

**NOMINATION OF JEROME H. POWELL  
AND STEVEN B. KELMAR**

---

---

**HEARING**

BEFORE THE

**COMMITTEE ON FINANCE  
UNITED STATES SENATE**

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON THE

NOMINATION OF

JEROME H. POWELL TO BE ASSISTANT SECRETARY, DOMESTIC FINANCE, U.S. DEPARTMENT OF THE TREASURY, AND STEVEN B. KELMAR, TO BE ASSISTANT SECRETARY FOR LEGISLATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

---

SEPTEMBER 11, 1990

---



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1990

35-317 ••

---

For sale by the Superintendent of Documents, Congressional Sales Office  
U.S. Government Printing Office, Washington, DC 20402

5361-6.

**COMMITTEE ON FINANCE**

**LLOYD BENTSEN, Texas, *Chairman***

<b>DANIEL PATRICK MOYNIHAN, New York</b>	<b>BOB PACKWOOD, Oregon</b>
<b>MAX BAUCUS, Montana</b>	<b>BOB DOLE, Kansas</b>
<b>DAVID L. BOREN, Oklahoma --</b>	<b>WILLIAM V. ROTH, Jr., Delaware</b>
<b>BILL BRADLEY, New Jersey</b>	<b>JOHN C. DANFORTH, Missouri</b>
<b>GEORGE J. MITCHELL, Maine</b>	<b>JOHN H. CHAFEE, Rhode Island</b>
<b>DAVID PRYOR, Arkansas</b>	<b>JOHN HEINZ, Pennsylvania</b>
<b>DONALD W. RIEGLE, Jr., Michigan</b>	<b>DAVID DURENBERGER, Minnesota</b>
<b>JOHN D. ROCKEFELLER IV, West Virginia</b>	<b>WILLIAM L. ARMSTRONG, Colorado</b>
<b>TOM DASCHLE, South Dakota</b>	<b>STEVE SYMMS, Idaho</b>
<b>JOHN BREAU, Louisiana</b>	

**VANDA B. MCMURTRY, *Staff Director and Chief Counsel***  
**EDMUND J. MIHALSKI, *Minority Chief of Staff***

# CONTENTS

## OPENING STATEMENTS

	Page
Moynihan, Hon. Daniel Patrick, a U.S. Senator from New York .....	1
Chafee, Hon. John H., a U.S. Senator from Rhode Island .....	2

## COMMITTEE PRESS RELEASE

Finance Committee to Consider Treasury and HHS Nominations; Powell Nominated to Treasury, Kelmar Nominated to HHS.....	1
--	---

## ADMINISTRATION NOMINEES

Kelmar, Steven B., Assistant Secretary-Designate for Legislation, U.S. Department of Health and Human Services.....	3
Powell, Jerome H., nominee for Assistant Secretary, Domestic Finance, U.S. Department of the Treasury .....	9

## CONGRESSIONAL WITNESS

Boehlert, Hon. Sherwood L., a U.S. Representative from New York .....	2
---	---

## ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

Bentsen, Hon. Lloyd:	
Prepared statement .....	23
Boehlert, Hon. Sherwood L.:	
Testimony .....	2
Chafee, Hon. John H.:	
Opening statement.....	2
Kelmar, Steven B.:	
Testimony .....	3
Prepared statement .....	23
Resume.....	24
Letter to Senator Moynihan, dated September 11, 1990 .....	26
Moynihan, Hon. Daniel Patrick:	
Opening statement.....	1
Powell, Jerome H.:	
Testimony .....	9
Prepared statement .....	26
Biographical .....	27
Letter to:	
Senator Moynihan, dated September 18, 1990 .....	28
Senator Chafee, dated September 18, 1990 .....	28
Senator Moynihan, dated September 27, 1990 .....	29

## COMMUNICATIONS

Letters from the U.S. Office of Government Ethics.....	30
--	----

**NOMINATION OF JEROME H. POWELL TO BE ASSISTANT SECRETARY, DOMESTIC FINANCE, U.S. DEPARTMENT OF THE TREASURY, AND STEVEN B. KELMAR, TO BE ASSISTANT SECRETARY FOR LEGISLATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

---

**TUESDAY, SEPTEMBER 11, 1990**

**U.S. SENATE,  
COMMITTEE ON FINANCE,  
Washington, DC.**

The hearing was convened, pursuant to notice, at 10:04 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan presiding.

Also present: Senators Chafee and Symms.

[The press release announcing the hearing follows:]

[Press Release No. H-53, Aug. 27, 1990]

**FINANCE COMMITTEE TO CONSIDER TREASURY AND HHS NOMINATIONS; POWELL NOMINATED TO TREASURY, KELMAR NOMINATED TO HHS**

WASHINGTON, DC—The Finance Committee will hold a hearing on the nominations of Jerome H. Powell to be Assistant Secretary for Domestic Finance of the Department of Treasury and Steven B. Kelmar to be Assistant Secretary for Legislation of the Department of Health and Human Services.

The hearing will be on *Tuesday, September 11, 1990 at 10 a.m.* in Room SD-215 of the Dirksen Senate Office Building.

Powell is a consultant to the Department of Treasury and former Senior Vice President of Dillon, Read & Co., Inc., and Kelmar is Acting Assistant Secretary for Legislation at HHS.

**OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A.  
U.S. SENATOR FROM NEW YORK**

- Senator MOYNIHAN. A very good morning to our guests and our distinguished witnesses who will be before us this morning. The first in the eminent company of Representative Boehlert, who is my Congressman, I am very honored to say.

Mr. Boehlert is here to introduce Mr. Steven Kelmar, who has been nominated to be Assistant Secretary of Health and Human Services for Legislation. We welcome you, Mr. Kelmar, and we are very happy to have you, sir.

**STATEMENT OF HON. SHERWOOD L. BOEHLERT, A U.S.  
REPRESENTATIVE FROM NEW YORK**

Representative BOEHLERT. Thank you very much, Mr. Chairman. I just want you to know that your Congressman is on the job today representing the interests of Pinders Corners.

It is of particular pleasure for me to present to you, Mr. Chairman, and the committee, Assistant Secretary-Designate for Legislation, Steven B. Kelmar, for this very important hearing. I do so with some mixed feelings. There is a great deal of personal pride as I present this nomination of the President to you.

For 7 years Mr. Kelmar and I were partners in a venture called "Good Government."

Senator MOYNIHAN. Now may the Chair suggest a moment of caution. What is left of Good Government is out at Andrews Air Force Base under military guard. [Laughter.]

But go ahead, sir. Frivolously is allowed, but you are not on oath. Representative BOEHLERT. But you, Mr. Chairman, more than anyone else in this august body know the services provided by the office of your Congressman and it was under the leadership of Mr. Kelmar that my whole operation was organized and has worked these past 7 years with him.

I have lost him now but I have lost him to a higher calling. He is a student of, and a product of, the Congress, with experience here in the Senate with Senator Hayakawa, in the House with Congressman George Wortley, and then with me.

He is without question the most able communicator I have ever seen in my professional life. And, Mr. Chairman and members of this committee, communications is what this business of Government is all about. By training, by experience, by commitment, we have someone who is ideally suited for the important task for which he has been nominated by the President of the United States. It is with special pride that I present him to you for your consideration.

Thank you, Mr. Chairman.

Senator MOYNIHAN. You are very thoughtful to come over to do this, sir. We know Mr. Kelmar by reputation. He has now the position of Deputy Assistant Secretary. Am I correct in that?

Mr. KELMAR. That is correct, Mr. Chairman.

Senator MOYNIHAN. And, of course, he was the special assistant to Senator Hayakawa, who is fondly regarded in these halls as you would know and respected as you are, sir.

Senator Chafee, good morning.

**OPENING STATEMENT OF HON. JOHN H. CHAFEE, A U.S. SENATOR  
FROM RHODE ISLAND**

Senator CHAFEE. Good morning, Mr. Chairman. I would first like to greet our distinguished presenters and say to Mr. Kelmar how glad we are to see you here.

I am glad you have been nominated for this job. It is a tremendous job. Some people estimate that health care costs are running, not just Federal expenditures, but overall expenditures in the country, are running in the neighborhood of \$660 billion. I am not sure

what figure you attribute to health care costs, but it is, even by Washington figures, a lot of money.

I am just sure that this is going to be one of the great issues that we will face in the balance of this century from the point of view of the Federal Government, us here in the Senate, and more particularly on the Finance Committee.

So I think you have the background and ability to handle these issues and we look forward to hearing your comments today. I am glad you are here and glad for the U.S. Government that you are willing to take on these responsibilities.

Thank you.

Mr. KELMAR. Thank you, Senator Chafee.

Senator MOYNIHAN. Shery, you probably want to get back to another hearing on the other side. So we thank you very much.

Representative BOEHLERT. I never welcome the opportunity to absent myself when you are in the chair. I look forward to staying here for a few minutes, Mr. Chairman.

Senator MOYNIHAN. You are very welcome.

Senator CHAFEE. That is a first right there. [Laughter.]

Senator MOYNIHAN. Mr. Kelmar, you have a statement which we will put in the record as if read.

Mr. KELMAR. I do.

Senator MOYNIHAN. Perhaps you would like to summarize it for the committee.

Mr. KELMAR. Thank you.

**STATEMENT OF STEVEN B. KELMAR, ASSISTANT SECRETARY-  
DESIGNATE FOR LEGISLATION, U.S. DEPARTMENT OF HEALTH  
AND HUMAN SERVICES**

Mr. KELMAR. Mr. Chairman, members of the committee, thank you, Congressman Boehlert, both as a good friend and mentor. I appreciate your kind remarks. Your confidence in me over the years enabled me to always reach for new challenges and I thank you for being here today.

Mr. Chairman, I have a brief statement but would like to recognize that one never really gets to be nominated for a position like this without the support of family and friends. I thank them for being here and for their support.

It is a special honor for me to appear before you today as you consider my nomination for Assistant Secretary at the U.S. Department of Health and Human Services. Being nominated by President Bush for this sensitive position of responsibility is certainly a high privilege. Power, the President reminded us in his inaugural address, is given to us not to advance our own purposes, nor to make a great show in the world, nor a name. There is but one just use of power and it is to serve.

That spirit of service has my fullest devotion, just as vigorously as it did when I first began that service some 11 years ago here in the U.S. Senate, fresh from college, full of all of it as possible.

If confirmed by the Senate, I look forward to serving Secretary Sullivan, a man who is charged with exceptional responsibilities that affect all Americans. He is a man easy to admire for his record of achievement demonstrates to us all that hard work

makes the possible reality; and hard work is what it will take to properly execute my role in this position.

The Congress and the people have many, many interests and priorities with the Department. Our human service issues affect all Americans. Our health care system has marvels but also some shortcomings, and it will be this committee that will have much to say as to what direction we finally take in addressing these problems. But these answers will require an equal devotion from us all.

Being effective in these issues will mean ensuring that I bring your concerns to bear in policy deliberations within the administration. And I will remain just as diligent in assuring that you are aware of our goals and initiatives. Our relationship must be a continuous one if it is to be productive and that will remain a priority of mine and my staff.

The challenges we face will require a vision, but they will also require cooperation. And it will be cooperation that in the end will determine just how successful we all are.

If confirmed, I assure you that my devotion to that cooperation will be as great as any. And I pray that my skills will be equal to the challenges that lie ahead.

Thank you, Mr. Chairman. I would be pleased to answer any questions you may have.

Senator MOYNIHAN. Thank you, Mr. Kelmar, for a very gracious statement. You may be sure that your judgment of Secretary Sullivan is shared here.

I have just two points I would like to raise with you and they are more by way of advisory than anything else. Senator Chafee mentioned this whole question of health care. Could I just offer you the judgment—and you can have a role here that has not been played in the time that I have been on this committee, which is almost 15 years now. I do not know whether it was ever previously done. Which is to take back to the Secretary and your other colleagues some sense of what it is that this committee—half of the budget of the United States goes through this committee, all of Social Security as you know—just what is it we do well and what it is we do badly or do not do as well as we ought.

It is very clear one of the things we do not do well is hospital management. And yet more and more we are in the situation of hospital managers. We are none of us doctors, just as on the Committee of Environment and Public Works, we are none of us scientists, and so are severely limited in just our elemental knowledge of what we are talking about. With the exception of the Chairman and some others—Mr. Armstrong and others—we are none of us managers.

And if you combine the absence of either of those skills in this extraordinary complex matter when we try to legislate medical procedures and management techniques we do not do it well. But if we are doing it at all it is because we are not getting any really strong leadership from the executive branch. This is an executive function. But we must do it.

And the combination is, you know—do I have to tell you? I mean we sit around here endlessly and decide which is a more valuable medical procedure and we do not understand—we could not spell them either. Do you have some sense of what I am talking about?

Mr. KELMAR. Yes, sir.

Senator MOYNIHAN. The micromanagement. The executive branch in my age is increasingly given to deploring micromanagement and insisting upon it. It is a kind of not unknown position in life called neurosis. What do you think?

Mr. KELMAR. Well, sir, I think that leadership in those areas needs to be shown. We certainly have enough folks interested back at the Department of Health and Human Services who have opinions on those. And I think what is needed is that we make those opinions known to the Congress and—

Senator MOYNIHAN. They do not come through very clearly. I have to tell you. I mean I have been sitting here 15 years waiting for someone to say something interesting about health care. [Laughter.]

Mr. KELMAR. That is a long time, sir. I am not going to try at this point.

Senator MOYNIHAN. And my health has, you know, steadily declined over the period, so I get more interested I mean, you know, the inverse of ratio of age and interest in this matter—or direct ratio, I'm sorry.

I have never had anyone come up and say, let me tell you about this. How much do we spend in the last 6 months of life for the average Medicare patient? What proportion of Medicare outlays?

Mr. KELMAR. I am not aware of what that is, sir.

Senator MOYNIHAN. Well you ought to be. Find out. I would say it is about a third.

Senator CHAFEE. What was the question again, Mr. Chairman?

Senator MOYNIHAN. I was just saying—and see if you agree—on the issue you raised of health care, that we have a problem in this committee of being increasingly asked to act as if we were hospital managers and we are none of those things, and the amount of executive management detail in Medicare and Medicaid is just beyond our capacity to be effective about as managers.

Senator CHAFEE. I think Senator Danforth phrased it—were you there when he described the minute detail we get into up here in order to try and save \$100 million a year or \$200 million there. It is ridiculous.

Senator MOYNIHAN. I mean it is beyond our capacity. We are not physicians and we are not, with the exception of Bill Armstrong and Lloyd Bentsen and a few others, we are not managers. You have been a Governor. Give me an answer—is it a third?

Senator CHAFEE. But I am not sure of the question.

Senator MOYNIHAN. How much is—the median patient with the median outlays of Medicare, how much is spent in the last 6 months of life? I think it is a third. The last 6 months of life.

Senator CHAFEE. In other words, would you say how much of total Medicare expenditures are made in the last 6 months of a beneficiary's life? Is that the question?

Senator MOYNIHAN. Yes.

Senator CHAFEE. I would be interested in that, because I hear shocking statistics that sometimes I've heard as much as half, but I can't—

Senator MOYNIHAN. I have heard as much as half, but I think about a third is right.



Senator CHAFEE. Do you—could you—I mean that is a crucial thing.

Mr. KELMAR. I would be happy to supply that to the committee. [The information appears in the appendix.]

Senator CHAFEE. Because the point here is—this is the exact truth—I knew a man 98 years old who under Medicare received cataract surgery in one eye. The other eye was scheduled but he died before they could get to that, and it astonished me.

Senator MOYNIHAN. That is a question which only is suggestive. But those are the kind of things this committee is interested in and we are very much aware that we have not made any progress towards simplifying our oversight, much less management.

One other question, which is—and again it is just in the way of an advisory. I looked through your statement and there is one subject missing from it. Just as there is one subject missing from the title of your Department, and that is welfare. It is becoming invisible.

It is right there in the Preamble of the Constitution. They weren't afraid of the word in 1787. But when we created the Department of Education to our everlasting distress and took away education from your Department, we had some nice—we had some good plain words—Health, Education, Welfare. Those are good words. And suddenly you became the Department of Health and Human Services, whatever a human service is.

You are responsible for welfare. It is not a bad word. It is a constitutional word. It says the constitution, you know, is created to promote the general welfare. What proportion of American children will be on welfare, AFDC, before they are 18?

Mr. KELMAR. Sir, I do not know the precise number. I know whatever it is it is too many.

Senator MOYNIHAN. Well if you don't know the precise number, how can you know it is too many? That will not get you very far with me.

Mr. KELMAR. I understand that.

Senator MOYNIHAN. If it turns out to be three, would that be too many?

Mr. KELMAR. Well I think, sir, anybody that is suffering or needs help is too many and that we can always do more.

Senator MOYNIHAN. But you do not know how many?

Mr. KELMAR. I do not know the precise number. No, sir.

Senator MOYNIHAN. Would you want to take an estimate? You know, just even when you guess about a number you already know more about a subject. Would you say 1 child in 10 would be on welfare before they are age 18?

Mr. KELMAR. I would say at least 1 child in 10, yes.

Senator MOYNIHAN. Would you say 9 children in 10?

Mr. KELMAR. I would prefer not to play multiple choice. But I would assume that it is several within 10, sir.

Senator MOYNIHAN. Several?

Mr. KELMAR. Three children within 10.

Senator MOYNIHAN. Three? Good, you have already figured it out. Listen, you would be surprised. You put numbers and one seems too much too big and another too small—about 3 in 10 would be our estimate. An extraordinary number.

Mr. KELMAR. Yes.

Senator MOYNIHAN. Far beyond what anybody thinks.

We are going to try to work under the Family Support Act—we are going to try to put in place with you all the beginning of some social indicators on this subject. For what it is worth, I did these estimates in 1982. They have been replicated. They seem to be about right. They seem to be what the census does. But it is a very simple task, as those things go, just to measure it. Take samples to keep track and to know over time what is happening.

Mr. KELMAR. It is very important.

Senator MOYNIHAN. We have no idea what has happened. The responsibility for a program that touches the lives of one child in three—remember, that child is a pauper.

Mr. KELMAR. Yes.

Senator MOYNIHAN. You are a pauper when you go on welfare. It is a good word. Not disadvantaged, but pauper. And that happens to one child in three. In some communities, two in three. But we have never really bothered to count. And you don't really know much about a subject until you put a number on it. And I hope you will help us in devising it.

This is something your people, your administrators, will want to know. They will be able to say whether they are doing a good job or bad, if things are getting easier or harder. They will know a lot more. So I hope we can ask you to help us with this.

Mr. KELMAR. You can count on that, Senator.

Senator MOYNIHAN. Good.

And for the information of those present, the ever faithful Margaret has come up with the answer—40 percent.

Senator CHAFEE. Well it just shows you that there is not unanimity in the world. I have figure here—source, CRS, 26.7 percent of Medicare spending for beneficiaries occurs in the last 12 months of life.

Senator MOYNIHAN. Well we said 6. So it has got to be even less than that.

Senator CHAFEE. You said 6 months.

Senator MOYNIHAN. Yes. So it would be less than that, than your number.

Senator CHAFEE. That is right.

Senator MOYNIHAN. All right. Mr. Kelmar, you are going to find out, aren't you?

Mr. KELMAR. I have the assignment, Mr. Chairman.

Senator MOYNIHAN. There you are sir.

Senator Chafee and then Senator Symms.

Senator CHAFEE. I do not have any questions, Mr. Chairman. I just want to reiterate that in my judgment in the balance of this century, the biggest single challenge we are going to have in this committee is dealing with health care costs—health care. First, providing decent health care. I mean we are not even into long-term care, through Medicare anyway. Most of it is Medicaid.

We tried to do something, as you recall, which did not get into long-term care, but it was dealing with a new venture, catastrophic; and for some reason that I have never quite understood a wild fire broke out on that. And in one of the most extraordinary events I have seen around here we beat a complete retreat.

So any venture into long-term care is going to cost money. I certainly do not believe that we are going to pay for it solely out of the general treasury. Because as everyone knows Medicare is not carrying itself now. You have the Part B premiums in which the beneficiary pays 25 percent, not the original 50 percent as foreseen when the program went into effect.

So you have a lot of challenges ahead. You are going to be there for at least 2 more years and without venturing into too many political predictions I would expect that you have a good change to be there for 6 years. So we look forward to working with you and all the fine people you have over there. You have a good Department. I think it is nice that you said what you said about Secretary Sullivan.

Senator MOYNIHAN. Which I commented on.

Senator CHAFEE. And I know Senator Moynihan has high regard for Secretary Sullivan. We all do on this committee. He comes with great standing. So the best of luck and we look forward to working with you.

I would just like to say one other thing. All too often I believe that Department people that work with a congressional committee look on it as a combative situation. And yet we are here to be helpful. We are not here always to expose what you have done wrong. We are here to help you get your job done. Just touching on Secretary Sullivan, when he came up for confirmation here, it was this committee that was so horrified that under some ridiculous proposal in order to qualify for the job he had to give up his pension benefits that he had earned legitimately at the College. Was it Morehouse he came from in Atlanta?

Mr. KELMAR. Yes.

Senator CHAFEE. And this committee said, that is ridiculous. Nobody ought to be able to be required to do that. And so the administration back tracked, as Senator Moynihan remembers, and permitted the Secretary to get what he is legitimately entitled to.

So that is just one little minor illustration of the fact that we are not here to chastise your Department. We are here to work with you in a common effort to achieve these goals. We look forward to it. Thank you.

Mr. KELMAR. Thank you.

Senator MOYNIHAN. Senator Symms, good morning.

Senator SYMMS. Good morning.

Well spoken, I would say to my colleague. I generally share what he said and wish you the best of success.

Mr. KELMAR. Thank you.

Senator SYMMS. I look forward to working with you.

Mr. KELMAR. Thank you, Senator.

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

Senator MOYNIHAN. Mr. Kelmar, you got off easy. [Laughter.]

And it will be the last time. Do not forget that.

Mr. KELMAR. I appreciate that.

—Senator MOYNIHAN. Get those numbers up to us fast and you will be the Assistant Secretary in no time. In most regards Senator Chafee can be taken with an amount of the utmost precision in his statements. But you will not be there 6 years. The median tenure

of an Assistant Secretary is about 19 months. So get to work fast and have a lot to show for it.

Mr. Boehlert, thank you very much, sir, for coming over. It is a pleasure to have you and a courtesy for you to come.

Representative BOEHLERT. Thank you, Mr. Chairman.

Mr. KELMAR. Thank you, Mr. Chairman.

Senator CHAFEE. I want to thank Sherwood for coming also.

[The prepared statement of Mr. Kelmar appears in the appendix.]

Senator MOYNIHAN. Now we have before us Mr. Jerome Powell who is the candidate to be Assistant Secretary of the Treasury for Domestic Finance. I cannot imagine a happier opportunity in this time than to take on that job. We welcome you, Mr. Powell. I see that you have a statement. It will be placed in the record as if read and you can summarize it or read it as you choose.

May I ask—I should have asked Mr. Kelmar—do you have any members of your family present?

Mr. POWELL. Yes, I do, Senator. In fact, before I read my brief prepared statement I would like to take this opportunity to introduce my wife, and my parents, my wife's mother, my sister and assorted other friends and relatives, who have been kind enough to come here and support me today.

Senator MOYNIHAN. Mr. Powell, we welcome you. Mr. Powell, have you no cousins?

Mr. POWELL. Cousin Greg. [Laughter.]

Senator MOYNIHAN. You have a cousin.

Mr. POWELL. Brothers-in-law.

Senator MOYNIHAN. They are all welcome. We are particularly happy to have you here, sir.

Mr. POWELL. Thank you, sir.

#### STATEMENT OF JEROME H. POWELL, NOMINEE FOR ASSISTANT SECRETARY, DOMESTIC FINANCE, U.S. DEPARTMENT OF THE TREASURY

Mr. POWELL. Mr. Chairman, distinguished members of the Finance Committee, it is an honor to have been nominated by the President for the position of Assistant Secretary for Domestic Finance. It is an honor as well to appear before this committee and I am grateful that you have so expeditiously scheduled this hearing.

The Office of Domestic Finance has responsibility for four broad policy areas within the Treasury Department—Federal Finance, Corporate Finance, Capital Markets, and Financial Institutions Policy. I believe that my work in the financial markets over the past 10 years, first as a lawyer and then as an investment banker, provides useful preparation for the duties for which I have been nominated.

I would like just to take a few minutes to outline some of the major policy areas with which I would deal if confirmed. In the area of Federal Finance, the Assistant Secretary for Domestic Finance oversees all issues related to Treasury Debt Management and serves as chief lending officer for the Federal Financing Bank. The basic thrust of policy in the area of Federal Finance is to see

that the financing activities of the Federal Government are undertaken with the least cost to the taxpayer.

This office has recently completed a study of government-sponsored enterprises or GSEs. The administration's proposals for ensuring the safety and soundness of GSEs are based upon the principle that, when a business benefits from implicit or explicit Federal backing, certain obligations go along with that benefit. Specifically, such businesses should be required to be strongly capitalized and to submit to effective and appropriate Federal supervision.

In the corporate finance area, the Office of the Assistant Secretary for Domestic Finance coordinates the Treasury's policy efforts with regard to corporate financial activities, with particular emphasis on issues of international competitiveness. I strongly support the administration's and Secretary Brady's, efforts to focus the attention of American business on longer term competitiveness issues, rather than on the short term.

In the area of capital markets, the Treasury has sponsored reforms that would enhance the integrity and efficiency of our financial markets. In particular, Treasury has played a leading role in attempting to conform our regulatory structure to the reality of the marketplace, which is that the stock market and the stock index futures market are, in fact, one market. I strongly support these efforts.

In the area of financial institutions policy, the Treasury is deeply engaged in the study of Federal deposit insurance mandated by FIRREA. This study, is scheduled to be completed by year end. In pursuing this study, Treasury is considering not only deposit insurance, but also the related questions of financial services reform raised by the international competitiveness of our banking institutions.

In particular, the study and Treasury's recommendations will have to balance the need to enhance the ability of our banks to compete internationally, against the need to protect the taxpayer from exposure that could arise from allowing banks to undertake a broader range of activities.

The Office of Financial Institutions Policy also assists the RTC Oversight Board in connection with the S&L clean up. The administration's objectives in this area, which I fully support, are: (1) To honor our commitment to American savers to protect them to the full extent of Federal deposit insurance; (2) to complete the task at the least cost to the taxpayer; (3) to see that perpetrators of fraud are put in jail; and (4) to assure that this unfortunate experience is not repeated.

Let me close by saying that, if I am confirmed, I will look forward to the opportunity to serve my country and will do so to the best of my abilities. I will be happy to answer any questions the committee may have.

Senator MOYNIHAN. Thank you, Mr. Powell. I should note that you also served as a Legislative Assistant to Senator Schweiker, who is well remembered in these halls.

I have just a few questions. But in concern for my colleagues' time, why don't I ask Senator Chafee if he might ask first.

Senator CHAFEE. I have no comments. I would just welcome Mr. Powell. I would assume you were associated with Secretary Brady at Dillon, Read.

Mr. POWELL. I worked with the Secretary at Dillon, Read; yes, Senator.

Senator CHAFEE. You worked with him there.

So I am in no hurry. I will wait until you are through, Mr. Chairman.

Senator MOYNIHAN. Senator Symms?

Senator SYMMS. Thank you, Mr. Chairman.

Mr. Powell, I wish you success in your endeavors. One statement you made here, and I am not surprised because I know that is the position of the Secretary of Treasury, indicates that Treasury has sponsored reforms that would enhance the integrity and efficiency of our financial markets and that the stock market and the stock index futures market are in fact one market.

Do you anticipate then having both CFTC and SEC in Chicago and in New York in the futures exchanges? Would you have two regulatory agencies so we would have another layer of bureaucracy that these markets have to work through?

Mr. POWELL. No, Senator. The proposal, as I understand it, would be to transfer jurisdiction over stock index futures products to the SEC from the CFTC.

Senator SYMMS. But of course in those exchanges like in Chicago where CFTC regulates those exchanges then there would be two regulatory bodies in one exchange.

Mr. POWELL. I think that is true as far as it goes. I think that the proposal was also intended to be constructed with the least possible interference to the operations of the commodities markets and to the CFTC's operations.

Senator SYMMS. In your experience with Dillon, Read, if in fact say you have a big day where there's a big sell off and a lot of people start selling stocks, which way do you think the market would be the most volatile if they actually sold all the portfolio stocks, say, from billions of dollars worth of stock, say, in a mutual fund or if the mutual fund managers just hedge the account by selling stock index futures and do not sell the stocks?

Mr. POWELL. It is difficult to answer that question in the abstract, Senator. I think the evil that this proposal was intended to address is that these markets, in fact, operate as one market. What has happened several times in the last—

Senator MOYNIHAN. You describe that as an evil?

Mr. POWELL. I would describe it as a glitch in our market system.

Senator MOYNIHAN. Why don't you describe it as an economic reality?

Mr. POWELL. Fair enough.

Senator MOYNIHAN. The reality is, why evil?

Mr. POWELL. The evil is not that they're one market; the evil is that—

Senator MOYNIHAN. Evil is a strong word, Mr. Powell.

Mr. POWELL. It is. Perhaps I should use a different word.

Senator MOYNIHAN. You have referred to the most calamitous experience in the history of American banking, the S&L crisis, as

"this unfortunate experience." It sounds like you are an undertaker. The beloved one is below in the casket.

If that is an unfortunate experience God Almighty knows what an evil is.

Mr. POWELL. The problem that the bill was intended to address is that whereas stock index futures and stocks are one market in reality, they are not regulated by one regulator and they are out of balance. I think the evidence in that, Senator, is that we have had these major market disruptions three or four times in the last 3 years, without any important economic music would appear to justify such a calamity.

Senator SYMMS. Well, the reason I am concerned is, I know that is a popular view and you may well be right and I may be wrong. But what do you think about the proposition that the stock market, perhaps the New York stock market, deals in equities and these are equity investments that they deal in; and the future markets, the commodity markets, the exchanges, deal in future contracts?

Now there is a difference and they are married insofar as if you own a big stock portfolio and you are concerned about the direction that the market may go you can head your position which spreads out the risk a little bit and does not cause the volatility.

I wonder what would happen if we did not have futures exchanges. Of course, I know what would happen. They would have them in the Bahamas and they would have them in Tokyo and we would just lose that business because it is a reality. But let's just say that if the political effort, hypothetically, were able to do away with trading stock index futures completely and make it illegal and then you would have a day like we had in October of 1987, or a 2-day period, where people really got concerned and started wanting to unload their stocks, do you really believe the specialists could handle all that traffic they really dumped it all in there?

You see the futures actually give you a way to hedge this without actually selling your equity. You can hedge it and share the risk with someone else.

Mr. POWELL. I agree with that, Senator. I do not have any personal animus against futures; and I do not believe the Treasury's proposal does.

Senator SYMMS. Well I think you have a little when you refer to it as evil, that you have a little bias there. I mean it may have been a Freudian slip, but—

Mr. POWELL. I did not refer to futures as evil. I said that what was wrong was there was a lack of supervision, consolidated supervision, over the stock index futures market and the stock market.

Senator MOYNIHAN. The Chair rules Mr. Powell has correctly described his characterization.

Senator SYMMS. Okay, good. [Laughter.]

We do not want to make this tough on you here today, but I think it is an issue.

Mr. POWELL. I'm sorry, Senator. What was the question?

Senator SYMMS. Well the point is, do you really believe that the specialist system, the stock exchanges, where you have a specialist that tries to keep stability in the price of a stock that if they decide—let's say if Fidelity Magelin Fund instead of hedging, or some of the big stock funds, they just decided to sell everything

today, they just put it all on the block, and you may find out that there is literally hundreds of billions of dollars worth of stock up for sale, and it is all on the market, wouldn't that be more volatile than if they just sell some futures contracts in Chicago at the Mercantile Exchange—sell the S&P 500 and keep their stocks intact and do not sell the portfolio, but they just hedge their position?

Mr. POWELL. Senator, that is a very hard question to answer. You are hypothesizing a world which doesn't exist.

Senator SYMMS. Well that is the way it works.

Mr. POWELL. We have stock index futures which permit hedging and I do not think anybody here is advocating—I am certainly not—abolishing stock index futures.

Senator SYMMS. My point is that those two functions are married, and one party, the CFTC, is regulating future contracts. The SEC is regulating equity investments. So they are two separate things. But even if we make it so miserable on the future exchanges that they move out of the United States and go to Canada or Mexico they are still going to trade them. I mean it is a risk/sharing mechanism that has proven over 150 years that it works for producers and for consumers both.

People buy on futures markets or sell on futures markets—future contracts—just to hedge their position when there is very little deliveries actually take place. I just do not see the logic of why we need to have the SEC involved and CFTC in the same exchange.

Mr. POWELL. Well that is a different question.

Senator SYMMS. I mean look how many people regulated the S&Ls and they ended up in a catastrophe. We have not had that kind of catastrophe in the New York Stock Exchange or the Mercantile Exchange or the Board of Trade or those.

Mr. POWELL. But we have had a number of near catastrophes since October 1987 and there are those who feel that a central cause of the problem with these major market disruptions is a lack of consolidated supervision over specifically just the stock index futures market and the stock market.

Senator SYMMS. Well see I think there is—I hear what you are saying. But I think that what will bring about a calamity more than anything will be if Congress passes a budget and the President signs a big tax increase on the American economy at the same time we continue to pass excessive regulatory reform bills such as the Clean Air Act. We will have a calamity on the stock market and we will see it fall 1,000 points.

I mean that will happen, you know, as sure as we are sitting here once the public thinks we are going to beat the life out of the economy, you know, even if we do not beat the life out of it. If they predict and perceive that it is going to happen, you know, those things will happen. We have the potential, in my view, to have a regulatory recession in this country even if our fiscal and monetary policy is managed correctly.

Don't you think that is a possibility?

Mr. POWELL. That we have the potential to have a recession?

Senator SYMMS. A regulatory recession.

Senator MOYNIHAN. May I interject. There are some people at the press table and you have your opportunity now, Mr. Powell,



you can say Treasury nominee foresees 1,000 point drop in stock market. [Laughter.]

And what otherwise might be—

Senator SYMMS. I think we can avoid it. I want to make it clear to those people at the press table.

Senator MOYNIHAN. You know, this is the moment.

Senator SYMMS. We don't have to do these things, but I think the—

Mr. POWELL. We can save that one for another day.

Senator SYMMS [continuing]. Cause and effect are the impact of what we do in Congress and what bills the President agrees to have a major impact on the psychic of the market, which is 250 million people that are making up their mind whether they want to go long or go short or buy or sell or hold their equities or trade them or what have you.

Mr. POWELL. I agree with that, Senator.

Senator SYMMS. And I guess you would be a strong supporter than of reducing the capital rate of taxation so that it would make these assets more liquid then?

Mr. POWELL. I would be a strong supporter of the capital gains tax cut.

Senator SYMMS. Now you are winning my favor and support. So I will stop at that, Mr. Chairman.

Mr. POWELL. Thank you.

Senator MOYNIHAN. And you are aware that the administration has decided not to press for the stock transfer tax? You do not have to answer that, but that is the case.

The curious thing is, as much as they tried—you might want to know this—what they could never figure out is how to make people stay and do their buying and selling here against taking it overseas. It just turned out to be technically not possible.

I have a question or just two points. One is to say that if we do not by inference raise the savings and loan experience, do not suppose that it is not in our mind. It is just that in the history of the Department of the Treasury there has been no such experience. The Treasury was disgraced in the 1980's.

I do not ask you to agree with that characterization. But it is my view and the view of so many of us up here. We were not obviously involved ourselves and the Federal Government did a disastrously bad job. We are now borrowing to pay the cost, which just compounds the felony. As you say, you would like to see some people in jail, in the history of the Treasury there has never been such an experience.

Your oversight just collapsed. I do not ask you to characterize that, but I want you to know this Senator's views. It is the worst financial scandal in the history of the republic. I will just leave it there.

There is one point while Senator Chafee is present that I want to bring up with you. And although it may seem small, it is not small to this Senator, nor to Senator Chafee. That is to the mode by which we are attempting to carry out a Federal building program. There is a certain harmony here—symmetry, rather—in that the Office of Federal Buildings was in the Treasury. And the last great exercise in this regard was done by Andrew Mellon. The Federal

Triangle, and it just stopped in 1931 with the depression—that 1,000 point drop in the market. And we have been trying now for a long time to resume, finish Mellon's work and do other things.

We have a very mundane reason for doing this. The rental costs of the Federal Government are now \$1.5 billion a year, which just comes from failure to invest. But also there is the concern that this city—that the Government be properly housed. The Justice Department is in 16 locations in the city. The State Department in 14 and so forth. We worked out under a truly inspired administrator, Mr. Terrance Golden, of the General Services Administration—he came up with an invention—I'll put it that way—which is called "Lease to Own."

We do not have in our protracted fiscal crisis—which will go on the rest of this century—a capital budget, so that any capital expenditure has to be put up as an expenditure the very year it begins. And in that circumstance there is no Federal money to buy buildings nor money with which to build them.

Mr. Golden, who had been a partner of Trammell, Crow, came up with the notion of, "why don't we put out a contract under which the Federal Government undertakes to lease a building for 30 years and at the end of which it will own the building?" If this can be done on property owned by the Federal Government, typically the rental would be lower than commercial rents anyway, and at the end of 30 years you have a building which has been designed to your specifications.

We set out and agreed to a number of these proposals. One is the Judiciary Building which is rising about 500 yards in that direction. Only the second building for the Supreme Court and it will flank Union Station, as does the Old Post Office. It is going to be a very handsome building. And it is underway. It is going up.

We were going to build what we called the Federal Triangle Building at the last remaining area of the Federal Triangle that wasn't built. That was stopped.

Would you happen to know what I am talking about, the area I am talking about?

Mr. POWELL. Just generally; Senator.

Senator MOYNIHAN. Okay.

This building was to have two-thirds the floor space of the Pentagon. Not a small building. There were a number of other lease to own buildings, including a Federal Courthouse in New York in Foley Square.

All this was agreed on and legislation was passed. And then this winter the Office of Management and Budget got involved in a deeply doctrinal discussion which I could not follow. If I could say to my friend Senator Chafee we spent about 3 months discussing this with the OMB people and we could never find out what their problem was. But they just did not want us to go forward.

And in the end it turned out that they were fearful we would be successful—I think it turned out. They never told us what the problem is. I think they feared that if we learned to do this, we would do too much of it. So they wanted none done.

And then they said it would be done through the Federal Financing Bank. And you, of course, are the chief lending officer for the Federal Financing Bank. Now I have been 30 years at this work.

Next year it will be 30 years that I began to work on President Kennedy's inaugural—well 29—on the redevelopment of Pennsylvania Avenue. And I do not have another 30 years. That 30 years is gone and there is not another 30 ahead of me. And the absolute center of that exercise has been building the Federal Triangle Building at 14th Street, between Pennsylvania Avenue and Pennsylvania Avenue.

It is an optimal thing. Justice needs it; the State Department needs it; the City needs it; the country is entitled to it. It is sitting there empty. It is a parking lot. It has been a parking lot for 60 years. The Treasury Department ought to be offended on behalf of Secretary Mellon. The legislation said we will name the departmental auditorium the Andrew Mellon Auditorium. And, of a sudden, some incomprehensible resistance from downtown.

What I need to hear from you is that you understand it is part of your job that the Federal Financing Bank will finance these ventures. Is that your understanding?

Mr. POWELL. Senator, I am not familiar with the dispute that you are talking about that occurred last year.

Senator MOYNIHAN. To call it a dispute is not to get the quality of it. You just disappeared into this black hole, from which nobody ever returns, of OMB doctrine. Have they not talked with you about this?

Mr. POWELL. I have not spent any time—I mean I do know what the Federal Financing Bank is there for.

Senator MOYNIHAN. What is it there for? Tell me.

Mr. POWELL. Well, it is there to assure that when the full faith and credit of the U.S. Government is behind a piece of paper, a bond, that it is financed through the Treasury, unless Congress provides otherwise for a particular agency, but the agency full faith and credit paper goes through the Federal Financing Bank and is therefore financed at the cheapest possible cost to the taxpayer. That is it.

Senator MOYNIHAN. See that is something I am afraid you understand and I do not. What do you mean by finance? That is not a verb I follow.

Mr. POWELL. The Financing Bank gets its money through the issuance of Treasury securities. The lowest interest rate available to anyone in the United States is the Treasury.

Senator MOYNIHAN. Meaning you sell Treasury bonds.

Mr. POWELL. Right.

So when an Agency is required to borrow through the Federal Financing Bank, borrows from the Federal Financing Bank, it borrows at a slight spread over the cost of the Treasury of financing in the Treasury market, which is the cheapest possible cost for the taxpayer. That is the function of the Federal Financing Bank, is to finance on behalf of agencies through the Treasury.

Senator MOYNIHAN. Do you have any policy say in the matter? Do you judge that you will or you will not? I am just asking you.

Mr. POWELL. I do not believe that the Federal Financing Bank makes judgments on whether buildings should be built in downtown Washington. I think it has a statutory mandate to make sure that the financing that is required by statute to be done through

the Financing Bank is, in fact, done by the Financing Bank. That is the scope of the Financing Bank's authority here.

Senator MOYNIHAN. Could I ask you, in this hypothetical case, the General Service Administration needs—well we are talking about a billion dollar enterprise—GSA needs \$1 billion. And it goes to you and you sell \$1 billion worth of bonds and then it has \$1 billion and it pays the contractors and you have a building. That \$1 billion is in the Federal budget. Where is it shown as an outlay?

Mr. POWELL. I'm sorry?

Senator MOYNIHAN. Where does it appear as an outlay? Those poor fellows are under guard at Andrews Air Force Base. Are they thinking about this \$1 billion that you are going to borrow next year?

Mr. POWELL. I believe it would be on budget, Senator. I do not know why it would not be.

Senator MOYNIHAN. Where would it be on budget? In the Treasury outlay or the GSA outlay?

Mr. POWELL. I do not know the answer to that. I would be happy to find out for you.

Senator MOYNIHAN. Could I ask you, because this matters. I mean I am damned if I am going to close out 30 years without finishing this thing. The last thing President Kennedy said when he left for Dallas was that he wanted to show the Pennsylvania Avenue project to the congressional leaders for coffee hour when he got back. And the last thing Mrs. Kennedy did when she left the White House—Mr. Johnson said “are there things you think the President would have liked to have seen finished?”—and she said, “I'd like to see Pennsylvania Avenue finished.”

We have been working at it in that sense for more than a quarter century. We had it in our hands and then OMB took it away from us. The firm of IM Pei, with Mr. Freed, has produced an extraordinary design. Now I do have Bill Diefenderfer's word that it will work out. That is currency around here. But I think we need to know that you know what you are supposed to do.

Could I ask you, sir, that you would give that to us in writing. I am not asking you to make any commitments, but tell us what you understand to be the case. I need to know that you are going to finance that project. I mean the competition has been held. You know, five major models, major firms, it was a world class competition, and then the drones got involved.

So I will get that from you, sir?

Mr. POWELL. I will be happy to come back to you in writing.

Senator MOYNIHAN. I mean go down and ask Bill how we work this thing out. Okay? Senator Chafee, I hope you agree with that. Don't you?

Senator Chafee? That's right. Could I make a couple of comments?

Senator MOYNIHAN. Yes, you may.

Senator CHAFEE. First, Mr. Chairman, thank you. I want to reiterate that this is no new cause that Senator Moynihan has taken. He has been deep into this for a long time. I have been here in this job, as he has, for 14 years or so and he has been in steady pursuit of the Pennsylvania Avenue project and all the buildings.

I must say I made a minor contribution in a prior incarnation, Senator, toward beautifying Washington. When I became Secretary of the Navy, the new Navy buildings were still on the Mall—new Navy buildings having been built in 1918. We succeeded in getting those out of there, removing them.

Senator MOYNIHAN. Franklin D. Roosevelt worked in one.

Senator CHAFEE. That is right. He worked in one when he was Assistant Secretary of the Navy. Those new Navy buildings were there on the Mall where there is a beautiful pond and woods and everything not far East of the present Vietnam Memorial. The new Navy was there. We were told to get them out and it seemed impossible, no place to go, and so forth.

And 1 day President Nixon took off in his helicopter from the White House and saw those buildings still there—this is 1970—and said, Lord—he hadn't been down that way lately and he saw them from the air and said that in the Eisenhower administration in 1950 they meant to get rid of those. So the order was given and we got it done.

Senator MOYNIHAN. Do you know who found a place to go? Do you know what the order was, sir? Do you remember? It was they move that operation either to Anacostia or to Oklahoma. I wrote it.

I was in the White House.

Senator CHAFEE. Well, in any event we got rid of them. I was Secretary at the time and people found a place to go.

By the way, just to assure you, the word "evil" is a very, very strong word. Churchill described Hitler as evil. So I concur with Senator Moynihan, use that phrase carefully—the word "evil."

Now back to your job. In your testimony you talk twice of international competitiveness. On page 2 you refer to it and on page 3—"to enhance the ability of our banks to compete internationally." I served on the Banking Committee and there we passed a darn good banking bill in 1986, unfortunately it did not pass the House. I am no longer on the Banking Committee, but I do not believe we have received any impetus from the administration on doing something about our banking laws.

Now you mentioned a study here. In particular, the study in Treasury's recommendations would have to balance the need to enhance the abilities of our banks to compete internationally against the need to protect the taxpayer from exposure that could arise from allowing the banks to take a broader range of activities.

Now I assume those broader range of activities are the standard ones that we have always talked about, that they could underwrite securities and sell mutual funds. That is what the legislation did and we had a fire wall constructed between the bank's underwriting activities and its commercial banking activities. Are you going to come forward with new legislation next year to press ahead on broader powers for the banks so that we truly will be able to compete internationally?

Senator MOYNIHAN. A good question.

Mr. POWELL. Senator, as part of the deposit insurance study, we are also reviewing the whole issue of financial services reform, and the study is expected to be completed at year end. If legislation is called for by the study we would expect to be bringing it forward early next year.

Secretary Brady said in his Banking Committee testimony that this will be one of his priorities for next year.

Senator CHAFEE. Well, I hope so. Because everybody knows the statistics. In 1970 of the 10 largest banks in the world, I believe seven were American. Now the 10 largest banks in the world not a single one is American; and the largest U.S. bank now rates 19th in size. And you do not get to the second largest until you get down in the thirties somewhere. You probably know those statistics better than I do.

But—and to have our banks locked, as they are, through the legislation that was passed years ago that no longer is through the Grassley Act that is no longer applicable. So I hope you will do that. I would not just follow the study. I mean studies are—somebody comes up with a study, but that should not be a mandate. You obviously have to look over the study and reach your own conclusions or the Secretary reach his conclusions.

So the message I hope you will take from here is that, this Senator anyway, is very anxious to pursue this competitiveness. I hope the administration will choose as one of its major objectives next year improvement in the United States competitiveness. Not solely in the banking area. But the restraints that are placed on us from some of the anti-trust laws for example should be reviewed.

I hope you will follow up on what you, yourself, say with particular emphasis on international competitiveness.

Thank you, Mr. Chairman.

Senator MOYNIHAN. Thank you.

Senator Symms?

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

Senator MOYNIHAN. Mr. Powell, you have been very forthcoming. We are very pleased that this opportunity has come to you. It is, as Senator Chafee says, a very special moment in the world.

Senator Chafee?

Senator CHAFEE. I just want to ask a quick question about the RTC and trying to do something about the S&L's. I have heard that the RTCs monthly carrying costs for the properties you own now is about 3 percent of the value of the property. That seems high. Is that true?

Mr. POWELL. I do not know the figure in terms of monthly carrying costs, Senator. I would have to get back to you on that figure.

Senator MOYNIHAN. You will do that?

Mr. POWELL, I would be happy to.

Senator CHAFEE. You are one of the key players in the RTC, as I understand your position. Am I correct?

Mr. POWELL. Let me tell you what we do. The Secretary of the Treasury is the Chairman of the Oversight Board and staff work for the Oversight Board occurs at the Oversight Board staff. Treasury supports that work and supports the Secretary.

Senator CHAFEE. But you are his point man, aren't you?

Mr. POWELL. Yes. Well, the Under Secretary of the Treasury for Finance, Mr. Glauber, is my boss. He is really the point man.

Senator CHAFEE. I see.

Mr. POWELL. But my office is the office under which that responsibility falls.

Senator CHAFEE. All right.

Well, I do not want you to leave here without thinking we are not worried about that. I hope you will get on with selling those properties quickly. Now there is always the discussion that you will disrupt the local markets. I must say, it is a tough time to sell any buildings, but I hope you will get to it.

Thank you.

Senator SYMMS. Mr. Chairman, Senator Chafee has triggered another question.

Senator MOYNIHAN. He frequently does.

Senator SYMMS. If I might ask this question of Mr. Powell. Senator Boschwitz, our colleague who is not on this committee, but who has had considerable business experience and is a very respected member of the Senate has raised the issue that if we would give some tax incentives to people who buy RTC property that we could improve the liquidity of the RTC property very rapidly.

He is suggesting that they get a dramatically reduced capital gains tax incentive on any properties that they buy, if they are a first-time owner of RTC properties. He has suggested, I believe, pass throughs on passive losses be reinstated on RTC properties.

What would your view of that be? In other words, as a way to make this more liquid so we can clean it out of the market and get the Government out of it and cut this carrying cost that we are having to finance now.

Mr. POWELL. Senator, I think it is true that giving tax breaks to buyers of RTC property would help to move RTC property. It would also cost the Treasury money if it is just a tax credit and that sort of thing in the short term. It is not an issue that I have spent a lot of time thinking about. I know we took the tax breaks out of the Tax Code a couple of years ago for real estate to some extent. I do not have a firm view on—

Senator SYMMS. Well, I have a lot of people tell me that one of the reasons we have a sagging real estate market today is because of the passage of the 1986 Tax Reform Act. Do you want to comment on that?

Mr. POWELL. You know, I think a lot of people in the real estate business will tell you exactly that. I guess the other side of that is, maybe the real estate market was overstimulated before by the existence of these tax breaks.

Senator SYMMS. Okay. Thank you.

Mr. POWELL. Thank you, Senator.

[The prepared statement of Mr. Powell appears in the appendix.]

Senator MOYNIHAN. Well, I hope you did not provide an answer to—or rather I should say, Senator, I hope you did get an answer to your question.

Senator SYMMS. Well, I received an accurate answer that if we gave tax incentives to RTC properties it would enhance the sale of them.

Senator MOYNIHAN. I will show you how much of a financier I am, I would say if you paid people to take them, you would get rid of them all in no time at all.

Senator SYMMS. Right. [Laughter.]

Senator MOYNIHAN. Those provisions on real estate in the passive losses were offered to the 1986 bill by this Senator. So I would like you to know that I do not propose to see them changed soon.

Mr. Powell, we congratulate you, sir. We welcome you to your work. You know how serious it is. There are two matters that you will provide us some written statement on and then we will get on with your confirmation in no time at all. We will have to wait for a business meeting on the Committee on Finance which will not come instantly. It will come this month you may be sure.

[The information appears in the appendix.]

Mr. POWELL. Thank you, Mr. Chairman.

Senator MOYNIHAN. And with there being no other questions, the hearing is concluded.

[Whereupon, the hearing was adjourned at 11:12 a.m.]





## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED

---

#### PREPARED STATEMENT OF SENATOR LLOYD BENTSEN

This morning's hearing is on the President's nomination of Mr. Jerome Powell to be Assistant Secretary of the Treasury for Domestic Finance, and Mr. Steven Kelmar for the position of Assistant Secretary for Legislation in the Department of Health and Human Services.

Mr. Powell, if you are confirmed as Assistant Secretary for Domestic Finance, you will be the point person in the Treasury Department for Federal policy on financial institutions, Federal financing and debt management, and Federal credit agencies.

This job requires hands-on experience in financial markets. You have worked in the financial markets in New York for the past nine years, including six years as Senior Vice President of Dillon, Read and Company. That background appears to provide you with the requisite qualifications for this job.

We will be looking to you to apply the practical experience you have gained working in the private sector as you move into the government sector to formulate Federal policy on financial matters.

Mr. Kelmar, if confirmed as Assistant Secretary for Legislation for the Department of Health and Human Services, you will have the responsibility of being the liaison between the Department of Health and Human Services and the Congress. Your task will be to manage the presentation of the Department's legislative program to Congress, service all types of congressional requests for assistance regarding the Department's programs, and facilitate communication generally between the Department and Congress.

I note that during your career you have been associated with both the Executive and Legislative branches of our government, including two years as a Special Assistant to Senator Hayakawa. I expect your past experiences will serve you well in your new role as Assistant Secretary.

Mr. Kelmar, you have worked with this committee in the past on issues involving the Department of Health and Human Services, and you will have occasion to work with us even more closely in your new position.

This committee will be dealing with a wide range of health, income security, and social services issues in the months to come. As you are aware, I am deeply concerned about the current lack of health coverage for children, and have introduced legislation dealing with this issue. This committee also expects to be working on child welfare and foster care reforms, as well as a number of other issues of concern to the members of the Finance Committee.

We welcome both of our nominees this morning, and look forward to hearing your testimony.

---

#### PREPARED STATEMENT OF STEVEN B. KELMAR

Mr. Chairman and Members of the Committee: It is a special honor for me to appear before you today, as you consider my nomination for Assistant Secretary of Legislation, at the U.S. Department of Health and Human Services.

Being nominated by President Bush for this sensitive position of responsibility is certainly a high privilege.

"Power" the President reminded us in his inaugural address is given to us, "... not to advance our own purposes, nor to make a great show in the world, nor a name. There is but one just use of power and it is to serve."

That spirit of service has my fullest devotion. Just as vigorously as it did when I first began that service, some eleven years ago, here in the U.S. Senate, fresh from college full of all that is possible.

If confirmed by the Senate I look forward to serving Secretary Sullivan, a man who is charged with exceptional responsibilities that affect all Americans. He is a man easy to admire for his record of achievement demonstrates to us all that hard work makes the possible reality.

And hard work is what it will take to properly execute my role in this position. The Congress and the people have many, many interests and priorities with the Department. Our Human Services issues affect all Americans. Our health care system has marvels, but also some shortcomings. And it will be this committee that will have much to say as to what direction we finally take in addressing these problems. But these answers will require an equal devotion from us all.

Being effective in these issues will mean ensuring that I bring your concerns to bear in policy deliberations within the administration. And I will remain just as diligent in ensuring that you are aware of our goals and initiatives. Our relationship must be a continuous one if it is to be productive and that will remain a priority of mine and my staff.

The challenges we face will require vision, but they will also require cooperation. And it will be cooperation that in the end will determine just how successful we all are. If confirmed, I assure you that my devotion to cooperation will be as great as any and I pray that my skills will be equal to the challenges that lie ahead.

Thank you, Mr. Chairman. I would be pleased to answer any questions you may have.

Attachments.

**STEVEN B. KELMAR**

21 Fendall Avenue,

Alexandria, VA 22304.

Home: (703) 751-0092 Work: (202) 245-3665

**GOVERNMENT EXPERIENCE**

1990-Present

**U.S. Department of Health and Human Services  
Acting Assistant Secretary for Legislation**

Principle advisor to the Secretary for all Legislative and Congressional Affairs.

1989-1990

**U.S. Department of Health and Human Services  
Principal Deputy Assistant Secretary for Legislation**

1982-1989

**Sherwood L. Boehlert, Member of Congress (NY-25th)  
Administrative Assistant**

Principle advisor for all legislative, administrative and campaign operations. Managed a professional staff of 18. Directed major initiatives in the areas of trade, transportation, agriculture, environment, and judiciary and all matters before the Committee on Public Works. Represented the Congressman before constituent groups and trade associations. Responsible for budgets totaling more than \$1 million.

1981-1982

**George C. Wortley, Member of Congress (NY-27th)  
Deputy Assistant**

Responsible for overseeing legislative and administrative initiatives relating to the District. Acted as projects director. Prepared speech and briefing materials on budget, defense, transportation, housing and banking issues. Principal liaison with businesses and local governments.

1979-1981

**Senator S.I. Hayakawa (California)  
Special Assistant to the Senator**

Legislative coordinator for Senate floor activities. Principal advisor on pending legislation before the Senate, covering a variety of areas from the budget to foreign affairs issues. Started in the office as director of the correspondence and casework systems. Supervised a staff of 22. Initiated new systems to handle

30,000 constitute letters per month as well as coordinated mass and targeted mailings. Coordinated the in-house process for Senatorial nominations.

#### CAMPAIGN EXPERIENCE

1988

**Bush/Quayle '88, New York  
Executive Director**

Managed a statewide campaign with a budget of \$2 million. Responsible for a professional staff of 30. Operations included four-and-a-half million piece mail program, voter identification program, media spokesman, surrogate speaking, coalitions, organizing a grass roots operation, and establishing a ballot security program.

1983-Present

**Office of the Vice President  
Lead Advance Representative**

During Congressional recesses directed Vice Presidential trips throughout the United States and abroad.

1982-1986

**Boehlert for Congress  
Campaign Manager (1986, '84, and '82 campaigns)**

*1986:* Responsible for overall operations, including fundraising, get-out-the-vote efforts, volunteers and scheduling. Ran both primary and general election effort. Won 70% of the vote.

*1984:* Won the election with 73% of the vote. The largest vote gain of any Republican Member in the House.

*1982:* Ran a successful primary and general campaign for a non-incumbent in a newly created Congressional District encompassing four major media markets. Won with 54% while Republicans nationally lost 26 seats in the House.

#### OTHER ACTIVITIES

1986-1989

**Member, Board of Directors—Administrative Assistants Association**

Selected to serve on a board that directs the activities of an organization whose membership is comprised of the principal advisors to Members of Congress.

1985-1989

**Staff Representative—92 Group**

A group of sixty Republican Members organized to promote a Republican majority in the House of Representatives. Major accomplishments included drafting the House Budget for FY '85.

1986-1988

**Member, Board of Directors—Residential Youth Services**

A nonprofit organization providing shelter and long-term care for abused and neglected children in Northern Virginia.

1987

**Member, U.S. Delegation to the Soviet Union**

Selected by the American Council of Youth Political Leaders to participate in a two week program which included meetings with leading government officials and participation in a televised three day seminar on U.S.-Soviet Relations.

1987

**Republican Leadership Staff—Republicans at Federal Hall**

Assisted with organizing and running a conference for 130 Members of Congress to review the Republican agenda for 1987 and to meet with Presidential hopefuls.

#### EDUCATION

1979—The Pennsylvania State University—B.A., Public Administration, Economics

1980—George Washington University—Course work towards a MPA degree.

DEPARTMENT OF HEALTH & HUMAN SERVICES,  
Washington, DC, September 11, 1990.

Hon. DANIEL PATRICK MOYNIHAN,  
U.S. Senate,  
464 Russell Senate Office Building,  
Washington, DC.

Dear Senator Moynihan: Thank you for chairing my nomination hearing today before the Senate Finance Committee. As promised, I want to provide the answer to the question which you raised.

Regarding the percentage of annual Medicare expenditures which go towards individuals in their last six months of life, according to the HCFA Office of Research and Demonstrations, 21 percent of annual Medicare expenditures are for individuals in their last six months of life, and 28 percent are for individuals in their last year of life.

I look forward to working with you on these and many other issues of mutual concern.

Sincerely,

STEVEN B. KELMAR, *Assistant Secretary  
for Legislation (Acting).*

PREPARED STATEMENT OF JEROME H. POWELL

Mr. Chairman, Senator Packwood, distinguished members of the Finance Committee, it is an honor to have been nominated by the President for the position of Assistant Secretary for Domestic Finance. It is an honor as well to appear before this Committee. I am grateful that you have so expeditiously scheduled this hearing.

The Office of Domestic Finance has responsibility for four broad policy areas within the Treasury Department—Federal finance, corporate finance, capital markets and financial institutions policy. I believe that my work in the financial markets over the past 10 years, first as a lawyer and then as an investment banker, provides useful preparation for the duties for which I have been nominated.

I would like to take just a few minutes to outline some of the major policy areas with which I would deal if confirmed.

In the area of Federal finance, the Assistant Secretary for Domestic Finance oversees all issues related to Treasury debt management and serves as chief lending officer for the Federal Financing Bank. The basic thrust of policy in the area of Federal finance is to see that the financing activities of the Federal Government are undertaken with the least cost to the taxpayer. This office has recently completed a study of Government Sponsored Enterprises, or (GSEs). The Administration's proposals for ensuring the safety and soundness of GSEs are based upon the principle that, when a business benefits from implicit or explicit Federal backing, certain obligations go along with that benefit. Specifically, such businesses should be required to be strongly capitalized and to submit to effective and appropriate Federal supervision.

In the corporate finance area, the Office of the Assistant Secretary for Domestic Finance coordinates the Treasury's policy efforts with regard to corporate financial activities, with particular emphasis on issues of international competitiveness. I strongly support the Administration's and Secretary Brady's efforts to focus the attention of American business on longer term competitiveness issues, rather than on the short term.

In the area of capital markets, the Treasury has sponsored reforms that would enhance the integrity and efficiency of our financial markets. In particular, Treasury has played a leading role in attempting to conform our regulatory structure to the reality of the marketplace, which is that the stock market and the stock index futures market are, in fact, one market. I strongly support these efforts.

In the area of financial institutions policy, the Treasury is deeply engaged in the study of Federal deposit insurance mandated by FIRREA. This study is scheduled to be completed by year end. In pursuing this study, Treasury is considering not only deposit insurance, but also the related questions of financial services reform raised by the international competitiveness of our banking institutions. In particular, the study and Treasury's recommendations will have to balance the need to enhance the ability of our banks to compete internationally, against the need to protect the taxpayer from exposure that could arise from allowing banks to undertake a broader range of activities.

The Office of Financial Institutions Policy also assists the RTC Oversight Board in connection with the S&L clean-up. The Administration's objectives in this area,

which I fully support, are: first, to honor our commitment to American savers to protect them to the full extent of Federal deposit insurance; second, to complete the task at the least cost to the taxpayer; third, to see that perpetrators of fraud are put in jail; and fourth, to assure that this unfortunate experience is not repeated.

Let me close by saying that, if I am confirmed, I will look forward to the opportunity to serve my country and will do so to the best of my abilities. I will be happy to answer any questions the Committee may have.

Attachments.

### BIOGRAPHICAL

1. Name:  
Jerome H. Powell
2. Address:  
3 West Irving Street  
Chevy Chase, MD 20815
3. Date and Place of Birth:  
February 4, 1953, Washington, D.C.
4. Marital status:  
Married to Elissa Leonard Powell (Maiden name: Elissa Ann Leonard)
5. Name and Ages of Children:  
Samuel Hayden Powell—3 years old  
Lucy Leonard Powell—8 months old
6. Education:  
Georgetown University Law Center—9/76-6/79  
J.D. Degree—1979  
Princeton University—9/71-6/75  
A.B. Degree—1975  
Georgetown Preparatory School—9/65-6/71  
Diploma—1971
7. Employment Record:  
5/90 to Present—U.S. Treasury Department, Consultant, Washington, D.C.  
6/84 to 5/90—Dillon, Read & Co., Inc., Senior Vice President, New York, NY  
11/82 to 5/84—Werbel, McMillin & Carnelutti, Associate, New York, NY  
1/81 to 11/82—Davis Polk & Wardwell, Associate, New York, NY  
8/79 to 7/80—Judge E.A. Van Graafeiland, Law Clerk, U.S. Court House, Rochester, NY  
6/79 to 7/79—Gibson, Dunn & Crutcher, Summer Associate, Los Angeles, CA  
6/78 to 7/78—Baker & McKenzie, Summer Associate, Washington, DC  
6/77 to 7/77—Dunaway & Cross, Summer Associate, Washington, DC  
3/76 to 8/76—Senator Richard S. Schweiker, Legislative Assistant, Washington, DC  
9/75 to 2/76—Ginns Office Products, Hyattsville, MD
8. Government Experience:  
5/90 to Present—U.S. Treasury Department, Consultant, Washington, DC  
8/79 to 7/80—Judge E. A. Van Graafeiland, Law Clerk, U.S. Court House, Rochester, NY  
3/76 to 8/76—Senator Richard S. Schweiker, Legislative Assistant, Washington, DC
9. Memberships:  
The New York Athletic Club (Member from April 1987 until March 1990)
10. Political Affiliations and Activities:  
Registered Republican
11. Honors and Awards:  
None
12. Published Writings:  
None
13. Speeches:  
None

## 14. Qualifications:

I believe I am well qualified for the position of Assistant Secretary of the Treasury for Domestic Finance. I have worked in the financial markets in New York City since January 1981, both as an attorney (1981-84) and as an investment banker (1984-90). Over the last 10 years, I have been exposed to a large number and a wide variety of financial and business transactions. I believe that this experience will be invaluable in each of the major substantive areas of the Assistant Secretary's job, namely Federal finance, corporate finance and financial institutions policy.

I have also worked in the Legislative and Judicial branches of the Federal Government. I was a legislative aide to Senator Richard Schweiker in 1975-76, and a law clerk to Judge E.A. Van Graafeiland in 1979-80 of the Federal Second Circuit Court of Appeals. I believe that these work experiences would also be valuable to me as Assistant Secretary for Domestic Finance.

Public service has been one of my long-time and strongly held goals. I have, therefore, been an avid follower of political events in the financial world and across a broad spectrum of issues.

---

*September 18, 1990.*

Dear Senator Moynihan: This is in response to your question at my confirmation hearing before the Senate Finance Committee as to the status of Federal Financing Bank (FFB) financing of the International Cultural and Trade Center project proposed to be developed under the auspices of the Pennsylvania Avenue Development Corporation (PADC) and leased to the General Services Administration (GSA).

I am told that Treasury and the FFB have worked closely with OMB, PADC and GSA on the financing of this project, and that the FFB financing agreements for the project have been distributed to all parties. The FFB stands ready to provide financing when requested.

I hope that this response is satisfactory. Please let me know if I can be of further assistance.

Sincerely,

JEROME H. POWELL.

---

*September 18, 1990.*

Dear Senator Chafee: This letter is in response to the question you raised during last Tuesday's confirmation hearing before the Senate Finance Committee concerning the RTC's carry costs for receivership assets.

The RTC's cost of carrying receivership assets is the cost of financing the purchase of the assets using FFB borrowing, as well as any expenses associated with managing the assets. The first component, FFB borrowing, is easy to calculate: through September 7, 1990, the estimated market value of assets in receivership was \$30.9 billion, and the most recent interest rate on borrowing from the FFB was 7.754 percent. If all of these assets were carried for a year, the financing costs would be about \$2.4 billion, or about \$200 million per month.

The second component of carrying costs, expenses for managing assets, is much more difficult to estimate. Because the RTC has acquired the majority of its receivership assets since the end of May, it has only a brief track record for estimating these costs. RTC staff have informed us that they have no reliable estimate for these expenses at this time. Going forward, this is clearly an area that deserves close attention.

It is important to note that any income generated from the assets in receivership will to some extent offset the RTC's cost of carrying the assets. For many of the RTC's receivership assets, this income could be substantial.

Please let me know if I can be of further assistance.

Sincerely,

JEROME H. POWELL.

---

*September 27, 1990.*

Dear Senator Moynihan: I have reviewed the letter sent to you by Deputy OMB Director Diefenderfer on April 30, 1990. It is my Understanding that the letter reflects the Administrations policy with respect to the ICTC project and the other lease/purchase projects referred to in the letter.

The Federal Financing Bank, for its part, has devised a satisfactory financing structure, and stands ready to fund. The financing documents for the ICTC project have been distributed, and FFB personnel inform me that they believe that the documents are satisfactory to all parties.

I have discussed this matter with OMB and FFB personnel, and I have received assurances that there are no remaining obstacles to the financing of these projects. Should any such obstacles arise in the future, I assure you that I will do my best to eliminate them.

I hope that this response is satisfactory. Please let me know if I can be of further assistance.

Sincerely,

JEROME H. POWELL.



## COMMUNICATIONS

---

U.S. OFFICE OF GOVERNMENT ETHICS,  
Washington, DC, July 31, 1990.

Hon. LLOYD BENTSEN, *Chairman,*  
*Committee on Finance,*  
*U.S. Senate,*  
*Washington, DC.*

Dear Mr. Chairman: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Jerome H. Powell, who has been nominated by President Bush for the position of Assistant Secretary (Domestic Finance) within the Department of the Treasury.

We have reviewed the report and have also obtained advice from the Department of the Treasury concerning any possible conflict in light of its functions and the nominee's proposed duties. According to information provided to this Office by the Department of the Treasury in their letter to us of July 26, 1990 (copy enclosed) Mr. Powell has agreed that within 90 days of his appointment he shall divest himself of all of his interests, except as noted below, which relate to Dillon, Read & Co., Inc., his former firm. These interests include Mr. Powell's interest in the Dillon, Read & Co. profit sharing plan, his interest in Lexington Partners II (an investment partnership available to officers of the company) and the HPCI Publishing Co. and FM Holdings common stock owned by Mr. Powell. The Department of the Treasury has also already issued a waiver (copy enclosed) to Mr. Powell (who is currently serving as a Treasury consultant) pursuant to 18 U.S.C. §208(b)(1) for his vested pension rights in the Dillon, Read & Co. Defined Benefit Pension Plan. This waiver will permit Mr. Powell to participate in general policy, legislative or regulatory matters that may affect Dillon, Read & Co., along with similar entities in the investment banking industry; the waiver does not extend to particular matters in which Dillon, Read & Co. is a formal party or which would directly and specifically affect that company.

Based upon the foregoing, we believe that Mr. Powell is in compliance with the applicable laws and regulations governing conflicts of interest.

Sincerely,

DONALD E. CAMPBELL, *Acting Director.*

---

U.S. OFFICE OF GOVERNMENT ETHICS,  
Washington, DC, July 20, 1990.

Hon. LLOYD BENTSEN, *Chairman,*  
*Committee on Finance,*  
*U.S. Senate,*  
*Washington, DC.*

Dear Mr. Chairman: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Mr. Steven B. Kelmar, who has been nominated by President Bush for the position of Assistant Secretary for Legislation of the Department of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of its functions and the nominee's proposed duties. Mr. Kelmar has agreed to recuse himself from participating in any matters involving Kimball, Inc. and Diversifoods, Inc. In addition, Mr. Kelmar has agreed to recuse himself from any matters that will have a direct and predictable effect on retail candy or snack stores.

Subject to the commitment noted above, we believe that Mr. Keimar will be in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

DONALD E. CAMPBELL, *Acting Director.*

