

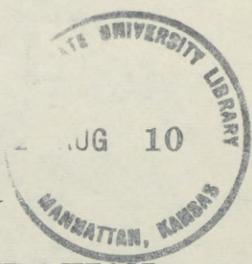
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**F 49/ FINANCIAL OR BUSINESS INTERESTS OF OFFICERS
PT. 25 OR EMPLOYEES OF THE SENATE**

GOVERNMENT
Storage



**HEARINGS
BEFORE THE
COMMITTEE ON
RULES AND ADMINISTRATION
UNITED STATES SENATE**

**EIGHTY-EIGHTH CONGRESS
FIRST AND SECOND SESSIONS**

PURSUANT TO

S. Res. 212 and S. Res. 291

**RESOLUTIONS AUTHORIZING AN INVESTIGATION INTO THE
FINANCIAL OR BUSINESS INTERESTS OF ANY OFFICER OR
EMPLOYEE OR FORMER OFFICER OR EMPLOYEE OF THE
SENATE**

MARCH 23, 1964

PART 25

**Printed for the use of the
Committee on Rules and Administration**



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HEARINGS
COMMITTEE ON RULES AND ADMINISTRATION

COMMITTEE ON RULES AND ADMINISTRATION

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- CARL HAYDEN, Arizona
- HOWARD W. CANNON, Nevada
- CLAIBORNE PELL, Rhode Island
- JOSEPH S. CLARK, Pennsylvania
- ROBERT C. BYRD, West Virginia
- CARL T. CURTIS, Nebraska
- JOHN SHERMAN COOPER, Kentucky
- HUGH SCOTT, Pennsylvania

- GORDON F. HARRISON, *Staff Director*
- HUGH Q. ALEXANDER, *Chief Counsel*

SPECIAL STAFF FOR THE PURPOSES OF SENATE RESOLUTION 212 AND SENATE RESOLUTION 291

- LENNOX P. MCLENDON, *General Counsel*
- W. ELLIS MEEHAN, *Chief Investigator*
- BURKETT VAN KIRK, *Associate Counsel (Minority)*
- JAMES H. DUFFY, *Associate Counsel*

[Executive session of March 23, 1964, released to the public July 1, 1964]

PART 22

Printed for the use of the
Committee on Rules and Administration



FINANCIAL OR BUSINESS INTERESTS OF OFFICERS OR EMPLOYEES OF THE SENATE

MONDAY, MARCH 23, 1964

U.S. SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 301, Old Senate Office Building, Senator B. Everett Jordan (chairman) presiding.

Present: Senators Jordan, Hayden, Cannon, Pell, Clark, Byrd, Curtis, Cooper, and Scott.

Also present: Gordon F. Harrison, staff director; Hugh Q. Alexander, chief counsel; L. P. McLendon, general counsel; Burkett Van Kirk, associate counsel; James H. Duffy, associate counsel; William B. Whitley, staff assistant to Senator Jordan; William Ellis Meehan, investigator; and Samuel Scott, investigator.

The CHAIRMAN. A quorum being present, the meeting will come to order. We recessed with a motion pending which we will take up in a few minutes. But, before doing that, counsel has for the record a statement regarding the work he has been doing on contempt proceedings, that needs no action.

Mr. McLENDON. Mr. Chairman, gentlemen of the committee, on Tuesday of last week, a question was raised on the Senate floor by a Senator who is not a member of this committee, regarding what, if anything, has been done about the prosecution of Baker and perhaps others for contempt of the Senate by refusing to answer questions in reliance upon the fifth amendment. I am afraid that the answers made to this inquiry might leave an impression of indifference on this subject on the part of the committee, and on my part as general counsel for the committee. Therefore, I want to make a brief statement for the record of this meeting.

As far as time has permitted me, I have been considering the possible actions this committee might take with respect to contempt on the part of witnesses. Since this is largely a legal problem, to be answered in the light of the written record made before this committee at the time these witnesses appeared, plus any other part of the record of the investigation which would be pertinent in contempt prosecutions, either in the U.S. District Court for the District of Columbia or before the bar of the U.S. Senate itself, I have sought the aid of the Department of Justice and have requested that the Department review the record and give us a memorandum or brief, setting forth their conception of the applicable law. This, I was assured, would be done. However, last week, I was advised by a representative of the Department that it might be improper for them to furnish the committee

with a brief—giving its conclusion of law—this for the reason that the responsibility for prosecutions in Federal courts would rest upon the Department and it might be embarrassed by an opinion previously rendered which did not coincide with the conclusions reached before or at the trial.

Unless there is objection on the part of the committee, I expect to ask the chairman to request the legislative counsel of the Senate to work with our committee's legal staff in the preparation of recommendations to the committee with respect to each witness who has refused to either produce documents or to testify.

The CHAIRMAN. I do not think that requires any action of the committee. That is just a report as to what has been done in this respect. I believe it was Senator Miller who raised that question on the floor, which was perfectly proper.

I might say—is there any other suggestion as to what we might proceed with in addition to this at the present time?

We will recess until the members get back from a live quorum.

(Brief recess.)

(Present at this point: Senators Jordan, Pell, Clark, Byrd, Curtis, Cooper, and Scott.)

The CHAIRMAN. The committee will come to order. Friday, when we recessed, we were discussing a motion by Senator Cooper. I think we should continue on with that discussion. It was a substitute motion to the Scott substitute to Senator Hayden's amendment.

Senator CURTIS. I think it would be very appropriate.

Senator COOPER. I think perhaps this is a correct statement. Senator Hayden made a motion to terminate the hearing of witnesses. Senator Scott made a motion asking that certain witnesses be called. It was not seconded. And I made a substitute motion, the substance of which was that the committee would consider one by one the witnesses that had been submitted by the minority—by Senator Scott and by other members of the committee—and the testimony that is expected to be secured from all witnesses submitted. And then, if there was objection, the committee would vote, whether a particular witness would be called.

The CHAIRMAN. You stated that very well on the Senate floor. If you would like, we can have that read.

Senator COOPER. I think everybody understands it.

Senator BYRD. Yours is a substitute motion; is that right?

Senator COOPER. Yes.

Senator CLARK. Mr. Chairman, what is the present status?

The CHAIRMAN. It is open for discussion.

Senator CLARK. Could I say just a word? John, it does seem to me that your proposal might present a satisfactory compromise between what had seemed last week to be the rather irreconcilable views of the two sides of the table. But I will tell you perfectly candidly what concerns me.

I don't have any objection to discussing these witnesses one by one at reasonable length, and have you fellows tell us why you think they should be called, and have us listen and confer with counsel, and you confer with your counsel. And then have us tell you whether we agree or disagree. But this thing, with unlimited debate and rebuttal and surrebuttal and everything else could go on—unless we have some

Marquis of Queensberry rules—until the day before election. And I don't think those of us on this side of the table are prepared to do that.

I am wondering whether you would be open to any suggestion in the nature of what might be called a unanimous-consent agreement, to confine the time for discussing each witness to some relatively short period, with the understanding that if you got into a particularly controversial case, where you thought you needed more time, we would be prepared to be reasonable about it. But I just don't like the idea of dragging this thing out forever and a day. We have permission to sit all this week, and I think we ought to use it to get ahead with our business.

Senator CURTIS. I haven't conferred on that. What we want is a decision. And if the Cooper amendment prevails, I suppose they will start calling the list. I have no desire to delay it. I think in two or three sentences we could state why we think they ought to be called—so far as I am concerned.

Senator CLARK. How about my distinguished colleague from Pennsylvania? Is he in a filibustering mood?

Senator SCOTT. No. I think it would be better to discuss Senator Cooper's motion as an independent motion. Let him make it again. We will discuss it as a motion—rather than tie it to another motion to terminate the sessions. Then you can follow with your other motion.

Senator CLARK. Absolutely. But it seems to me—

Senator SCOTT. I was only thinking of the technical thing of letting us discuss this as a motion rather than as an amendment to something else.

Senator CLARK. Well, if we could have an agreement—I don't want to dignify it with the term "gentlemen's agreement"—if we could have an agreement that if the Cooper motion were to be approved by the committee, that there would be an understanding, informal, if you want, that the discussion of whether each witness should or should not be called, could be held within pretty reasonable limits—maybe 5 or 10 minutes, something like that.

Senator CURTIS. I would hope that could be done.

Senator CLARK. Then I would be prepared to vote for the Cooper motion.

Senator PELL. I would, too.

Senator SCOTT. I think as to one witness we are liable to get into more discussion than others. As to that witness, we ought to allow a little more time.

Senator CLARK. My thought was let's try to be reasonable about this, and I think we can. I suppose at any time, if we get to the point where we think the discussion is getting out of hand, it would be in order to table further discussion of that particular witness, which I would be very reluctant to do. But it seems to me with this sort of framework, we have a basis for an agreement. Now, I speak only for myself. I don't know how counsel and the chairman feel about this.

(At this point, Senator Cannon entered the hearing room.)

Senator SCOTT. I think in some cases you will need 5 minutes; others you will certainly need 10. At least one case I think you would probably need a half hour to discuss, because everybody would want to be heard.

Senator CLARK. But you think half an hour would be the outer limit of the time you think you ought to have for discussing any of the witnesses?

Senator SCOTT. I speak only for myself. But that seems reasonable to me.

Senator COOPER. I would agree with that. The purpose of my amendment was to get down to a decision upon the witnesses.

Senator CURTIS. We want to move ahead.

The CHAIRMAN. Shouldn't that be put in the form of another substitute motion to tie that in?

Senator SCOTT. I would make it as an independent motion. If Senator Cooper would offer it as an independent motion, we would have something clearly before us that is not tied up with anything else.

Senator CLARK. In view of what has been said, I, for one, would be quite willing to trust the minority to maintain this agreement with the understanding that if things get rough, which I hope they won't, we can always move to table.

Senator COOPER. That is my understanding.

Senator CURTIS. I imagine that Senator Scott is referring to Walter Jenkins—because of the various ramifications you might want to discuss that a little longer. But these others, we just want to state what we know, and that is that.

Senator CLARK. Mr. Chairman, I am not binding you on this—I will follow your guidance—but what do you say we agree to pass the Cooper motion, to get on with the witnesses, and put Walter Jenkins at the end? I agree he will take more time.

Senator CURTIS. Well, he is practically at the end of the list anyway. He is second from the bottom.

Senator SCOTT. That is not the only list.

Senator CURTIS. No—but I mean as far as the letter is concerned.

Senator CLARK. Why don't we read the Cooper motion? It has several versions. And then see if we are ready to vote on it.

The CHAIRMAN. I think one thing we would have to arrive at is when we are going to reach the end of any kind of list. If you are going to have a new list every day, we have to have some understanding about that.

Senator CLARK. You don't want to throw in any names you haven't got now, do you?

Senator SCOTT. I would not throw other names in unless there is new evidence. At some point here I have had a letter—I don't know what the committee wants to do with it, I am not making a recommendation—but the new letter brings a name in. Now, I don't want to be barred from doing that.

Senator CLARK. But you don't have a purpose or design of cooking up new names every 5 minutes?

Senator SCOTT. I have no purpose or desire to go beyond the information already available to us, but with the understanding that if names which are not now before us, and someone comes in and suggests that others be called, I feel that I would be obliged to do it, and actually such an incident did occur—not of a new name, but one of these witnesses has now offered to give information, and we have advised the majority of that, and the majority and the minority will go out and interview him at 3 o'clock today.

Senator CURTIS. I have no idea of just keeping this thing from rolling. But, on the other hand, I would not want to tie my hands. Out of all this discussion, there might be one or two or three more people.

The CHAIRMAN. Who is it that they are going out this afternoon to see?

Senator SCOTT. I had a call over the weekend saying that Max Kampelman would like to talk to someone, the indication being on the minority side, and would like to offer—his phrase was—his papers and records; that he hoped in order not to do any damage to the bank, that he could satisfy the committee by doing so. I said I could make no such promise. But I notified Mr. Van Kirk as soon as I could reach him, and Mr. Van Kirk, in turn, has notified a majority investigator, and I understand they are seeing Mr. Kampelman at 3 o'clock today. That is in keeping with the obligation under the rule if any information comes to me or any member of the committee, we turn it over to the committee.

The CHAIRMAN. I would like the general counsel to make a statement in that regard.

Mr. McLENDON. I told Mr. Van Kirk last week, Senator Scott, that I thought the indication was that we ought to interview Kampelman and probably examine him. He was out of the city. I called twice or three times, Thursday and Friday, as Mr. Van Kirk knows. He was out of the city and we could not locate him. When I came in this morning Mr. Van Kirk told me that Kampelman had called him. And I immediately said to Mr. Van Kirk that was agreeable to me for him to set up arrangements for Kampelman to be interviewed at 3 o'clock this afternoon.

Senator SCOTT. That is what I mean. If something new occurs, if some new name comes in, I would want to reserve the right to bring it up. But I have no names in reserve. I have a letter pertaining to one witness. That we can get into in the normal course of discussion.

Senator BYRD. Mr. Chairman, could we hear Senator Cooper's substitute motion read?

Mr. McLENDON. It is stated mighty clearly in here, Senator. Would you like to read it in here?

Senator COOPER. It may not be exactly as I made it the other day.

Senator CLARK. Let's get it exactly the way you want it voted on.

The CHAIRMAN. You made about three the other day.

Senator COOPER. I can make it again, then. My offer is a substitute to the motion of Senator Hayden, that the committee will consider witness by witness the list offered in the letter of the minority to the chairman, the names of witnesses submitted by Senator Scott, the names that might be submitted by any other member; that the committee consider testimony which it is expected would be secured from the proposed witnesses. If then there is objection to the calling of the witness, the committee will decide by vote whether the particular witness shall be called to testify in person before the committee.

Senator PELL. The chairman will decide. Then there would be a vote if there is any disagreement with the chairman's decision.

Senator COOPER. Yes. That is a modification. As far as the time is concerned my only purpose was that we present the name of the witness. That the member who offers the witness or suggests the witness be called should disclose as best he can to the committee the testi-

mony that is expected to be secured from him, within a reasonable time. Then, if there is objection by the chairman or by the committee, we would immediately vote on it.

Senator BYRD. Mr. Chairman—I propose an amendment to the substitute. I propose to amend the substitute by striking out the language dealing with names that might be submitted by any other member. As I understand, there are three groups which you have included in your motion to be considered by the committee—one, those names that were included in a letter signed by the minority members and addressed to the chairman; two, the names that Senator Scott had proposed in his list; three, names that might be submitted by any other member. I move to amend your substitute by deleting the third category.

Senator COOPER. My purpose was simply not to limit this to the minority. If any other member has a name—not to close them out. But if that is the desire—

Senator CURTIS. I think the amendment to the amendment is all right.

Senator COOPER. I will accept it.

Senator CURTIS. Without prejudice either way. Somebody may think that one or two maybe everybody will agree on. But even if they didn't agree—

Senator SCOTT. I don't think Senator Byrd would want to block out the majority or the minority if some development occurred that was relevant here.

Senator BYRD. No. I think our standing rules, Mr. Chairman, would take care of that situation. If I might just take a minute to explain my position on this for the record. The letter submitted to the chairman by the minority members embraces, as I would understand it, names suggested by each of those minority members, or certainly concurred in by the minority members. The second list, by Senator Scott, was presented to the committee and discussed at some length some days ago. And I think we should consider those names.

I don't want to railroad this matter. I don't want to arbitrarily shut off the minority. I want them to have an opportunity to present these names. But I do think that we have had ample time in which to determine what witnesses should be called, or what people might have information of use and interest to the committee. And I merely offer the amendment to the substitute in the interests of accelerating and expediting the business of the committee.

Senator SCOTT. The only concern I have is that I cannot remember, and certainly would not want to be bound by, the excerpts I used from this list. I would like to be able to call anybody who was on the list, as I can no longer remember whether I named some or not. But the list is here and can be inspected.

Senator BYRD. Senator Cooper's amendment mentioned your list, I believe, specifically, didn't it?

Senator COOPER. My purpose simply was that during the discussion here, that if some member, majority or minority member, felt that he wanted to suggest the name of a witness, he would not be foreclosed from doing it.

Senator BYRD. I think the standing rules would still take care of that.

Senator COOPER. What?

Senator BYRD. It seems to me the standing rule—is it 19?—would still—

Senator COOPER. I will accept the amendment.

Senator SCOTT. I will accept it, subject to the right to call anybody named on these lists, because I may not have read them all.

The CHAIRMAN. Without objection, then, we will proceed on that substitute amendment by Senator Byrd.

Senator COOPER. My amendment as amended by Senator Byrd.

The CHAIRMAN. That is right—your amendment as amended by Senator Byrd.

Senator BYRD. So at least for the time being, as far as we can see at this point, we are confined to the names in the letter signed by the minority—

The CHAIRMAN. Of the nine—that is correct, is it not?

Senator BYRD. And the names in Senator Scott's list.

The CHAIRMAN. Submitted last Friday a week ago.

Senator BYRD. That takes care of the first two categories of Senator Cooper's amendment.

Senator SCOTT. Without regard to whether I have named them all or not—simply to protect me on the whole list.

Senator CURTIS. I have no objection. In other words, that is what we are agreeing to now, without prejudice either way. And I assure you I want to get this thing over.

Senator SCOTT. Under discussion, I ask unanimous consent to include as a part of the record the Congressional Record colloquy on pages 5443 and 5444, which involve questions asked me by Senators Lausche and Saltonstall on the general issue of relevancy, wherein I made the point, just to quote briefly, that, the legislative history—

contemplates quite clearly that if there is a witness whose testimony would obviously be relevant, no ruling would be necessary. But if a doubt on the question of relevancy should exist—not a doubt on political expediency of calling a witness—but if the doubt exists on relevancy rather than on any other purpose, the chairman should raise it. And the request should not be refused on the grounds that the committee wishes to get rid of work or that the committee wishes to avoid further investigation or further effort. The only issue that could be raised would be the issue of relevancy.

And then Senator Lausche goes on to agree that the question of cumulative evidence has no pertinency to the language of the rule. I just wanted to get that into the record.

The CHAIRMAN. Without objection, the excerpt will be included. (The excerpt from the Congressional Record is as follows:)

[From the Congressional Record of Mar. 18, 1964, pp. 5443-5444]

Mr. LAUSCHE. Mr. President, will the Senator from Pennsylvania yield—with the consent of the Senator from North Carolina and me and the Senate?

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Pennsylvania may yield for that purpose.

Mr. SCOTT. I yield for a question.

Mr. LAUSCHE. Is it the interpretation of the Senator from Pennsylvania that, under the rule, there are three steps:

First. A member makes a request for the calling of certain witnesses.

Second. The chairman determines whether the testimony to be given by the witness will be relevant.

Third. If the chairman determines that the testimony will be relevant, the witness is called. If the chairman determines that the testimony will not be relevant, the committee can overrule the Chair.

Is my understanding correct?

Mr. SCOTT. I may say to the distinguished Senator from Ohio that one other step intervenes between steps 1 and 2, which he has mentioned. He mentioned the first step—namely, that a member of the committee may request that a witness be called to testify.

Mr. LAUSCHE. Yes.

Mr. SCOTT. But at that point it was not intended, and the rule does not provide, that the chairman would automatically become the judge of whether it would be relevant or would not be relevant to have such a witness testify. If the testimony of the witness would clearly be within the scope of the investigation—such as testimony by an employee working under Bobby Baker at the time—there would not exist any need whatever for the chairman to make a ruling.

It would only be when there existed an element of doubt—such as would exist in the case of some other witnesses—that the chairman might see fit to rule.

But there would be the intermediate step that if the testimony requested would clearly be relevant, no ruling by anyone would be needed. But if the testimony would not clearly be relevant, the chairman of the committee would proceed to rule; and thereafter there would be a decision by the committee.

Mr. LAUSCHE. I now read from the rule:

"Any member of the committee may request that a witness be called to testify before the committee in executive session."

Mr. SCOTT. That is clear.

Mr. LAUSCHE. I read further from rule XIX:

"Such requests shall be honored by the chairman unless he finds that the evidence in question, or interview of a possible witness, or the testimony of the witness is irrelevant to the investigation, in which case the question shall be determined by a majority vote of the committee."

My interpretation is that there are three steps:

First. A member of the committee would suggest the calling of a witness.

Second. The chairman would determine whether the testimony would be relevant or would be irrelevant.

Third. If the chairman determined that the testimony would be irrelevant, an appeal then would go to the entire committee; and the entire committee would decide whether the witness should be called or whether he should not be called.

Mr. SCOTT. The legislative history of the discussion which led to the rule, in my judgment and in the judgment of the Senator from Nebraska (Mr. Curtis), who has just spoken on the subject, contemplates quite clearly that if there is a witness whose testimony would obviously be relevant, no ruling would be necessary. But if a doubt on the question of relevancy should exist—not a doubt on the political expediency of calling the witness—but if the doubt exists based on relevancy rather than on any other purpose, the chairman should raise it. The request should not be refused on the grounds that the committee wishes to get rid of work or that the committee wishes to avoid further investigation or further effort. The only issue that could be raised would be the issue of relevancy. That is why we have been making the distinction when counsel has said that some of our witnesses' testimony would be cumulative—

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. SCOTT. I should like to finish my statement first. If the testimony would be cumulative, witnesses should be called if they have anything to tell about any misconduct going on, but relevancy is the only basis on which we would have a possibility of a dispute.

I yield to the Senator from Ohio.

Mr. LAUSCHE. Mr. President, I completely agree that the question of cumulative evidence has no pertinence to the language of the rule. The only issue to be decided is the issue of relevancy, and not the possibility that the evidence might be cumulative in character.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. SALTONSTALL. My understanding of the rule is that the burden of proof would be on the chairman to find that the testimony would be irrelevant. When the appearance of a witness is requested by a member of the committee, it is pre-

sumed that his testimony would be relevant. The burden of proof would be on the chairman to find that the testimony would be irrelevant. If the chairman should find that the testimony of the witness would be irrelevant, the question would then be put to the committee.

Mr. SCOTT. The Senator is correct. The burden of proof is on the chairman. If the chairman should rule that the testimony would be irrelevant, that is his responsibility. His judgment would be on the record, whether his ruling were made for reasons of irrelevancy or any other reason. But the only right which the chairman has is to rule on the question of relevancy. The burden of proof would be on the chairman. I agree.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. LAUSCHE. Has any ruling been made by the chairman dealing with the relevancy or the irrelevancy of the testimony that the suggested witnesses would give?

Mr. SCOTT. That is what the fuss is all about. There has been no such ruling.

Mr. CLARK. Why does not the Senator wait until he gets it rather than hollering before he is hurt?

Mr. SCOTT. It is not the Senator who is hurt, but the public's right to know that it is being damaged. If we should wait until the committee works its will, we would never get a ruling. The distinguished chairman of the committee has said on the floor of the Senate, in reply to the Senator from Nebraska (Mr. Curtis), "No, you are not going to get the witnesses."

The counsel has recommended the closing of the hearings.

We have pointed out that not only our letter has not been honored, but it has not even been acknowledged. While we are discussing questions of comity and courtesy I should like to point that out. The motion to terminate the investigatory phase of the body was the pending motion. The Senator from Kentucky, accepting certain statements made by me in the form of a motion, offered a substitute motion, which I accepted, in an attempt to force the committee to do justice to the minority. That was the purpose. The committee had already indicated that it would ignore our letter. It would not call the witnesses, no matter how much piety we observe today. It is piety after the act and not piety before the act. The committee members were headlong in their attempt to force action on that motion. For that reason the Senator from Nebraska made the point of order that the committee could not meet during the session of the Senate.

The point was made not to divert or to delay the proceedings, or to prevent counsel from his elaboration of why he would not do what we asked, but to make sure that the committee did not do a reckless thing in the face of evidence which we were prepared to offer.

The CHAIRMAN. As chairman of the committee, I would have to rule that we would not agree to somebody else's reading of this rule 19.

Senator SCOTT. No; I was not asking—

The CHAIRMAN. That we would have to take that up and vote on it one by one.

Senator SCOTT. I was simply preserving the point that from the standpoint of one member of the committee the issue is the sole issue of actual relevancy, rather than it being cumulative, which doesn't appear in the rule, or to any other reason other than—any other reason other than relevancy is, in my judgment, ruled out.

The CHAIRMAN. Well, of course, that is your personal judgment. And you have a perfect right to your personal judgment on it. Well, since this substitute motion of Senator Byrd's has been agreed—

Senator COOPER. I just want to say it was my motion, and I have accepted the amendment of Senator Byrd. And I insist on that.

The CHAIRMAN. Of course, that is the understanding. It is your motion, amended by Senator Byrd.

Senator BYRD. That is right. And you accepted the amendment. I think you ought to put the motion, Mr. Chairman.

The CHAIRMAN. The question is on Senator Cooper's motion, as amended by Senator Byrd. Is there any objection to that?

Senator CURTIS. No objection.

The CHAIRMAN. All right. We will proceed on that basis. I will ask the counsel to take the list—

Mr. McLendon. You haven't voted on it yet.

The CHAIRMAN. Do you want a vote on it? It was adopted without objection, so it is unanimous. The general counsel has a good suggestion here. You start calling the list of those that you want discussed.

Senator CURTIS. If I could say something—because I am going to have to slip out at 11—and Senator Cooper may have my proxy, and if Senator Cooper is not here, Senator Scott will have it. On our letter we said our hearings should include all Senate employees and past employees who were associated with Baker in his duties during the period covered by the investigation. I base that on the ground that we got no information from Baker, not even as to what his duties were. And the list recites Mrs. Margaret Broome, who is a secretary there, Rein Vander Zee, Mr. Jessop McDonnell—who, I understand, is in town. Then we said three pages.

I want to make a correction there. I believe two have testified. Then I would like to raise the question that the page who delivered a bundle of money—even though he may not add a great deal, it wouldn't take more than a few minutes to get him. My theory is that in having these people, that the very fact they worked with Baker makes it relevant, and that our investigation would not be thorough and complete if the principal person for whom the investigation arose is not cooperative—if we do not call all his associates during the period.

Mr. McLendon. Do you have that page's name?

Senator CURTIS. No; I don't.

Senator SCOTT. Gray.

Senator CURTIS. Whoever it was—the messenger.

Mr. McLendon. It was a messenger, not a page. My recollection is that someone contacted him—I don't know whether it appears in the files or not. My recollection is that he was interviewed by someone, and he did not—he said that he had a package; that he didn't know what was in the package.

Senator PELL. Mr. Chairman, I see merit to Senator Curtis' thought, because one of the basic bits of information we need is what is the role of the majority secretary, the concept of his responsibilities. And in connection with that—it would seem to me, since this is a Senate investigation, that we ought to get the views, not only of the majority secretary's roles and responsibilities, but also the minority secretary, as to his views as to his responsibilities. It is not a fishing expedition into how he runs his office.

But when we set out our guidelines afterward, I think it would be helpful if we had a statement as to what the two parties' views are, if there is any difference between them, as to how their offices should be run.

The CHAIRMAN. It seems to me it would be very helpful.

Senator CURTIS. I had in mind so that the committee could say we put under oath everybody that worked with him. If we come out with a dry hole, that is that.

Senator SCOTT. On Mr. Valeo, you remember I had not finished interviewing him. I have no objection to it being done in executive session. But on the duties of the majority, and on the employees of Mr. Baker, on the activities of his employees, I would still like the opportunity, above and beyond this resolution, because I made it as a separate request, the opportunity to call him. We can take that up in order, if you like, but I just want it on the record.

And I would like to supplement what Senator Curtis has said. I heard, as he did, and at the same time, that "Jay" McDonnell is in town, can be reached, will testify if subpoenaed. And I call the committee's attention that if that is not done promptly, he will return to the State of Washington, and then it would be unfortunate if we had to bring him all the way back—since I now put the committee on notice that he is here, available, and willing to testify under subpoena. And that he has something to say, so I am informed.

Senator PELL. My understanding is that he is not only willing to testify under subpoena; he is anxious to testify under any terms.

Senator SCOTT. That, I don't know. I have given you exactly—haven't I stated it exactly?

Senator CURTIS. Yes; you have.

Senator COOPER. Why don't we take up these witnesses?

The CHAIRMAN. Suppose we just take this list one at a time.

Senator SCOTT. May we first get a ruling, since the chairman has said that he regards my statement regarding relevancy as my own judgment—may we have a ruling from the Chair on rule 19, that any member of the committee may request that a witness may be called to testify before the committee in executive session:

Such requests shall be honored by the chairman unless he finds that the evidence in question or interview of a possible witness or the testimony of the witness is irrelevant to the investigation, in which case the question shall be determined by a majority of the committee.

Now, I have made the point that the only word here is "irrelevant." That on questions which are raised, the judgment should be based simply on relevancy.

(At this point, Senator Curtis withdrew from the hearing room.)

Senator SCOTT. That on the basis—judgment on relevancy does not involve whether or not testimony is cumulative or additional. And, in fact, several newspapers, newspaper editorials have referred to the fact that cumulative evidence is just what the committee does want if it is investigating its own house. And I would like the chairman to say whether or not he is prepared to rule, in interpretation of this rule, within the clear language of the rule, or whether or not it is the chairman's view to rule out anything which in his opinion is, for some cause other than relevancy; for example, something that in his opinion is cumulative or tends to repeat to some degree the testimony already heard, to confirm or deny other witnesses.

Senator CLARK. Mr. Chairman?

The CHAIRMAN. Senator Clark.

(At this point, Senator Hayden entered the hearing room.)

Senator CLARK. Before the Chair, acting, I am sure, under advice of counsel, passes on Senator Scott's motion—

Senator SCOTT. It is not a motion. It is a request for ruling.

Senator CLARK. I would like to state my own strong view that nothing in rule 19 can contravene or override the clear decisions of

the Supreme Court of the United States with respect to the extent to which legitimate inquiry by congressional committees is permitted to go. I undertook to read the substance of some of those decisions into the record the other day during a debate on the floor. I think it is clearly obvious that you just cannot override decisions of the Supreme Court limiting the extent to which congressional investigations can go by any rule, whether it is rule 19 or any other rule, and by a narrow interpretation of the word in the rule which is "relevant."

The CHAIRMAN. I would have to rule in this case that the Chair would rule on each one of these cases as it is presented, which, I think, is clearly stated in Senator Cooper's motion. We take them up one by one; the Chair will rule on them one by one as we come to them.

Senator CLARK. If it is decided not to hear the witness, the reasons will be stated, which will be legal as well as practical reasons.

The CHAIRMAN. To answer further, there may be cases on which we will have to defer action for more information, and we certainly would in that case. I suggest that you start with your list, Senator Cooper—

Senator PELL. Excuse me, Mr. Chairman. It would seem to me—and I would be guided by the wishes of all—that we ought to conduct—bearing in mind in this meeting that it might be well to release the testimony of this meeting after the hearing is over, since it could settle many questions. And I intend to offer this suggestion at the end of the meeting about today's meeting.

Senator SCOTT. What was the suggestion?

Senator PELL. It would seem to me that since the substance of these meetings appears in the press anyway, either through inadvertence on the part of the staff, in one embarrassing case, or through ourselves, that we ought to give thought to the idea of releasing the testimony at the end of each day's hearing to the public. And I wanted to put the committee on notice I intend to offer that suggestion at the end of the meeting. Not talk about past meetings—but starting today.

The CHAIRMAN. I think that is something we have to decide at the end of the meeting, as you pointed out.

Senator SCOTT. May I say, also, some of these names, I believe, represent matters on which Senator Curtis wants to be heard. He has his own views. In one or two cases I would ask that they be deferred to the end, so Senator Curtis may have an opportunity to comment on them.

The CHAIRMAN. We would be glad to do that.

Senator SCOTT. Sometime—if we can do it today—I would like to bring up the question of Mr. Baker's tax returns generally, not with relation to the Hauff thing particularly—but the opportunity to see the tax returns generally.

Mr. McLendon. On that statement, I think I had better clarify the record, Senator. In connection with the Hauff affidavit, it is my intention to put that evidence on, either in executive session or public session, whichever the committee decides. And, in doing so, the copies of the individual returns of Baker will be available.

Now, the Department will not permit us to photostat the original and bring the photostat into the hearing, but they do permit us to copy it. And I will have a staff witness to testify that the copy he presents is an exact copy of the one on file. There will also be evidence

in connection with the Hauff thing in connection with the handwriting, genuineness of signatures, and that sort of thing.

Senator SCOTT. Then may we have at the same time copies of Mr. Baker's returns for the years which are under investigation, which I would think would be 1959 to date, or perhaps 1960 on, to date?

Mr. McLendon. We have access to 1959, 1960, 1961, and 1962 returns.

Senator SCOTT. That is what I had in mind. And could the committee see them before there is a hearing?

Mr. McLendon. You could see our copies.

Senator SCOTT. The copies, I mean.

Mr. McLendon. If I don't misinterpret the ruling, I think any member of the committee has a right to go down to the Department and look at it. We are not permitted to bring the returns up here, nor to photostat them.

Senator SCOTT. It would be simpler if we could see them up here, would it not?

Mr. McLendon. Yes; it would. I intended to have one of our staff people review the status of these returns with respect to whether there is any irregularity or evasion of tax disclosed. I can state to you—well, I won't do that—but I can state to you that we have had the cooperation of the Department down there, and we think we know what their conclusion is up to date, and what our conclusion is.

Senator SCOTT. Would the Department make available to us any evidence that they may uncover as to the possible substitution of earlier tax returns?

Mr. McLendon. That will be disclosed in the presentation of Hauff's testimony. We made a very exhaustive study of that. And with one exception, I am ready to put the evidence on right now. But there is one element of it that needs to be clarified. It will probably be day after tomorrow, Senator, before we would have it ready to present.

Senator SCOTT. Then I would defer any further questions I have regarding Baker's income tax returns until all of the materials are available to the members of the committee.

The CHAIRMAN. Senator Cooper, you may proceed, sir.

Senator BYRD. Mr. Chairman—before you proceed with the reading of the names one by one—has the list been included in the record? And has the letter over the signatures of the minority members been included in the record?

The CHAIRMAN. I would have to have that checked on the Friday the 13th meeting. I think it was.

Senator BYRD. In the event that either or both are not already included in the record, I ask unanimous consent that either or both be included in the record at this point.

Senator SCOTT. Including the list of names that I have?

Senator BYRD. I am trying to get into the record at this point all names that are embodied in Senator Cooper's amendment, substitute amendment. I thought we ought to get them into the record now, and then we can go over them one by one.

Senator SCOTT. These would be included, also, then, would they not, since they are included in his motion?

The CHAIRMAN. I think they should be read into the record at this point.

Off the record.

(Discussion off the record.)

The CHAIRMAN. Back on the record.

Senator SCOTT. I would ask these names be included. I will offer these with a note to the reporter that—

The CHAIRMAN. Are these names in addition to what was read into the record?

Senator SCOTT. These are the same lists, although I cannot guarantee that I read every name as we went down the list. But there are duplications. Some of the names on this quite clearly have been called since, and some are duplications. I was about to make a note to the reporter that in copying it he leave out a duplication, because I have two sheets here—they are not exactly the same. And, further, leave out my pencil comments which were merely my notations of what the major said. The pencil comments, for instance, after Staley Brinkley says "No" meaning that the major had said no about that.

The CHAIRMAN. Without objection, the record will show that, and include the list.

(The list referred to follows:)

Abbuhl, Forest E.	McLeod, William
Aguirre, Paul	Morrison, Linda
Atwood, J. L.	Murchison, Clint
Baker, Charles	Neil, Warren
Banco Credito y Ahorro Ponceno	Peek, Scott
Barnes, James, Co.	Popich, Nick
Beman, Deane	Rometsch, Ellen
Benitez, Jose	Roque, Oterio
Black, Fred	Sabotini, Ruth
Bostick, Edward	Sabella, Kenneth
Broome, Mrs. John	Sampson, George P.
Bromley, Wayne	San Gerado Housing Development
Capp, Walter	Senate Restaurant
Carmichael, James H. (Slim)	Sigelbaum, Benjamin
Cooper, Jack	Singer, Mike
Dancy, Marshall	Space Technical Laboratories
Davidson Brothers	Sommer, Stanley
Donegan, Don	Torres, Edward
Etzler, Dorsey P.	Troop, Glen
Fabianich, Joseph	Tucker, Ernest
Ferrero, Paul E.	Tyler, Carole
Haas, Arthur	Vander Zee, Rein
Hancock, Eugene	Walsh, James C., Dr.
Jenkins, Walter	Webb, Thomas
Jernigan, Jake	Brinkley, Staley
Jones, Clifford	Baker, Mrs. Dorothy
Keever, Richard	Gasque, Clayton
Kellough, Kenneth	Williams, Senator John
Kentor, William E.	Dixon, Mary
Krause, Herman	Richie, Boyd
Levinson, Edward	Anderson, Jack
Lopez, Andres	Pages
McDonnell, Jessop	Richard Bast
McCloskey, Matt	Anthony Fanflick

The CHAIRMAN. Senator Cooper, you may proceed, sir.

Senator COOPER. I will proceed and refer to the letter of March 9, 1964, to the chairman, signed by Senator Curtis, Senator Scott, and myself.

The first name appearing on the list is Mrs. Margaret Broome. I move that she be called for these reasons: She is a former secretary of

Robert Baker. There has been testimony presented to the committee, for example, that Mrs. Novak, at the time she went to Mr. Baker's office, and was given large sums of cash to be deposited to the account of the Carousel—I believe on other occasions she testified that the cash was brought to her from Mr. Baker's office. There has also been testimony about a meeting in Mr. Baker's office attended by Mr. McCloskey—Matthew McCloskey—Mr. Reynolds, the insurance man; Mr. McLeod, a staff employee in the House of Representatives. And it is alleged by Mr. Reynolds that he paid to Mr. Baker the sum of \$4,000.

Mr. McLENDON. What was this name; McLeod?

Senator COOPER. McLeod.

Mr. McLENDON. Aren't you confusing that, Senator?

Senator COOPER. For the reason that Mr. Baker has taken the fifth amendment and has, therefore, made no explanation of these alleged transactions, I think it is important for the committee to determine if they were true, and their meaning, and, if possible, the sources from which these funds in cash were derived. I believe the testimony is important.

Senator SCOTT. I don't see how we can close the investigation without investigating the employees of Mr. Baker since the resolution says we look into the affairs of Senate employees for possible fiscal irregularities, and the resolution is directed at the office of the secretary of the majority.

Senator CANNON. Mr. Chairman, may I ask—does either Senator Cooper or Senator Scott have any information that would tend to indicate that this woman has been engaged in fiscal irregularities or wrongdoing, or that she could do anything more than corroborate what is already in the record?

Senator COOPER. There is no charge, no implication, at least on my part, that Mrs. Broome has been engaged in any wrongdoing.

The purpose is she might be able to supply information about these transactions or other transactions which the committee is unable to secure because Mr. Baker took the fifth amendment.

Senator SCOTT. And as to that, I would add that this is not a legislative trial; that it is not the obligation of the minority to produce full blown the detailed testimony of witnesses, which we could not possibly do with only one minority investigator, and one minority counsel. That we are calling to the attention of the committee that employees in the office of Mr. Baker have not been called. That because of and by virtue of their employment they may have information which is useful to the committee and the scope of the resolution. And that it would be in my opinion subject to criticism, possibly subject to charges of being negligent about it. And that the committee did not go into the testimony of people who worked with Mr. Baker.

Senator CLARK. Mr. Chairman, I would like to hear the opinion of counsel on this.

The CHAIRMAN. Do we have the information on Mrs. Broome?

Mr. McLENDON. Yes, sir. Mrs. Broome was interviewed in great detail on December 6, 1963, and a written report made of it. She worked for Baker from January 1, 1955, to February 1961. She testified that she could not testify—she stated she could not testify to any business activities of Mr. Baker, and she did not know of any activi-

ties specifically between Baker and Senator Smathers. She stated that she knew that Baker had some interest in the Mortgage Guaranty Insurance Co., of Milwaukee, but she had no knowledge of any detail or the extent of it.

She said she knew Mr. Karl because he visited the office—that is, Max Karl, of MGIC—he visited the office. She knew Fred Black because he had been to the office many times. And she knew Francis Law, of Webb & Law, because he has been to Baker's office on a number of occasions. She said she thought—if I can find the exact language—she testified that some of these personal calls—that she was sure some of these personal telephone calls made by Baker—she was sure were paid for out of funds appropriated for the operation of the office. That is about the gist of it.

Senator CLARK. Major, does the record show that she was formerly Mrs. Reynolds?

Mr. McLENDON. No; Tucker—she was formerly Mrs. Tucker.

Senator SCOTT. She was the former wife of Ernest Tucker, Baker's law partner. And I raise the point that as has been proven by the calling of other witnesses, that a witness will frequently testify more in detail, more specifically, under oath, and that a mere investigation rests entirely upon what the investigator himself has asked and received in reply, and is no substitute for an examination by the Senators who are members of the committee. There are various differences, but obviously one is the fact that nine members of a committee may ask nine different kinds of questions, and that the direction in which the questioning takes might well reveal a great deal more than an interview with a possible witness who says, in effect, "There is nothing I can tell you really. I was there. I worked there for quite awhile, but I did not really see anything. I saw a lot of people come and go." And she is the former wife of his law partner, and close and trusted associate. It rather defies logic to believe that she had absolutely no knowledge whatever that would shed light on the numerous activities of the very active Mr. Baker.

Senator CLARK. Mr. Chairman, it seems to me this case raises squarely the issue of policy between the majority and the minority. One could admit everything that Senator Scott has said, and yet there would be no purpose in calling this woman, because why we are looking to her is not to try to get something more on Bobby Baker. We have got enough on Bobby Baker to hang him, as I have said many times before. Cumulative evidence indicating additional acts of wrongdoing is of no possible purpose, to my way of thinking, at this time.

Now, I, of course, would be guided largely by the recommendation of counsel in this regard. But I don't see any point in just piling Ossa on Pelion and going on and on and on, and try to find something else wrong that Bobby Baker did. My goodness, he has done enough wrong now to give us plenty of opportunity to make a proper report on the charge given to us by the Senate.

Senator COOPER. I think there is one error in your reasoning on this. The purpose is not simply to present cumulative evidence as might concern Mr. Baker—although I am not conceding for the moment that is not important—but because evidence has been produced of his engagements, involvements with certain people. It is possible that one who was his secretary would know whether or not there were involve-

ments, associations, financial, or any improprieties or wrongdoings which involved other Senate employees who thus far have not been named.

Senator CLARK. Well, this, again, John, must be a question of judgment. It is possible you are right. But it seems to me, having started on this investigation in October or November, at some point you have to make a balanced judgment as to when you have gone far enough. Generally speaking, I think we have gone as far as we should. To drag this thing out further, you get into the law of diminishing returns.

Senator SCOTT. May I say what the Senator has said proves the point. If it is even possible that we are right, we should not turn our backs on this possible testimony, because here is a woman who had an intimate opportunity to see the whole atmosphere of the conduct of this office.

Baker has taken the fifth amendment and deprived us of the most direct means of learning what went on. Here is a woman who presumably could tell us whether or not Baker or other employees used Government telephones and pages or other Government tax-paid facilities in the pursuit of his personal or business affairs. Here is a woman who can tell whether or not on close examination she even saw money passed in the office. She can tell whether or not there was laxity on the part of other employees. She may have overheard conversations which would throw light on it.

I think in assuming that because Baker has taken the fifth amendment and we have discovered something about the activities of Baker, it must not be forgotten that maybe the committee, in its report, might feel impelled to point out that there is a whole lot that was charged, that was never brought out. And yet you are tying your own hands in pursuing avenues through which these very things might be brought out.

For example, after each witness testified in a certain line they were always asked, "Did Bobby Baker influence you?" and then no matter what they had testified before, or how they might have involved Baker, they nearly all answered this one rather complacently and, of course, disavowed that they as individuals had ever been influenced by Bobby Baker. And some of these disavowals were ridiculous in view of their prior testimony.

But if you want to establish what Baker did, how influential he was, how his lines and tentacles reached out into various agencies of the Government, I would think you would want to have at the very least the employees who worked under him. In fact, I think they should have been the very first people called. And I think it will be interpreted as a desire not to learn any more rather than as a desire to avoid cumulative testimony.

I, again, repeat that cumulative testimony is just one of the things we certainly ought to have, since the committee is confronted with the fact that there are gaps in the testimony. And the so-called cumulative testimony may turn out to be testimony which fills in these gaps. And you will never know, if you arbitrarily vote, let us say, 6 to 3, whether or not you ever have found any more evidence or not.

Senator CLARK. Major, let us hear from you.

Senator CANNON. Mr. Chairman, I just want to say this: I asked directly Senator Cooper and Senator Scott if they had any addi-

tional information that might indicate we do not have all the information as to what this woman might testify to.

(At this point, Senator Byrd withdrew from the hearing room.)

Senator CANNON. Senator Cooper answered it directly. Senator Scott finally answered to my satisfaction that he has no information that this woman can testify beyond what we already have here. And, on that basis, I would like to ask counsel his opinion as to whether or not the investigation which we are conducting, under the direction of the resolution, would be aided by the calling of this woman.

Senator SCOTT. Before counsel rules on that, let me point out that as far as the facts go, as aside from the law—and on the law I have the greatest respect for counsel—on the facts, they are basically up to us. And as far as the facts go, I repeat that you cannot in any justice put on the minority with their limited facilities the responsibility of providing you with evidence above and beyond that which appears in the investigation in most instances. When we have provided you with some you have continued the committee and decided to proceed with hearings.

Now, it is not quite just to say to us, "You must tell us whether you can get more from this witness than our investigator got." What we hear time and again from outsiders is not material which you could classify as evidence, but individuals and the press will sometimes come to individual Senators and will say, "Why don't you call Mrs. Broome—because if you put her under oath, there are more things she can tell you." And then we are obliged to say the majority of the committee doesn't want to do that; they don't feel that you would get anything by it. And therefore, our hands are tied.

The major can rule from here to doomsday that we won't find anything from Mrs. Broome. But he cannot say with any more clarity than any member of this committee can that Mrs. Broome may not testify to additional matters if she is brought in as a witness and put under oath.

Senator CLARK. Now can we hear from the major?

Mr. McLENDON. Mr. Chairman, let me say to begin with I thought the purpose of interviewing witnesses was to eliminate the chaff from the wheat, and find out what witnesses could testify to matters that were pertinent and relevant to the inquiry. If we are going to re-examine before the committee every witness that has been interviewed, then all the time spent on interviewing them would be wasted.

I can only draw one conclusion about this woman. That is, she expressed the opinion that Baker did not pay for some of these private telephone calls, but she has no records to prove it. It is just an opinion of hers, and we have been unable to confirm it from the records that do exist with respect to telephone calls. What she said to our staff who interviewed her was, in substance, the same thing that we have got in the record abundantly—acquaintances with these people, visits to the office.

She adds absolutely nothing new to what is already in the record. Therefore, I would be compelled to advise the chairman that in my opinion calling her would not add anything relevant to the decision which the committee must make.

Senator SCOTT. May I ask the major this question: Major, can you give us a guarantee out of your experience that Mrs. Broome when called under oath would not add anything to the investigation?

Mr. McLENDON. Of course not, Senator. That is beside the point. Senator CLARK. I think that is a highly out-of-order suggestion.

Senator SCOTT. It is not out of order, because I have made—

Senator CLARK. It is not only out of order—it is just childish.

Senator SCOTT. You may make any judgment of it you wish. But it is my opinion that since there is the likelihood of a confusion between facts and law—and I have the greatest respect for the major's judgment on the law—but I asserted before and repeat again, and the major has confirmed it, that no person can possibly say what this witness would testify if called under oath, and that, of course, is why I think she should be called. In addition to the fact that she was an employee.

Mr. McLENDON. I think I would make the same answer, Senator Scott, to every single witness interviewed. I cannot guarantee they might not tell something different at a different time under different circumstances.

Senator PELL. As a layman, may I interpolate a question here, for my own edification. Should we carry out Senator Scott's idea, interview all hundred Senators in the Senate, because I am sure that each of us has had various contacts with Bobby Baker, and maybe out of that hundred we might develop one improper contact. I agree this would be carrying it out ad absurdum. But it would be the same theory. It seems to me we could go on this way until the day before election day.

Senator SCOTT. The fallacy in that statement is simply this. We are directing our attention to people who were employees of Bobby Baker. They are limited in number. There is no great problem in calling them. There is no real reason why they shouldn't be called other than the assertion by counsel that counsel doesn't think they would say any more under oath than they said in investigation. And that statement is made in spite of the fact that some of the witnesses have indeed said a good deal more under oath than they told the investigators.

Senator CANNON. Mr. Chairman, if this investigation is to serve any useful purpose, in my opinion it is going to have to be directed to the purpose that we were instructed to carry out. We have a counsel to advise us. He has advised us. If the voluminous investigations that have been conducted, and of which we are to have the benefit, are meaningless, and we are to start this all over again, I am not—I do not believe this is a proper course of procedure. And I, therefore, ask the chairman to rule on the basis of the issue that is now before us—rule on this particular witness.

The CHAIRMAN. I want to say this, just for the record: This committee—I am not talking about this investigation section of it, the attorneys, all of the—your investigators—this questioning was on December 6. Immediately after this resolution was adopted and put into our hands, we started to check all the evidence we could of anybody that had anything to do with this thing. There is no indication this woman has done anything wrong whatsoever, or can add anything relevant to this hearing. So I am going to rule this is not relevant, and that we take a vote on it.

Senator SCOTT. What was the date of the investigation?

Mr. McLENDON. December 6.

Senator SCOTT. That is when she was investigated?

Mr. McLENDON. Interviewed.

Senator PELL. Before ruling, may I offer a suggestion? I wonder if the minority would be agreeable to the thought of, with their own investigator present, reinterviewing her under oath, in order to save the nine of us a certain amount of time, because I, for one—and I am sure we all share the same view—feel we all spend a great deal too much time on the investigative side before getting down to the important side.

(At this point, Senator Byrd entered the hearing room.)

Senator COOPER. I wouldn't think that would be a helpful thing to do. She has been interviewed. This particular group of employees is in a different category of other witnesses, because of the close association with Mr. Baker. I feel that their testimony is important. It is possible that, in questioning by members of the committee, information in addition to that secured by the investigators might be elicited. It is chiefly because of the close association with Mr. Baker that I think these witnesses—Mrs. Broome, and I will include later Mr. Vander Zee and Mr. McDonnell, although they are not now being discussed—are in a different category than the other witnesses.

Senator SCOTT. Mr. Chairman, how do we know what Mrs. Broome may have learned since December 6 from—as a result of statements—evidence furnished by other witnesses, nor do we know whether Mrs. Broome has been approached by Mr. Baker or persons acting for Mr. Baker to make any suggestions to her of one kind or another. A great deal of water has run under the bridge since the 6th of December. The investigation has taken numerous turns. And I cannot quite understand the willingness to accept an interview of December 6 with an employee of the secretary to the majority as carrying over to now. And I cannot understand the view that there is no reason to call her.

The CHAIRMAN. Well, gentlemen, we have far exceeded the time we said we were going to take before, and I have already ruled her testimony is not relevant to this case. We will take a vote on it. The chief clerk will call the roll.

Senator CANNON. Mr. Chairman, may I ask what is the vote now? Are we voting to sustain the chairman's ruling? Is an aye vote a vote to sustain the ruling of the Chair?

The CHAIRMAN. That is correct.

Senator SCOTT. Don't you have a motion by Senator Cooper that she be called?

Mr. McLENDON. The Chair has already ruled.

Senator CANNON. The Chair has made his ruling and said we are now voting on whether to sustain the ruling.

Senator CLARK. We assume you are appealing from the ruling of the Chair.

Senator CANNON. My vote to be a vote to sustain the ruling of the Chair.

Senator HAYDEN. My vote is aye.

Mr. HARRISON. Senator Cannon?

Senator CANNON. Aye.

Mr. HARRISON. Senator Pell?

Senator PELL. Aye.

Mr. HARRISON. Senator Clark?

Senator CLARK. Aye.

Mr. HARRISON. Senator Byrd?

Senator BYRD. Aye.

Mr. HARRISON. Senator Curtis?

Senator COOPER. I have his proxy. He votes "no."

Mr. HARRISON. Senator Cooper?

Senator COOPER. No.

Mr. HARRISON. Senator Scott?

Senator SCOTT. No.

Mr. HARRISON. Mr. Chairman?

The CHAIRMAN. Aye.

Mr. HARRISON. Six ayes, three nays.

The CHAIRMAN. Move along to your next witness.

Senator COOPER. Mr. Rein J. Vander Zee. He held a position recently as assistant to Mr. Baker.

(At this point, Senator Hayden withdrew from the hearing room.)

Senator COOPER. It has been testified by Mr. Valeo that after the resolution was adopted by the Senate, authorizing this inquiry, Mr. Vander Zee resigned. I am not suggesting, by saying that, that there is any indication as to wrongdoing on his part. But for the same reason—and I don't think it is necessary to detail the reasons—that I advanced in support of my motion to call Mrs. Broome, I just ask those same reasons be considered with respect to Mr. Vander Zee—namely, that in his position, the unique position—I think it is incumbent upon the committee to determine any other facts in addition to those which have been secured by investigation that would be important in this inquiry.

Senator SCOTT. May I ask when Mr. Vander Zee was interviewed?

Mr. McLENDON. He was interviewed recently, Senator, on March 20. He had been interviewed prior to that date by me and, I think, Mr. Alexander. And we didn't write it up, because he didn't tell us anything.

Senator CANNON. Mr. Chairman, may we have counsel report to us on the interview with Mr. Vander Zee, and his recommendation?

Mr. McLENDON. I will ask Mr. Meehan to read—

The CHAIRMAN. May I make a statement in connection with this, which I happen to be familiar with? Mr. Vander Zee was in law school for quite a while. He had said to me personally, for no reason: "As soon as I can get through and get my law degree, I am going to go and practice law downtown with somebody," and he has been planning that for quite some time. That is all I know about it. That is the only reason he left up here. He was planning to leave a good long while ago. Will you make a report on that?

Mr. MEEHAN. Well, he sets forth his experience here and his position. I don't think they are of any value for our purposes. January 1961 he was appointed by Senator Humphrey to the position of assistant to the majority whip. At the end of 1961 he was appointed by Senator Mansfield to the position as assistant secretary to the majority. He said that on prior occasions this position had been at the discretion of the secretary, but he was appointed by Senator Mansfield. He said he succeeded Mr. McDonnell, who he understood was fired as assistant secretary to the majority at the request of Robert Baker.

Senator CLARK. When was he first employed by the Senate?

Mr. MEEHAN. First employed by the Senate—during the calendar year of 1960. He worked on the payroll of Senators Humphrey and

Symington, during their campaign, until the time of the Democratic National Convention, at which time he went to work on the payroll of the Democratic National Committee. He did work for Congressman Carter prior to that, but not the Senate. He said he heard from unrecalled sources that there was a pronounced personality conflict between Baker and McDonnell. That was the reason for the firing. He submitted his resignation, incidentally, to take place February 15, 1964.

He first met Bobby Baker during the Democratic National Convention in Los Angeles in 1960, and saw him frequently after he was appointed to the position of—to the staff of the majority whip. During the time of his employment with Senator Humphrey, Baker never called upon him for any assistance, and he never rendered any. After assuming the position of assistant to the majority secretary, he saw Baker almost daily until Baker resigned his position. He maintained a desk in the outer office of Baker's suite in the Capitol, but he claims he rarely stayed in this office, but spent most of his time on the Senate floor.

He said Baker never called on him to render any service except those in line of duty with regard to his position. While assistant to the majority, he saw Don Reynolds in Baker's office about 1 year ago on one occasion, and recalls Reynolds was making a phone call. He was not interested in Reynolds, and knows nothing of Reynolds' contact with Baker, except based on news articles.

He went to Baker's home in June 1961, when Baker received an honorary degree from American University. About 40 or 50 people were in attendance there, including Baker's wife and Carole Tyler and a number of Senators and others. Baker has never visited Vander Zee's home, and his only contacts with Baker were infrequent occasions after working hours when they would have a cocktail at a nearby bar. Vander Zee is a member of the Quorum Club, having joined that club of his own volition in the middle of 1961.

He was acquainted with Ralph Hill, having met him sometime during 1961 while he worked for Senator Humphrey. Hill came to his office and told him that he was having difficulty with vending machine contracts in the Department of Agriculture, and wanted Senator Humphrey to intercede for him. Vander Zee mentioned this fact to the Senator and he said it was none of his business, and he didn't want to make any intercession.

On an unrecalled date in August or September 1963, Vander Zee received a telephone call from Hill, while Vander Zee was on the Senate floor. He went to lunch with Hill. And here Hill outlined his problems out at Melpar and said that Baker had originally arranged for him—that is, Hill—to take over vending operations at Melpar, and that Baker was trying to put him out of Melpar. He told Vander Zee that Baker had a quantity of vending machines in town, and that these machines were for use by the Serv-U Corp. Hill told Vander Zee he had a 2-year contract at Melpar, and if he could keep the contract for this full period, he could pay off the cost of the vending machines. He told Vander Zee he was going to file a suit against Baker and he wanted Vander Zee to tell Baker about this, to try to use it as a method of putting a power play on him.

Vander Zee visited the townhouse occupied by Carole Tyler on the occasion of the opening of the Rotunda Restaurant. He was invited

by Carole, and there were 30 or 40 other people there, including one Vic Damone. He sets forth the following telephone pages as having worked there while he was there: Richard Darling, Patrick Hynes, Eddie Horgan, Walter J. Stewart, and Boyd Richie. Vander Zee said he never heard of any reference to the illegal activities of Baker and the referenced pages.

Shortly after publicity appeared in the press on alleged kickbacks by Richie to Baker, Vander Zee discussed this matter with Stewart. Vander Zee said he had great confidence in Stewart, and Stewart related to him that Richie had roomed in his home at a rate below that paid by other roomers. He had been paying \$50 per month rent and, when promoted by Baker to a higher level position, Stewart raised Richie's rent to \$100 per month. Vander Zee made the observation that he did not really think that Richie ever kicked back any money from his salary to either Stewart or Baker. He pointed out that Richie was a protege of Senator Yarborough and Yarborough and Johnson had become bitter enemies. He had the definite feeling that Richie had told the story of possible kickback to Baker or Stewart, which was not true, but had been pushed into maintaining that this story of the kickback was true.

Vander Zee claimed that he had never been involved in any business activities with Baker and had never discussed such activities with him. He further stated that he never observed any large sums of cash in Baker's possession. At Baker's invitation, Vander Zee traveled with others on a bus to attend the opening of the Carousel Motel in Ocean City, Md. He went there to the motel on a few occasions in the evening hours while he maintained a home at Bethany Beach, Md. He went on his own initiative and not at the invitation of Baker.

He knows that Baker made many phone calls in his, Vander Zee's, presence to many different persons but he is in no position to state whether such calls were official or personal. Vander Zee, although he hopes it will not be necessary to do so, will respond voluntarily to a request from the Senate Rules Committee to appear in either open or closed session. He will come voluntarily, if necessary.

Senator SCOTT. Mr. Chairman?

The CHAIRMAN. Senator Scott.

Senator SCOTT. The first thing that shows up of interest in this investigation is that Vander Zee says that he learned from unrecalled sources that there was a pronounced personality conflict between Baker and McDonnell. That is more properly brought up when we get to discuss McDonnell. But it raises an immediate signal, I would think, to any investigator that if there was a personality conflict between Baker and McDonnell, and Baker fired McDonnell, that an investigator would want to know what McDonnell is prepared to testify as to what led up to it. But I will come back to that later when we talk about McDonnell.

It is interesting to note that Vander Zee says that while he was a Senate employee, he saw Don Reynolds in Baker's office and saw Reynolds making a phone call—which would certainly be on a Government telephone. What more he does know about Reynolds might much more readily be obtained by putting him under oath. There has been a good deal of zeal shown on the part of people outside of this committee in impugning the testimony of Reynolds. And yet

here is an opportunity where a witness has something to say about Reynolds, which, it seems to me, would be interesting in relation to the testimony given by Mr. Reynolds.

That Vander Zee mentions his acquaintance with Ralph Hill, and indicates that Hill had—I would say it indicates he had at least two, perhaps more, conversations with Hill. That they had to do with the vending machine operations at Melpar. And that Hill made certain comments to Vander Zee with regard to Baker's efforts to put him out of Melpar. That there was evidence supporting Hill's testimony, as the committee heard, that Vander Zee says that Hill told him that he knew Baker had this quantity of vending machines in town, and we have learned these were machines of the Serv-U Corp.

He discussed his contract in some detail and advised Vander Zee he was going to file suit. He used Vander Zee to get word to Baker on the ground that Baker had refused to talk to him, Hill. Vander Zee says he never got in touch with Baker, which is a matter which would be subject to interrogation under oath.

That Vander Zee will respond voluntarily and will appear in either open or closed session. That Vander Zee resigned quite recently—and regardless of the reason he gave the investigator, it does appear at times when witnesses are under oath that they will give an elaboration of what led up to a decision to resign. And it would seem to me that the committee would want to know more about the operations of Baker's office from a man clearly in a position to know. And even though he appears to be willing, generally speaking, to defend Mr. Baker and Mr. Baker's conduct, I would say that I think this is another case of an employee of Baker's whose testimony is readily available, which would not take very long to hear and which the committee has indicated so far that it is not interested in hearing—even though the normal and ordinary pursuit of an investigation of the conduct of one individual would involve some curiosity as to the conduct of others. And I repeat, again, the witness will probably say more under oath than he said during the investigation.

Senator CANNON. Mr. Chairman, in view of the fact that we are proceeding at the rate of about one witness an hour, I would like to request that we ask counsel for his comments as to whether this witness would add anything to information not now already in the record and substantiated in the record.

Senator SCOTT. May I say I note from the clock that the discussion of the last witness took less than 15 minutes.

The CHAIRMAN. Well, I might add to what the Senator just said. Every bit of information about Hill and every other activity has been made a part of the record by Mr. Hill and others. I am going to rule that this is not relevant, and that we should vote on this—whether we call this witness or not. Rollcall vote.

Mr. HARRISON. Senator Jordan.

The CHAIRMAN. Aye.

Mr. HARRISON. Senator Cannon?

Senator CANNON. Aye.

Mr. HARRISON. Senator Pell?

Senator PELL. Aye.

Mr. HARRISON. Senator Clark?

Senator CLARK. Aye.

Mr. HARRISON. Senator Byrd?

Senator BYRD. Aye.

Mr. HARRISON. Senator Curtis?

Senator COOPER. No. I have his proxy.

Mr. HARRISON. Senator Cooper?

Senator COOPER. No.

Mr. HARRISON. Senator Scott?

Senator SCOTT. No.

The CHAIRMAN. Aye.

Mr. HARRISON. Six ayes, three nays. The chairman is sustained.

The CHAIRMAN. Will you bring up your next witness?

Senator COOPER. The next witness suggested by the minority and I move for them he be called, is Jessop McDonnell. Jessop McDonnell was an assistant to Mr. Baker. According to his testimony, I believe, and a statement made to an investigator, he stated he was fired by Mr. Baker. I believe I am correct in saying that he remarked that he was fired because he didn't like the way Baker was doing things.

Senator PELL. Forgive me. I think that is what he says.

Senator COOPER. Yes. That is what I said. I think that he was assistant to Mr. Baker during the time when the transactions which were being testified to allegedly occurred—he says he was fired. At least he says he was fired because he didn't like the way Baker did things—I think it is of importance to examine him and find out if he is able to give facts as to what it was about Mr. Baker's way of doing things he did not like and why he was fired. I remember, also, that counsel said the other day that McDonnell had evidenced a desire to testify before the committee.

I now incorporate in my request of a motion he be called the same reasons advanced for Mrs. Broome and Mr. Vander Zee; namely, as employees and closely associated with Mr. Baker, it is important to find out if there were other incidents of improprieties or wrongdoings alleged, whether others were involved. And I again point out that this witness, McDonnell, as well as the others, are in a particular category, because Mr. McDonnell and others were those who by reason of their jobs were the most closely connected with Mr. Baker, and would have the opportunity to observe and have possible knowledge of facts which may not have been uncovered by investigators. I think the committee would have an obligation to see if there are any other facts on which we do not have information.

Also, the fact that Mr. Baker has taken the fifth amendment, and because in questioning of witnesses who are alleged to have associations with Mr. Baker, which have not been fully explained—they have always said that there is no reason other than their fondness for him. The committee has run up against a kind of blank wall. I think it has a duty to examine these other witnesses who had close association to see if there is any explanation.

Senator SCOTT. Has McDonnell been interviewed?

Mr. McLENDON. Yes, sir.

Senator SCOTT. Do you have a copy of the interview?

Mr. McLENDON. Yes, sir.

Senator PELL. May I comment on Senator Cooper's statement—because at the time that "Jay" McDonnell and the Senate payroll parted company, I was asked to support "Jay" McDonnell. And I

felt that I could not do it then, because I had found—to me he appeared rather erratic. I thought we would be better off with another assistant secretary at that time. This is over and beyond any relations he may have had with Baker one way or the other.

But from the way he did his job. And I think actually we on the majority side for whom these men work are best able to form an opinion as to the sound mind and judgment of these individuals who worked for us for some time. I know I wouldn't find it very hard to make a judgment on the assistant secretary to the minority, Mr. Trice. But I do find it very comprehensible that he was let go and supported that action.

Senator SCOTT. On that point—isn't it a fact, Senator, that a number of Democratic Senators did intercede for Mr. McDonnell, and that as a result of that he was retained for about a year?

Senator PELL. That is correct. I was asked to join that group and declined. The group that did intercede for him, I think, had a very great regional loyalty to him. And I think that he was the secretary of the northwest Senators' conference.

Senator CLARK. May I be heard on that, Mr. Chairman?

Senator SCOTT. I had understood there were a number of Senators who, I suppose, would be commonly designated as liberal Democratic Senators who had intervened, and that there were some 10 or 12. But this is simply a report, though, that came to me.

Senator PELL. That is correct.

Senator CLARK. Mr. Chairman, I suppose I knew "Jay" McDonnell longer than any other Democratic Senator who is at this table now. And it is true that he and Bobby Baker had really quite violent disagreements as to policy. It is true that "Jay" McDonnell, who comes from Washington State, felt that he was supporting the northern Democrat Senators against what he felt were improper activities supporting the southern group, which Baker was engaged in.

I took to McDonnell the first couple of years I was here. Of course, I myself had some disagreement with Bobby Baker. But after 2 or 3 years, when some of the information which he was furnishing other Senators and myself turned out to be largely figments of his imagination, and when his really quite unobjective—and I would say almost psychotic—attitude toward his work became apparent to me, I began to lose confidence in him, until at the end I had none left.

I think there was animosity which may have contributed to Baker firing him. There was an intercession on his behalf as a result of which I think it was Senator Magnuson who undertook to keep Jay McDonnell on in some capacity with a western Senators' conference group.

Senator CANNON. Mr. Chairman, may we ask counsel for a summary of his interview?

Mr. McLendon. You will recall at the March 13 meeting I made a statement which appears in the minutes of that meeting at length, and I don't know whether it is necessary for me to repeat it again. In substance, I told you that on one occasion McDonnell appeared in my office, and I talked to him, and he told me, to begin with, "You are looking at the man who is solely responsible for the Baker investigation." I expressed some surprise, and told him I had been here 4 months, and that is the first time I ever heard that suggestion. He dropped the subject, and would not reply any further.

When I insisted that he tell me anything he knew about Baker's business or financial transactions, he said he knew of one, and that was to the effect that Baker said—not that he knew, but that Baker said to him that Senator Charles Daniels, of South Carolina, on one occasion gave Baker about \$30,000 worth of Winn-Dixie Stores stock, and boasted that this was the sort of friends he had, or words to that effect. He didn't know anything else about any other business or financial interest, and spent his time talking abusively about Baker, because he said Baker fired him.

After this matter came up on the 13th, I prepared a memorandum for the file, which I had not prepared prior to that time, because I attached so little importance to it. But I did put the memorandum in the file which rehashes what I have just said. And you recall on the 13th I reported to you that I was able to get, through the Department of Justice, a summary of two FBI interviews of this man—not one, but two. And the substance of the interviews was that they could get nothing out of him that was coherent; that he talked at random, and made several statements to them that they attempted to verify and could not verify in a single instance.

I got a letter from Senator Williams, which I have sent for, that perhaps should be put into this record, calling my attention to the fact that he had been informed by Jessop McDonnell that he, McDonnell, knew of gifts made to Baker by Senator Daniels of \$30,000 worth of Winn-Dixie stock.

At the time I received the letter, we had already sent an investigator to Greenville, S.C., to interview Senator Daniels, and I immediately replied to Senator Williams' letter by telling him that the information contained in his letter had come to our notice some weeks before that, and that we had sent an investigator down to see Senator Daniels, and Senator Daniels reported that he never had any business transactions with Baker except on one occasion, and that was when Baker had asked him if he knew of a good investment, or words to that effect, and Daniels told him that he had some stock, or subscribed to some stock, in the Carolina Pipeline. And the result of that was Baker said he wanted to invest \$2,500 and he bought \$2,500 worth of stock.

Now, the report of the investigation with Senator Daniels, that is contained in the file, and, of course, is available for inspection by representatives of the minority, and contains what I just said about purchase of the pipeline stock, and denial that he had ever given him any Winn-Dixie stock. I thought in view of the seriousness of this accusation that we ought to check with the Winn-Dixie people themselves. So I had one of the investigators contact the Winn-Dixie people and find out what their records show with respect to the ownership of Winn-Dixie stock by Baker.

It shows that on the 28th day of January 1958 Baker bought 100 shares of stock, registered in his name. It shows in October 1960, there was a stock split of two shares for one, which left him with 200 shares. It shows on the 9th of May 1961, the following year, that Baker bought 500 shares. That would give him 700. It shows that on July 26, the following year, 1962, he sold 600 shares, which left him with 100 shares, and the books of the corporation show that he is now the owner of 100 shares of Winn-Dixie stock.

We compared this record with Baker's financial statements which he filed, and which are in evidence. The first one in 1954 shows no

Winn-Dixie stock. The next one in 1957 shows none. The next one in 1959 shows 100 shares, just like the books of the company show. In 1960 it shows 100 shares, as the books of the company show, except that it is split. And that is also shown. And then on November 21 he reported 700 shares. That would be the original 200 plus the 500 that he bought, which corresponds to the books and records of the company.

Then on the 5th of February 1962, he shows 700 shares. On the 16th of July 1962, it shows 100 shares. And the latest balance sheet that we have access to shows 100 shares. So that, in substance, the records of the company confirm the statements that he made in these financial statements which he filed, and which have been accessible.

Senator CLARK. Major, I was not clear what Senator Daniels said about this.

Mr. McLendon. He said that he had no transaction with Baker of any kind involving Winn-Dixie stock; that Baker did ask him about an investment on one occasion, and he recommended the purchase of Carolina Pipeline stock. Baker gave him a check for \$2,500, and he purchased the stock for Baker in the Carolina Pipeline. That is the only transaction he has ever had.

He also told the investigators that if he had known this matter was of any importance he would have volunteered to be here long ago. Now, let me supplement this by the most recent interview with McDonnell. And please understand me, gentlemen—when you speak disparagingly of anybody—I do so with great reluctance, as I said before.

After this meeting on the 13th, I had one of our investigators call McDonnell by long-distance telephone; told him that he was asked by the committee to call him again about the Baker matter, asked him, "Will you tell me over the phone anything else that you know about Baker and his financial business transactions?" And he said he would not. He said, "If you want to talk to me, you will have to subpoena me," or words to that effect—or send somebody out there, I believe is the way he put it.

In the meantime, he kept calling here, calling Mr. Whitley in Senator Jordan's office—I don't know how many times. I happened to be down there one time he was calling. And he appeared in person just yesterday. He came to my office. I told him the result of our investigation about the Daniels' thing. He had no comment. And I said, "Tell me again now what you base that on?"

He said, "Well, Mr. Daniels was in Baker's office on one occasion, and when he came out of the office Baker said to him"—that is, to McDonnell—"Mr. Daniels gave me \$30,000 worth of stock." And he said he didn't examine the stock; didn't know what Baker had. But that is all he knew about it. I kept pressing him if he knew about any other business affairs, and he said, "No." And he wanted to talk all the time about how Baker had mistreated him, and about his grudge with Baker, and how Baker caused him to lose his job.

Gentlemen, I give you my word if this man is put under oath nobody on earth knows what he is going to say. I think he will launch into a tirade of abuse of various Senators, various people connected with the Senate, including Baker and anybody else that he can talk about. I don't think he has one thing on earth to add to the material evidence that the committee needs.

(At this point, Senator Curtis entered the hearing room.)

Senator CLARK. May we have a ruling, Mr. Chairman?

Senator SCOTT. Mr. Chairman, may I be heard?

The CHAIRMAN. Yes.

Senator SCOTT. Mr. Chairman, first of all, the indication that there was some bad blood in this case is pretty obvious to register red signals, and it has been raised to the committee here that there is every reason under the sun that he ought to be called. This man is in town and available. The committee has an immediate opportunity to call him—regardless of the impression he makes—because I do not assume that we guarantee that every witness who is heard will necessarily be a good witness, nor do I accept the fact that every witness who might testify about Mr. Baker becomes ineligible because of any personality problems, or because he might launch into tirades.

I had some information indicating that Baker said to McDonnell prior to the intercession of various Democratic Senators for McDonnell—that Baker said to him, “If you don’t like the way I operate around here,” and indicated he was going to fire him, which led to the remonstrance and his retention for a time. Now, may I ask whether McDonnell was asked whether or not Baker or any other persons in Baker’s office used Government phones on personal matters or business matters?

Mr. McLENDON. Yes; I did, Senator. As nearly as I can quote him, he said, “I don’t believe he paid for all of his calls.”

Senator SCOTT. I think this illustrates what we might get if we were going into cross-examination of a witness under oath, because that we had not heard until I raised the question. Was he asked any question as to the use of pages on non-Government business?

Mr. McLENDON. No, sir. He didn’t volunteer anything.

Senator SCOTT. Was he asked whether or not he was asked to resign because Baker said to him, “You don’t like the way I operate”?

Mr. McLENDON. No, sir. He just said that Baker got his job—a sort of conclusion that he stated.

Senator SCOTT. Was he asked if he ever saw in Baker’s office any of the following persons—Hill, Reynolds, Bostick, Webb, or Black?

Mr. McLENDON. I cannot be positive about that. I am sure he mentioned some of those names, Senator.

Senator SCOTT. Well, then, I respectfully suggest that the information on its face is incomplete. That the reluctance to call McDonnell may be based on the fact that he makes a poor impression on counsel. That here is a man who obviously is prepared to offer testimony, who is willing to appear under subpoena, is available in town, who was not asked material questions pertaining to the scope of the investigation as an employee.

And, if ever, there was a red signal up warning the committee that it cannot complete its investigation and say that it has completed it in point of fact unless it calls Mr. McDonnell. And I think it is rather amazing that in the presence of a witness who could offer much more than any number of witnesses who have been called have offered, that there would be a recommendation that this witness of all witnesses ought not to be called.

I don’t think we ought to be deterred by the fact that the witness in what might be interpreted as a threat says that he might engage in a tirade and involve various Senators. I may respectfully submit we

have heard that before. And we have heard statements that if you call various people they may involve Senators. I have even seen it written that some members of the minority have been reluctant to examine witnesses for fear of what they would reveal. Now, I deny that positively, categorically.

I think the record will show that the minority have asked for the calling of a number of witnesses without any concern whatever as to whether the witnesses will carry out threats relayed second hand. And I think this is just another statement where the man says—he doesn't even say—where counsel reports that he may involve a great many Senators in his tirade. I think the Senators are perfectly able to withstand that, and that their reputations will refute any unwarranted or inaccurate or improper remarks. But if I were to stay silent on this, in view of the statements made that the minority is afraid of calling witnesses for fear it will involve Senators, I want it to be made clear now that I cannot subscribe to that as a valid reason.

As a matter of fact, I think it makes it much more important that he be called. And if he is bluffing, that his bluff be called. But I think you are clearly under the gun on this one, personally.

I think it ought to be a part of the minority committee's report if this witness is not called, in view of the strong evidence that he does have evidence to offer as a former employee of the Senate who was fired by Baker, whose office we are investigating.

Now, let me add, finally, that I know Senator Daniels, and anything Senator Daniels says is good enough with me; I accept it as a complete truth. So that my position is taken entirely without reference to the matter as to which Senator Daniels has furnished information.

Senator CANNON. Mr. Chairman, may I ask counsel whether or not there is any dispute about the questions which Senator Scott asked, that counsel had asked Senator Daniels?

Mr. McLendon. I don't know of any.

Senator CANNON. In other words, those matters inquired about are most amply brought out in the record?

Mr. McLendon. I would like to comment I did not intend to leave an impression that McDonnell was going to charge any Senators with moral wrong, Senator Scott. What I meant is that he just likes to talk about politics, and he makes all kinds of accusations against people who don't agree with him. He poses as being smarter than everybody else, and everybody who disagrees with him—and he is also a candidate for Governor, and reminds you about that at every word. I was only trying to illustrate his irresponsibility, Senator.

Senator SCOTT. Major, if we go back over the testimony it has been most difficult to ascertain whether or not Baker used Government phones for personal or official calls. Most witnesses we have called have veered away from that. There is some testimony on it, I believe. But it is pretty thin. And here comes a man who, for the first time, from what you have said to us, is presumably willing to testify categorically that in his opinion Baker did engage in the use of Government phones improperly on business other than Government business. So now you have a chance to close a gap: you have a chance to tighten the testimony. This is not cumulative. It is clearly relevant. If you decide not to do it, the record will have to speak for itself.

Senator CURTIS. Would you yield?

Senator SCOTT. Yes; I am through.

Senator CURTIS. I do not discount the value of staff interviews. A lawyer who doesn't talk to his witnesses ahead of time is just nuts. But also the way to get information is to put people under oath. Up to now—that is the reason I had myself voted in favor of calling Mrs. Broome and Mr. Vander Zee. Maybe they will come in as dry holes. But we haven't discharged our responsibility until we ask them. We don't know what they are going to say—not only about telephones, but Government cars, the handling of sums of cash. If they say none of those things happened, we owe it to Baker to call them.

Senator PELL. May I ask you a question of fact? I thought the fact had been established that the Government telephone had been used improperly to excess. I must add here—and I know I am sure I have been guilty on occasion, myself, in calling—trying to make calls and personal business on my own credit card; I may inadvertently have failed. Let he who is without sin at this table say they have never failed, either, in that. But I thought the fact had been established that Baker had vastly misused the Government telephone and Government facilities. I didn't realize that we were still sort of over-killing that particular thesis.

The CHAIRMAN. We have all the telephone records as far back as the telephone company has them. There has never been any argument but what he probably did, but there is no way to prove that he did.

Senator SCOTT. Oh, yes, Mr. Chairman. Here is the way to prove he did. Here is the witness who will undertake to furnish testimony that Baker improperly used the telephone.

Senator PELL. But it has been established here—

Senator SCOTT. May I finish? What we have now is the evidence that at a certain point in time, namely about the time this Baker situation broke, that up to that time Baker had apparently been using the Government phones indiscriminately, but that after that time he began to distinguish between his business—his Government calls and his non-Government calls. This the record shows. But there are witnesses who have been asked, a number of them, whether or not they ever saw or ever knew of Baker using the Government phones for other than Government business, and in at least several cases they have said they did not.

Now, here is a witness who is prepared to say he did. And I cannot see how you can call that cumulative or irrelevant. We are being overridden by a 6-to-3 vote because a majority is willing to accept as irrelevant matters which the minority is not willing to accept as irrelevant. But this one absolutely stuns the reasoning process in my mind, if you can say this is not relevant.

Senator PELL. Forgive me, but I thought the fact had been established—and this is a question I put to the general counsel: Is there any question as to the fact that he improperly used Government telephones?

Mr. McLENDON. There is no question about it insofar as testimony of witnesses is concerned.

Senator PELL. Then what would be the point of reestablishing it?

Mr. McLENDON. Well—

Senator SCOTT. What witnesses have testified, Counsel, to his improper use of the Government telephones?

Senator CURTIS. The question was—I asked Baker, and he took the fifth on it. I read off specific calls to these various people.

Senator PELL. This is a matter of record, I should think, from the records of the numbers he called. If he called the Carousel, it is not on a rollcall matter.

Mr. McLENDON. I am sure several of them have answered the question in very much the same manner as this man would testify. He doesn't know, but he thinks. The same thing is true of Mrs. Broome—that she thinks the phone was used improperly.

Senator SCOTT. I believe the witness would testify under oath if the nature of certain calls were exposed to him, and he would be asked, "Have you ever heard Baker call Bostick, Webb, Reynolds, Jenkins, Collins at the bank?" That his recollection would bear out in all probability some of these calls. If it brought them all out, I would be very suspicious of him as a witness. But I would imagine in view of his answer to counsel that he can and will supply certain gaps in the testimony.

Senator COOPER. May I make just one other statement while we are on the question of telephone calls? I think that could be established many ways. But I think the point of the necessity of calling this fellow is the association with Baker, the fact that he says he was fired, the fact that he said himself he was fired, whether it is correct or not, because he didn't agree with Baker's method of doing business—it makes it important to know to what he is referring. While it is correct that a person's anger against another man bears upon his correctness as a witness—on the other hand, that is the way many people testify who otherwise would not testify.

In my experience in court, my experience as a judge, the claim is often made an individual has a warrant for a man, had him indicted because he didn't like him. Well, that doesn't have anything to do with it, at all. If there was a wrong, it doesn't make any difference whether a fellow has a warrant for him or got him indicted with malice or not.

Senator SCOTT. If you vote this is not relevant, it seems to me you are voting in face of the greatest offer of relevant testimony yet made to this committee in my knowledge, except the testimony of Reynolds and Mrs. Novak.

Mr. McLENDON. There is no difference between his testimony on this point and Mrs. Broome's.

Senator SCOTT. I would say Mrs. Broome's testimony is also important.

Mr. McLENDON. My recollection is—I don't want to state this to be a fact, because it is hard to remember every detail, but I think Stewart testified that no one can tell which phone calls were charged to him and which ones were paid by the Government, or words to that effect.

Senator SCOTT. Let it be remembered that Stewart was a very friendly witness to Mr. Baker. And this man is designated as one who may be a hostile witness. I don't believe it is an answer to say about Reynolds or about McDonnell or anyone who seems to be prepared to offer damaging testimony that they are a little unstable, or maybe psychotic or something. I think the committee is the judge of that. I think the nature of the questioning and the answers will bring out whether the witness is a truthful witness or not a truthful witness. But merely to say we don't want to hear him because he is

boastful, or because he is given to indulging in tirades—if that were true, then the very instability of a witness would be their surest protection against being called to testify.

Senator BYRD. Question, Mr. Chairman.

The CHAIRMAN. I am going to rule that this testimony is not relevant and is not necessary, as we have all the evidence that has been in this conversation here in the files right now. The chief clerk will call the roll.

Mr. HARRISON. A yea vote will sustain the chairman. Senator Hayden?

The CHAIRMAN. I vote aye for Senator Hayden.

Mr. HARRISON. Senator Cannon?

Senator CANNON. Aye.

Mr. HARRISON. Senator Pell?

Senator PELL. Aye.

Mr. HARRISON. Senator Clark?

Senator CLARK. Aye.

Mr. HARRISON. Senator Byrd?

Senator BYRD. Aye.

Mr. HARRISON. Senator Curtis?

Senator CURTIS. No.

Mr. HARRISON. Senator Cooper?

Senator COOPER. No.

Mr. HARRISON. Senator Scott?

Senator SCOTT. No.

Mr. HARRISON. Senator Jordan?

The CHAIRMAN. Aye.

Senator CLARK. Mr. Chairman, I assume in each instance, although the record hasn't stated, there has been an appeal to the ruling of the Chair, or else a vote would not have been necessary.

Senator SCOTT. Mr. Chairman, may I observe that if the review of the transcript now reveals that you don't have adequate testimony on this point, the committee is going to have egg on its face. But there is no point in saying any more.

The CHAIRMAN. Is it agreeable with the committee to recess until 2 o'clock? That will give us an hour and a half for lunch.

Senator CLARK. Suits me.

Senator PELL. I would like to suggest we go into the evening, because at the rate we are going—we got through four names this morning—to try—

The CHAIRMAN. Three names.

Senator PELL. I would suggest we just keep going.

Senator SCOTT. Mr. Chairman, some of us have some responsibilities for the civil rights matter, some responsibility to be on the floor for some time. I can understand that some members want to proceed more rapidly than others. I am certainly willing to come back this afternoon. But I don't think it is necessary in order to be able to report that we wound this up that we went into the night session to do it.

Senator PELL. As long as the Senate is in session.

Senator SCOTT. Because of the fact the Senate is in session, we may have various live quorums—it doesn't seem to me to be sufficient warrant for going into night sessions. You have the votes of six to three, and you can override us on anything. You can stay around the clock

if you want. Again, our only appeal is to the court of public opinion, that you are in such an excessive hurry that you are acting other than the committee normally acts. But, again, we say that if your motto is woe to the vanquished, go ahead and impose it.

Senator PELL. May I ask one question? Surely the Senator from Pennsylvania would not object to the committee meeting as long as the Senate is in session, because with the civil rights responsibilities we are supposed to be here as long as the Senate is in session.

Senator SCOTT. We are also supposed to be on the floor from time to time to take part in the debate.

Senator PELL. Unfortunately, we cannot do both.

The CHAIRMAN. I am going to assure the Senator from Pennsylvania that we are not doing this as a method of punishing anybody at all.

(At this point, Senator Clark withdrew from the hearing room.)

The CHAIRMAN. We have permission to sit this week. I think we ought to keep right on working.

Senator SCOTT. Mr. Chairman, if you hold us in night sessions, you are punishing us. And I want it to show on the record. I will sit during the morning and the afternoons.

Senator PELL. Senator Scott, does this mean, also, even though the Senate is in session in the evening, you would decline to sit as a committee?

Senator SCOTT. Of course. We have some obligations to attend at least a part of the Senate sessions.

Senator PELL. You would rather attend the Senate in the evening than the afternoon?

Senator SCOTT. I just think this haste is unseemly. And let the record show it.

The CHAIRMAN. Let me make this statement. Suppose we come back at 1:30.

Senator SCOTT. You don't get enough time to eat.

The CHAIRMAN. All right. Let's recess until 2 o'clock, and then we will decide later this afternoon, after we have gone as far as we can, whether we want to come back at night or not.

Senator BYRD. I want the record to show I am not in favor of any night sessions. If I cannot be here this afternoon, the record will show my position.

The CHAIRMAN. We will recess until 2 o'clock, then.

(Whereupon, at 12:30 p.m., the committee recessed, to reconvene at 2 p.m. the same day.)

AFTERNOON SESSION

(Present: Senators Jordan, Hayden, Pell, Clark, Curtis, and Scott.)

The CHAIRMAN. We have a quorum present.

Senator CURTIS. Mr. Chairman, so far as the next item on the list, the pages, two have been called to testify. There is another one taking his basic training in the Army.

Mr. McLendon. His affidavit is in, Senator.

Senator CURTIS. So far as this young man that carried the package, we will pass on the page matter.

Senator CLARK. I would be happy if you do that, because when we get through with some of these other phases of it, I think Senator Pell

and I have some ideas about pages that might be involved in calling more witnesses.

Senator PELL. Not these pages, but other pages.

Senator CURTIS. If we are not going to call the people that worked in Baker's office, I don't know why we should interrupt the basic training of this page.

Mr. McLENDON. Mr. Chairman, I just have had a telephonic report from Winn-Dixie that I think should be read into the minutes.

(At this point of the proceedings Senator Cooper entered the committee room.)

Mr. McLENDON. P. H. Arnall, treasurer, Winn-Dixie Stores, Jacksonville, Fla., telephonically advised this morning that the records maintained by Winn-Dixie in Jacksonville, Fla., reflect that the 100 shares of Winn-Dixie stock purchased on January 28, 1958, were purchased from one S. J. Simmons; the 500 shares purchased on May 9, 1961, were purchased from Brown Bros. & Harrison; the 600 shares sold on July 26, 1962, were sold by Merrill Lynch, Pierce, Fenner & Smith.

Senator CLARK. That is Brown & Harriman, not Harrison.

The CHAIRMAN. Is that a brokerage firm?

Senator CLARK. Yes; it is Averell Harriman's old firm. Pres Bush is a partner.

Senator CURTIS. Whose stock are you talking about?

Mr. McLENDON. Winn-Dixie stock that Jess McDonnell said had been given to Baker by Senator Daniels, of South Carolina.

Senator SCOTT. Mr. Chairman, in keeping with my promise to keep the committee informed on anything I hear, I will say when I left here I was told that Mr. Rein Vander Zee has made statements indicating that his resignation was not entirely voluntary; that he was eased out by Mr. Baker's successor. And I doubt if we would find that there was any firing in that sense of the term, but his services were terminated under circumstances a little different from that indicated in the investigation.

Mr. Vander Zee has also frequently and, I am told, fairly recently, had dinner with Bobby Baker on a number—on various occasions, and reports that Baker is quite happy about the way the proceedings are going and feels that he has nothing to worry about, and that if they get close to him, he has got a lot of stuff to throw at anybody who brings up anything that he doesn't want—doesn't think they should bring out.

I have also been told, as I came in the door, by a reporter that, Mr. J. McDonnell has issued some statement today which I have not seen. I have asked the reporters to get it to me, if they can. I mention this to show that there are continuous developments. I think it is even more relevant to show that a man whose services were terminated as a Senate employee is apparently still working in close contact with Mr. Baker. And since Mr. Baker has taken the fifth amendment—although you have voted on it, and I am sure nothing I can say will change your mind, I think I should report as I have in the past when these things happen.

Senator CLARK. Let's move ahead with the next witness, Mr. Chairman.

The CHAIRMAN. All right. Senator Cooper, who is the next witness?

Senator CURTIS. Matthew McCloskey. Now, he was present when they had that meeting. McLeod was there, Reynolds was there, in Baker's office.

(At this point of the proceedings, Senator Clark left the committee room.)

Senator CURTIS. I am not sure which office it was. I am inclined to think it was in the Capitol. The testimony is that Baker gave \$4,000 to—or that Reynolds gave \$4,000 to Baker and \$1,500 to McLeod. Now, if that is true, there was a kickback from the man who wrote the performance bond—they did give—if they did give money to Baker, and it is undisputed in the record, then I think the contractor should be asked did he give any money to Baker during any of this period. I might further want to ask him why he gave the bond to Reynolds. He had his own bonding firm over in Philadelphia which could have written it. That is all I have to say.

Mr. McLENDON. We have a telephonic interview with Mr. McCloskey on March 18, 1964.

Senator PELL. Where was he?

Mr. McLENDON. He was still Ambassador to Ireland from the United States, and this conversation took place with him in Ireland.

The CHAIRMAN. Didn't we have two?

Mr. McLENDON. Yes, sir; this is by Mr. Meehan.

The CHAIRMAN. Senator Clark, also.

Mr. McLENDON. I am not sure, but I think Senator Clark said he talked with him.

Senator PELL. He said he talked with him on a variety of things, paid for the call himself, since it included things not to do with the investigation—but this matter was discussed.

The CHAIRMAN. Go ahead and put what you have in the record.

Mr. McLENDON. Mr. Meehan, do you want to read this?

(At this point of the proceeding, Senator Clark entered the committee room.)

Mr. MEEHAN. March 18, 1964, Matthew McCloskey, U.S. Ambassador to Ireland, was interviewed via transatlantic telephone. The phone number is listed. At that time he furnished the following information.

In 1959 or 1960, Mr. McCloskey occupied the position of treasurer of the Democratic National Committee, and in that position had much contact with Robert G. Baker, secretary to the majority. This contact grew out of the relationship, and took the form frequently of unannounced and unscheduled visits to Baker's Capitol Hill office whenever Mr. McCloskey found himself in the city of Washington.

Senator PELL. Could you talk a little louder?

Mr. MEEHAN. He recalls that late in 1959 or early in 1960 he was in Baker's Capitol office at the time, and Baker introduced him to Don Reynolds. Mr. McCloskey stated that this meeting had not been set up, to his knowledge, but it was possible that Baker had arranged for Reynolds to be there, knowing that he, Mr. McCloskey, was coming to his office.

Mr. McCloskey did not recall that any other persons were present at this meeting, but he felt that it was possible that others could have dropped in from time to time. He did not recall that William McLeod, Congressman John McMillan, or any other persons specifically were

there. He contended that after Baker introduced him to Reynolds, Baker stated that Reynolds was in the insurance business, and he, Baker, had an interest in this business, also. Baker went on that since he knew Mr. McCloskey was going to bid on a construction contract for District of Columbia Stadium, he wanted to request McCloskey to consider Reynolds when it came time for the performance bond to be purchased.

Mr. McCloskey stated that later, when he obtained the contract for constructing the stadium, he recalled his conversation and did purchase his performance bond through Don Reynolds. He recalled the approximate total premium paid by him was about \$73,000; that, of this amount, about \$10,000 was commission for, as he understood it, Reynolds and Baker. Mr. McCloskey said it was his option to purchase this performance bond through anyone he preferred, and there was nothing unusual about this.

He pointed out that he has a son-in-law who has an interest in Hutchinson, Rivinus & Co., Philadelphia, Pa., through which he could have purchased this performance bond, but that his son-in-law has his own contacts and in fact has a very lucrative business there, and needed no help from him.

Ambassador McCloskey stated this is the only operation that could be construed as being business that he has ever been any part of with Robert G. Baker or any other Senate officer or employee.

He further stated that he had never requested any business favors from any Senator, officer, or employee, and had never received any. He concluded by stating he would be glad to be of any help to the present inquiry before the Senate Rules Committee, but that in the light of his minute involvement, he did not think he could be very helpful.

Senator COOPER. It seems to me, in reviewing the testimony that has been heard by the committee, that the testimony Reynolds gave about this transaction, if it is true, is quite damaging. He testified that after being given the business of writing this performance bond by McCloskey, he paid Robert Baker \$4,000 in a kind of fake transaction between them, where it appeared there was a note given to Reynolds and that he made a loan to Baker.

I think the significance of McCloskey's testimony would be to see if he knew of this transaction, if it is true, between Reynolds and Baker—if he is connected with it in any way, and why he gave this bond to Reynolds when, as he himself says, his ordinary procedure would have been to give it to his son-in-law, or the company with which his son-in-law is associated. And whether there was any consideration to Baker or any other employee going to his benefit—from Baker going to his benefit.

Senator CLARK. For McCloskey's benefit?

Senator COOPER. Yes. I do not know Mr. McCloskey. I have no interest in this thing.

Senator CLARK. I just asked you.

Senator COOPER. The whole circumstances are rather peculiar. I think anybody would admit that. That is the reason I have suggested that he could be helpful. I have no interest in McCloskey.

Senator CLARK. Mr. Chairman?

The CHAIRMAN. Senator Clark?

Senator CLARK. It is very difficult for me to understand the point of view of my friend, the Senator from Kentucky. It seems to me the whole transaction with respect to Mr. McCloskey is entirely on top of the table. Anybody who has the remotest understanding of the insurance business realizes that it makes not the slightest difference to a contractor who has to get a performance bond, who gets the premium. It makes no difference to him in his financial arrangements whatever.

The fact of the matter is that Hutchinson, Rivinus, a well-known and honorable Philadelphia firm, in which Mr. McCloskey's son-in-law is a partner, are primarily insurance agents. A well-known practice in the insurance business is that a broker writes a bond through an agent, who in turn places the bond with a bonding company. The procedure followed in this case is standard operating procedure.

A man in Mr. McCloskey's position bidding on Government contracts all over the country, very successfully and, I may say, very honorably, naturally wants to give brokerage commissions to various people around town—Washington, Los Angeles—wherever it may be, who are friendly to him.

Mr. McCloskey was for years not only the treasurer of the Democratic National Committee, but the chief fundraiser for the Democratic Party in Pennsylvania. I have no doubt in the course of those activities he gave scores of brokerage commissions to scores of interested Democrats. It seems to me there is nothing in the slightest degree unusual that he should give this brokerage commission to Mr. Reynolds when Mr. Baker asked him to.

I think it is really looking for needles in a haystack to seriously suggest, in view of the very candid statement which Mr. McCloskey has made, that he should be called to testify before this committee.

Senator Pell tells me when I was out of the room some question was raised about my having made a telephone call to Mr. McCloskey. It is true that I did.

When minority members of the committee raised the question about getting a statement from Mr. McCloskey, the chief investigator, Mr. Meehan, told me that Major McLendon had asked him to see if he could get a statement from Mr. McCloskey over the telephone. Mr. Meehan was surprised to learn that Mr. McCloskey was in Ireland. The thought was that if Mr. Meehan called him up cold, he might have some difficulty identifying himself, or perhaps Mr. McCloskey would not be prepared to talk entirely candidly over the phone with a perfect stranger.

So I called Mr. McCloskey, and paid for the call myself. As a matter of fact, I had three matters to talk to him about—one of which involved national politics, the second of which involved Pennsylvania politics, and the third of which involved this investigation. If it had only involved this investigation, I do not think I would have paid for the call myself. But it did.

I told him that he would receive a call from Mr. Meehan; that it was about this inquiry; that he could trust Mr. Meehan implicitly as an entirely honorable gentleman with a fine record behind him in the FBI, and a gentleman whom I have come to have a high regard for since he was retained by this committee.

I suggested to Mr. McCloskey that he talk entirely frankly and candidly with Mr. Meehan. I would have called him in Mr. Meehan's

presence, except that I could not catch Mr. Meehan at the only time I could catch Mr. McCloskey. Then Mr. McCloskey said to me he would be glad to talk to Mr. Meehan, and I asked him when. He said any time between 9 and 1 the next morning, Irish time. So Mr. Meehan and I conferred on that subject. Mr. Meehan was able more quickly, perhaps because of his ancestry, than I to tell when 9 to 1 in Ireland would be. That is all I know about it.

The CHAIRMAN. Isn't it true he did not buy this performance bond until after he had been awarded the contract?

Senator CLARK. Of course. At the time he had the conversation with Baker, he had not even bid on the contract. He had to be the low bidder to get the contract. He had no way of knowing whether he was going to get the contract or not.

The CHAIRMAN. If I understood the statement just read there, Bobby told him he had some interest in this company with Reynolds, which is on the record—he was a vice president of Reynolds' company—although Reynolds said he never paid any money for stock, but he was interested in the company.

Senator CLARK. Wasn't it a partnership?

The CHAIRMAN. Anyway, that is the reason he came in. He did testify he gave him notes. But there was no argument about the fact that Bobby did get some of the money—that is, Reynolds said he did, and nobody refuted it. So I see no reason to bring Mr. McCloskey back here just to say that is exactly what happened. I would imagine he could give a sworn statement on this very thing.

Senator CURTIS. McCloskey says that a \$10,000 commission was, as he understood it—not as he understands it now, but as he understood it—to Reynolds and Baker.

Senator CLARK. Sure; that's right; no doubt of that. It is just as clear as the nose on your face.

Senator CURTIS. Based upon that—here a deal was entered into that the secretary of the majority, who was in a position to help get that legislation through—

Senator CLARK. What legislation through?

Senator CURTIS. The stadium bill.

Senator CLARK. He couldn't help McCloskey get the contract.

Senator CURTIS. He couldn't get a contract until legislation went through. Now, he knows, according to that transcript there, that part of that money was intended for Baker. And I did not know that until now. I think that is quite significant.

Senator CLARK. Reynolds told us that.

Senator CURTIS. Reynolds testified he got it. But Reynolds did not testify, as I recall, that it was stated in McCloskey's presence that Reynolds was to get something—

Mr. McLendon. Neither does McCloskey state that.

Senator CURTIS. He said he understood—

Mr. McLendon. No. Mr. McCloskey stated that later, when he obtained the contract for construction of the stadium, he recalled this conversation, and did purchase his performance bond through Reynolds. He recalled that the approximate total premium paid by him is \$73,000, and that of this amount \$10,000 was a commission to go to Reynolds and Baker, as he understood that.

Senator CURTIS. At any rate, at the time that the bond was taken—and the bond was—

Senator PELL. There is no argument on this.

Senator CLARK. Everybody agrees that Baker asked McCloskey to give the commission to Reynolds, because Reynolds and Baker were together.

Senator CURTIS. I would like to ask Mr. McCloskey if he ever gave anything to Baker or McLeod.

Mr. McLENDON. He says in here he had no further business with either of them.

Senator SCOTT. Does everybody understand what I recall Reynolds' statement to be—that that statement was true, that there was a discussion about getting the bill through the Senate, and that Bobby was to help?

Mr. McLENDON. No, sir; that was not said.

Senator SCOTT. Not said?

Mr. McLENDON. No, sir. What Reynolds testified—I think Senator Curtis asked him if Baker was of any assistance in connection with the legislation.

(At this point of the proceedings, Senator Byrd entered the committee room.)

Mr. McLENDON. His answer was over in the Senate it got gummed up—wasn't that the expression used?—and that he thought Baker had something to do with untangling it.

Senator SCOTT. That's what I meant. That shows Baker's interest in getting it through.

Mr. McLENDON. Of course, McLeod testified he was clerk to the committee in the House—he said he worked on it 4 or 5 years. But he made it clear he was doing that as an official duty.

Senator SCOTT. But Baker, in his official capacity, was helping to resolve the problems, get the legislation through, and then in another capacity was receiving a part of the commission on the performance bond.

Senator PELL. It is one of the many poor things he has done.

Senator CURTIS. You think he passed up an opportunity to ask the contractor for money, if he got \$4,000 from the the poor guy who wrote the bond?

Senator PELL. He doesn't pass up any opportunities.

Senator CLARK. What do you mean about the poor guy that wrote the bond? Someone has to get the premium. They had to, under law.

Senator CURTIS. But his business was very small compared to McCloskey's.

Senator CLARK. So what?

Senator CURTIS. McCloskey doesn't say that Baker did not ask him for money.

Senator CLARK. Baker asked him for the commission on the bond.

Senator CURTIS. No, no. He doesn't say that Baker didn't ask him for money.

Senator CLARK. Oh, well.

Mr. McLENDON. I think one thing you gentlemen are overlooking is that the basic thing in this whole setup, between Reynolds and Baker, was that they had a going contract between them in which Baker shared in the profits from all transactions which Baker referred to Reynolds.

(At this point of the proceedings, Senator Cannon entered the committee room.)

Mr. McLENDON. So the only question open would be how much would he have to pay Baker. And he testified he paid \$4,000, and proved it.

The CHAIRMAN. We got the checks. There is no question about that fact.

Senator CURTIS. This is not an ordinary piece of business. The Congress had to pass an act, and Bobby untangled the snarls to get it passed.

The CHAIRMAN. Well, he didn't untangle the snarls in the House.

Senator CURTIS. He was very active on the floor—many times, no doubt, without any personal interest.

Senator CLARK. Mr. Chairman, let me say anybody who knows the activities of Matthew H. McCloskey's company realizes that he has got as much business around the country, he and his sons and associates, as they can handle. I do not imagine that he could have cared very much less whether this stadium bill went through or not. The stadium bill went through, and he naturally bid on it—because he has a lot of work in the District. But to try to make something out of McCloskey bribing Baker I think is just beneath the dignity of this committee to pay any attention to.

Senator COOPER. I haven't made any statement like that.

Senator CLARK. You haven't. But the Senator from Nebraska has come pretty close to it.

Senator COOPER. This is one of the important alleged transactions about which we heard testimony. We had the testimony of a man named Reynolds whose credibility is in question. We have Baker, the other participant, who has not testified. I think the third man there, his testimony would be of value.

Senator CLARK. Let me ask you this. If Mr. McCloskey were to appear here as a witness, what in the world would you ask him that you have not already gotten out of his statement?

Senator COOPER. Well, I would submit that your discussion over transatlantic telephone would be rather limited. And it is just the kind of magnitude of this transaction, the whole framework of this testimony.

Senator CLARK. What would you ask him?

Senator COOPER. You want me to tell you what I would ask him?

Senator CLARK. Yes.

Senator COOPER. All right. I would ask him, one—these are questions that might lead into other questions—I would ask him if he knew that Mr. Baker was to be paid a part of the commission.

Senator CLARK. He has already said he did.

Senator COOPER. He said that. Second, if he knew what work Mr. Baker had done to secure the payment of \$4,000 from Mr. Reynolds, services he performed.

Senator CLARK. He will say, "I understood Reynolds and Baker were in partnership in the insurance business."

Senator COOPER. Third, I think you would have to ask, in view of the fact that this kind of transaction has taken place, if he knew of any other transactions concerning Government contracts in which Mr. Baker—

Senator CLARK. He has already said he did not.

Mr. McLENDON. This is the only transaction which could be construed to be business he has ever been a part of with Robert G. Baker or any Senate officer or employee.

The CHAIRMAN. I think that that particular thing, Senator Cooper, is as completely documented as any piece of evidence we have. We have the check, where Baker got the money. Reynolds testified—and that is verified. And I see absolutely no reason to bring McCloskey back here just to testify to the same thing we know. There was no question about it whatsoever.

Senator PELL. It is not getting away from the fact that it is deplorable that the secretary of the majority would also be in the insurance business at the same time, in matters coming before the Senate for legislation. But that fact is established, and it is deplorable.

Senator CURTIS. Don't you think it is important that we ask whether Bobby Baker ever asked him for any money?

Senator CLARK. He said he did not.

Senator CURTIS. Where?

Mr. McLENDON. He says this is the only business transaction he ever had with Baker of any kind.

Senator CURTIS. He uses the words "this is the only operation that could be construed as business."

The CHAIRMAN. Well, I am going to be forced to rule that it is not pertinent to what we are doing, and that we pass on to the next one, and that we call the roll on this.

Mr. HARRISON. Senator Hayden?

Senator HAYDEN. Aye.

Mr. HARRISON. Senator Cannon?

Senator CANNON. Aye.

Mr. HARRISON. Senator Pell?

Senator PELL. Aye.

Mr. HARRISON. Senator Clark?

Senator CLARK. Aye.

Mr. HARRISON. Senator Byrd of West Virginia?

Senator CLARK. He says "Aye." I just asked him.

Mr. HARRISON. Senator Curtis?

Senator CURTIS. No.

Mr. HARRISON. Senator Cooper?

Senator COOPER. No.

Mr. HARRISON. Senator Scott?

Senator SCOTT. No.

Mr. HARRISON. Senator Jordan?

The CHAIRMAN. Aye.

Mr. HARRISON. Six ayes, three nays. The chairman is sustained.

The CHAIRMAN. All right. The next one, please?

Senator CURTIS. Now, Kampelman is in the District of Columbia National Bank.

Mr. McLENDON. May I interrupt you, Senator? You were not here this morning when we said he was to be interviewed at 3 o'clock.

Senator CURTIS. Yes; I know.

Mr. McLENDON. Why don't you leave that open?

Senator SCOTT. I would agree that that could be deferred, since he is being interviewed at 3 o'clock today. And all that is necessary for the record to show is the statement I made this morning that he

has volunteered to furnish the committee information. It is only a question of whether the committee now wants to go ahead with it.

Mr. McLENDON. That's right.

Senator CURTIS. Isn't he the only person we know of in the District of Columbia National Bank who is a former Senate employee?

Mr. McLENDON. I don't know. I have never seen a list of stockholders. I have seen a list published in the newspapers.

The CHAIRMAN. Isn't he a lawyer?

Senator CURTIS. He is a former Senate employee, and in this bank that made these loans to Baker.

Mr. McLENDON. This matter is before the Banking Committee. Congressman Bolton released this statement on it last week. He did not name the people who were stockholders, but he cataloged them—so many Senators, so many Congressmen, so many Government employees.

The CHAIRMAN. If it is agreeable, we will pass over that. Mr. Kampelman will be interviewed very shortly. Who would you like to call next?

Senator CURTIS. Well, the next one is Mr. Paul Aguirre. His operation in Puerto Rico involves some connection with building, I believe. I don't know whether it is construction or mortgages. The reports of the investigators will indicate that he was an associate of Baker. Several of the transactions we inquired about of a number of witnesses named Mr. Aguirre as a participant in the business. He falls in somewhat the same category as these other people—Sigelbaum and Levinson. And while I would never suggest that newspaper reports be received as evidence, they are notice to this committee maybe of some things that we should look into. And there is a newspaper report that Mr. Reynolds—or Mr. Baker, rather—interceded with a Government agency in behalf of Paul Aguirre.

Senator CLARK. In behalf of whom?

Senator CURTIS. Aguirre. Now, the investigator's report quotes Mr. Aguirre as having discussed and considered certain business transactions with Baker. Whether they materialized or not is not the point. We should have an opportunity to ask him about those, ask him what the promotion was of the secretary to the majority. Ask him what he asked Baker to do before a Federal agency.

The CHAIRMAN. Do you have a report on that?

Mr. McLENDON. Yes. We have a report on him dated March 10 by a member of the staff assigned to the committee by the minority.

Senator SCOTT. What is the number of that?

Mr. McLENDON. It bears serial No. 207.

The CHAIRMAN. I suggest that counsel brief the committee on the report. This was made in Puerto Rico, was it not?

Mr. McLENDON. Yes; Puerto Rico.

The CHAIRMAN. Will you please brief the committee on what the investigators found in talking to this gentleman?

Mr. McLENDON. First, I expect I ought to clear up this Federal Housing matter. Mr. Ferrero, of the Federal Housing Administration office in Washington, was interviewed on the 9th of March of this year. He says that on one occasion Baker inquired about a ruling made by the Federal Housing Administration office in Puerto Rico on a housing development down there. It seems that they turned it

down. Baker asked, by telephone, if they would review it, or words to that effect. They did review it and left it standing—they did not reverse themselves. That is the only communication they had with Baker. Now, that information was obtained from the FHA office before Aguirre was interviewed on March 10.

(At this point of the proceedings, Senator Jordan left the committee room.)

Mr. McLENDON. He confirms this same thing—that the same thing did happen. Other than that, Aguirre does not say that he and Baker were ever in any business transactions together. He does mention the fact that they made a trip to the west coast; they stopped some place in Texas, I believe Houston.

(At this point of the proceedings, Senator Pell left the committee room.)

Mr. McLENDON. They discussed the purchases of property down there, which they did not purchase. He says on another occasion he was with him in New Orleans, and again they discussed the purchase of some property, I think of a trailer park site, and on that occasion he met this Nick Popich, who is also on your list, and Wilson Abraham. And that Aguirre said he and Baker discussed with Abraham the possibilities that they might get in a deal with Abraham, but nothing was effected.

Senator CURTIS. Were they in Miami?

Mr. McLENDON. No, sir; I think he denies going to Miami. He was asked about this alleged trip that Baker made with the two women to New Orleans. He said he did see them there. He said if he were asked anything about what took place, he would take all the amendments, from 1 to 28.

Senator SCOTT. What two women?

Mr. McLENDON. This Rometsch girl, and Carole Tyler. But we have no way to prove, I suppose—I don't know of any—that that is a fact, that they left here together. Of course, you cannot get evidence from Baker.

Senator CURTIS. What did the airline and hotel records show?

Mr. McLENDON. Mr. Scott would have to answer that.

(At this point of the proceedings, Senator Pell entered the committee room.)

Senator CURTIS. I mean the airlines here. Has Scott been to Houston and Dallas?

Mr. McLENDON. I don't know that the airline records here have been checked. In answer to your letter you wrote me about the White Slave Act, I told you that I previously, before I got your letter, consulted representatives of the Department of Justice about this women business with the idea of finding out whether they would consider that that was a violation of the White Slave Act, commonly known as the Mann Act. The answer was "No," that they would not touch it. It seems that they interpret it to mean that there must be some commercial enterprise connected with it before they will have anything to do with it at all. If there is a minor female involved in transportation and interstate commerce, they handle those promptly.

Senator CURTIS. Do they have evidence that Ellen Rometsch was not paid?

Mr. McLENDON. I could not say, Senator.

Senator CURTIS. And were these sites that they talked about going into business, one near Houston, and a trailer camp someplace else—were they in connection with any Government project?

Mr. McLENDON. Mr. Scott would have to answer that. He made the inquiry.

Mr. SCOTT. What was that, Senator?

Senator CURTIS. Were these business proposals that he said he did discuss—he did not complete, but discussed them with Baker—were they adjacent to or connected with any Government projects?

Mr. SCOTT. I do not recall any discussion as to it being adjacent to Government projects. But in the list of the ones mentioned there—first he had been up here on this FHA. That was a Government project. He was in Baker's office, and Baker called for an appointment with someone—I believe it was Frank Daniels or another individual over at FHA. That was one of the transactions he mentioned. Then by prearrangement I think Baker called him and he met him in New Orleans. And that was to meet and discuss and negotiate the possibilities of getting in on this housing subdivision project with a Wilson Abraham in New Orleans. I believe he was connected with Nick Popich. That was the one in which Baker mentioned that he brought Carole Tyler and Ellen Rometsch down there.

Then he took a trip to the west coast with Baker, and on the way back they stopped in Texas—Houston—to look at a plot of land about two or three blocks south of the Shamrock Hotel, but they did not—after the inquiry and finding out the price, which was around \$45 million, they dropped that.

They had trips—I believe they went to Woodbridge, Va.—at the time they were negotiating the incorporation of Pasantic. That was primarily for the purpose of setting up trailer parks. I think also in this New Orleans trip they looked for possible sites for setting up trailer parks.

Mr. McLENDON. You interviewed the people down at FHA about that Puerto Rican housing thing—or was that someone else?

Mr. SCOTT. That was someone else. I believe Mr. Ryan.

Mr. McLENDON. We have a report of an interview with the FHA director in Puerto Rico, a man named Kaloza, about that same housing thing. He identifies all the owners in it, five of them, and Baker is not one of them, and neither is Aguirre.

Senator CLARK. Major, could I ask you or Mr. Scott—did I correctly understand—I wasn't sure I did—that a trip was taken to New Orleans and Houston by Baker and Carole Tyler and this Rometsch woman?

Mr. McLENDON. No; not to Houston. Baker and the two women went to New Orleans and met—Aguirre met them there.

Senator CLARK. May I ask Mr. Scott if there were just three in the party?

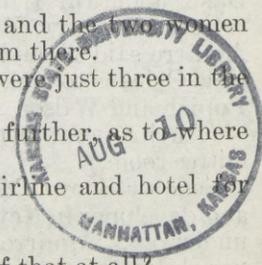
Mr. SCOTT. Mr. Aguirre declined to discuss it further, as to where they stayed and so forth.

Senator CLARK. I thought you checked the airline and hotel for confirmation.

Mr. SCOTT. No; I did not.

Senator CLARK. You did not make any check of that at all?

Mr. SCOTT. No, sir.



Senator CLARK. You did not ask Mrs. Baker about it either, did you?

Mr. SCOTT. Mrs. Baker?

Senator CLARK. Yes.

Mr. SCOTT. I have never interviewed her.

Senator CLARK. She is your fellow employee. You did not talk to her about this?

Mr. SCOTT. I never discussed the case with her.

Senator PELL. You are both on the same subcommittee, you and Mrs. Baker?

Mr. SCOTT. Yes; we were.

Senator CLARK. And you went out to investigate Mr. Baker's trip with two other women?

Mr. SCOTT. No, sir; I did not go out to investigate—that was incidental to the rest of the investigation.

Senator CLARK. What was the purpose of the investigation?

Mr. SCOTT. The purpose of the investigation started out looking into this trailer park, or his business deals with Mr. Baker.

Senator CURTIS. This was part of the request that we have an investigator go to the Caribbean.

Mr. SCOTT. Mr. Meehan asked me to go with Mr. Ryan.

Senator CURTIS. Mr. Meehan assigned two people to go to the Dominican Republic and these other points down there, and Puerto Rico. You have never been assigned to go to New Orleans or Dallas?

Mr. SCOTT. No, sir.

Senator CLARK. Well, how did you find out that Baker had taken this trip with the two women?

Mr. SCOTT. Well, I recall that there was something in the file, a newspaper clipping, in connection with some business transactions down there, and there had been phone calls. I jotted a note down that indicated he was there around June, the middle of June. In the course of the conversation, in the interview, he said it was not in June but it was in May of 1963. He more or less stated—I mean he had declined to discuss the matter concerning the girls in the operation. But then to clarify his statement, he said that actually in June he had met Baker, and, I believe, Popich—it is in the report—that is when they went in to Las Vegas to see a Liston-Patterson fight. He had met them in June of 1963.

(At this point of the proceedings, Senator Clark left the committee room.)

Senator CURTIS. I think there is something in the record on this—on the positive side as far as an answer is concerned—but I asked Baker about this trip, and of course he did not answer.

Senator SCOTT. Well, the notes of the investigation say that Mr. Aguirre said he and Baker met by prearrangement in 1963, May, in New Orleans to look for trailer park sites, and also to meet with Nick Popich and Wilson Abraham.

(At this point of the proceedings, Senator Jordan entered the committee room.)

Senator SCOTT. Mr. Aguirre said Wilson Abraham was a builder and developer in New Orleans, and that he had a housing development underway. Aguirre said he and Baker discussed with Abraham the possibility of them getting into the deal with Abraham. However, Mr. Aguirre stated that the negotiations were never brought to fruition.

Mr. Aguirre admitted that Baker brought Carole Tyler and Ellen Rometsch with him from Washington to New Orleans on the May 1963 trip. Mr. Aguirre said he spent several days partying with them in New Orleans, but denied going with them to Dallas and Miami. Mr. Aguirre said he knew Carole Tyler socially, had been to her house on M Street SW., and had seen her many times in San Juan, P.R., with Bobby Baker.

Mr. Aguirre stated that he and Baker were close personal friends, and that he did not want to discuss Baker's private life, saying, "I am sure Baker is paying dearly at home now for this." Now, they were in business, began to be in business together, because Aguirre sent \$2,000 up, \$1,000 for him and \$1,000 for Mr. Barnes, to Ernest Tucker in connection with the Pasantic Corp., in which project Baker was a participant.

(At this point of the proceedings, Senator Clark entered the committee room.)

Senator SCOTT. Until this case broke, and Baker withdrew. So Baker was down in New Orleans with these two women, and he was there on a business trip. Aguirre was discussing business with him.

(At this point of the proceedings, Senator Hayden left the committee room.)

Senator SCOTT. And Ellen Rometsch and Carole Tyler were partying with them, whatever that means. When asked further concerning Ellen Rometsch, Carole Tyler, and the alleged parties, Mr. Aguirre declined to discuss the matter further, stating, "If I am asked by the committee about this, I will deny it even if they have photographs. My wife is expecting a denial and she will get it. I will take the 1st through the 28th." Now—

Mr. McLENDON. Senator, will you let me interrupt you a minute, sir? I think that the thing the committee needs to consider about this case is slightly different from those we discussed this morning. These particular real estate matters identified here that Baker was looking at, we will say, or considering with other people—we have no evidence in the record about either one of those, to begin with. It is true, according to Mr. Scott's investigation, that none of these materialized. There was no investment made by Baker or Aguirre in either one of these projects. Now, it seems to me that the question here in this case is whether or not the evidence you expect to get from this man is of sufficient weight or importance to be of any advantage to the committee, as distinguished from whether it is purely repetitious or cumulative. Because obviously it is not cumulative—because we have no evidence about these particular efforts.

Senator SCOTT. Mr. Aguirre does say he sent \$2,000 for this investment.

Mr. McLENDON. That is already in evidence, sir.

Senator SCOTT. But he said during a final stage of organization of the corporation, the Baker case broke and Robert Baker withdrew. Now, he mentions association with Pasantic—with the other members who were to organize it—Barnes, Neil, Baker, Law, Webb, Bostick, Wynn, Abraham, and Popich.

Mr. McLENDON. The evidence on Pasantic is complete. We have everything on that—who went in, who got out—and also they testified I thought rather freely about what the projects contemplated

were—one here near Washington, and one down in Puerto Rico and so on.

Senator CURTIS. Well, now, Mr. Warren Neil's report has something relating to Aguirre. Mr. Neil said he first met Robert Baker through Jose Benitez in the latter part of 1959. He explained at that time the mortgage market was so tight that he and Paul Aguirre were trying to find some way to tap union pension funds for investment in housing developments. It appears that Aguirre might be important and helpful, to ask him a number of questions as to what Baker suggested to him, if Baker made any representations to him about Government contract plans, about his contacts with Government or with Government contractors, as well as the union men.

Senator SCOTT. Well, if Baker had testified, I can see why this man's testimony might merely tend to substantiate it or otherwise. But we are under the disability that Baker has taken the fifth amendment, and we are attempting to show various business transactions with these people. Counsel has said it is not cumulative. It varies; it adds new matter. I would think for that reason it would be relevant.

Senator CLARK. What is the use of calling this fellow if he is going to take the fifth?

Senator SCOTT. I didn't say that. I said Baker took the fifth.

Senator CLARK. But I understood that the major said he would take the fifth.

Senator SCOTT. If asked questions about his partying with Carole Tyler and Ellen Rometsch, he said he would take the 1st through the 28th. But he restricted his answer to that, as far as the notes show.

Senator CANNON. May I ask counsel, Mr. Chairman, whether or not any of these business transactions ever materialized?

Mr. McLENDON. No, sir; not a single one of them.

Senator CANNON. So this would be for the purpose of inquiring about transactions never completed; is that right?

Mr. McLENDON. That is right. And the reason I didn't call him as a witness was because I didn't think it added anything to the pattern of Baker's conduct that has been established here. Houston and New Orleans—two additional cities in which we find, through these witnesses, that he was trying to develop some business connection, or business transaction, but didn't succeed. That is no different from what he did over the country. I cannot and will not argue that it is cumulative in the sense that we already have evidence about Houston and New Orleans; we do not.

The CHAIRMAN. In addition to that, the facts are that both of these investigators went to Puerto Rico and the Dominican Republic—he was down there trying to get leases on casinos but he didn't get any. No question about the fact he was hunting business that would make him some money, pay him a commission, or something.

Senator SCOTT. Well, there is testimony, too, as I recall it, that Baker made a call to the Federal Housing Administration for Aguirre, and it is argued that that doesn't amount to much, because he got turned down. But it seems to me what we are looking into is the use of influence by Baker. And it is hardly an answer to say that his attempt to use influence failed because the particular individual would not be influenced.

We are not judging Baker's use on the issues of influence by whether he succeeded in every case, but by whether he used it. And here is further evidence that acting on behalf of a business associate, with whom he was trying very hard to enter into projects to make money, that he made a call, I believe, from the office of the secretary of the majority in an attempt to help his friend. I don't see how it can be argued he did that as secretary for the majority. He did that for a man he was planning to enter into business with, and with whom he was on close, friendly relations.

The CHAIRMAN. I think the fact that they got turned down showed he didn't have much influence.

Senator SCOTT. It merely shows every now and then in the Federal Government you find somebody who could not even be influenced by Bobby Baker. That is what it shows.

The CHAIRMAN. Well, in view of all these facts, and that there is nothing consummated in these deals here, I am going to rule this is not pertinent to what we are doing, and take a vote on this one.

Senator SCOTT. Before we do, Mr. Chairman, would you state whether or not you are ruling that it is not relevant in view of the fact the major's statement would indicate that it is relevant, and not cumulative?

Mr. McLENDON. I said it had no probative value that I thought would help the committee determine conclusions in this case. I don't think it aids you a bit. Relevancy really means just that—whether the evidence is helpful in reaching factual conclusions. This is so similar to all the other pattern of evidence you have got in here, that I cannot conceive of how it could be of any value to the committee.

Senator SCOTT. Three Senators have spoken indicating they think it is of value. And I think we made the record on that. And, again, I say that here in a relevant matter; if the chairman is going to rule it is irrelevant, you can ride over us again. But it is certainly relevant.

The CHAIRMAN. I will make that ruling that it is irrelevant, for the reason it doesn't add any substantive value to what we are trying to do, because nothing was consummated and entered into at all. The chief clerk will call the roll.

Mr. HARRISON. Senator Hayden.

The CHAIRMAN. I vote Senator Hayden aye.

Mr. HARRISON. Senator Cannon?

Senator CANNON. Aye.

Mr. HARRISON. Senator Pell?

Senator PELL. Aye.

Mr. HARRISON. Senator Clark?

Senator CLARK. Aye.

Mr. HARRISON. Senator Byrd?

Senator BYRD. No.

Mr. HARRISON. Senator Curtis?

Senator CURTIS. No.

Mr. HARRISON. Senator Cooper?

Senator COOPER. No.

Mr. HARRISON. Senator Scott?

Senator SCOTT. No.

Mr. HARRISON. Senator Jordan?

The CHAIRMAN. Aye.

Mr. HARRISON. Five ayes and four nays.

The CHAIRMAN. Bring up the next one, please, sir.

Senator CURTIS. The next one is Warren Neil. I refer to the staff report. Mr. Neil said he first met Robert Baker through Jose Benitez, the latter part of 1959. He explained at that time the mortgage market was so tight that he and Paul Aguirre were trying to find some way to tap union pension funds for investment in housing developments. He said it had become unprofitable to finance their operations through the Federal National Mortgage Association.

In the course of their inquiry, Mr. Neil and Mr. Aguirre contacted Carlos Benitez, who put them in touch with his brother Jose Benitez, who told him to meet him in the States. They did this and Jose Benitez took them into New York, where they talked to four or five unions—Ladies Handbag Union, Dolls & Novelty Union, and so forth, without success. Then Jose Benitez said he knew the public relations man, Sidney Barron, for the Teamsters Union in New York. So they met with the officials of the local Teamsters Union in New York, but were unable to get any loan commitments.

Subsequently, in October 1959, Neil and Aguirre decided to go to Washington. They talked to James Hoffa and Harold Gibbons personally, but nothing developed. Then Jose Benitez took Warren Neil to Baker's office. He introduced Neil to Baker and explained Neil's interest in the mortgage fund source. Benitez left the office and Baker remarked, "How did you get mixed up with Jose Benitez? You would be better off on your own."

Neil said he and Baker hit it off from the start. After having a cup of coffee, Baker invited him to Baker's home for the following night. Mr. Neil said that since that time he had always kept in touch with Baker. Mr. Neil claimed that this first meeting with Baker—although he discussed the purpose of his trip to Washington, Baker took no action on his behalf.

Mr. Neil advised about 3 years ago he and Baker discussed establishing a title insurance company together. The arrangements were for Baker to put up one-third of the money. However, Baker never put up any money, and he never came into the deal. Mr. Neil said Baker then put him in touch with William Rogers, Jr. Neil said he first met Rogers in some restaurant in Washington. It developed the Security Title Co. of Baltimore was not qualified to do business in Puerto Rico. Mr. Neil stated he reopened his negotiations with Rogers, the Security Title Co. of Baltimore again, in August 1963. Is this the same Rogers that made a loan to Baker?

Mr. McLendon. No, sir; the same Rogers connected with the bank in Baltimore.

Senator CURTIS. Does that include that loan made just for a short period of time?

Mr. McLendon. No, sir; this Rogers testified about this title company.

Senator CURTIS. He said that although the Security Title Co. of Baltimore is still not qualified to do business in Puerto Rico, it does have application on file with the Government. Mr. Neil claimed all his meetings with Rogers were in Washington, D.C.

(At this point, Senator Clark withdrew from the hearing room.)

Senator CURTIS. Mr. Neil reported he had about 20 companies, all builders, set up in Puerto Rico. This was for tax purposes. Title Service of Puerto Rico, Inc., Amporico Construction, Inc., San Gerado Service Corp.—this is a selling company for new houses. However, Mr. Neil claimed that Baker did not have any financial interest in any of these matters, though he said Baker almost got into the Pasantic deal, but never raised his \$1,000 share. Mr. Neil said that when he came to the States he always contacted Baker, they ran around together. He mentioned that he met Baker in June 1963, and they saw the Patterson-Liston fight. However, he claims he never met Levinson, Jack Cooper, or Ben Sigelbaum. Neil stated he had been to cocktail parties at the townhouse many times, but declined to name the girls who were guests. Then he talks about Life magazine.

(At this point, Senator Byrd withdrew from the hearing room.)

Senator CURTIS. Here is another case of an individual who can throw light upon Baker's operations with financial companies, with unions, and who was an intimate of his. And Mr. Neil advised that he recalled that on one occasion, when Robert and Dorothy Baker came to San Juan, they stayed at the Plaza Hotel and Guest House, San Juan, P.R. He said when Baker was in San Juan around February 1, 1964, Baker stayed at Neil's private company apartment.

(At this point, Senator Byrd entered the hearing room.)

Senator CURTIS. It is clearly a case of someone who had business negotiations with Baker, and they were intimate friends. It involves financial institutions and unions. Now, I want to repeat—I think these staff interviews are helpful and necessary. But they are no substitute for putting a witness under oath and asking him what took place, what was said, what representations, if any, Mr. Baker made, what influence he said, if any, he could render, and so on. That is all I have to say.

The CHAIRMAN. Will the counsel—

Mr. McLENDON. I have already referred to the fact that the evidence about this title company and the efforts to establish it down in Puerto Rico was covered in Mr. Rogers' testimony. This report adds nothing whatever to that. It never had been organized or put in business, at any rate, according to the testimony of Mr. Rogers, and this report confirms that. The rest of it, of course, is a narrative of conferences, meetings with Baker, discussion of such things as obtaining loans, meeting Benitez.

Senator BYRD. Are these loans from Federal agencies or private loans?

Mr. McLENDON. One of them was—he was trying to make some contact with union pension funds. There is nothing in here that indicates Baker had anything to do with that, except that he was discussing it in the presence of Benitez and Baker. Thereafter the witness, Neil, undertook to get something from the union, and did not succeed.

Senator CANNON. Never did get a loan from them?

Mr. McLENDON. No, sir; he did not, according to this report.

And he reports Baker making an uncomplimentary remark about Benitez. Really, there is nothing in there of any probative value, other than just association with Baker, and having been introduced to him, and a suggestion at least that Baker was trying to—maybe

you could draw an inference that Baker was trying to assist him in finding some money for the mortgage business. That is about all that is in here.

The CHAIRMAN. There is no testimony that Baker was involved with any investments whatever with this man?

Mr. McLENDON. No, sir.

Senator CURTIS. Well, I think the principal value would be to get this man's sworn testimony on his conversations with Baker. Union funds—it is true that is not Government funds, but there is public interest involved—especially in the light of one loan made by the union in one transaction for the full purchase price. I think—

The CHAIRMAN. Which Baker was not in, either.

Senator CURTIS. That is correct. But—as well as other business discussions with him. I want to know from some of these people, if we call them, what Mr. Baker's approach was. I want to know whether he told them that he had influence with Government officials, elective or appointive, Government contracts, or Government decisions. And also what Baker told him, if anything, about his influence with Government contractors. I think it falls in the category of Paul Aguirre. I would not say they are equal. I think this one is important, but I would not try to evaluate it as equal or greater than Aguirre.

Senator CANNON. Mr. Chairman, do the interviews show this man had any dealing with Government contracts?

The CHAIRMAN. Not a bit in the world. Never did. Never asked for any money from a Government agency, never got any. Baker had no connection other than these conversations and associations. I make the same ruling on that, that it is not relevant at all.

Senator CURTIS. I ask for a vote.

Mr. HARRISON. Mr. Hayden?

The CHAIRMAN. I vote Mr. Hayden aye.

Mr. HARRISON. Mr. Cannon?

Senator CANNON. Aye.

Mr. HARRISON. Mr. Pell?

Senator PELL. Aye.

Mr. HARRISON. Mr. Clark?

Senator CLARK. Aye.

Mr. HARRISON. Mr. Byrd?

Senator BYRD. Aye.

Mr. HARRISON. Mr. Curtis?

Senator CURTIS. No.

Mr. HARRISON. Mr. Cooper?

Senator COOPER. No.

Mr. HARRISON. Mr. Scott?

Senator SCOTT. No.

Mr. HARRISON. Mr. Chairman?

The CHAIRMAN. Aye.

Mr. HARRISON. Six ayes, three nays. The chairman is sustained.

Senator CURTIS. Now, the next two are officers in the Riddle Airlines. Airline people are in a peculiar position. Their life depends upon the Government. They must get their permits from the Government. But the Government also rules on the permits of their competitors. We have had many instances—one of them led into a senatorial investigation involving who would get an airline—impor-

tant airline transactions, and the McClellan committee investigated the CAB on it. It is a very competitive and sensitive thing.

Baker, when he was attempting to set the gamblers in the Caribbean, went not to the International Hotels Corp., but he went to the parent corporation, the very head of it, which is Pan American Airways. Pan American is very sensitive to what permits we grant to foreign airlines and domestic airlines. I think along with this—we didn't list it in the letter—we should go to the bottom of Baker's requests and securing of buses to take his guests over to the Carousel. And I certainly would not cast any reflection on the people that went—they knew nothing about what was going on, and what might later develop.

But the point is here is: the D.C. Transit Co. The matter of local transportation here is a subject of congressional action many times. I am not too sure but what they get some concessions by way of getting them to stay in business here. Here you have an airline. Baker arranges to render service. When this investigation got underway, there was a bill placed in there, sent to Baker, I believe, for this service. Apparently the CAB did not so regard it, because the CAB fined Riddle Airlines for running—rendering service without charge. I believe it was \$750. They were fined \$750. And I think—I got these two names of these individuals as officials in that airline and I think we should ask them about it.

Senator BYRD. Who are they?

Senator CURTIS. Jack Anderson and James Carmichael.

Senator BYRD. How does the D.C. Transit enter into this?

Senator CURTIS. Not directly, but, as I say, I think they ought to be called, also, to see what Baker's approach was to them to get them to furnish buses to go over to the Carousel. It was never paid for. And if we have a Senate employee or a past employee who is imposing upon Government licensees, I think this committee ought to ask about it.

The CHAIRMAN. I would like to hear from counsel. If my memory serves me correctly, somebody testified here they had not been paid yet. There was a bill for the buses, and they had not gotten the money. Senator Cannon—

Senator COOPER. We went over this the other day. I think I made the statement that Jack Anderson had written a letter to Baker demanding payment. Then I saw the CAB was taking some action against the Riddle Airlines.

Senator CURTIS. That clipping is attached to my original letter.

Mr. McLendon. The letter of explanation of that was read last Friday. It is in the transcript—from this man Anderson. Mr. Meehan has an interview here with this man Sommer, who explains the whole thing.

Mr. MEEHAN. Stanley L. Sommer is a public relations man, Washington, D.C. He said he had been intimately acquainted with Baker since he took the duties of majority secretary of the Senate. Along the way—we will probably get to him, since a request has been made. I will read it more fully later. But this paragraph deals with Riddle Airlines.

Relative to the charter of a Riddle Airlines flight from Washington, D.C., to Las Vegas, to transport a group of Capitol Hill and other interested persons to a fundraising dinner for Senator Howard W.

Cannon, of Nevada, Sommer readily admitted that he was one of the persons responsible for chartering the plane for transporting these people to Las Vegas.

He explained he was a close personal friend of James H. "Slim" Carmichael, president of Riddle Airlines, Inc., and he talked with Mr. Carmichael about chartering one of the Riddle planes to carry the group to Las Vegas. It was agreed between them there appeared to be no irregularity in the chartering of such plane, with the understanding that the group going to Las Vegas would pay the overhead costs of the trip, including the gasoline, salaries of all employees, et cetera.

He said that, to his knowledge, Robert G. Baker had nothing to do with the planning or actual participation in the chartering of the plane to transport the group to attend the referenced dinner. In fact, he said Baker came to Las Vegas from California and managed to obtain a seat on the plane back to Washington from Las Vegas.

Senator CURTIS. To whom was the bill sent?

Mr. MEEHAN. That would have to be covered in that letter.

Senator CURTIS. Did Sommer represent Riddle Airlines?

Mr. McLENDON. No. Were you here Friday when that letter was read explaining how this happened?

Senator CURTIS. No.

Mr. MEEHAN. He doesn't state here that he was affiliated with them, Senator.

Senator CURTIS. May I see that newspaper copy that is attached to our original letter?

Mr. McLENDON. You handed me the letter, Senator Cannon.

Senator CANNON. I don't have it. I handed it to you, and you read it into the record. I know that.

Mr. McLENDON. This man Anderson said he made inquiry and found this bill had not been paid. He was told that it should be sent to Baker. He directed it be sent to Baker. After the bill was sent to Baker he learned—and I can't remember now how; whether he learned through Baker or this man Sommer—he learned this was a mistake; that the bill ought not to have been sent to Baker; Baker had no obligation for it, and never had incurred any. And he immediately notified Baker to that effect.

Senator CURTIS. May I see the newspaper account attached to this?

Senator CANNON. He said he thought it should be sent to Baker. He was incorrect. He assumed it should be sent to Baker, and sent to him after the investigation started, and then found that Baker had nothing to do with it.

Mr. McLENDON. Senator, I don't seem to have that newspaper clipping.

Senator CURTIS. It would be attached to this.

Mr. McLENDON. Here is the letter that I couldn't find. That is the letter, Senator, that I read into the record Friday.

The CHAIRMAN. If you like, you can read that back into the record.

Mr. McLENDON. We don't have to read the second letter; do we?

Senator CANNON. It was in the record the other day, and a lot of other material, too, so it might be a good idea to put it in the record.

Mr. McLENDON. Let the record show that the letter we are talking about, signed by Mr. Anderson, is in the record of Friday, the 13th, beginning—

Senator BYRD. Mr. Chairman, I was not here that day, and I hesitate to impose on counsel, but if he would, I would like to hear that letter before I vote on this.

Mr. McLENDON. To complete the statement, beginning on page 2077.

The CHAIRMAN. Here is the original letter from Mr. Anderson, and we will read it into the record again.

(The letter referred to follows:)

Hon. HOWARD W. CANNON,
U.S. Senator,
Washington, D.C.

DEAR SENATOR CANNON: I understand the press in your State has linked you unfairly with Bobby Baker because of a charter flight he is supposed to have arranged for a Washington group to attend a fundraising dinner for you in Las Vegas. I think it is only fair that I should set the facts straight so far as I know them.

The flight was chartered from Riddle Airlines in April. The following July, I was elected to Riddle's board. I first learned about the flight in September.

Officers of the company complained to me that they had been able to collect only \$2,800 of the charter fee, but that they were afraid to press for the balance for fear of offending powerful politicians. I asked what politicians might be offended, and they gave me the name of Bobby Baker. I got the impression from them that Baker had arranged for the flight.

I informed the company officers that so long as I was a member of the board, I would insist that politicians pay for their flights like anyone else. Upon my insistence, a bill was sent to Bobby Baker for the balance still owed to Riddle.

Not until Baker protested that he had nothing to do with the flight did Riddle's management bother to check who had made the actual arrangements. It had just become assumed in our conversations that Baker was responsible. When he protested, the company's officers belatedly checked back and found the flight had been arranged not by Baker but by Stanley Sommer. Mr. Sommer happens to share office space with Slim Carmichael, Riddle's board chairman, who had submitted the order for the flight.

Baker's name apparently became involved because Carmichael had mentioned to company officers that Baker had been present on the flight. As it turned out, he had not made the flight to Las Vegas but had caught the return flight from Las Vegas to Washington, D.C.

The company officers found no records linking Baker in any way with the flight, and Mr. Carmichael assured them that Baker had not arranged it.

The bill was sent to Baker by mistake upon my insistence, after company officers had given me the wrong impression that Baker was responsible for the bill.

For the record, I would like to clear up the comedy of errors that has led to your unpleasant publicity. This has been one of those ridiculous mixups that sometimes occur in human affairs.

(Signed) JACK ANDERSON.

Senator CURTIS. Are there two letters from Anderson?

Mr. McLENDON. Yes; there is another letter.

Senator CANNON. Does the second letter that you referred to relate to this matter at all?

Mr. McLENDON. No.

Senator CANNON. I am not aware of it myself.

Senator PELL. There are two letters.

Mr. McLENDON. Here it is. Here is the second letter from Jack Anderson.

(Senator Clark entered the committee room at this point.)

The CHAIRMAN. Are you going to read it into the record?

Mr. McLENDON. I don't know which you want to read first.

Senator CANNON. If that one does not relate to this matter under discussion, I suggest you read it in at the proper place. I don't want

to get half a dozen things involved in this one. I don't know what it is; I have never seen it.

Senator SCOTT. You want the first letter read first?

Senator CANNON. Yes.

Mr. McLENDON. That is what I thought; the one that related to the airline.

Senator CANNON. The one that is related to this matter under discussion.

Senator SCOTT. The one I am referring to has been in general discussion among the staff around here, but the Senators have never seen it.

Mr. McLENDON. We had no opportunity to show it to you until today because the letter was received after the executive meeting on March 13.

Senator COOPER. At this point, is it proper to place in the record the first Anderson letter?

Mr. McLENDON. About the airlines?

Senator COOPER. Yes.

The CHAIRMAN. The first one has already been put in the record. Senator Byrd has not seen it. Do you want it in the record?

Senator BYRD. Is it in the record?

The CHAIRMAN. Yes.

Senator CURTIS. I read it.

The CHAIRMAN. Did you hear it?

Senator COOPER. It was read into the record last——

Senator SCOTT. I read it; that is all right.

Mr. McLENDON. Do you want the second letter now, is that what you want?

Senator COOPER. Why don't you go off the record here for a minute and let us see if it is applicable.

Senator SCOTT. Let us go off the record.

The CHAIRMAN. Off the record.

(Discussion off the record.)

The CHAIRMAN. Back on the record.

Mr. McLENDON. This first letter from Anderson is dated December 27, 1963, and it is addressed to Hon. Howard W. Cannon, U.S. Senator, and is signed by Jack B. Anderson, and is to be inserted in the record. Is that correct now?

Senator CURTIS. That is the first letter already in the record?

The CHAIRMAN. Now, Senator, what I would like to do, I would like to have the staff interview Mr. Anderson and see what he has to say, and bring it up at a later meeting. I think we should investigate it. We have not skipped anybody whose name has been presented.

Senator SCOTT. Well, first, I would like to suggest that since the second letter was sent to the chairman and posted March 14, that it be introduced in the record at this time so that we will know what we are discussing.

Mr. McLENDON. Yes.

The CHAIRMAN. Is there any objection to putting this in the record at this point?

Senator CURTIS. Even though it refers to me adversely, I have no objection to it because he says there that he can contribute important and pertinent information that properly belongs here.

The CHAIRMAN. I would prefer to see Mr. Anderson come here in front of everybody and to see what he has to say.

Mr. McLENDON. Be interviewed.

The CHAIRMAN. Be interviewed before we do that.

Senator SCOTT. I would like the record to show that in reference to Mr. Anderson's letter, which I did not see until today, that I categorically deny that there is any information which I have been unwilling to bring out or that I have conspired with Senator Curtis or anyone else not to bring out, and that this raises a question attacking two of the members of the committee and, therefore, in justice to us, and certainly in justice to Mr. Anderson, and in view of the fact that Mr. Anderson's letter will certainly become public regardless of the action of this committee, I think that it is most essential that Mr. Anderson be given an opportunity to be interviewed, and to be permitted to testify, or if the investigation reveals that the statements about Senator Curtis and myself are—if they convince the investigators and counsel that those allegations are totally unwarranted, we would expect counsel to say so, and the matter could be disposed in that way.

But if the interview with Mr. Anderson is to leave in doubt whether Senator Curtis or myself have at any point either conspired or sought to withhold or sought to avoid securing the testimony of any witness whose testimony comes within the scope of the investigation, and we have interpreted that to be very broad indeed, I certainly wish that matter cleared up once and for all, and I raise the question now because I know of no case where I have sought to withhold testimony of any witness whatever; and if any member of the committee or staff knows of any instance where I have sought to withhold any questioning or any line of questioning I invite them at this time to say so, and I would interpret their silence as agreement with me. Is there any objection to that, Counsel?

Senator COOPER. Let me say right now that I never heard of that letter until just now when it was read, and I have not discussed this with Mr. Anderson or anyone else. I don't know anything about any facts with reference to which he refers in his letter. I know of no evidence of either Senator Scott or Senator Curtis—that they have suppressed any evidence in any way or discussed it.

The CHAIRMAN. I might add to that—

Senator COOPER. I certainly have never done so.

The CHAIRMAN. I never suppressed any evidence, either, nor do I believe either of you tried to suppress anything.

Senator SCOTT. I think it is obvious that the opposite is more likely to be true.

The CHAIRMAN. I said before that it went to the office. Mail goes to the Rules Committee, and they just send it over here automatically. It came in over the weekend, evidently, because I have not seen it before.

Senator CURTIS. I just want to say that I have not conspired with anybody to suppress evidence. I don't know of any evidence that I have, or anything about that which would indicate a desire to suppress it. I have felt all along that the way to conduct this investigation is to get all the facts, not a few of them, but all the facts. There has been an honest disagreement. The only thing that I can think of was that when the staff report concerning Walter Jenkins was offered in evi-

dence—or it may not have been formally offered in evidence—the matter of receiving it in evidence was discussed, I said that I didn't think we should receive unsworn statements. Subsequent thereto the staff report was converted into Mr. Reynolds' affidavit duly sworn to. Now, whether Mr. Anderson is referring to that or not, I do not know. If he wants to come here and give us evidence about Mr. Reynolds, what the facts are there, it would be perfectly all right with me. But I doubt the charge coming from this man needs an answer, but since this record is going to be printed, I am going to plead not guilty. I have not suppressed evidence.

Senator SCOTT. If Mr. Anderson will come in and say he was so advised by a member of the staff or by a member of the committee—but I raise the point now so if any member of the staff or any member of the committee has any reason whatever to believe that either Senator Curtis or I have conspired to conceal any evidence or not to produce or further follow up any line of testimony, I would say that now is the time to say it, and if anyone has such evidence, I would be most interested in hearing it, since I know of no such situation myself.

Mr. McLENDON. Speaking for myself, as general counsel to the committee, I have already stated what I thought the letter meant. I had no idea that he had reference to anything else except those classified documents. I didn't hide anything.

Senator SCOTT. I haven't the slightest knowledge of what he means. I just want to find out.

Mr. McLENDON. I am just telling you that is what popped into my mind. I had no reason to suggest that either you or Senator Curtis had tried to keep anything out of the record or suppress anything because I couldn't figure how he could be referring to anything except these classified documents.

Senator CURTIS. Does he have classified documents?

Mr. McLENDON. Well, Pearson said he had them.

The CHAIRMAN. I am going to rule that this be referred to the staff to get Anderson in here and interview him, and then that interview be brought before this committee.

Senator SCOTT. That being the case, how can we vote now on whether to call Mr. Anderson or not?

Senator PELL. We cannot.

The CHAIRMAN. We cannot, and we will hold that in abeyance.

Senator CANNON. What about Mr. Carmichael?

The CHAIRMAN. What do you want to do about Carmichael?

Senator CURTIS. I think since it is the same transaction, if they can just be passed over without prejudice to both of them—

Senator PELL. Carmichael is not related to Reynolds.

Senator CURTIS. Carmichael is chairman of the board of Riddle Airlines, who paid the fine.

Senator PELL. You don't think we could go to Carmichael now; that we should defer that?

Senator CLARK. If they are tied together, let's wait until he is through.

The CHAIRMAN. I have no objection to having it deferred, because I think it can clear itself with the information we have.

Senator CURTIS. Well, the next one is Charles Baker.

Senator SCOTT. On that, can we arrange to have the majority and minority investigators?

The CHAIRMAN. Oh, yes.

Senator CURTIS. The next one is Charles Baker. He has been an active participant for Serv-U, with Government contracts, a very sizable amount. What he will say, of course, I do not know. I have had no opportunity to interview him. I think that the general problem of large contracts with the Government requires the utmost care and diligence on the part of all Members of Congress, and I think we should be interested beyond the point of acts or threats or payoffs and bribery, but the use of influence, merely by contacts and telephone calls and name dropping, because this Government has a terrific amount of business going on, and the small operators are at a disadvantage, people who know Government officials and know officials in companies, having, at least, and being in a better position to compete. I would like to ask Charles Baker all he knows about Serv-U, who any beneficial owners might be that the records do not disclose, how they operated with respect to contracts with North American, how they got the business, how they got the business of competitive lines, whatever information he has.

Mr. McLENDON. This person, Mr. Chairman and gentlemen, the evidence now shows from Hancock and from Armstrong, this man, who was in his early twenties, just a young boy, really, was employed in a menial job at Serv-U out on the coast after Serv-U started operating out on the coast, and got the first contract with North American. He was interviewed on March 12 and he said that he was in the employ of Serv-U since October 1962; that when he was hired by Mr. Armstrong as a stock clerk for around \$100 a week, at the time of the interview he held the title of vice president of stocks and equipment at a modest salary increase; that is, between the time of his employment and the time of his interview he had been promoted to this new job with a slight salary increase.

Mr. Baker stated he is not knowledgeable of how and by whom Serv-U was formed, how the vending contracts were secured at North American, and so forth, except for what he has learned about the company after he became an employee and from what he had been reading in the newspapers about his brother. Charles Baker stated he was not a stockholder of Serv-U and had no financial interest in the company other than his salary. The records corroborate that, because the owners of the stock have been proved beyond peradventure of doubt.

Also we have in our files a complete copy of all the minutes of the stockholders and directors up to the time Baker resigned from his position at the Senate. This boy is not shown to have been connected in any way with any of the people like Hancock, who testified, you know, in great detail; he mentioned him only with respect to the fact that he was employed out there when the company commenced its operations. Armstrong, the real manager who exercised the managerial duties, also said that Baker was employed in a menial capacity, and had nothing to do with management.

Senator CURTIS. Who is running the operation out there?

Mr. McLENDON. Armstrong. He testified, you will recall.

Senator COOPER. How old is this boy?

Mr. McLENDON. He is in his early twenties, Senator. I don't have his exact age, but he is in his early twenties.

Senator COOPER. Did he ever work here for Mr. Baker in the Senate?

Mr. McLENDON. Not that I know of. He is only 24, 25. I don't know his exact age.

Senator CURTIS. Can anyone tell me why he got the title of vice president? Impressing people out there with the power of the Baker name, vice president in charge of stocks, and he said he is a stock clerk.

Mr. McLENDON. I would assume that he is like a lot of vice presidents who have more a title than anything else. I know some companies that have 35 and 40 vice presidents, and trying to find out what they do you cannot find out.

The CHAIRMAN. Maybe they decided not to give him a raise but to give him a title.

Senator COOPER. I think we should, unless it has some connection with something else, waive calling him.

The CHAIRMAN. I might add that we have a complete file on this corporation, every stockholder, everything in it. This boy has had apparently nothing to do with this corporation at all except that it got him a job, his brother got it for him, and I don't know, I have never heard of him before.

Senator CURTIS. Well, if there is no objection on the part of my colleagues—and I had this in mind prior to the suggestion by Senator Cooper—if we are all agreed, I would like to withdraw that request. I do think that if the investigators ever see him, and if he knows how he got to be vice president, ask him about that, because that name carries quite a bit of weight, the Baker name, in getting Government contracts, or apparently it did at a certain time. But, nevertheless, we will withdraw it. Is there any objection?

The CHAIRMAN. No objection to that; let us proceed with the next witness.

Senator CURTIS. Nick Popich was mentioned by witnesses and interviews as being involved in transactions in which Baker, at least, had some activity, if not ownership activities. Also you may recall that Baker was on the stand and I asked him about a great many telephone calls to Nick Popich. Those calls were made at Government expense by him, and I think a good investigation, a thorough job, requires that we ask him about all of this.

Senator BYRD. Did you say they were made at Government expense? Did you say the calls were made at Government expense?

Senator CURTIS. That is my understanding. I had before me a sheet of long-distance calls the day I examined Robert Baker. Were those calls that you traced through his office here?

Mr. SCOTT. I wasn't here at the time, Senator Curtis, but I assumed they were obtained—

Senator CURTIS. You conducted the investigation.

Mr. SCOTT. This list you had was furnished by Burkett Van Kirk, and they furnished a list of the toll charges sent to the secretary of the majority of calls which were from Mr. Baker's office.

Senator CURTIS. May I ask, did you work on the running down of Baker's telephone?

Mr. SCOTT. Yes. Information regarding Baker's calls with respect to Popich, I can't say as far as I know, I am sure they were the ones obtained from the long-distance toll statement submitted to the office of Baker, the office of the secretary to the majority.

Senator CURTIS. These calls are actually billed quite awhile after they are made, I think we are all agreed on that, and the latter part of

Baker's operation, calls that came to light after this investigation was started; some of them Baker paid for.

Mr. SCOTT. The long-distance calls statement of charges was obtained from the Sergeant at Arms, Mr. Duke's office, and covered from July through October of 1963 and, as I recall, an examination reflects—I obtained copies of the long-distance statements for the past years from November of 1962 to November of 1963 from the Chesapeake & Potomac Telephone Co., and an examination of those reflected that the July bill, I believe, was paid along in November of 1963, and August, the August bill, they were paid, and those were the bills, for example, where one month was around \$128 or \$98, of which \$56 or \$58 were charged up to personal calls of Mr. Baker, billed to his home phone.

Senator CURTIS. You are referring to bills that were rendered after this investigation started?

Mr. SCOTT. No. The bills were rendered in July and August, September and October, which had these remarks "Charge to Mr. Baker," and that is a substantial amount of them, say, \$58 out of \$98, and they were made in November or after, November of 1963. An examination of similar statements, say along in March and April of 1963 which had been apparently paid before the case broke, would reflect that of a bill of \$228, \$9 personal calls, which was one long-distance call.

Senator CURTIS. Well, whether or not the Government paid for the calls would add something to it, but even if he paid for them all, it does not invalidate our request and, as I say, find out not only Baker's transactions, but the inducements that Baker held out to people who entered into transactions for him, and I want to know whether he was telling people that he had power to influence Senators or appointive officials or anyone else. In many instances it probably wasn't true, maybe in no way, but I think we should find out.

The CHAIRMAN. I will ask the attorney to please give us any information he has on this subject here.

Mr. McLENDON. This purported interview with Nick Popich is about the most negative report in the files. It shows practically nothing except he lived in New Orleans; he met Baker during the Kennedy campaign for President. He owns a restaurant in New Orleans, and he became friendly with Baker. He was constructing a pipeline in Washington, D.C., for the Washington Gas Light Co., privately owned, and saw Baker on several occasions socially. He said that he, Popich, sent \$1,000 to Pasantic Corp. for his payment on stock. This was returned to him later when he was financially unable to put up more money, but you will remember the evidence is that the other stockholders decided they didn't want Popich in and asked him to withdraw, and returned the money to him.

Senator CURTIS. That was because of his reputation?

Mr. McLENDON. Because of his reputation; that was implied. Mr. Black didn't say it that way; that is how he meant.

Senator CURTIS. Yes. That was one of the reasons I think all of these individual calls of Baker to an individual like this ought to be inquired into.

Mr. McLENDON. The report goes on to say that he was never a member of the Pasantic Corp. He said he knew Paul Aguirre from San Juan, P.R., on some social basis, and on one occasion he had to go to San Juan to see if he could obtain some construction work through

Aguirre, but was unable to do so. He recalled seeing Baker one time in San Juan.

In June 1963 he went to the Patterson-Liston fight with Baker, and he said he considered Baker a very fine person, and he would not discuss Baker's private affairs, saying that he never had any business ventures with Baker at any time, or any other officer or employee of the Senate; he never had made any request nor received any favor from Baker or any other officer or employee of the Senate. He said he would appear voluntarily before the committee if it needed him, but he could not shed any light on the Baker affair. So it is almost completely negative.

Senator CURTIS. Does he say anything about the telephone calls?

Mr. McLENDON. No, sir.

Senator CURTIS. Did he refuse to answer?

Mr. McLENDON. No, sir.

Senator CURTIS. What is the date of this?

Mr. McLENDON. March 16, recently.

The CHAIRMAN. Who conducted that investigation?

Mr. McLENDON. Mr. Meehan.

Senator CURTIS. Where was the investigation?

Mr. MEEHAN. It was California. I called.

Senator CURTIS. What did he say?

Mr. MEEHAN. I asked him—I had that in front of me, I guess it was four or five calls there—and I said that there had been a number of calls made there, and he said well, there might have been. He said he was friendly with him; that is all he said. He didn't remember.

Senator CANNON. Is that all there were; four or five calls?

Mr. MEEHAN. Sam, do you recall four or six?

Mr. SCOTT. As I recall, something like that.

Mr. MEEHAN. Four or six calls.

The CHAIRMAN. From New Orleans?

Mr. SCOTT. Yes.

Mr. MEEHAN. He intimated, by the way, that he lost that restaurant; he was not very well fixed financially. All they asked him for that Pasantic was \$1,000. I would like to say something off the record.

The CHAIRMAN. Off the record.

(Discussion off the record.)

Senator CURTIS. In the background of Baker's empire he claimed he was worth over \$2.5 million or thereabout. But, nevertheless, he handled an awful lot of money, and I have had a theory that I think ought to be, that I felt should be, followed along, and in many instances has, that Baker might have been getting some money from some very unworthy sources in order to invest in legitimate enterprises for them as well as himself, because it would certainly be a business transaction of a Senate employee which would be most improper.

The CHAIRMAN. I think I would rule that is not pertinent to what we are doing, and ask for a vote on that. I think it is completely clear that he did nothing but talk to the fellow.

(At this point in the proceedings, Senator Clark left the committee room.)

Senator PELL. I would agree with Senator Curtis' point that this is very much within the terms of reference of the committee. But there is no evidence to establish the fact.

Senator CURTIS. How do you know?

Senator PELL. You can't just ask everybody with a dubious reputation, "Were you a front for somebody?"

Senator CURTIS. He was in some gas construction here, and he has calls from Baker. He was invited into, and I don't know the slightest relation between his gas construction here and some of his real estate purchases of homes or anything else, but I certainly think the Senate has a duty to inquire, and in our letter I said that there is no implication here of wrongdoing on the part of any individual, but they might be able to provide the committee with information.

Senator PELL. I guess this is where we disagree, because in my mind fishing should be done by interviews, and then when it is something hard, we should go into it. All this would be a fishing trip.

Senator CURTIS. Well, the trouble with that is that you get the unwilling and the timid and the repentant witnesses, and sometimes you have to put them under oath and cross-examine the other witnesses to get to the real transaction.

Senator CANNON. Mr. Chairman, may I ask counsel? Do you feel, Counsel, that this would add anything?

Mr. McLENDON. I don't think it helps a bit. It is all negative.

Senator COOPER. May I make this statement?

Senator CURTIS. Yes; go ahead.

Senator COOPER. It has been called to my attention in connection with Aguirre and Baker, they met in New Orleans and discussed a business deal there, and I think if there is some credible or reasonable evidence—I don't know whether you would even call it evidence, but assertion—that this man was connected in some way with the underworld, I don't consider that in this connection to be called simply a fishing expedition.

Senator SCOTT. One thing I would like to say.

Senator PELL. I think we should do it through an interview as well as by—perhaps with a greater saving of time to the committee.

Senator SCOTT. One thing that underlies the investigation and has never surfaced, and yet it is something that there is suspicion about, is this: We haven't gotten on it, but I think the production of some of these witnesses might lead to the alleged running of "hot" money from gamblers and underworld characters into some of these hands around Washington, including Bobby Baker. Several people have called me up to say that Fred Black was the man who ran the "hot" money, and the man who worked not only with Baker but many other people to try to find a supposedly legitimate outlet for the "hot" money. Now, I would be the first to admit we are not getting very far on that, and yet I think some of these witnesses somewhere along the line might be found to make that, to piece that link together or, put it another way, you open that line of investigation more fruitfully.

Senator PELL. Wouldn't Black be the one to logically go after?

Senator SCOTT. All I know is every now and then someone calls up, anonymous people or newspaper people, who call up and say that the real person "you want is Fred Black; he is the man who ran the 'hot'

money from the underworld and got rid of it over here in Washington, D.C."

Senator PELL. Was he asked this question when he appeared to testify?

Senator SCOTT. I don't know whether he was or not.

Senator CURTIS. I asked him if he had ever given money to Robert Baker, and he said, "No."

Senator CANNON. Have those facts been turned over to the McClellan committee for an investigation?

Senator SCOTT. I told you all I know. I have asked Senator Curtis to pass it on to the McClellan committee. It is not evidence, surely. It is nothing but rumors as far as I am concerned, and I don't attempt to classify it any higher than this.

Senator CURTIS. But whether or not it is true, you are not stating that would not be a reason for not calling Popich.

Senator SCOTT. I think it is one of the reasons for calling people like Popich. It may be some of the reasons why some of these gamblers have taken the fifth amendment.

Senator CANNON. Mr. Chairman, do we have anything in the file to indicate that Popich has any connection with Senator Scott's so-called "hot" money?

Mr. McLENDON. Not a bit. I don't think he had any money, according to our evidence. He is busted, and his character is bad; I mean, that is the information we have.

Senator CANNON. Was it you or the investigator who said he went broke on his restaurant?

Mr. MEEHAN. I did. He told me this.

The CHAIRMAN. Well, I agree, after reviewing this case, there is not very much that can be—we will take a vote on it.

Mr. HARRISON. Mr. Hayden?

The CHAIRMAN. I vote Mr. Hayden aye.

Mr. HARRISON. Mr. Cannon?

Senator CANNON. Aye.

Mr. HARRISON. Mr. Pell?

Senator PELL. Aye.

Mr. HARRISON. Mr. Clark?

Senator PELL. Aye. He gave me his proxy.

Mr. HARRISON. Mr. Byrd of West Virginia?

Senator BYRD. No.

Mr. HARRISON. Mr. Curtis?

Senator CURTIS. No.

Mr. HARRISON. Mr. Cooper?

Senator COOPER. No.

Mr. HARRISON. Mr. Scott?

Senator SCOTT. No.

Mr. HARRISON. Mr. Chairman?

The CHAIRMAN. Aye.

Mr. HARRISON. Five ayes and four nays, and the motion is carried.

Senator CURTIS. I didn't know what procedure would be followed when the meeting was announced, but in addition then to getting back to the office, I want to review Mr. Young's testimony and Mr. Reynolds' testimony before I am called to present the reasons for calling Mr. Jenkins.

The CHAIRMAN. I beg your pardon.

Senator CURTIS. I would like to have a little time to review Don Reynolds' testimony in the record, and that of Mr. Young, the Stainless Steel Products or something, the pots and pans, before I make my presentation on Mr. Walter Jenkins and, as I say, it is 4:20 and, as I say, I do have a long-distance call coming in, and I do not mean this critically, this is not a critical crack at all, but I had no foreknowledge of what would be taken up at this meeting on how fast we would go or what would develop.

Senator PELL. Could we go down the other list that you have?

Senator SCOTT. You have George Sampson on this list.

Senator COOPER. I was going to suggest that in order to expedite consideration for all these witnesses, would it be helpful if Senator Scott, who has quite a list, and he has said some of them have been discussed, he would want to revise his list, if we do recess and give him a chance to revise his list so that we will be discussing witnesses and presenting facts regarding those witnesses, and we can move these decisions along?

Senator CURTIS. Maybe combine some of these.

Senator SCOTT. Yes. I was going to make this offer.

Senator COOPER. Maybe we could finish it all by tomorrow.

Senator SCOTT. I would like to make this offer, that I would pick out several—I don't mean by several one, two, or three, but somewhere from one to five probably or one to five, say up to five or six names, perhaps, and I might want to ask you to discuss them separately, and then offer the others en bloc because the voting—we have a pattern here now that we are talking about, and I don't want to delay the committee unnecessarily; and I think with a great number of these names I can simply offer them en bloc and you can vote on them up or down en bloc.

Senator CANNON. Mr. Chairman, I would be very reluctant to vote on them en bloc if we are going to hear a statement as to why each individual one should be called unless it was just a blanket fishing expedition, where the general statement was going to apply to all of the witnesses.

Senator CURTIS. I think most of them he will present individually. My thought in saying combining them, if he was relating to transactions, a situation and operation that involved the same names, he may want to present them combined, some of them. But if there is objection to it, I am sure he won't insist on it.

Senator SCOTT. I think there are some I would want to present individually, some that I might want to waive, and there are some that you might want to vote on en bloc because there are several names here which involve party girls, and you might just as well wish to vote on them en bloc or you may wish to vote on them separately; that is up to you. But from my standpoint I would offer these so-called party girls in a group, and you can make any decision you want.

Senator COOPER. I think that would be helpful; if we recess, it would give a chance to the members, particularly Senator Scott, to decide what he is going to do about this.

The CHAIRMAN. Gentlemen of the committee, I think we ought to stay here until 6 o'clock and get as far along with this list as we can. I think you ought to hear from Reynolds this afternoon, and from Jenkins, if we can get to them, because they are on the first list.

Senator PELL. No; I think—excuse me, sir—I can see the reason for wanting to defer those, but maybe we can help by going through those you know you are going to have on your list before you put them en bloc.

Senator SCOTT. Well, you still have George Sampson here.

Senator PELL. Let us go to him.

Senator SCOTT. I hope you wouldn't continue to 6, as we cannot all stay.

Senator PELL. We can.

Senator SCOTT. I have tried to set up an appointment for 5 o'clock. I can defer it somewhat, I suppose, but I didn't know we would be here all day. We don't know the committee's disposition, may I say with all deference, until we get here, and—

The CHAIRMAN. When we asked for permission to sit while the Senate was in session, it was understood we would just keep right on pounding until we got through.

Senator PELL. Right on until 9 tonight when the Senate adjourns.

Senator CURTIS. We didn't know what the agenda would be this morning, and it is no criticism. We just did not know. We agreed with you on these witnesses, and we disagree with you on these, and we are going to—we have no way of anticipating, and I would like their testimony before closing the case; I would like to have the testimony of Walter Jenkins.

Senator SCOTT. I would like to go over the names and try to find some way of grouping them, as much as possible. I don't see any objection to going into George Sampson. That leaves only one name on our list of three, and following that—

The CHAIRMAN. Who is Sampson?

Senator CURTIS. Sampson is tied in with Jenkins in that he is the insurance agent through whom Reynolds had his part in the life insurance, and so it is related to the Jenkins' testimony, perhaps.

Senator PELL. Well, Mr. Chairman, as one member of the committee, I will be guided by the wishes of the majority. I would like to see us grind along, but if we are going to recess, I accept your wishes without objection, and I will not make my views known to the press. In addition to that, I would like to move that if there is any recess that we give thought to releasing this testimony. I am not talking about last week, but today's.

Senator CURTIS. No objection to that.

The CHAIRMAN. Senator, I think we ought to withhold any release until we can get through.

Senator CANNON. Let us not decide that issue until we go as far as we can go on the witnesses.

The CHAIRMAN. Senator, I do not like to be and I am not going to be arbitrary, but I think you knew what you wanted when you presented that list. Jenkins and Reynolds were both on there, and I would like to take up one of them or both of them and get them out of the way.

Senator SCOTT. I don't think Reynolds is on here, Mr. Chairman. I think, however, the transcript shows on the minority side that included in Senator Cooper's motion were the names of—to call Reynolds and to call the girl who answers the telephone answering service, and such witnesses as Senator Scott may suggest.

Senator COOPER. The list was for tonight, and I suggested we discuss the names of others that Senator Scott had named.

Senator SCOTT. I believe Senator Curtis or, perhaps, one of us, may raise some question about calling Reynolds and calling Irma Rice or whatever her name is, because of two affidavits pending before the committee—Clements.

Mr. MEEHAN. Irma Clements.

Senator CURTIS. I don't see how we could finish tonight anyway, because Senator Scott has a letter that came in to him individually, and this is the first chance it has had to be presented here, to show that to Senator Cooper and to me, and we felt it should be the responsibility of the committee to decide what disposition the letter should have.

Senator SCOTT. This was just a matter that I didn't think I could pass on. I would rather not go into it tonight. I think it should be gone into by the members of the committee only, and the three of us have discussed it, and we have come to the general conclusion that I ought not to answer the letter, but I should make it known to the committee that such a letter had been received, for such disposition of the committee as they wished under the general understanding that we would tell the committee whatever had been conveyed to us, and then there are a couple of other matters that I think maybe the committee ought to consider simply as members of the committee in executive session, I guess.

Senator CANNON. What about some of these? You read quite a list of names into the record the other day, and I thought those were included in this list that Senator Cooper's motion encompassed. Why can't we go on, go ahead on some of those names that you read in? It is obvious that you did want to have those considered.

Senator SCOTT. Can you be here?

Senator CURTIS. Mr. Chairman, there is duplication. Some of them have been called and some of them we discussed here this afternoon.

Senator PELL. We won't count those.

Senator CURTIS. I think it would save quite a little time if he could boil it down to what now, in the light of action already taken, and reports read here this afternoon which were available, if we all—

Senator SCOTT. I think I can save you some time in the long run if I can run them down, because many of them have been disposed of now. This is not the list it appears to be. I suppose we can get down to common names maybe, and some of those I think I would waive as I go along.

Senator COOPER. Some of us can stay here until 10 minutes of 6. I have an appointment at 6 that I have to keep. I really believe, though, it would save the time of the committee if Senator Scott is given an opportunity to go over this list and examine it very closely and offer to the committee only those names which he thinks would have relevant testimony and testimony that could be provided. It would be helpful to me as a member of the committee to know what those witnesses would testify to, who those witnesses were, so that I could do a little thinking about them.

Senator PELL. I was wondering was there anything Senator Scott wanted so definitely that he knew would contribute anything that without any further thought overnight we could get through now?

Senator SCOTT. I could give as an illustration there, of the first 11 names, 7 of them have been disposed of.

The CHAIRMAN. I am going to make the suggestion that we take up Jenkins this afternoon and carry over Reynolds until tomorrow because I have a letter from Reynolds, and two affidavits. So we will go ahead and bring up Jenkins and see if we can dispose of that one; then we will bring up Reynolds tomorrow. I have a letter here I want action on, too, because it was written to me individually.

Senator PELL. Are there any other names?

Senator SCOTT. I leave that up to Senator Curtis. He is the one who needs some time.

The CHAIRMAN. We have all the information on Jenkins that I think everybody knows what they know about that; we have a complete file on that.

Senator CURTIS. Will there be resistance to calling Jenkins? Can an inquiry be made as to whether or not he would like voluntarily to appear? I was hoping that we could have sufficient respect for the office of the President so that we would not have to send word out that the committee has sent for Jenkins, even if it doesn't require a subpoena. His testimony is certainly relevant. Senator Cooper made a scholarly presentation on the floor in support of calling Jenkins. If his testimony is relevant, I remind you we have the right to have him called. I would hate to give you fellows a wrong record as voting down that right, but here is our situation. We have sworn testimony concerning the giving of a hi-fi to a Senator, of an individual who says that he gave it, that is Reynolds, and he produced his check with his invoice.

Senator SCOTT. And the invoice on installation.

Senator CURTIS. Yes, and the invoice on installation.

The CHAIRMAN. Let me inject right there that the then Senator admitted getting it. There was no—

Senator CURTIS. No; he said he got it from Bobby Baker. Now, the Senator—

The CHAIRMAN. His statement was that he thought it came from Bobby Baker.

Senator CURTIS. Regardless of whether he said it did or he thought, we should find out what the facts are. Now, Baker may have told the Senator that he gave him a hi-fi. Baker could have cleared it up. Baker could have assumed responsibility for his own acts. He didn't do it. Inasmuch as this wasn't an article that could just be dropped off at the house like a basket of fruit, it had to be installed, adjusted afterward—

Senator CANNON. Would the Senator yield for a question?

Senator CURTIS. Yes.

Senator CANNON. I thought we were discussing Jenkins.

Senator CURTIS. Yes; I am. Jenkins is the individual whom Reynolds talked to, and it involves the credibility of Reynolds' testimony. But as part of that transaction or that series of transactions, Reynolds testified that he was required to buy \$1,200 worth of television time on this station down in Texas. We know that it wasn't just out of thin air because the purchase was actually made.

He went to Young, who was a neighbor of his, induced him to take the television time off his hands, and I believe Young testified that he didn't want to go down—put out his money and go down—to Texas unless he had some confirmation from somebody speaking for the Senator's interests and his family interests, verifying that he could do that. I believe that Young further testified that Reynolds said he

would get that. Later on Young got a telephone call. The caller said he was Walter Jenkins. At any rate Young believed he was Walter Jenkins, relied on it, paid out his money and went to Texas at the time.

Now Walter Jenkins' affidavit is very sketchy, that the pertinent questions aren't put to him. I presume many of them hadn't been developed in detail, at least they had not gotten into the record where you could look them over, and you just cannot do a thorough job of investigating without calling him. If his testimony is irrelevant, his affidavit should never have been received, and just to let the record stand with Reynolds' statement, I think, would be unfair to both parties. I think both sides should be heard.

Now, my presentation is a little sketchy because I would like to review it in the morning by page and line, some of these various things. But I might end by saying that I am most surprised and disappointed that instead of our having to, with an effort, get Jenkins, that he isn't down here knocking on the door asking to testify. I was never particularly a political ally of Sherm Adams, but I do say this, that when the House committee inquired into the matter that involved him and involved the rug and some hotel bills and something else, he volunteered to appear before the committee and tell what he knows. I think we would be rendering the majority a service if we didn't have to go to the point of insisting that the committee send for Jenkins, but that is our insistence if he is not going to come.

The CHAIRMAN. May I just say a word or two in connection with that? I personally know who did the investigating of Mr. Jenkins; that a sworn statement on December 11—that is way before this controversy got going—that he answered everything that was necessary to answer. There was no evidence that came from Reynolds that would implicate Jenkins, that anything is wrong, not a thing in the world. The now President made a public statement that he got a hi-fi set. He said he thought it came from Baker. Reynolds testified, if I am not mistaken, and if my memory is not real bad, that Bobby suggested that he give him a hi-fi set, and one to Lyndon; that Bobby got one and—

Senator CURTIS. Who said that?

The CHAIRMAN. My recollection is that the testimony from Reynolds was that Bobby asked him to give him, that he be sent a hi-fi set, and that Mr. Johnson be sent a hi-fi set, and the Senator at that time stated that Bobby told him he was sending him the hi-fi set. Well, that hasn't been questioned. He said he got the hi-fi set. He said it at a news conference. There is no question about the fact that some insurance men thought there was something illegal or irregular about it.

Senator CURTIS. What does Reynolds say about the TV as a sequel to the insurance?

The CHAIRMAN. He says about the same thing. If you go back, I don't think the President said anything about the TV time at all. But Mr. Young testified—and it is right there—that he never did see Mr. Jenkins at all. He doesn't know yet. The only information he had from Jenkins was that somebody called him because he couldn't trust what Reynolds told him; he sought to have somebody verify what he was a little bit worried about as to what Reynolds had told him, and

so forth; that somebody called him, and he thought it was Jenkins, and he said that Jenkins said that this was all right.

But in addition to that, he also testified that Reynolds had told him that—I think this is correct—that he had made arrangements to get \$3,000 worth of time and to let him have it all, and would like for him to have it all, and if he made some money he would split it, and if he didn't he would stand the loss on it, and he finally had to pay \$1,000, \$1,200.

Senator SCOTT. Mr. Chairman, the fact that we are all trying to recall what happened in the Reynolds testimony—

The CHAIRMAN. Here it is.

Senator SCOTT. And some of the Senators have been leafing through it as we talked in trying to refresh their memories; I can't recall all Reynolds' testimony, and I can't remember all that is in Reynolds' affidavit which, as I recall—

Senator CURTIS. Jenkins' affidavit.

Senator SCOTT. Reynolds' subsequent affidavit in which he indicates he wants to be recalled and states and offers to prove with some records attached that Walter Jenkins did make some call to him; I don't think it would be fair to the whole case here to try to push this through tonight for that reason, and for another, and the other one is, that I have had outside counsel prepare for me, which I can push, and by pushing I can get tomorrow a sort of brief, on the status of an affidavit as distinguished from testimony of witnesses in a legislative investigation because my preliminary report from this outside legal source is that the testimony here is the basis for perjury in every case, but that an affidavit where the person volunteers the affidavit is not one on which any basis for perjury can ever be laid.

(At this point in the proceedings, Senator Clark entered the hearing room.)

Senator SCOTT. Therefore, all the witnesses heard before the committee are testifying under the clear implication that they must tell the truth, subject to the penalties for perjury, with the affidavit of Mr. Reynolds which falls not in that category at all. I can give you some more legal information, some more information from an attorney on this tomorrow, but I think in view of the fact that none of us on this side were aware of what the committee would do today, we were asked by many people as to what will the committee do, and I have had to say that I don't know. They have asked, "Will the committee proceed to move to terminate?" I have said, "I don't know."

Senator CURTIS. Will you just yield briefly there?

Senator SCOTT. Yes.

Senator CURTIS. I gather, and maybe I didn't have any right to do so, when the request came for permission to sit all week that was to take testimony. So were the plans changed over the weekend?

Senator PELL. Forgive me; I was there when the Republican minority were asked for permission to sit, and I recall sitting in the well at that time; I think you will agree with me, Senator, that the question of the purpose of the committee's sitting was not raised at all.

Senator CURTIS. No; it was not.

Senator PELL. In my mind—

Senator CURTIS. But the emphasis on all week, the natural inference was that it wouldn't take a week to get you to say "No."

Senator PELL. Forgive me; having had 5 months with you, that is why we thought we needed a week.

Senator CLARK. I certainly thought it would take the week for you gentlemen to make your piece about these witnesses, speak your piece about these witnesses. I am glad it is not going to.

The CHAIRMAN. Let me say this, Senator Scott. The motion of Senator Cooper was the pending business, which you all knew. You knew what was pending business during the recess. We came back and voted on the pending business, with an amendment by Senator Byrd. Then we proceeded to take up just exactly where we went off, and we are taking up in exactly the same order what his motion was made on.

Senator SCOTT. Didn't we have a day's intervening discussion after the pending business was established in which we went into the Hauff affidavit, and a whole lot more, and didn't we read in the press that some witnesses would probably be called in the Hauff investigation, and didn't we have a right to assume that is what we would discuss here?

The CHAIRMAN. That was decided at the Friday meeting, and it has been investigated.

Senator SCOTT. I can only speak for myself, but I am not well prepared to go ahead with these, with the argument of the legal situation certainly, and I can't sit here now and read that whole testimony and the second affidavit of Mr. Reynolds, which becomes very relevant to the purpose of our discussion, at least, and I don't see what is lost by deferring this until tomorrow morning. We have been sitting here from 10 o'clock until 5 o'clock, with a luncheon recess, and I can only speak for myself; I don't know what Senator Cooper or Senator Curtis think about it, but it seems to me that we are not holding up an investigation for which you have a week to take testimony.

(At this point of the proceedings, Senator Hayden entered the committee room.)

The CHAIRMAN. We only have a week, and then we would resume after Easter.

Senator SCOTT. Surely, I think we would finish by tomorrow. There isn't that much here.

Senator CURTIS. What does Jenkins say in his affidavit with reference to Young's testimony?

Mr. McLENDON. Young testified after.

Senator CURTIS. Yes, but what does he say about the transaction, about the sale of the TV time in Texas?

Mr. McLENDON. Very simple and very clear. Mr. Reynolds was handed the affidavit of Mr. Jenkins and was asked to read it on the witness stand. Reynolds was asked to read it.

Senator CURTIS. What did Jenkins say?

Mr. McLENDON. I am answering the question. I will approach it in a different way. He was asked to read the affidavit and make a comment on it. He made only one correction in it. He said the affidavit was correct except in one respect. I said:

What comment, if any, do you have to make about the content of the statements made by Mr. Jenkins in the interview?

Referring to the sworn instrument.

Mr. REYNOLDS. With the general context of it, I agree. But on a couple of points, minor or major, which I am not in a position to judge, I disagree.

Mr. McLENDON. You may state what the disagreement is.

Mr. REYNOLDS. No. 1 is the statement that he had no knowledge of any question of advertising time to be purchased from KTBC, which is a station owned by L.B.J. Co., sir.

Now, the exact language of the Jenkins affidavit on that point is this, and the only thing in the whole affidavit:

Huff Baines referred to by Don Reynolds was an insurance agent in Texas. Mr. Jenkins has no knowledge of any conversation between Mr. Baines and Mr. Reynolds, nor does he have any knowledge of any arrangements by which Reynolds purchased advertising time on the TV station. It is his opinion that Baines was working on the problem of obtaining life insurance on the life of Mr. Johnson, and that he was, to some extent, a competitor of Mr. Reynolds.

Then he went on to say that the only other comment he had to make about the Jenkins affidavit was that, referring to the last paragraph of the Jenkins affidavit which reads:

He—
Jenkins—

that he was never present or a participant in any alleged conversation between Reynolds and Baker where the disposition of the commissions earned by Reynolds as agent for the Manhattan Life Insurance Co. was discussed. He emphatically denied ever suggesting to Robert G. Baker or to Reynolds the L.B.J. Co. should get any sort of rebate from the commissions earned by Reynolds.

That is the second point in the affidavit that Reynolds refers to and he states it this way, my question:

Now, returning to my original question, is there anything else in the report of interview with Mr. Jenkins which you have read since you have been here this morning about which you want to comment? Or to put it differently, is there anything in there that you differ with?

And Reynolds asked me a question which I will read so that you can tell what is going through his mind:

Mr. REYNOLDS. I should like to make an inquiry, sir.

Mr. McLENDON. Yes, sir.

Mr. REYNOLDS. From the information here—and I am not sure I understand, and that is the reason I ask the question, sir—is it to be assumed that this applies to Mr. Walter Jenkins only, and not to any other person of the then Senator Johnson's household—that is, as far as knowledge of this unit?

Mr. McLENDON. That has nothing to do with anybody except the persons he mentioned in the statement—

He, meaning Jenkins.

With that, are you through commenting?

Mr. REYNOLDS. Yes, I am, except the final paragraph, sir.

Mr. McLENDON. All right.

Mr. REYNOLDS. And insofar as Mr. Jenkins says he emphatically denies ever suggesting to Baker or to Reynolds the L.B.J. Co. should get any sort of rebate from the commission earned by Reynolds, I think this is correct, as far as the terminology of rebate, sir, but I do not wish to imply that there was not a question of advertising time directly discussed with him, sir.

Now, that was the only point of conflict.

Senator CURTIS. You said the terminology?

Mr. McLENDON. The terminology is correct where he used the word "rebate."

Senator CURTIS. What does Baines' interview show?

Mr. McLENDON. We don't have Baines' interview.

Senator CURTIS. Is Baines a relative of the then Senator?

Mr. McLENDON. It is my understanding he is a relative of the Senator.

Senator CURTIS. Yes. Did you say he is? Has he been interviewed?

Mr. McLENDON. No, sir; he has not.

The CHAIRMAN. I don't know. Isn't he in that television station? He is an insurance agent.

Mr. McLENDON. He was referred to in the correspondence, I think, that was put in evidence, but the point about that is, the question that was asked Mr. Reynolds about the advertising, and I asked him, you will recall, if during the negotiations for the sale of this insurance if he was informed of a man named Baines who had offered to sell the same amount of insurance at lower rates, and to buy advertising time and his reply was not lower rates. My next question was whether it was comparable rates, and he said yes. I said: "When you got that information, did you agree to meet the competition?" He said, "I did." Now, that is in the record on sworn testimony of Mr. Reynolds.

Senator CURTIS. Which would support the purchase of the—

Mr. McLENDON. Advertising time. The purchase of advertising time—in other words, Reynolds says he agreed to purchase advertising time in order to compete with Baines.

Senator CURTIS. Baines has never been interviewed?

Mr. McLENDON. No, sir.

Senator CURTIS. What page is that on?

Mr. McLENDON. That—

Senator CANNON. Baines didn't get the contract.

Mr. McLENDON. No. Baines was not involved in it except as a competitor.

The CHAIRMAN. As I see it, there is no question about the fact they bought the insurance and that he bought some advertising time. It is all in the record.

Senator CURTIS. Who did they buy it from?

Mr. McLENDON. They bought it from the company.

Senator SCOTT. Through whom?

The CHAIRMAN. If you go back and read the testimony of Mr. Young, every single letter deals directly with the company in purchasing the time. He went down there, put on the show; he had letters from Reynolds. One of them stated that Lady Bird would be glad to have him spend the weekend at the ranch, but he didn't think very much about that.

Senator SCOTT. Mr. Chairman, all that proves again, as you say, how can we decide it tonight if all of us cannot read the testimony?

The CHAIRMAN. Because Reynolds testified.

Senator SCOTT. The issue, I think, that was raised in the Washington Post editorial, which is repeated, in other words, in the New York Times and the Philadelphia Inquirer, they are all very curious, I guess, as the public is, about this. In the case of Walter Jenkins, White House aid, it can scarcely be said, they say, that his testimony would be irrelevant as his name has been directly involved in the past hearings, and the truth of the allegations regarding him has never been established. Now, Reynolds offers an affidavit which he says will further, go further to, establish the truth of the statement, and he offers new

evidence as to what has been referred to as the second kickback on the conversion of the insurance policy which, I believe, involved a premium of \$1,500. He offers confirming testimony of Irma Clements.

Senator CURTIS. Young's testimony.

Senator SCOTT. There is Young's testimony, and there is the testimony of the man who was offering a competing bid. Mr. Baines has never been interviewed. There is the question of the legal status of an affidavit as against testimony, and Mr. Jenkins is put in a highly favorable position there. He is protected against further action, any further legal action whatever, if the affidavit stays without his testimony.

He is the only witness who is protected against further legal action turning on the accuracy or the inaccuracy of his testimony. So all these things I wanted a chance to argue a little bit more at length, and a little more intelligently by virtue of having had a chance to read the testimony. Now, we haven't been give a chance to read it. I don't know what harm is done by letting this go until tomorrow morning. You put a time limit on it tomorrow if you want, but at least give us a chance to discuss it.

The CHAIRMAN. Well, I think you have plenty of time to discuss it right now.

Senator SCOTT. I can't stay here indefinitely.

The CHAIRMAN. I don't want to stay here indefinitely.

Senator PELL. Nor do any of us.

The CHAIRMAN. Senator, you have something you wanted to say?

Senator CANNON. Mr. Chairman, I was just going to comment on Reynolds' last affidavit. To me it doesn't add anything to this thing. He is simply trying to prove he had a telephone conversation or that Jenkins tried to get hold of him on the telephone. That was the purpose of bringing the woman's testimony in. Mr. Jenkins doesn't say anything in his affidavit that he never talked to Reynolds on the telephone. There is so such statement with reference to the affidavit at all in any way, shape, or form and, as counsel has pointed out, if anything, Reynolds has simply agreed that, with one minor exception here, the affidavit of Reynolds is correct. He is in agreement with him.

Senator SCOTT. You mean the affidavit of Jenkins.

Senator CANNON. The affidavit of Jenkins.

Senator SCOTT. I think that is a conclusion rather than a fact.

Senator CANNON. Well, the point is, it seems to me, Mr. Chairman, there are some definite issues here, and these, the issues, that we are concerned with are not controverted. There is no question but what a hi-fi set was given.

Senator CURTIS. By whom?

Senator CANNON. Given by either—the President, when he was a Senator, said he thought it was given by Bobby Baker. Now Bobby Baker has obviously had some interest in this affair because he got money from Reynolds, which is right in the record here, and the set was given; there is no question about it. I don't know that it would make any difference as far as this record is concerned whether it were given directly by Bobby Baker or whether it were given by Mr. Reynolds.

Senator CURTIS. I think the President said, as I recall—

Senator CANNON. I haven't yielded. I think I have the floor. The President said publicly that he thought the gift was from Bobby Baker, and there is nothing to dispute that in here. As a matter of fact, it is referred to again, and this is one of the things that Mr. Reynolds did not find any fault with, at the top of page 95; this is part of Mr. Jenkins' affidavit with respect to the alleged gift of a record player to Mr. and Mrs. Johnson:

Mr. Jenkins stated that he is informed it was a present from Robert G. Baker.

That is not disputed by Mr. Reynolds when he had the opportunity given him by Mr. McLendon to bring out whether he agreed with all of the facts set forth here. So on the second point there is no question but what advertising time was purchased on the station, and Mr. Young has pointed out that he talked, that he personally talked, as I recall, with Mr. Kellam, and made his connections in this matter, and made his deal with Mr. Reynolds. The facts of the advertising are there, and the facts of the hi-fi are there and, Mr. Chairman, I don't see that we are adding anything by getting into a harangue here on something that Reynolds says he agrees with.

Senator CURTIS. What does Jenkins say in response to the sworn testimony of Young about the telephone call?

Senator CLARK. What difference does it make?

Mr. McLENDON. What difference does it make?

Senator CURTIS. It makes all the difference in the world.

Mr. McLENDON. Not a bit, Senator.

Senator CURTIS. It shows Mr. Johnson's office or where it was Bobby Baker that was involved in the requirement of the purchasing of the TV time.

Mr. McLENDON. There is no requirement that he purchase TV time, if you believe Reynolds.

Senator CURTIS. I think there was.

Mr. McLENDON. No.

Senator CLARK. Not according to Reynolds.

Mr. McLENDON. No; not according to Reynolds; there was no requirement. Just as I read it, he bought it competing with Baines.

Senator CURTIS. He talked with Baines.

Senator SCOTT. He also said about future business.

Senator CURTIS. Where did he get the information; from someone in Johnson's office?

Senator SCOTT. He made it very clear it would be very difficult to supply that time because he had the vision that he would get more insurance, there was more insurance that he was looking for.

The CHAIRMAN. In the first place, the L.B.J. Co. purchased this insurance.

Senator CURTIS. Do you distinguish that from the President?

Mr. McLENDON. Certainly.

Senator CURTIS. Who is the beneficiary now?

The CHAIRMAN. The L.B.J. Co.

Senator CURTIS. I thought they changed beneficiaries.

The CHAIRMAN. They converted it into term from regular insurance, and that company is the company that owns the television station.

Senator CURTIS. You cannot distinguish that; you cannot distinguish a man's company from a man.

Senator SCOTT. So much has been said here about there is no difference between one kind of a gift and another, and I ask the question: Is it seriously now being argued that if the gift from Bobby Baker was an exchange of gifts between friends, that that is the same thing as a gift from Reynolds who had just made a substantial sum of money out of an insurance deal, and had received the suggestion from Baker that, in return, he should give two hi-fi's? In the one case, the man has earned some money and he has been told what he can do with part of his profit. In the other case, there is an exchange of gifts, and I don't see how anybody in the world can argue that those are the same thing.

If Bobby Baker gave the hi-fi he could have given it in an exchange of gifts. But if Reynolds gave that hi-fi he made it perfectly clear in his testimony that he was being, I would think a good phrase would be, he was being renegotiated out of part of his commissions, and I believe there is a very great difference. But what I was referring to, and many people, I think, who were speaking here recently are referring to, the affidavit, which is in the record, I am referring to the affidavit of the 9th of March 1964 of Don B. Reynolds who offers to furnish further testimony pertaining to the fact that he had telephone calls from Baker; that Baker made repeated efforts to call him.

The purpose of the call was to advise him that the then Senator desired to know the amount of the rebate or kickback he would receive from a life insurance conversion of \$100,000 term to \$100,000 permanent, retroactive to the date of issuing of the term; that he declined to discuss the matter saying he would get information when he got back to the United States.

He advised certain people when he got back, and thereafter he had certain calls from Walter Jenkins, and offers to prove it by the girl from the telephone answering service. Jenkins asked if the conversion was complete, and he called Jenkins again and was asked "if I received my commission, and I stated I had." He then stated, Mr. Reynolds says, "Whatever I worked out with Mr. Baker should be given to Mr. Baker in cash and Mr. Baker would bring it in."

Now, the answering service girl confirms the existence of the telephone messages, and it seems to me that Mr. Reynolds' affidavit is disputed by—I mean Mr. Jenkins' affidavit is disputed by Mr. Reynolds, by Mr. Young, by further evidence introduced by Mr. Reynolds and by the telephone answering service, and I feel like Senator Curtis does here, that I am really surprised that Walter Jenkins hasn't appeared voluntarily and said, "I would like to clear this up."

I point out again that in other administrations that is the way it was done, and going so far back as the Tea Pot Dome one, I would point out that the President of the United States opened all the Government files to the two investigators.

I just cannot understand why there would be a reluctance to recall Mr. Reynolds or a reluctance to invite Mr. Jenkins to testify. I am sure he wouldn't require a subpoena, and I cannot see, either, why this thing has been so set up from a legal standpoint that every witness who has testified before this committee can be held responsible for perjury if he fails to tell the truth, whereas the submission of an affidavit

voluntarily taken, according to the information I have, which again I say I would have liked to have had a chance to supplement tomorrow, puts it in a different category.

The statute on perjury reads: "In any case in which the law of the United States authorizes an oath to be administered," and so forth, this preliminary language establishes the commission of the crime of perjury under certain circumstances. But the word "authorizes" has been interpreted by the courts to mean requires, so that in any case in which the law of the United States requires an oath to be administered that oath is the basis of perjury and, therefore, the taking of this affidavit, whether this results from someone having received legal advice or not, I don't know, but the taking of this affidavit in this form precludes perjury where the oath is volunteered.

In other words, a voluntary affidavit could not be the basis of perjury. Let me say I am not charging perjury to anyone. I am not indicating any perjury. But I am only pointing out that the right of this committee will be voluntarily surrendered by a vote of this committee if you are satisfied with an affidavit voluntarily submitted as against the appearance of the witness under oath and, therefore, you have precluded any protection to the committee or to the Senate, and I think you ought to have that in mind in any action that you take.

The CHAIRMAN. I just want to say, Senator Byrd, if you will excuse me, I certainly am not a lawyer, and I am not capable of passing on that particular phase of it. But this committee did accept this affidavit as the sworn affidavit of Mr. Jenkins as evidence, and put it in the record. It seems to me that is valid evidence. That is about all I want to say, Senator Byrd.

Senator BYRD. I simply wanted to say that I see no conflict in the testimony given by Mr. Reynolds when he was twice before this committee and the statement as made by Mr. Jenkins in his affidavit. I don't see any issue between the two sets of testimony. Now, as to the information which Mr. Reynolds subsequently indicated he would like to give to this committee, I am at a loss to understand why he didn't give this information to the committee when he was here on two occasions.

Senator SCOTT. He was asked that on television and he said, "They didn't ask me."

Senator BYRD. The major asked him, and it is in the record, as to whether or not there was anything else he would like to testify to, in essence; is that not correct, Major?

Mr. McLENDON. I listed each one of his transactions; I think there were 10 or 11 of them. I went through each one of them with him. This insurance deal happened to be the last one.

Senator SCOTT. Was he asked, Major, about the conversion which he now testifies to, the conversion of the insurance?

Mr. McLENDON. I don't recall that he was, whether he was asked about conversion, but he listed all of his business transactions. I asked him about all of them, and then he went through that long list of payments that he made to Baker, you will remember, which added up to some \$15,000, and included in that \$15,000 was the participation in every one of these instances in which Baker was a so-called finder.

Senator BYRD. Mr. Chairman, if my recollection isn't wrong, and it could be, the major asked him an all-encompassing question to the

effect as to whether or not he had anything else that he would like to testify about.

Mr. McLENDON. I think that is correct, Senator.

The CHAIRMAN. He was here twice, and I think every question that anybody wanted to ask him was asked, because I have never felt yet that anybody should be shut off as to questioning the witnesses. He was asked to testify as to everything he knew, everything that pertained to this case, and I think he did. It is a strange thing to me that he winds up here, 2 or 3 months after this interview, he finds that he has something else which came in there which involved a bunch of money. If it involved—another thing that seems very strange to me is that Baker would call him away down wherever he was, and ask him about something that he couldn't wait to tell him about anyhow.

Senator SCOTT. We will never know these things unless we call him. But I noticed this affidavit and Clements' affidavit are not part of the record, and it would have no more probative value than that of Mr. Jenkins, but it is an answer to the affidavit of Mr. Jenkins, and as to these statements, nothing could be done to the witness if they were inaccurate, but having discussed them, I would like to ask unanimous consent that they be included as part of the record.

The CHAIRMAN. I have discussed that before, as to whether we should put it in the record and make it a part of the record.

Senator SCOTT. I will raise that question tomorrow. We can raise that question tomorrow when Reynolds is discussed here.

Senator COOPER. I have tried to make my own analysis of this issue, and whether it shows it sufficiently. I remember the testimony because I was here, and while I have not read it lately, in substance this is what Reynolds testified to. I think you have got to remember first he was testifying about a transaction about Baker. He then volunteered that he had sold an insurance policy to the then Senator Johnson, and that later Bobby Baker told him he ought to give a hi-fi set to the then Senator Johnson. He said he did. There is no question that it reached Senator Johnson, although Senator Johnson—President Johnson—has said that he thought it came from Baker.

Then Reynolds testified that some time later either Baker or Jenkins, I believe it was Jenkins, told him that he ought to purchase time on a television station and also, I think I asked him, I am not certain so I will leave it out, but he did testify that he did hoping he would secure further business.

Now, I would like to say in my own judgment about the effect of his testimony, either Reynolds or Jenkins, it would not, of course, add anything to the fact of whether in some way the hi-fi was a gift or that was the purchase of TV time. I think I would like to say this, too. There is nothing wrong with the sale of insurance; that this transaction, whatever it was, between—if there was one, between—Jenkins and Reynolds was a transaction about private business and not a transaction about governmental business. I think that ought to be made clear because the President's name has been brought into this.

Persons might differ about the kind of transactions that occurred, but I think it has to be remembered even by people outside that this was not a transaction about Government business, but a transaction about private business. Then the question arises, and this is the question of what value, if any, it would be to have Jenkins testify. This is a different proposition for the reasons I have given, but I think this

is the point, and I join in putting his name on the list, that a cloud has been placed over this incident by alleged differences, some differences in the statements made by Reynolds and Jenkins and, thereby, I think it questions to some extent the desire of the committee to find out what the true facts were with respect to them.

It bears also on the credibility of Reynolds who has testified against Baker, and I would like to say here I join in the feeling that as Reynolds was volunteering, it is rather curious to me that he did not volunteer these additional facts at the time he testified. But I have to, after thinking about it myself, I have to think that there is an unexplained situation which, as I think, I do not think relates to the President at all, but it relates to Jenkins and Baker and Reynolds, and I think it is a fair and proper thing that Jenkins be given the opportunity to testify about it.

I think until that is done that there is an unexplained part of that testimony which leaves a cloud. That is the only way you can solve it, which is by having his testimony.

The CHAIRMAN. Yes, Senator Byrd.

Senator BYRD. In connection with what I said just a few minutes ago, I should like to read into the record the question that was asked by Mr. McLendon which appeared on page 45 of the written testimony of Don B. Reynolds. Mr. McLendon said:

OK. Now, Mr. Reynolds, I ask you and have you testified to all of the business transactions that you had with Baker or in which Baker had been instrumental in promoting? Can you think of any others that we haven't asked you about?

Mr. REYNOLDS. I do not recall any others, sir.

Now, he had an ample opportunity there, Mr. Chairman, to present to the committee any additional information that he had, and he was certainly well advised as to the type of inquiry this committee was conducting, and I must feel that he had the opportunity, and not only did he have the opportunity, but he was asked by committee counsel as to whether or not he had testified to all the business transactions that he had had with Mr. Baker, and he stated positively that he could not recollect any others.

Now, if we bring him back before this committee, why, what assurance do we have that after he appears again he would not go out and state publicly that he knew something else. He had this opportunity once to present all information in his possession, and he wasn't, certainly wasn't, inhibited in any way from presenting it.

Senator SCOTT. He was asked, as I understand it, whether or not he had testified to all the transactions; was that the word?

Senator BYRD. All the business transactions.

Senator SCOTT. All the business transactions. He could answer that perfectly clearly in view of the statement on page 121 where he is asked about the last \$100,000 policy which was handled—

by the Senator himself directly through you and Mr. Sampson, and you got the benefit of it as agent for the company.

Mr. Reynolds says:

Sir, I would like to clarify that.

I went to Walter Jenkins' home, off Connecticut Avenue, to pick up the application and the check itself for the original hundred thousand dollars worth of renewable term. I turned that over to Mr. Sampson. And I also obtained additional medical requirements.

Major McLendon says:

And that was in 1961?

Mr. REYNOLDS. Yes, sir.

Mr. McLENDON. The conversion of the original policies from term insurance to more permanent type occurred in 1962, did it not?

Mr. REYNOLDS. 1963, sir.

Now, Mr. McLendon says:

That is the chronology, is it, with respect to the issuance of these policies?

Mr. REYNOLDS. Yes, sir.

Counsel then says:

I believe that is all, Mr. Chairman.

Now, what Walter Jenkins answers is that he has told you of each of these transactions—I mean Mr. Reynolds. What he offers in his subsequent affidavit is what happened to the property got from that transaction, and when he says here, “I wasn’t asked that question,” he wasn’t, but he was asked a blanket question: “Have you told us about all the business transactions?” and he says, “Yes,” because he has told you about the conversion. But he hasn’t been asked if he shared that money with anyone. I think we all slipped up on it. We should have asked him that and then he wouldn’t have had the necessity for a second affidavit.

The CHAIRMAN. Senator, may I just inject one thing? Senator Williams brought the information in to this committee, turned it over to this committee, the very first information we had about this particular witness. He brought the checks or a facsimile of them, photostatic copy, all information that Don Reynolds had in his file, supposedly, and he has offered no evidence at either time on the stand again, that he had additional evidence. The checks, the invoices, and everything are in the record, and there is no evidence that he ever paid Jenkins any money whatsoever, that Jenkins ever asked for any money. He never would say he did or Jenkins got any money. The only thing in the world that is contained in that is just what is in the record, and Jenkins had nothing to profit by this whatsoever.

Senator CANNON. Mr. Chairman, if I may, there was considerable talk a little while ago about Jenkins supposedly being involved on this hi-fi set. On page 37, Mr. McLendon says:

Now at some time near the time that we are talking about now, did Mr. Baker suggest to you that he thought it would be appropriate or desirable or advisable or did he use any other language indicating that you ought to give a hi-fi set to Senator Johnson who was then Vice President?

Mr. REYNOLDS. Stereo set; yes, sir.

Mr. McLENDON. A stereo set. Did you do that?

Mr. REYNOLDS. Yes, sir.

Mr. McLENDON. Did you buy it from the Magnavox Co.?

Mr. REYNOLDS. Magnavox Co.; yes, sir.

Mr. McLENDON. And did you have it installed in Mr. Johnson’s home in Washington?

Mr. REYNOLDS. Yes, sir.

Mr. McLENDON. Did you pay for that, too?

Mr. REYNOLDS. Yes, sir.

Then the checks were identified, and he was asked again as to at whose suggestion. Mr. McLendon says:

I am not sure you answered my question. Let me ask you again. Was this stereo set bought by you and delivered to Mr. Johnson’s house at the suggestion of Baker?

Mr. REYNOLDS. Yes, sir.

Mr. McLENDON. Did you have any communication whatever with the Senator about it?

Mr. REYNOLDS. No, sir.

Mr. McLENDON. Either before or after you sent it to him?

Mr. REYNOLDS. No, sir.

Mr. McLENDON. At or about the time did you also buy one for Baker?

Mr. REYNOLDS. I think it was previous to this time, sir. I am not sure. I might have paid for it about the same time.

Senator SCOTT. Did you have any communication with Mr. Jenkins about it?

Mr. REYNOLDS. Not about the stereo, sir.

Senator SCOTT. What was your conversation with Mr. Jenkins?

Mr. REYNOLDS. About the advertising, sir.

Senator SCOTT. To which you have testified?

Mr. REYNOLDS. Right.

Senator SCOTT. Mr. Chairman, let us go to page 44. He repeats that on page 44:

Senator PELL. But in this case the suggestion was made to you not by the client but by Mr. Baker?

Mr. REYNOLDS. The advertising time was requested by Mr. Jenkins. The stereo was by Bobby, sir.

That, he does say. This again points up the difficulty of trying to vote on something when we have not had a chance to go through the entire transcript.

Senator CLARK. Mr. Chairman, let me say in that regard, with all due respect to my colleague, he made the categorical statement on the floor a week ago today that there was no question about the fact but what we should call Mr. Jenkins. He had plenty of time before he made those speeches on the floor to read all this record, and he has had a week since. It seems to me that it comes with bad grace now to suggest that he is not ready to vote on this because he wants to do some more work.

Senator SCOTT. I said on the floor that Mr. Jenkins should be called. I didn't say on the floor that I knew when the committee would hold a session or when the committee would be prepared to raise these questions. Today we have acted on a great number of witnesses. We have gone down the list, and at nearly half past 5, being asked to vote on certainly one of the most important issues before this committee, I am simply pointing out that in this intervening period there has not been time to go through the testimony, and I see no reason why that isn't a proper comment. I notice other members of the committee were busily leafing through testimony trying to find out what they wanted.

Senator CLARK. Not I.

The CHAIRMAN. The testimony was brought in since this was brought up. You could have been leafing just as well as the others. I don't want to say this discourteously at all. But they got the information after this was brought up. You didn't bring it with you, did you, Senator Byrd?

Senator BYRD. Oh, no. The excerpt I read into the record.

Senator SCOTT. I take it the chairman wants to take out the word "leaking" because I haven't—

The CHAIRMAN. You said "leafed."

Senator SCOTT. I haven't leaked any of Mr. Reynolds' testimony. Mr. Reynolds will talk to anyone who has talked to him about it.

Senator CANNON. And some people who want—

Senator CURTIS. Mr. Chairman, I would like to call attention to a few things. Reading from Mr. Jenkins' affidavit at page 95, the third paragraph:

For many years, Mr. Jenkins has been looking after the personal affairs of Mr. Johnson, including paying insurance premiums to avoid the lapse of insurance, payment of property taxes, etc.

Now, that is Jenkins. Now, Young stated that he wanted assurances from Bobby that there was something to this TV, and he says that he got a call from a man who said he was Jenkins. I also call your attention to the fact that I do not think you can draw a distinction between the L.B.J. Co. and Mr. Johnson. Mr. Jenkins says in his affidavit on page 94, in the middle of the second paragraph:

Jenkins explained that the company was anxious to get insurance on Mr. Johnson in as large an amount as possible to protect its stock and control because if Mr. Johnson should die, Mrs. Johnson would have to sell some of her stock in the company to pay estate taxes, etc.

You cannot separate the individuals controlling the company from the company and say, "Well, this is an unrelated thing." Furthermore, his affidavit shows that the second \$100,000 of insurance was made payable to the children, and later changed it to the company. Now, I would like to call your attention to page 106 in the testimony near the bottom of the page.

Senator CURTIS. Well, then, do you agree or disagree with this statement of Jenkins that Mr. McLendon, our counsel, has put in the record, as a statement, not of oral testimony but sworn to before a notary public:

"Nor does he have any knowledge of any arrangements by which Reynolds purchased advertising on the TV station."

You would disagree with that?

Mr. REYNOLDS. Completely, sir.

Senator CURTIS. And now, since this has been raised and put in the record, I think you should tell the best you can just what was said by both parties when you reported that you were asked to go see Mr. Jenkins.

Mr. REYNOLDS. I don't remember any of the details whatsoever as to what was said in the conversation. I just said I would go, sir.

Senator CURTIS. I mean after you got there.

Mr. REYNOLDS. Oh, I see what you mean.

To the best of my recollection, sir, he said, "You have failed to purchase any time on the radio-television station."

Senator CURTIS. That you had failed.

Go ahead.

Mr. REYNOLDS. And what were my intentions, sir?

And I told him I was looking for someone that I could purchase time with and stand some chance of recouping up to the full extent of the cost of the amount that I would agree to purchase the time, sir.

Senator CURTIS. Well, then, you had heard about purchasing time before?

Mr. REYNOLDS. If I had heard, it was indirectly through Bobby, but not through Mr. Jenkins, sir.

The CHAIRMAN. You said you had failed to live up to it. So you had agreed to purchase some time way back of that?

Mr. REYNOLDS. Well, Senator Jordan, I don't think I had agreed. I think I told Bobby, to the best of my knowledge, that I would try to work out something so that the radio-television station would have some benefit from me that they would not have gotten had I not arranged it.

Senator CURTIS. Well, now, when you told Bobby that, who brought up that idea of you buying television time down there—you or Bobby?

Mr. REYNOLDS. I did not, sir.

Senator CURTIS. You did not?

Mr. REYNOLDS. No, sir.

Senator CURTIS. And then when you came to Mr. Jenkins' office, he asked you why you had not purchased it?

Mr. REYNOLDS. That is right, sir.

Now, Mr. Jenkins has never been inquired of as to that testimony, and it stands, and the investigation is incomplete, in my opinion. Now, Mr. McLendon referred to a letter of March 19, 1957, of Young to John C. Killam; it is on page 180. A copy of the letter reproduced shows a copy to Walter Jenkins, and over near the middle of the page, a little below the page 181, Mr. McLendon said:

I note it bears a notation at the bottom left-hand corner "copy to Walter Jenkins."

Mr. YOUNG. A copy of this was sent to Walter Jenkins.

(At this point of the proceedings, Senator Clark left the committee room.)

Senator CURTIS. Now, we don't even have any statement from Walter Jenkins in reference to Mr. Young's testimony, not only about the fact that he says that a man named Jenkins over the phone told him he should go ahead, but also that he provided him with copies of the correspondence. Frankly, I am at a loss to know why it would be contended that Mr. Jenkins' testimony is irrelevant unless it is irrelevant. The minority have not waived their rights by any procedure here of having a witness called if we request it, and I think that he should be called here.

Senator CANNON. Mr. Chairman, could we hear from counsel on his position on this matter?

Mr. McLENDON. Mr. Chairman, could I elaborate on what I have already said? The record shows beyond doubt that Mr. Reynolds testified to three things. No. 1, that he bought the advertising time to compete with a competitor; No. 2, that he bought it in hopes that he would build good will with the purchasers of the insurance, or if other insurance came up later he would be given some preference; No. 3, he testified, as Senator Curtis just called your attention to, that when he did talk to Jenkins in response to a telephone call—and he didn't remember whether it was made by Baker or by Jenkins—that he met Jenkins and that Jenkins said, "You haven't lived up to your engagement or your obligations."

Senator Curtis said, "Then you must have had an agreement before you saw him?" He said, "I did." He is asked, "Who did you have it with?" He said, "Baker and not Jenkins." So you have got the man testifying under oath that he didn't make an agreement about the advertising time with Jenkins but with Baker, and he said a half dozen times he made an agreement with Baker and not with Jenkins.

Now, it must be remembered, and I think it is tremendously important at this point, that all this time Reynolds was operating under a contract with Baker, he was advising Reynolds to share his commissions, and—if you take the cost of the two television sets or hi-fi sets and add it to the \$1,208 paid for advertising time, you come out to almost exactly the same percentage that he had paid in early instances, such as the bond premium in connection with the stadium, so the whole thing is consistent with the idea that Reynolds was doing this thing under agreement with Baker. Baker was the finder of the insurance. Jenkins was nothing in the world but an intermediary between the company and Reynolds in handling the details. He does say, in answer to some question of why did he buy it, he states a conclusion, as all of you lawyers know, which would be inadmissible, but he states it as a conclusion that he was required so to do.

Nowhere in this testimony is there anything that Reynolds sat down with Jenkins to agree to buy this advertising time. Nowhere does he say that, and the fact that he later resold the advertising time to Mr. Young; and the fact that all Mr. Young's correspondence shows his dealings were with Mr. Bobbitt and not with Mr. Jenkins—there was one, a copy of a letter to Mr. Jenkins, the question of the price, the rate, the schedule of time, and all those details were raised by Young directly with the home office of the company.

(At this point of the proceedings, Senator Clark entered the committee room.)

Mr. McLENDON. I call your attention to the fact that in Jenkins' affidavit he does not anywhere say that he did not know that Reynolds had bought advertising time. What he says is, and I would like to read it to be sure I don't misquote it—

Senator SCOTT. What page is that?

Mr. McLENDON. I will find it for you.

Senator SCOTT. I see it.

Senator CANNON. Ninety-five.

Mr. McLENDON. Ninety-two. What he says is—

Senator CLARK. What page, Major?

Mr. McLENDON. It is on page 94. This is important, I think, gentlemen. He says:

Huff Baines referred to by Don Reynolds was an insurance agent in Texas. Mr. Jenkins has no knowledge of any conversation between Mr. Baines and Mr. Reynolds, nor does he have any knowledge of any arrangements by which Reynolds purchased advertising time on the TV station.

That is entirely different from saying that he didn't know that Reynolds was buying advertising time. It is a statement under oath that he didn't know anything about the arrangements, and the subsequence of Mr. Young and Mr. Reynolds proved that to be true. All the arrangements were made directly with the station and not through Jenkins. There is no contention that Jenkins ever handled any of the details of the rates or the time or anything of that sort. So, actually, there is no conflict between the two people, Jenkins and Reynolds.

Senator CANNON. I was going to ask you then, in your opinion, in view of this testimony, do you see any conflict on clearing up any points between Jenkins and his affidavit and Reynolds and his sworn testimony?

Mr. McLENDON. No, sir, Senator, and I would like to add to my answer there it wouldn't make a particle of difference in this case so far as this committee is concerned, even if Jenkins had negotiated the sale of advertising time. It was part of a deal by which one man sells insurance and the other man sells advertising time. That is all there is to it.

The CHAIRMAN. Yes. I am going to rule—

Senator CURTIS. I would like to ask the major, would you prepare for us an opinion on the weight of affidavit testimony of the type submitted by Mr. Jenkins as against the sworn testimony not only of Reynolds but Young? Now, Young, so far as I know, there hasn't been a word here that he isn't a man of honor and principle, and when he purchased this time and spent his money and says that the man he believes to be Jenkins called him up and OK'd the contract—

Mr. McLENDON. No.

Senator CURTIS. Or give validity—

Mr. McLENDON. No; confirmed that Reynolds had bought advertising time. He just confirmed that Reynolds had bought advertising time.

Senator CURTIS. And he says he knows nothing about it.

Mr. McLENDON. Who?

Senator CURTIS. Jenkins.

Mr. McLENDON. He said he knows nothing about the arrangements. He doesn't say he didn't know the time had been sold and bought. He merely says he knew nothing about the arrangements.

Senator CURTIS. I wish you would give us an opinion on the weight that should be attached to the sworn testimony and cross-examination because this, after all, this affidavit doesn't have too good ancestry. It was offered here as a staff report. Later on it was taken back and a signature was obtained and subscribed to before a notary public.

Mr. McLENDON. You are in error about that. You are in error about its being offered. It was offered only once.

Senator CURTIS. No. I was present and objected to it going in as an unsworn statement. Now, whether or not there was a record made or not I don't know.

Mr. McLENDON. You could be right, but I have no recollection of ever having read that into the record.

Senator CURTIS. No, no; it was not read into the record, but it was brought up. I mentioned a while ago I did not say there was a formal offer. There was talk of receiving it, putting it into evidence, and I objected to it on the ground it was not sworn.

Mr. McLENDON. I cannot dispute that, Senator, because my recollection isn't that good.

Senator CURTIS. It may have been an informal discussion.

Mr. McLENDON. But since I took the statement from the witness, Mr. Meehan and I, of course, I have a very positive recollection about what occurred, and I recall very distinctly that he said that he hoped that the committee would permit him to submit an affidavit or a sworn statement, and later on, in between the time Reynolds testified the first time and the time he testified the second—he first testified on the 9th, and the second time on the 17th, as I recall—I had someone call Jenkins; I didn't call him myself, and I can't tell you who it was, but it was someone who called him and asked him if he wanted, still wanted, to present a sworn statement, and his reply, "Yes," and I said, "Well, ask him if he wants to write out an affidavit or does he just want to attach an affidavit to this interview," which, by the way, had been sent to him for correction and he made one little correction in it, something about the title of his job, I think. I probably had the title wrong—I am not familiar with the staff titles—and then he prepared this affidavit and attached a copy of the interview and sent it back up here, and I presented it to the committee at his request, and there was no objection to it. It was received in the record, and there was no objection to it.

Senator SCOTT. In the last paragraph Mr. Jenkins states—again we have said it is in the third person; it is only his affidavit in the sense that he read it and it is true to the best of his knowledge and belief.

Mr. McLENDON. That is right.

Senator SCOTT. In the third person appears at the very end :

He states that he was never present or a participant in any alleged conversation between Reynolds and Baker where the disposition of the commissions earned by Reynolds as agent for the Manhattan Life Insurance Co. was discussed. He emphatically denies ever suggesting to Robert G. Baker or to Reynolds the L.B.J. Co. should get any sort of rebate from the commissions earned by Reynolds.

That is very careful language. What Reynolds says in the second affidavit, he had by then been aware of this affidavit, because he stated it was made well afterwards, Reynolds says, and not what Jenkins denies; Reynolds says that the conversation from Jenkins pertained to Reynolds giving not to the L.B.J. Co. but to Baker a part of his commissions on the outside. He has said that \$1,500, part of his commissions, and that Jenkins said, "You give it to Bobby, and he will bring it in."

Here you have a glaring contradiction by a former witness who said that he would like to come in and have the opportunity to make that statement. Now, if he isn't telling the truth, we have competent counsel, and most of the committee are lawyers, and we can certainly find out whether it is true or not. But if you do not call Mr. Jenkins and do not call Mr. Reynolds you leave wide open, just as some of the press have commented, you leave wide open the whole question, because Jenkins doesn't answer Reynolds. Jenkins merely says that the L.B.J. Co. wasn't getting the rebate. Reynolds isn't charging that, certainly not in this affidavit. Reynolds says that the rebate, which he doesn't like to call a rebate but a sharing of his commissions, the amount of which was \$1,500, was solicited by Jenkins, and that the money be given to Baker, and Baker would "bring it in."

Mr. McLENDON. Senator, unintentionally, I am sure, you made two or three erroneous statements. The affidavit says that the—

Senator SCOTT. I couldn't make any mistake in reading the affidavit.

Mr. McLENDON. I think you did. I think you did, with apologies to you. It says in the affidavit :

The purpose of the said call was to advise me that Vice President Lyndon B. Johnson desired to know what amount of relate or kickback of commission he (Johnson) would receive from his life insurance conversion from \$100,000 term to \$100,000 permanent retroactively to the rate of issuance of the term, and I declined to discuss the matter.

Nowhere in this affidavit does Reynolds ever say he paid a cent to Mr. Johnson, the L.B.J. Co., Baker, or Jenkins, or anybody else. He merely says that Baker called him and made the inquiry.

Senator SCOTT. In the first place, I made no mistake in quoting from the affidavit. In the second place, quoting from memory—

Mr. McLENDON. I am sure you were.

Senator SCOTT. I was quoting from memory what I recall Reynolds' later affidavit. I agree that Reynolds himself makes clear they did not actually turn any money over.

Mr. McLENDON. He doesn't say he did.

Senator SCOTT. Some of this he said, of course, in the television interview, and that is when he referred to the \$1,500. I think they wanted about \$700 of it, without defining "them."

Mr. McLENDON. I am sticking with the affidavit. That is not a correct statement about the commissions; \$1,500 is not correct. That is immaterial to the point I am making.

Senator SCOTT. I don't undertake to guarantee everything Mr. Reynolds says is correct or not. I am merely saying that this, taking his affidavit and taking his public statements together, has raised an important issue.

Senator CURTIS. What was the objection to calling Reynolds?

Senator SCOTT. Before the chairman rules, Senator Curtis has made a request before voting that counsel be prepared to give us by tomorrow an opinion on the status of the affidavit of Jenkins as distinguished from the testimony of witnesses who have appeared. I have said that I wanted an opportunity to bring in some further interpretation on this beyond the sketchy information I have. But I believe that if counsel will investigate it he will find that this affidavit in the odd form in which it is taken, in addition, does not put this affidavit on the same basis as testimony taken by witnesses under oath, and that there is no protection left to the committee on the affidavit, and the committee does have protection in its rights to be sure that witnesses tell them, testify, accurately, such protection which it doesn't quite have by reason of the testimony of the other witnesses.

Senator CURTIS. What is the objection to calling Jenkins?

The CHAIRMAN. Senator, in answer to your question, I think this. All the information we need relevant to the whole situation is here in the record, undisputed. There is no argument about the fact that now the present—the hi-fi set, they bought insurance; that is not denied. Baker got a lot of the commissions; we have the checks and everything else. In addition, the information is not relevant to this case at all and does not add to it, and I am going to rule it has nothing to do with the case.

Senator SCOTT. Before you rule, may I make a point of order. There is pending before the committee a request from Senator Curtis that before voting we be given the benefit of and advice of counsel after he has had a chance to check the legal situation, on the difference between the status of this affidavit and the rest of the testimony.

Mr. McLENDON. I can state that right now. I don't need any time to give an opinion on that.

Senator PELL. I wish you would.

The CHAIRMAN. This was unanimously answered for the record.

Senator CLARK. For the record, I think the major ought to answer Senator Scott's inquiry. He says he is prepared to do it.

Mr. McLENDON. The answer is this. The affidavit received in evidence has exactly the same status of any other evidence that is offered to the committee. The probative value—that is, the proof, what it proves, the amount of proof—is a matter for the judgment of the committee, just as it would be for a jury, if a jury were trying this kind of thing. You take into consideration the circumstances, the testimony of Mr. Reynolds, and what is in the affidavit, and you take into consideration one of them is testifying in person before the committee under oath and the other man has filed an affidavit. If you find that Mr. Jenkins' affidavit, when you go into all the evidence, is just as worthy of belief as Mr. Reynolds' testimony under oath, you give it that weight. If you find it was entitled to less weight than the testimony under oath, you give it less weight.

Senator CANNON. You would give it more weight?

Mr. McLENDON. Oh, yes; you would give it more weight if you find a lot of inconsistencies.

Senator SCOTT. Would counsel then contend that a voluntary affidavit can be the basis of perjury under Federal statutes?

Mr. McLENDON. No, sir.

Senator SCOTT. Counsel does admit it is a voluntary affidavit?

Mr. McLENDON. I would answer the question unhesitatingly. The affidavit cannot be the basis of perjury.

Senator SCOTT. Therefore, there is favoritism shown to one witness as compared to another.

Mr. McLENDON. You didn't ask me about favoritism. You asked me what the effect of the affidavit was.

Senator SCOTT. And you say under this affidavit it has a different status from the testimony of a witness under oath.

Senator CURTIS. If a person can testify—

Senator SCOTT. I don't think there is any question about that.

Senator CURTIS. If a person can testify without the penalty of perjury, and I am not implying that Jenkins did—

Senator SCOTT. Neither did I.

Senator CURTIS. If he can testify without facing cross-examination and without the danger of perjury, I would like to have the cases briefed and given to us as to whether or not their testimony stands equal with testimony where the witness is sworn, assuming that it is on a material point, and is subject to the penalties for perjury, and is also subject to appropriate cross-examination.

The CHAIRMAN. Gentlemen, I see no reason to carry this over until tomorrow when we can dispose of it now, and I am going to call for the question. He has answered your question. You can bring up anything else you want to, tomorrow. Call the roll.

Senator COOPER. I made my point clear, I tried to make it clear, that if he be brought before the committee, his testimony wouldn't add anything to the facts that a contract was shown to the committee or a sale of television time was entered into. I am raising the question—there has been a question raised—as to the accuracy of the two witnesses. I have my own views about the credibility of—well, I have some doubts about Reynolds' testimony. But I think Mr. Jenkins is the only one who can raise any cloud which attaches, and for that reason I think he should be called and be brought before the committee.

Senator CANNON. Mr. Chairman, I would only like to say this. It seems to me we are trying to get far afield from a legislative purpose, and actually trying to conduct a trial when we are questioning the matter of whether somebody is or is not going to be prosecuted for perjury. I think that is clearly indicating what the intent is, and that is to go far beyond what our purpose is. I am one who is willing to rely on the advice of the counsel. I think he has clearly stated the legal position, and it seems to me he has made a very clear statement of the facts. I would say this. Had Mr. Jenkins' affidavit not been received in evidence by the committee, this situation would be entirely different. But it was received in evidence without objection, according to the record, by the committee and, therefore, once it is received in evidence it is entitled to the same position as a sworn—as any other sworn testimony before this committee and, therefore, I would suggest that we—

Senator SCOTT. May I say for the record that when the affidavit was received in evidence, it was not received with any commitment on the

part of this Senator that it would serve as a substitute or would waive the right to request Mr. Jenkins to appear, and I don't think the colloquy anywhere will show that there was any such agreement. It was received for what it was worth or, as counsel puts it, it was received with a question of its probative value open as anything else would be received.

Senator CURTIS. Can we find out whether or not it was received in lieu of testimony?

Mr. McLENDON. I don't think it was stated that way, Senator. I just presented it, and there was no objection made to it, and it was inserted in the record, and then Reynolds was examined about it, as I read to you earlier.

Senator CURTIS. When was it put in the record?

Mr. McLENDON. The second day of Reynolds' testimony, which was the 17th, I believe.

Senator CANNON. The 17th of January.

Senator SCOTT. That is the point I am making. Reynolds was examined about Jenkins' testimony but it is not possible to examine Jenkins about Reynolds' testimony.

Mr. McLENDON. It was hardly necessary when Mr. Reynolds agreed to everything except one thing.

Senator SCOTT. I don't concede that a all.

Mr. McLENDON. Reynolds conceded that.

Senator SCOTT. Major, with all due respect, I don't concede that.

Senator CURTIS. You have to read them all together.

Senator SCOTT. No.

The CHAIRMAN. It is getting close to 6 o'clock. The chief clerk will call the roll.

Senator CURTIS. May I ask a question about procedure? I understand, I don't insist on it tonight, that you—it takes time to get ready, but it is understood that this record today, the proceedings, will be made public?

Senator CANNON. We haven't had any vote on it.

The CHAIRMAN. There hasn't been any vote.

Senator CURTIS. Could we ascertain it?

Senator PELL. This is my own view, and unless I am dissuaded it would be unwise to do it, it would seem to me the correct thing so that we don't get wrong little leaks of bits of information leaking to the press.

Mr. McLENDON. I would like to raise a personal privilege there. You put me in the position of having said some pretty ugly things about some individuals if you publish it as written. I don't think the committee ought to do that. On the one hand, you ask me to be frank, and when I am frank you publicize it.

Senator SCOTT. I have no objection to the major having permission to remove any comments or asking any Senator to remove the reply if he wishes. I don't want anything in the record to show any ill feeling of any kind.

Mr. McLENDON. No.

Senator CURTIS. What we have made public is what we voted on.

The CHAIRMAN. Let us vote on it first.

Senator CLARK. I suggest, as a matter of procedure, that we vote on the Reynolds question and then we consider before we adjourn tonight, on the Jenkins matter, and then before we adjourn tonight

we consider the question of what publicity, if any, and when, we are going to give as to the executive session.

The CHAIRMAN. The chief clerk will call the roll.

Mr. HARRISON. All right. The question is, as I understand the ruling of the Chair, that Walter Jenkins shall not be called. Mr. Hayden?

Senator HAYDEN. Aye.

Mr. HARRISON. Mr. Cannon?

Senator CANNON. Aye.

Mr. HARRISON. Mr. Pell?

Senator PELL. Aye.

Mr. HARRISON. Mr. Clark?

Senator CLARK. Aye.

Mr. HARRISON. Mr. Byrd of West Virginia?

Senator BYRD. Aye.

Mr. HARRISON. Mr. Curtis?

Senator CURTIS. No.

Mr. HARRISON. Mr. Cooper?

Senator COOPER. No.

Mr. HARRISON. Mr. Scott?

Senator SCOTT. No.

Mr. HARRISON. Mr. Chairman?

The CHAIRMAN. Aye.

Mr. HARRISON. The vote is six ayes and three nays.

Senator CLARK. Mr. Chairman, may I have the floor?

Mr. Chairman—

Senator CURTIS. Mr. Chairman—

Senator CLARK. I have been granted the floor, so please give me some decent courtesy.

Senator CURTIS. I don't want any more to have a part of what is being done here.

Senator CLARK. Go on and walk out. You are going to leak all of this to the press in violation of the rules of this committee.

Senator CURTIS. I am going to have nothing to do with this.

Senator CLARK. You are going to tell the press everything that went on in executive session.

Senator CURTIS. I am going to do nothing, have nothing to do with it. You haven't called a witness the Republicans have asked.

Senator CLARK. You are going to leak confidential information to the press right now, and there he goes doing it. Mr. Chairman, I suggest—

(At this point of the proceedings, Senator Curtis left the committee room.)

Senator CLARK. I suggest that the testimony taken today shall be transcribed, should be submitted to each member of the committee and to counsel for review to see which parts, if any, members of the committee and/or counsel desire to have deleted, and then—

Senator COOPER. To do what?

Senator SCOTT. Desire to be deleted.

Senator CLARK. And then the committee come back to another executive session, at which time we can make a suggestion as to what to do with the suggestions for deletions, and with respect to giving the press the testimony, and that if that is agreeable to the chairman

and the majority of the committee, that the chairman be authorized to tell the press that decision tonight.

Senator COOPER. I would suggest then deletions be considered by the chairman—

Senator CLARK. That is what I said.

Senator COOPER (continuing). And counsel so that nothing of substance is deleted.

Senator CLARK. That is what I said.

Senator SCOTT. Yes. I think it ought to be understood that we don't remove anything of substance; but if counsel, who is quite right that he is required to be candid, he is often required to be blunt—

Mr. McLENDON. That is right.

Senator SCOTT (continuing). And I don't want counsel to feel that any injustice is worked on him, and if that requires the removal of something counsel said, and in reply to it, which is not relevant to anything else that happened, I think that would be only fair to counsel. But I don't think matters of substance should be deleted.

Mr. McLENDON. No.

Senator CANNON. Mr. Chairman, I think Senator Clark's suggestion was that then we meet in executive session and consider those matters.

Senator CLARK. Exactly.

Senator CANNON. In other words, that there would be no deletions until they were suggested after counsel had had the opportunity to check the record, and we would then decide it.

Senator SCOTT. Someone has said we should be free to state how the vote went. When I came back here after lunch the press was well informed on the decision that was taken this morning. I had not talked to any of them. I had gone to lunch, and the conversations I had were not with members of the press. I think we ought to be free to tell them that on these cases there were such-and-such votes because they will know it in 10 minutes anyway. We might as well reserve that privilege to all Senators.

Senator CLARK. Mr. Chairman, I have no objection to that. I don't know how the chairman feels.

Senator SCOTT. We have not acted on George Sampson, and I don't think we should in Senator Curtis' absence.

Senator CLARK. I think the record should note that Senator Curtis walked out before the committee adjourned saying that he would have nothing to do with the proceeding, which is quite unusual action for the ranking minority member to take.

Senator SCOTT. He said with these proceedings.

Senator COOPER. I would guess he will be back.

Mr. McLENDON. I would like, before the committee recesses, to call attention to a situation that developed here while we were in the room—

The CHAIRMAN. Was it the opinion of the committee that we ought to announce the witnesses that we did discuss and the vote taken on them?

Senator CLARK. Mr. Chairman, before we get to that could we have either without objection or by a vote or a ruling on whether my suggested procedure for handling the release of the testimony taken in executive session is agreeable to the majority and the minority? Do you have any objection to that?

Senator SCOTT. I have no objection as long as the intent is ultimately to release it.

Senator PELL. I withdraw my motion for complete release in favor of Senator Clark's more sensible one.

Senator SCOTT. If we can remove what seem to be unnecessary statements, I will second the motion.

Senator CLARK. All right.

The CHAIRMAN. Anything that can be released, I mean can be deleted, by the vote of the committee.

Senator SCOTT. Yes. That is all right with me as long as the committee understands that it will not attempt to delete matters of substance.

The CHAIRMAN. Oh, yes; certainly.

Senator SCOTT. They don't want to change what anybody said.

The CHAIRMAN. Without objection we will agree to Senator Clark's motion, which was seconded by Senator Scott.

Mr. McLENDON. May I brief the committee—

The CHAIRMAN. I want to just say one more thing. What is your pleasure about releasing these names and the disposition made of them?

Senator PELL. I think we should.

Senator CLARK. I think we should.

Senator CANNON. I would move that the chairman be authorized to release the names of and the votes on the witnesses who were proposed as witnesses, who were voted on today.

Senator SCOTT. I agree with that, but I am certainly going to feel that any member is free to mention the same vote with the understanding—

Senator CANNON. Certainly.

The CHAIRMAN. Senator Byrd, you had something?

Senator BYRD. No. I was going to make the same motion that the chairman be permitted to state to the press the actions taken by the committee today.

Senator CLARK. Mr. Chairman, I think we should also determine whether we are going to meet tomorrow and, if so, when.

The CHAIRMAN. Oh, yes; we are going to meet tomorrow, and we will be recessed until 10 tomorrow. We want to keep plugging on this thing. We have got a long way to go.

Senator CLARK. Mr. Chairman, I move we stand in recess—

Mr. McLENDON. Wait a minute. I have got a ticklish little problem here.

The CHAIRMAN. He has got something that came up since we have been in here.

Mr. McLENDON. I was able to make arrangements to have Mr. Hautt inspect the work papers that he has used in the preparation of Baker's individual income tax returns. He did that this afternoon with one of our investigators, and before he went over there he called me out in the anteroom and wanted to know whether he should talk to Senator Williams. I said, "By all means, after you have seen the papers so you can tell him what you found."

I am told by an investigator that after he came back from an inspection of the worksheets that he did go to Senator Williams, and then he comes back and tells our investigators that Senator Williams said for him to tell the press and television and radio and anybody he wanted

to anything he knew about this matter. I had nothing to do with that, and I don't know what he said out there, but I want you gentlemen to know that all that took place while we were working here this afternoon. I am responsible for the man going to Senator Williams if he wanted to. But I told him——

Senator CANNON. Mr. Chairman, I suggest we invite Senator Williams to come in and sit in on the meetings so that we would have the benefit of his assistance a little more directly.

Senator PELL. Make him an honorary member.

Senator CLARK. Maybe he would be bound by executive rules of behavior.

Mr. McLENDON. The probabilities are he hasn't said anything that he wouldn't testify to.

Senator CLARK. Major, did you find out any discrepancies?

Mr. McLENDON. I haven't been able to talk to him, but I assume——

Senator SCOTT. In other words, did he get his work papers from the Internal Revenue?

Mr. McLENDON. No, sir. That is sort of a secret, but I was able to get them and make them available to him.

Senator SCOTT. It is not a secret that the committee wouldn't learn about?

Mr. McLENDON. No; no.

Senator SCOTT. The committee would be able to learn it tomorrow?

Mr. McLENDON. It would.

Senator SCOTT. What I mean is, could we have the reports that the investigators have made up to date available tomorrow?

Mr. McLENDON. I was hoping we could put the evidence on, perhaps, in public hearing.

Senator CLARK. Tomorrow?

Mr. McLENDON. Either tomorrow afternoon or morning.

Senator SCOTT. I think we ought to see that. I am not prepared to conduct a cross-examination of anyone unless I have seen the investigation. I have asked for it a number of times now, and I repeat it again. I would like to have, tomorrow, the investigators to supply us with anything they have, whatever investigator talked to Internal Revenue, who they saw, what returns, and so forth, along those lines, so that before you called Mr. Hauff we will have the benefit of the background information and we will know what questions to ask him.

Mr. McLENDON. Well, I don't know how long it will take for the investigators to write up the reports.

Senator SCOTT. I am not talking so much about the reports of the last 2 or 3 days, but over the period of the investigation. The investigators have looked at income tax returns?

Mr. McLENDON. Yes.

Senator SCOTT. From time to time they made notes from them?

Mr. McLENDON. Yes.

Senator SCOTT. I would like to know that whole story; what they know.

Mr. McLENDON. Oral reports as well as written?

Senator SCOTT. Oral and written. I would like to see what notes they made of it.

Mr. McLENDON. Suppose we try to do this; we will have the oral report made of any that are not in writing.

Senator SCOTT. If it is not in writing, but if you have anything—
Mr. McLENDON. To try to present the evidence at the public hearing on Wednesday.

Senator SCOTT. I suggest a hearing on Wednesday. After all, we ought to have a little time to see it. We ought to have, even, a little time in which to review. All I ask tomorrow is that we be informed of whatever counsel or the investigators came up with; that is all.

Mr. McLENDON. That is about the irregularity of the income tax returns?

Senator SCOTT. Yes; and then if you want witnesses here Wednesday, I have no objection. But let us not put anything on tomorrow, and then you are under a time limitation tomorrow, which inhibits anything we can ask.

Mr. McLENDON. Let me be clear on that.

Senator SCOTT. I want to be in the position of putting a witness on and having the proper notes. Then I can question him. I do not want to be in the position of not having the notes when I cannot question him.

Mr. McLENDON. Let me ask if your request goes to the income tax returns and not to the office.

Senator SCOTT. I am not asking anything about Hauff, except I would like to see the written records and the oral report up to that, and then the report on Hauff.

Senator CANNON. We are going to meet at 10?

The CHAIRMAN. 10 o'clock.

Senator CANNON. Could I ask whether Senator Scott can have his witnesses, your list of witnesses, sort of segregated?

Senator SCOTT. Yes; I will try to segregate them.

(Whereupon, at 6:10 p.m., the committee was in recess, to reconvene at 10 a.m., Tuesday, March 24, 1964.)



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