to be heard in the hearing on the nomination of David Dennison for a Commissioner to the Federal Trade Commission. He

released the contents of telegrams sent to Senators Magnuson and Hart who is scheduled to hold a hearing on Dennison at 9:30 A.M. Thursday Morning, October 1. Frazier said the following telegram had been sent to Senator Magnuson: "The Consumer Federation of America believes in fairness in government hearings as well as fairness in the marketplace. As president of this organization with 187 groups with over 30 million members in the states, I strongly protest the hearings that are scheduled to take place at 9:30 A.M. on October 1. Consumer organizations both within and without the Consumer Federation of America have notified you of their desire to oppose the nomination of David Dennison as Commissioner of the Federal Trade Commission and have requested you to notify them of the time, place, and date of the hearings in order that they may present testimony to that effect. These requests have been ignored which is not in keeping with my conception of fair play. I hereby request that the hearings be postponed in order to give consumer groups an opportunity to be heard as requested. Please advise me of your decision in this matter".

A copy of this telegram was sent to Senator Philip Hart with the added statement: "I hope that you will discuss this matter with Senator Magnuson and agree upon the postponement of the hearings scheduled for October 1 in order that our consumer groups may testify at the hearings as they have requested. Being the consumer champion that you are I cannot conceive of your agreeing to hold hearings without giving consumer groups an opportunity to be heard."

Frazier stated that the opportunity to be heard is one of the four basic rights of consumers, the other three being the right to safety, the right to be informed and the right to choose.

Senator COTTON (presiding). Mr. Dennison, I have two or three routine questions, some of which have been covered by the chairman. First, you have been nominated for an appointment to serve for 7 years. This committee does not expect any man to commit himself, regardless of what circumstances might arise, but I would like to ask if it is your present intention, if you are confirmed by the Senate, to serve out your term?

Mr. DENNISON. Yes, sir.

Senator COTTON. Now, there has been some discussion by the chairman already in regard to your stockholdings. To summarize, it is my understanding that you intend to put those stockholdings into a blind trust, and the list as a whole will remain in the records of this committee for inspection by anyone. Is that correct?

Mr. DENNISON. Yes.

Senator COTTON. Do you know of any stockholdings that would be likely to constitute a conflict of interest in the performance of your duties as a member of the Federal Trade Commission?

Mr. DENNISON. I do not know of any, Senator, that I do hold. However, I am aware of the securities that I do hold and should I ascertain a conflict in something that I have held in the past I would certainly disassociate myself from the case.

Senator COTTON. That is a rather sweeping statement. Do you mean securities which you have held in the past and which you have sold?

Mr. DENNISON. I mean securities I have listed in this document. The ones I have sold in the past I have no particular interest in except probably the losses I have sustained.

Senator COTTON. The information is here but for the record, should you be confirmed and assume your duties as a member of the Federal Trade Commission, will you sever your financial connection with your law firm?

Mr. DENNISON. Yes, sir; I am severing completely from the law firm.

Senator COTTON. And, from that point on you will not be receiving any share of the professional income of that law firm?

Mr. DENNISON. That is right.

Senator COTTON. Now, there is one question that the chairman asked you and I am not sure that I am quite satisfied with your answer. Perhaps this committee as well as other committees of the Congress are a little too jealous of the prerogatives of the Congress and its committees. I think all member of this committee, regardless of which side they serve on, believe that the Federal Trade Commission, the Federal Communications Commission, and the various other commissions were created by the Congress to assume certain functions that had become too complex, numerous, and onerous for the Congress to properly handle. It was necessary to create these quasi-judicial commissions to serve as an arm of the Congress and not of the Executive. Of course, any communication or position taken by the President of the United States is entitled to the careful consideration of all levels of government. But, in answer to the inquiry of the chairman about your feelings toward Congress and the President, it is my understanding that you would give equal consideration to both.

I happen to feel that you must respect and carefully consider the opinions of the President of the United States, but because your Commission is an arm of the Congress the actions and expressed intent of the Congress should receive somewhat more consideration than the wishes of the Executive.

Mr. DENNISON. Senator Cotton, I evidently did not make myself clear. I agree with you that we are primarily responsible to the Congress of the United States because whatever authority we have is derived from the Congress. The statutes say we are responsible to the President and to Congress. However, we do not function except insofar as Congress gives us the authority to function. Consequently I agree with your statement and I am sorry if I was not clear originally.

Senator COTTON. You may have been clear. I am glad to have that assurance.

Now, I have been asked to make the following inquiry on behalf of Senator Magnuson, the chairman of this committee. There has been growing concern over violations of the Federal law, 15 U.S.C. 55, subsection (a), which prohibits advertisements suggesting that oleomargarine is a dairy product. Do you believe that law should be enforced?

Mr. DENNISON. Yes; I certainly do. It is an act of Congress and the law of the country and I think it should be enforced.

Senator COTTON. This brings back old times. I once voted against oleomargarine and the housewives in my district all rose up in anger. It therefore is a very tender subject for me.

Mr. DENNISON. In the particular district I had the privilege to represent, I had the second largest dairy county in the State of Ohio.

Senator COTTON. The chairman has exercised his prerogative to adjourn this hearing to Tuesday morning. It is the desire of certain consumer groups to be heard against your confirmation. Have you read the release of the Consumer Federation of America?

Mr. DENNISON. I just glanced at it. I have not read it through.

Senator COTTON. It protests your confirmation, complaining that the President ignored their recommendations and nominated you. It implies, by its very protest, that they feel you may not be alive and alert to the interests of the consumer.

In view of the fact that these protests will be made Tuesday morning, and any response that you may wish to make would have to wait until they were completed—and I am sure the chairman of the com-

mittee would give you an opportunity to respond—do you desire to make any statement now?

Mr. DENNISON. No; I think I have answered that to the best of my ability and in the questions that the chairman presented to me and I have no further comment on the matter.

Senator COTTON. Senator Pearson.

Senator PEARSON. Thank you, Mr. Chairman.

Mr. Dennison, I think the lengthy interrogation and questions by the chairman and the ranking member of the minority have covered the field well this morning and I am quite satisfied that you have been responsive where you should have been and that you have not been responsive in those areas which relate to your future judgments and responsibilities as a member of this Commission.

I only want to say to you and hope you will respond by concurring that the consumer movement today is wide and deep and real and serious and necessary. It comes about because of the highly complex and competitive industrial development that we have today seeking to fulfill the needs of an expanding population. Fraud, I suppose, increases in direct proportion that crime increases in this country today. Competition is most severe and the hallmark of our culture abroad, I am reminded every time I go abroad, is the enormous Coca-Cola signs and I think maybe the hallmark of our society in this century will be an enormous signbill someday. But if you have any doubt about it, look at the record of the legislation passed by the Congress related to safety and all the rest of that long line of legislation.

I think you have an outstanding background and experience. As of today I certainly intend to support your nomination, but I just sort of make that speech to indicate how one Senator feels about the consumer problems. I happen to be the ranking minority member on the Consumer Subcommittee so my attention is commanded with this particular subject.

Let me just say one more thing, Mr. Chairman. The Consumer Federation of America should feel not only that they should have a hearing but also there is some special right to submit a list of names. It is not so much their fault as it is my administration and the administration that appointed you, I think. I have reviewed with some alarm and disagreement the fact that the American Bar Association, to use one example, has been given almost the right of appointment or right of veto on Federal judges and this has taken place in a number of fields. Education, medical appointments, and so forth. So what has happened here this morning in the form of these wires to the chairman and Senator Hart is consistent, in some respects, to what our administration has been doing.

I think it is regrettable but it is one explanation. It ought not in any way to affect your attitude toward that group or any other consumer group.

Mr. DENNISON. I appreciate your remarks, Senator. Thank you.

Senator COTTON. On that point, Mr. Dennison, I am going to reserve any comment until I have had an opportunity to listen to the testimony of the interested consumer organizations. When I listen to that testimony I may have some questions that I will want to ask.

There is a bill pending before the Senate that has been ordered reported by the Committee on Government Operations. The Senator from New York, who introduced it, obtained unanimous consent that it be referred to the Committee on Government Operations although

it clearly contained several matters within the jurisdiction of this committee. Under the unanimous-consent agreement the bill is to be referred to this committee for a period not to exceed 45 days unless the chairman was willing to let it go on the floor of the Senate immediately. That puts it entirely in the province of the chairman.

This bill would set up a council of Consumer Advisers to the President and on its face would seem to be worthy of consideration. However, my attitude on that bill is going to be affected a good deal by the testimony we listened to this morning, as well as that scheduled for next Tuesday.

Every member of this committee, including myself, feels that in this day and age, as the committee has indicated by its legislative activity, the consumer needs careful protection.

The Federal Trade Commission already has authority to protect the consumer against fraud and misrepresentation. We have gone further than that. If any group—whether it is the consumer, the manufacturer, the American Bar Association, the AFL-CIO, the Farm Bureau, or whoever the group may be—is going to successfully demand that the President of the United States confine his appointments to the list of people they submit, I think we are going to get into a situation where there will be considerable confusion in Government. I therefore am waiting for this future testimony before I determine in my own mind the probable impact of this proposed Council of Consumer Advisers to the President.

I merely put that in the record because of the comments of the distinguished Senator. His comments were very good and I agree with them.

Let me say, I am prejudiced in your favor. I knew you well, as you recall, when you were serving in the Congress and I have complete confidence in your fairness and ability. I think that your experience as a practicing attorney adds to your desirability rather than detracts. If we are only going to appoint to these positions people who have had no contact and no business relations with anybody, we are going to have to appoint people who have been less than successful in the practice of law or whatever vocation in which they may be engaged.

I am very much impressed by your competence but that does not mean I shall not listen with care and consideration and with an open mind to the consumer groups when they present their case against you to this committee.

The Senator from Tennessee.

Senator BAKER. Thank you, Mr. Chairman. I have no questions.

Senator COTTON. Do you have anything further?

Mr. DENNISON. Nothing further. I thank the Senator and the committee for the honor to be here.

Senator COTTON. Before we recess, is there anyone in this room who desires to be heard and cannot be present Tuesday at 9:30?

Mr. FRAZIER. Howard Frazier. I am Howard Frazier of the Consumer Federation of America. I want to thank you for the graciousness and the fairness with which this hearing has been held. We commend you highly.

Senator COTTON. Thank you. But you prefer to wait?

Mr. FRAZIER. Yes; next Tuesday.

Senator COTTON. In that case the hearing is recessed.

(Whereupon, at 11 a.m. the committee was recessed, to reconvene at 9:30 a.m., Tuesday, October 6, 1970.)

DAVID S. DENNISON, JR., TO BE A COMMISSIONER OF THE FEDERAL TRADE COMMISSION

TUESDAY, OCTOBER 6, 1970

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met at 3:15 p.m. in room 5110, New Senate Office Building, Hon. Daniel K. Inouye, presiding.

Present: Senators Inouye, Cotton and Pearson.

OPENING STATEMENT BY SENATOR INOUE

Senator INOUE. Before proceeding, I would like to convey my apologies to those of you assembled here. However, as you may know, we have had several votes in the Senate and as a result many of us were detained there casting our votes.

This hearing is being held at the request of certain consumer groups, who have asked for an opportunity to comment on the nomination of David S. Dennison, Jr., to be a Commissioner of the Federal Trade Commission.

To my knowledge, this is the first time such a hearing has been held. At this time I would like to place in the record communications from the Consumer Federation of America, which explain that after a poll of their board of directors, it was decided that the organization would not appear in opposition to the nomination of Mr. Dennison.

(The letters follow:)

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., October 4, 1970.

HON. WARREN MAGNUSON,
Chairman, Senate Commerce Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: Consumer Federation of America will not oppose President Nixon's nomination of David Dennison as federal trade commissioner. A poll of our 37-member board of directors shows a majority have agreed that CFA should not oppose the nomination, although several directors expressed reservations and their concern that the President did not select someone more closely identified with consumers.

We are grateful to you and to your staff for your patience as we sought to reach an understanding among our 37 policy makers. As you appreciate, I'm sure, democracy is not always swift. We believe, however, it is the best way to make certain our organization continues to represent its members. Your committee's kindness in recessing the hearings while we polled our directors was most considerate.

May I point out that each of CFA's 184 member-organizations is autonomous and free to state its own position. Any director is also free to differ from the organization's position—as an individual. CFA has room for dissent as it strives to represent the consumer's voice in Washington.

May I also express my personal appreciation for the competence of your committee's staff and the attention it gives to citizens. I'm particularly grateful to Mike Pertschuk and Lynn Sutcliffe for their patience in the past few weeks.

Consumers are grateful to you for the strong leadership you take in securing the rights of consumers.

Sincerely,

ERMA ANGEVINE, *Executive Director.*

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., October 5, 1970.

HON. WARREN MAGNUSON,
Chairman, Senate Commerce Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: I was scheduled to appear as an individual witness before your committee October 6 to testify regarding the nomination of David Dennison as a member of the Federal Trade Commission.

I respectfully request that my name be withdrawn as a witness. The Consumer Federation of America board of directors has reached a decision not to oppose the nomination. The letter of CFA's executive director, Erma Angevine, under date of October 4 clearly states the CFA position.

The CFA wishes to express its deep appreciation to the Committee for continuing the hearing to permit this organization an opportunity to poll its elected leadership on the position we should take.

We do also appreciate the Committee's attitude that consumers should be given every opportunity to make their views heard in matters such as this which are of vital concern to them.

There is a growing consumer awareness in the country which CFA constantly strives to honestly reflect. We urge the committee charged with approving public officials who are to be given responsibility for protecting the consumer to take this new voice into account in all future appointments.

Sincerely,

HOWARD FRAZIER, *President.*

I would also like to place in the record copies of a telegram from Mr. Howard Frazier, requesting postponement of the nomination hearing so that consumer groups who had requested to testify could do so. The communication from Mr. Frazier had not been received at the time of the hearing on Mr. Dennison last Thursday, October 1. The communication to which Mr. Frazier referred in his telegram had also not been received.

(The telegram follows:)

WASHINGTON, D.C., September 31, 1970.

Senator WARREN G. MAGNUSON,
Senate Commerce Committee,
Senate Office Building, Washington, D.C.:

The Consumer Federation of America believes in fairness in Government hearing as well as as fairness in the marketplace. As president of this organization with 187 groups with over 30 million members in the States, I strongly protest the hearings that are scheduled to take place at 9:30 a.m. on October 1. Consumer organizations both within and without the Consumer Federation of America have notified you of their desire to oppose the nomination of David Dennison as Commissioner of the Federal Trade Commission and have requested you to notify them of the time, place, and date of the hearings in order that they may present testimony to that effect. These requests have been ignored which is not in keeping with my conception of fair play. I hereby request that the hearings be postponed in order to give consumer groups an opportunity to be heard as they have requested. Please advise me of your decision in this matter.

HOWARD FRAZIER,
President, Consumer Federation of America.

At this time may I put into the record the letter requesting the opportunity to testify sent to the committee by Florence Rice, president of the Harlem Consumer Education Council. This letter was received on October 1, after the nomination hearing had been held. The second communication as of this moment has not been found. It was received in Senator Magnuson's office on Monday, September 26, but has been lost in the mail between his office and this committee. At the time of the hearing, the committee was not aware of its existence, and of course Senator Magnuson had not been informed of its receipt, staff thinking it had been properly forwarded to the committee.

(The letter follows:)

HARLEM CONSUMER EDUCATION COMMITTEE,
New York, N.Y. September 26, 1970.

HON. WARREN G. MAGNUSON,
Chairman, Commerce Committee, U.S. Senate, Washington, D.C.:

The Harlem Consumer Education Committee opposes the confirmation of David Dennison as a Commissioner on the Federal Trade Commission. As President of our organization, I desire to testify at the hearing which will be held on him. Please notify me of the date, time, and place of the hearing in order that I may come there to make my statement.

Sincerely yours,

FLORENCE RICE, *President.*

I would also like to place two telegrams received by Senator Hart asking for postponement of the confirmation hearing of Mr. Dennison.
(The telegrams follow:)

DETROIT, MICH., October 5, 1970.

HON. PHILIP A. HART,
U.S. Senator, Washington, D.C.:

Urge postponement of hearing of confirmation of David Dennison to Federal Trade Commission till consumer organizations can complete research into Mr. Dennison's background.

ESTHER K. SHAPIRO,
Consumer Affairs Specialist.

DETROIT, MICH.

Senator PHILIP A. HART,
Washington, D.C.:

Time needed to research background material on appointment of Dennison.
I urge postponement of Hearing.

AGNES BRYANT.

Before beginning this hearing this afternoon, I wish to make the record clear that there has been no effort on the part of the committee to suppress criticism of Mr. David Dennison. The Senate Commerce Committee welcomes the views of all persons concerning this very important nomination to the Federal Trade Commission, and although this hearing marks a novel departure in Senate procedures, I think it marks a healthy and constructive departure, and I am sincerely confident that the views of today's witnesses will be carefully weighed by the members of the Senate Commerce Committee charged with the responsibility of advising on the nomination of Mr. Dennison.

At this time I will place a letter from Senator Young of Ohio in the record.

(The letter follows:)

U.S. SENATE,
Washington, D.C., October 6, 1970.

FREDERICK J. LORDAN,
Staff Director, Committee on Commerce,
U.S. Senate.

DEAR MR. LORDAN: Recently David S. Dennison, Jr., of Warren, Ohio, called on me. I took a liking to him. Furthermore, I made inquiry regarding him. I have no objection whatever to his being confirmed as Federal Trade Commissioner.

Sincerely,

STEPHEN M. YOUNG, *U.S. Senator.*

At this time I wish to welcome today's witnesses. I look forward to receiving their constructive criticism of the nominee, who is a past president of the Warren Ohio Urban League and an active supporter of civil rights.

I have been handed this witness list, and according to this list, our first witness will be Mrs. Florence Rice, president of the Harlem Consumer Education Council. Is Mrs. Rice here? Please step forward.

Mr. DEMPSIE. Mr. Chairman, I would like to ask you to change the position of the opening of Mrs. Rice.

Senator INOUE. What is your name please?

Mr. DEMPSIE. I am from the Consumer Education Protective Association International, Inc. Garlen Dempsie, chairman of the association.

Senator INOUE. Although your name has not been received by the committee, if it is all right with Mrs. Rice, it's all right with me.

Mr. DEMPSIE. She has consented.

Senator INOUE. I would like the record to show that one buzzer indicated a vote in the Senate. But I have decided to sit in on the hearings here to receive your testimony and miss my chance to cast my ballot, because you have waited long enough and I don't wish to have you wait any longer.

Mr. DEMPSIE. I appreciate your having the reasonability of realizing how long, not me, but we, and how many times we have been here for what I want to state to you, Mr. Chairman.

Senator INOUE. Will you give us your name again for the record, please?

Mr. DEMPSIE. Garlen Dempsie, 2521 North 20th Street, Philadelphia, Pa. 18132. Of the Consumer's Education and Protective Association, International, Inc. Chairman of that association.

Senator INOUE. Please proceed.

STATEMENT OF GARLEN DEMPSIE, CHAIRMAN, CONSUMER'S EDUCATION AND PROTECTIVE ASSOCIATION INTERNATIONAL, INC.

Mr. DEMPSIE. Mr. Chairman, I would like first to thank this committee for listening to us, giving us an opportunity to air our views and to relieve some of the ills that have been suppressive for some time.

No. 1, I realize that the Senators of our United States have an awful lot to do, particularly with our sister countries, but let's come home and see what we are going to do for our fellow citizens here in America, that make it possible that we can go and help the outer world of our United States of America.

We put all of our trust in this committee to use its godly judgment to all investigations to anyone that is put to head a national situation as Mr. David Dennison for the Federal Trade Commission.

But it doesn't seem that it has been oversights or overlooked or neglected. It truly seems that they don't care. We are fighting against fraud and swindle, misleading, ignoring principles of America, which we all love to live. One of the greatest constitutions that could ever be and ever will be is based on the Constitution of the United States of America. But it isn't being executed equally and justice to the citizens of America in this particular issue.

I would like to bring to your attention, on the 27, I heard you read the notices for an opportunity to speak, to say your little thing. I have heard you mention Consumer Federation of America, Mr.

Frazier, I have heard you give, render an excuse for his not being here.

I have heard you mention Mrs. Florence Rice of Harlem Consumers. I haven't heard to say anything about the consumers educating themselves to just these sort of things. Where these sneak attacks has been constantly done through fraud and swindle, and as I say today, that our U.S. Senate committee has created one of the most outstanding frauds before them by ignoring the opportunity of these telegrams which I am going to give you the date and time.

Senator INOUE. Before proceeding, I would like to set the record straight. The fact that I am sitting here listening to your testimony should be sufficient demonstration that this Senate committee is not railroading the nomination of Mr. Dennison. We are listening to you right now.

Mr. DEMPSIE. Very well. Well, I am not so concerned as others can get along with Mr. Dennison's affair. I believe he is a man and a citizen. But if he is a man qualified, we are not looking for a black or what—we are looking for a right man, and it doesn't have to be any other thought but the right man. But we do expect you and the Senate and the rest of the nominees to select some timely black man as well, because we have them qualified today, that their courage can be held up.

Senator INOUE. I wish you would let that be known to the President, because he submits the nomination.

Mr. DEMPSIE. All right. I would like to ask a question now, Mr. Chairman. Can you tell us—the Western Union Co. is our only way to get a quick message. We can't use the phone because you are home in bed. We can't use a letter; it might get lost. But this was a time element. When we learned last Wednesday that this hearing would be held here to confirm the position that Mr. Dennison was elected to fill, or named to fill, we sent a telegram and I am sure you got it. Did you read it? Do you have it?

The telegram to Mr. Magnuson's office. They received it last Monday, which would be—well, we sent it on Sunday, which was the 27, whatever the date, a week ago. This came in that Monday.

We are here last Thursday. They say the reason we didn't acknowledge and give you the opportunity to hear your statements, we didn't get a notice. Well, what good is the Western Union? What good is the system that we have in our Senate? You didn't lose Florence Rice's letter. You didn't lose the answer from Mr. Dennison—do you want to interrupt me again? It's all right.

Senator INOUE. It's your day, sir.

Mr. DEMPSIE. Thank you.

Senator INOUE. I just want to remind you again that we are conducting the hearings this afternoon.

Mr. DEMPSIE. All right. So I presume.

Now you received the letter from Mr. Dennison when he probably accepted the appointment from Mr. Nixon. You received the word from Mr. Nixon. You received the words from the Consumer Federation of America of Mr. Howard Frazier.

But didn't you receive, or why don't you have, something out of three telegrams?

Senator INOUE. We are receiving the message this afternoon, sir.

Mr. DEMPSIE. This afternoon. You know, this is very well a week, Mr. Chairman, and I don't hold anyone responsible but the system, and the system certainly shows a very shoddy situation.

Mrs. Linostrum received the telegram in the front office of Senator Magnuson's office last Monday. She took it in the back office to a Mrs. Lederly, I believe it is—I can't read it—she in turn got a third party and if I am not mistaken, a fourth party come in. All about one telegram was sent to our U.S. Senate committee for an opportunity to give you our views and opinion of Mr. Dennison and the investigation that should be for anyone appearing for this seat. But no one can find it. I don't think this is just. I don't think it is fair and I do feel that the U.S. Senate don't only owe an apology but it owes a right to hear the people and give them the justice that all man should have in these occasions.

This is a particular situation. This is a great job. Now I am not going to say any more about it, the reputation of Mr. Dennison or anyone else. Those others will bring it out, give their opinions, their views, their reasons of wanting this scrutinized investigation. We want it as well as our President of the United States.

Now you says that you are going to hear; your Senate committee, apparently, if I understand you correctly, is not against Mr. Dennison. We don't want you to be. We are not against him.

Senator INOUE. We have not decided yet.

Mr. DEMPSIE. You haven't decided and I am not creating emphasis for you not to accept or decide, but let us know, the people of our United States of America, who he is, what he is, what he has done, and give us the past history. This is all I want to say now. Thank you.

Senator INOUE. Thank you, sir.

Our next witness is Mrs. Rice.

STATEMENT OF MRS. FLORENCE M. RICE, PRESIDENT, HARLEM CONSUMER EDUCATION COUNCIL

Mrs. RICE. I am Florence M. Rice, president of the Harlem Consumer Education Council. I am certainly glad that I can be here today. In fact, I was here this morning.

One of the things that I felt when I originally heard about this appointment was the fact that the consumer was not to know about this hearing. And I think this is what concerns most of the people, the consumers. That many things are done in Washington, without the citizens in this United States being taken seriously.

I want as a matter of record to say this is a very happy day in my life, because I can say that we haven't come begging for anything. We are not asking. We are not poverty workers. We are not on welfare. We are working people and we do pay taxes.

I would like to read a statement in which I would like to say that there was quite a few people with an input in this. When I heard of the hearing today, we did a small survey, and as a result of the survey, we were able to come up with our statement.

The main commodity of the Federal Trade Commission in theory and actuality is the protection of the consumer.

There is a chairman and there are members that make up this vital commission. In the history of this country there has only been one black appointee to this agency. Now there are no black people on any of the five regulatory commissions in the Federal Government. There appears to be a direct, deliberate and conscious attempt on the part

of the central administration of America on all fronts to alienate the black man and the disadvantaged from the mainstream of America, we want a piece of the action.

Even the most conservative elements in the country agree or at least verbalize that self-help and self-determination is really the process by which black America can liberate itself.

Here again is why I say that I am very happy to be here, because the people here are just ordinary working people and they realize, to share in this great land of ours, that we do have to participate in these kinds of proceedings.

There has arisen at this point even a more conservative element, or shall we say radical conservative element, which says that we are not even entitled to 40 acres and a mule, and if we have the 40 acres and a mule, this conservative is now attempting to take that away from us.

Metaphorically, the 40 acres and a mule in this discussion is the rights and power of the black consumer.

The appointment of David Dennison, an attorney formerly associated with Beneficial Finance, is a live glorification of the beast to further destroy black America. Ask any black or minority citizen what Beneficial Finance means in poverty stricken communities and you will get a blanket negative reaction.

This represents the height of black exploitation in the black community, for this organization and similar organizations thrive on black weaknesses, and perpetuate black weaknesses in the way of lending money at exorbitant rates and for certain they do not have the black conscious in mind, in terms of developing sound economic and social family structure.

It is unlikely that such a man with such an affiliation can represent the rights of the black consumer at this point in history. What we are saying is that there ought to be a "good" man appointed, that is, someone who is sympathetic and understanding and who respects the nature of his position and has the black and Puerto Rican consumer and other deprived people's interest at heart.

We are, therefore, strongly protesting the appointment of Mr. Dennison on the grounds that this further alienates black Americans' attempt to share in the mainstream of this country, for we are about building and not destroying what is rightly ours, what we have worked for with blood, sweat, and tears throughout the centuries. And if the word America can be defined as "work," then our blood, sweat, and tears have served as living perpetual examples of "true Americans."

This is the unwritten credo of black Americans; now we are writing and reminding ourselves of what our contributions, by educating our children, of what our contributions have been to this great country. We are also saying at this point that the Consumer Federation of America seems to be guilty of a social sin by its lack of position on such an important issue.

It is in order at this point for one to raise the question—is the Consumer Federation of America and the Federal Trade Commission a part of the same monster?

At this point, to request the Consumer Federation of America to publicly address itself to this issue is mandatory.

Black and Spanish-speaking people represent a large part of the consuming public in America. It seems to be very reasonable that such

a talented group of people could produce one man of their own or from their own to be part of the Commission.

We are very concerned. I am concerned about appointing a man like David Dennison, who has worked—or his business has been with the large corporates. The corporates have done everything against the consumer. Also the President, every time he makes an appointment today, seems to alienate both black and white I would like to go on record to say that I feel personally that this attempt to put David Dennison on this Commission is certain to alienate the consumers of America. Especially the poor consumers, within the courts of this country there is no justice, for they are not for the poor, that is, blacks, Puerto Ricans and other minorities.

You want to know why we explode? We explode because every day you put the screws on us tighter. Young people won't come to the Senate hearing. They won't come to a hearing because they feel that it is a waste of time.

I feel that this is just a beginning and if you look in the back you can see that that is a beginning; because these are not people coming begging, there are working people.

We are not welfareites, and again, we want to go on record, we are not povertyites. We are not living off the funds of the Government. And I am happy to sit here and really say that thank God, at last, that people are able to come out, that is, ordinary citizens, poor people, to come up to this Senate building—because it took a long step. I have been in this thing since 1962, and when I can see something like this coming about, I say, thank you, God. Thank you for letting me appear.

Senator INOUE. Mrs. Rice, may I assure you that the committee will very seriously consider your words and we appreciate them very much.

Our next witness is Mrs. Clarissa Cain, president of the Consumer Education & Protective Association, International Inc. Is Mrs. Cain here?

Mrs. Cain, welcome to the committee. Please proceed.

STATEMENT OF MRS. CLARISSA CAIN, PRESIDENT, CONSUMERS EDUCATION & PROTECTIVE ASSOCIATION INTERNATIONAL, INC., PHILADELPHIA, PA

Mrs. CAIN. Thank you. I am Mrs. Clarissa Cain, president of Consumers Education & Protective Association International, Inc., Philadelphia, Pa., and member of the board of directors, Consumer Federation of America. I appreciate very much to be able to express myself in my own words. I first want to read my testimony.

CEPA is one of the largest and one of the most active consumer organizations in the Nation, having 11 branches in and around Philadelphia, with several thousand members. The purpose of our organization is to get fairness and justice for the consumer.

Some of our accomplishments are described in the book of the chairman of this committee, Senator Magnuson, "The Dark Side of the Market Place." And in my statement, I would like to give you a few examples. One example given in his book, which shows the value of consumer organization, is the story of Mr. and Mrs. Gallman.

And today, while I tell this story, I have Mrs. Gallman here, and I would like for her to stand. I would like for you to see her while I tell this story.

Mrs. and Mrs. Gallman live in the ghetto of North Philadelphia. They wanted their house to look nice, so they ordered some home improvement work—the front of their little two-story house to be pointed, painted, and striped. They thought it was going to cost them \$650, and they signed a blank judgment note. Mr. Gallman signed his name with an “X”—Mrs. Gallman can just about sign her name. Instead of \$650, the note was filled in for \$1,631—and taken to a finance company.

They paid off more than \$1,400 on that note, but they were 2 months behind in their payments—\$67. This is because Mr. Gallman got sick with asthma. The finance company sent the sheriff to sell out their furniture to collect the \$200 balance due on the loan. The sheriff's deputies and eight policemen broke down Mrs. Gallman's door, they grabbed her, beat her, stomped her, handcuffed, and footcuffed her. She was trying to protect herself by using a little barbecue fork.

While I am telling this story—you heard me say she was handcuffed, et cetera. She is wearing elastic stockings today from the kicks by police and sheriffs, and the doctor says she will never be Mrs. Gallman again. She has knocks and humps in her side that as we all know someday may become malignant.

They sprayed chemical in Mr. Gallman's face and handcuffed him too. Then they threw Mr. and Mrs. Gallman into jail. After that, they sold out all their furniture, worth \$2,347, at a sheriff's sale to the vice president of the finance company for \$90.

Now, the president of this finance company is a lawyer. We have had many such experiences with finance companies and their lawyers, and that is why we do not believe that a finance company lawyer could properly represent consumers as a member of the Federal Trade Commission.

CEPA picketed the home improvement contractor that overcharged Mr. and Mrs. Gallman for 3 weeks. They received a refund and a credit on their bill of over \$600. Then we picketed the finance company and they agreed to settle the case by buying \$2,300 worth of brand new furniture and moving it back into Mr. and Mrs. Gallman's house.

And this is the first time in history that a company like that had moved furniture out of a person's house and replaced it back.

During the 5 years we have been in existence, we have taken up thousands of consumer complaints. We have saved many homes from sheriff's sales; we have exposed many swindlers; we have gotten back over \$250,000 for consumers that have been cheated, defrauded, or swindled. Our procedures on consumer complaints involve negotiation with the company involved. In about 80 percent of the cases, we get settlements this way. In the remaining 20 percent, we may have to resort to a picket line and distribute circulars to get a fair settlement, and to educate other consumers about what is happening at some particular store or office.

We have picketed hundreds of merchants over the last 5 years—and our picketing is always peaceful, and educational. We have never had one single disturbance on our picket lines. We cooperate closely with the civil disobedience police, and we get our message across to other consumers that all we want is justice.

Sometimes where the some office of a company is located outside of Philadelphia, the president of the Consumer Federation of America

and other organizations affiliated with CFA have helped us in the settlement of complaints. Recently, the Republic Insurance Co. of Dallas, Tex., refused to make a fair settlement on a claim by a Philadelphia consumer until Mr. Frazier and the President of the Texas Consumer Association, Paul Cardwell, picketed the home offices of the company in Dallas.

As one of the 37 directors of the board of directors of the Consumer Federation of America, I am proud of the actions that our president, Howard Frazier, has taken in this matter of Mr. Dennison's appointment. If it had not been for the requests that he and I made in our telegrams of September 30, to Senators Magnuson and Hart requesting postponement of these hearings, Mr. Dennison would have been confirmed last Thursday when we were here.

I don't know the procedures of setting up these hearings, but if this one is typical of the way they are held, it is my suggestion to the Congress that the procedure be reviewed to insure that organizations making a request to testify be given ample notice. We need time to prepare because our people are working people. They can't take time off at the drop of a hat and come running down here to Washington.

But we feel like we can take the time if it is necessary to represent consumers, and we represent consumers all over the country.

On Sunday, September 27, I sent a telegram to the chairman of this committee requesting an opportunity to testify. We checked with Western Union and were assured that the telegram had been sent out, and was received in Senator Magnuson's office on September 28 at 9:30, by Marideth Linostrum. But I received no reply to this request and knew nothing about a hearing being scheduled until I was informed about it on the evening of September 30. I immediately sent telegrams to Senators Hart and Magnuson requesting the hearings to be postponed. Those telegrams were not delivered until 11:30 the next morning—after the hearings had been recessed. It seems to me that one of the first things the Federal Trade Commission should check up on is the poor service on delivering telegrams that the people are getting these days.

A few weeks ago, I received from the Washington office of CFA, a list of eight people whose names had been submitted to the White House for consideration as Federal Trade Commissioner. The list included four outstanding lawyers and four outstanding economists. A copy of Mr. Frazier's letter of September 8, 1970 to Mrs. Knauer sending the list to her is attached to my statement. The list included at the least three Republicans. One person on the list is an outstanding black economist, Dr. Marshall Hall.

Mr. Frazier reported to us that in his discussions with Mrs. Knauer, he did not insist that any one of these people be appointed. He thought whoever was appointed should have qualifications equal to those on the CFA list. Of course, we would have been pleased to have seen a black person appointed to the commission. There are not many black faces to be seen on the regulatory agencies in Washington, and I think the time is long overdue for qualified black people to be appointed to such positions.

The members of my organization were disappointed that the CFA list was completely ignored. The President submitted the nomination of Mr. David Dennison, the same person that had been considered all along. As far back as August 17, 1970, the *Advertising Age* wrote that

Mr. Dennison was being considered for the job, as a "consolation prize," that is, a political payoff. If the CFA list was not even considered, we wonder why they were requested to be submitted in the first place.

I do not know of any consumer organization that recognizes Mr. Dennison as a fighter for consumers and a spokesman for consumer interests. A member of CFA's board of directors in Ohio reported that Mr. Dennison had never been part of the struggle for justice and fairness for consumers in Ohio as far as the Ohio Consumer Association was concerned.

During his one term when Mr. Dennison was in Congress, my friends in the AFL-CIO told me that he had voted wrong on eight out of 13 key issues. A copy of this record is also attached to my statement.

Senator Cotton said last Thursday that he was waiting to see what the consumers would say today before he made up his mind about the consumer protection bill now before this committee. I think Senator Cotton—and all Senators and Representatives—should know that the consumers are watching them too, to see what they are going to do for consumer protection.

Consumers are sick and tired of hearing the reports about \$500 million being swindled out of consumers in Pennsylvania; \$300 million in Ohio; thousands of consumer complaints pouring into every office all over the country.

Mr. Arlen Specter, the Philadelphia district attorney, reported that 41,000 consumer complaints came into his office in 1969. He says that "100,000 people are cheated out of millions of dollars every year in Philadelphia through consumer fraud."

The members of our organization have been greatly disappointed in the lack of consumer legislation in Congress and in our State legislature. We have been so frustrated by the inactivity of both the Democrat and Republican Parties that we have formed our own Consumer Party, and I myself am a candidate for Governor of Pennsylvania on the Consumer Party ticket.

Consumers from other States have told me of their own disappointment in our elected representatives because of their failure to represent the consumer interests on needed consumer laws, and they have indicated that they, too, would like to form a Consumer Party in their States and run their own candidates.

This concern is getting so widespread that within the near future, we may recommend to Ralph Nader and to Howard Frazier that serious consideration be given to their helping us form a National Consumer Party to have our own candidates in State and national elections. I think millions of consumers would like to vote for Ralph Nader for President or other office as we know he is definitely for the consumers' interests and is not for the special interests.

I'd like to think this was not necessary, but aroused consumers all over the country are getting desperate about the failure to get a few simple consumer bills passed in the congress and in the State legislatures.

I want to thank you for the opportunity to be heard in this hearing today. And I would like to say for myself, personally, that Mr. Dennison being a partner to a collection agency, we know what collection agencies do. We, the CEPA, broke up a lot of sheriff's sales in Philadelphia, due to the fact of lawyers protecting finance companies, and

due to the lawyers sending out collection agencies, breaking down and kicking down consumers' doors, and we are saying we are sick and tired and fed up with the way we are being treated in America.

For over 400 years, we have been down. For over 400 years you have taken everything away from us. But we are saying it is a new generation, and a new day, and new time, and we are up and we are up to stay, and we are up to fight for what we call American rights, and we are up to fight for our constitutional rights.

We are up and we are up to stay. Thank you.

Senator INOUE. Mrs. Cain, I thank you for your testimony, and may I assure you, as I assured the others, that your statement will be considered.

I presume you would like to have this letter from Mr. Frazier to Mrs. Knauer in the record?

Mrs. CAIN. Thank you.

Senator INOUE. Without objection, it is so ordered. And I presume the other attachment from the AFL-CIO—do you want that made part of the record too?

Mrs. CAIN. Yes, sir.

Senator INOUE. Without objection, so ordered.

Mrs. CAIN. Thank you.

(The information referred to follows:)

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., September 8, 1970.

Mrs. VIRGINIA KNAUER,
Special Assistant to the President for Consumer Affairs, the White House,
Washington, D.C.

DEAR MRS. KNAUER: Enclosed herewith is the list of names we are submitting for the President's consideration in filling the forthcoming vacancy at the Federal Trade Commission, together with a brief biographical sketch of each of the persons listed.

In making our recommendations here we have emphasized what we conceive to be the technical competence of the candidates in dealing with the kind of complex problems facing the Federal Trade Commission, their interest in consumer problems, and their confidence and support of the organized consumer movement.

We are satisfied that these people are amply qualified in all these areas. Each of them has exhibited a firm pro-consumer stance in his past professional work and enjoys a reputation as a friend of the consumer movement. Above all, however, we believe they are all technically qualified for this demanding economic post. Four of them are professional economists, with Ph. D. degrees in economics. And the others are firmly committed, we believe, to a technically sophisticated economic approach to consumer problems, including the gathering around them of a strong staff of professional economists if appointed to the Commission.

The emphasis we are placing here on technical economic expertise is not one we have undertaken lightly. In making our own inquiries into the past problems of the Federal Trade Commission, we have repeatedly been told that the single most important step that could be taken toward a revitalization of this agency would be to put on it a competent professional economist. Economic sophistication at the decision-making level would have a profound effect on how it allocates its resources, including an end to what its critics have termed preoccupation with economic trivia. The point that has been made repeatedly to us is that the FTC's unsatisfactory performance in the past—its inability to deal adequately with such significant consumer prices in the marketplace, and complex corporate mergers—has been due almost entirely to a lack of economic expertise at the decision-making level. Will a given merger cause consumer prices to rise or fall? Does a certain price discrimination indicate monopoly power or the breaking-up of a price fixing ring? Will an attack on the advertising claims of a new—and cheaper—substitute product further entrench an established oligopoly and thus, cause consumer prices to rise? These are all questions that a Commissioner of the Federal Trade Commission must be prepared to answer on a day-to-day basis

and we are persuaded that we will never get them answered correctly until a professional economist or an economically-oriented person with proper economic staff support is placed on this agency's board.

We have heard it said in recent weeks that the Federal Trade Commission is now being given its last chance—that, unless it dramatically improves its performance within a matter of months, it will in effect be dissolved. We would of course regard any such elimination of the country's major consumer agency as a tragedy of the first order for the country's consumer. While we share the critics' concern with the Commission's past performance, we do not share their lack of faith in its potential. On the contrary, we believe that, with the introduction of technical sophistication at the decision-making level, the Federal Trade Commission could become one of the most important agencies in the Federal Government, one ranking in importance with the Federal Reserve Board and the Council of Economic Advisers. We believe that the candidates whose names we are submitting here would bring that kind of sophistication to it and we therefore urge you—and through you, the President—to give them your most earnest consideration for this important post. We think any one of them would reflect credit not only on the agency in question but on the President as an indication of the seriousness of his concern for consumer interests.

Sincerely,

HOWARD T. FRAZIER, *President.*

CANDIDATES

Dr. Richard L. D. Morse

Professor and Head of the Department of Family Economics, Kansas State University, Manhattan, Kansas. Ph.D. Iowa State University, 1942. Author of many articles on credit. Best known for his book: "Shopping for Credit," 1966. Served on the President's first Consumer Advisory Council. Chairman of the Kansas Attorney-General's Consumer Advisory Council.

Dr. William G. Shepherd

Currently at the University of Michigan, Ann Arbor. B.A., Amherst College, 1957; M.A., Yale, 1958; Ph.D., Yale, 1963. Best known for his work on changes in industry concentration; his authorship of the "leading firm" doctrine in conglomerate merger policy; and his emphasis on the importance of reducing concentration in high-concentration industries. Author of a recent textbook on monopoly ("Monopoly Power") and several articles, including: "Conglomerate Mergers in Perspective," 2 Antitrust Law and Economics Review 15 (Fall 1968); and "Market Power and Racial Discrimination in White-Collar Employment," 14 Antitrust Bulletin 141 (Spring 1969).

Joseph C. Swidler

Chairman, Public Service Commission, Albany, New York. Formerly a Member of the Water Resources Council (1964-1965); Chairman of the Federal Power Commission (1961-1965); General Counsel of the Tennessee Valley Authority (1945-1957).

The Honorable George Brunn

Judge, Berkeley-Albany Municipal Court, Berkeley, California. Co-founder of the Association of California Consumers. Assisted in the establishment of the California Consumer Council. Authority on Federal and State consumer legislation.

Dr. Norman R. Collins

Professor of Agricultural Economic, University of California at Berkeley. Best known for his research on food industries, particularly the development of cost-price margins as measures of profitability and monopoly power.

Dr. Marshall Hall

Professor of Economics, Washington University, St. Louis, Mo. Born 1934. B.S., Columbia, 1957; Ph.D., University of Wisconsin, 1961. Doctoral dissertation: "Investment in Research and Development: A Statistical Study, 1961." Current research: Market Structure and Welfare Loss. Coordinator of Black Studies at Washington Univ. Has published many articles in leading economic journals and has special expertise in the application of econometrics to monopoly problems. Best known in the profession for his work on concentration ratios and firm size and profitability.

Thomas H. Kuckel

U.S. Senator from California from 1953 to 1969. Assistant Republican Leader from 1959 to 1969. Sponsor of many consumer bills in Congress.

Dianne McKaig

Executive Director, Michigan's Consumers Council. Formerly Director of the Office of Consumer Services, U.S. Dept. of HEW (1968-1969); Special Assistant to the Secretary of HEW for Consumer Affairs (1967-1968); Chief of the Division of Legislation, Women's Bureau, U.S. Dept. of Labor (1966-1967); Regional Director for the Women's Bureau (1961-1966). Member of the Major Appliance Consumer Action Panel. Member of the Board of Directors of the Council for Family Financial Education. LL.B. University of Kentucky Law School (1952) and LL.M. Harvard Law School (1955).

1957-58 VOTING RECORD OF DAVID DENNISON ON AFL-CIO COPE ISSUES

(Right and wrong according to AFL-CIO COPE)

- + 1. CIVIL RIGHTS (HR 6127) June 18, 1957. Defeated 158-251. Motion to restrict powers of Federal judges to enforce court orders in civil rights cases by requiring a jury trial in cases involving punishment for disobedience to a Federal court injunction. No—R; voted No.
- 2. EDUCATION (HR 1) July 25, 1957. Passed 208-203. Motion to kill the School Construction Assistance Act which would provide for a \$1.5 billion program of grants to states over a 5-year period. No—R; voted Yes.
- 3. WAGE-HOUR FUNDS (HR 6287) April 4, 1957. Passed 214-205. Amendment to cut \$288,000 from salaries and expenses of the Wage & Hour Division of the Labor Department. No—R; voted Yes.
- + 4. FOOD AND DRUG (HR 6287) April 4, 1957. Defeated 130-285. Amendment to cut \$1,327,000 from funds for the Food & Drug Administration. No—R; voted No.
- 5. TVA (HR 9131) August 7, 1957. Defeated 158-244. Motion to reduce funds for TVA from \$13.3 million to \$3.6 million. No—R; voted Yes.
- 6. ATOMIC ENERGY (HR 8996) August 9, 1957. Passed 211-188. Amendment to eliminate from AEC funds for a natural uranium reactor and a plant to study peaceful uses of atomic energy. A vote for the amendment was a vote for power monopolies. No—R; voted Yes.
- 7. PUBLIC ASSISTANCE (HR 4249) February 5, 1957. Passed 205-168. An amendment to cut by \$2 million Federal grants to state and local administration of social security for the aged, blind, disabled and dependent children. No—R; voted Yes.
- + 8. FOREIGN AID (S 2130) July 19, 1957. Defeated 181-227. Motion to kill legislation setting up a Development Loan Fund to help promote economic development in underdeveloped countries. No—R; voted No.
- 9. FLOOD INSURANCE (HR 7221) June 18, 1957. Defeated 186-218. Motion to provide \$15 million to start a Federal flood insurance program not now available privately. Designed to be self-supporting. Yes—R; voted No.
- +10. RECIPROCAL TRADE (HR 12591) June 11, 1958. Defeated 146-268. Motion to recommit Trade Agreements Extension Act of 1958, thus kill the Act. No—R; voted No.
- 11. RECLAMATION (HR 10881) February 26, 1958. Passed 200-184. Amendment to provide \$10 million for Glen Canyon and Trinity River water supply projects. Yes—R; voted No.
- 12. UNEMPLOYMENT COMPENSATION (HR 12065) May 1, 1958. Passed 223-165. Amendment to weaken the Temporary Unemployment Compensation Act by placing state participation on voluntary basis, extending coverage for 13 instead of 16 weeks, and failing to extend coverage. No—R; voted Yes.
- +13. STATES RIGHTS (HR 3) July 17, 1968. Defeated 161-238. Motion to recommit and thus kill bill that would give states much greater power over labor and other legislation. Yes—R; voted Yes.

Senator INOUE. The next witness is Mr. Max Weiner, executive director of the Consumer Education and Protective Association. Mr. Weiner, welcome to the hearing, sir.

Mr. WEINER. Thank you, Mr. Chairman.

STATEMENT OF MAX WEINER, EXECUTIVE DIRECTOR, CONSUMER EDUCATION AND PROTECTIVE ASSOCIATION

Mr. WEINER. Before submitting my statement, I would like to call the attention of this committee to an excellent description of the condition of the consumers of America which, is contained in today's issue of the Washington Post, in the form of an editorial comment, by Colman McCarthy, which certainly should come to the attention of the members of this committee, in which he speaks of the gyms and frauds suffered by millions of consumers and he speaks of the letters that are going into manufacturers and corporations by the millions all over the country, saying that common to all the letters are the emotions of rage, frustration, and above all helplessness. The victims know they play in a no-win game.

And this comment actually explains to a great extent our presence before this committee. The chairman announced that this is the first time there has been a hearing on a Federal Trade Commission nominee and when our organization was moved with sufficient interest to wire this committee requesting an opportunity to speak and then not receiving such notification, following which Senator Hart at the hearing last Thursday announced that no such communication had been received, we felt that there was something wrong in the procedure of the committee. We felt that there had been a deliberate attempt made to suppress the opportunity of consumers to voice their objections to Mr. Dennison's nomination, particularly in view of the short notice with which we received the arrangements of the hearing.

I heard the explanation of the chairman before this session was opened, but I find it strange that a letter going from Senator Magnuson's office to the committee would be lost in the mail. That doesn't sound to me to be a reasonable or logical explanation, particularly when, for the first time in the history of the Federal Trade Commission, one organization presents a request to testify. That should have created such a tremendous excitement that it wasn't even necessary to refer to the telegram to notify us of the hearing.

Yet despite this, we weren't notified about it, and consequently that was one of the reasons we felt that we were also in a no-win game with the Senate Commerce Committee in trying to make our protest heard with regard to the appointment of David Dennison.

Senator INOUE. Mr. Weiner, I hope you will look upon this afternoon's hearing as a demonstration of the committee's willingness to have you express your views.

Mr. WEINER. We do, except we realize that had we not by accident been able to appear before the committee last Thursday, Mr. Dennison would by now be confirmed as a member of the Federal Trade Commission, and while he may still be confirmed, we are anxious to be sure that consumers particularly have a chance to have their voice heard when such an important appointment is being considered by our Government.

Senator PEARSON. Mr. Weiner, you may not know the pending business on the Senate floor today, but it is a Congressional Reorganization Act, and we are attempting down there this afternoon to modify and reorganize the machinery and the institutions of the Congress, including the committee system, to make them more responsive.

So I think your comments are appropriate to the hour and to the day. How good a job we do is subject to the collective wisdom of a lot of people, but I did think that it would be of interest to you to know that that is the pending business on the Senate floor this afternoon.

Mr. WEINER. Thank you, Senator Pearson. I appreciate those remarks. And I assure you that our presentation here is only designed to make the Government responsive to the desires of the people to be heard.

"The economic issues of consumer protection must be forcibly brought to public attention," wrote Senator Warren G. Magnuson, in his book "The Dark Side of the Market Place," because . . . "they are so outrageous and so explosive that they can be ignored only with serious threat to the fiber of society."

In light of this admonition by the chairman of this Senate committee, it is quite natural and logical for the Consumers Education and Protective Association (CEPA) to oppose the confirmation of Mr. David Dennison to fill the vacancy on the Federal Trade Commission.

According to an article in the *Washington Evening Star* (September 22, 1970), Mr. Dennison lists as one of his clients the Beneficial Finance Co.

I would like to interrupt my testimony at this point to discuss a copy of a memorandum¹ which Mr. Dennison sent to the chairman of this committee in which he explains his relationship with the Beneficial Finance Co., and say first of all that I wish that we had had this information before us at the time that we were preparing our testimony, which would have enabled us to discuss more reasons for our opposition to Mr. Dennison's appointment than merely his association with the Beneficial Finance Co. of this hearing.

Mr. Dennison in this letter says that the Beneficial Finance Co. is a client of his law firm, and that it is his partner, who is the exclusive lawyer for the Beneficial Finance Co. He says that—I am quoting now—"I am not familiar with the nature or the type of professional services rendered Beneficial by my partner other than my general understanding that such work as he does for Beneficial involves collection matters."

Now we of course do not say that if Mr. Dennison is not the attorney for Beneficial Finance Co. that he is thereby guilty of association because of the activities of his partner. We do not believe in the theory of guilt by association.

But in looking over the other companies that Mr. Dennison represented as an attorney and in studying his investments, we come to the conclusion that Mr. Dennison represents that section of our economy which can be characterized as business, and big business. There is nothing in his record or the clients he represents to indicate that Mr. Dennison represented consumers, fought for consumer rights, fought for consumer justice.

And in light of that, and particularly since we don't know exactly how the relationships between partners in a law firm operates, we feel that our criticism of and our objection to Mr. Dennison based upon association with the finance company still should come to the attention of this committee.

¹ See memorandum on page 84.

And this is because the experience of CEPA in combating consumer fraud and oppressive commercial practices with direct action in the marketplace for almost 5 years makes us extremely wary of anyone connected with the finance industry as a possible Federal Trade Commissioner. This is because we have seen some of the most vicious and outrageous abuses practiced by finance companies and defended by lawyers who represent them.

This "dark side of the marketplace," which has been so vividly described by the chairman of this committee, exists only because of the cooperation of finance companies and other financing institutions with the unscrupulous merchants, dealers, contractors who prey upon helpless and unsuspecting consumers. "It is undeniable," wrote Senator Magnuson, "that few swindlers could operate without the cooperation of financial institutions." (p. 84).

I have a list of close to 60 consumer complaints illustrating CEPA's complaints, and I don't intend to further burden the time of the committee by reading all of them, but merely read a few.

Senator INOUE. The list will be included in the record with your printed statement.

Mr. WEINER. Charging a 80-year-old couple \$1,000 for a portable television set supposedly given as a gift for consolidating \$2,000 debts.

Forging consumers' names on a \$2,038 judgment note after giving the consumers \$735 in cash in a fraudulent debt consolidation scheme.

Charging a consumer \$2,984 for a car sold for \$1,442 for which consumer was induced to sign a blank contract.

Foreclosing on a consumer's home when he refused to pay finance company after the insurance company, supplied by the finance company, failed to pay for loss when car was stolen.

Charging a consumer \$3,780 for a 3-year-old Chevrolet substituted as a courtesy car to be used while waiting for a new car to arrive in stock.

Selling the home of the parents of a consumer at a sheriff sale after consumer was trapped in a "double-dip"—two loans to finance a car, by misrepresentations.

Consumer threatened with "pig treatment" if account not brought up to date.

Senator INOUE. What is the "pig treatment"?

Mr. WEINER. Pig treatment is referred to in Senator Magnuson's book.

Senator PEARSON. We haven't read his book.

Mr. WEINER. Senator Magnuson reprints in this book a copy of a letter received by a consumer who owed the bank some money, and the bank wrote on their stationery, "We guess you want the pig treatment. We know how to treat pigs. We will tell everybody that you are not worthy of trust."

This coming from the leading bank of the city of Philadelphia to a consumer who hadn't paid his bill because of the Christmas vacation.

Senator INOUE. Thank you, sir.

Mr. WEINER. I won't read any more. Perhaps this last one—a consumer who lost his home at sheriff's sale and faced eviction from his home because \$95.19 lawyer's fees were not paid to the lawyer on time.

Senator Magnuson has written in his book, "For anyone who would like a brutal testimonial to the daily realities of the market-

place problems of the poor, I would recommend CEPA's monthly tabloid newspaper, *Consumers Voice*." We are making available for the use of this committee and its staff a complete set of the issues of *Consumers Voice*, which this month entered its fifth year of publication. Its pages mirror the desperate plight of the low-income consumer in the economic life of America today.

We are also making available for the members of this committee's use a booklet entitled "The Living History of Consumers Education and Protective Association (CEPA)." Besides describing the origin and growth of CEPA, the methods and principles which guide its operations as a voluntary, nonprofit association of consumers for mutual self-help in education and protection, this booklet contains brief descriptions of approximately 50 cases taken from CEPA files. The consumers involved, the nature of the consumer deception or abuse committed, the company involved, and the finance company whose co-operation made the abusive practice possible are listed and documented with reference to the issue of *Consumers Voice* containing the details of the case.

But two types of cases of consumer deception deserve more than a passing comment because of the involvement of the Beneficial Finance Co. of Pennsylvania. This concerns the food freezer fraud.

In spite of cease and desist orders issued by the Federal Trade Commission, the freezer food fraud flourished in Philadelphia, swindling thousands of consumers out of millions of dollars until exposed by CEPA.

The swindle was particularly obnoxious because it trapped many low-income families, poor people, older citizens, and social security recipients. By deceptively holding out the promise of obtaining a freezer and receiving food supplies for 36 months for one small monthly payment, thousands of unwary consumers were duped into signing contracts which turned out to be for freezer only. People were thus defrauded into paying as high as \$1,700 for an inferior, off-brand freezer worth about \$250 to \$350.

After CEPA picketed the office of the biggest perpetrator of these frauds, the Supreme Food Products Co., the district attorney moved to arrest and indict the president for fraud. The company went out of business, and smaller companies soon folded as well.

The bulk of these freezer frauds were financed by Pen-Mod, Inc., a subsidiary of the A.B.C. Credit Co., which has since been taken over by the Liberty Loan Co. But several other finance companies participated in financing these swindles, among them the Beneficial Finance Co. We know that this fraud was practiced all over the country; in some places it still goes on today. Based on our experience, we question whether the Beneficial Finance Co. of Ohio financed any of these freezer food frauds, and whether Mr. Dennison's law firm did anything to combat them, or to dissuade his company from cooperating with the freezer food swindlers.

The second widely practiced swindle concerned the fire alarm systems. Thousands of consumers in Philadelphia were victimized by this fraud, wherein the purchaser was promised \$10 credit on his bill for each of 50 names he submitted to the company as prospects for future sales. This is the notorious "referral plan."

Many homeowners, who thought a fire alarm system would cost them only \$150 to \$250, were induced to sign contracts which turned out to be for \$900 to \$1,000, while the anticipated \$500 credit for the 50 names of prospects faithfully submitted never materialized. Some victims of this swindle were threatened with the loss of their homes through sheriff sales to force payment of the debt.

The Beneficial Finance Co. financed many of these frauds for the R. & S. Fire Security Co. CEPA succeeded in obtaining a refund credit of \$2,783.84 for four families who had been trapped by this swindle.

This deception too was widely practiced, nationwide, and undoubtedly in Ohio as well. Again we wonder, did the Beneficial Finance Co. of Ohio, Mr. Dennison's partner's client—I see from this letter that collection matters is what this partner was concerned with—before turning to the examination of the consumer protection situation in Ohio, there is one more fact that should come to the attention of this Senate committee.

In March 1967, \$12,000 fine and prison sentences of from 1 to 7 years plus a 5 months' suspension from doing business were imposed on the Beneficial Finance Co., the Household Finance Corp., and the Liberty Loan Co. and six individuals who were convicted of bribery and conspiracy in the Massachusetts courts. The stiff penalties were handed out when the loan companies and the individuals were convicted of trying to influence small loan legislation by the State legislature.

Again, I want to repeat that we do not believe in guilt by association. We do not believe that wrongdoing by the Beneficial Finance Co. in Pennsylvania and Massachusetts automatically convicts its representatives in Ohio. But we would be extremely naïve and remiss in our responsibilities to the consumers of America if we failed to approach a lawyer for the same finance company from Ohio without heeding a warning which says, "Caution, examine thoroughly and with utmost care."

CEPA does not have a branch affiliate as yet in our neighboring State of Ohio, but we are familiar with the efforts of consumer protection organizations in that State. As far as the situation in Ohio, we learned from our affiliated consumer protection association that Mr. Dennison has not distinguished himself as a champion of consumer interests or as an advocate of strong consumer protection in Ohio.

In Ohio we have one of the worst situations in the country. He writes that "the laws of some States are so inadequate that the citizens have virtually no protection at all outside that afforded by the Federal Trade Commission."

Ohio is one of 14 States that the Senator describes as especially lacking in effective consumer protection legislation.

Ohio is characterized as a State "with a harsh garnishment law."

The Senator reports that "Col. George Mingle, chief of Ohio's Consumer Frauds and Crime Section estimated that in 1966, Ohio consumers lost \$300 million through all types of commercial deception. This is 100 times more than the estimated loss by consumers in Washington State, which has strong consumer protection laws."

I'd like to skip down further to discuss what we feel would be a key point in connection with the Ohio consumer protection situation. Senator Magnuson says that even after a vicious garnishment racket was

exposed in the State of Ohio, it didn't stop the racketeers from carrying on business. With the exception of one, they were still operating in August 1967, and Lewis Earnhart, an investigator in the Ohio Consumer Frauds and Crime Section of the attorney general's office said, "We haven't got the law to stop them."

A statement in Senator Magnuson's book—page 110—that "Officials in Ohio's Attorney General's office report that despite the fact that the cognovit note—a cognovit note is a confession of judgment note in which the consumer waives any legal right he may have to a hearing before a creditor executes that note and ceases and sells any assets that he may have for the collection of his debt."

Despite the fact that this is their biggest problem, the attorney general's office was unable to get a single legislator interested in introducing a bill to outlaw it.

Such a deplorable situation might be the result of a national anti-consumer prejudice of the entire membership of the local legislature. But on the other hand, could such a situation, with the result of the same type of activity for which officials of the Beneficial Finance Co. and other finance companies were fined \$12,000 in Massachusetts?

We don't know the answer to these questions, and we believe that Mr. Dennison's role and the role of the Beneficial Finance Co. has not yet been thoroughly investigated and spread upon the record so that all can examine it and question it and comment upon it.

Senator Magnuson deals with the holder in due course doctrine as being the largest single factor responsible for consumer fraud, and we raised a question in our statement, has Mr. Dennison ever lifted his voice or raised a finger to oppose the doctrine of the holder in due course for the purpose of protecting consumers?

Next to the holder in due course and perhaps equal to it, the confession of judgment clause which is known in Ohio as the cognovit note is the chief device that unscrupulous merchants rely upon to trap unwary consumers.

CEPA conducted a 4-year judgment against this clause, and a review of this activity is described in the February 1970 special issue of Consumers Voice. As a result of our work, and finally with a lawsuit in Federal court filed by Mr. Charles A. Baron, a Community Legal Services attorney and a member of the board of directors of CEPA International, Inc., the confession of judgment clause was ruled unconstitutional in Pennsylvania, setting a precedent for eliminating this abusive practice throughout the land.

And here we would like to pose before this committee—if the consumers of America who have been abused and persecuted and those who still are and who in the future could be entrapped by confession of judgments, could express their preference in selecting a Federal Trade Commissioner, would they not more likely select an attorney like Mr. Baron, who challenged and upset a law that oppressed consumers for 163 years?

Why should not this committee urge the President to look to some of the States which have led the country in consumer protection to find a Federal Trade Commissioner that the consumers of the Nation can have confidence in? States like Massachusetts, Washington, and New York. In Washington, the amount of consumer fraud is a hundred times less than in the State of Ohio, where Mr. Dennison comes from.

Massachusetts led the Nation in passing the truth-in-lending law. New York has the most active and vigorous city and State consumer protection bureaus in the Nation.

A man like Prof. William Willier of Boston Law School, head of the Consumer Law Center, is a type that the consumers of America could have confidence in, particularly because of his work in combating the creditor-favor uniform consumer credit code, and his creation of a more balanced and fair consumer protection alternative to the UCCC.

CEPA is a private organization, not funded by governmental or private sources. We exist on the dues and contributions of our members and income from the sale of our newspaper. With an annual budget of approximately \$15,000, we maintain a paid staff of only two people, relying upon volunteer activity of consumers in 11 branches through the low-income communities of Delaware Valley to keep the organization going.

We don't have the forces for, nor the funds for making a thorough investigation of Mr. Dennison's record as an attorney and any connection he may have through his law firm with the Beneficial Finance Co., of Ohio. But the staff of this committee should be able to do that within a short time.

We urge this committee not to make a hasty confirmation of Mr. Dennison. It would have a lot to lose if there later developed facts that could embarrass this committee or even the President of the United States. It would be working a disservice to him if the confirmation was hastily achieved.

We believe it as important to make an evaluation prior to the confirmation of Mr. Dennison to the Federal Trade Commission as it was to make an equivalent evaluation of the judicial records of Judges Haynsworth and Carswell prior to their confirmation to the Supreme Court.

We believe this Senate committee has nothing to lose and the gratitude of America's consumers to gain simply by delaying the confirmation of Mr. Dennison pending a full staff report and evaluation of any connection he may have had through his law firm with Beneficial Finance Co., of Ohio.

Of course, our first choice for a FTC Commissioner would be a consumer leader who is completely identified with the cause of justice in the marketplace. We believe the consumers of America are entitled to the highest type representation on such an important body as the FTC as it is possible to get. And in this connection, we consider the heart and the dedication of the Commissioner as more important than expertise. Experts can be hired, but dedication and identification with the consumer's cause can never be bought.

CEPA would like to see preference given to the nomination of a black man or woman as an FTC Commissioner. In over 50 years of FTC's existence, with 47 Commissioners having served, only one man, Leon Higginbotham, now Judge Higginbotham, was black and he served only a partial term.

It is distressingly significant that among the 32 commissioners now serving on the Federal Trade Commission, Federal Power Commission, Federal Communications Commission, Civil Aeronautics Board, and the Tariff Commission, not a single black man or woman is serving today.

The Senate Commerce Committee has an opportunity, in influencing the proper selection of an FTC Commissioner, to serve the best interests of America's consumers, America's black people, and American nation as a whole. I want to thank this committee for the opportunity to appear and present our testimony today.

STATEMENT OF MAX WEINER, EDUCATIONAL DIRECTOR, CONSUMERS EDUCATION AND PROTECTIVE ASSOCIATION (CEPA)

EDITOR, CONSUMERS VOICE—PUBLISHED MONTHLY BY CEPA INTERNATIONAL, INC.
FOR ADEQUATE CONSUMER REPRESENTATION ON THE FTC

"The economic issues of consumer protection must be forcibly brought to public attention," wrote Senator Warren G. Magnuson, in his book "The Dark Side of the Market Place," because "they are so outrageous and so explosive that they can be ignored only with serious threat to the fiber of society." (p. xiv)

In light of this admonition by the chairman of this Senate Committee, it is quite natural and logical for the Consumers Education and Protective Association (CEPA) to oppose the confirmation of Mr. David Dennison to fill the vacancy on the Federal Trade Commission.

According to an article in the Washington Evening Star (September 22, 1970), Mr. Dennison lists as one of his clients the Beneficial Finance Company.

The experience of CEPA in combatting consumer fraud and oppressive commercial practices with direct action in the market place for almost 5 years makes us extremely wary of anyone connected with the Finance Industry as a possible Federal Trade Commissioner. This is because we have seen some of the most vicious and outrageous abuses practiced by finance companies and defended by lawyers who represent them.

We consider the matter of filling a vacancy on the Federal Trade Commission as a most serious matter vitally affecting the most basic interests of the consumers of America. The FTC is directly charged with preventing "deception in the interstate market place." (p. xii). Among many other consumer issues dealt with by FTC, the vast scope of the consumer fraud problem alone is described by Senator Magnuson as follows: "Deceptive selling by the unscrupulous few in the business underworld is, in fact, our most serious form of theft. It cheats Americans of several billion dollars yearly, more than is lost through robbery, burglary, larceny, auto theft, embezzlement and forgery combined." (p. 8)

This "dark side of the market place," which has been so vividly described by the chairman of this Committee, exists only because of the cooperation of finance companies (and other financing institutions) with the unscrupulous merchants, dealers, contractors who prey upon helpless and unsuspecting consumers. "It is undeniable," wrote Senator Magnuson, "that few swindlers could operate without the cooperation of financial institutions." (p. 84)

The following consumer complaints which CEPA, through direct action in the market place—including peaceful picketing when necessary—obtained satisfactory redress for the consumers—illustrate the abuses made possible only with the cooperation of some finance company or bank:

Charging an 80-year old couple \$1,000.00 for a portable television set supposedly given as a gift for consolidating \$2,000.00 debts. (Outlaw vs. Friendly Consumer Discount Co);

Charging another couple \$939.94 for a \$75.00 stereo as part of a fraudulent "debt consolidation" scheme. (Higgins vs. Peoples Consumer Discount Company);

Charging a consumer \$794.24 for 3 little end tables as a disguised illegal fee for consolidating debts. (Wheeler vs. First Mercantile Consumer Discount Co);

Forging consumers' names on a \$2,038.00 judgment note after giving the consumers \$375.00 in cash in a fraudulent debt consolidation scheme. (Green vs. Mid Penn Discount Corp);

Setting the Sheriff onto a consumer to force payment of a \$600.00 bill for a burned-out TV. (Cunningham vs. General Electric Credit Corporation);

Unfair repossession of a car because a consumer was 2 days late in payment. (Andrews vs. First Pennsylvania Bank).

Refusal to accept three monthly payments on a repossessed car after confusion in records resulting from one late payment. (Price vs. GMAC);

Charging a consumer \$2,984.00 for a car sold for \$1,442.00 for which consumer was induced to sign a blank contract (DeBeary vs. Allied Discount Co) ;

Charging a consumer \$3,735.36 for a 4-year old car supposed to sell for \$1,595.00 by means of inducement to sign a blank contract (Robinson vs. Discount Co) ;

Foreclosing on a consumer's home when he refused to pay finance company after the insurance company (supplied by the finance company (failed to pay for loss when car was stolen. (Heitzman vs. Oxford Finance Company) ;

Charging a consumer \$3,780.00 for a 3-year old Chevrolet substituted as a "courtesy car" to be used while waiting for a new car to arrive in stock. (Sullivan vs. Oxford Auto Acceptance Corp) ;

Selling the home of the parents of a consumer at a Sheriff Sale after consumer was trapped in a "double-dip" (two loans to finance a car) by misrepresentations. (Vosicka-Walsh vs. American Finance Company; Industrial Valley Bank; Adal Corporation) ;

Sheriff's deputies breaking into consumer's home and selling her furniture for a debt that she had informed the Finance Company was mothers. (Williams vs. Mid Penn Discount Co) ;

Consumer harassed for payment of "late charges" although bill for encyclopedia was paid in full. (Sadler vs. Oxford Finance Co) ;

Consumer threatened with "pig treatment" if account was not brought up to date. (Charles vs. First Pennsylvania Bank) ;

Consumers' home broken into by Sheriff. After brutal attack and throwing consumers into jail, \$2,347.00 worth of furniture was sold at Sheriff Sale to vice-president of finance company because consumers were \$67.00 behind in payments on a \$1,631.00 debt for a highly over-priced home improvement job. (Gallman vs. Mid Penn Discount Corporation) ;

Consumer's house sold at Sheriff Sale of which he was not notified, for a \$104.00 debt on a wig, evidenced by a judgment note on which consumer's name was forged. (Brown vs. Produce Factors) ;

Consumer answer ad promising swimming pool for \$499.00 and was "switched to a pool costing \$4,985.00 through promise of "referral commissions" as a result of "national television advertising." (Giangola vs. Atlas Finance Company) ;

Consumer threatened with Sheriff Sale to enforce payment of \$1,296.00 for a \$228.00 buffing machine sold with mis-representations that company would obtain floor polishing jobs (Holmes vs. M.H.D. Consumer Discount Company) ;

Company had the Sheriff break into consumer's home and sell \$1,200.00 worth of furniture on account of \$10 payment that was overdue. (Ingram vs. Ager's Furniture Co) ;

Consumer faced Sheriff Sale for \$1,863.00 debt for a heater that was never installed. (Cook vs. Pen-Mod, Inc) ;

Finance company threatened consumer with Sheriff Sale to collect debt for defective car sold by "fly-by-night" auto dealer who went out of business. (Hatch vs. First Merchantile Consumer Discount Co) ;

Consumer threatened with Sheriff Sale to collect balance of \$4,268.00 debt for a 3-year old Rambler worth \$1,250.00. Consumer was defrauded into signing a blank contract. (Fairfax vs. Allied Discount Co) ;

Consumers were hit for \$1,633.28 of unauthorized charges when they were induced to sign a 2nd mortgage in blank for purchase of a car. (Taylor vs. Provident Corp) ;

Consumer signed a "one-day-judgment note" in blank and was charged \$870.00 for 50 square yards of carpeting worth approximately \$5 per square yard installed. In this instance, it was not a finance company, but a lawyer who guided and advised the merchant's operations. (Hatcher vs. Dun-Well American Company) ;

Consumer bought a heater and received a "memorandum receipt" showing a price of \$1,000.00. Finance company sent in payment book for \$1,800.00. (Williams vs. Pen-Mod, Inc) ;

Consumer signed a home improvement contract for \$2,000.00. Dept. store submitted contract to bank for \$2,800.00 for inferior workmanship. (DeLoatch vs. First Pennsylvania Bank) ;

Mortgage balance of \$699.66 refinanced into debt of \$4,280.00 through fraudulent home improvement scheme (Boozier vs. Provident Consumer Discount Co) ;

\$787.32 finance charges were added to contract without consumer's knowledge or consent for poorly performed home improvement job. (McNeil vs. First Pennsylvania Bank);

\$907.40 unauthorized finance charges added to contract; completed job refused approval by City Inspectors for numerous violations. (Ellerbe vs. First Pennsylvania Bank);

Consumer were charged \$1,756.80 for 14 storm windows, one storm door, and a 10' x 12' roof repair job. (Davis vs. Equitable Finance Company);

Consumers trapped into debt of \$1,300.00 for \$200.00 worth of home improvements as part of a "debt consolidation" scheme. (McNeil, Chester, Pa. vs. First Pennsylvania Bank);

Consumer faced a Sheriff Sale on her home for an \$8,000.00 loan she did not receive. Bank was unable to explain how proceeds were paid to Real Estate Broker without consumer's knowledge or authorization (Bishop vs. Industrial Valley Bank);

Consumers were charged \$300.00, including 40% interest for used, broken-down, repossessed wringer-type washing machines worth \$35.00 to \$50.00 if in good condition. (Conway, et al vs. Commonwealth Financial Corporation).

Consumer faced a Sheriff Sale to enforce payment of debt for meat that was never delivered. (Canery vs. Commonwealth Financial Corporation);

Consumer lost his home at a Sheriff Sale and faced eviction from his home because \$95.19 lawyer's fees were not paid on time (Simmons vs. Bell Savings & Loan Assn.).

Senator Magnuson has written in his book (p. 51), "For anyone who would like a brutal testimonial to the daily realities of the marketplace problems of the poor, I would recommend CEPA's monthly tabloid newspaper, CONSUMERS VOICE. There is a certain impact and unforgettability in seeing photographs of the victims and their children carrying signs, "Losing Our Home Due to Misrepresentations," and viewing reproductions of the actual contracts and dunning letters received by the poor."

We are making available for the use of this Committee and its Staff, a complete set of the ISSUES of CONSUMERS VOICE, which this month entered its 5th year of publication. Its pages mirror the desperate plight of the low-income consumer in the economic life of America today.

The low-income consumer pays more for low-quality merchandise and services; is duped and baited by mis-leading, high pressure advertising in newspapers, on radio and TV; is swindled by unscrupulous salesmen, dealers, merchants and contractors into enormous debt and high interest loans; is oppressed by unfair credit practices and harsh collection agencies, garnishment, sheriff sales, constable sales, unfair repossessions and deficiency judgments; is discriminated against in obtaining adequate insurance; is unable to borrow money at fair rates even with a steady job, or on equities in homes built up over many years of hard work at low wages; has nowhere to turn for a helping hand when in financial distress; is unprotected by consumer protection laws on the statute books because of weak or indifferent enforcement; and because he is alone, not organized like Labor or Business, is helpless in challenging powerful economic forces which completely dominate and manipulate him; thus he has practically no influence over the vital matters affecting his daily life.

We are also making available for the members of this Committee's use, a booklet entitled "The Living History of Consumers Education and Protective Association (CEPA)." Besides describing the origin and growth of CEPA, the methods and principles which guide its operations as a voluntary, non-profit association of consumers for mutual self-help in education and protection, this booklet contains brief descriptions of approximately 50 cases taken from CEPA files. The consumers involved, the nature of the consumer deception or abuse committed, the company involved, and the finance company whose cooperation made the abusive practice possible are listed and documented with reference to the issue of CONSUMERS VOICE containing the details of the case.

Two types of cases of consumer deception, however, deserve more than a passing comment because of the involvement of the Beneficial Finance Company of Pennsylvania, which is part of the same national company with offices throughout Ohio that is one of Mr. Dennison's clients.

In spite of "cease and desist orders" issued by the Federal Trade Commission, the freezer-food fraud flourished in Philadelphia, swindling thousands of consumers out of millions of dollars until exposed by CEPA. This swindle was particularly obnoxious because it trapped many low-income families, poor people, older citizens and social security recipients. By deceptively holding out the

promise of obtaining a freezer and receiving food supplies for 36 months for one small monthly payment, thousands of unwary consumers were duped into signing contracts which turned out to be for the freezer only. People were thus defrauded into paying as high as \$1,700.00 for an inferior, off-brand freezer worth about \$250.00 to \$350.00.

After CEPA picketed the office of the biggest perpetrator of these frauds, the Supreme Food Products Company, the District Attorney moved to arrest and indict its president for fraud. The company went out of business and smaller companies soon folded as well.

The bulk of these freezer-frauds were financed by Pen-Mod, Inc., a subsidiary of the A.B.C. Credit Company, which has since been taken over by the Liberty Loan Company. But several other finance companies participated in financing these swindles, among them the *Beneficial Finance Company*. We know that this fraud was practiced all over the country; in some places it still goes on today. Based on our experience, we question whether the Beneficial Finance Company of Ohio financed any of these freezer-food frauds, and whether Mr. Dennison did anything to combat them, or to dissuade his company from cooperating with the freezer-food swindlers?

The second widely practiced swindle concerned the fire alarm systems. Thousands of consumers in Philadelphia were victimized by this fraud, wherein the purchaser was promised \$10 credit on his bill for each of 50 names he submitted to the company as prospects for future sales. This is the notorious "referral plan." Many homeowners, who thought a fire alarm system would cost them only \$150 to \$250 were induced to sign contracts which turned out to be for \$900 to \$1,000 while the anticipated \$500 credit for the names of prospects faithfully submitted never materialized. Some victims of this swindle were threatened with the loss of their homes through Sheriff Sales to force payment of the debt.

The beneficial Finance Company financed many of these frauds for the R & S Fire Security Company. CEPA succeeded in obtaining a refund credit of \$2,783.84 for 4 families who had been trapped by this swindle.

The bulk of the fire alarm system swindles were financed by the First Pennsylvania Bank. After pressure from CEPA, the District Attorney took the matter into court where a judge declared the contracts illegal and enjoined the company from any further use of them. The Bank, however, persisted in its efforts to collect on the illegal contracts which they had already financed. CEPA picketed the Bank and succeeded in winning an agreement whereby the Bank halted its collection efforts and turned the contracts back to the original dealer, where the outstanding accounts were settled for \$150 or \$250—as the salesmen had originally promised.

This deception, too, was widely practiced, nation-wide, and undoubtedly in Ohio, as well. Again, we wonder, did the Beneficial Finance Company of Ohio, Mr. Dennison's client, finance any of these outrageous swindles, and if so, was it Mr. Dennison's job to collect the unconscionable debts thus created?

Before turning to an examination of the consumer protection situation in Ohio, there is one more fact that should come to the attention of this Senate Committee.

In March, 1967, \$12,000.00 fines and prison sentences of from one to seven years plus a five months' suspension from doing business were imposed on the Beneficial Finance Company, the Household Finance Corporation, and the Liberty Loan Company and six individuals who were convicted of bribery and conspiracy in the Massachusetts courts. The stiff penalties were handed out when the loan companies and the individuals were convicted of trying to influence small loan legislation by the state legislature.

CEPA does not believe in the theory of guilt by association. We do not believe that wrongdoing by the Beneficial Finance Company in Pennsylvania and Massachusetts automatically convicts its representatives in Ohio. But we would be extremely naive and remiss in our responsibilities to the consumers of America if we failed to approach a lawyer for the same finance company from Ohio without heeding a warning which says: "Caution. Examine Thoroughly and With Utmost Care."

CEPA does not have a branch affiliate as yet in our neighboring state of Ohio, but we are familiar with the efforts of consumer protection organizations in that state. From them we learn that Mr. Dennison has not distinguished himself as a champion of consumer interests or as an advocate of strong consumer protection in Ohio.

As far as the situation facing consumers in Ohio, we have learned a great deal from Senator Magnuson's book. Although it refers to conditions existing at the time his book was written, we believe his descriptions and analyses are relevant

to the question of the role of the finance companies, in particular the Beneficial Finance Company, and Mr. Dennison in matters affecting consumers.

"The laws of some states are so inadequate that the citizens have virtually no protection at all outside that afforded by the Federal Trade Commission," writes Senator Magnuson (p. 63). Ohio is one of 14 states that the Senator describes as "especially lacking in effective consumer protection legislation." (p. 28-29) Ohio is characterized as a state "with a harsh garnishment law." (p. 101). The Senator reports that "Col. George Mingle, chief of Ohio's Consumer Frauds and Crime Section estimated that in 1966, Ohio consumers lost 300 million dollars through all types of commercial deception. This is one hundred times more than the estimated loss by consumers in Washington State, which has strong consumer protection laws." (p. 77)

In Cleveland, Ohio, "a man and his wife were left with \$10 a week with which to buy food after his night watchman's wages of \$89.56 were garnisheed." (p. 94) This horrible garnishment nightmare has been eased somewhat, but not eliminated, by the passage of the Federal Truth-In-Lending Law which now limits the amount that can be garnished from a workingman's wages. Did this partial relief come about as a result of anything Mr. Dennison did or tried to do?

Senator Magnuson describes in detail one aspect of the consumers' plight in Ohio as follows: (p. 43)

"In Cleveland, Ohio, with the help of a state legislator, local officials and the Ohio Consumer Frauds and Crime Section of the Attorney General's Office, a garnishment racket involving several merchants and finance companies (including, perhaps, the Beneficial Finance Company?—M.W.) was exposed early in 1967. At least half a dozen appliance stores in Cleveland's East Side Negro section typically operate, report Ohio's consumer fraud officials, by luring desperate people who need instant cash. The stores entice people to sign installment sales contracts by offering them a cash loan on the spot—most often \$50, but as little as \$25 or as much as \$125, which is then added to the contract in a disguised form."

"Unable to borrow money from legitimate sources, the poor, under the pressure of emergencies, such as medical bills and unpaid debts, find the 'instant cash' a powerful inducement to buy merchandise they may not need or want. One man admitted that in December, 1966 he bought two television sets, one stereophonic record player, and a tape recorder, ALL IN ONE WEEK, and \$25 from each merchant. He subsequently had three garnishments filed against him. Another man said he was induced to sign his name to a sales contract in return for two fifths of whisky."

At its worse, the scheme operated this way: a customer purchased a stove at the high price of \$239; by the time finance charges, insurance, a "finder's fee" (the stores sometimes send solicitors out door-to-door to find prospects), and a conglomeration of other charges, including the well-disguised cash loan and its interest were totalled, the price due was \$818. The purchaser was given thirty days to make the first payment. If thirty days came and went and the debtor was delinquent, sometimes by only one day, the store insisted on immediate payment of the ENTIRE balance, which they can legally do under a clause in the contract called the "accelerating clause", reading: "In event of any default, the balance of this obligation shall at once become due and payable at the option of the holder hereof." Obviously the poor purchaser had no means of raising such a large sum immediately so the store then repossessed the stove.

"Since the merchandise was now used, it brought at public auction perhaps \$75, a sum which the store obligingly, as the law required, deducted from the purchaser's debt. Although the hapless owner now had no stove at all, he was still obligated to pay the store the remaining \$743, which is known as a 'deficiency judgment.'"

"If he balked at paying off \$743 for something he no longer possessed, the store had little worry. Their lawyers simply filed a garnishment proceeding in court against his wages and his employer was required by law to deduct a certain percentage from each paycheck to meet the bad debt and forward it to the store."

"Among these many incredible facts of law is another: the cheated Ohio consumer, as is true in some other states, was even deprived of the opportunity of defending himself in court against such exploitation through garnishment. Inserted in fine print into the sales contract he signed was an insidious agreement, legally called a *cognovit* note, commonly called a 'confession of judgment' clause. By signing such a document, the customer waives his right to defend himself in a court of law. He has no chance to confront the creditor with charges of fraud or to show cause in court why his wages should not be garnished. The garnish-

ment is slapped on automatically: for by signing the 'confession of judgment' contract, the debtor has PLEADED GUILTY IN ADVANCE."

The rights he signs away are awesome, as revealed by the language in the contracts used by certain stores in Ohio: "We and each of us, jointly and severally, hereby authorize any attorney-at-law in the state of Ohio, at any time after this obligation becomes due, with or without process, to appear for us or either of us in any court of record in the state of Ohio, and confess judgement in favor of the legal holder of this note for the amount then appearing due hereon according to the terms hereof, and court costs, against us or either of us, to release all errors and the right of second trial, and rights of error or appeal and stay of execution."

"Cleveland officials report that partially because of unscrupulous merchants, garnishment has become an overwhelming problem for the city. During the first six months of 1967, Cleveland's Municipal Court alone processed 28,000 garnishments. A few employers, because of the extra accounting work in handling garnishments, charged the garnished workers \$17.50 to process each garnishment. Some firms automatically fire the garnished worker after three garnishments. So critical is the problem among unskilled workers that factories hiring laborers circumvent the law by hiring on a daily basis, paying them at the end of each shift. Without a regular paycheck, their wages can't be garnished."

"Unfortunately, exposure of the Cleveland appliance stores that so ruthlessly utilize garnishment did not cause their demise. With the exception of one, they were still operating in August, 1967. Said Lewis Earnhart, an investigator in the Ohio Consumer Frauds and Crime Section of the Attorney General's office: 'We haven't got the law to stop them.'"

"Although Ohio does have a consumer protection bureau, the bureau has no budget, has not been officially established by the state legislature and operates with a small staff of dedicated employees solely at the discretion of the attorney general. Ohio's laws are exceptionally weak." (p. 77)

"In 1967, a general deceptive practices bill, similar to that of the FTC, was introduced by the Ohio State Bar Association, but it died in committee. Although the state is plagued with substandard private business schools, the legislators refused in the same session to license them and bring them under the jurisdiction of the State Board of Education. Despite the scandal in Cleveland over "garnishment rings," the legislature rejected a proposal to bring this evil under some control by licensing finance companies." (p. 77)

Did Mr. Dennison act as attorney for Beneficial Finance Company in garnisheeing any worker's wages for collection of debt? Did he execute on any cognovit notes? Did any consumers lose their jobs, their furniture, cars, other possessions, even their homes, as a result of any legal proceedings by Mr. Dennison acting for Beneficial Finance Company based upon the confession of judgement?

If Mr. Dennison did not himself carry out legal proceedings for Beneficial, what in fact was his role as attorney for this Finance Company? Was he employed in the capacity of house counsel, advising and directing other attorneys in undertaking legal proceedings against consumers?

On this point, Senator Magnuson says: "Curtailling the activities of the unscrupulous and rectifying wrongs if deception occurs demand an organized resistance against the exploiters, based on the humane, common-sense philosophy that in a society like ours there is no place for the trickery and deceit by which deceptive merchants can drain the economy, drive people into debt, steal their homes, force them onto welfare and lay waste to their lives under the guise of 'doing business.'" (p. 120)

Did Mr. Dennison, as attorney for Beneficial, play any role directly or indirectly in trying to influence legislation that Beneficial opposed but that may have been helpful to consumers?

For instance, the statement in Senator Magnuson's book (p. 110) that "Officials in Ohio's Attorney General's office report that despite the fact that the cognovit note is their biggest problem, they are unable to get a single legislator interested in introducing a bill to outlaw it."

Such a deplorable situation might be the result of the natural anti-consumer prejudices of the entire membership of the Ohio legislature. On the other hand, could such a situation be the result of the same type of activity for which officials of Beneficial Finance Company and other finance companies were fined \$12,000 in Massachusetts?

Unfortunately, we do not know the answer to these questions. Mr. Dennison's role and connection with the Beneficial Company has not, as yet, been thoroughly investigated and spread upon the record for all to see, examine, question and comment upon.

On another basic concern of consumers, Senator Magnuson has written: "The single factor most responsible for consumer injustices is the holder in due course doctrine. A New Jersey judge called it 'the mask behind which fraud hides.' Finance Companies can work hand in hand with fraudulent operators, and unless it can be proved that the finance company is a knowing party, it cannot be held responsible, and the consumer must pay the fraudulent debt regardless." (p. 118)

Our financing institutions should no longer be allowed to evade completely all responsibility for consumer deception," Senator Magnuson writes, and we also give serious consideration to eliminating holder in due course altogether in consumer debt transactions, thus holding the financing institutions as equally responsible as the sellers for their involvement in consumer deception." (p. 119)

CEPA agrees with Senator Magnuson that the holder in due course doctrine should be eliminated altogether in consumer transactions. But has Mr. Dennison ever lifted his voice or his finger to accomplish such a goal? Or has he, to the contrary, utilized the protective shield of the holder in due course to press unfortunate consumers in Ohio to pay their debts though some may be fraudulent or unconscionable?

Next to the holder in due course, perhaps equal to it, the confession of judgment clause, known in Ohio and some other states as the *cognovit* note, is the chief device that unscrupulous merchants rely upon to trap unwary consumers.

CEPA conducted a 4-year long struggle against the confession of judgment clause and the unfair Sheriff Sales based on such confessions. A review of this activity is described in the February, 1970 special issue of *CONSUMERS VOICE*. As a result of CEPA's work, and finally with a lawsuit in Federal Court filed by Mr. Charles A. Baron, a Community Legal Services attorney and a member of the Board of Directors of CEPA International, Inc., the confession of judgment clause was ruled unconstitutional in Pennsylvania, setting a precedent for eliminating this abusive practice throughout the land.

If the consumers of America, those who have been abused and persecuted and those who still are and who in the future could be entrapped by confession of judgments could express their preference in selecting a Federal Trade Commissioner, would they not select an attorney like Mr. Baron who challenged and upset a law that oppressed consumers for 163 years?

Why should not this Committee urge the President to look to some of the states which have led the country in consumer protection to find a Federal Trade Commissioner that the consumers of the nation can have confidence in? States like Massachusetts, Washington, New York. In Washington, the amount of consumer fraud is 100 times less than the state of Ohio. Massachusetts led the nation in passing the truth-in-lending law. New York has the most active and vigorous city and state consumer protection bureaus in the nation.

A man like Professor William Willier, of Boston Law School, head of the Consumer Law Center, is a type that the consumers of America could have confidence in particularly because of his work in combatting the creditor-favored Consumer Credit Code and his creation of a more balanced and fair consumer protection alternative to the UCCC.

CEPA is a private organization, not funded by any governmental or private sources, existing on the dues and contributions of its members and income from the sale of its newspaper. With an annual budget of approximately \$15,000, we maintain a paid staff of only two people, relying upon volunteer activity of consumers in 11 branches throughout the low-income communities of Delaware Valley to keep the organization going.

CEPA has neither the forces nor the funds to make a thorough investigation of Mr. Dennison's record as an attorney for the Beneficial Finance Company in Ohio. But the Staff of this Committee should be able to do that within a short time.

We believe that this Committee, the consumers, the nation as a whole, even the President, have much to lose by a hasty confirmation of Mr. Dennison. If, upon investigation, it should develop that some poor consumer in Ohio unjustly had his wages garnisheed, lost his job or perhaps his home because of legal proceedings instituted by Mr. Dennison on behalf of his client the Beneficial Finance Company, this would lead to great embarrassment. If it should turn out that the Beneficial Finance Company, directly or indirectly as a member of a trade association, worked to defeat or otherwise influence legislation designed to protect consumers in Ohio, should not this Committee—and the nation be entitled to know of Mr. Dennison's relationships, if any, to such efforts, prior to his confirmation?

CEPA believes it is as important to make this evaluation prior to the confirmation of Mr. Dennison to the Federal Trade Commission as it was to make-

an equivalent evaluation of the judicial record of Judges Haynsworth and Carswell prior to their confirmation to the Supreme Court.

We believe this Senate Committee has nothing to lose and the gratitude of America's consumers to gain simply by delaying the confirmation of Mr. Dennison pending a full Staff report and evaluation of his representation as the attorney for the Beneficial Finance Company of Ohio.

Of course, our first choice for a FTC Commissioner would be a consumer leader who is completely identified with the cause of justice in the market place. We believe the consumers of America are entitled to the highest type representation on such an important body as the FTC as it is possible to get. And in this connection, we consider the heart and the dedication of the Commissioner as more important than expertise. Experts can be hired, but dedication and identification with the consumer's cause can never be bought.

CEPA would like to see preference given to the nomination of a Black man or woman as an FTC Commissioner. In over 50 years of FTC's existence, with 47 commissioners having served, only one man, Leon Higginbotham, now Judge Higginbotham, was black—and he served only a partial term.

It is distressingly significant that among the 32 commissioners now serving on the Federal Trade Commission, Federal Power Commission, Federal Communications Commission, Civil Aeronautics Board, and the Tariff Commission, not a single Black man or woman is serving today.

The Senate Commerce Committee has an opportunity, in influencing the proper selection of an FTC Commissioner to serve the best interests of America's consumers, America's Black people, and America as a whole.

Senator INOUE. The committee thanks you very much, Mr. Weiner. Because of the gravity of some of the questions posed in the statement, we shall invite Mr. Dennison to respond to your statement.

The chairman has been advised that Mr. Howard Frazier, who had earlier requested time to testify, has withdrawn his application, withdrawn his request.

At this time, with the consent of the committee, I would like to place into the record a statement from Mr. Dennison relative to the Beneficial Finance Co. This is a statement dated October 6, 1970, and September 29, 1970, referred to by Mr. Weiner in his testimony.

(The letter and statement follow:)

To: Members of the Senate Commerce Committee.

From: David S. Dennison, Jr.

Re: Beneficial Finance Company.

At the request of Chairman Magnuson, I am submitting this brief memorandum outlining my professional association with Beneficial Finance Company. As the Committee may be aware, the current edition of Martindale Hubbell lists Beneficial as a client of the law firm of Dennison and Wern (now Dennison, Wern and Turner). In our law firm, a number of clients are serviced exclusively by one of the partners. In this case, Beneficial is the exclusive client of my partner, Charles E. Wern, Jr.

I am not familiar with the nature or the type of professional services rendered Beneficial by my partner other than my general understanding that such work as he does for Beneficial involves collection matters.

If I can be of any further assistance in further clarifying this matter please let me know.

Respectfully submitted.

DAVID S. DENNISON, JR.

Dated October 6, 1970.

Senator INOUE. There is no further testimony? The hearings are closed at this point.

(Whereupon, at 4:25 p.m., the hearing was adjourned.)