

1 STATEMENT OF JEROME KURTZ

2 Mr. Kurtz. Yes, sir. I was Tax Legislative Counsel in
3 the Treasury Department from 1966 to 1968, to the end of
4 1968.

5 The Chairman. I seem to recall you were around here
6 from time to time. What were some of the tax bills that
7 you helped us put together?

8 Mr. Kurtz. Before this Committee, do you mean in those
9 years?

10 The Chairman. While you were here before.

11 Mr. Kurtz. Those were the years of the investment
12 credit suspension and reinstatement, and the Tax Lien Act
13 was in those years, and a number of other, or minor, things.

14 The Chairman. I see.

15 You are practicing law, I take it, now?

16 Mr. Kurtz. Yes. I have been practicing law since then
17 and before then with a firm in Philadelphia.

18 The Chairman. My impression is when a good tax lawyer
19 comes to work here, he loses money. Would this be a
20 financial sacrifice?

21 Mr. Kurtz. Yes.

22 The Chairman. Can you give us some idea of the
23 dimension of the sacrifice you will have to make to take
24 the job.

25 Mr. Kurtz. Substantially more than 50 percent.

1 The Chairman. I want you to know it takes a good deal
2 of statesmanship and political courage for me to vote for
3 that pay raise bill. I did it because we needed people of
4 your competence here. I am sorry that it is still necessary
5 for men like yourself who are willing to come back and do
6 a tour of duty in government to make a substantial financial
7 sacrifice to do it.

8 Personally, I think you are very well-qualified, Mr.
9 Kurtz. I know you will do a good job for the country, if
10 confirmed. I certainly will recommend it.

11 Mr. Kurtz. Thank you, Mr. Chairman.

12 The Chairman. Senator Packwood?

13 Senator Packwood. I talked to Mr. Kurtz in my office,
14 but I want to go over once more the subject of taxation and
15 fringe benefits.

16 You are aware of the Treasury Department's apparent
17 intention to issue some regulations right at the beginning
18 of the last Administration, and those were withdrawn. What
19 are your personal views on whether or not Treasury and IRS
20 should tax airline rides of airline employees, parking
21 spaces, and a variety of fringe benefits that the Treasury
22 was thinking about at the time?

23 Mr. Kurtz. Well, it is obviously a very difficult area.
24 History proves that when that discussion draft came out, there
25 was substantial disagreement within the government about the

1 conclusions reached in that discussion draft. Obviously,
2 substantial disagreement with industry and those affected.

3 My own^s view is that it requires a careful balancing of
4 fairness or equity on the one hand and administration on the
5 other.

6 There is no question that within the definitions of
7 income in the Internal Revenue Code, a great number of these
8 items are properly income. They are benefits to employees
9 given because of employment.

10 Senator Packwood. Although presently untaxed.

11 Mr. Kurtz. Although many of them are presently untaxed.
12 That is the other side of that scale, that is the question
13 of administration and the feasibility of including and
14 requiring the maintenance of records on various fringe
15 benefits.

16 I think one cannot lump all fringe benefits into a package.
17 There are some that are of very substantial value and
18 accountability is not extremely difficult, and presumably
19 they ought to be included as income. There are others that
20 are of small value and difficult to account for. There, the
21 cost of administration might outweigh the requirement for
22 inclusion.

23 Senator Packwood. The standard of fairness is not if
24 they are big or small benefits. I hope that we have not come
25 to that standard of fairness in this country.

1 Mr. Kurtz: I used the question of being large and small
2 as difficulty of accountability.

3 Senator Packwood. Do you think that the tuition, free
4 tuition, that is given to relatives of teachers of private
5 schools, to their dependents, should be taxed as income?

6 Mr. Kurtz. The tax-free nature of that, at the moment,
7 is a question of regulation, regulations which have been
8 outstanding for a very long time. Let me say I have a
9 personal view on that which I will tell you in a moment.
10 Let me qualify by saying that things frequently look different
11 from the inside than they do from the outside in this
12 respect.

13 From the outside, the theoretical arguments are more
14 easily perceived, and perhaps are more compelling. Getting
15 into the organization, you face another set of considerations.
16 That is, the difficulty of doing it, the disruption it
17 may cause, the administrative problems. Those I have not come
18 completely to grips with.

19 On a theoretical basis, the basis of my view is that I
20 think they should be taxed.

21 Senator Packwood. You think in fairness that they should
22 be taxed?

23 Mr. Kurtz. Yes.

24 Senator Packwood. What about airline employees riding
25 on airplanes?

1 Mr. Kurtz. That, again, falls into the same category.
2 I think it should be taxed. Let me say that we get into a
3 question there of valuation, of what a ticket is worth to the
4 person. They are very difficult questions, to which I do
5 not have an answer.

6 Senator Packwood. It is not difficult to determine what
7 the ticket is worth to the person, what the person would
8 have to pay if he did not ride for nothing.

9 Mr. Kurtz. We know what the price of a ticket is, but
10 I am not sure exactly what the rules are for airline employees
11 riding. My understanding is that they ride on the basis of
12 space available, and therefore on standby. That gives them
13 less rights than an ordinary ticket holder may have. It may
14 affect the value of a ride, things of that kind.

15 Senator Packwood. They would pay the same price, if they
16 had to pay it, that any passenger would have to pay, except
17 that they are an airline employee and do not have to pay.
18 I think they should be taxed on that.

19 Mr. Kurtz. In my view, it would be fair to tax them on
20 some value. I am not certain what that value would be.

21 Senator Packwood. What about parking spaces provided by
22 companies for their employees?

23 Mr. Kurtz. That is a very hard one. I do not know the
24 answer to that.

25 Senator Packwood. I am curious as to what you would be

1 recommending. What do you think we should do? Should we
2 make a recommendation to change the law?

3 Mr. Kurtz. Let me say, Senator Packwood, before I would
4 recommend anything I would want to do a lot more work in the
5 area. There is a lot of background material that has been
6 developed. The cases are far more diverse and widespread
7 than one can imagine.

8 Being a practicing lawyer --

9 Senator Packwood.. I am familiar with the cases. I want
10 to know what your sense of equity is.

11 Mr. Kurtz. My sense of equity is where, because of
12 employment, an employee gets a benefit which is other than
13 trivial and which is something of value to him so he is in a
14 better economic condition than somebody else may be earning
15 the same amount of money, or having personally to pay for
16 these things, that represents income under the definition of
17 the Internal Revenue Code.

18 Senator Packwood. You would not recommend changing the
19 law. You would simply say, if it is administratively
20 feasible, these benefits should be taxed.

21 Mr. Kurtz. They are two different questions. One is
22 under existing law, obviously. There I see a statutory
23 requirement that they be taxed, if they can be.

24 As to whether the law ought to be changed, two things on
25 that. One, that is not primarily within my jurisdiction and

1 and secondly, if it were, it depends on how it would be
2 changed and what the result of the change would be.

3 I have not given any real thought to developing a statutory
4 scheme which would somehow draw the line between these
5 benefits and other kinds of income or to sort out one benefit
6 from another benefit.

7 It may be possible to do. I just have not addressed
8 myself to that question.

9 Senator Packwood. Let me see if I can summarize your
10 attitude fairly.

11 Assuming it is administratively feasible, you would
12 prefer that the law be drafted so that all fringe benefits
13 be taxed as income.

14 Mr. Kurtz. Well, assuming it is administratively feasi-
15 ble, I think the law requires that they be taxed. As to
16 whether a statute could be drawn which could equitably exclude
17 some of those and not others, I do not know the answer to
18 that.

19 Senator Packwood. We exclude premiums now.

20 Mr. Kurtz. I would not want to see the law amended to
21 say that fringe benefits in some broad definition was
22 excluded. The problem I have with that is while today we
23 know, or have some notion of what the existing fringe
24 benefits are, what their magnitude is, who gets them, if
25 an exclusion were drawn for it, I believe if taxpayers respond

1 in the way they respond generally to exclusions, more and
2 more compensation would be channelled into those fringe
3 benefits. That, I think, would be unfortunate.

4 Senator Packwood. The policy of this government is to try
5 to have a policy of fringe benefits to make those not
6 taxable.

7 Mr. Kurtz. That is correct.

8 Senator Packwood. That is not a bad policy to achieve
9 those benefits.

10 Mr. Kurtz. If Congress decides those are benefits to
11 be encouraged, obviously, that is the way to implement it.

12 Senator Packwood. In the construction trades, building
13 dams, this takes three, four or five years. I understand
14 the present ruling is for those construction workers who
15 have to drive extreme distances to work, the ruling is that
16 only for one year will the assistance or transportation
17 costs be passed. After that, you presume that that is
18 compensation. There is no housing close to the dam. You have
19 not changed the residence or location. You are still driving
20 sixty, seventy miles. Why the year cut-off?

21 Mr. Kurtz. Well, I do not know the answer as to why
22 there is a year cut-off. That has been a policy of quite
23 longstanding in the service, supported by a number of cases.

24 Senator Packwood. What pragmatically happened was that
25 it was not seriously enforced. It is becoming more seriously

1 enforced, I think unjustifiably, and it is bothering the
2 building trades.

3 What is your policy? Should it be enforced? At the
4 end of the year, the fact that you have to drive another
5 three years and you have no housing either, should at the end
6 of the year the cost now be charged?

7 Mr. Kuttz. Senator Packwood, I do not know the answer
8 to that. I have not looked into that question very care-
9 fully.

10 The considerations are distinguishing, as I am sure you
11 know, distinguishing between the business expense and
12 commuting expenses and if an individual has a steady job,
13 for example, and chooses to live thirty or forty miles from
14 that job, no deduction is allowed for commuting expense,
15 nor do I think it should be.

16 On the other hand, if it is a question of what is a
17 temporary job and what is an unusual, unanticipated kind of
18 expense which may make it business.

19 The Chairman. If I may interject, I am going to have to
20 leave at 10:00 o'clock in order to take over the tax bill
21 on the Floor. What I would like to suggest is that we take
22 care of these confirmations, the qualifications of these
23 men. When we get through with that, as far as I am concerned,
24 you can have the gavel and you can examine this witness
25 about fringe benefits to your heart's content. I know of

1 your interest in this matter. I am sure he can provide you
2 with some very useful thoughts in connection with it.

3 I would like to urge, however, that we simply look at
4 these men's qualifications for the job at the moment and see
5 how many of them we can recommend for confirmation. At the
6 conclusion of that, we will call Mr. Kurtz back for you and
7 you can get all the information that you want.

8 Senator Packwood. I like Mr. Kurtz. I move his
9 nomination to send it to the Floor.

10 The Chairman. I do not want to deny you the right to
11 find out everything you want to know about this man's views.
12 I would certainly appreciate it. We do need to get this
13 confirmed between now and 10:00 o'clock, if we can.

14 All in favor, say aye.

15 (A chorus of ayes.)

16 The Chairman. Mr. Kurtz, we are going to recommend
17 you. Thank you very much.

18 Mr. Kurtz. Thank you.

19 The Chairman. Senator Ribicoff would like to have a
20 chance to pass on the confirmation of the man I asked for the
21 first time, Mr. Frank Peter Libassi. He is still not
22 here.

23 How about Mr. Robert Carswell, nominated to be Deputy
24 Secretary of the Treasury?

25

1 STATEMENT OF ROBERT CARSWELL

2 Mr. Carswell. I was here from 1952 to 1955. I served
3 as Special Assistant Secretary of the Treasury.

4 The Chairman. Who were you serving under at that time?

5 Mr. Carswell. Douglas Dillon for the first two and a
6 half years. The last part, for Henry Bower.

7 The Chairman. You have some familiarities with the
8 duties you will be asked to perform as Deputy Secretary of
9 the Treasury?

10 Mr. Carswell. It is somewhat out of date, but yes.

11 The Chairman. You have consulted with our staff and
12 also with your people about possible conflict of interest
13 and conclude that that has been resolved?

14 Mr. Carswell. I think I have resolved everything, sir.

15 The Chairman. Thank you very much.

16 Are there any questions, gentlemen?

17 Senator Packwood. No questions.

18 The Chairman. Thank you very much, sir.

19 Mr. Carswell. Thank you.

20 Senator Ribicoff. Mr. Chairman, I move the approval of
21 Robert Carswell.

22 The Chairman. Without objection, we will recommend
23 him.

24 Next, let us hear from Mr. Daniel H. Brill, nominated
25 to be Assistant Secretary of the Treasury for Economic

STATEMENT OF DANIEL H. BRILL

1
2 The Chairman. Mr. Brill, you have had previous
3 service in government?

4 Mr. Brill. Yes, sir. I was with the Federal Reserve
5 for many, many years.

6 The Chairman. You come here from the Commodity Credit
7 Corporation, I take it?

8 Mr. Brill. Control Data Corporation.

9 The Chairman. I see.

10 It says Commodity Credit Company, Baltimore subsidiary
11 credit, Control Data Corporation.

12 Mr. Brill. Yes, sir.

13 The Chairman. You are senior advisor and Chief Economist
14 to the Federal Open Market Committee?

15 Mr. Brill. Yes, sir.

16 The Chairman. When you have more time I would like for
17 you to educate me a little more on that particular operation.
18 I would like to know more about it.

19 Mr. Brill. It would be my pleasure.

20 The Chairman. Are there any questions?

21 Senator Ribicoff?

22 Senator Ribicoff. No, Mr. Chairman. Mr. Brill seems
23 qualified. If there is no objection, I would recommend that
24 we recommend that he be confirmed.

25 The Chairman. Senator Packwood, do you have any

1 questions of this witness?

2 Senator Packwood. No.

3 The Chairman. If there is no objection, we will
4 recommend confirmation.

5 Mr. Brill. Thank you.

6 The Chairman. Mr. Robert C. Altman, nominated to be
7 Assistant Secretary of the Treasury for Capital Markets and
8 Debt Management.

9 We will have your resume put into the record at this
10 point.

11 (The biographical data of Robert C. Altman follows:)

12 COMMITTEE INSERT

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STATEMENT OF ROBERT C. ALTMAN

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2 The Chairman. Mr. Altman, I see you have had considerable
3 financial experience. Have you explored the possibility of
4 a conflict of interests and resolved that to the satisfaction
5 of counsel in Treasury as well as our Committee staff?

6 Mr. Altman. Yes, sir.

7 The Chairman. Are there any questions?

8 Senator Ribicoff. I have no questions.

9 The Chairman. Senator Packwood?

10 Senator Packwood. I have no questions.

11 Senator Ribicoff. I move that we recommend confirma-
12 tion.

13 The Chairman. Without objection, we will recommend
14 confirmation.

15 Mr. William J. Beckham, Jr., nominated to be Assistant
16 Secretary of the Treasury for Administration.

17 We will put your biographical sketch in the record at
18 this point.

19 (The biographical data of William J. Beckham, Jr.
20 follows:)

21 COMMITTEE INSERT
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1 STATEMENT OF WILLIAM J. BECKHAM, JR.

2 The Chairman. Mr. Beckham, have you explored with
3 Counsel in Treasury, as well as with our Committee staff,
4 any possible conflicts of interest of problems and undertake
5 to resolve those satisfactorily?

6 Mr Beckham. Yes, I have.

7 The Chairman. I see you were Chief Executive Assistant
8 to Mayor Young of Detroit.

9 Mr. Beckham. Yes, sir.

10 The Chairman. You will not have as many fiscal headaches
11 here as you may have experienced there, but I cannot guarantee
12 it, by any means. You will find it just moving in on a
13 bigger stage.

14 You served, sir, as an aide to Senator Philip Hart?

15 Mr. Beckham. Yes.

16 The Chairman. You have had some experience in the
17 Senate?

18 Mr. Beckham. Yes.

19 The Chairman. I see you started out on the Capitol
20 Police Force here in 1962.

21 Mr. Beckham. That is correct.

22 The Chairman. Did you go to college while you were
23 working here?

24 Mr. Beckham. Yes, I did.

25 The Chairman. I think that is of great credit to you.

STATEMENT OF JOSEPH LAITIN

1
2 The Chairman. Mr. Laitin -- is that how you pronounce
3 your name?

4 Mr. Laitin. Yes, sir.

5 The Chairman. Have you looked into the possible conflict
6 of interest problems and are satisfied that they have been
7 resolved to the satisfaction of Treasury Counsel as well as
8 to the satisfaction of the Finance Committee staff?

9 Mr. Laitin. Yes, sir.

10 The Chairman. Are there any questions, gentlemen?

11 Senator Ribicoff. Mr. Chairman, I move that the
12 Committee recommend Mr. Laitin.

13 The Chairman. Without objection, then, Mr. Laitin will
14 be recommended.

15 Mr. Laitin. Thank you, sir.

16 The Chairman. Mr. Frank Peter S. Libassi, is he here
17 now?

18 Mr. Stern. Mr. Chairman, Senator Talmadge had an
19 amendment that he has introduced to a bill that he asked
20 for Committee consideration of. He was unable to be here.

21 He asked that it be explained.

22 The Chairman. Which of these measures do we have to
23 act on immediately? What is our time situation?

24 Mr. Stern. Both items two and three are related to
25 the Congressional Budget schedule and have to be reported by

1 May 15th. In the case of the Maternal and Child Health
2 Amendment, Senator Talmadge's amendment is an amendment to a
3 bill that the Human Resources Committee reported out. They
4 are going to be taking it up next week. There is a time
5 deadline.

6 The Chairman. I would suggest that we see if we can
7 take care of this maternal and health and medicaid amendments,
8 and then clear that with all members of the Committee, if
9 there is no objection, I would suggest having discussed that,
10 we poll the Committee and see if it is all right with those
11 who are not here, and if so, we could report this matter.

12 Senator Talmadge dropped me a note about this matter,
13 if I can find it here.

14 He says, "Because of my responsibility as Chairman of
15 the Senate Committee on Agriculture, Nutrition and Forestry,
16 I will be unable to attend today's Executive Session of the
17 Senate Finance Committee. I will therefore authorize you
18 to vote my proxy as interested in an amendment here."

19 Would you explain that?

20 Mr. Mongan. Very quickly, Senator Talmadge had intro-
21 duced an amendment last week from a building from the
22 Kennedy Health Subcommittee, a bill that come to the
23 Committee from the House. The vast majority of that bill
24 dealt with changes in the Public Health Service Act, but
25 folded into that bill were two provisions relating to maternal

1 and child health and medicaid.

2 Senator Kennedy recognized that they did not fall in
3 within the jurisdiction of his Committee and he stripped
4 them from their Committee bill.

5 Senator Talmadge put in an amendment which would reinclude
6 those two provisions in the bill. He would like the
7 Committee, if the Committee were to support his amendment, he
8 would raise it as a Committee-supported amendment next week
9 when this bill goes on the Floor.

10 The substance of the two amendments is as follows. The
11 first deals with maternal and child health. That is our
12 present formula grant program to the states for the care of
13 mothers, infants and crippled children. The current authoriza-
14 tion level under that program is \$350 million. The authoriza-
15 tion has gradually edged up to where it is close to that
16 authorization level. It was \$347 million last year.

17 Senator Talmadge's amendment would raise the authoriza-
18 tion ceiling by 15 percent in order to give these programs
19 an inflationary increase so they would not have to cut
20 back on some of the activities which they are currently
21 sponsoring.

22 The second activity would relate to the funding of
23 nursing home inspectors under the Medicaid program. Twice
24 in the past, the Congress has voted to fund those inspectors
25 at 100 percent Federal matching, so that the states would

1 have ample funds to hire appropriately trained personnel to
2 survey the nursing homes and intermediate care facilities.

3 The Administration has requested that 100 percent
4 Federal matching be extended to 1980 at a cost of about
5 \$20 million per year.

6 The Chairman. Is that the only amendment that he is
7 recommending?

8 Mr. Mongan. Those two.

9 The Chairman. Senator Talmadge is recommending that?

10 Mr. Mongan. Senator Talmadge favors both of those.

11 The Chairman. Does it sound like a good idea to you?

12 Mr. Mongan. Yes, it does.

13 The Chairman. Why do we not propose that we poll the
14 Committee; if it is all right with the Committee will will
15 go ahead and report it in that fashion,

16 Without objection, then, we will poll the Committee and
17 see if that is agreeable with them, and the time aspect of
18 this.

19 Now, with regard to the International Trade Commission,
20 having heard the witnesses, I would be curious as to what the
21 Committee thinks about it. Offhand, it may be that we want
22 to take more time on this.

23 Mr. Cassidy. Yesterday, rather, on Monday, the House
24 passed their ITC bill. A summary has just been handed to
25 you. It was referred to the Committee yesterday. We now have

1 a bill.

2 The Chairman. It seems to me, in view of the significance
3 of what we are asking the International Trade Commission to
4 do, we should recommend the budget request of the Commission.
5 That is my personal feeling, but I would be glad to abide
6 by the Committee on the latter.

7 What can you tell us about that.

8 Mr. Cassidy. They asked for \$12,187,000 for fiscal year
9 1978, slightly over a 2 percent increase over 1977, and as
10 a result of the House action, the House recommended a cut
11 of \$665,000 from that request. Almost all of that cut would
12 come out of self-initiated reports which the Commission might
13 be carried on.

14 You asked, incidentally, the other day that the
15 Commission submit a list of those reports. They have done
16 so.

17 Senator Ribicoff. On that, I think to stop the Commission
18 from self-initiated reports would really be retrogressive.
19 In setting up the 1974 Trade Act, it was definitely our
20 intention that this should be a meaningful Commission
21 that had much to do.

22 Just as an indication, during the hearing-- I regret that
23 Senator Packwood was not here -- we requested you, Senator
24 Talmadge and myself, for the Commission to make a study for
25 us in relation to the President's energy proposals as they

1 impact upon American industry. The public, on the so-called
2 rebate to be paid for purchases of small cars, especially if
3 it would apply to rebates to foreign cars.

4 That alone has such implications and is so important,
5 not only in the trade field, but the tax field, that we are
6 going to be faced with in the energy proposal. They have
7 done some outstanding work. It is controversial. It is a
8 controversial Commission, because it can never satisfy
9 everybody.

10 There is such swirling around in this country, pros and
11 cons on the whole export-import business, but to cut them
12 out from making these reports would be undermining the main
13 purpose of the Trade Act itself that we pass.

14 The Chairman. I do not know who but a mindreader or a
15 crystal ball gazer could know in effect how many investiga-
16 tions will be desirable to be made by that Commissions.

17 Who would know how many investigations the Commission
18 might find it necessary to make, how many they might not.

19 For example, on this Committee, Senator Packwood came
20 to me awhile back. He wanted a whole bunch of things
21 investigated. As Chairman of the Committee, I said, if he
22 wants information, let's see if we can get it. He will have
23 the General Accounting Office doing a lot of work.

24 Who can predict, at this moment, even what investigations
25 he himself might want the Commission to make before the two-

1 year period is out.

2 It seems to me that the logical thing is to give them
3 enough money to do what they think they will be needing and
4 then if it looks as though they can save some money, it may
5 be that they will send some back in.

6 That is a far better thing than, for example, let us
7 suppose Senator Roth wants an investigation made. You come
8 up here and say, all right, this should be investigated, then
9 you find at the last moment that they do not have any money.
10 The money has all been used up.

11 Then you are in a position of having to get an appropria-
12 tion authorization, a supplemental, to have something inves-
13 tigated that you want investigated. I think it is better
14 to have enough money over there to hope that they would not
15 have to come back for a supplemental.

16 If they do not need it, turn it back in the way it is now.
17 The idea of having some people do a job where you cannot
18 predict in advance where it is going to be, I think makes
19 no sense.

20 Furthermore, if you look at all of the matters that are
21 investigated where these people thought these things needed
22 to be looked into and they did, we fellows get very busy
23 over here on this Finance Committee, the same thing on the
24 Ways and Means Committee. People get busy with other things.

25 The people working in that trade area, it is their job

1 to maintain surveillance. Where the trouble spots appear
2 to be developing, such as musical instruments, scientific
3 instruments, sweaters, body support garments. If there
4 appears to be a problem, look into it.

5 I think it makes the Commission look good if we say we
6 want to know about the very serious situation that seems to
7 be developing with regard to fish nets. They say, we have
8 been thinking about it, Senator, and we have the information
9 right here.

10 I think it is all to the better that they be right on top
11 of their job.

12 For example, I never knew that we had any problems with
13 regard to luggage. I see they have been looking into it.
14 So much the better. We do not make any luggage in Louisiana.

15 If anybody does, he has the problem. There is the
16 information he is looking for. I think we should recommend
17 the budget they are asking for and the House will undoubtedly
18 compromise with us to reduce it some.

19 One, recommend the budget; two, leave them the flexibility.
20 I do not want to be the guy trying to decide whether a person
21 over there ought to sign his name with a lead pencil or a
22 fountain pen. Let them decide for themselves. They appear to
23 be competent people.

24 The only real basis I can see for the House being somewhat
25 difficult with that Commission is that the House feels that

1 is a Senate Commission, frankly, and they have to come
2 before us for confirmation.

3 I have told our House friends from time to time that
4 if they want to make suggestions on whether or not we should
5 confirm people or not, it is all right with me.

6 I would just hope that the Commission will establish
7 a better line of communication with that House Committee.
8 Frankly, I think we ought to do it too. I would like,
9 Senator Ribicoff, for you and your Trade Subcommittee to
10 hold a meeting now and then with those people, socially or
11 a business meeting, however you want to do it, to let them
12 get off their chest whatever they think about matters.
13 Maybe they feel that they are more a part of what is going
14 on.

15 Senator Ribicoff. I think also, Mr. Chairman, I think
16 it would be better if they talked with the Committee about
17 any survey and research and reports that they have in mind,
18 for us to determine whether, in our judgment, they are worth-
19 while.

20 There always has to be a priority. It is obvious. Some
21 of the research problems, balance of payments analysis, you
22 requested the factors affecting world petroleum prices, which
23 are certainly important; soft wood forecasting, Senator
24 Packwood may understand what that means.

25 Senator Packwood. That description does not mean anything

1 to me.

2 Senator Ribicoff. I would do that, Mr. Chairman. Have
3 the staff keep in touch at any time they think is advisable
4 to call a meeting at regular intervals to be brought up to
5 date as to their work.

6 I would certainly do that. I would expect, Mr. Cassidy,
7 to keep us informed, both on the majority and minority side.
8 I would not like to cut them out.

9 The Chairman. I think that would work out fine. I do
10 not see anything wrong with that.

11 If there is no objection, why do we not recommend
12 the budget they requested? It has been our judgment -- what
13 we did was make that Commission as independent as we could
14 make them, so if they request their budget and it does not
15 go through the Bureau of the Budget, the problem we have
16 we would have people down at the White House, down there,
17 who tried to make the people in the State Department -- they
18 are very liberal, you know. Those people had not turned
19 in their Santa Claus costumes yet.

20 Those people decided they are going to give away some
21 American industry to ingratiate themselves with some foreign
22 nation. In order to implement that decision, they proceed
23 to go through the White House, tell the White House that that
24 is what they want done. Then they try to get the White House
25 to dictate to the Commission what the Commission should do.

1 Then, if the Commission does not do what the White House
2 thinks ought to be done, then they say to the Bureau of the
3 Budget to cut their budget, to punish them for not doing,
4 some function that the State Department thought should be
5 done. Some nameless person we have never met and do not
6 know. ~~Some nameless person we never meet and do not know, to~~
7 ~~keep that from happening~~, we said for the future,
8 just bring their budget directly up here and request it. It
9 seems to me as though they have made a good case, in all
10 of this penny-pinching on the budget to say, since you did
11 not spend all of your travelling money last year, we are
12 going to cut you.

13 Give them what they requested, a flat amount, and if you
14 do not need all of it, turn in what is not necessary.

15 If there is no objection, why do we not recommend that.

16 Senator Ribicoff. I so move.

17 The Chairman. Without objection, we will do that much.

18 Let me raise another question. It may have partisan
19 overtones to it. If it is objected to, I will be able to
20 guide myself by the views of the Committee.

21 One possible answer to this thing about the tie votes is
22 to let the President appoint one more person to the Commission.
23 At least three must not be members of one Party, so you
24 would have presumably three of one Party and four of another.

25 That would mean ordinarily whoever is President would name

1 a majority. I would not want him to name the Chairman, but
2 have a seven-man Commission rather than a six-man Commission.

3 The argument for that, I think, would be that trade is
4 no longer a partisan issue. It used to be. It used to be
5 Democrats were the free traders and Republicans were not
6 free traders.

7 I would think if we -- that since we made the Commission
8 as independent as we can make them, make it a seven-man
9 Commission. If we did that, it would tend to be the case, I
10 assume, that you would have four men or women on there of
11 the same party as the President and three who would be of the
12 other Party.

13 Then, when a Republican President takes over, the majority
14 would swing the other way around. If there were an appoint-
15 ment, he would name one, a Republican, to his place and one
16 Democrat, if a vacancy occurred, so it would be a four-three
17 Republican majority in a Republican Administration and a
18 four-three majority in a Democratic Administration.

19 What is your thought on that, Senator Roth?

20 Senator Roth. To be candid, I have reservations about
21 that, not because of the partisan nature, because I am
22 confident we will have a Republican President in four years
23 and we will have a four-three advantage. Nevertheless, I
24 agree with some of your earlier statements that the Congress
25 has a special responsibility in the area of international

1 trade; because of that, we should keep out any connotation
2 of partisan politics.

3 I think it is much better to have -- it has been that
4 way for thirty years, or something like that. Admittedly,
5 there have been some problems recently. I think that those
6 are problems that can be worked out.

7 I just feel very strongly that it would do a better job
8 to keep trade out of partisan politics, to keep it as it is.

9 Senator Ribicoff. I think the problem you have, it is
10 not the politics of who is on it, but there have been so
11 many three to three votes that it really has tied up, not
12 only the Commission, but the President and the Congress as to
13 how it makes decisions.

14 We are going to have more and more opinions and decisions
15 coming out of ITC and they are going to the President. He
16 is going to take other attitudes, Congress may take a different
17 attitude of the ITC or the President.

18 But I think at least the decision-making process is
19 completely frustrated with three to three decisions.

20 Senator Gravel. I would feel similarly that, partisan-
21 ship aside, the Commission of three-three does not make
22 much sense. The only way to solve that is to break the
23 impasse and appoint another person.

24 Senator Curtis. Mr. Chairman, we have to keep in mind
25 that the real responsibility rests with Congress and the final

1 decision should be made here. I am not so sure that
2 we need to invest this Executive Agency with power for
3 decisive action. It will result in one person making a
4 decision for the entire nation.

5 I think we are all right with three and three. If we
6 want to make an odd number, we should go to five. These
7 Commissions get too big.

8 The Chairman. The last thing on earth I want to do is to
9 have a partisan fight about the Trade Commission and be in
10 a position of ramming something through with a Democratic
11 majority with the Republicans vehemently protesting about
12 it.

13 There is too much bipartisan cooperation to break that
14 tradition. I would not want to do it for the world.

15 I would be willing to go with the idea of three and three,
16 if we can do this. Whoever is Chairman -- let's face it,
17 the Chairman rotates under this law. He serves for eighteen
18 months.

19 To say who is ever Chairman would have the power to
20 make administrative decisions, the housekeeping measures about
21 how you are going to assign your personnel, so the house-
22 keeping thing would be under the control of the Chairman,
23 which rotates, so each person will have his chance in the
24 last eighteen months before his term expires, he is Chairman.

25 Then that Chairman has a housekeeping responsibility

1 unless overridden by a majority. Basically, that breaks
2 the tie as far as housekeeping things are concerned, and
3 the administrative type things -- can you give me an example
4 of what those types of things are, Mr. Cassidy?

5 There, a lot of debate could be ended.

6 Mr. Cassidy. In the recent past, the Commission has
7 spent a great deal of time on such measures as toilet paper,
8 light bulbs, pencils, et cetera. Most of the time, however,
9 it has been on more significant matters.

10 The Chairman. As I recall, there was something about
11 decorating an office. For example, the Chairman did not
12 want to repaint and redecorate his office. Somebody else
13 said that reflects on them.

14 The question is whether you should redecorate. My
15 attitude is that if somebody wants his office painted, go
16 ahead and paint it. Let everybody decide for himself if
17 he wants the walls cleaned or a picture hung on the wall.

18 Mr Cassidy. The major area of contention has been the
19 reorganization of the Commission, which has been put in
20 effect theoretically on January 4th of this year. There are
21 a number of areas that have not been resolved. Most of those
22 involved senior staff of the Commission.

23 The Chairman. Here is what I would suggest.

24 If we do it where we put the decision with the Chairman
25 subject to a majority vote, then on a tie vote, then of course

1 the tie would go to the Chairman. That is how it would
2 work out.

3 The present Chairman has about a year to go.

4 Mr. Cassidy. Exactly a year.

5 The Chairman. After a year, he rotates out. Who will
6 be the next Chairman?

7 Mr. Cassidy. Mr. Parker, who is Vice Chairman, will
8 become Chairman in June, 1978.

9 The Chairman. What is his Party designation?

10 Mr. Cassidy. Republican.

11 The Chairman. Fine.

12 Senators Packwood. You do not mean a tie vote on substan-
13 tive matters.

14 The Chairman. We are talking about a tie vote on
15 administrative matters, for example. Name a few of them.

16 Mr. Cassidy. Personnel budget, procurement.

17 Senator Gravel. They had tie votes on that?

18 Mr. Cassidy. That is where most of their tie votes
19 occur.

20 Senator Packwood. I have no quarrel with that. I am
21 just reluctant to make it seven.

22 Any decision that the Commission takes is going to be a
23 decision to limit, not a decision to expand. I do not think
24 that is going to be good for this country. If they are
25 stuck with a tie vote, they cannot move.

1 The Chairman. We have the law in pretty good shape for
2 tie votes. The way it stands now, on a tie vote, the
3 President gets his choice, whichever way he wants to go.

4 If the President chooses one way, we have the option to
5 go the other way.

6 Mr. Cassidy. That is correct.

7 The Chairman. If you have a three-three tie, the
8 President can choose to take the side of Commissioners A,
9 B and C as recommended by them, and if he chooses to go that
10 way, we have the right to go with the Commissioners D, E
11 and F and vote that way, if we have the votes to override.
12 You know how difficult it is to vote a majority of both houses
13 when you have to fight the President and half the Commission.

14 Even so, that gives us the option of voting whatever way
15 we want to go. Anytime you have a three-three vote, if you
16 can get three votes for a position and the Congress wants to
17 take that position, under the law, we have a right to imple-
18 ment that. Is that not right?

19 Mr. Cassidy. That is correct, on substantive issues; as
20 I understand your proposal you are talking about only about
21 administration. It would not affect the Commissioners*
22 voting on substantive issues.

23 Senator Curtis. What the House did, it provides that
24 the Chairman would be responsible for administration, in all
25 except three areas: employment, discharges and key employees,

1 external relations -- I do not know what that is -- and
2 budget.

3 This whole thing revolves around whether or not you have
4 a new General Counsel.

5 The Chairman. If it were my way, I would fire the General
6 Counsel. You have to decide who in the devil is in charge
7 of this fool thing. At some point, somebody has to be in
8 charge.

9 We investigated things about MacArthur and Harry Truman.
10 MacArthur was right about the taxes and how you should fight
11 the war. He was wrong that he did not have to obey Truman's
12 orders.

13 As far as how the war should be fought, I sat through
14 that investigation. I am convinced that MacArthur was right
15 about how you should fight the war. Truman was correct in
16 that he was Commander-in-Chief.

17 If the Counsel cannot work for the Commission or for the
18 majority of the Commission to take orders, he should resign
19 or be fired, in my judgment. That is a different issue.

20 It seems to me that whoever is the Chairman, that the tie
21 should go to whoever the Chairman is. In other words, if
22 a majority wants to vote the Chairman down, they can, but
23 you should not vote the Chairman down by a tie vote. That
24 seems to me how you can break the tie.

25 A year from now, Mr. Parker will be the Chairman, which is

1 fine. That way we will break the tie. All I want to do is
2 break it.

3 Senator Roth. I see no objection to that, Mr. Chairman.

4 The Chairman. Why do we not recommend that? If there
5 is no objection, we will recommend that in administrative
6 matters the Chairman shall have charge of administration unless
7 voted down by the majority. It takes four votes to vote down
8 the Chairman.

9 Mr. Cassidy. Mr. Chairman, do you want to strike the
10 House bill and report out the House bill with these amend-
11 ments? How do you want to proceed?

12 The Chairman. Why do we not strike the House bill and
13 report ours?

14 Without objection, then, we will report it in that
15 fashion.

16 Senator Ribicoff. Mr. Chairman, Mr. Libassi did not
17 understand the time. He apologizes for not being here at
18 9:00 o'clock. Mr. Libassi is in the room.

19 Senator Roth. Before he comes, I have one minor matter
20 which is not controversial.

21 Last year, Mr. Chairman, we included language for the
22 International Trade Commission to continue to make certain
23 reports with respect to synthetic organic chemicals. That
24 was included as a part of the report because there was never
25 agreement, and we did not do so.

1 I would like to include that same language that we
2 included last year.

3 Mr. Cassidy. In the bill, or in the report, sir?

4 Senator Roth. In the bill.

5 The Chairman. Without objection, agreed.

6 That will settle the Trade Commission. I would suggest
7 that you undertake to poll the absent members, if there
8 is no objection, so that they can all be on record as to
9 their position on this.

10 All right.

11 Mr. Frank Peter Libassi. Is he here?

12 Senator Ribicoff. Mr. Chairman, I would like to make a
13 few remarks for Mr. Libassi. He comes from Connecticut and
14 I have known him for a number of years. I think he is
15 qualified by training and experience in his position.

16 For the past nine years, he has worked to solve the
17 problems of American cities in Hartford Connecticut. He has
18 led an innovative private sector effort uniting political,
19 business and community leadership for the rehabilitation
20 of housing and for the economic and social revitalization of
21 the city.

22 In this job, he has dealt extensively with programs in
23 HEW, HUD and Labor. He has served at Federal and State levels.
24 levels. During his Federal service, Mr. Libassi received
25 his distinguished service award and superior service citation

1 Would you provide for the Committee or the staff copies
2 of such opinions, as they are requested?

3 Mr. Libassi. Yes, Mr. Chairman, we will do that.

4 The Chairman. We would like to have that information.
5 Will you provide copies of briefs or memoranda you prepare
6 or receive of court cases when they are requested?

7 Mr. Libassi. In connection with litigation matters?

8 The Chairman. Yes.

9 Mr. Libassi. We will make briefs available to members
10 of the Committee.

11 The Chairman. The Committee was responsible for writing
12 the provisions in law to make parents support their children.
13 One of those provisions required your Department to help
14 them locate an absent parent.

15 I understand that there are some location difficulties
16 caused by alleged invasion of privacy claims. Would you
17 please furnish the Committee, on a continuing basis, with
18 copies of all the opinions prepared or received by the
19 Office of General Counsel about such claims concerning
20 absent parents?

21 Mr. Libassi. I would be glad to provide the Committee,
22 Mr. Chairman, with copies of legal opinions with respect to
23 the rules governing disclosure. If I understood the question
24 correctly, yes, we would make those opinions available to the
25 Committee.

1 The Chairman. Let me repeat the question so you do not
2 misunderstand.

3 Would you furnish the Committee, on a continuing basis,
4 with copies of all opinions prepared or received by the
5 Office of General Counsel about such claims? We are talking
6 about claims concerning absent parents.

7 Mr. Libassi. Yes, Senator. I believe there would be
8 no problem with that. I want to be very careful in making
9 that agreement with the Committee that I may not be inadver-
10 tently be violating any statute that prohibits the Depart-
11 ment from disclosing certain information to the fullest
12 extent authorized by the statute and the rules of Congress.
13 We would make available our opinion with respect to those
14 matters.

15 The Chairman. Let me give you one example. A problem
16 we have to contend with, you are in a situation where a father
17 is making \$20,000 a year and well able to support his
18 children. He leaves. He has a right to do that; I am not
19 contesting his right to leave and abandon his family. He has
20 a right to just take off if he wants to.

21 When he leaves and goes someplace else, he becomes
22 interested in another woman, and perhaps they marry. A
23 second family. All right.

24 He is divorced from the first wife and marries a second,
25 that is still his child. There are some of us who are

1 concerned about making taxpayers pay to support that man's
2 child by his first marriage where he is well able to support
3 that child.

4 Admittedly, he cannot take his wife out to a swanky
5 restaurant as often as he could otherwise if he is paying
6 something to help take care of the child by his first marri
7 marriage, but he can make a contribution, and for some
8 time we had a difficulty there with your Department about
9 someone claiming that there is a right of privacy in that
10 Social Security number.

11 Here is the government trying to do right by the mother
12 and the child and by the taxpayers. At that point, we want
13 to know what the person's Social Security number is in order
14 to call upon that man to do his duty.

15 Furthermore, we also had a fight to protect for the
16 states the right to have the Social Security number on a
17 driver's license or automobile registration papers. That
18 helps us to find that person and to see if he is really in a
19 position to make a contribution or not.

20 The Committee has prevailed in those areas.

21 While we respect the right of privacy, he does not have
22 the right to be on the taking down end where he must identify
23 himself when it comes his turn to do a duty that he owes to
24 his government and his own family.

25 To say, oh, no, you do not have a right to know who I am,

1 it seems to me we have just about crossed that where you are
2 claiming advantages from your government, and you do have
3 a right to know who you are and where you live.

4 Can I take it that you will cooperate with that Committee
5 in that respect for that information?

6 Mr. Libassi. Mr. Chairman, we certainly want to cooperate
7 with the Committee. I think it is important that parents
8 remain responsible for their children and before the general
9 taxpayer is asked to provide financial support for any child
10 that the parent of that child should be identified, located
11 and required to provide financial support.

12 There is no reason why other hardworking families that
13 are working very hard to support their own children should,
14 in addition, support children when there is a parent, in fact,
15 financially able to do so.

16 With the basic principle, I have no disagreement and will
17 lend my full support to the Committee. I am a little
18 cautious as to not making commitments to the Committee that
19 I could not keep in terms of what the Department's present
20 laws under which we are operating on the basic principle
21 that the Committee has my full cooperation, Mr. Chairman.

22 The Chairman. You have outstanding credentials in the
23 area of Civil Rights and nondiscrimination and I just want
24 to point out to you that it is the worth kind of discrimina-
25 tion for us to tax one father to support some other father's

1 child when the father who is paying those taxes to do that
2 is not as well able to support his own child as the man to
3 whom he is paying the money by way of the government.

4 Mr. Libassi. It is that kind of injustice that brings
5 discredit on very good programs, Mr. Chairman.

6 The Chairman. Here is a father making \$10,000 a year.
7 He is working very hard in supporting his family. Here is
8 another guy making \$20,000 a year and has nobody to support,
9 except himself. At least he is trying to escape his duty
10 to make a contribution to his own child.

11 It is not right for this man making \$20,000 to be leaning
12 on the fellow who is only making \$10,000 and has a big family
13 to support.

14 Now and then we have to have sympathy towards our own
15 people who are obeying the law and doing what is right. We
16 must not discriminate against them, just as we do not want
17 to discriminate against anybody.

18 When one relies upon the right of privacy to victimize
19 the people who are doing what is right in this country, that
20 is just unfair and it involves a discrimination of its own
21 sort that I hope you would recognize.

22 Mr. Libassi. Yes, sir.

23 The Chairman. Thank you very much.

24 Senator Ribicoff. Mr. Chairman, if there are no further
25 questions, I move that the Committee recommend F. Peter

1 Libassi for confirmation as HEW General Counsel;

2 The Chairman. Is there any objection?

3 Without objection, agreed. We will poll the Committee
4 with regard to all of these nominees. If anybody wants to
5 make any objection, I would like to know it before we get
6 to the Floor with it.

7 Thank you very much.

8 (Thereupon, at 10:05 a.m. the Committee adjourned to
9 reconvene subject to the call of the Chair.)

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