

**NOMINATIONS OF MEADE WHITAKER, JAMES B. CARD-
WELL, JOHN B. RHINELANDER, GOODWIN CHASE,
AND NORMAN B. HOUSTON**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION

ON

NOMINATIONS OF MEADE WHITAKER, OF ALABAMA, TO BE ASSISTANT GENERAL COUNSEL, DEPARTMENT OF THE TREASURY; JAMES B. CARDWELL, OF MARYLAND, TO BE COMMISSIONER OF SOCIAL SECURITY, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; JOHN B. RHINELANDER, OF VIRGINIA, TO BE GENERAL COUNSEL, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; GOODWIN CHASE, OF WASHINGTON, TO BE A MEMBER OF THE RENEGOTIATION BOARD; AND NORMAN B. HOUSTON, OF VIRGINIA, TO BE A MEMBER OF THE RENEGOTIATION BOARD

OCTOBER 3, 1973



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NOMINATIONS

**MEADE WHITAKER, OF ALABAMA, TO BE ASSISTANT
GENERAL COUNSEL IN THE DEPARTMENT OF THE
TREASURY**

**JAMES B. CARDWELL, OF MARYLAND, TO BE COMMIS-
SIONER OF SOCIAL SECURITY OF THE DEPARTMENT
OF HEALTH, EDUCATION, AND WELFARE**

**JOHN B. RHINELANDER, OF VIRGINIA, TO BE GENERAL
COUNSEL OF THE DEPARTMENT OF HEALTH, EDU-
CATION, AND WELFARE**

**GOODWIN CHASE, OF WASHINGTON, TO BE A MEMBER
OF THE RENEGOTIATION BOARD**

**NORMAN B. HOUSTON, OF VIRGINIA, TO BE A MEMBER
OF THE RENEGOTIATION BOARD**

WEDNESDAY, OCTOBER 3, 1973

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

The committee met, pursuant to notice, at 9:55 a.m., in room 2221, Dirksen Senate Office Building, Senator Russell B. Long (chairman) presiding.

Present: Senators Long, Ribicoff, Byrd, Jr. of Virginia, Nelson, Mondale, Gravel, Bentsen, Bennett, Curtis, Fannin, Hansen, Dole, and Roth, Jr.

The CHAIRMAN. The meeting will come to order. Our purpose today is to consider a number of nominations before us. Since Senator Jackson needs to chair another meeting, we will start a little early and recognize the Senator from Washington.

STATEMENT OF HON. HENRY M. JACKSON, A U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator JACKSON. Mr. Chairman, may I personally express to you my deep appreciation for your courtesy in opening the meeting ahead of schedule in order that I can preside at the Permanent Subcommittee on Investigations.

It is a pleasure for me to introduce Goodwin Chase to this committee.

Mr. Chase has been nominated to fill one of the two vacant positions on the Federal Renegotiation Board. It is the task of this five-member Board to eliminate excessive profits on space and defense contracts and related subcontracts arranged by the Army, Navy, Air Force, Maritime Administration, General Services Administration, National Aeronautics and Space Administration, and the Federal Aviation Administration.

This difficult job requires men of personal integrity and a great deal of practical experience.

Goodwin Chase is a longtime personal friend who has demonstrated those qualities and acquired that experience during a career in Washington State that parallels my own.

From 1939 to 1956 Mr. Chase was vice president of the Washington National Bank of Ellensburg in eastern Washington. He retired from that position in 1957 when it merged into the National Bank of Washington. In 1959 Goodwin Chase became president and chairman of the board of that merged bank. A subsequent consolidation with the Pacific National Bank of Seattle was carried out in 1970, and Mr. Chase became president of the resulting Pacific National Bank of Washington. That says a good deal about the achievements of this man in his chosen profession. But there is more that says a great deal about his sense of responsibility to serve the community and State.

Goodwin Chase has served as a regent of Pacific Lutheran University and was chairman of the Washington State Council on Higher Education. In 1971 the nominee for this Federal position received one of the great tributes any man can receive when he was awarded the Lamplighter Award by the National Association for the Advancement of Colored People.

Mr. Chairman, I believe that Goodwin Chase has a record of accomplishment that makes him an outstanding nominee for the Federal Renegotiation Board.

It is with a great deal of personal satisfaction that Senator Magnuson and I present him to this committee. I want to say that he started in a small bank in eastern Washington. I should have said before that back in the 1930's he was employed by the Comptroller General as a bank examiner operating in many parts of the country. The bank that he headed up had total deposits finally of—

Mr. CHASE. \$750 million.

Senator JACKSON. So he went from a smalltown bank to one that had a series of outlets throughout the State—branch banking was permitted in our State—to a bank which had total deposits of three-quarters of a billion dollars, and I think that speaks well. His desire is to be of service to the country. He has had a long and distinguished career in the business community and I think both Senator Magnuson and I can say with candor that he will bring to the Board great expertise, great practical judgment, and I think will be a real asset to the Renegotiation Board.

I want to thank you, Mr. Chairman, for your kindness in calling this meeting ahead of schedule.

[The letter to the chairman and statement submitted by Senator Jackson follow:]

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., October 1, 1973.

HON. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate,
Washington, D.C.

MY DEAR MR. CHAIRMAN: It is a pleasure for me to introduce Goodwin Chase to this Committee.

Mr. Chase has been nominated to fill one of the two vacant positions on the Federal Renegotiation Board. It is the task of this five-member board to eliminate excessive profits on space and defense contracts and related subcontracts arranged by the Army, Navy, Air Force, Maritime Administration, General Services Administration, National Aeronautics and Space Administration, and the Federal Aviation Administration.

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Mr. Chairman, I believe that Goodwin Chase has a record of accomplishment that makes him an outstanding nominee for the Federal Renegotiation Board. It is with great personal satisfaction that I urge you and this Committee to favorably recommend the confirmation of Mr. Chase to this position.

With best wishes,
Sincerely yours,

HENRY M. JACKSON,
U.S. Senator.

STATEMENT OF HENRY M. JACKSON, A U.S. SENATOR FROM THE
STATE OF WASHINGTON

Mr. Chairman, I am very pleased to be here this morning to introduce Goodwin Chase to this committee. I have known Goodwin for many years and feel certain that you will find him to be an excellent choice to serve on the Federal Renegotiation Board.

The Board's chief purpose, of course, is to eliminate excessive profttaking on Federal space and military contracts. That is a difficult and important job that must be done well if the taxpayer's dollar is to be used well. It requires individuals of high personal integrity, long business experience, and a demonstrated capacity for managing other people's money. Goodwin fills that bill perfectly.

From 1939 to 1956 he was vice president of the Washington National Bank in Ellensburg, Wash. He retired from that position when that bank merged into the National Bank of Washington.

However, in 1959 he was named president and chairman of the board of the new bank.

Then, in 1970 that institution merged with the Pacific National Bank of Seattle and Goodwin became president of the resulting Pacific National Bank of Washington.

Goodwin has also served his State and his community as a regent of Pacific Lutheran University in Tacoma, Wash., and as chairman of the Washington State Council on Higher Education.

And in 1971 he had the great honor of receiving the Lamplighter Award from the National Association for the Advancement of Colored People.

Mr. Chairman, the record speaks for itself. Goodwin Chase is a man used to responsibility and well prepared for the responsibilities of the Board. I join with Senator Magnuson in applauding his nomination and in urging that this committee recommend to the Senate that he be confirmed.

The CHAIRMAN. You are welcome. Senator Magnuson, I believe you also asked to make a statement.

STATEMENT OF HON. WARREN G. MAGNUSON, A U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator MAGNUSON. You fooled me a little, you started early. I got here on time.

The CHAIRMAN. I did that for the benefit of you and Senator Jackson. I hope that at an appropriate time you two committee chairmen can do something to help Louisiana. Meanwhile, I thought I would make the first move.

Senator MAGNUSON. Mr. Chairman, I want to, of course, associate myself with what Senator Jackson has just said about Goodwin Chase. I have a statement which I will submit for the record, but I want to add to that that for some years, as the chairman and the committee members know, I handled the appropriations for the Renegotiation Board and I know of no place in Government where men of fiscal expertise can do more service to their country than on that Board. Sometimes we have not had men on the Board who have a background like this nominee, so I think he will add a great deal. It is a very important Board. People sometimes forget about it but it returns money to the Treasury, which you people here in this committee are deeply interested in, and their record has been one of fairness. They work quietly and efficiently and Goodwin Chase will bring to that Board, as far as I know, a better background of experience in these matters than any other nominee or Board member that I have known. I think we are quite fortunate to have him here.

He has always had dedication to public service, and I think he takes this position not just as a job but to do something of what the Congress intended with this Board.

I have known him as a personal friend for longer than we care to remember.

Mr. CHASE. Thirty-five years.

Senator MAGNUSON. Almost 35 to 40 years.

Mr. CHASE. I have known him since he was 10.

Senator MAGNUSON. We don't discuss that anymore.

I hope the committee will expedite his nomination. I am sure they will. I know of no opposition to him at all and here is the statement that I want to put in the record.

The CHAIRMAN. Well, Senator Magnuson, I only have one question, only one matter of doubt. After all you have told me about Mr. Goodwin Chase, and after all of the nice things that Senator Jackson has had to say both, I can't help but wonder why this man's name has only been sent up for the Renegotiation Board. That is an important

activity, but why hasn't he been nominated for Secretary of Commerce or Chairman of the Federal Reserve Board with the kind of credentials and the kind of recommendation you and Senator Jackson have been giving him.

Senator MAGNUSON. It is my intention, if I can see openings to do just that.

[Mr. Magnuson's prepared statement follows:]

STATEMENT OF HON. WARREN G. MAGNUSON, A U.S. SENATOR FROM THE STATE OF WASHINGTON

Mr. Chairman, I am very pleased to be here this morning to introduce Goodwin Chase to this committee. I have known Goodwin for many years and feel certain that you will find him to be an excellent choice to serve on the Federal Renegotiation Board.

The Board's chief purpose, of course, is to eliminate excessive profttaking on Federal space and military contracts. That is a difficult and important job that must be done well if the taxpayer's dollar is to be used well. It requires individuals of high personal integrity, long business experience, and a demonstrated capacity for managing other people's money. Goodwin fills that bill perfectly.

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Mr. Chairman, the record speaks for itself. Goodwin Chase is a man used to responsibility and well prepared for the responsibilities of the Board. I join with Senator Jackson in applauding his nomination and in urging that this committee recommend to the Senate that he be confirmed.

The CHAIRMAN. While you are here, Mr. Chase, we might as well conclude consideration of your nomination.

Is there anything more you would care to add in addition to your biographical sketch?

I was very pleased about some of the things you told me about your hopes for seeing that the Renegotiation Board really does a job.

I was pleased to hear your suggestions as to what you felt the potential of the Renegotiation Board was, Mr. Chase. You might give us some idea what your thoughts about this matter are.

STATEMENT OF GOODWIN CHASE, NOMINEE TO BE A MEMBER OF THE RENEGOTIATION BOARD

Mr. CHASE. Well, gentlemen and Senator Long, I think it probably would be presumptuous for me to suggest or postulate what is in the future of the Renegotiation Board because I haven't been serving on it. However, it has been my opportunity to examine the statute and to examine some of the testimony before this committee and I am convinced that there is much to be done and I hope that I can make a contribution to it.

Mr. Chairman, I was particularly pleased when I had the opportunity to meet you that the last thing you said when I went out of the room was your door more or less was open to me if I had any ideas, and I would like to call on you and other members of this committee from time to time, if I may, to perhaps make the Renegotiation Board more as the Congress intended it to be than perhaps it is at the moment.

The CHAIRMAN. There is one thing I think is very important. When some of you come from private industry, where you are doing a very admirable task in building commerce and in building the future of your areas, and you come into one of these positions here in Washington with a statute that is not adequate to let you fully advance the national interest, you shouldn't just sit there and deal with an inadequate statute. You ought to find a way of telling us how you can do a better job if we amend the statute, because otherwise we are not likely to find out about it. I hope very much that you will do exactly that, Mr. Chase, if you find that the work of the Board could be improved upon by changes in the law.

I have been looking through your background, and I see you were one of the board of directors of the Adlai Stevenson Institute of International Affairs, although I am led to believe that you drifted off into the Nixon camp in the last election. Is that correct or is that wrong?

Mr. CHASE. Well, the first question is right, I am a director of the Adlai Stevenson Institute for International Affairs and I was his campaign manager in 1956 for the Pacific Northwest in the State of Washington.

The second question is that I had a pretty hard bullet to bite making that decision to support Mr. Nixon, not that I haven't anything but the highest esteem for Mr. McGovern, but I felt that his economic thesis and mine simply didn't jibe and I felt that there was something happening to the Democratic Party that I didn't like and I had been a part of it actively all my life, so I did what I did and I would do it again.

The CHAIRMAN. We have a big job down in Louisiana getting people like you back on the reservation.

Senator HANSEN. Will all due respect, I would just like to observe, Mr. Chase, that I don't think the chairman is right in saying that they have got a big job down in Louisiana. I know him pretty well and I am a Republican. I think my credentials may be fairly well established, not without some visibility. I suspect that it won't be too difficult for a good many people, regardless of party, to find the chairman not without rather considerable merit in Louisiana. I don't think your problem is going to be to get them all back in the reservation but simply to take advantage of an emerging concept that is discarding these old tight, strict political alliances and recognizing the importance of a philosophical approach I think he epitomizes in a rather marked degree.

The CHAIRMAN. Since Mr. Chase was here and Senator Magnuson and Senator Jackson had to leave, I thought we would go ahead and complete Mr. Chase's part of this meeting.

Do any of you care to ask any further questions of Goodwin Chase? Thank you very much, Mr. Chase.

Mr. CHASE. Thank you, it was my pleasure to be here.
 The CHAIRMAN. I will ask that Mr. Chase's biographical sketch be printed in the record at this point.
 [The biographical sketch of Mr. Chase follows:]

BIOGRAPHICAL SKETCH OF GOODWIN CHASE

Born: June 30, 1911; Los Angeles, Calif. Son of Goodwin Dazey Chase, Nashville, Tenn., and Laurene Graves Crosthwaite Chase (Racover), Lexington, Ky.
 Religion: Episcopalian.

Education: Los Angeles Military Academy—1924; Los Angeles High School—Graduated June, 1930; University of Southern California, 1930—1931; Institute of Economics of the Brookings Institution, 1933—34.

Married: Gudrun Magdalene Mack, Seattle, Wash., May 9, 1936; daughter of Egil Mack and Maja Mack. Born December 8, 1913, Seattle, Wash.

Children: Anthony Goodwin Chase, born February 15, 1938, San Francisco, Calif.; married Karen Lynn Zeissler, Seattle, Wash., June 18, 1960. Children, Elizabeth Marie, born November 11, 1961, Camp Pendleton, Calif., Whitney Marie, born April 30, 1964, Alexandria, Va.; Goodwin Samuel (Sam), born September 27, 1967, Tacoma, Wash.; Anthony Joseph (Joe), born February 9, 1972, Bethesda, Md.

Christine Marie Chase Kellogg, born February 27, 1941, Ellensburg, Wash., married Payne Kenyon Kellogg (Tony), Tacoma, Wash., July 22, 1967; children, Chase Kenyon Kellogg, born August 27, 1968, New York, N.Y., Anne Mitchell Kellogg, born June 2, 1970, New York, N.Y.

Stephen Mack Chase, born February 22, 1944, Ellensburg, Wash.

Occupation: Banker.

Career summary: Reconstruction Finance Corporation, Washington, D.C., 1933—34; Assistant National Bank Examiner, 1934—39; vice president, Washington National Bank, Ellensburg, Wash., 1939—57.

President, Washington National Bank, Ellensburg, Washington, 1957—58; Executive Vice President, National Bank of Washington, Tacoma, Washington, 1958—59; Chairman of the Board and President, National Bank of Washington, Tacoma, Washington, 1959—1970; president, Pacific National Bank of Washington, 1970—; Pacific National Bank of Washington resources, March 31, 1972, over \$750,000,000; Pacific National Bank of Washington banking centers, 61.

Other business associations: President, Central Washington Broadcasters, Inc., Ellensburg, Washington (Radio Station KXLE), 1947—58; president, Northwest Chemicals, Inc., 1951—55; owner, Grassland Farm (cattle operation), Ellensburg, Washington, 1950—58.

World War II service: Operated War Training Service Program.

Current activities: Adlai Stevenson Institute of International Affairs, The Board of Directors, 1966—; American Bankers Association (District chairman, Committee on Uniform Treatment, 1960—62); Citizens Committee for Tacoma's Future Development, Executive Committee (1972—).

KIRO Citizens' Advisory Committee, 1967—; KPEC-TV, Channel 56, Public Broadcasting Advisory Board, 1967—; Kiwanis Club of Tacoma (Past President, Ellensburg Kiwanis Club); National Alliance of Businessmen, Business Advisory Committee, 1970—; Pacific Lutheran University, Board of Regents, 1970—; Pacific National Bank of Washington, board of directors, 1970—; Saint Joseph Hospital Lay Advisory Board, 1966—; Seattle Regional Export Expansion Council, 1962— (chairman, 1967—69).

Tacoma Area Urban Coalition Executive Committee, 1970—; Tacoma Art Museum, Board of Trustees, 1959— (president, 1959—61; Advisory Council, 1968—); Tacoma Athletic Commission, Board of Trustees, 1960—; Tacoma Chamber of Commerce (Board of Trustees, 1960—63); Tacoma Clearing House Association (President, 1960—61); Tacoma Community College Trust Fund, Board of Trustees, 1967—; Tacoma General Hospital, Board of Directors, 1967— (Member, Future Planning Committee, 1968—).

Tacoma Philharmonic, Inc., Board of Trustees, 1969— (president, 1971—1972); United Arts Council of Puget Sound, Inc., Board of Trustees, 1968—; United Nations Association of the United States of America, Washington State Division, Board of Directors, 1971—; Washington Bankers Association; Washington Council of the National Council on Crime & Delinquency, 1964— (chairman, 1965—66,

1966-67), (recipient of Sigurd S. Larmon Award, 1969); Washington State Citizens Committee for Revenue Sharing, 1971-; Washington State Council on Higher Education, 1969- (chairman, Facilities Committee, 1970); Washington State International Trade Fair, Board of Trustees, 1960-; Western International Trade Group, 1966-.

Past activities: Allied Arts of Tacoma, Inc., Board of Directors, 1959-61; American Association of the United Nations, Washington State Council, 1963-66; American Cancer Society, Washington Division, Inc., Board of Directors, 1961-64; BASH (Build a Scholastic Heritage), President, 1968; Boy Scouts of America, Executive Board for Rainer Council, 1960-61, Chairman, Kittitas County District, 1946-47, vice-president, Fort Simcoe Council, 1955; Carroll Mortgage Co., Board of Directors, 1968-70; Columbia Basin State Bank, Moses Lake, Washington; Founder, 1944.

Community Chest, Campaign Chairman, Ellensburg, Washington, 1949; Comptroller of the Currency's Advisory Committee, 1992-68; Vice Chairman, Subcommittee-West; Downtown Tacoma Association, Board of Directors, 1969-1970; (formerly, Central Association, Board of Directors, 1964-1966; Comprehensive Planning Committee, 1961-1962); Eisenhower Presidential Library, Washington State Sponsoring Committee, 1959; Ellensburg Chamber of Commerce (President, 1944) Distinguished Service Award, Jr. Chamber of Commerce, 1945; Freight Rate Committee, Chairman, 1956; Junior Achievement of Tacoma, Inc., Director, 1962-64; Kennedy Memorial Library, Washington State Sponsoring Committee, 1964.

Kittitas County Airport Commission, Chairman, 1947-51; Kittitas County U.S. Savings Bond Committee, Chairman, 1951-53; McNeil Island Penitentiary Self-Improvement Group, Outside Advisory Group Member, 1963-67; Murray Gallery and Arboretum, Trustee, 1961-64; National Association for the Advancement of Colored People, Lamplighter Award, 1971; National Bank of Washington, Tacoma, Washington, Chairman of the Board of Directors and President, 1959-1970 (On August 17, 1970, National Bank of Washington consolidated with The Pacific National Bank of Seattle and Goodwin Chase became president of the resulting bank, the Pacific National Bank of Washington.)

National Council on Crime and Delinquency, Board of Trustees, 1965-70 (Member, National Emergency Committee, 1967-70) (Recipient of Sigurd S. Larmon Award, 1969); National Foundation of Infantile Paralysis, Ellensburg Chapter President, Kittitas County Campaign Chairman, 1944-1952; National Probation & Parole Association, Washington State Fund Drive Treasurer, 1960; Office of Price Administration Board, Ellensburg, Wash., 1945; Pacific Northwest Ballet Association, Board of Trustees, 1966-1972 (Chairman, Executive Committee, 1966-69); Pierce County Sports Stadium Advisory Committee, chairman, 1967.

President's National Citizens Committee for Community Relations, 1964-66; Public Defender Demonstration Project Advisory Committee, 1965; Radio Free Europe, State Committeeman, 1971-1972; School Bond Issue, Chairman, 1950; Small Business Administration's Advisory Council for Washington State, 1962-66; Tacoma-Pierce County Opportunity & Development, Inc., Board of Trustees, 1964-1970 (Charter President); United Good Neighbor Fund of Pierce County, Inc., Board of Directors, 1964-1970; Campaign Chairman, 1964-1965; first vice president, 1965-1966.

University of Washington Visiting Committee for the College of Arts and Sciences, 1962-1972; Washington Associated for Retarded Children, Adult Chairman, Pierce County, for WALK (Fund Drive)—1971; Washington, D.C., Correspondent for Los Angeles Independent Review (weekly report), 1934-35; Washington State Aeronautics Commission, Charter Member, 1946; Washington State Cattlemen's Association, Chairman, Legislative Committee, 1955; Chairman, Membership Committee, 1954; Washington State Commission on Higher Education, Chairman, 1969-1970; Washington State Electoral Reform Council, 1970-1971.

Washington State Famine Emergency Committee (Europe), 1946; Washington State Higher Education Facilities Commission, Chairman, 1965-1969; Member, 1964-1969; Washington State Traffic Safety Commission, 1956.

Clubs: Rainier Club, The, Seattle; Tacoma Club, The, Tacoma Treasurer, 1959-60; Tacoma Country & Golf Club (applied for Social Membership on 9/1/71).

Memberships: Air Force Association; Allied Arts—Benefactor Membership; Ancient Landmark Lodge, #268, F & AM; Association of the United States

Army; Chamber of Commerce of the United States; Lakewood Unlimited—Supporting Membership; Navy League of the United States; Pacific Peaks Girl Scout Council—Individual Constituent Interest Membership; Scottish Rite—Tacoma Consistory; Seattle Art Museum—Couple Guild; Seattle Repertory Theater—Patron Membership; Shrine—Asif Temple; Tacoma Opera Society—Patron Membership; Tacoma-Pierce County Humane Society, Sustaining Membership; U.P.S.-Tacoma Symphony Guild—Contributing Membership; Washington State Reclamation Association; Western Finance Association; Y.M.C.A.

Political affiliations: Democrat; Stevenson for President Committee, Washington State Chairman, 1958; Democratic National Committee for Washington State, Director of Finance, 1948.

PNW career: Elected to the Board of Directors, 8/17/70; Elected President, 8/17/70.

The CHAIRMAN. Next we will hear from Mr. Meade Whitaker from Alabama, nominated to be Assistant General Counsel in the Department of the Treasury.

We are pleased to have you before the committee. I believe you have met most of the members at one time or another. We will insert a copy of your biographical sketch in the record at this point.

[The biographical sketch of Mr. Whitaker follows:]

BIOGRAPHICAL SKETCH OF MEADE WHITAKER

Born in Washington, D.C. Received B.A. from Yale University in 1940 and LL.B from University of Virginia in 1948. Served on Board of Editors of Virginia Law Review. While at Virginia, was elected a member of the Order of the Coif, the highest standing national academic legal fraternity, and was a member of the Raven Society. Member of the Birmingham, Alabama and American Bar Associations, the American Judicature Society, the Tax Institute of America and the American Law Institute, and has served a three-year term on the Council of the Section of Taxation of the American Bar Association.

Appointed Tax Legislative Counsel in July, 1969, and served until October 1, 1970. Except for service with the Treasury Department, practiced law in Birmingham, Alabama, from 1948 to August 31, 1973, with the firm of Cabaniss, Johnston & Gardner and its predecessors. Served in U.S. Marine Corps during World War II.

Lecturer at various tax institutes for many years with papers published recently in Tulane Tax Institute, 1971; University of Southern California, 1973; and Institute on Federal Taxation (N.Y.U.), 1972. Currently revisor of J. K. Lasser Chapter on charitable contributions.

The CHAIRMAN. Do you know of any conflict of interest, or of any investments that you have that might create a problem with regard to service as General Counsel in the Department of the Treasury?

STATEMENT OF MEADE WHITAKER, NOMINEE, TO BE AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY

Mr. WHITAKER. No, Mr. Chairman, I do not. I have made arrangements to put my investments in an effective blind trust so I will have no interest, no power of decision at all and have no information about them.

The CHAIRMAN. Do you contemplate making any significant changes in the Office of Chief Counsel?

Mr. WHITAKER. Not at the present time, Mr. Chairman.

The CHAIRMAN. So you will be an Assistant General Counsel of the Treasury.

Mr. WHITAKER. Yes; but my primary function will be Chief Counsel of the Internal Revenue Service.

The CHAIRMAN. I am a little concerned about the Watergate mentality that seems to be developing over in the executive branch of the Government. It appears that if any person is prominent in public life, the Watergate investigation and atmosphere being what it is, apparently there seems to be a feeling that they can only decide against the citizen in that case because his prominence makes it a sensitive case. A decision for him might lead one to think that there is some influence involved, while a decision against the taxpayer would cause one to feel that obviously the Department did not yield to pressure in any way, as evidenced by the fact that the decision was made against the citizen.

I wonder whether we are going to get to the point in this country where the only way the person can get any justice out of this Government is to go into the courts.

Are you aware of that tendency beginning to develop in this Government, people feeling that where the person is prominent or where a Member of Congress expresses an interest in something, that they are compelled to lean over backward to decide against the citizen involved in the case?

Have you come into contact with that at all?

Mr. WHITAKER. Well, I think it is true, Mr. Chairman, that in any circumstance where a taxpayer is exceedingly prominent, for one reason or another, or where there is a congressional interest in the matter, that anyone in Government will exercise utmost care to make certain that all of the factors are taken into consideration and that a right decision is made. I would not feel that that means that decisions are made adverse to the taxpayer in order to avoid criticism and I can assure you that that will not be the attitude of the Chief Counsel's office. It has not been in my experience in the past and I see no reason why it should be. I just think that we may tend to look at a case more carefully, if it is an important matter. It may be important because of the legal issue involved, because of the pressure involved, because of the amount of money involved, or any one of a number of factors.

The CHAIRMAN. Well, all I would urge upon you, you and your superior and those working under you, that you do your duty. If you decide them unfairly, they are going to wind up in the court of appeals of court of claims, and maybe you ought to initial those things and then just see from the percentage of them going to the court of claims what your win record is. It seems to me if you wound up with a very low win record that that ought to indicate you hadn't been doing too good a job.

Mr. WHITAKER. We certainly will be conscious of this.

The CHAIRMAN. I would be the first to suggest to you you should not yield in any respect to political influence, but at the same time you ought to do justice to all citizens, but you shouldn't lean over so far backward the other way that you do something you think would be incorrect. I know it is a tough job you have got.

Mr. WHITAKER. It is a very fine line we are forced to walk in that sort of matter but all we can do is exercise our best judgment.

The CHAIRMAN. Thank you.

Sometimes I have my doubt that the national interest is going to be served by marking some cases sensitive cases and other cases routine cases. It seems to me that in the last analysis, the public interest might

better be served by calling every case the way you see it and that would be it: here are the facts, here is what I think the law is. Offhand, that would be my reaction to the problem.

Mr. WHITAKER. Well, I am sure the Chairman is right and that is what we will try to do.

The CHAIRMAN. I know from time to time before this committee sometimes we will ask who is involved in some proposal or issue, but I have sometimes said don't tell us who is involved, because I would like you to decide the issue based on what the merits of the case are.

Senator Bennett.

Senator BENNETT. I wish it were that simple, Mr. Chairman because we are not the ones who finally pass on the attempt to second-guess our motives.

The CHAIRMAN. Well, sometimes we do temper our judgment depending on what is involved. It has happened that somebody would make a fine presentation and we were about ready to vote him the relief he was asking for. At that point someone would ask how much was involved. If the answer was \$100 million, we would hold everything.

Senator BENNETT. That is right. Mr. Whitaker, do you think the determination of tax-exempt status for nonprofit corporations or organizations should be finally determined by the IRS or should there be a right of judicial determination if the organization disagrees with the IRS ruling?

Mr. WHITAKER. My personal view, Senator Bennett, is that a provision such as is in the pending bill for declaratory judgment in the pension area would be a very salutary tool. I think it would be very worthwhile not only for the organization but for the Internal Revenue Service and for our office. I would support that provision, yes.

I realize it imposes a burden on the tax court and it can be perhaps expanded beyond the present availability of resources, but I don't think it would be a large number as so set forth.

Senator BENNETT. I am sure you are aware of the problems that are created when too much time passes before a ruling is issued. When you get into this position are you contemplating studying that problem to see what you can do to expedite the issuance of rulings?

Mr. WHITAKER. I already have gotten into that subject matter to a small extent and will continue to do so. We will try to do something and the Commissioner is equally interested in getting cases decided more quickly.

The CHAIRMAN. Are there other questions from members of the committee?

Senator FANNIN. I would like to ask one question.

You have had a brilliant career. Your biographical sketch is certainly comprehensive in its coverage of what you have accomplished. I am just wondering if in your work you have been involved in our competitive position with foreign countries as far as tax laws are concerned?

Mr. WHITAKER. My tax experience has not led me into the international area to any large extent at all, Senator.

Senator FANNIN. To me it is a very important subject as we are having difficulty competing with other countries of the world and there is great controversy over how we do stand in relationship to our

laws and equity with our concerns as compared to other countries of the world, and I was wondering if in your work you had studied that problem at all?

Mr. WHITAKER. No; I have really had no experience at all overseas.

Senator FANNIN. Thank you.

Senator HANSEN. No questions.

The CHAIRMAN. Any other questions?

Thank you very much.

Senator MONDALE. The other day I had a very fine talk with Mr. Whitaker and intend to support him. I think he is an outstanding nominee and I inquired of him about this whole question of politicalization of the Internal Revenue Service and I won't question him today, but he gave me very strong assurance that, in his judgment, that Department should not engage in politics, it should be for the purpose of collecting taxes, period, and I was heartened by that because I feel very strongly that must be the case.

Thank you.

Senator BYRD. I would like to associate myself with the remarks just made by the distinguished Senator from Minnesota.

Senator GRAVEL. And the same with me.

The CHAIRMAN. Thank you very much.

Mr. WHITAKER. Thank you, Mr. Chairman.

The CHAIRMAN. Next we will hear from Mr. James B. Cardwell, of Maryland, nominated to be Commissioner of Social Security of the Department of Health, Education, and Welfare.

STATEMENT OF HON. WARREN G. MAGNUSON, A U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator MAGNUSON. Mr. Chairman, James Cardwell and I have worked together for I don't know how long. He has been the budget officer down at HEW. Anybody that can handle a budget at HEW is doing some kind of a real job and I want to add my high recommendation to his nomination for Commissioner of Social Security.

STATEMENT OF JAMES B. CARDWELL, NOMINEE, TO BE COMMISSIONER OF SOCIAL SECURITY OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. CARDWELL. Thank you, I am Bruce Cardwell; I am a long time Federal careerist; I started my career in the Public Housing Administration in 1942 and have worked in the Department of Health, Education, and Welfare in various posts since 1955. I am currently Assistant Secretary and Comptroller of the Department. I was pleased to be nominated for this post because of my deep interest and respect for the Social Security Administration and all that it stands for.

I would be glad to try to answer any questions.

The CHAIRMAN. We have here a biographical sketch of your background in this area, and it speaks well for you.

[The biographical sketch of Mr. Cardwell follows:]

BIOGRAPHICAL SKETCH OF JAMES B. CARDWELL

Age: 50.

Current post: Assistant Secretary, Comptroller, U.S. Department of Health, Education, and Welfare (appointed in August 1970).

Duties and responsibilities: Key adviser to the Secretary of Health, Education, and Welfare concerning HEW resources. Responsible for the development, presentation, and execution of the Department's budget, the maintenance of Department-wide accounting support, the supervision of cost allocation and indirect cost rate determinations for the Department's programs, and the development of Department-wide policy for the management of the several hundred thousand grants and program contracts awarded each year by the Department.

Prior experience (entirely as Federal Government careerist)—

1955 to the present: Various administrative and financial management posts in the Department of Health, Education, and Welfare. Areas of responsibility—budgeting, accounting, auditing, contracting and procurement, management analysis, and general administrative support services.

1965-70: Deputy Comptroller and Department Budget Officer, Department of Health, Education, and Welfare;

1958-65: Financial Management Officer and later Assistant Commissioner of Food and Drugs, U.S. Food and Drug Administration;

1957-58: Budget Examiner, Office of the Secretary, Department of Health, Education, and Welfare with responsibility for the health portion of the Department's budget;

1955-57: Budget Officer, Office of Vocational Rehabilitation;

1942-55: Various clerical and sub-professional assignments; final assignment as Budget Analyst, in U.S. Public Housing Administration (all in general administration and/or budgeting).

The CHAIRMAN. Have you worked with the previous Commissioner in this field?

Mr. CARDWELL. Yes, sir, I have had a fairly close association with the Social Security Administration, the previous Commissioner, Bob Hall and the present staff, going back to 1965 when I first came to the Office of the Secretary as Deputy Assistant Secretary for the Department's budget. I have a familiarity with the agency and its programs, its performance and its record. I am not an expert on social security by any means but I have had a very definite working relationship with it.

The CHAIRMAN. I see that you have been with the Food and Drug Administration and you have also worked in vocational rehabilitation as well as having other responsibilities in the Department of HEW.

Mr. CARDWELL. Yes, sir, I have worked for two of the Department's operating agencies and I have served in the Office of the Secretary on two different occasions.

The CHAIRMAN. Any questions?

Senator BENNETT. Just for the record, Mr. Cardwell, some of us on the committee are becoming increasingly concerned with the erosion of jurisdiction over medicare, which seems to be passing from Social Security into other agencies in HEW. Now, I know that it isn't popular to talk about the responsibility of a bureaucrat to preserve his own turf, but we on this committee are very much interested because this committee has jurisdiction over social security and this committee was responsible for the medicare bill medicare law, and some of us don't want to see that pass out from under your control or our control

in the process of infighting or pressures developing inside the overall HEW.

Are you aware of this potentiality?

Mr. CARDWELL. I am aware of the potential and I am aware of the concern on the part of some of this committee's members. This subject has been mentioned to me by members of the staff of the committee. I am not a turf-minded bureaucrat, but, on the other hand, I do understand the issue. I do not believe frankly that one can separate responsibility for the operation and oversight of the medicare program from the Social Security Administration without literally lifting that responsibility out and reassigning elsewhere. I do not think two bureaucrats can be in charge of the same program.

On the other hand, I do see a need for a closer working relationship between those in charge of medicare and the other health activities of the Department.

I know Dr. Edwards, the Assistant Secretary for Health, and am familiar with his interests. I think we can work together. I think one of the things that I have developed a reputation for in the Department is just that, working together for a common cause without jurisdictional infighting.

So in sum, I would say I believe that the operating responsibility belongs in and should stay in the Social Security Administration.

Senator BENNETT. Well, I think some of us will be watching you because, as I said, we have a turf problem too.

Mr. CARDWELL. Yes, sir.

Senator BENNETT. And we don't want to suddenly wake up and find that this program on which we worked so hard, so long, and of which we are reasonably proud has suddenly disappeared and emerged in some other committee.

Mr. CARDWELL. I will be watching myself.

Senator BENNETT. Well, you watch yourself and we will watch you.

Mr. CARDWELL. Fine.

The CHAIRMAN. Any questions?

Senator BYRD. Mr. Cardwell, first, I support your nomination. I want to see if you could help me in this respect. You are now comptroller for HEW?

Mr. CARDWELL. Yes, sir.

Senator BYRD. The HEW appropriations bill will come before us tomorrow.

Mr. CARDWELL. Yes, sir.

Senator BYRD. The committee report is not yet available. I am wondering if you have a good man on your staff who could come to my office and give me a bird's-eye view, so to speak, of this budget.

Mr. CARDWELL. I would be glad to do that. I would be glad to do it myself. We have one or two people who could do it very well and I will call you after this morning's hearings and set up an appointment.

Senator BYRD. That would be very helpful. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Any further questions?

Senator HANSEN. I have one.

Mr. Cardwell, before this committee are a number of bills that deal with the overall problems of health care in this country, including proposals to provide catastrophic illness insurance, and for improvement of the medicare and medicaid programs, all up and down the line. Along with that we face presently a rather replete array of different methods by which States have implemented the management of auditing health insurance, and different kinds of insurance programs such as blue cross and blue shield. I would ask you about your philosophy regarding this present array of approaches that have been taken by the States. Do you think that a comparison of efficacy of one system with another, to compare private management and contracting programs with another, has been a healthy thing for our country or what are your feelings about it?

Mr. CARDWELL. Let me see if I can rephrase the question to be sure I understand the issue.

I assume you are referring to the use of intermediaries and the fact that the present program permits the intermediary to subcontract if it so chooses, the actual processing of claims. I understand your question to be: Is this a healthy and useful way to do it?

First, I have always favored the concept of using the private sector in the role of the intermediary. Although I was not involved at the outset, my assumption has always been that, when the Congress passed the medicare law, they assumed that the intermediary would process the claims. The role that they assigned to him, I think, was just that.

What seems to have happened is that, often, private data processing firms have moved faster and found a quicker way to improve data processing than the intermediaries themselves. The issue now, I think, is after 5, 6, or 7 years, are the intermediaries themselves in any better position to do the job? Another alternative is should the Federal Government do the job.

In sum, I lean toward continuing to use the intermediaries and to permit them to use subcontractors, but to be sure that such subcontracts are the result of competition and to assure the Federal Government oversight capacity in the operation and management of those contracts.

Does that answer your questions?

Senator HANSEN. Yes, I think in a general way it does.

When you speak of the oversight authority of the Federal Government, how deeply do you envision that concept properly to go in the—

Mr. CARDWELL. Well, under the given situation of the moment I think it has to go into the operations of the subcontractor. It is possible that the Congress could have intended at the time the law was enacted that intermediaries would accept such contractor costs as prices—as an element of cost without any further questions being asked.

For example, we don't look behind the telephone bill that an intermediary pays, but SSA has said that we need to look behind the subcontractor's work if it involves basic processing of claims. The reason for that is that where claims processing has developed through the use of a subcontractor, that process has really become the largest single operation covered by the intermediary and it is so significant that the

Social Security Administration, in my view, cannot assure the Congress and the public that reasonable cost is all that is being charged unless it knows more about the costs of that subcontractor.

Senator HANSEN. Well, now, did I understand you to say initially that it was your feeling that—I have forgotten the precise term you used—those companies or organizations which do the actual processing of the claims have moved more rapidly than have other elements in the whole—

Mr. CARDWELL. It is my opinion that had they not come to the fore in the early days of medicare that we would have experienced a great deal more trouble than actually developed.

Senator HANSEN. But now you are saying—

Mr. CARDWELL. The question we don't know the answer to is are the intermediaries in any better condition now to do the job themselves and what role should the Federal Government play in reestablishing the intermediary as the full processor of claims, should we do that? I don't really have a position on that point.

Senator HANSEN. Are you willing to base your final judgment on the demonstrated record or do you have other feelings that you think would incline you to reject that fact?

Mr. CARDWELL. I think the record on the part of data processors as subcontractors by and large is excellent. They have done a good job. Now that competition is beginning to develop among such subcontractors and potential subcontractors, I think Social Security Administration now has difficulty in sorting out the element of consideration that would permit it to determine which is the best subcontractor. That role on the part of SSA is becoming very complex and I think fairly confused.

Senator HANSEN. Should that—

Mr. CARDWELL. I stand for continued use of the intermediary. I don't think there is any basis for saying that subcontractors could not, cannot, and should not continue to be used. I think we need to do a better job of assuring the competition has occurred among such subcontractors and that the Social Security Administration is in a position to know what is going on.

Senator HANSEN. Well—

Mr. CARDWELL. Beyond that I haven't thought it through.

Senator HANSEN. Is it your feeling that the element of competition that so far have been visible are not necessarily valid that new criteria should be imposed? Why do you, as I understand you to say, raise a question as to the validity of competition or the demonstrated ability of processors to do a job either more efficiently and/or cheaply than someone else might have done that job?

Mr. CARDWELL. Well, the General Accounting Office has raised this question just recently and my position at the moment is largely in response to the questions they have raised. What they in effect have said is if that, we look among the intermediaries, at least those that they have examined, we do not find that the intermediary, in selecting the subcontractor, has not always followed what GAO has come to believe to be good competitive practices.

Now, GAO's interpretation of good competitive practices, I think, is largely tailored around the Federal system. I am not that sure that

the Federal procurement method is the only way to do it. I do not think that HEW and Social Security Administration or the Government generally has given that issue enough thought.

Senator HANSEN. I missed your last statement.

Mr. CARDWELL. I doubt that the Government has given this issue enough thought. To do so, is something that is obviously in the offing, for future concern.

The Secretary has raised some questions about it. He is a strong believer in the concept of using the private sector in this role. He is a strong believer in using the data processor as a subcontractor. He has reached that conclusion. I think I have too. On the issue of what constitutes competition, and how to measure it, is something to which I do not yet have the answer.

Senator HANSEN. This is a field that you have been working in rather closely for some years.

Mr. CARDWELL. Well, no, not really. I have come into it only indirectly in the past because the HEW audit agency comes under my general supervision. That agency has raised the question now for several years about oversight and access to subcontractors' records for purposes of determining cost. It has been their feeling that SSA has not been sufficiently aggressive on that front. I have had the feeling that it is a more complicated issue than that and that one can't and shouldn't decide it here and now in black and white terms. I think the data processors, as I said before, have done a good job. I think as a practical matter in the initial stages it is clear that they reduced the cost. The thing we don't know now is, could other people operate at those same lower costs.

Senator HANSEN. You say could other people. The question you don't know now is, Could people operate at the lower costs?

Mr. CARDWELL. Yes, another point is that the subcontractors who are already in the business took considerable risk, and made considerable investment. Obviously, they want that risk, that investment to be protected, and I can understand their point of view.

Senator HANSEN. If I could just comment on that, Mr. Chairman. I don't argue at all with your statement that subcontractors may want that investment protected, but I should say insofar as I am concerned at least, that whether it will be protected or not ought to depend upon their continuing ability to do the job better than anyone else. I don't have any special specific interest but I can say this and as one who believes very strongly in the free enterprise system in this country, who believes that the responses of individuals given the profit motive will result generally in a better yield insofar as human effort is concerned. I am opposed to the nationalization of the oil industry, I am opposed to many things simply because, as I try to make some judgments between what has happened in other countries and what I see happening here, despite our wrong paths we take often times and failures we hear about, I still think that the ability of private enterprise to do a specific job is better than that of the Government. I don't mean to imply by that that this means we do away with Government. Insofar as the good that results from healthy competition, I have no doubt in my mind, and I just was interested in your feelings in this general area, because I suspect that there will be legislation coming up

and I was interested to know how you viewed the problem in your present vantage point.

Mr. CARDWELL. Yes, sir, I will be glad to try to sum up. As I said earlier. I think very clearly we should continue the use of the intermediary. I think very clearly we should permit him to use subcontractors for claim processing. I believe from the evidence on hand that those subcontractors have definitely done a good job and that they have lowered the net cost for many of the operations, at least up to this point. On the other hand, I don't think we can ignore the questions of competition, the question whether or not fair competition is now occurring, at least as raised by GAO. The Department and SSA certainly will be looking into these questions. I would like to think that we could work with the Congress and with the other parties at interest to come out with a balanced and fair approach.

Senator HANSEN. May I further observe, Mr. Chairman, that I think at some point in your testimony, I can't quote back specifically what you said, but I think it was to this general effect: That you were concerned with the philosophy that competition should be fair, and I think you raised some question as to the ability of other potential bidders or competitors to do as good a job if they had access to what may have been known by certain ones or the practices used by certain ones. Would you clear up that point, I want to be sure on that.

Mr. CARDWELL. The Social Security Administration has for several years now been attempting to perfect a standard data processing system which was designed from inside the Government and they have put that in the public domain and said that anyone who wants to use it may use it, be he an intermediary or be he a potential subcontractor. That in itself has raised questions about whether that is a fair step for the Government to have taken in light of the investment made by existing contractors and the risks that they have taken. That question is being weighed by the Secretary. He has asked an outside group to examine it and to give him some advice and we certainly will pass the conclusion of that group on to this committee as well as to the other parties at interest.

Senator HANSEN. Realizing I am taking a lot of time, I will make one statement, and that is that I think rightly or wrongly it has been the position of this administration, insofar as is practicable, to return power to the people and to let more of these judgments and decisions be made at the State and local levels. That is a philosophy to which I can subscribe, having served as Governor of the State of Wyoming and feeling that conditions vary within regions and certainly within the Nation to such a degree that it is extremely difficult to try to spell out any one specific precise method of doing something and to make certain that the implementation of that method would bring about the results that we would hope. So as a consequence I see merit in letting States, certainly, and localities, to some degree, do their own experimentation, their own improvising, so as to come up with answers that are as responsive as possible to specific conditions, and within that concept I think that there is merit in continuing the general philosophy to which you have just addressed yourself.

Thank you.

The CHAIRMAN. I would like to see if I can get a clear understanding of what your position is on this point.

We are going to be needing a great deal of research to better improve our ways of doing things and also to develop better drug products, better procedures for providing health care, and various other things that fall within the domain of this big agency that you are going to be handling.

Generally speaking, I would find difficulty with a patent on something someone develops on his own and in his own activities. Any large corporation doing as much business as your agency will be doing, would have contracts with those doing research for them which would not permit the contractor to patent something he develops as a result of the contract. Anything the contractor develops would be available for the corporation to use as they wish. In fact, most of them would require that all patent rights be assigned to the company, so that if anybody can make some money out of the fallout, the company would make some money out of it, not the fellow doing the research for the company. I would think that in your area you would definitely want to see to it that the improvements, especially on the machines that do these various things, be it a machine that actually improves someone's health or a machine that processes data, would be freely and fully available for governmental use.

Now, I assume that you would advocate that position. Would you?

Mr. CARDWELL. Yes, sir, I would. However, with regard to the topic that we have just discussed, Senator Hansen and myself, the hardware, so called, really is universally available and, as far as I know that is not the issue. It is the management skills and design of the processing method that is at issue. And frankly, so far it would appear that private enterprise has shown a great deal of capacity to apply very effective management skills and systems design and those things are hard to copyright, they really have to do with brainpower, spirit, and the attitude of the people, and in a large measure that is what we are talking about here and that is why this has become a complex issue.

The CHAIRMAN. I once wrote a law review article on the protection of ideas, but I am not sure whether I commend it to you. I know at that particular time I was a senior in law school and had a lot to learn, and I am sure others have done something better since that time. People who are working for us in your area where the Government is paying the bill will undoubtedly find ways of doing things better. They can't protect that patent, but they will contend that it is a trade secret and that they don't have to tell the competitor how they are managing to do a better job than he is doing, or how they are doing a job at lesser cost.

Now, in your shop I assume that you are going to want any other subcontractors to put to work the best methods that can be developed to do a job.

How are you going to try to find an answer to that problem?

Mr. CARDWELL. Well, I think in the medicare data processing and claims processing business, there are probably two ways, both of which are now being employed by the Social Security Administration. First, is to make the intermediary aware of the various methods and systems that are being employed by other intermediaries. The second one would be this issue of offering competitive opportunities to various peoples with differing ideas to compete in the marketplace

and at a price for the work. I think those two methods would give you some assurance that you were doing it fairly right.

The CHAIRMAN. Well, let's take a case where a subcontractor is able to provide you the information and process a claim at \$3 a claim. If the intermediary wants to dispense with his services, and by doing so he is going to charge \$5 a claim to process the same claim, we don't want to have to pay. That is a lot of money, if you multiply that by many millions of claims.

On the other hand, I think that where it costs more to do it elsewhere, and that contractor doesn't have that business, that you yourself would probably like to know how you are managing to do that at \$3 while other people are charging us \$4 or \$5 for the same thing.

Mr. CARDWELL. These are the questions being asked now. It is those questions that have produced some of the controversy, if I can call it that, that has developed in the last year or so. But the problem is that it is not so simple to measure it in terms of \$5 versus \$2. A process that lets bad claims through, that you pay exorbitant rates for at \$2, is not nearly as good as one you pay \$5 for and really screens out the bad claims. My judgment, having watched the Social Security Administration from my vantagepoint, is they have not yet learned how to make that proper balance of cost versus effectiveness. I am not sure I will be able to learn either, but I think we have to try.

The CHAIRMAN. Thank you very much for your testimony.

Mr. CARDWELL. Thank you, Mr. Chairman.

The CHAIRMAN. Next we will hear Mr. John B. Rhinelander, who is a nominee for general counsel, Department of Health, Education, and Welfare. We will include in the record at this point, Mr. Rhinelander, a statement of your background and experience.

[The biographical sketch of Mr. Rhinelander follows:]

BIOGRAPHICAL SKETCH OF JOHN B. RHINELANDER

On August 23, 1973, the White House announced the President intended to nominate John B. Rhinelander as General Counsel of the Department of Health, Education and Welfare. Mr. Rhinelander is a resident Washington partner of the law firm of Sidley & Austin. If confirmed, he will succeed Willmot R. Hastings who resigned on June 30, 1973, to return to the private practice of law.

John Bassett Rhinelander was born in Boston, Massachusetts, on June 18, 1933. He graduated from Groton School in 1951, received a B.A. degree (political science) from Yale University in 1955, and from 1955 to 1956 attended the Institute d'Etudes de Politiques, Paris. From 1956 to 1958, he served as an enlisted man in the United States Army. Mr. Rhinelander received an LL.B. degree in 1961 from the University of Virginia Law School, where he was Editor-in-Chief of the Virginia Law Review and graduated second in his class.

After graduating from law school, he served as a law clerk to the late Associate Justice John M. Harlan of the Supreme Court of the United States from August 1961 to July 1962. From September 1962 through October 1966, he practiced law in New York City with the firm of Davis, Polk, Wardwell, Sunderland & Klendl. From November 1966 through January 1968, he served as Special Civilian Assistant to the Secretary (Paul Nitze, Paul Ignatius) and Under Secretary (Robert Baldwin, Charles Baird) of the Navy, and from February 1968 to July 1969, he served as Chief Counsel and then Acting Deputy Director of the Office of Foreign Direct Investments in the Department of Commerce.

Mr. Rhinelander served as Deputy Legal Adviser in the Department of State from July 1969 through June 1971. He served as legal adviser to the U.S. SALT Delegation at Vienna in the spring of 1971, and resigned as Deputy Legal Adviser in July 1971 to serve full time as legal adviser to the U.S. SALT Delegation (on detail to the Arms Control and Disarmament Agency) until the initial SALT agreements were concluded and transmitted to the Congress. Upon resigning

from the government in the spring of 1972, Mr. Rhinelander became a partner of the law firm of Leibman, Williams, Bennett, Baird & Minow, which consolidated with Sidley & Austin on October 15, 1972. The combined firm has approximately 160 attorneys with offices in Chicago, Washington, D.C. and Brussels.

Mr. Rhinelander was admitted to the New York State Bar in 1964, to the Bar of the Supreme Court of the United States in 1967, and the District of Columbia Bar in 1971. He is a member of the American Bar Association, the D.C. Bar Association, the Federal Bar Association, the Bar Association of the City of New York, the American Society of International Law (ASIL) and the International Law Association. He is coeditor with Mason Willrich of a book sponsored by the ASIL with the support of the National Science Foundation which is tentatively titled "SALT—The Moscow Agreements and Beyond," that is expected to be published in January 1974. He is also a member of the Council on Foreign Relations and the International Institute of Strategic Studies. He is a director of Templeton, Kenly & Co. of Broadview, Illinois, a family-held corporation founded by his grandfather (but intends to resign from the Board in the near future), is a member of the Groton School Alumni Standing Committee, and a member of the Arms Control Association (having recently resigned as a director).

Mr. Rhinelander is married to the former Jeanne Elizabeth Cattell of West Newton, Massachusetts, a graduate of Connecticut College for Women (1957) and the daughter of the late Dr. Richard B. Cattell and Mrs. Agnes M. Cattell of Duxbury, Massachusetts. They reside in McLean, Virginia, and have four children: John Richard (10), Margaret Templeton (8), Katherine Pierson (6), and Thomas Bassett (4). Mrs. Rhinelander is a director of Concern, Inc., a nonprofit organization.

Mr. Rhinelander's father, Dr. Frederic W. Rhinelander, who is a Professor-Emeritus of Orthopedic Surgery at the Case Western Reserve University School of Medicine and is Research Project Physician at the Cleveland Clinic Foundation, resides in Cleveland Heights, Ohio. His mother, Mrs. Constance Templeton Rhinelander, resides in Boston. Mr. Rhinelander has two brothers and one sister: Frederic W. T. Rhinelander of Glenelg, Maryland, David H. Rhinelander of West Hartford, Connecticut, and Mrs. J. S. C. Morgan of Nahant, Massachusetts.

The CHAIRMAN. Are there any questions?

Senator BENNETT. I have no questions.

The CHAIRMAN. Any other questions?

Do you have a statement that you would like to make, Mr. Rhinelander?

STATEMENT OF JOHN B. RHINELANDER, NOMINEE, TO BE GENERAL COUNSEL, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. RHINELANDER. I do not have a statement, Mr. Chairman. I could quickly summarize my experience, if you would like. I am presently an attorney in private practice here in Washington. I graduated from law school 12 years ago. Since I was a law clerk with Justice Harlan my first year after graduation, I have divided my time, about 5½ years in private practice in New York and Washington and 5½ years in the executive departments of the Government. Most all of my governmental experience has been in the field of foreign affairs. I came down to Washington originally in 1966 and served as Special Civilian Assistant Secretary of the Navy.

The CHAIRMAN. You have had very little experience, if that is the case, in HEW matters?

Mr. RHINELANDER. No, I have not.

The CHAIRMAN. Well that might be a good thing. [Laughter.]

The CHAIRMAN. At least you will bring a fresh approach to it.

Any further questions?

We appreciate your appearance here, Mr. Rhineland. We have no further questions to ask you.

We have already talked to Mr. Goodwin Chase when Senator Jackson and Senator Magnuson were here.

I will next call Mr. Norman Houston, nominee to be a member of the Renegotiation Board.

[The biographical sketch of Mr. Houston follows:]

BIOGRAPHICAL SKETCH OF NORMAN B. HOUSTON

Norman B. Houston has been Deputy Assistant Secretary for Administration U.S. Department of Health, Education, and Welfare since April 4, 1971. In this position he directs a broad range of department-wide administrative functions including computer and data management services, payroll for over 120,000 employees, safety management, defense and emergency coordination, personnel operations within the Office of the Secretary, minority business assistance, equal employment opportunity and administrative services. He has also directed the internal security, surplus property utilization, procurement and material management programs of the Department. The administration of the President's Council on Physical Fitness and Sports was formerly within his office. He is currently chairman of the HEW Blood Bank and in 1972 chaired the Department's U.S. Savings Bond Drive.

Mr. Houston is a resident of McLean, Virginia, married to Betty J. Lee. He has two children and two grandchildren. Prior to 1971 he resided and worked in Los Angeles, California. During 1970 he was a consultant in the field of business and financial management. From 1968 to 1971, he served as a director of the Los Angeles Branch of the Federal Reserve Bank of San Francisco and during 1969 was its chairman. Until June of 1970 he was a corporate official of the Golden State Mutual Life Insurance Company in Los Angeles serving as Chairman of the Executive Committee, Senior Vice President, Chief Investment Officer, Treasurer and Corporate Secretary, among other positions over a span of 21 years.

He was born on February 10, 1923, in Los Angeles, California and attended the public schools there. He attended the University of California at Berkeley and Los Angeles, received a B.S. in 1948 in banking and finance. He is also a Fellow, Life Management Institute (New York) and completed the UCLA Graduate School of Business Executive Program. He is currently a trustee of the UCLA Foundation. He served in the U.S. Army as an enlisted man from 1943 to 1946, primarily in the China, Burma, India theater of war.

He has served as a Commissioner of the Los Angeles Civil Service Commission, a Commissioner of the Los Angeles Human Relations Commission, as a member of the National Manpower Advisory Committee of the Department of Labor and as a member of the California Committee on Crime and Delinquency. He was chairman of the Public Transportation Committee for the Los Angeles Urban Coalition and a member of the Los Angeles Chamber of Commerce Public Transportation Committee. Mr. Houston was a founding director and corporate secretary of the Enterprise Savings and Loan Association in Compton, California and has served as a director of the National Insurance Association and the Interracial Council for Business Opportunity. He has also served as president of the National Association for the Advancement of Colored People in Los Angeles and as treasurer of the Los Angeles Urban League. In 1969, he received the UCLA Outstanding Alumni Award for Community Service.

The CHAIRMAN. Would you just summarize your background for the committee, Mr. Houston.

STATEMENT OF NORMAN B. HOUSTON, NOMINEE, TO BE A MEMBER OF THE RENEGOTIATION BOARD

Mr. HOUSTON. Well, thank you, Mr. Chairman.

I feel that my background has been primarily one in general management with emphasis in the private sector of the economy. At the present time I am serving as Deputy Assistant Secretary for Admin-

istration at the Department of Health, Education, and Welfare, and I have been in that position since recruited by the Department in the early part of 1971. It has been my pleasure and experience to have been involved with the vast array of administrative responsibilities at HEW, and prior to that time I served as a financial analyst and consultant in private industry. I have been engaged with one consulting organization that did have a contract with the Federal Government, that of analyzing the tourism industry in West Africa. However, most of my experience, in fact all of my experience has been with the private sector. I have been very much involved with public affairs, primarily on the west coast, in Los Angeles, and in that capacity I have had an opportunity to work with both large and small organizations, with nationwide organizations as well as in grass roots community-type businesses and public interest concerns.

One of the best experiences that I have had which I feel helps to qualify me and give me a broad sense of responsibility in connection with the relationship between business, industry, and the Federal Government has been that I served for approximately 3 years with the Federal Reserve Bank of San Francisco, the Los Angeles branch, and during the year 1969 I was selected to be the chairman of the board of that branch of the Federal Reserve bank.

The Los Angeles branch of the Fed, by the way, is the largest branch in the United States. It is larger than the head office in San Francisco. We also met, of course, with the head office about three or four times per year.

My interest and concern over the years has been extremely broad-based. As I indicated, I think that I have been very fortunate to have had an opportunity as a young man growing up in the poorer sections of South Los Angeles to have gone to the University of California and to have then returned to that area to go into business and get into this field which has ultimately led me to Washington and public service. I am very interested in responsibilities such as serving as a member of the Renegotiation Board because I feel very strongly that the relationship between private industry and its contracting with the Federal Government and the concern as manifested by the Federal Government itself are very important and should be subjected to the best kind of understanding, mutual respect and fairness in the negotiation and the renegotiation of that business.

The CHAIRMAN. I think that you have made a fine record, Mr. Houston, and I think I speak for the majority on this committee when I say we would be pleased to confirm you on the Renegotiation Board. You are making a very fine contribution and this Nation is proud to see a black of humble beginning, as in your case, advance to the point that he is making a substantial contribution to the welfare and the betterment of people throughout this Nation. The only question that occurs to me is whether the Nation's interest is going to be served by shifting you from the Department of Health, Education, and Welfare over to the Renegotiation Board. Do you have any thoughts along that line?

Mr. HOUSTON. Yes; there are, of course, many, many kinds of responsibilities within the Department of Health, Education, and Welfare. I happen to not be much of an expert, although I have a great

deal of concern, in either Health, Education, or Welfare. I am primarily a manager and a financially oriented person, although I have a degree in accounting, as well as banking and finance. I am presently in a purely administrative type of responsibility and frankly I welcome the opportunity to be able to serve in more of a policy and decision capacity versus the carrying out and execution of decisions that are largely made as a result of the important programs that the Department of Health, Education, and Welfare is involved with. I have been very pleased, I have learned a lot, and it has been a fine experience to have been a part of HEW. I feel now though that I would welcome this kind of and type of responsibility.

The CHAIRMAN. I have no further questions.

Senator BENNETT. No questions.

Senator FANNIN. I have been vitally interested and I had the privilege of talking to Mr. Houston. I was very impressed. As I understand it, you sought this type of work, you feel that with your experience in cost analysis that you could better serve in this position than in the present position that you now hold.

Mr. HOUSTON. That is correct.

Senator FANNIN. Well, I certainly commend you for that and I wish you well.

Mr. HOUSTON. Thank you.

The CHAIRMAN. Well, we have a problem, one of which I am particularly concerned about right now, a minority group with business investment that is having great difficulty making progress. I wish you were available to us for that. But that is pretty well localized.

Senator BENNETT. After they succeed and get a big Government contract he will be looking over their shoulders and seeing how and why.

Mr. HOUSTON. May I thank you, Mr. Chairman. I have very deep concern in regard to minority business and in regard to small business and I understand that the Renegotiation Board would necessarily touch only the larger businesses. However, I would like to say that at any time you or any member of the committee would wish to receive any viewpoints from me in regard to small business or minority business, I would be more than pleased to express them to you because I very definitely have had considerable experience in that area. I have a number of viewpoints in regard to small business.

The CHAIRMAN. Well, we very much need someone available to us who knows enough about business to be able to help some of our minority groups to find the expertise and the know-how and the cooperation from people in other lines of endeavor to make some of these businesses succeed. At this moment I find myself at a loss trying to help citizens in my State with that kind of problem. I wish we had more help available to them. I don't know that there is any prospect of them achieving a Government contract. That would be the answer.

Well, I guess we will have to let you go on your way to the Renegotiation Board. I, for one, will keep you in mind.

Thank you very much, Mr. Houston.

That concludes, then, the nominations that we have before us.

Senator BENNETT. I would like to move that these five men who have appeared before us today be confirmed.

The CHAIRMAN. All in favor say "Aye."

[Chorus of "Ayes."]

The CHAIRMAN. Opposed, "No."

[No response.]

The CHAIRMAN. Then it is unanimous that we will recommend their confirmation.

That concludes this meeting now. We do want to talk in executive session about some legislation.

[Whereupon, at 11:15 a.m., the committee was adjourned, subject to the call of the Chair.]

