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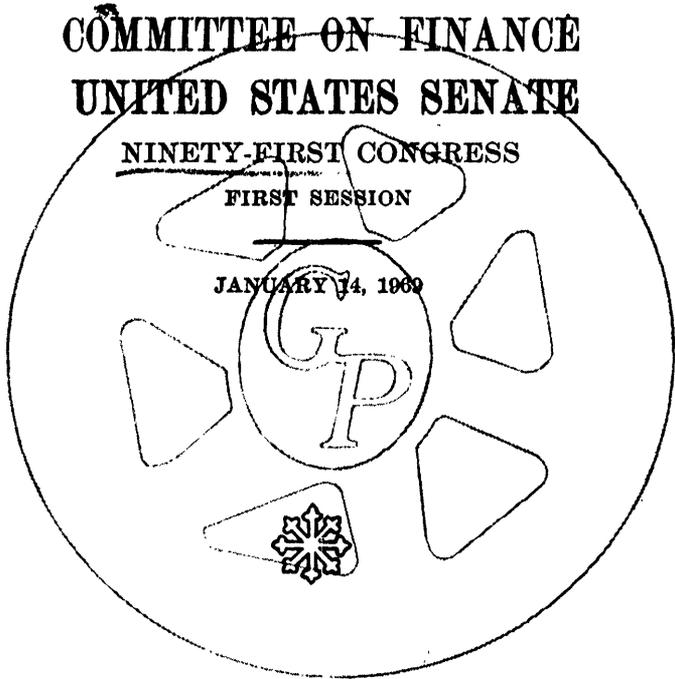
**NOMINATIONS OF DAVID M. KENNEDY, OF ILLINOIS, TO
BE SECRETARY OF THE TREASURY, AND ROBERT H.
FINCH, OF CALIFORNIA, TO BE SECRETARY OF
HEALTH, EDUCATION, AND WELFARE**

1947-1

**HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE**

**NINETY-FIRST CONGRESS
FIRST SESSION**

JANUARY 14, 1969



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(II)

CONTENTS

Witnesses

	Page
Cranston, Hon. Alan, a U.S. Senator from the State of California-----	32
Finch, Robert H., nominee to be Secretary of Health, Education, and Biographical sketch-----	34
Biographical sketch-----	35
Kennedy, David M., nominee to be Secretary of the Treasury-----	2
Welfare -----	2

Additional Information

Articles :	
"The Fed's Warning—Tight Credit Policy Aims at Inducing Firms To Use More Restraint," the Wall Street Journal-----	16
"Trade Surplus Slump Is Laid to Inflation, Imports Jump," the Washington Post-----	26
Letter of :	
Friedlich, Herbert A., of Mayer, Friedlich, Spiess, Tierney, Brown & Platt, to David M. Kennedy-----	6
Murphy, Hon. George, a U.S. Senator from the State of California, to Hon. Russell B. Long, chairman, Committee on Finance-----	33
Memorandum prepared by the staff of the Committee on Finance entitled "Conflicts of Interest"-----	7
Press release announcing this hearing-----	1
Statement of Hon. Wallace F. Bennett, a U.S. Senator from the State of Utah-----	12
Table entitled "Balance of Trade, 1958-68"-----	29
Telegram of Hon. Hugh M. Burns, president pro tempore, California Sen- ate, containing a resolution of the California Senate, to Hon. Russell B. Long, chairman, Committee on Finance-----	33

**NOMINATIONS OF DAVID M. KENNEDY, OF ILLINOIS,
TO BE SECRETARY OF THE TREASURY, AND ROBERT
H. FINCH, OF CALIFORNIA, TO BE SECRETARY OF
HEALTH, EDUCATION, AND WELFARE**

TUESDAY, JANUARY 14, 1969

**U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.**

The committee met, pursuant to call, at 10:05 a.m., in room 2221, New Senate Office Building, Senator Russell B. Long, chairman, presiding.

Present: Senators Long, Anderson, Gore, Talmadge, Hartke, Fulbright, Ribicoff, Williams, Bennett, Curtis, and Dirksen.

The CHAIRMAN. The committee will come to order.

At this point, without objection, a copy of the committee's announcement of this hearing will be included in the record.

(The announcement referred to follows:)

PRESS RELEASE

For immediate release

**U.S. SENATE,
COMMITTEE ON FINANCE,
January 8, 1969.**

**HEARING SET ON CONFIRMATION OF NOMINEES FOR SECRETARY OF TREASURY AND
SECRETARY OF HEALTH, EDUCATION, AND WELFARE**

Senator Russell B. Long, (Democrat, Louisiana), chairman of the Senate Committee on Finance, announced today that on Tuesday, January 14, 1969, the committee would hold public hearings with reference to the nominations by President-elect Richard M. Nixon of David M. Kennedy of Illinois to be Secretary of the Treasury, and Robert H. Finch of California to be Secretary of the Department of Health, Education, and Welfare. The chairman stated that while the nomination of these individuals to be members of the Cabinet cannot be formally received until after the inauguration of President Nixon, the Committee on Finance was following a procedure it had established in the past to provide for an orderly and expeditious transition to the incoming administration. He stressed that no formal action on the nominations could be taken by the committee until they had been officially received by the Senate and referred to the committee.

The hearing will be held in the Finance Committee Hearing Room, 2221 New Senate Office Building, on Tuesday, January 14, beginning at 10 a.m.

The CHAIRMAN. This committee meeting is to inquire into the qualifications of David M. Kennedy of Illinois to be Secretary of the Treasury, and Robert H. Finch, of California, to be Secretary of the Department of Health, Education, and Welfare. Both of these gentlemen are

well-suited for the service they are to perform in the President-elect's Cabinet.

Mr. Kennedy's success as a banker is well known. His long years of employment by the Federal Reserve Board and his later work as manager of the Public Debt in the Treasury Department attest to the knowledge of public finance he brings to his new office. His role as Chairman of President Johnson's Commission on Budget Concepts reflects a willingness to labor in the public interest. It is a mark of rare achievement that virtually every recommendation of that Commission was adopted by President Johnson and incorporated into the budget he submitted to Congress in 1968.

Mr. Kennedy will assume his new post at a time when interest rates are at their highest point since the Civil War. This, together with continued deficits in our international balance of payments—and an unwanted reversal of our favorable balance of trade—mirror the challenge that faces him as he becomes the principal financial officer of our Government.

We are pleased to welcome you before the committee, Mr. Kennedy.

Before we begin let me point out there are a number of statutes generally referred to as the conflict of interest laws which govern somewhat your conduct as Federal officers. I assume that you have consulted these statutes to the extent necessary and have brought yourselves into compliance with them.

In addition, let me say that this committee is rather interested in preserving the independence of the Internal Revenue Service and of the Social Security Administration in the day-to-day operation of the tax collection function and the benefit program. The principal officer of each of these agencies like yourselves is nominated by the President with the advice and consent of the Senate. We will examine into their qualifications for office just as carefully as we do those of Cabinet officers, and it is important that they be allowed to administer the law without undue influences or pressures from those above them.

If you will, Mr. Kennedy, we would be pleased to hear any statement that you might have at this time.

STATEMENT OF DAVID M. KENNEDY, OF ILLINOIS, NOMINEE TO BE SECRETARY OF THE TREASURY

Mr. KENNEDY. Thank you very much, Senator Long. I appreciate your comments. I have furnished to each of you a biographical sketch. There has also been submitted to you a confidential statement of my employment and financial interests.

The CHAIRMAN. I will ask that the biographical sketch be put in the record at this point, Mr. Kennedy. That is a summary of your background.

(The biographical sketch referred to follows:)

BIOGRAPHICAL SKETCH OF DAVID M. KENNEDY, OF ILLINOIS

Kennedy, David M. Chairman of the Board of Directors, Continental Illinois National Bank and Trust Company of Chicago; res. 33 Meadowview Drive, Northfield, Ill.; b. Randolph, Utah, July 21, 1905; s. George and Katherine Johnson Kennedy; ed. graduated from Weber College, Ogden, Utah, 1928; George Washington University, Washington, D.C., 1937; Stonier Graduate School of Banking, Rutgers University, New Brunswick, N.J., 1939; holds A.B., M.A., LL.B.,

and Honorary Doctor of Laws degrees; m. Lenora Bingham, children Marilyn (Mrs. Verl L. Taylor) b. Jan. 4, 1929; Barbara (Mrs. Carl Law) b. Jan. 14, 1931; Carol Joyce (Mrs. Jack Whittle) b. Nov. 14, 1936; and Patricia Lenore (Mrs. Lewis Campbell) b. Nov. 13, 1943.

Employed by the Board of Governors of the Federal Reserve System, Washington, D.C. (technical assistant in the Division of Bank Operations, and economist in the Division of Research and Statistics, assistant chief, Government Securities Section, and assistant to the Chairman of the Board, 1930-46. During World War II, Kennedy played a key role in Treasury finance.

Joined Continental Illinois National Bank and Trust Company of Chicago, Bond Department, Oct., 1946; elected second vice president, Jan. 9, 1948; vice president, Jan. 12, 1951. Resigned as vice president and served as special assistant to the Secretary of the Treasury in Washington, D.C., from Oct. 13, 1953, to Dec. 9, 1954.

During his Treasury service, Kennedy was responsible for management of the Federal debt and worked on a number of related Treasury problems.

Returned to Continental Bank and was elected vice president Dec. 10, 1954. Placed in charge of the Bond Department Jan. 1, 1955. Elected director and president Nov. 26, 1956. Elected Chairman of the Board of Directors and Chief Executive Officer Jan. 9, 1959.

During the past 10 years, the bank has grown from \$3.1 billion in resources to more than \$6.5 billion. Continental is the largest bank in Chicago and the Midwest, eighth largest in the nation, and fifteenth largest in the world.

Kennedy has expanded the bank's international banking department in anticipation of the great upsurge in Midwestern world trade. The bank has more extensive international banking facilities than any other U.S. bank between the Atlantic and Pacific coasts. In addition to a large Chicago-based international banking staff, it has two Edge Act subsidiaries: Continental Bank International in New York, which has one of the nation's largest foreign exchange trading operations as well as serving customers using East Coast ports; and Chicago-based Continental International Finance Corporation, which meets unique overseas financing problems through loans and equity investments.

The bank has six full-service branches (two in London, and one each in Tokyo, Osaka, Frankfurt, and Paris) as well as representative offices in Geneva, Madrid, Brussels, Milan, Caracas, Mexico City, and Manila. Still more overseas branches and offices are in planning stages. Continental has acquired equity positions in more than 20 overseas financial institutions.

During the Kennedy years, the bank has expanded into major money market operations and is a prime dealer in U.S. securities.

Continental, as a commercial lender, is the largest in Chicago and maintains a vast correspondent banking network with more than 3,000 other banks. During the decade, bank staff has expanded from 4,600 to more than 6,600.

Public service activities: As chairman under Mayor Richard J. Daley of the highly-successful Mayor's Committee for the Economic and Cultural Development of Chicago, Kennedy has worked closely with others in the city in Chicago's rebuilding. A leader in the business community, Kennedy has been instrumental in the enlistment of other businessmen in the city's renaissance. Kennedy has served since May 11, 1961 as chairman of the executive board of this city-wide committee. He has also served as chairman of the New Chicago Foundation, publisher of "Chicago" magazine; and as director of the Chicago Foundation for Cultural Development.

Chicago Central Area Committee, director since Dec., 1957. Civic Federation, advisory committee, since Jan., 1959. Chicago Council on Foreign Relations, director since June, 1964. Chicago Community Trust, trustees committee, since Jan., 1959. Leadership Council for Metropolitan Opera Communities, council since August 1966; treasurer, appointed Jan. 16, 1967. Chicago Civil Defense Corps, staff service division, appointed April 1960. Business Committee for the Arts, founding member, November 1967.

In addition, Kennedy has served as director of many Chicago charity drives. He was executive committee chairman from Nov. 19, 1965 to Aug. 1, 1966, of the Citizens Bond Committee for Greater Chicago. He is a former trustee of Presbyterian-St. Lukes Hospital, elected April 17, 1957, and serving until November 1968.

At the State level, Kennedy has been a member of Governor Kerner's Committee for Distinguished Foreign Guests, which was organized in September 1962.

Nationally, Kennedy has rendered valuable service to both Republicans and Democratic administrations. He is a registered Republican.

In addition, Kennedy has served as director of many Chicago charity drives. He was appointed Jan. 1, 1968, to the Federal Advisory Council of the Federal Reserve System. Committee for Economic Development, trustee, elected May 1964; National Advisory Committee on Government Practices and Policies, appointed Oct. 4, 1965, by the Comptroller of the Currency; National Public Advisory Committee on Regional Economic Development, business subcommittee, appointed by the Secretary of Commerce, August 1967, for 2-year term; American Foreign Service Association, associate member, since August 1967; National Committee for Adlai E. Stevenson Memorial Fund, March 1966; Navy League of the United States, life member, April 1962; Robert A. Taft Institute of Government, advisory committee for formation of memorial fund, February 1960; United Settlement Appeal, sponsoring board.

In 1966 Kennedy served 6 months by Treasury appointment on the Federal Advisory Committee on Financial Assets.

In 1967 President Johnson appointed Kennedy chairman of the Commission on Budgetary Concepts. The commission's recommendations were completely accepted and have been incorporated totally in the budget to be submitted to Congress early in 1969. This "Kennedy Budget" marks a revolutionary break with past methods and hopefully will ease problems of administration and finance.

Kennedy has accepted special assignments in relaying the U.S. Government's policies to financial leaders of other nations. He is a member of the British-American Chamber of Commerce dating back to December 1961.

Council for Latin America; German-American Chamber of Commerce, advisory council, May 22, 1963; International Enterprise Fellowships, advisory committee, May 1965; Radio Free Europe Fund, Inc., Dec. 2, 1964; Radio New York Worldwide, director, September 1962. He is a past member of the Franco-American Industrial Liaison Committee, since November 1959.

Kennedy has played an active role in educational affairs. He has been particularly interested in the growth of the University of Chicago, serving (1963-66) as chairman of the council on the Graduate School of Business. He remains a trustee of the university, having been elected June 13, 1957. Brigham Young University, chairman of executive committee, development council (established Jan. 19, 1966); DePaul University, board of associates, Oct. 26, 1964; University of Illinois, citizens committee; George Washington University, trustee, appointed June 4, 1966.

Kennedy holds several corporate directorships: Abbott Laboratories, April 11, 1957; Adela Investment Co., S.A., Sept. 30, 1964, a member of the executive committee and one of the original members of this international firm for investments among the developing nations; Commonwealth Edison Company, elected May 19, 1959; Communications Satellite Corporation, Sept. 17, 1964, a director since its original incorporation and an incorporator (since October 1962) by appointment from President John F. Kennedy; Equitable of Iowa, trustee, elected Jan. 23, 1958; International Harvester Company, Nov. 20, 1958; the Pullman Company, Jan. 22, 1961; Swift and Company, Jan. 25, 1962; United States Gypsum Company, May 9, 1962.

Long active in banking association work, Kennedy is a leading member of the American Bankers Association. He was formerly a member and chairman of that body's government borrowing committee. This key committee meets regularly in Washington to advise Federal officials on financing operations. American Institute of Banking, trustee of endowment fund of Chicago chapter, May 7, 1962; Association of Reserve City Bankers, elected member, 1957; Chicago Clearing House Association, chairman, elected Jan. 17, 1967, for a 2-year term.

Brookings Institution, trustee, 1961; Chamber of Commerce of the United States; Chicago Association of Commerce and Industry, committee on full employment; National Industrial Conference Board, Dec. 14, 1961; the Newcomen Society of North America; the Savings and Profit Sharing Pension Fund of Sears, Roebuck & Co. Employees, trustee, elected Sept. 22, 1958; Savings Bonds programs of Treasury Department, Illinois State advisory committee of U.S. savings bonds division, June 1963; Chicago area industrial savings bonds committee, February 1966; chairman of the banking industry campaign for 1968.

In the past, Kennedy has served many banking committees. American Bankers Association, executive council, 1960-1965, committee on government lending policy, subcommittee on debt management of government borrowing committee, committee on legal reserve requirements, resolutions committee, committee on commercial bank monograph; Association of Reserve City Bankers, director and treasurer.

1961-64, committee on international banking (1963); chairman of committee on investment policies (formerly committee on municipal bond underwriting) (1962-65), chairman of special committee on revenue bonds (1965-66), chairman of committee on federal relationships (1958-62); American Institute of Banking, chairman of committee for preparing new textbook on central banking, 1962; Investment Bankers Association, governmental securities committee, 1955-57; Illinois Bankers Association, council of administration, 1958-60; Federal Reserve Bank of Chicago, class A director group 1, 1961-63; Export-Import Bank of Washington, advisory committee, 1962-64; Chicago Clearing House Association, vice chairman, 1965-67.

Long active in the Mormon Church, Kennedy was until 1966 the First Councillor in the Chicago Stake Presidency of his church. For several years he also served as a bishop in Washington, D.C.

He is member of Nauvoo Restoration, Inc., and served a two-year mission in Great Britain before he graduated from college.

Kennedy has said that "It is hard to evaluate the part religion has played in my business life. Belief in God makes one more interested in others and their problems. To help others, to learn, to grow in life—these are the important things."

Social memberships: Illinois St. Andrews Society, life member, since 1963; Union League Club; University Club; Old Elm Club; Glen View Club; Chicago Club; Attle Club; Mid-America Club; Executive Club; Commercial Club, president, May 1966 to May 1967; Bankers Club; Economic Club.

Honors: Honorary degrees: Brigham Young University, honorary doctor of laws degree, June 3, 1960; Roosevelt University, honorary doctor of laws degree, June 15, 1964; George Washington University, honorary doctor of laws degree, June 6, 1965; Lake Forest College, honorary degree in humane letters, June 10, 1967.

Other awards from educational groups: George Washington University Alumni Association, 1963 Alumni Achievement Award, June 5, 1963; Harvard Business School Association of Chicago, 1965 Business Statesmanship Award, May 10, 1965; Loyola University of Chicago, Founders Day Award, Oct. 31, 1966; University of Utah College of Business, Meritorious Achievement in the Field of Business Award, May 19, 1967; Brigham Young University, Ernest L. Wilkinson Medal for extraordinary service to BYU, May 26, 1967.

Miscellaneous honors: Illinois Society of Certified Public Accountants, 1963; Public Information Award, June 11, 1963; Junior Chamber of Commerce, Man of the Year Award, March 26, 1963; Chicago Chapter of the Public Relations Society of America, Community Service Award, Nov. 30, 1964; American Marketing Association, Marketing Man of the Year Award, Jan. 15, 1965; Junior Association of Commerce and Industry, nominated for Man of the Year Award in the field of commerce and industry, April 27, 1965; Banking Division of Greater Chicago Committee for State of Israel Bonds, testimonial banquet, Sept. 21, 1966; Illinois St. Andrews Society, Distinguished Citizens Award, Dec. 3, 1966; American Statistical Association, Decision Maker of the Year, March 29, 1968; DePaul University, St. Vincent DePaul Medal, April 26, 1968.

Mr. KENNEDY. Thank you very much.

I have indicated to you that if I am appointed, I shall resign from all the boards of directors and business affiliations that I have. I shall also resign from the Continental Bank and all of its subsidiaries as well as disassociate myself from my various nonbusiness relationships that might consume time, at least, so that I could devote my entire time and energy to the task at hand.

I have, as you have indicated, looked into the statutes on conflict of interest and had my counsel take a look to see if I would be in compliance. I have been told by counsel, Mayer, Friedlich, Spiess, Tierney, Brown and Platt of Chicago, that the proposed arrangements that we are making will comply with not only the letter of the law but with the spirit of it.

The CHAIRMAN. That's fine. At this point in the record let us publish a memorandum prepared by the staff describing and citing the basic

conflicts of interest statutes. Also, let us publish the letter from your counsel.

(The letter and staff memorandum follow :)

MAYER, FRIEDLICH, SPIESS, TIERNEY, BROWN & PLATT,

Chicago, Ill., January 10, 1969.

Mr. DAVID M. KENNEDY,
Northfield, Ill.

DEAR MR. KENNEDY: You have furnished us with a copy of a letter dated January 10, 1969, and the "Confidential Statement of Employment and Financial Interests", as of December 31, 1968, which you intend to furnish to Senator Russell B. Long, Chairman of the Senate Finance Committee, in connection with the contemplated hearings on the question of your confirmation as Secretary of the Treasury.

You have requested our opinion whether, in the light of facts set out in that letter and Confidential Statement, your assumption of the office of Secretary of the Treasury (upon being duly appointed to the office by the President of the United States and such appointment being confirmed by the Senate) will result in a violation of any of the provisions of Section 1003 of Title 31, Section 209 of Title 18, or Section 7214(b) of Title 26, of the United States Code.

On the basis of the facts set forth in the above-mentioned letter to Senator Long and such Confidential Statement, we are of opinion that, upon your assumption of the office of Secretary of the Treasury, you will be in compliance with the letter and spirit of Section 209 of Title 18 and Section 1003 of Title 31 of the Code. Although Section 7214(b) of Title 26 of the Code does not, in our opinion, apply to the Secretary of the Treasury, even if it were applicable to him, we believe that the section is, nevertheless, not applicable to a person whose only interest in the manufacture of tobacco, snuff or cigarettes, or the production, rectification or redistillation of distilled spirits, is through the holding of a comparatively small common stock interest in a corporation which might be engaged in such manufacture, production, rectification or distillation. See 36 Opinions of the Attorney General 12, 18 (April 18, 1929).

We call your attention to the fact that, after your assumption of the office of Secretary of the Treasury, you will remain subject to the provisions of Section 209 of Title 18 and Section 1003 of Title 31 of the Code. So long as the facts, set forth in your letter to Senator Long, are unchanged, however, you will, in our opinion, continue to be in compliance with the provisions of the two last mentioned statutes. In addition to these statutes, you will, upon assumption of office, also be subject to Sections 203, 205, 208, 211 and 219 of Title 18 of the Code, among other statutes.

In the day-to-day administration of the office of Secretary of the Treasury, Section 208 of Title 18 will be the statute which will be principally applicable to you. In substance, Section 208(a) provides that the Secretary of the Treasury (as an officer or employee of the Executive Branch of the United States Government) may not participate, personally and substantially as a government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, acquisition, arrest or other public matter in which, to your knowledge, you, your wife or any minor child, or any organization with which you may be negotiating for any arrangement concerning prospective employment, has a financial interest. Section 208(b), however, provides that the foregoing prohibitions will not apply (i) if you first advise the President of the nature and circumstances of the matter in question and make full disclosure of any financial interest you may have, and receive in advance a written determination by the President that that interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from you, or (ii) if, by federal rule or regulation published in the Federal Register, the financial interest in question has been exempted from the requirements of Section 208 as being too remote or too inconsequential to affect the integrity of your services.

We also call your attention to Executive Order No. 11222, published on May 8, 1965, in 30 Federal Register 6469 and entitled "Standards of Ethical Conduct for Government Officials and Employees". Although the reporting requirements of that Executive Order, apparently, do not apply to any member of the Cabinet, the standards of conduct set out in the Order are applicable to any Government officer.

Very truly yours,

HERBERT A. FRIEDLICH.

CONFLICTS OF INTEREST

[Prepared by the staff of the Committee on Finance]

The general conflicts of interest statutes governing the conduct of federal officials and employees are codified in Title 18 of the United States Code at Chapter 11. These provisions reflect the law as it was amended by Public Law 87-849, 76 Stat 1119, approved October 23, 1962. In addition to these general provisions there are several more specific statutes directed at the office of Secretary of the Treasury.

Summary of General Conflicts of Interest Statutes.—The following is an excerpt from a legal memorandum prepared January 28, 1963, by the Attorney General explaining the conflicts of interest statute:

"SUMMARY OF THE MAIN CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87-849

"A regular officer or employee of the Government—that is, one appointed or employed to serve more than 130 days in any period of 365 days—is in general subject to the following major prohibitions (the citations are to the new sections of Title 18):

"1. He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a manner in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

"2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

"3. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

"4. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibilities during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restraint described in paragraph 3 if the matter is one in which he participated personally and substantially.

"5. He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 209)."

Title 18 U.S.C., Sec. 219.—Subsequent to the enactment of the foregoing provisions, a new Sec. 219 was added to the conflict of interest statutes. This new section makes it unlawful for any officer or employee of the United States (or of the District of Columbia) to act as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938 as amended.

Summary of Conflicts of Interests Statutes Directed to Officers and Employers of the Treasury Department

Title 5 U.S.C., Sec. 243; Title 31 U.S.C., Sec. 1003.—These provisions are identical. They make it unlawful for the Secretary of the Treasury to—

- (a) carry on the business of trade or commerce;
- (b) be owner in whole or in part of any sea vessel;
- (c) purchase by himself (or by another in trust for him) any public lands or any public property;
- (d) be concerned at the purchase or disposal of any public securities of any State or of the United States; and
- (e) take any emolument or gain for negotiating or transacting any business in the Treasury Department, other than what shall be allowed by law.

Title 18 U.S.C., Sec. 1901.—This provision makes it unlawful for an officer of the United States concerned in the collection or disbursement of the revenues thereof to carry on any trade or business in the funds or debts of the United States, or of any State, or in any public property of either.

Title 26 U.S.C., Sec. 7214 (b).—This provision requires the dismissal from office and the imposition of a fine on any Internal Revenue officer or employee interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigarettes, or in the production, rectification, or redistillation of distilled spirits.

Text of General Conflicts of Interest Statutes.—The following text reflects the principal substance of the statute involved. Subsequent portions of these statutes may make the offense inapplicable in certain specifically described situations.

SEC. 203. "COMPENSATION TO MEMBERS OF CONGRESS, OFFICERS, AND OTHERS IN MATTERS AFFECTING THE GOVERNMENT.

"(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another—

* * * * *

"(2) at a time when he is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission, or

"(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Commissioner, officer, or employee—

"Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States."

SEC. 205. "ACTIVITIES OF OFFICERS AND EMPLOYEES IN CLAIMS AGAINST AND OTHER MATTERS AFFECTING THE GOVERNMENT.

"Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, otherwise than in the proper discharge of his official duties—

"(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

"(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest—

"Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both."

SEC. 208. "ACTS AFFECTING A PERSONAL FINANCIAL INTEREST.

"(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or any independent agency of the United States, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

"Shall be fined not more than \$10,000, or imprisoned not more than two years, or both."

(Subsection (b) makes the preceding provision inapplicable if the officer involved has received in advance a written determination made by the Government official responsible for the appointment to his position that the interest is not so substantial as to be determined likely to affect the integrity of the services which the Government may expect from such officer or employee.)

SEC. 209. SALARY OF GOVERNMENT OFFICIALS AND EMPLOYEES PAYABLE ONLY BY UNITED STATES.

"(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

"Whoever, whether an individual, partnership, association, corporation, or other organization pays, or makes any contribution to, or in any way supplements the salary of, any such officer or employee under circumstances which would make its receipt a violation of this subsection—

"Shall be fined not more than \$5,000 or imprisoned not more than one year, or both."

SEC. 211. "ACCEPTANCE OR SOLICITATION TO OBTAIN APPOINTIVE PUBLIC OFFICE.

"Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be fined not more than \$1,000, or imprisoned not more than one year, or both. This section shall not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States."

SEC. 219. "OFFICERS AND EMPLOYEES ACTING AS AGENTS OF FOREIGN PRINCIPALS.

"Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than \$10,000 or imprisoned for not more than two years, or both."

Text of Conflicts of Interests Statutes Directed to Officers and Employers of the Treasury Department

Title 5 U.S.C., Sec. 243; Title 31 U.S.C., Sec. 1003.—"No person appointed to the office of Secretary of the Treasury, or Treasurer shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be owner in whole or in part of any sea vessel, or purchase by himself or another in trust for him, any public lands or other public property, or be concerned in the purchase or disposal of any public securities of any State, or of the United States, or take or apply to his own use any emolument or gain for negotiating or transacting any business in the Treasury Department, other than what shall be allowed by law; and every person who offends against any of the prohibitions of this section shall be deemed guilty of a high misdemeanor and forfeit to the United States the penalty of three thousand dollars, and shall upon conviction be removed from office, and forever thereafter be incapable of holding any office under the United States; and if any other person than a public prosecutor shall give information of any such offense, upon which a prosecution and conviction shall be had, one-half the aforesaid penalty of three thousand dollars, when recovered, shall be for the use of the person giving such information."

Title 18 U.S.C., Sec. 1901.—"Collecting or Disbursing Officer Trading in Public Property.

"Whoever, being an officer of the United States concerned in the collection or the disbursement of the revenues thereof, carries on any trade or business in the funds or debts of the United States, or of any State, or in any public property of either, shall be fined not more than \$3,000 or imprisoned not more than one year, or both; and shall be removed from office, and be incapable of holding any office under the United States."

Title 26 U.S.C., Sec. 7214(b).—"Interest of Internal Revenue Officer or Employee in Tobacco or Liquor Production.—

"Any internal revenue officer or employee interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigarettes, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from

office; and each such officer or employee so interested in any such manufacture or production, rectification, or redistillation or production of fermented liquors shall be fined not more than \$5,000."

The CHAIRMAN. Mr. Kennedy, you have provided us with a rather extensive statement of your assets, in addition to what you propose to do about them as advised by counsel.

Now, while this is confidential, it will be available to each member of the committee, although it is not for public distribution. I would think that perhaps it might be well for you to state generally, because the press will be interested in this and so will the Nation generally, how you propose to handle any potential conflict of interest that might appear based on the statutes that exist on the books today?

Mr. KENNEDY. Each of the members of this committee are entitled to and, I think, now have this information. I would expect and hope that it would be confidential. But in general, as you have indicated, I own stock, not a large amount in any company in relation to its capital resources. That stock, together with Continental Bank stock that I own, will be placed in a trust over which I will have no say during my tenure in government. The investment of the funds as well as my income tax return, and so on, will be prepared by the trust, and they will report to me only the net income that they make on the trust.

I have insurance which will continue after retirement from the bank on which I will pay the normal amount. It is according to the plan that the bank has set up for officers and employees, and I would expect to continue to carry that insurance for coverage of my family.

I also have profit sharing in the Continental Bank, some of which is in Continental Bank stock, I think about 26 percent of it, and that will be paid out to me and go into the trust. I believe that the date the amount will be paid will be the middle of March, although the termination is now, and I have no say over it. So I think that will take care of the profit sharing. And the board of directors gave a separation allowance to me which will not be paid to me during my tenure in the Government but will vest after termination from service in the Government.

The CHAIRMAN. I was somewhat dismayed to discover that you felt that it would be necessary to reduce the retirement benefits that you would otherwise earn in your present employment in order to take this job. Do I understand that to be the case?

Mr. KENNEDY. That is the case, Senator. But that is according to our pension plan, and I will be taking my retirement early so there will be an actuarial cutback in my retirement allowance. That I am prepared to accept.

The CHAIRMAN. Thanks very much.

I would suggest that members limit themselves to 10 minutes on their first questions of the Secretary so each member might have a chance to participate in the beginning. Thereafter each member may speak as long as he cares to.

Senator DIRKSEN. Mr. Chairman, first Secretary Kennedy, since he comes from Chicago, and I have to go to Judiciary, I wish the committee would indulge me for a few minutes.

The CHAIRMAN. Without objection, we will be happy to do that, Senator.

Senator DIRKSEN. We regard him as one of our most distinguished citizens. But I was surprised, and I haven't known this in all the time I knew him, that with that name Kennedy he was a member of the Mormon Church, and he is a devout and active Mormon. It bothered me a little, because here is a Mormon named Wallace Bennett on this committee, who does a powerful job, I must say, and here is Willard Marriott running the downtown inaugural show, and here is George Romney, who pops into the Cabinet and he is an active Mormon, and it gave me some concern as to when the Mormons would want to take over. [Laughter.]

Mr. Kennedy, I am delighted, and I am delighted at that one paragraph in your statement which reads as follows: "Long active in the Mormon Church, Kennedy was until 1966 the first councilor in the Chicago stake presidency of his church. For several years he also served as a bishop in Washington, D.C.

"He is a member of Nauvou Restoration, Inc.," and I think that is a great undertaking that the church is doing down in Nauvou, Ill., in restoring some of those old buildings because of their historic value, and because of what happened in that area that occasioned the long trek to the Salt Lake City area.

He served a 2-year mission in Great Britain and before he graduated from college and that, I guess, is in conformity with what the church requires of its young people.

Kennedy has said that "it is hard to evaluate the part religion has played in my business life. Belief in God makes one more interested in others and their problems. To help others, to learn, to grow in life—these are the important things."

I am very happy about that. I have carried on a tour de force with the Supreme Court for a long time and, God willing and if I have got energy, and I am alive, sometime early this session that amendment to permit prayer in the public schools of this country is going back before the Senate for a vote, and I am glad to see you down in the Treasury Department because I regard you as a valued ally against the Court. That is all I have to say.

[Applause.]

Mr. KENNEDY. Thank you very much, Senator Dirksen.

The CHAIRMAN. Senator Anderson?

Senator ANDERSON. There has been quite a little discussion about interest rates recently. We are now paying 7 percent, I understand. Is that the highest it has ever been down at the Treasury or the highest since the Civil War?

Mr. KENNEDY. As Senator Long indicated, they are at a historic high level. They have risen sharply. We have had an inflationary situation, as you know, and a rather tight money situation, and the demand for credit has outbid the supply, so interest rates have gone to a high level.

Senator ANDERSON. Do you regard this 7 percent as a final figure or is it on its way to still higher levels?

Mr. KENNEDY. Senator, I think it all depends on the supply and demand factors in the money market and also the control that is effected on the economy to bring inflation under control.

As a borrower of large money, if I am confirmed, rather than a lender, I would welcome the time when we could go into a market where

it would be a little easier to float Treasury securities and get a little better rate.

Senator ANDERSON. Do you feel there is any danger in the 7-percent rate?

Mr. KENNEDY. In the present climate I see none.

Senator ANDERSON. I don't think I have any further questions.

The CHAIRMAN. Senator Bennett?

Senator BENNETT. Mr. Chairman, Mr. Kennedy is another example of Utah's chief and most valuable exports. We have a very high birth rate and a rapid population growth in those young years. We partially educate them and then we send them east and west to finish their education and establish their careers. Occasionally some of them come back. But I think we have no more brilliant example of the value of such exports as David Kennedy who is here today.

He was born in a little town about as far off the railroad as you can get, it is in Randolph, Utah, Rich County, but the county is named for a man and not its financial status. It is cattle country, still is, pioneer country, and when a man like David Kennedy comes out of it and achieves the position he has on the basis of his ability, we are very proud of him.

I am grateful to Senator Dirksen for pointing out his Mormon ancestry, and I think David and I would be very happy to remind the Senator that the doors are open, and we will welcome him any time.

[Laughter.]

I am delighted that a man with the characteristics and the ability of David Kennedy has been given this great responsibility in this time of great need, and I am sure the people of the United States will be just as proud of him as he carries out his functions, as we are in Utah.

Mr. KENNEDY. Thank you, Senator Bennett.

Senator BENNETT. Mr. Chairman, I would like to offer for the record, my rather formal statement on Mr. Kennedy's nomination.

The CHAIRMAN. We will be happy to include that.

(Senator Bennett's statement follows:)

STATEMENT BY SENATOR WALLACE F. BENNETT AT THE NOMINATION OF DAVID M. KENNEDY TO BE SECRETARY OF THE TREASURY

David M. Kennedy was born in Randolph, Utah, of rugged pioneer ancestry. He was educated in Utah public schools and achieved his college degrees—A.B., LL. B. and M.A.—at George Washington University. His rigorous training and background have served him well in both banking and Government circles. He is, in my opinion, the most qualified man in the country to undertake the arduous task of Secretary of the Treasury.

Mr. Kennedy has made the \$6.6 billion Continental Illinois National Bank & Trust Co., the country's eighth largest bank, one of the most dynamic financial institutions in the country. Continental was the first Midwest bank to enter the international markets on a major scale, with the establishment of several overseas branches. Mr. Kennedy has taken personal interest in this international development. He understands international economics and can be counted on to make an aggressive effort to bring our chronic balance-of-payments situation under control. To illustrate his interest in the matter, he made the fol-

lowing comment in a speech a year ago: "Failure to get the balance of payments into better shape will sharply increase the likelihood of a much greater sacrifice: a breakdown of the international monetary mechanism, the decline of the dollar as the world's major reserve currency, and possibly prolonged stagnation in world trade and economic growth." Obviously, we can rely on Mr. David Kennedy to take a firm hand in correcting this chronic, gnawing problem.

I suppose that Mr. Kennedy's most outstanding recent accomplishment was his work as Chairman of President Johnson's Commission on Budget Concepts. In this capacity, he led a top-level committee in the development of a series of strong and virtually unanimous recommendations for simplification and unification of the budget. Most of the recommendations of this Commission, which made its report on October 10, 1967, were adopted in the 1969 Federal budget, issued in January 1968.

The most significant recommendation was for a unified budget instead of the three different forms that had been used in times past. In completing this study, Mr. Kennedy worked closely with members of both political parties and I think I can say without contradiction that the Democrats serving on the Commission were just as impressed with his performance as were the Republicans.

Mr. Kennedy began his professional career with the Board of Governors of the Federal Reserve System in Washington in 1930 where he served first as an economist, later as an assistant chief of the Government Securities Section, and finally as assistant to the Chairman of the Board. After 16 years of distinguished service at the Federal Reserve, Mr. Kennedy joined the Continental Illinois Bank in 1946, where he advanced steadily through the ranks to the position of chief executive officer and chairman of the board in 1959. During a year's leave from the bank in 1953-54, Mr. Kennedy served as Assistant to the Secretary of the Treasury.

Mr. Kennedy has served on several key blue-ribbon committees of the American Bankers Association and in these capacities has performed vital services to banking and to the Government. As a member and former chairman of the ABA Government Borrowing Committee, for example, he has advised the U.S. Treasury Department on general conditions in the Government securities market and related markets, and has offered advice, when requested by the Secretary of the Treasury, on other matters with respect to prospective Treasury financing.

David Kennedy is extremely active in civic and public affairs, serving as a member of several key councils and committees, including the Federal Advisory Council of the Federal Reserve System, the Committee for Economic Development, the National Advisory Committee on Government Practices and Policies, the National Public Advisory Committee on Regional Economic Development, the American Foreign Service Association, the U.S. Chamber of Commerce and several foreign chambers of commerce, a trustee of the Brookings Institution, and on the board of directors of several American industrial corporations.

Mr. Kennedy's bank, under his leadership, is in the forefront in his community in participation in urban affairs and the problems of our cities. That participation includes both financing and management talent. Mr. Kennedy would undoubtedly bring to the Treasury the same receptive attitude to community needs as he had at the Continental Illinois Bank.

Mr. Kennedy's mild outward manner, and his kindness and respect for others and their views, should not be taken to mean that he is by any means a pushover or a softy. He is clear thinking and hardheaded, yet a man who is cooperative and a good team worker.

His international activities and contacts have gained him high regard and respect by foreign financial and business leaders. This will be a vital asset to the United States. After all, confidence in the leadership of the American Government is probably one of the key factors in preserving the soundness of the dollar. Mr. Kennedy, like his distinguished predecessor Henry Fowler, will be able to work with other nations, to command their respect, as well as the respect of government leaders at all levels here at home. I have no doubt but what Mr. David Kennedy will go down in history as one of the greatest Secretaries of the Treasury this country has ever had.

I count him as one of my best friends, but my recommendation to this committee is not based on personal friendship. It is based on high intelligence, an outstanding education, practical business experience, distinguished Government service, and, most important, a loftiness of character which will make David Kennedy one of our most valuable Government assets.

The CHAIRMAN. Senator Talmadge.

Senator TALMADGE. Thank you, Mr. Chairman.

Mr. Kennedy, I didn't know whether to congratulate you or sympathize with you in your new assignment. I regard the Secretary of Treasury position particularly in the critical time that you face as the second most important assignment in our Nation, second only to the Presidency itself.

Do you have any views or recommendations or suggestions as to how we can stop this inflationary spiral which I believe was 4.7 percent last year?

Mr. KENNEDY. Yes, Senator, I think it is important that we have suggestions and a program, and I think that it is a first order of business.

We had, as you well know, a very substantial deficit a year ago. Fortunately this year the deficit hopefully will disappear and hopefully next year as well.

We must maintain a very tight budget situation, and I think a very restrictive monetary policy in this climate otherwise our balance of payments and our whole domestic economy will be in serious trouble.

Senator TALMADGE. That was the second question I wanted to ask you. If my memory serves me correctly we have had a deficit on our balance of payments now every year except one in the last 12 or 13 years, and that was in the Suez crisis of 1956. What are your recommendations and what are your views about correcting this deficit on our balance of payments?

Mr. KENNEDY. As you have indicated, we have had a chronic imbalance in our payments. Sometimes it has been very large. We have had to ask our friends abroad to carry funds over here in various ways.

On paper, at least now, the balance of payments looks better, but basically our trade figures are not good. There has been a gradual and continuous deterioration which again is a reflection of the inflationary conditions, in part, here. I think that we must increase our

favorable trade balance. At the same time we will be working on other facets of the balance-of-payments problem.

Senator TALMADGE. I think some \$3 or \$4 billion have come into the stock market primarily from Europe in 1968. Of course, that was during a rising market. Now, we have a falling market. That money can flee as fast as it came over here, and that would make the balance-of-payments situation far more serious than it is if this money is withdrawn from the market.

Mr. KENNEDY. You are precisely right, Senator. The improvement we have had has been in the investment money that has come into this country in part because of troubles abroad, the Czechoslovakian incident, the French problem. If it comes in, it can go back.

Senator TALMADGE. You mentioned a moment ago we will have to increase our exports, and I heartily agree with that. It looks as if every time we meet with the foreigners to make a deal on trade we come out second best. They always come up with some gimmick like variable taxes and quotas which forestall our exports. As a matter of fact, it has reached the point where I think our imports, including subsidized imports, are actually greater than our exports. I think our foreign trade policy needs some review. Imports of steels and textiles particularly are unfavorable to this country. I believe the deficit on textiles alone now is about \$1 billion a year. We are supposed to have agreements but apparently they haven't been enforced very well. Do you think those laws should be enforced, that we should look at that more critically?

Mr. KENNEDY. In that field, Senator, we must take a look at every item in every category. I have already been in conversation with the earlier groups that have been working on it, getting background information. At an early date I will be talking to Secretary Stans of the Commerce Department to see what we can do shortly in that field.

Senator TALMADGE. Do you have any views that you are ready to announce or does the new administration have any views as to whether they will recommend the extension of the surtax?

Mr. KENNEDY. As I understand, the President is coming out with his budget this evening in his state of the Union message. I had no hand in the preparation of that budget, and I haven't seen the detailed figures. When it is out, we will examine it very carefully. I think it is important that we have a very tight budget on the expenditure side, and we have enough revenues to produce a reasonable surplus in the present economic climate.

Now, I feel that the surtax should be ended at the earliest possible time consistent with budgetary conditions, the economic situation, and, of course, the end of the war in Vietnam, which we all hope for and pray for. This would give us, I think, what we need. So it is tied to all of those considerations in my own opinion.

Senator TALMADGE. If the surtax is not extended or if it is reduced what are we going to do about the debt limit?

Mr. KENNEDY. I suspect that we can get by on the statutory debt limit until about the fall of this year. We will be knocking on the door of Congress, as I look at the figure, sometime September, October. We may have a tight squeeze at the Treasury near the end of June. But I am not prepared at this time to say whether we have to come up in June or in the fall.

Senator TALMADGE. Thank you, Mr. Secretary.

as big as its advance in the past year. "Things are slowing down," says an executive, although he adds that flare-ups of the Hong Kong flu have made the consumer temperature unusually hard to take lately.

TOO MANY NEW CARS

The auto industry's record 1,435,000-unit stock of unsold cars looks "a little high" in relation to the sales potential, concedes a generally optimistic auto executive. "There are a lot of people who don't really need a new car now," he says, fretting that the spreading increase in instalment finance charges will discourage some of them from buying during the peak spring sales season.

At least a few bankers, too, are starting to echo the reserve boards concern. The first was Tilford G. Gaines, vice president and economist of Manufacturers Hanover Trust Co., who cautioned that "business behavior and consumer behavior are on a collision course" that could result in a recession. "Let's hope," says a Washington planner, "that a lot more bankers will tell their customers the same thing when they come in for loans."

Even among the most bullish of Johnson Administration officials, there's some apprehension about business investment plans. While it is "much too early for alarm," says Assistant Commerce Secretary William H. Chartener, he calls the rise in business capital outlays "seemingly premature" and cautions that there's "sporadic evidence of too rapid a buildup of inventory." If retail sales "should begin to flag at a time when business expectations are beginning to soar," he says, "the result could be a quite unwelcome letdown."

PASSING THE PEAK

Indeed, some analysts in the capital contend that consumer demand has already passed its peak for a while. One says "retail sales really haven't done anything since August," when they reached a record \$20.04 billion on a seasonally adjusted basis. The Commerce Department initially billed November's total as a new record, but this was scaled down to a subrecord level when more data came along. December's decline of 2% may herald more extended sluggishness.

Even allowing for the likelihood that the sales-damping effects of the flu will fade, most officials still figure on a marked moderation of consumer spending in these early months of 1960. Paychecks have already been pinched by the Jan. 1 increase in the Social Security tax rate to 4.8% from 4.4%, estimated as slicing off some \$1.5 billion at an annual rate from private purchasing power. And since the 10% surtax was retroactive to last April 1 and withholding started only in mid-July, officials are figuring that many families will have to make large lump-sum tax settlements by April 15.

In the next few months, officials say, many families will also be well past the point at which they can handily support their spending habits by taking on new installment debt and dipping into savings accounts. Thus, they figure, much of the consumer buying restraint they originally expected to show up last summer, soon after passage of the surtax, will only begin to be felt now. Moreover, they note, some private surveys show that consumers are beginning to balk at rapidly rising prices.

Senator HARTKE. I wonder if you would care to comment on that situation?

Mr. KENNEDY. I think there has been very strong pressure by building of plant and equipment with modernization in keeping up the costs of our major corporations. I don't believe that the small business or the smaller concern is denied credit. I think they do get credit, and in many cases they get the prime rate. But I would disagree with you, Senator, on the assertion that the small businessman is not able to get credit in today's circumstances.

It seems to me that the inflationary pressures we have had have caused corporations to look ahead and modernize very fast. There will have to be some slowdown in that if we are to bring this into balance.

Senator HARTKE. But the anticipated doubling of the plant expenditures' rate indicates that business corporations are betting on inflation, isn't that true?

Mr. KENNEDY. I think when we have had a period of 2 or 3 years of increasing prices, they tend to bet on future inflation, and they go ahead.

Senator HARTKE. In your opinion will this factor as well as the other factors in the money market cause interest rates to go even higher than they are today? In other words, do you think we have reached a peak in interest rates?

Mr. KENNEDY. I don't believe I am prepared to say that we have or we have not. I would hope that we have. I think it is more a question of availability of credit than interest rates. I know of the problem of the banks in getting funds for their lending activities. They have gone up very sharply, and normally they don't continue to go up. They reach a peak and then level there. I would hope that they would level at this point and not go higher.

Senator HARTKE. Another question, Mr. Kennedy. During the campaign, Mr. Nixon called for an end to the mandatory restrictions on foreign investments which were imposed through Executive order by President Johnson last January. You yourself have been reported to have called these investment restrictions disruptive. You also have said you consider them necessary and justified. Would you care to describe to our committee what your position on these investment restrictions is at this time, and can you tell us if we can expect these restrictions to be rescinded under the Nixon administration and if so, when would you expect rescision of these restrictions to occur?

Mr. KENNEDY. Senator Hartke, my previous position is clear and has been stated as you gave it. That was in the light of the then existing conditions. I never like the restrictions, as my statements earlier had indicated, and yet I realize the importance of keeping our balance of payments in some semblance of order.

At the present time I would like to see the restrictions removed just as quickly as we can, but they cannot be removed unless we can be sure that our domestic economy is in some reasonable and sustainable position, and that we have control over our balance-of-payments deficit. If we can do those things, I think we can immediately eliminate them.

Senator HARTKE. Mr. Kennedy, don't we find ourselves sort of chasing our own tail on this proposition? You yourself have stated that you believe these investment restrictions are one of the factors which are creating the necessary protectionist approaches most of the European nations are following at this time. Isn't that a correct assessment of your statement?

Mr. KENNEDY. I think that is right. They tend to bring further restrictions.

Senator HARTKE. Yes.

Mr. KENNEDY. You build one dam and then have to build another one and another one. I think that just as soon as we can move to freer markets everywhere, the better off we are. I doubt that you can do that with one full sweep. I think we have to analyze each case. We have to see what the interest equalization can do or will do at the present time; and what will happen if the restraint on banks is removed or changed. Those are the considerations high on the priority list.

Senator HARTKE. You relate this back to the stability of the domestic economy. Do you feel it is necessary that we have, as Mr. Brimmer

has indicated, at least in the immediate future some sharp increase in unemployment in order to bring a cooling off of the economy?

Mr. KENNEDY. I wouldn't know what you mean by a really sharp increase in unemployment. I think that the effort would be to take the inflationary steam out of the economy, with a minimum effect on unemployment. Now, that is not easy.

Senator HARTKE. What would you consider the minimum percentage?

Mr. KENNEDY. Well, surely somewhat higher than the present percentage, and I wouldn't want to pinpoint a figure.

Senator HARTKE. Do you mean 1 percent higher or one-tenth of 1 percent?

Mr. KENNEDY. Well, one-tenth would sound better at the moment but I think if it would go up to 1 percent it would not be too much.

Senator HARTKE. You mean 1-percent increase in unemployment would not—

Mr. KENNEDY. I don't like to get into a percentage figure because we are dealing with human beings, not a percentage.

Senator HARTKE. Exactly. You are dealing with the question of the money economy against the people economy.

Mr. KENNEDY. That is right.

At the same time we have unemployment among some people that is not caused by the economic situation. It is the fact that in a way they are unemployable in our present technological society. So we have got a training program. We have a large group of people that could come in and hold down on the inflationary pressures if we could train them. We also have overemployment in many of the trade areas, and we must somehow add people in that area or otherwise wages go up and up.

Senator HARTKE. Mr. Kennedy, shortly you will assume one of the favored positions as a member of the Quadriad. Do you think that the Government is capable of such fine tuning of the economy so as to be able to determine just which people are going to be put out of work and which ones are not? Or do you think it is going to follow the time honored pattern that the people who will be out of work will be the people who suffer the most now—that is; the black people and the teenage dropouts and the young people, these are the groups with the highest rates of unemployment. Since they are the last to be hired won't they be the first to be fired?

Mr. KENNEDY. I am not sure how this will all work out. I will be a member of the Quadriad, and I think its job is the overall determination of credit and monetary policy rather than trying to fine tune the unemployment rate among certain groups. Other areas in the Government will be considering the urban problem and rural problem and how to take care of those groups. I will be watching the budgetary impact of that kind of activity.

Senator HARTKE. Let me just ask you one final question in line with what Senator Talmadge has asked you about the surtax. We all know during the campaign Mr. Nixon did specifically say according to repeated reporting, for example, on October 27, 1968, "I will allow the 10 percent surtax to expire as scheduled on June 30 or at least will reduce it significantly." Do you think this was so much political puffing or was it a commitment to the American people? Do you think this is a commitment that should be kept?

Mr. KENNEDY. I think Mr. Nixon's position, if you take it all through the campaign and at the present time, will be to eliminate or reduce the surtax at the earliest possible time consistent, as I have indicated, with economic conditions and the Vietnam war.

Senator HARTKE. But he did say specifically that he would permit it to expire on June 30.

Mr. KENNEDY. Well, I think his intention right through is to get out of the system as soon as possible and that is what I would like to see.

Senator HARTKE. All right, thank you.

Mr. KENNEDY. Thank you.

The CHAIRMAN. Senator Curtis.

Senator CURTIS. Mr. Chairman, I feel we are fortunate that individuals of the caliber of Mr. Kennedy are willing to give their time to public service, and I shall be happy to vote for his confirmation.

Mr. KENNEDY. Thank you, Senator.

Senator CURTIS. I will be brief. I have just one question. In the absence of a grave national emergency, do you regard a balanced budget and a movement toward some orderly retirement of the national debt as both desirable and necessary?

Mr. KENNEDY. Yes, Senator Curtis, I think that particularly in times of prosperity, in times like now, we should have a surplus in our accounts. In other times, even with sustainable growth, there should at times be a surplus there or a reasonably manageable deficit. I don't think whether it is up or down a billion or two is the key factor. But when you have a \$25 billion deficit or a very large or continuous deficit over long periods of times it builds into the economy an inflationary bias.

Senator CURTIS. It is not a good thing to have it established in the public mind here at home or around the world that the only way a bond is ever paid is by issuing a new bond; is that correct?

Mr. KENNEDY. I think that is generally true. In Government finance the record everywhere has been a repayment by a new security and an increase in debt. As long as our GNP and our ability to pay is sufficient, so that the burden on the public and on the economy is not too large, it seems to me that we are in control of our own financial affairs. It is when we have these large movements that I become worried.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Senator Fulbright?

Senator FULBRIGHT. Thank you, Mr. Chairman.

Mr. Kennedy, I think like Senator Dirksen, I am interested in your biography here. I notice that you were on the board of governors of the Federal Reserve System. In what capacity were you?

Mr. KENNEDY. Senator, I was in many capacities. I started in the Division of Bank Operations as a technical assistant. I went into the research department as an economist in the Division of Research.

Senator FULBRIGHT. What years were these?

Mr. KENNEDY. 1930 through 1946. I left after the war in 1946 to go to Chicago.

Senator FULBRIGHT. Was Marriner Eccles on the board during that period?

Mr. KENNEDY. Very much so, he was.

Senator FULBRIGHT. When did he come on the board?

Mr. KENNEDY. He came on in the depression of the 1930's, 1933, I think.

Senator FULBRIGHT. 1933. So much of that time you were a friend of his, I take it, from Utah?

Mr. KENNEDY. Although he didn't know me for a good many years. I was in a meeting of the Reserve Board Club, that is the employees' organization, presiding and he said to me "David, where are you from?" I said, "I am from Utah." He said "I know that." He said "When did you come on the board?" and I said "In 1930." "Well," he said, "I can't be blamed for bringing you to the board, can I?" I said "No, but I have been blamed for bringing you." We laughed this off. But I knew his family. He was from my hometown, as a matter of fact, Ogden before we moved to Randolph. He was a good friend and I became at the end his assistant.

Senator FULBRIGHT. Is there something in the Mormon faith that gives one a special advantage of being able to make money or manage it? He certainly did a good job of it. [Laughter.]

Mr. KENNEDY. Senator, there is something in the Mormon religion that teaches us to be on our own and to work and to get an education and to make a public service. I think that that weighed very heavily in my decision to come back into the Government at this period in life when I would like to have gone fishing.

Senator FULBRIGHT. I suspected that. Mr. Eccles stayed here a long time when he had many other things to do, didn't he?

Mr. KENNEDY. He surely did.

Senator FULBRIGHT. I mean he had very great industrial interests which he could have been tied with and yet he stayed 15 or 20 years, maybe longer.

Mr. KENNEDY. He was here until the late 1950's.

Senator FULBRIGHT. He was a very able man, I may say. My first relations with the Federal Reserve Board were through him. I mean I got to know him when I was on the Banking and Currency Committee and I had the very highest regard for his judgment. I remember after the war his views about proper policy to follow after World War II, I think in the light of history, proved far more valid than that which was actually followed in many respects.

Mr. KENNEDY. Senator, I treasure very much the experience I had working for Marriner Eccles. He was a very hard worker.

Senator FULBRIGHT. Yes, sir.

Mr. KENNEDY. He had ideas all over the board sometimes outside his related field and when you worked for him he had an idea a minute coming from him.

Senator FULBRIGHT. Yes.

Mr. KENNEDY. And he was a great teacher for me.

Senator FULBRIGHT. Well, I was interested. When I spoke to you the other day I didn't realize you had had this experience. It is a very reassuring experience.

I notice you also went to George Washington University?

Mr. KENNEDY. That is right.

Senator FULBRIGHT. Some time after I did. I didn't realize that you are almost as old as I am, although you don't look it.

Mr. KENNEDY. My gray hair should show it.

Senator FULBRIGHT. I was at George Washington just shortly before you were. I didn't realize that either.

I was very interested in your biographical statement. It is a very favorable one, I must say, and your associations with the board and with Mr. Eccles in particular, are very reassuring.

I don't wish to try to force you on any of these questions. I would like to raise them. I want to put in the record, Mr. Chairman, if I may, an article from this morning's Washington Post entitled "Trade Surplus Slump Is Laid To Inflation, Imports Jump."

(The article follows:)

[From the Washington Post]

TRADE SURPLUS SLUMP IS LAID TO INFLATION, IMPORTS JUMP

(By Richard Halloran)

Witnesses and Congressmen at a Hill hearing yesterday put the finger on price inflation as the single biggest contributor to a 22 per cent jump in imports during 1968.

The import rise caused a drop in the U.S. trade surplus from \$4.1-billion in 1967 to about \$1-billion last year and nearly wiped out other gains in efforts to overcome the deficit in the U.S. balance of payments.

Assistant Secretary of Commerce Lawrence C. McQuade, appearing before the Joint Economic Subcommittee on International Exchange and Payments, brought up inflation in both his prepared statement and in answers to questions.

Subcommittee Chairman Henry Reuss (D-Wis.) did not fully agree with McQuade. He said he thought it "a little loose to blame inflation" for the high level of imports.

OTHER FACTORS SEEN

Reuss said that while inflation accounted for some of the import rise, other factors might be full employment and the consequent increase in consumer purchasing power or a high level of production and domestic demand that made for a slowing of deliveries of domestically-made products.

Rep. William E. Brock (R-Tenn.) contended that not enough attention has been paid to long-term, fundamental factors affecting the balance of trade, particularly inflation.

He maintained that a basic cause of rising imports and the resident narrowing trade surplus is the loss of American competitive power in both domestic and foreign markets.

McQuade expressed his sympathy with Brock's point. In earlier testimony, he said the U.S. "should rethink our approach to labor-management relations with the objective of removing impediments to greater economic productivity."

URGES SENSIBLE MEANS

McQuade said that "the economic security of the worker should be attainable by a more sensible means than featherbedding and artificially impeding the introduction of containerization and other steps toward greater productivity."

Reuss agreed that American industry can do something to make itself more competitive. He said the automobile industry did it 10 years ago to fight off incursions by small foreign cars.

"This brought Mr. Romney to the cabinet," he quipped. Former American Motors President George Romney, who pioneered in production of a small U.S. car, is President-elect Nixon's Secretary of Housing and Urban Development.

Reuss contended that too few are worrying about competing with foreign product rather than looking for government protection against imports. "Who's running the grocery store on import substitution?" he asked.

OPPOSES TRAVEL CURBS

In other testimony, Acting Director of the U.S. Travel Service Will Arey warned against restrictions on American travel abroad as a measure to close the "travel gap," the difference between what Americans spend abroad and foreigners spend here.

"We cannot say that we shall have continued rapid growth in our receipts from foreign visitors if we take steps to limit the freedom of Americans to travel abroad," he said.

Assistant Secretary of the Treasury Stanley S. Surrey warned against using domestic U.S. tax policy for balance of payments purposes. He said it would disrupt patterns of trade and possibly lead to international repercussions.

Surrey was cautious in responding to Reuss' suggestion that a tax rebate be granted to American exporters as an incentive. He argued that the proper way to handle export incentives is to divorce it from the tax system and have the Congress, by legislation, authorize flat incentive payments to exporters.

Senator FULBRIGHT. You have covered this slightly, except for this factor. I read the first paragraph:

Witnesses and Congressmen at a Hill hearing yesterday put the finger on price inflation as the single biggest contributor to a 22 percent jump in imports during 1968.

Do you subscribe to that in general?

Mr. KENNEDY. When you have a booming economy the business people are looking for materials at prices and imports tend to increase. Prices do have an effect on reducing exports and on increasing imports.

Senator FULBRIGHT. It relates to what you have said, which is nothing new, except that I think it may be a little more concise. It says:

The import rise caused a drop in the U.S. trade surplus from \$4.1 billion in 1967 to about \$1 billion last year and nearly wiped out other gains in efforts to overcome the deficit in the U.S. balance of payments.

This is a very serious matter.

Mr. KENNEDY. Very serious.

Senator FULBRIGHT. Extremely serious, and it again comes back to our domestic and foreign commitments.

I was wondering, in that connection, are you familiar with Mr. Eccles' views about our military adventures abroad?

Mr. KENNEDY. He sends me all his papers and I read them and they are very interesting.

Senator FULBRIGHT. I wouldn't ask you to comment on whether you agree or not, although I hope you do.

Mr. KENNEDY. He has become quite an expert in this field.

Senator FULBRIGHT. I think he is, too, and I subscribe to his views on it. He is part of a very large organization of some of the leading businessmen in this country, is he not?

Mr. KENNEDY. Yes, he is.

Senator FULBRIGHT. And you are familiar with that organization?

Mr. KENNEDY. I am.

Senator FULBRIGHT. And they are responsible businessmen, most of them at least?

Mr. KENNEDY. I think a good many, most of them.

Senator FULBRIGHT. Well, it is well known, I don't wish to take your time on that.

I am interested in this question of imports. In the interest of my State, I, personally, have traditionally been a believer in free trade. Now there is a very great tendency in this country to seek import quotas. As you know, I think some 20 odd quotas were asked for and some imposed, is that not correct, during the last year? There is a great movement, I will say, toward the imposition of quotas. Is that correct?

Mr. KENNEDY. There has been a great movement.

Senator FULBRIGHT. And this brings about, of course, a retaliatory action abroad, is that not right?

Mr. KENNEDY. Precisely.

Senator FULBRIGHT. My State, for example, is deeply concerned at the moment about the recently announced program in Western Europe, the Common Market, to consider imposing internal taxes on products of soybeans. Arkansas is a very large producer of soybeans. The proposal is not a tariff in form, but it has the same effect. By putting taxes upon soybean meal and soybean oil, we believe it might greatly curtail the sale of soybeans. I think this would be disastrous to our country. Do you?

Mr. KENNEDY. We worked for many years to get freedom of action both in trade, currencies and so on. When we don't have our own financial and our own economic situation in hand, then we move to these controls of various kinds and they tend to breed more controls. So we must find ways and means with not only ourselves but with other nations of going back to freer markets.

Senator FULBRIGHT. My time is up, Mr. Secretary. I only wish to say that I think that you can do a great service in this connection, if I understand your views, and I think I do. Your predecessor in the Treasury, with whom I talked very often, gave me the impression that his counsel about the deficit—about the spending on such wild programs as going to the moon and other things, going to Asia with 500,000 men—his counsel was not heeded. He had insufficient influence in shaping the Federal budget. I certainly hope you have. I hope that you will be able to assert greater influence and control because we all know that with 90 odd billion dollars in military affairs it is pretty hopeless to try to bring the budget under control. So I hope you do have greater influence in the highest councils of the Government. Thank you very much.

Mr. KENNEDY. Thank you, Senator.

Senator FULBRIGHT. It is a great pleasure to support you.

The CHAIRMAN. Mr. Ribicoff.

Senator RIBICOFF. I too believe you are very well qualified for this position, Mr. Kennedy.

The international monetary crisis of last fall is still hanging over the Western World. France, this spring, might be faced with devaluation again. I understand there is a strong prospect of a steel strike in England which would raise hob with their balance-of-payments position.

The impact of devaluation on the United States would come as a result of the chain reaction.

What lead do you think the United States should take in trying to anticipate or forestall an international monetary crisis?

Mr. KENNEDY. Senator, in that field, as you know, they have had a Group of Ten and the central bankers cooperating and discussing the various problems to which you allude.

I have not had discussions abroad since this appointment has come to me, and I have not finished discussions with the Treasury and our central bank here on the problems to which you are referring.

I think that the first order of business will be to take a look at the facts.

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I know France is in a difficult position. Great Britain, as you have indicated, has devalued. They have now had a period of time but the problems basically are still very serious, and there are chain reactions as you have indicated.

Now, as to the course of action, I don't think at this point that I could really enlighten you on it.

Senator RIBICOFF. I understand that and I don't expect specific policies. But do you think the position of the United States should be an activist one in trying to exercise leadership?

Mr. KENNEDY. I do.

Senator RIBICOFF. In working out the problem with all nations?

Mr. KENNEDY. We must. We are in a position of economic and political leadership in the world, and our economy, and our whole position, is such that the world looks to us. We must show the kind of leadership that will help show them the way and that means discipline here at home instead of just telling them how to run their business affairs. I don't think it is a question of laying down the law to the Europeans. They have been in this position for generations and they know it, many perhaps even better than we do. But we must exercise the kind of leadership that will make the dollar not only the soundest currency on earth but one in which transactions can be based on and trade can expand and grow under that condition.

Senator RIBICOFF. Your last few predecessors in office were adamant against using the tax system for social and economic purposes involving national objectives. What is your philosophy in the use of the tax system for social and economic objectives involving the Nation's interest?

Let me give you some examples, like various tax credits for private enterprise in the great problems facing our cities, the use of tax credits in the field of education, the use of fast tax writeoffs to encourage the objectives of air and water pollution.

Do you go along with your predecessors that these cannot be considered or do you think there is a place in the tax system for these national objectives?

Mr. KENNEDY. That, Senator, presents a real question, one that should be given very careful consideration, because we do have many problems and we need some answers to the urban question.

When you start to give tax incentives, you have to take a look at what it does to Federal revenues, whether it will bring an economic base and so on. You also have to see what it does in other areas, because if you give an economic advantage in one area you may have to give it elsewhere.

You must also think about the control of Congress in the education area so it doesn't go out of the budgetary control. I am not a tax expert but this is one that is being given very careful consideration by the incoming administration. I am just not sure in my areas to what extent it can be done, but we have got to find a way of getting private business and private people working to build our cities and to strengthen our position in the cities.

Senator RIBICOFF. I happen to agree with Mr. Nixon in his policy statements on the use of private enterprise in the rebuilding of our cities and the use of the tax system and I would hope that the incoming President would not give up his thoughts and ideas because he may

have some congressional opposition from the Democratic side. I think these are worthwhile objectives, and one of the great alternatives for some of the failures of the Federal Government to solve many of our social and economic problems and there is a great opportunity for education even though Members of Congress in powerful positions may not agree. There are objectives that will be faced by Secretary Finch in the social field and I do believe that private enterprise has a fairly constructive role to play. Since we are spending money, whether you do it through the appropriation process or whether you do it through the tax system, the question comes down can the private sector do a better job than Government and, even though it is true, it is costing the same amount of money, by using the tax system are we getting more for the people, and are we solving the problems better by using private enterprise. And I do hope you won't go along with the bureaucratic thinking that has been established in the Treasury Department that you can't use the tax system for social and economic objectives.

Mr. KENNEDY. Senator, I must say I will keep the door open on that one, too.

Senator RIBICOFF. Another question: We have found in this committee, whether it was a problem of GATT or the problem of trade policies, especially when I think back to the Canadian-American auto agreement, that the Treasury Department consistently abdicated its responsibility to the State Department. I think in matters of trade usually the State Department took these problems and looked at them from the political objectives that they had facing them in international affairs, and not always took into account the impact upon American industry and our balance-of-trade problems.

Now, Secretary Fowler in a recent report made the statement:

The keystone of the sound international financial position of the United States and the dollar is a trade surplus.

Do you agree with that?

Mr. KENNEDY. I think we must have a trade surplus, yes; an increasing one.

Senator RIBICOFF. Would you consider having a Special Assistant Secretary for Trade in the Treasury? I don't think you have a slot like that in the Treasury Department.

Mr. KENNEDY. Not specifically and fully in that field. I think it has been assigned to the Under Secretary for Monetary Affairs and to an Assistant Secretary under him. I think we will have to work very closely with State and with the Commerce Department in this, and I think the Treasury ought to have a very strong voice in this field.

Senator RIBICOFF. Is there any question in your mind that in the world as it is now constituted the problems of trade, and the problems of money are substantial indicators of national power, as much as foreign policy or defense, and if we are going to use the money system or trade to indicate American power and American influence, don't you think the Secretary of the Treasury should have an equal voice, at least, with the Secretary of State in making decisions that have to do with the trade and money?

Mr. KENNEDY. Yes; I should think so, Senator, and I will follow through and discuss this with Secretary Rogers. I think it is an important point that you brought out and I would like to consider it.

Senator RIBICOFF. I think as Senator Talmadge and Senator Hartke, especially with myself ran into this on numerous occasions when trade policy and money policy was being made by the Secretary of State, when basically we felt that the Secretary of Treasury should have had a substantial voice in making those policies.

Mr. KENNEDY. I shall look into that.

Senator TALMADGE. If the Senator yields, I think the Canadian auto agreement was a good example.

Senator RIBICOFF. That is right. And we were forced in committee to have a resolution passed indicating that we felt that the Finance Committee was being bypassed time and time again on monetary policies and trade policies by executive agreements dominated by the Secretary of State and the State Department, whereas our objectives, as a Nation, had to take into account trade problems and money problems.

It would be my hope that the Treasury would address itself to this very involved problem because you are going to have to wrestle with this and come back to this committee time and time again involving problems just such as that.

Mr. KENNEDY. I would like, Senator, with your permission to discuss this in some detail with you at some time.

Senator RIBICOFF. I would be delighted.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Secretary, the point raised by Senator Ribicoff, I think, is one that the Secretary of the Treasury should very well keep very much in mind. Not only did we have quite a bit of protest by being confronted with one of these *fait accomplis* by the executive branch but at the close of this last Congress we found the administration had agreed to an executive agreement which we felt violated the law. We had informed the executive that if they did that we did not propose to agree with it. They did it anyway and Congress responded by actually amending one of the administration's top priority bills with a provision that said the executive agreement would not stand in the absence of an act of Congress to implement it. We made the President sign that bill. So we pretty well indicated that as far as this committee is concerned, and as far as the Senate is concerned, and, for that matter, even the Congress, that we do not think that this thing of bringing an executive agreement in here on trade or anything of that sort contrary to the law should be attempted, and we do not propose to cooperate with it if it is attempted. We indicated that is what we are going to do when we acted in that fashion last year.

Now, Mr. Secretary, this balance of payments is a very serious problem. I have here a chart which I think indicates how someone in the trade field keeps trying to put out figures indicating that we have a favorable balance of trade when actually we have a very, very unfavorable balance.

Here is just an example: One looks at so-called balance of trade and there would appear to be a \$1 billion surplus. But look at what the figures actually show. Out of total exports of \$33 billion and commercial exports of \$30 billion there is a difference of \$2.9 billion of Government-financed exports, mainly giveaway programs, where the Government is paying for it and simply giving it away. That does not help with our balance of trade at all, does it?

Mr. KENNEDY. Well, the help is in the overall totals as it is reported, but basically it is a problem.

The CHAIRMAN. Well, the point is Mr. Secretary, if we are giving away a billion dollars of wheat to India, for example, that does not help one bit in our balance of trade does it? It might help them with food, but it does not help us with our balance of trade, does it?

Mr. KENNEDY. No, I think that would be right.

The CHAIRMAN. In other words, it is just a gift. If they were paying us for it, it would help, but if they are not going to pay for it, it does nothing for us. So there is \$2.9 billion that is erroneously included in their favorable balance-of-trade statistics.

Then, if you look at the difference between f.o.b. and c.i.f. value—which means that when you are trading about 10 percent of your costs is the cost of shipping and the cost of insuring it when you are shipping. You have to make a further adjustment against our national interest for this factor and you come up with a commercial balance of a minus \$4.6 billion in balance of trade as of 1968. Now, that is not counting the tourist trade. What is your impression?

Mr. KENNEDY. It is very much against us, of course, more traveling abroad than coming here.

The CHAIRMAN. It is extremely adverse, so much that your predecessor fought very hard to have some sort of restraint on tourist money moving abroad.

Mr. KENNEDY. Right.

The CHAIRMAN. I would like to put this table in the record at this point just to show what the problem is.

(The table referred to follows:)

BALANCE OF TRADE, 1958-68

(In billions of dollars)

	Total exports	Less Government-financed exports	Commercial exports	Total Imports-f.o.b.	Estimated Imports c.i.f.	Overall balance	Commercial balance
	(1)	(2)	(3)=(1)-(2)	(4)	(5)	(6)=(4)-(5)	(7)=(3)-(5)
1968 ¹	33.0	2.9	30.1	32.0	34.7	+1.0	-4.6
1967.....	30.9	2.8	28.1	26.8	29.0	+4.1	-.9
1966.....	29.4	2.7	26.7	25.6	27.7	+3.8	-1.0
1965.....	26.7	2.6	24.1	21.4	23.2	+5.3	+1.9
1964.....	25.7	2.8	22.9	18.7	20.3	+7.0	+2.6
1963.....	22.4	2.6	19.8	17.1	18.5	+5.3	+1.3
1962.....	21.0	2.1	18.9	15.4	17.7	+4.6	+1.2
1961.....	20.2	1.7	18.5	14.5	15.5	+5.7	+3.0
1960.....	19.6	1.6	18.0	14.7	15.7	+4.9	+2.3
1959.....	16.3	(9)	(9)	15.3	16.6	+1.0	(9)
1958.....	16.3	(9)	(9)	13.0	14.1	+3.3	(9)

¹ Imports including the cost of insurance and freight; derived by adding factor of 8.3 percent to f.o.b. (freight-on-board) figures.

² Estimate based on data for first 3 quarters.

³ Not available.

Source: Survey of Current Business.

Mr. KENNEDY. I would like to study those figures.

The CHAIRMAN. But the point is, Mr. Secretary, we are looking at a minus \$4.6 billion balance of trade when you take into account two very obvious factors: One, shipping and insurance costs, and two, how much of our exports are giveaways.

As far as our balance of trade is concerned, it would be just as good as take that \$2.9 billion and dump it out in the middle of the Atlantic Ocean than to give it to some foreign nation. In fact it would cost us less because you will not have to ship it as far.

Now, Mr. Secretary, I am sure that another Cabinet member is going to be grilled very extensively about this proposal for a major oil refinery and petrochemical complex at Machiasport, Maine.

As I see it, there is no one who is particularly concerned about a free zone at Machiasport. What many of us are concerned about is the overall national interest and the defense amendment that was initiated here in this committee to say that when an industry was vital to national defense you would not permit that industry to be put completely out of business or to be so badly hampered or injured that it could not provide its function in the event of a great defense emergency.

Oil was found to be vital. As a matter of fact, the Secretary of the Interior, Mr. Udall, sat where you are sitting and explained to us why he thought that fuel to power our defense organization was absolutely essential in wartime. Estimates that I have seen indicate, for example, in the event of atomic war, not only would we be unable to get offshore oil into this country, but also we would not even have any refineries left along the coastline. We would have to rely almost entirely upon small inland refineries, 3 and 4 to 600 miles away from the sea, to do what refining that could be done, and that is one reason why the oil quota for these inland refineries was initiated by President Eisenhower—to try to keep them in business as a defense proposition.

Now, in looking at the overall national interests there is also the balance-of-payments problem. From the point of view of most people in the oil business that refinery would amount to about \$46 million a year subsidy for that particular refinery, if that is to be located at Machiasport, Maine, and they use 100,000 barrels of foreign oil a day for that refinery.

If the argument is to be made that the oil industry is not essential to national defense, it can just as well be argued that the shipbuilding industry is not essential to national defense.

For whatever jobs can be picked up at Machiasport, Maine, or that area, let us say perhaps a total of 3,000 jobs—my guess is that the jobs that will be lost in the Boston shipyard alone if we take the same attitude toward the merchant marine would exceed that five times over. The jobs lost at Philadelphia and Baltimore and elsewhere where ships are being built, including New Orleans and Gulfport and the shipbuilding yards along the west coast, would exceed manifold anything that could be gained by putting additional jobs into Machiasport.

Wouldn't it be well to consider what would be the most logical location for something of that sort in the event that you want to do something along that line? In your capacity as Secretary of the Treasury, do you expect to insist that we look at all aspects of that proposal rather than just the isolated effect in that one point in northern New England?

Mr. KENNEDY. Senator, I have not looked into this matter at all. But I think that it should be looked into. The question of other areas would be involved, and many of them would want some of the same thing. I shall look into it. I have not.

The CHAIRMAN. Are you aware of the fact that that one item would appear to make our unfavorable balance of trade another \$150 million a year adverse in just that one thing in and of itself?

Mr. KENNEDY. It does have balance-of-payments implications, yes.

The CHAIRMAN. I hope, Mr. Secretary, that you would look at the defense amendment which was put in the law with that in mind, and I would hope also that you would take another look to see what the situation is with regard to our free trade zone laws. That was put on the statute books back during depression times when tariffs were extraordinarily high, when we had tremendous unemployment and when the United States did not have any balance-of-payments problems. Those situations have now changed, have they not?

Mr. KENNEDY. They have, and that shall be looked into.

The CHAIRMAN. Thank you very much, Mr. Secretary.

Senator ANDERSON. I have been hoping somebody would raise this question of conflict of interest. Do you regard it as a conflict of interest for a Cabinet officer to own Government bonds?

Mr. KENNEDY. To have what?

Senator ANDERSON. To own Government bonds.

Mr. KENNEDY. Yes. According to the statutes, I cannot hold Government bonds.

Senator ANDERSON. Well, the Senate is going to have to file some financial statements very shortly, and I shall have to report some bonds. I think it is unfortunate that is what might be called a question of conflict of interest. But do you or do you not regard it a conflict of interest in this bank stock situation?

Mr. KENNEDY. No, because I will have no control over it.

Senator ANDERSON. That is all.

The CHAIRMAN. Mr. Secretary, if I may just comment on that, I know that is the law, that you are not permitted to own Government bonds. It does seem to me to be somewhat ridiculous, frankly. Your boss is the President of the United States. In the last analysis, you work for him, and you serve at his pleasure. If he wants your resignation, he is entitled to have it even though you are confirmed by the Senate. I have been somewhat amused to see that the law required that the Secretary of the Treasury hold no Government bonds while President Kennedy, when he was President, felt the only thing he could invest his money in was Government bonds to avoid any potential conflict of interest. So it seems to me that there is a case of saying that it is unlawful for the servant to do what the master finds himself required to do.

Mr. KENNEDY. Senator, I have always felt that I should own some stock in any company that I was working for either as a director or directly, and now I will not own any stock in the Federal Government.

The CHAIRMAN. If the law says it, you have to comply with it, but it does remind me of that phrase in Dickens, "If the law says that, then the law, sir, is an ass."

Senator Talmadge?

Senator Hartke?

Thank you very much, Mr. Secretary.

Mr. KENNEDY. Thank you.

The CHAIRMAN. Mr. Secretary, before you leave the room, I would like to say to you that I have many times made the statement that I felt that there was more competence in the Treasury Department

than in any department of this Government. It is appropriate that it should be, because the United States is the leader of the capitalist world. I hope very much in the selection of your assistants you will see to it that this department continues to have the greatest competence of any department of the U.S. Cabinet.

Mr. KENNEDY. I shall try. Thank you very much.

NOMINATION OF ROBERT H. FINCH, OF CALIFORNIA, TO BE SECRETARY OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The CHAIRMAN. Next we will hear from Mr. Robert H. Finch, who has been nominated to be Secretary of the Department of Health, Education, and Welfare.

Mr. Finch is well known to many of us on the Hill by virtue of his work as an aide to former Vice President Nixon several years ago. Now serving as Lieutenant Governor of the State of California, Mr. Finch has acquired knowledge and experience that will serve him well in his new capacity as Secretary of the Department of Health, Education, and Welfare. As chairman of the job training and placement council in California, he has been exposed to the sort of problems he will encounter as one of the Federal officials responsible for the administration of the work incentive program enacted by Congress in 1967 in an effort to lessen reliance of many recipients on public welfare for their livelihood. His membership on the Board of Regents of the University of California and the stature he gained in that post have prepared him for the tasks that await him as overseer of the many Federal education programs under his Department's jurisdiction.

The challenges he must face in his early days in office concern the welfare programs, including the maddening rise in the Federal costs of medicare; and the ever-climbing costs of health care which threaten the solvency of the medicare program as we know it today.

We would be pleased to hear from your colleague from California, who is here to introduce you, Mr. Finch, after which we will hear your statement.

Mr. FINCH. Thank you, Mr. Chairman.

The CHAIRMAN. We are happy to have you with us here today, Senator Cranston.

STATEMENT OF HON. ALAN CRANSTON, A. U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator CRANSTON. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I would like to say at the outset these are the first words I have dared to utter around the Senate since I arrived as a freshman.

It is a great pleasure and privilege to introduce to you a friend of mine, a fellow Californian—I wish I could say fellow Democrat, but if I could he probably would not be here. All of Bob's deepest interests in private and public life have been in education and in job training and equal job opportunities for all Americans. I think this qualifies him particularly for the responsibilities that he will have in the post to which he has been nominated by the President-elect. Everything

in his record indicates that his approach to the financial aspects of that assignment, which are of particular interest of course to this committee, will be wise and prudent.

I believe that he will be an exceptionally fine Secretary of Health, Education, and Welfare, and I recommend him to you without reservation as a man who can do a great job in that position.

The CHAIRMAN. Thank you very much, Senator Cranston.

At this point I would like to insert in the record a letter dated January 13, 1969, received from Senator Murphy of California, endorsing Mr. Finch.

(The letter referred to follows:)

JANUARY 13, 1969.

Hon. RUSSELL B. LONG,
*Chairman, Senate Finance Committee,
New Senate Office Building, Washington D.C.*

DEAR MR. CHAIRMAN: I regret very much that engagements in California prevent my being present at your Committee meeting on January 14 to introduce before the Committee the Honorable Robert Finch, nominee for Secretary of Health, Education and Welfare.

Having known Bob Finch for years as a treasured friend, and as an invaluable leader in the Los Angeles community, and most recently as the highly respected Lieutenant Governor of California, I would have personally enjoyed the opportunity to express before your Committee my assurance that Mr. Finch is a man in whom you can have the greatest confidence and who will unquestionably serve the Nation with high distinction in the important post to which he has been named.

Bob Finch is a man of tremendous intellectual ability, unusual energy and devotion to his affairs, sincere and deep compassion and interest in the lives and welfare of his fellow citizens, attributes which have earned for him universal respect and admiration from all whose lives he has touched.

I commend him to you as one with whom I know you will find it both productive and pleasant to work.

Sincerely,

GEORGE MURPHY.

The CHAIRMAN. In addition, let me insert a telegram from the California Senate praising your nomination.

(The telegram follows:)

SACRAMENTO, CALIF., January 13, 1968.

Senator RUSSELL B. LONG,
*Chairman, Senate Finance Committee,
New Senate Office Building, Washington, D.C.*

The text of SCR 2, adopted by the California Legislature, may prove relevant to your hearings on the background of Lt. Gov. Robert H. Finch in connection with his appointment as Secretary of Health, Education, and Welfare:

Whereas it was indeed with the most sincere sense of pleasure and pride that the members of the Legislature of the State of California learned of the selection by the President-Elect of the United States of the Honorable Robert H. Finch, the Lieutenant Governor of California, to become the Secretary of Health, Education, and Welfare of the United States; and

Whereas, one of the most popular and able men to ever hold the office, the Honorable Robert H. Finch has compiled a distinguished record of achievement as California's 38th Lieutenant Governor in serving as the president of the Senate; as a regent of the University of California and a trustee of the California State colleges; as chairman of California's job training and placement council, the Commission of the Californians, the interagency council for ocean resources, the California Bicentennial Celebration Commission, and of the electronic data processing policy committee; and as a member of the executive committee of the intergovernmental council on urban growth, the State lands commission, the Governor's council, the California State Disaster Council, the toll bridge authority, the commission on interstate cooperation, and the governor's cabinet; and

Whereas he has a thorough understanding of the role of Government in today's complex society and the wisdom and vision to find practical solutions to the

knotty problems facing the Nation in the fields of health, education, and welfare; and

Whereas a graduate of Occidental College and the University of Southern California Law School, he is a member of the State bar of California, and has been an instructor, counsel, and trustee of Palos Verdes College, and an instructor and member of the advisory board of Marymount College; and

Whereas during World War II and the Korean war he served his Nation as an enlisted man and officer of the U.S. Marine Corps; and

Whereas, a devoted husband and father, he and his wife, the former Carol Crothers, are the proud parents of four children, Maureen, 18; Kevin, 14; Priscilla, 12; and Cathleen, 10; and

Whereas Hon. Robert H. Finch is a man eminently qualified to serve the people of this Nation in the high office which he has been selected by the President-elect to hold: Now, therefore, be it

Resolved by the Senate of the State of California (the Assembly thereof concurring), That the members do hereby extend their heartiest congratulations to Hon. Robert H. Finch upon his selection to become the Secretary of Health, Education, and Welfare of the United States and their best wishes for his success in that position; and be it further

Resolved, That the secretary of the senate transmit a suitably prepared copy of this resolution to Hon. Robert H. Finch.

HUGH M. BUENS,
President Pro Tempore, California Senate.

The CHAIRMAN. Mr. Secretary, you may proceed.

STATEMENT OF ROBERT H. FINCH, NOMINEE TO BE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Mr. FINCH. Thank you Senator Cranston, Mr. Chairman, and Senators. I think in the interest of time, I will simply refer you to the information you have before you; my biographical sketch, my general statement with regard to the magnitude of this job that I undertake, the general statement with respect to my financial interests, the dissolution of my law firm—and while I resigned from the firm formally, I should make it clear that I have not yet resigned as Lieutenant Governor. I have my fallback position, gentlemen [laughter], just in case. But I would like to say that I hope that the cutting edge of this Department in its obvious areas of health, education, and welfare can be brought together in a kind of totality of approach which we have not been able to do up to now. I think perhaps my predecessor, Senator Ribicoff, will agree that because of the way the Department was put together at the outset, it was sort of like pre-Bismarck Germany, and this tended to be a set of feudal kingdoms that were difficult to integrate. We obviously need an interdisciplinary approach to these problems and that will be pretty much part of my assignment as I see it.

The other thing, as I have said many times, as I work my way into this, I think we now have a great deal of legislation on the books. My concern and my hope is that we can rationalize this legislation and make it workable. The obvious areas are medicaid and medicare, but I see my problems in the delivery systems in all of these sectors. I would like to ask that this material be put into the record Mr. Chairman, and the statements with respect to my financial interests and dissolution of my law firm be accepted for the committee's files and I will be happy to answer questions.

The CHAIRMAN. Without objection, that material will be put into the record and files of the committee.

(Mr. Finch's statement and biographical sketch follow :)

ROBERT H. FINCH, A.B., LL.B., J.D., LIEUTENANT GOVERNOR OF CALIFORNIA

Born.—Tempe, Arizona ; October 9, 1925, resided in California since 1933.

Married.—Carol Crothers ; February 14, 1946.

Children.—Maureen, 18 ; Kevin, 15 ; Priscilla, 13 ; Cathleen, 10.

Religious affiliation.—Presbyterian.

Education and degrees.—Inglewood High School ; Occidental College A.B., Political Science ; University of Southern California Law School, LL.B., J.D. ; Honorary Doctor of Laws, Occidental College, Lincoln College.

Military service.—U.S. Marines, World War II, 1943-45 ; recalled, 1951, during Korean War—Enlisted man and officer.

Profession.—Attorney ; formerly : senior partner, Finch, Bell, Dulitsman & Margulis (partnership dissolved December 1968) ; president, chairman of board, Marina Federal Savings and Loan Association.

Academic.—Member, Board of Regents, University of California ; Board of Trustees, California State Colleges and Occidental College ; formerly : Instructor, Counsel, and Trustee, Palos Verdes College ; Instructor and Member, Advisory Board, Marymount College ; Member, Advisory Board, the CORO Foundation.

Community Service.—Board of Directors, Centinela Valley YMCA (1954-58) ; Statewide Committee of YMCA Youth and Government (1967) ; Los Angeles County Committee on Long-Term Building Needs (1953-54) ; Los Angeles County District Attorney's Advisory Committee ; Little League Manager (1962-65).

Memberships.—Kappa Sigma, Phi Alpha Delta, Legion Lex, Los Angeles Athletic Club, California Club, Commonwealth Club ; Jonathan Club, Town Hall.

Political.—Campaign Director, Richard Nixon Presidential Campaign (1960) ; Campaign Director, George Murphy Senatorial Campaign (1964) ; Elected Lieutenant Governor by plurality of 1,256,000 votes (1966) with a vote for Mr. Finch of 3,835,000, out of a total vote cast of 6,414,000.

Lieutenant Governor.—President, State Senate ; Chairman, Commission of the Californias ; Chairman, Job Training and Placement Council ; Chairman, Bicentennial Commission ; Chairman, Interagency Council for Ocean Resources ; Chairman, Electronic Data Processing Policy Committee ; Member, National Republican Coordinating Committee Task Force on Job Opportunities and Welfare ; Member, executive committee, Intergovernmental Council on Urban Growth ; Member : State Lands Commission, California State Disaster Council, Commission on Interstate Cooperation, Governor's Council, Governor's Cabinet, California Toll Bridge Authority, Advisory Panel, Teaching of the Bill of Rights ; Member, executive committee, National Conference of Lieutenant Governors.

STATEMENT BY ROBERT H. FINCH, SECRETARY-DESIGNATE OF HEALTH, EDUCATION, AND WELFARE

Before stating some of my broad views of the office for which the President-elect has designated me, and then inviting the specific questions that must be in your minds, may I simply pay deserved tribute to the Congress and the officers of the present administration for smoothing the way for all us novices. Congress has provided the generous funds and Secretary Cohen and his entire staff have provided the spirit of cooperation that are making possible an orderly transition—and all of you have served the public interest well. For my own part, I can only say "well done" and "many thanks."

One thing I have been learning these past weeks is that in the areas of health, education, and welfare there are no sure-fire answers. Certainly there are no easy ones.

But I have been developing a checklist of priorities for my own guidance. And today I want to outline for you some basic approaches and intentions in whose light I propose to tackle the job of Secretary of Health, Education, and Welfare, to come to grips with its duties and make creative use of the opportunities it offers :

(1) Measured by budget figures or by personnel levels or by national agreement about basic purposes—by all these measures, the Department is very much a going concern. And clearly my first responsibility is to keep it going, in the direc-

tions set by the President and established in law by the Congress. It will be my job, as it is the job of every executive officer, to carry out the will of my bosses; and that means the President, the Congress, and the people. Formally and informally, and constantly, I will be seeking your guidance and counsel—beginning now.

(2) A second priority follows directly from the first. It will be my job to digest the mass of legislative mandates placed by the Congress on the Secretary and the Department of Health, Education, and Welfare—over many years but especially since 1963—and to organize the resources available to the Department so as to carry out these mandates with all possible efficiency. And this is not just a matter of funds and personnel. Mostly and above all, it is a matter of harnessing rational administration (which will be my responsibility) to clearly defined purposes (which is the President's and yours). Indeed, it will be more than just my job. Boundaries in the areas of HEW's principal concerns are often vague. Many executive departments and agencies are or ought to be involved—and it is the President-elect's strong wish that effective lines of communication and coordination be set up throughout the executive establishment to implement your will and the Nation's.

To cite just one example, take the area of Environmental Health—concern with the total physical context within which people live and work. This involves everything from roadbuilding to clean water, from fresh air to neighborhood parks. And so any program that provides total public service in this area has to cut across both inter- and intra-governmental lines. Working with my colleagues in the executive branch, and with State and local officials, I know we can come up with new administrative approaches for the President's consideration and yours.

(3) I would not want to leave with you the impression that "efficiency" and "rational administration" are ends in themselves. As I understand the purposes of the Department—and grasp its enormous potential for meeting human needs—an all-purpose rule-of-action has to be maximum effective service for every tax dollar spent. Increasingly, it seems to me, the passionate debates about broad national purposes are over. Federal involvement in the areas of health, education, and welfare is an established fact—and rightly so. The Federal role in support of local, State, and private effort (supplementary, too, where common interest dictates) is pretty generally assumed. But it is also an established fact that too much of what is now being done, with all the best of good intentions, and too many of the dollars being spent are simply not hitting their targets.

There is a growing degree of slippage and of sheer waste that growing numbers of citizens just will not forever tolerate. There is growing alienation, shared by those who receive services and those who provide the wherewithal, from the very purposes of essential human-resource programs. Here, in the development of practical and workable techniques, is where we need fresh ideas and bold experimentation; genuine partnership with States and localities, the real workshops of our Federal system; and a two-way, give-and-take relationship with private innovators. I intend to call on all these resources and combine all these talents in order to get the job done.

(4) A fourth and last item on my priority list, and then I will welcome your questions. The term "national interest" is used and overused—probably because it can mean almost anything that anyone wants it to. In the HEW area, I hope a true meaning can be salvaged. The natural tendency is to cut up the whole population into so many special interests with special needs—and for purposes of defining urgent human problems and devising effective programs, this is doubtless inevitable. Yet I deeply feel that treating the American people as a collection of client groups has to be self-defeating in the end. All my energies as Secretary, in formulating programs and in advocating and administering them, will be motivated by the yardstick of the interest of all. And I urge that you judge me accordingly.

Federal efforts in health, education, and welfare—caring for the helpless, caring about those who are losing hope, opening opportunities that all may share in—these efforts must be supported by a national constituency that sees in them essential elements of national strength and progress. Without such willing support from the overwhelming majority of our people, we will surely waste the resources we commit to the fight to relieve unmet needs. But with it—with a genuine national will in support of shared national interests—the mandates you place on the Department of Health, Education, and Welfare can just as surely be translated into tangible human advances.

And it is in that spirit, with a firm intention both to mobilize and to serve the interest of all, that I am eager to get on with the job.

The CHAIRMAN. Mr. Finch, as you perhaps know, we on this committee have been dismayed from time to time to see estimates so far astray from what the actual costs of some of the programs have been. For example, when the Department came up in 1965 recommending the present medicaid law, they estimated that the first-year costs would be about \$238 million more than the existing level of payments for medical care. That estimate was understated by hundreds of millions of dollars. During this fiscal year costs of medicaid are exceeding the December 1967 estimate for fiscal 1969 by \$1 billion. HEW's estimates just get further and further out of line.

Now, I would hope that under your leadership the Department would give us realistic and intelligent estimates that take into account some of the various predictable things which happen when Congress modifies the law. The fact that States are likely to change their laws to secure the maximum possible Federal matching is certainly one predictable event.

Mr. FINCH. I would agree, Senator. I think there are two problems. The first is that there is an uneven performance from the States in terms of the data they supply us, and, second, it is obvious, as the record shows, that we have not had good actuarial projections, and we hope to strengthen this side of it.

We in California were among the first to come in under medicaid, or medi-cal as we call it there, and we have had some very traumatic, difficult experiences in controlling the program.

The CHAIRMAN. Mr. Secretary, I would hope that you would explore the various efforts we have made on this committee and perhaps initiate some ideas yourself in ways that our welfare programs can be better tailored to make outstanding citizens and proud citizens—both those who have a right to be proud of themselves and those in whom the Nation can take pride—of welfare clients that we have.

I recall that during my college days at Louisiana State University, we had what was more or less the forerunner of the NYA program to provide opportunities for poor boys and poor girls to go to school. Many of them would come with a little more than one change of clothes to start out with but they would work their way through school.

Great numbers of young people who came that way when I was a freshman at Louisiana State and a sophomore or junior are today the banking and commercial business leaders of their State. I know a great number that were very poor when I was a youngster, who have matured and become leaders of their communities, and in business, industry, and commerce. Compared to that we see a sad record in many instances where we have second and third generations of the same family on welfare. Money is simply being put out without us ever getting the results.

Now, I, for one, would be willing to pay more money now provided that we make better citizens of those people when they grow up—rather than to continue to keep them on a dole with the result that poverty feeds on poverty and the dole feeds on the dole.

We have tried to do some things along that line, and I hope very much you will be working in that direction as Secretary.

Mr. FINCH. Well, I think it is obvious from a great part of the rhetoric in the last election that nobody is happy with the welfare programs. That is the charge we have had, and we have been working with

John Gardner's Urban Coalition to demonstrate the success we have had in California working with the private sector. The labor unions as well have an enormous responsibility in this area. The effort must be to pull people out of this cycle, and I think some of the early indications under the National Alliance of Businessmen (NAB) show that we can do a much better job, but it is obvious that Government alone just cannot do this. We have to mobilize all our resources.

The CHAIRMAN. California had a very, very extensive welfare program. As the first State of the Union in population and as the largest in size, are you familiar with the workings of the California welfare system?

Mr. FINCH. Yes, sir.

The CHAIRMAN. It seems to me that the experience that you would gain there would give you a good running start with the problems that you will have as Secretary of HEW.

Mr. FINCH. I think it might be helpful, sir.

The CHAIRMAN. Senator Anderson?

Senator ANDERSON. I would have to say I am prejudiced because of the fine work you did in Los Alamos for the University of California project there. We know quite a little bit about you.

I do not have very many things to talk to you about it, but we are all highly pleased with what you have done. I strongly recommend him for what work he has done.

Just a few questions: Do you think the current level of social security benefits is adequate? If not, what do you think might be desirable?

Mr. FINCH. Senator, this is something that I think the Congress and the administration have to work together on. We have to make a fundamental decision, and we have to work with the States on this, as to whether you want to give the Federal Government total responsibility in determining whether there is to be an additional \$15, \$20, or \$30 increase. We must also consider whether the State governments will divert these funds in a way—the funds that we might release to them—that really meets the problems of their areas.

The President-elect has committed himself to a Federal floor, but I am not prepared at this time, sir, to say what that should be.

Senator ANDERSON. Do you feel that general revenues should be used to cover part of the costs of future social security benefits?

Mr. FINCH. Because of rising costs, this alternative will have to be seriously considered.

Senator ANDERSON. Can you give us your views now on expanding medicare to cover the disabled?

Mr. FINCH. Well, there again, I want to talk to the heads of the appropriate departments in each State, because we have 50 different sets of systems here, and one of the problems and one of the difficulties is trying to implement and coordinate these earlier programs. This is true in the OEO as well. We have not taken our State governments sufficiently into consultation as to the implementation of these programs. I want to sit down and talk with these State administrators in each of these areas as to how best we can implement each one of them. For me to say nationally, "This is what we are going to do," I think is wrong until I have had a chance to rationalize an approach with the State administrators.

Senator ANDERSON. There was a story—in the Washington Star interview you are quoted as having some opinions as to how health services should be organized in this country. Specifically you say that hospitals without certain affiliations with other forms of health care “get locked into the same old costly and expensive system of gaps in some areas and need less duplication in others.”

How would you proceed to deal with the matter?

Mr. FINCH. I think, as we found from our experience in California, sir, that much of the expense of medicaid and medicare is on the hospital side rather than doctors' fees, and 70 percent of that is labor. I would hope we can, if we get away from the total hospital orientation, move more to the use of extended-care facilities which can be a little more reasonable in cost. Simply by cutting 1 or 2 days off the post-operative period, literally millions of dollars can be saved nationwide while still maintaining the quality of care that is required.

Senator ANDERSON. Mr. Chairman, I do want to say I am going to vote very happily for Mr. Finch. I think he would make a fine executive.

The CHAIRMAN. Senator Bennett?

Senator BENNETT. Mr. Chairman, I am very happy that Mr. Finch is coming back to the service of the country in Washington. I think he comes back with the experience of his administrative responsibility in California, and, as he has pointed out, many of the problems that he will face are rooted in or at least involved in Federal-State relationships. Happily he brings to his job the experience from the State point of view to help him decide how these relationships should be looked at from the Federal point of view.

I am also happy to have another westerner in the Cabinet. I cannot claim him with as much vigor as I did Dave Kennedy.

Mr. FINCH. I am considering the Mormon religion, Senator. [Laughter.]

Senator BENNETT. I am glad to see I have got him scared, and I would make the comment that the city in Arizona in which he was born, Tempe, is essentially a Mormon town.

Mr. FINCH. That is right, it sure is.

Senator BENNETT. Thank you.

The CHAIRMAN. Senator Gore?

Senator GORE. Welcome. No questions.

The CHAIRMAN. Senator Talmadge?

Senator TALMADGE. Mr. Finch, I think all of us are quite sympathetic with trying to aid people who cannot help themselves. Certainly my background has been in that direction, and when I was Governor we doubled old age assistance. Since I have been a Member of the Senate, I think I have voted for every increase in welfare benefits. I have offered some myself.

But I think the welfare situation in this country has gotten completely out of hand, particularly with reference to aid to dependent children. I do not know whether you read the article that appeared in the Wall Street Journal the other day. Occasionally the Journal does an article in substantial depth about situations in New York State. It named names and dates and places. It pointed out an individual woman who had a few children, and she was drawing something in excess of \$4,000 a year in welfare benefits because of the Aid to Dependent Chil-

dren program. The Journal pointed out further that if she worked at the minimum wage she would reduce her income something like \$1,000 a year. This puts a premium on not working instead of working. I think this situation warrants a thorough investigation.

There were other instances there where a father of children, who may have been legitimate or illegitimate, decided the way to increase the family income was to move out from his wife and children and rent a room somewhere. Then the wife and children went on welfare, the father received his earnings, and they pooled the sum total of two.

Have you given any thought to making it a Federal crime for a man to abandon his children? I think we are going to have to come to that.

Mr. FINCH. I think I would be very skeptical about such an approach I think that is a matter of State law. I can only agree with you about the many examples of abuse in the system. But I think again we have to redirect our thoughts as to how these people can be motivated to more constructively do what they can for themselves.

For example, just to go back to something we talked about earlier, if we can get people out of the hospital in post-operative situations and back into their homes in a given area we could have a greatly improved situation. A woman on welfare could, for example, make a round of eight or 10 homes where people would be recovering and take care of simple wants, give them a wash or some attention. This would be through the private system. You would be making better use of the needy and they would feel they were doing something productive. In turn, we would be getting them off the welfare rolls. I think there are possibilities in this direction, sir, that we can pursue. But I happen to believe, fundamentally, we have to look at the independent sector to provide these kinds of jobs to take them off the welfare rolls.

We can do a certain amount of better monitoring on the Federal side, and we can urge the States to do a better job of monitoring, but I would certainly be inclined to leave it to State law with respect to enforcement penalties. You in the Congress must make a fundamental decision whether you want a Federal floor on welfare, and if that happens, then you are going to have to tie Federal enforcement to such standards. But until that does happen, I would be inclined to leave it to the States.

Senator TALMADGE. As long as it is more profitable not to work than it is to work, these people are not going to work. We are going to make it more profitable to work than it is not to work.

Mr. FINCH. That is correct, sir.

Senator TALMADGE. You agree with that.

Mr. FINCH. Yes, sir, I surley do.

Senator TALMADGE. Do you not also agree that it is high time we did something to prevent men abandoning their children, from moving off across town, and then have their children and their wife go on welfare while their fathers continue to work and earn a productive income?

Mr. FINCH. Yes, sir.

Senator TALMADGE. I think that is one of the reasons, the main reason, that ADC has increased so phenomenally.

Mr. FINCH. I think that is true.

Senator TALMADGE. It is more attractive financially for some men to abandon their homes than it is to stay there. Those without morals and

scruples and character are likely to abandon their home. What is your recommendation for this problem?

Mr. FINCH. Well, I have no simple panacea—as long as we have the mobility we have in our society. We see it very, very clearly in California where people move from the northern to the southern part of the State.

Senator TALMADGE. Sometimes out of the State.

Mr. FINCH. Sometimes out of the State and also within the State.

Senator TALMADGE. Do you not think it is high time we looked into the possibility of having a Federal law, making it a Federal crime for one to abandon his children in order to draw these benefits? He is drawing Federal money.

Mr. FINCH. Yes, sir, but I think again we have to decide where we want to go. You must decide in the Congress how far you want to go in terms of a Federal floor or Federal base. A decision must be made as to how much of these programs you want to take out of the hands of the States and counties and then we will have to decide what Federal enforcement legislation you think is appropriate.

Senator TALMADGE. The staff has handed me some tables here. The cost of aid to dependent children has gone up 22 percent in 1 year alone; 19.3 percent in the State of California alone. Here is another State; Wisconsin—42 percent. Puerto Rico—42 percent. In my own State of Georgia the increase was 22.9 percent.

I am all in favor of helping those who cannot help themselves. But I am not in favor of giving tax money to families that deliberately circumvent the law when the father abandons his children and prefers to let the Government support them. And you agree with that?

Mr. FINCH. Yes, sir.

Senator TALMADGE. There is one other thing I would like to ask you. We have heard a good deal of talk that has been circulating around Washington and throughout the Nation now for several years—about this so-called guaranteed income, a negative income tax. Under such a plan, everyone files a tax return at the same time, and if a family does not earn quite as much as someone in Washington thinks it ought to earn, then the Government sends it a check from the Treasury to make up the difference.

What is your view on that?

Mr. FINCH. Well, we have asked our staff to cost this out. I have no closed mind on it, but I have a disposition against it because I think the first decision we and the Congress have to make is one that goes to whether you are going to have a Federal floor in the welfare area, and until that is decided, I am not prepared to go along with a guaranteed income.

Senator TALMADGE. Do you not think that would put a premium on not working instead of working?

Mr. FINCH. It could have that consequence, yes, sir.

Senator TALMADGE. I personally prefer to hunt and fish myself instead of working, and if the Government would pay me for hunting and fishing, I think I would be likely to do that.

Mr. FINCH. I agree.

Senator TALMADGE. You would not be in favor of that.

Mr. FINCH. I am disposed against it. I really have not costed it out, sir, but my disposition is against it.

Senator TALMADGE. Thank you, sir. I would be glad to yield to my colleague from Tennessee.

Senator GORE. I have had a chance to examine the table to which Senator Talmadge referred, and it is a table which shows a shocking disparity in increase in benefits. I see one State with six-tenths of 1 percent increase. Another State with 1-percent increase. And yet that shows an increase of 61 percent. This disparity of benefits paid is a problem to which I dare say you will wish to direct your attention.

Mr. FINCH. Yes, Senator. The greatest single problem, is the uneven performance and the great differential of 50 different State systems. How we rationalize this, I think, in all these areas, health, education, and welfare, is the greatest single problem that my department will have.

Senator GORE. Thank you.

Senator TALMADGE. No further questions, Mr. Chairman.

The CHAIRMAN. Senator Hartke.

Senator HARTKE. Mr. Secretary, as a former neighbor of mine I hope you will come back to live close to us again.

Mr. FINCH. We are looking in that area, Senator. We are waiting for confirmation before we sign anything. [Laughter.]

Senator HARTKE. I want you to know we would love to have you back with us again.

I have listened to your philosophical discussion previously about the pre-Bismarck Germany era, and your feeling that we need the interdisciplinary approach. Is that what you said?

Mr. FINCH. Yes, sir. I would hope that every employee in the Department would feel they are not just locked into one little box, but rather that they are trying to move on these urban problems with a sense of the total ecology, and that they are concerned about the quality of peoples lives—that is what I wanted to say.

Senator HARTKE. That scared me a moment, because as I understand Bismarck's theory of government, he extended social benefits but he put a very severe repression upon civil and human rights.

Mr. FINCH. I was not advocating a Bismarckian government but was simply pointing to a pre-Bismarck state of affairs.

Senator HARTKE. All right.

Back to some of the things that happened during the presidential campaign. One of those—

Mr. FINCH. Which campaign is it, sir?

Senator HARTKE. 1968.

Mr. Nixon said, and I listened to him on the radio, something along this line. "They say I am against social security. Let me tell you something, I want you to know I think we should tie the cost of living index and increase the benefits for social security beneficiaries as the cost of living goes up. How do you like that," he said.

Now, how do you like it? [Laughter.]

Mr. FINCH. Well, to be perfectly honest about it, since I was on the plane at the time, I advised against that statement. I want to look at how much it is going to cost before I make a response to that. I do not yet know how much it is going to cost.

Senator HARTKE. One of the other things in the social security fund which is a matter of great concern to me is excess collection. Today in our society we talk about the poor people, but I think in addition we

may be faced with a new group in our society whom I would call the affluent poor. These are people whom I would describe as making pretty good money, working every day, reporting on time usually, taking their coffee breaks and their times out for lunch but they cannot make ends meet.

Now one of the real serious increases in their costs this year was the sharp increase in social security taxes up and above that which was necessary to pay for the benefits. In our social security trust fund we have an accumulated surplus according to the last report I saw somewhere in the neighborhood of \$28 billion over and above the requirements necessary for social security payments.

Is it your view that social security should pay the cost of other parts of the Government or should we accumulate a trust fund surplus over and above the anticipated requirements for benefit payments?

Mr. FINCH. As I said, until we have gotten a good deal further into this, and I have had a chance to talk to Mr. Ball at greater length, and until again you in the Congress make a fundamental decision as to how far you want to go in this area and that of Federal floors, I would not want to make a commitment as to how much further you extend social security. Unfortunately, unlike some of my other potential colleagues, I was wrapped up with the winding up of my affairs in my present office until very recently, so I am just not familiar enough with all of the proposals that were made—and now they are in the hundreds—as to the direction in which you would extend social security.

Senator HARTKE. There is one field though in which I think you have expressed yourself. You have said you believe there can be further utilization of private resources—

Mr. FINCH. Yes, sir.

Senator HARTKE (continuing). By a tax credit system for industry retraining.

Mr. FINCH. Yes, I think that is a possibility, sir.

Senator HARTKE. I am glad to hear that that is one of the things you intend to do.

Senator Talmadge asked you about a proposal for some restrictive type of law against parents who do not support their children. I believe your answer was that this should be left to the States. Do you think it is time in our welfare program for a study to be made concerning aid to dependent children and the effect of legalized abortion in the United States?

Mr. FINCH. Well, as you know, in California we, along with Colorado, have actually acted in this area. It is not just a case of liberalizing abortion. It is a case, under very restrictive circumstances, of making it possible where the parent involved, a member of the church involved, and the family doctor have given their consent. There was a great fear at the time, and our Governor almost vetoed the bill because of it, that there would be a great rash or, at least, an increase in abortions. It has not happened that way. We have had about 8 months' experience with this legislation. During that time, I think we have had maybe 46 cases that have been officially filed and have been called to my attention. That was the last figure I heard.

We had a very bad situation before. As an attorney who practiced law for 16 years, I saw so many cases where young girls, particularly unmarried women, and also married ones, would go south of the

border in Tijuana and get into the hands of some quack, and it resulted in some pretty unpleasant situations. So all I am saying is that, under the right controls and under the right mechanisms, the right laws can be put together. It has worked in California. I am not sure there should be a Federal law. As long as the whole complex of laws relating to marriage and divorce and to child support is locked into State systems, then we had better talk to those State people before we start passing Federal laws in this area.

Senator HARTKE. One other question. This deals with the question of the enforcement of desegregation in our public schools. I believe Mr. Finch, that you made a statement in which you said you foresaw a different role for the Department of HEW as regards the sanction of the withholding of Federal funds in order to enforce desegregation in our public schools. Would you care to comment on that?

Mr. FINCH. Well, I do not know that I said a different role. I simply said that as far as I am concerned, withholding Federal funds is the ultimate weapon.

Now, anybody who has been in politics, anybody who understands particularly the makeup of this great diverse Nation of ours, knows that each community is a different slice of America, and each area has a chemistry all its own. You do not come in with a meat-ax and try to bludgeon somebody into successful compliance because the minute you walk away they are going to resort to the old patterns. There are many buttons on that panel to push, all kinds of incentives, and we must keep the pressure up. There must be a constant pressure, but it may be a different mechanism in one community than it is in another. Those local people know that you always have that ultimate weapon—the denial of those Federal funds. But, as I say, you know there are other buttons to push. A conciliatory approach must be used, with a clear understanding that we are going to carry out the intent of the Congress and the intent of the laws on the books. This is the approach I would favor.

Senator HARTKE. Thank you, Mr. Secretary. I too am delighted to see you aboard.

Mr. FINCH. Thank you, sir.

The CHAIRMAN. Senator Williams?

Senator WILLIAMS. Mr. Secretary, I have a couple of questions. First I would like to welcome you before this committee.

The suggestion has been made there is an excessive accumulation in the trust funds that are used to defray the normal operating expense of the Government. That is not true. Is it not a fact that these trust fund receipts represent taxes on the employee and the employer and that the U.S. Government is only the trustee?

Mr. FINCH. Yes, sir.

Senator WILLIAMS. And that those funds are automatically in their entirety put over into the trust fund, and that under no circumstances, under no law, can the Government use those moneys to defray the cost of any other program other than the benefits under the social security system?

Mr. FINCH. Yes, sir.

Senator HARTKE. Will the Senator yield at that point?

Is it not true though that those funds are loaned to the Federal Government in order to defray other expenses of the Government?

Senator WILLIAMS. The trust fund can be invested only in Government securities.

Mr. FINCH. That is correct.

Senator WILLIAMS. That does not mean that they are being used to defray the cost to the Government as directly any more so than a bank has to keep a certain amount of its funds invested in Government securities for it to be liquid, and we do not say we are using a part of that. These Government securities are like the normal Government bonds that we sell to the public. In the process of investing these social security tax receipts they are invested only in Government bonds. Now, I think it is true that this misunderstanding has developed as a result of the last couple or 3 years where in announcing the reported, projected deficit of the overall Government, the administration has been including the accumulation in the trust fund as though they were normal receipts for the purpose of reducing the deficit, is that not true?

Mr. FINCH. That is true.

Senator WILLIAMS. We are going to get, we understand, a budget around, this year, anywhere from a \$2 to \$3 billion surplus, but that is only due to the fact that they are counting about \$7 billion normal accumulation in the trust fund during this current year as though it were normal revenue, and in reality, on that one item alone, there is a \$5 billion deficit rather than a \$2 billion surplus if we use the regular accounting system.

Mr. FINCH. That is my understanding, Senator.

Senator WILLIAMS. I think much of this is being confused as a result of—I will not use the word exactly, but the Wall Street Journal referred to it I think this morning as a little “manipulation” for the purpose of making it a good report when we are putting it out that we are with a surplus when in reality we are still operating the Government at a deficit.

Senator HARTKE. Will the Senator yield?

Senator WILLIAMS. Yes; I will yield.

Senator HARTKE. Just to make sure we understand the record correctly I understand this method of budget reporting was recommended by the President's Special Committee on Budget Changes which was chaired by the man who was just before us and who is the Secretary of the Treasury-designate, Mr. Kennedy. He was the Chairman of that particular Committee which made the recommendation of which you now complain.

Senator WILLIAMS. I do not care who chaired it. I am just speaking of the facts. This is what the situation is. I am not getting into a debate around the table, because we have enough of that in Paris about who sits around the table or what table. But the point is that the trust funds are separate money and cannot be spent to defray the cost of any Government program except as they are invested in Government bonds. When these Government bonds mature they must be paid just the same as a bond sold to any bank or any individual, and I think we should report that separate. This accumulation in the trust fund, which is accumulating now, is largely due to the fact that in the labor force an unusually or exceptionally large percentage of the labor force are young men of the age of 20 to 40 who are working, paying into the social security fund.

Mr. FINCH. Agreed.

Senator WILLIAMS. And their funds are supposed to be set aside and accumulated and kept in order to defray the cost of their retirement benefits when they reach the age of 65, is that not correct?

Mr. FINCH. Yes, sir.

Senator WILLIAMS. So it is inevitable that we accumulate this surplus and to do otherwise would mean that we were destroying the security of the young workers of America by spending their money as we go. I mean we have no choice except to accumulate some of that if we are going to meet the obligation of paying social security benefits to these young workers when they reach the age of retirement, is that not correct?

Mr. FINCH. Yes, sir.

Senator WILLIAMS. Thank you.

Senator ANDERSON. Senator Fulbright.

Senator FULBRIGHT. I yield for a comment.

Senator RIBICOFF. May I say, Mr. Chairman, that I have to keep a 12 o'clock appointment.

I believe Governor Finch is very well qualified for this position, and it will be a privilege for me to support him as Secretary of Health, Education, and Welfare.

Thank you.

Mr. FINCH. I am very grateful, Senator. Thank you.

Senator FULBRIGHT. Mr. Secretary, on the subject of the trust fund and social security program, what does the very high rate of inflation that is taking place in this country do to both the trust fund and to social security generally?

Mr. FINCH. It puts a horrendous burden on that whole system, and I am troubled because, without going into a long speech, I look at that overall pie and I see so much of it going into care for the aging. We extend the lives of our citizens, and legitimately so, but we are at the same time decimating many of our educational programs. In fact you know what has happened to your own Fulbright program: it has been markedly reduced. I hope we can work out systems for community colleges on a incentive basis with strong emphasis on vocational training. I think that is a great gap in our continuum of education, and I am not at all sure we have the right allocation or mix of resources at the Federal level.

Senator FULBRIGHT. I am very glad to hear you say that. I also want to compliment you on what to me was a very perceptive comment made to the Senator from Indiana about each community having a chemistry of its own. Many people who have become immersed in the Washington bureau forget that. They assume naturally that all communities are the same, but they are not. I hope you do not lose your views that you expressed so well.

Mr. FINCH. I will keep a certain amount of chauvinism.

Senator FULBRIGHT. And it is certainly at the root of some of our most serious problems. You said it so well.

We all worry about the welfare program. You started out with saying that nobody is happy with it, which I took you to mean that you were going to review it and hope to improve it.

Just one general question, you alluded to it in a way, and that is this question of the long term policy of the relative emphasis given to welfare and education. You mentioned certain aspects of it, com-

munity colleges. Of course I regard education in a very broad sense, as including Headstart and Job Corps, all of those efforts to bring either vocational or other education to the people.

It does seem to me on balance that we may have given greater emphasis to the immediate problem of welfare and neglected education over the years because, I do not see a very good solution, if there is one, to the welfare problem except better training and education. I do not like to leave the impression I mean Ph. D.'s. I mean capacity to do something useful, and I would hope—I think I detect in your views—that you feel that way.

Mr. FINCH. I would hope we can do a study that will look down the road in the educational area during that final third of this century. I think, when we get into these qualitative and environmental areas, that we have to take the long look ahead. And this has to apply across the full complex of the department I hopefully will head.

Senator FULBRIGHT. I think the difference is quite dramatic when you consider what inflation will do to welfare in the sense of the future payment. We all—nearly everybody these days who has a job—are on some kind of pension plan, retirement plan, or welfare, and it can be destroyed by mismanagement of our fiscal affairs. But, if a man has an education, he can earn a living—he can adjust.

Mr. FINCH. Yes, sir.

Senator FULBRIGHT. It is a much greater insurance than any kind of welfare.

Mr. FINCH. Absolutely.

Senator FULBRIGHT. Well, thank you very much, and I have great hopes for your appointment. I know of your experience, and from what you said, you have made a very good impression.

Mr. FINCH. Thank you, sir.

Senator FULBRIGHT. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Curtis?

Senator CURTIS. Mr. Chairman, I regard Mr. Finch as highly qualified, and I have no questions.

The CHAIRMAN. Thank you very much, Mr. Finch.

Are there further questions by members of the committee?

There are none. Thank you very much, Mr. Finch.

Mr. FINCH. I look forward to working with you.

The CHAIRMAN. That concludes the committee hearing. The committee will go into executive session at a time to be announced later.

(Whereupon, at 12:05 p.m., the committee recessed, to be reconvened subject to the call of the Chair.)