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DISCLOSURE OF FINANCIAL INTERESTS BY PERSONS
ENGAGED IN THE OPERATION OF THE
FEDERAL GOVERNMENT

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DOCUMENTS

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HEARING

BEFORE THE

SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS

OF THE

COMMITTEE ON

RULES AND ADMINISTRATION

UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

S. 343 and S. 344

TO PROMOTE PUBLIC CONFIDENCE IN THE LEGISLATIVE,
EXECUTIVE, AND JUDICIAL BRANCHES OF THE
GOVERNMENT OF THE UNITED STATES

NOVEMBER 4, 1971

Printed for the use of the Committee on Rules and Administration



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1972

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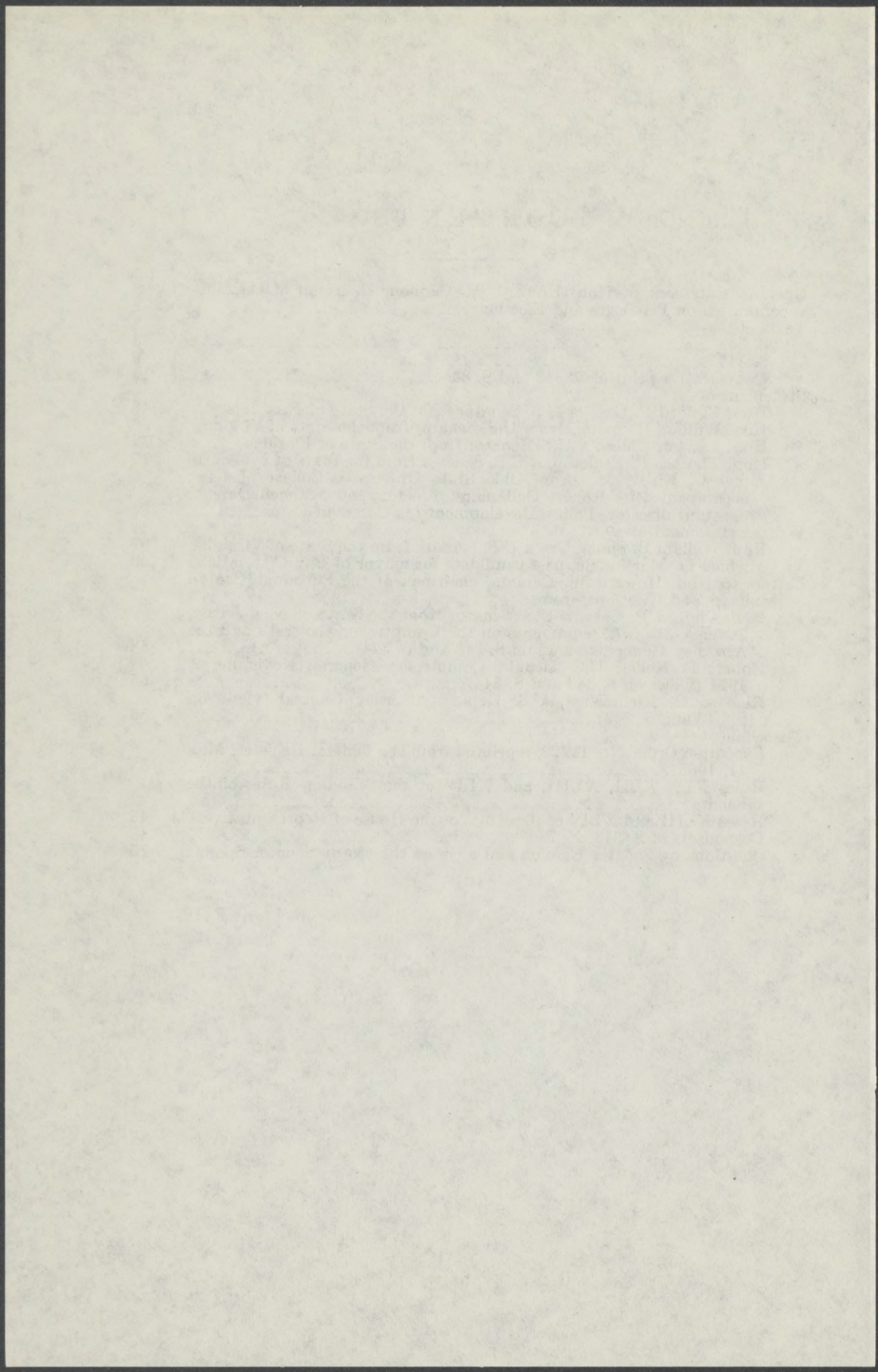
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DISCLOSURE OF FINANCIAL INTERESTS BY PERSONS ENGAGED IN THE OPERATION OF THE FEDERAL GOVERNMENT

THURSDAY, NOVEMBER 4, 1971

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

The subcommittee met, pursuant to call, at 10:08 a.m. in room 301, Old Senate Office Building, Senator Howard W. Cannon (chairman of the subcommittee) presiding.

Present: Senators Cannon (presiding), Stevens, and Scott.

Subcommittee staff present: James H. Duffy, chief counsel; James S. Medill, minority counsel; and Mary G. Daly, secretary.

Full committee staff present: Gordon F. Harrison, staff director; Hugh Q. Alexander, chief counsel; Burkett Van Kirk, minority counsel; John P. Coder, professional staff member; Peggy Parrish, staff assistant; Kay Ballard Chain, secretarial assistant; and Jack Sapp, editorial assistant.

OPENING STATEMENT OF HON. HOWARD W. CANNON, CHAIRMAN, SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS

Senator CANNON. The meeting will come to order. Pending before the subcommittee today are S. 343, introduced by Senator Case, and S. 344, introduced by Senator Spong, proposing public disclosure by certain officers and employees of all branches of the Federal Government.

The executive branch has prescribed certain standards of ethical conduct for Government officers and employees for many years; the most recent are included in Executive Order No. 11222, dated May 8, 1965.

More recently the Senate adopted several rules of conduct for its Members, officers, and employees on March 22, 1968, embodied in Senate Rules Nos. XLI, XLII, XLIII, and XLIV of the Standing Rules of the Senate.

And, on April 3, 1968, the House of Representatives adopted a code of ethics for its Members, officers, and employees which appears in rules XLIII and XLIV of the Rules of the House of Representatives.

Without objection, I will insert in the hearing record at this point the texts of S. 343 and S. 344, the comparative print of the two bills, Executive Order No. 11222, the Senate rules of conduct, and the House code of ethics.

(The material referred to follows :)

92D CONGRESS
1ST SESSION

S. 343

IN THE SENATE OF THE UNITED STATES

JANUARY 27 (legislative day, JANUARY 26), 1971

Mr. CASE (for himself, Mr. CHURCH, Mr. HARRIS, Mr. HART, Mr. JAVITS, Mr. MANSFIED, Mr. MATHIAS, Mr. MONDALE, Mr. MOSS, Mr. PERCY, Mr. PROXIMIRE, Mr. SCOTT, and Mr. SPONG) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To promote public confidence in the legislative, executive, and judicial branches of the Government of the United States.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) each Member of the Senate and the House of
4 Representatives (including the Resident Commissioner),
5 each civil or military officer of the executive branch or any
6 department or agency thereof, each judge or justice of a
7 court of the United States, and each employee of the legis-
8 lative, executive, or judicial branch of the Government of
9 the United States or any department or agency thereof who

1 is compensated at a rate in excess of \$18,000 per annum
2 shall file annually, and each individual who is a candidate
3 of a political party in a general election for the office of
4 Senator or Representative, or Resident Commissioner in the
5 House of Representatives but who, at the time he becomes
6 a candidate, does not occupy any such office, shall file within
7 one month after he becomes a candidate for such office, with
8 the Comptroller General a report containing a full and com-
9 plete statement of—

10 (1) the amount and source of each item of income,
11 each item of reimbursement for any expenditure, and
12 each gift or aggregate of gifts from one source (other
13 than gifts received from any relative or his spouse)
14 received by him or by him and his spouse jointly during
15 the preceding calendar year which exceeds \$100 in
16 amount or value; including any fee or other honorar-
17 ium received by him for or in connection with the prepa-
18 ration or delivery of any speech or address, attendance
19 at any convention or other assembly of individuals, or
20 the preparation of any article or other composition for
21 publication, and the monetary value of subsistence, en-
22 tertainment, travel, and other facilities received by him
23 in kind;

24 (2) the value of each asset held by him, or by
25 him and his spouse jointly, and the amount of each lia-

1 bility owed by him, or by him and his spouse jointly,
2 as of the close of the preceding calendar year;

3 (3) all dealings in securities or commodities by
4 him, or by him and his spouse jointly, or by any person
5 acting on his behalf or pursuant to his direction during
6 the preceding calendar year; and

7 (4) all purchases and sales of real property or
8 any interest therein by him, or by him and his spouse
9 jointly, or by any person acting on his behalf or pur-
10 suant to his direction, during the preceding calendar
11 year.

12 (b) Except as hereinbefore provided, reports required
13 by this section (other than reports so required by candi-
14 dates of political parties) shall be filed not later than April
15 30 of each year. In the case of any person who ceases,
16 prior to such date in any year, to occupy the office or posi-
17 tion the occupancy of which imposes upon him the report-
18 ing requirements contained in subsection (a) shall file such
19 report on the last day he occupies such office or position, or
20 on such later date, not more than three months after such
21 last day, as the Comptroller General may prescribe.

22 (c) Reports required by this section shall be in such
23 form and detail as the Comptroller General may prescribe.
24 The Comptroller General may provide for the grouping

1 ings in securities or commodities, and purchases and sales
2 of real property, when separate itemization is not feasible
3 or is not necessary for an accurate disclosure of the income,
4 net worth, dealing in securities and commodities, or pur-
5 chases and sales of real property of any individual.

6 (d) Each report required by this section shall be made
7 under penalty for perjury. Any person who willfully fails to
8 file a report required by this section, or who knowingly and
9 willfully files a false report under this section, shall be fined
10 \$2,000, or imprisoned for not more than five years, or both.

11 (e) All reports filed under this section shall be main-
12 tained by the Comptroller General as public records which,
13 under such reasonable regulations as he shall prescribe, shall
14 be available for inspection by members of the public.

15 (f) For the purposes of any report required by this
16 section, an individual shall be considered to have been a
17 Member of the Senate or House of Representatives, a Resi-
18 dent Commissioner, or an officer or employee of the legisla-
19 tive, executive, or judicial branch of the Government of the
20 United States or any department or agency thereof, during
21 any calendar year if he served in any such position for more
22 than six months during such calendar year.

23 (g) As used in this section—

24 (1) The term "income" means gross income as defined
25 in section 61 of the Internal Revenue Code of 1954.

1 (2) The term "security" means security as defined in
2 section 2 of the Securities Act of 1933, as amended (15
3 U.S.C. 77b).

4 (3) The term "commodity" means commodity as de-
5 fined in section 2 of the Commodity Exchange Act, as
6 amended (7 U.S.C. 2).

7 (4) The term "dealings in securities or commodities"
8 means any acquisition, holding, withholding, use, transfer,
9 disposition, or other transaction involving any security or
10 commodity.

11 (5) The term "court of the United States" means each
12 court so defined by section 451, title 28, United States Code,
13 and each of the following courts: the District Court of the
14 Virgin Islands, the District Court of Guam, the Tax Court
15 of the United States, and the Court of Military Appeals.

16 SEC. 2. Section 5 of the Administrative Procedure Act
17 (5 U.S.C. 1004) is amended by inserting at the end thereof
18 the following new subsection:

19 “(e) COMMUNICATIONS TO AGENCY.—All written com-
20 munications and memorandums stating the circumstances,
21 source, and substance of all oral communications made to
22 the agency, or any officer or employee thereof, with respect
23 to such case by any person who is not an officer or employee
24 of the agency shall be made a part of the public record of

1 such case. This subsection shall not apply to communica-
2 tions to any officer, employee, or agent of the agency en-
3 gaged in the performance of investigative or prosecuting
4 functions for the agency with respect to such case.”

S. 344

IN THE SENATE OF THE UNITED STATES

JANUARY 27 (legislative day, JANUARY 26), 1971

Mr. SPONG (for himself and Mr. CASE) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To promote public confidence in the legislative, executive, and judicial branches of the Government of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) (1) each Member of the Senate and House of
4 Representatives (including Delegate and Resident Commis-
5 sioner), each officer and employee of the United States
6 or any department or agency thereof (including each offi-
7 cer and enlisted person in the Armed Forces) who (A)
8 receives a salary at a rate of \$18,000 or more per annum
9 or (B) holds a position of grade GS-14 or above (or of
10 equivalent rank), each judge or justice of a court of the
11 United States, and each member, chairman, or other officer
12 of the national committee of a major political party shall

1 file annually with the Comptroller General a report in ac-
2 cordance with the provisions of paragraph (3) of this
3 subsection.

4 (2) Each individual who is a candidate of a political
5 party in a general election for the Office of Senator or Rep-
6 resentative, or Delegate or Resident Commissioner in the
7 House of Representatives but who, at the time he becomes
8 a candidate, does not occupy any such office, shall file within
9 one month after he becomes a candidate for such office, with
10 the Comptroller General a report in accordance with the
11 provisions of paragraph (3) of this subsection.

12 (3) Reports required to be filed under this subsec-
13 tion shall contain a full and complete statement of—

14 (A) the amount and source of each item of income,
15 each item of reimbursement for any expenditure, and
16 each gift or aggregate of gifts from one source (other
17 than gifts received from any relative or his spouse)
18 received by him or by him and his spouse jointly dur-
19 ing the preceding calendar year which exceeds \$100
20 in amount or value, including any fee or other honorar-
21 ium received by him for or in connection with the
22 preparation or delivery of any speech or address, at-
23 tendance at any convention or other assembly of indi-
24 viduals, or the preparation of any article or other com-
25 position for publication, and the monetary value of

1 subsistence, entertainment, travel, and other facilities
2 received by him in kind;

3 (B) the value of each asset held by him, or by
4 him and his spouse jointly, the amount of each liability
5 owed by him, or by him and his spouse jointly, as of
6 the close of the preceding calendar year;

7 (C) all dealings in securities or commodities by
8 him, or by him and his spouse jointly, or by any person
9 acting on his behalf or pursuant to his direction during
10 the preceding calendar year; and

11 (D) all purchases and sales of real property or any
12 interest therein by him, or by him and his spouse jointly,
13 or by any person acting on his behalf or pursuant to his
14 direction, during the preceding calendar year.

15 (b) Except as hereinbefore provided, reports required
16 by this section (other than reports so required by candidates
17 of political parties) shall be filed not later than April 30 of
18 each year. In the case of any person who ceases, prior to such
19 date in any year, to occupy the office or position the occu-
20 pancy of which imposes upon him the reporting requirements
21 contained in subsection (a) shall file such report on the last
22 day he occupies such office or position, or on such later date,
23 not more than three months after such last day, as the
24 Comptroller General may prescribe.

25 (c) Reports required by this section shall be in such

1 form and detail as the Comptroller General may prescribe.
2 The Comptroller General may provide for the grouping of
3 items of income, sources of income, assets, liabilities, dealings
4 in securities or commodities, and purchases and sales of real
5 property, when separate itemization is not feasible, or is
6 not necessary for an accurate disclosure of the income, net
7 worth, dealing in securities and commodities, or purchases
8 and sales of real property of any individual.

9 (d) Each report required by this section shall be made
10 under penalty for perjury. Any person who willfully fails to
11 file a report required by this section, or who knowingly and
12 willfully files a false report under this section, shall be fined
13 \$2,000, or imprisoned for not more than five years, or both.

14 (e) All reports filed under this section shall be main-
15 tained by the Comptroller General as public records which,
16 under such reasonable regulations as he shall prescribe, shall
17 be available for inspection by members of the public.

18 (f) For the purposes of any report required by this
19 section, an individual shall be considered to have been a
20 Member of the Senate or House of Representatives, a Dele-
21 gate or Resident Commissioner, or an officer or employee
22 of the legislative, executive, or judicial branch of the Gov-
23 ernment of the United States or any department or agency
24 thereof, during any calendar year if he served in any such

1 position for more than six months during such calendar year.

2 (g) As used in this section—

3 (1) The term “income” means gross income as defined
4 in section 61 of the Internal Revenue Code of 1954.

5 (2) The term “security” means security as defined in
6 section 2 of the Securities Act of 1933, as amended (15
7 U.S.C. 77b).

8 (3) The term “commodity” means commodity as de-
9 fined in section 2 of the Commodity Exchange Act, as
10 amended (7 U.S.C. 2).

11 (4) The term “dealings in securities or commodities”
12 means any acquisition, holding, withholding, use, transfer,
13 disposition, or other transaction involving any security or
14 commodity.

15 (5) The term “court of the United States” means each
16 court so defined by section 451, title 28, United States Code,
17 and each of the following courts: the District Court of the
18 Virgin Islands, the District Court of Guam, the Tax Court
19 of the United States, and the Court of Military Appeals.

20 (6) The term “major political party” means any politi-
21 cal party whose candidate for the office of President of the
22 United States received more than 15 per centum of the total
23 popular votes cast for all candidates for such office in the
24 most recent presidential election. For the purposes of this
25 paragraph, each vote cast for the election of a presidential

1 elector shall be considered to be a popular vote cast for the
2 candidate supported by the elector for whom the vote was
3 cast.

4 SEC. 2. Section 554 of title 5, United States Code, is
5 amended by inserting at the end thereof the following new
6 subsection:

7 “(f) COMMUNICATIONS TO AGENCY.—All written com-
8 munications and memorandums stating the circumstances,
9 source, and substance of all oral communications made to
10 the agency, or any officer or employee thereof, with respect
11 to such case by any person who is not an officer or em-
12 ployee of the agency shall be made a part of the public record
13 of such case. This subsection shall not apply to communica-
14 tions to any officer, employee, or agent of the agency engaged
15 in the performance of investigative or prosecuting functions
16 for the agency with respect to such case.”

[COMMITTEE PRINT]

October 21, 1971

**COMPARATIVE PRINT OF
S. 343 and S. 344
92d Congress**

**Bills To Promote Confidence in the Legis-
lative, Executive, and Judicial Branches
of the Government of the United States**

**Printed for the Use of the
Committee on Rules and Administration
United States Senate**

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(II)

[COMMITTEE PRINT]

October 21, 1971

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92^D CONGRESS
1ST SESSION

S. 343

IN THE SENATE OF THE UNITED STATES

JANUARY 27 (legislative day, JANUARY 26), 1971

Mr. CASE (for himself, Mr. CHURCH, Mr. HARRIS, Mr. HART, Mr. JAVITS, Mr. MANSFIELD, Mr. MATHIAS, Mr. MONDALE, Mr. MOSS, Mr. PERCY, Mr. PROX-
MIRE, Mr. SCOTT, and Mr. SPONG) introduced the following bill; which was
read twice and referred to the Committee on Rules and Administration

92^D CONGRESS
1ST SESSION

S. 344

IN THE SENATE OF THE UNITED STATES

JANUARY 27 (legislative day, JANUARY 26), 1971

Mr. SPONG (for himself and Mr. CASE) introduced the following bill; which
was read twice and referred to the Committee on Rules and Administration

A BILL

To promote public confidence in the legislative, executive, and judicial branches of the Government of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That (a) each Member of the Senate and the House of
4 Representatives (including the Resident Commissioner),
5 each civil or military officer of the executive branch or any
6 department or agency thereof, each judge or justice of a
7 court of the United States, and each employee of the legis-
8 lative, executive, or judicial branch of the Government of
9 the United States or any department or agency thereof who

1. Does not include "Delegate".

2. Includes other Federal officers and employees and members of the Armed Forces in general terms, plus candidates.

3. Does not include chairman, officers and members of the national committee of a major political party.

S. 344

A BILL

To promote public confidence in the legislative, executive, and judicial branches of the Government of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) (1) each Member of the Senate and House of
4 Representatives (including Delegate and Resident Commis-
5 sioner), each officer and employee of the United States
6 or any department or agency thereof (including each offi-
7 cer and enlisted person in the Armed Forces) who

1. Specifically includes "Delegate".
2. Specifically includes members of the Armed Forces; Federal judges; officers, members, and chairman of the national committee of a major political party; and candidates.

6

S. 343

1 is compensated at a rate in excess of \$18,000 per annum
2 shall file annually, and each individual who is a candidate
3 of a political party in a general election for the office of
4 Senator or Representative, or Resident Commissioner in the
5 House of Representatives but who, at the time he becomes
6 a candidate, does not occupy any such office, shall file within
7 one month after he becomes a candidate for such office, with
8 the Comptroller General a report containing a full and com-
9 plete statement of—

**Includes those who are compensated at an annual rate *in*
excess of \$18,000.**

S. 344

7

8 (A) receives a salary at a rate of \$18,000 or more per
9 annum or (B) holds a position of grade GS-14 or above
10 (or of equivalent rank), each judge or justice of a court of
11 the United States, and each member, chairman, or other
12 officer of the national committee of a major political party
1 shall file annually with the Comptroller General a report in
2 accordance with the provisions of paragraph (3) of this
3 subsection.

4 (2) Each individual who is a candidate of a political
5 party in a general election for the Office of Senator or Rep-
6 resentative, or Delegate or Resident Commissioner in the
7 House of Representatives but who, at the time he becomes
8 a candidate, does not occupy any such office, shall file within
9 one month after he becomes a candidate for such office, with
10 the Comptroller General a report in accordance with the
11 provisions of paragraph (3) of this subsection.

12 (3) Reports required to be filed under this subsec-
13 tion shall contain a full and complete statement of—

**Includes those who are compensated at an annual rate of
\$18,000 or more, or who hold grade GS-14 or above, or equiva-
lent rank.**

8

S. 343

10 (1) the amount and source of each item of income,
11 each item of reimbursement for any expenditure, and
12 each gift or aggregate of gifts from one source (other
13 than gifts received from any relative or his spouse)
14 received by him or by him and his spouse jointly during
15 the preceding calendar year which exceeds \$100 in
16 amount or value; including any fee or other honorar-
17 ium received by him for or in connection with the prepa-
18 ration or delivery of any speech or address, attendance
19 at any convention or other assembly of individuals, or
20 the preparation of any article or other composition for
21 publication, and the monetary value of subsistence, en-
22 tertainment, travel, and other facilities received by him
23 in kind;

14 (A) the amount and source of each item of income,
15 each item of reimbursement for any expenditure, and
16 each gift or aggregate of gifts from one source (other
17 than gifts received from any relative or his spouse)
18 received by him or by him and his spouse jointly dur-
19 ing the preceding calendar year which exceeds \$100
20 in amount or value, including any fee or other honorar-
21 ium received by him for or in connection with the
22 preparation or delivery of any speech or address, at-
23 tendance at any convention or other assembly of indi-
24 viduals, or the preparation of any article or other com-
25 position for publication, and the monetary value of
1 subsistence, entertainment, travel, and other facilities
2 received by him in kind;

10

S. 343

24 (2) the value of each asset held by him, or by
25 him and his spouse jointly, and the amount of each lia-
1 bility owed by him, or by him and his spouse jointly,
2 as of the close of the preceding calendar year;

3 (3) all dealings in securities or commodities by
4 him, or by him and his spouse jointly, or by any person
5 acting on his behalf or pursuant to his direction during
6 the preceding calendar year; and

7 (4) all purchases and sales of real property or
8 any interest therein by him, or by him and his spouse
9 jointly, or by any person acting on his behalf or pur-
10 suant to his direction, during the preceding calendar
11 year.

S. 344

11

3 (B) the value of each asset held by him, or by
4 him and his spouse jointly, the amount of each liability
5 owed by him, or by him and his spouse jointly, as of
6 the close of the preceding calendar year;

7 (C) all dealings in securities or commodities by
8 him, or by him and his spouse jointly, or by any person
9 acting on his behalf or pursuant to his direction during
10 the preceding calendar year; and

11 (D) all purchases and sales of real property or any
12 interest therein by him, or by him and his spouse jointly,
13 or by any person acting on his behalf or pursuant to his
14 direction, during the preceding calendar year.

12

S. 343

13 (b) Except as hereinbefore provided, reports required
14 by this section (other than reports so required by candi-
15 dates of political parties) shall be filed not later than April
16 30 of each year. In the case of any person who ceases,
17 prior to such date in any year, to occupy the office or posi-
18 tion the occupancy of which imposes upon him the report-
19 ing requirements contained in subsection (a) shall file such
20 report on the last day he occupies such office or position, or
21 on such later date, not more than three months after such
last day, as the Comptroller General may prescribe.

S. 344

13

15 (b) Except as hereinbefore provided, reports required
16 by this section (other than reports so required by candidates
17 of political parties) shall be filed not later than April 30 of
18 each year. In the case of any person who ceases, prior to such
19 date in any year, to occupy the office or position the occu-
20 pancy of which imposes upon him the reporting requirements
21 contained in subsection (a) shall file such report on the last
22 day he occupies such office or position, or on such later date,
23 not more than three months after such last day, as the
24 Comptroller General may prescribe.

14

S. 343

22 (c) Reports required by this section shall be in such
23 form and detail as the Comptroller General may prescribe.
24 The Comptroller General may provide for the grouping of
*items of income, sources of income, assets, liabilities, deal-*¹
1 ings in securities or commodities, and purchases and sales
2 of real property, when separate itemization is not feasible
3 or is not necessary for an accurate disclosure of the income,
4 net worth, dealing in securities and commodities, or pur-
5 chases and sales of real property of any individual.

6 (d) Each report required by this section shall be made
7 under penalty for perjury. Any person who willfully fails to
8 file a report required by this section, or who knowingly and
9 willfully files a false report under this section, shall be fined
10 \$2,000, or imprisoned for not more than five years, or both.

11 (e) All reports filed under this section shall be main-
12 tained by the Comptroller General as public records which,
13 under such reasonable regulations as he shall prescribe, shall
14 be available for inspection by members of the public.

¹ Words printed in italic were inadvertently omitted in printed bill.

25 (c) Reports required by this section shall be in such
1 form and detail as the Comptroller General may prescribe.
2 The Comptroller General may provide for the grouping of
3 items of income, sources of income, assets, liabilities, dealings
4 in securities or commodities, and purchases and sales of real
5 property, when separate itemization is not feasible, or is
6 not necessary for an accurate disclosure of the income, net
7 worth, dealing in securities and commodities, or purchases
8 and sales of real property of any individual.

9 (d) Each report required by this section shall be made
10 under penalty for perjury. Any person who willfully fails to
11 file a report required by this section, or who knowingly and
12 willfully files a false report under this section, shall be fined
13 \$2,000, or imprisoned for not more than five years, or both.

14 (e) All reports filed under this section shall be main-
15 tained by the Comptroller General as public records which,
16 under such reasonable regulations as he shall prescribe, shall
17 be available for inspection by members of the public.

16

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15 (f) For the purposes of any report required by this
16 section, an individual shall be considered to have been a
17 Member of the Senate or House of Representatives, a Resi-
18 dent Commissioner, or an officer or employee of the legisla-
19 tive, executive, or judicial branch of the Government of the
20 United States or any department or agency thereof, during
21 any calendar year if he served in any such position for more
22 than six months during such calendar year.

23 (g) As used in this section—

24 (1) The term “income” means gross income as defined
25 in section 61 of the Internal Revenue Code of 1954.

1 (2) The term “security” means security as defined in
2 section 2 of the Securities Act of 1933, as amended (15
3 U.S.C. 77b).

4 (3) The term “commodity” means commodity as de-
5 fined in section 2 of the Commodity Exchange Act, as
6 amended (7 U.S.C. 2).

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17

18 (f) For the purposes of any report required by this
19 section, an individual shall be considered to have been a
20 Member of the Senate or House of Representatives, a Dele-
21 gate or Resident Commissioner, or an officer or employee
22 of the legislative, executive, or judicial branch of the Gov-
23 ernment of the United States or any department or agency
24 thereof, during any calendar year if he served in any such
1 position for more than six months during such calendar year.

2 (g) As used in this section—

3 (1) The term “income” means gross income as defined
4 in section 61 of the Internal Revenue Code of 1954.

5 (2) The term “security” means security as defined in
6 section 2 of the Securities Act of 1933, as amended (15
7 U.S.C. 77b).

8 (3) The term “commodity” means commodity as de-
9 fined in section 2 of the Commodity Exchange Act, as
10 amended (7 U.S.C. 2).

18

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7 (4) The term "dealings in securities or commodities"
8 means any acquisition, holding, withholding, use, transfer,
9 disposition, or other transaction involving any security or
10 commodity.

11 (5) The term "court of the United States" means each
12 court so defined by section 451, title 28, United States Code,
13 and each of the following courts: the District Court of the
14 Virgin Islands, the District Court of Guam, the Tax Court
15 of the United States, and the Court of Military Appeals.

No definition of "major political party".

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19

11 (4) The term "dealings in securities or commodities"
12 means any acquisition, holding, withholding, use, transfer,
13 disposition, or other transaction involving any security or
14 commodity.

15 (5) The term "court of the United States" means each
16 court so defined by section 451, title 28, United States Code,
17 and each of the following courts: the District Court of the
18 Virgin Islands, the District Court of Guam, the Tax Court
19 of the United States, and the Court of Military Appeals.

20 (6) The term "major political party" means any politi-
21 cal party whose candidate for the office of President of the
22 United States received more than 15 per centum of the total
23 popular votes cast for all candidates for such office in the
24 most recent presidential election. For the purposes of this
25 paragraph, each vote cast for the election of a presidential
1 elector shall be considered to be a popular vote cast for the
2 candidate supported by the elector for whom the vote was
3 cast.

20

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16 SEC. 2. Section 5 of the Administrative Procedure Act
17 (5 U.S.C. 1004) is amended by inserting at the end thereof
18 the following new subsection:

19 “(e) COMMUNICATIONS TO AGENCY.—All written com-
20 munications and memorandums stating the circumstances,
21 source, and substance of all oral communications made to
22 the agency, or any officer or employee thereof, with respect
23 to such case by any person who is not an officer or employee
24 of the agency shall be made a part of the public record of
1 such case. This subsection shall not apply to communica-
2 tions to any officer, employee, or agent of the agency en-
3 gaged in the performance of investigative or prosecuting
4 functions for the agency with respect to such case.”

4 SEC. 2. Section 554 of title 5, United States Code, is
5 amended by inserting at the end thereof the following new
6 subsection:

7 “(f) COMMUNICATIONS TO AGENCY.—All written com-
8 munications and memorandums stating the circumstances,
9 source, and substance of all oral communications made to
10 the agency, or any officer or employee thereof, with respect
11 to such case by any person who is not an officer or em-
12 ployee of the agency shall be made a part of the public record
13 of such case. This subsection shall not apply to communica-
14 tions to any officer, employee, or agent of the agency en-
15 gaged in the performance of investigative or prosecuting
16 functions for the agency with respect to such case.”

Section 554 of title 5, U.S. Code refers to the “Loan, Rental,
or Sale of Films”. Should be amended so as to strike “554” and
insert “1004”.



[From the Federal Register, May 11, 1965]

EXECUTIVE ORDER 11222

PREScribing STANDARDS OF ETHICAL CONDUCT FOR GOVERNMENT OFFICERS AND EMPLOYEES

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

PART I—POLICY

SECTION 101. Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

PART II—STANDARDS OF CONDUCT

SECTION 201. (a) Except in accordance with regulations issued pursuant to subsection (b) of this section, no employee shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from any person, corporation, or group which—

(1) has, or is seeking to obtain, contractual or other business or financial relationships with his agency;

(2) conducts operations or activities which are regulated by his agency;

or

(3) has interests which may be substantially affected by the performance or nonperformance of his official duty.

(b) Agency heads are authorized to issue regulations, coordinated and approved by the Civil Service Commission, implementing the provisions of subsection (a) of this section and to provide for such exceptions therein as may be necessary and appropriate in view of the nature of their agency's work and the duties and responsibilities of their employees. For example, it may be appropriate to provide exceptions (1) governing obvious family or personal relationships where the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors—the clearest illustration being the parents, children or spouses of federal employees; (2) permitting acceptance of food and refreshments available in the ordinary course of a luncheon or dinner or other meeting or on inspection tours where an employee may properly be in attendance; or (3) permitting acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans. This section shall be effective upon issuance of such regulations.

(c) It is the intent of this section that employees avoid any action, whether or not specifically prohibited by subsection (a), which might result in, or create the appearance of—

(1) using public office for private gain;

(2) giving preferential treatment to any organization or person;

(3) impeding government efficiency or economy;

(4) losing complete independence or impartiality of action;

(5) making a government decision outside official channels; or

(6) affecting adversely the confidence of the public in the integrity of the Government.

Sec. 202. An employee shall not engage in any outside employment, including teaching, lecturing, or writing, which might result in a conflict, or an apparent conflict, between the private interests of the employee and his official government duties and responsibilities although such teaching, lecturing, and writing by employees are generally to be encouraged so long as the laws, the provisions of this order, and Civil Service Commission and agency regulations covering conflict of interest and outside employment are observed.

Sec. 203. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially with their responsibilities and duties as Federal employees, or (b) engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained

through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as private citizens. Agencies may, however, further restrict such transactions in the light of the special circumstances of their individual missions.

SEC. 204. An employee shall not use Federal property of any kind for other than officially approved activities. He must protect and conserve all Federal property, including equipment and supplies, entrusted or issued to him.

SEC. 205. An employee shall not directly or indirectly make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

SEC. 206. An employee is expected to meet all just financial obligations, especially those—such as Federal, State, or local taxes—which are imposed by law.

PART III—STANDARDS OF ETHICAL CONDUCT FOR SPECIAL GOVERNMENT EMPLOYEES

SECTION 301. This part applies to all "special Government employees" as defined in Section 202 of Title 18 of the United States Code, who are employed in the Executive Branch.

SEC. 302. A consultant, adviser or other special Government employee must refrain from any use of his public office which is motivated by, or gives the appearance of being motivated by, the desire for private gain for himself or other persons, including particularly those with whom he has family, business, or financial ties.

SEC. 303. A consultant, adviser, or other special Government employee shall not use any inside information obtained as a result of his government service for private personal gain, either by direct action on his part or by counsel, recommendations or suggestions to others, including particularly those with whom he has family, business, or financial ties.

SEC. 304. An adviser, consultant, or other special Government employee shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons with whom he has family, business, or financial ties.

SEC. 305. An adviser, consultant, or other special Government employee shall not receive or solicit from persons having business with his agency anything of value as a gift, gratuity, loan or favor for himself or persons with whom he has family, business, or financial ties while employed by the government or in connection with his work with the government.

SEC. 306. Each agency, shall, at the time of employment of a consultant, adviser, or other special Government employee require him to supply it with a statement of all other employment. The statement shall list the names of all the corporations, companies, firms, State or local governmental organizations, research organizations and educational or other institutions in which he is serving as employee, officer, member, owner, director, trustee, adviser, or consultant. In addition, it shall list such other financial information as the appointing department or agency shall decide is relevant in the light of the duties the appointee is to perform. The appointee may, but need not, be required to reveal precise amounts of investments. The statement shall be kept current throughout the period during which the employee is on the Government rolls.

PART IV—REPORTING OF FINANCIAL INTERESTS

SECTION 401. (a) Not later than ninety days after the date of this order, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and each full-time member of a committee, board, or commission appointed by the President, shall submit to the Chairman of the Civil Service Commission a statement containing the following:

(1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions—

(A) with which he is connected as an employee, officer, owner, director, trustee, partner, adviser, or consultant; or

(B) in which he has any continuing financial interests, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association; or

(C) in which he has any financial interest through the ownership of stocks, bonds, or other securities.

(2) A list of the names of his creditors, other than those to whom he may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses.

(3) A list of his interests in real property or rights in lands, other than property which he occupies as a personal residence.

(b) Each person who enters upon duty after the date of this order in an office or position as to which a statement is required by this section shall submit such statement not later than thirty days after the date of his entrance on duty.

(c) Each statement required by this section shall be kept up to date by submission of amended statements of any changes in, or additions to, the information required to be included in the original statement, on a quarterly basis.

SEC. 402. The Civil Service Commission shall prescribe regulations, not inconsistent with this part, to require the submission of statements of financial interests by such employees, subordinate to the heads of agencies, as the Commission may designate. The Commission shall prescribe the form and content of such statements and the time or times and places for such submission.

SEC. 403. (a) The interest of a spouse, minor child, or other member of his immediate household shall be considered to be an interest of a person required to submit a statement by or pursuant to this part.

(b) In the event any information required to be included in a statement required by or pursuant to this part is not known to the person required to submit such statement but is known to other persons, the person concerned shall request such other persons to submit the required information on his behalf.

(c) This part shall not be construed to require the submission of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise.

SEC. 404. The Chairman of the Civil Service Commission shall report to the President any information contained in statements required by Section 401 of this part which may indicate a conflict between the financial interests of the official concerned and the performance of his services for the Government. The Commission shall report, or by regulation require reporting, to the head of the agency concerned any information contained in statements submitted pursuant to regulations issued under Section 402 of this part which may indicate a conflict between the financial interests of the officer or employee concerned and the performance of his services for the Government.

SEC. 405. The statements and amended statements required by or pursuant to this part shall be held in confidence, and no information as to the contents thereof shall be disclosed except as the Chairman of the Civil Service Commission or the head of the agency concerned may determine for good cause shown.

SEC. 406. The statements and amended statements required by or pursuant to this part shall be in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, regulation, or order. The submission of a statement or amended statements required by or pursuant to this part shall not be deemed to permit any person to participate in any matter in which his participation is prohibited by law, regulation, or order.

PART V—DELEGATING AUTHORITY OF THE PRESIDENT UNDER SECTIONS 205 AND 208 OF TITLE 18 OF THE UNITED STATES CODE RELATING TO CONFLICTS OF INTEREST

SECTION 501. As used in this part, "department" means an executive department, "agency" means an independent agency or establishment or a Government corporation, and "head of an agency" means, in the case of an agency headed by more than one person, the chairman or comparable member of such agency.

SEC. 502. There is delegated, in accordance with and to the extent prescribed in Sections 503 and 504 of this part, the authority of the President under Sections 205 and 208(b) of Title 18, United States Code, to permit certain actions by an officer or employee of the Government, including a special Government employee, for appointment to whose position the President is responsible.

SEC. 503. Insofar as the authority of the President referred to in Section 502 extends to any appointee of the President subordinate to or subject to the chair-

manship of the head of a department or agency, it is delegated to such department or agency head.

SEC. 504. Insofar as the authority of the President referred to in Section 502 extends to an appointee of the President who is within or attached to a department or agency for purposes of administration, it is delegated to the head of such department or agency.

SEC. 505. Notwithstanding any provision of the preceding sections of this part to the contrary, this part does not include a delegation of the authority of the President referred to in Section 502 insofar as it extends to:

- (a) The head of any department or agency in the Executive Branch;
- (b) Presidential appointees in the Executive Office of the President who are not subordinate to the head of an agency in that Office; and
- (c) Presidential appointees to committees, boards, commissions, or similar groups established by the President.

PART VI—PROVIDING FOR THE PERFORMANCE BY THE CIVIL SERVICE COMMISSION OF CERTAIN AUTHORITY VESTED IN THE PRESIDENT BY SECTION 1753 OF THE REVISED STATUTES

SECTION 601. The Civil Service Commission is designated and empowered to perform, without the approval, ratification, or other action of the President, so much of the authority vested in the President by Section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) as relates to establishing regulations for the conduct of persons in the civil service.

SEC. 602. Regulations issued under the authority of Section 601 shall be consistent with the standards of ethical conduct provided elsewhere in this order.

PART VII—GENERAL PROVISIONS

SECTION 701. The Civil Service Commission is authorized and directed, in addition to responsibilities assigned elsewhere in this order:

- (a) To issue appropriate regulations and instructions implementing Parts II, III, and IV of this order;
- (b) To review agency regulations from time to time for conformance with this order; and
- (c) To recommend to the President from time to time such revisions in this order as may appear necessary to ensure the maintenance of high ethical standards within the Executive Branch.

SEC. 702. Each agency head is hereby directed to supplement the standards provided by law, by this order, and by regulations of the Civil Service Commission with regulations of special applicability to the particular functions and activities of his agency. Each agency head is also directed to assure (1) the widest possible distribution of regulations issued pursuant to this section, and (2) the availability of counseling for those employees who request advice or interpretation.

SEC. 703. The following are hereby revoked:

- (a) Executive Order No. 10939 of May 5, 1961.
- (b) Executive Order No. 11125 of October 29, 1963.
- (c) Section 2 (a) of Executive Order No. 10530 of May 10, 1954.
- (d) White House memorandum of July 20, 1961, on "Standards of Conduct for Civilian Employees."
- (e) The President's Memorandum of May 2, 1963, "Preventing Conflicts of Interest on the Part of Special Government Employees." The effective date of this revocation shall be the date of issuance by the Civil Service Commission of regulations under Section 701 (a) of this order.

SEC. 704. All actions heretofore taken by the President or by his delegates in respect of the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved by the President or by his delegates in respect of such matters, shall, except as they may be inconsistent with the provisions of this order or terminate by operation of law, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

SEC. 705. As used in this order, and except as otherwise specifically provided herein, the term "agency" means any executive department, or any independent agency or any Government corporation; and the term "employee" means any officer or employee of an agency.

LYNDON B. JOHNSON.

THE WHITE HOUSE, May 8, 1965.

RULES XLI, XLII, XLIII, AND XLIV OF THE STANDING RULES OF THE SENATE

RULE XLI¹

OUTSIDE BUSINESS OR PROFESSIONAL ACTIVITY OR EMPLOYMENT BY OFFICERS OR EMPLOYEES

1. No officer or employee whose salary is paid by the Senate may engage in any business or professional activity or employment for compensation unless—

(a) the activity or employment is not inconsistent nor in conflict with the conscientious performance of his official duties; and

(b) he has reported in writing when this rule takes effect or when his office or employment starts and on the 15th day of May in each year thereafter the nature of any personal service activity or employment to his supervisor. The supervisor shall then, in the discharge of his duties, take such action as he considers necessary for the avoidance of conflict of interest or interference with duties to the Senate.

2. For the purpose of this rule—

(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, and the employees of the Office of the Legislative Counsel;

(e) the Secretary of the Senate is the supervisor of the employees of this office;

(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices;

(h) the Majority Leader is the supervisor of the Secretary for the Majority. The Secretary for the Majority is the supervisor of the employees of his office; and

(i) the Minority Leader is the supervisor of the Secretary for the Minority. The Secretary for the Minority is the supervisor of the employees of his office.

3. This rule shall take effect ninety days after adoption.

RULE XLII¹

CONTRIBUTIONS

1. A Senator or person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator, may accept a contribution from—

(a) a fundraising event organized and held primarily in his behalf, provided—

(1) he has expressly given his approval of the fundraising event to the sponsors before any funds were raised; and

(2) he receives a complete and accurate accounting of the source, amounts, and disposition of the funds raised; or

¹ S. Jour. 247, 90-2, Mar. 22, 1968.

(b) an individual or an organization, provided the Senator makes a complete and accurate accounting of the source, amount, and disposition of the funds received; or

(c) his political party when such contributions were from a fundraising event sponsored by his party, without giving his express approval for such fundraising event when such fundraising event is for the purpose of providing contributions for candidates of his party and such contributions are reported by the Senator or candidate for Senator as provided in paragraph (b).

2. The Senator may use the contribution only to influence his nomination for election, or his election, and shall not use, directly or indirectly, any part of any contribution for any other purpose, except as otherwise provided herein.

3. Nothing in this rule shall preclude the use of contributions to defray expenses for travel to and from each Senator's home State; for printing and other expenses in connection with the mailing of speeches, newsletters, and reports to a Senator's constituents; for expenses of radio, television, and news media methods of reporting to a Senator's constituents; for telephone, telegraph, postage, and stationery expenses in excess of allowance; and for newspaper subscriptions from his home State.

4. All gifts in the aggregate amount or value of \$50 or more received by a Senator from any single source during a year, except a gift from his spouse, child, or parent, and except a contribution under sections 1 and 2, shall be reported under rule XLIV.

5. This rule shall take effect ninety days after adoption.

RULE XLIII²

POLITICAL FUND ACTIVITY BY OFFICERS AND EMPLOYEES

1. No officer or employee whose salary is paid by the Senate may receive, solicit, be the custodian of, or distribute any funds in connection with any campaign for the nomination for election, or the election of any individual to be a Member of the Senate or to any other Federal office. This prohibition does not apply to any assistant to a Senator who has been designated by that Senator to perform any of the functions described in the first sentence of this paragraph and who is compensated at a rate in excess of \$10,000 per annum if such designation has been made in writing and filed with the Secretary of the Senate. The Secretary of the Senate shall make the designation available for public inspection.

2. This rule shall take effect sixty days after adoption.

RULE XLIV²

DISCLOSURE OF FINANCIAL INTERESTS

1. Each Senator or person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator, and each officer or employee of the Senate who is compensated at a rate in excess of \$15,000 a year, shall file with the Comptroller General of the United States, in a sealed envelope marked "Confidential Personal Financial Disclosure of -----," before

(Name)

the 15th day of May in each year, the following reports of his personal financial interests:

(a) a copy of the returns of taxes, declarations, statements, or other documents which he, or he and his spouse jointly, made for the preceding year in compliance with the income tax provisions of the Internal Revenue Code;

(b) the amount or value and source of each fee or compensation of \$1,000 or more received by him during the preceding year from a client;

(c) the name and address of each business or professional corporation, firm, or enterprise in which he was an officer, director, partner, proprietor,

² S. Jour. 247, 90-2, Mar. 22, 1968.

or employee who received compensation during the preceding year and the amount of such compensation ;

(d) the identity of each interest in real or personal property having a value of \$10,000 or more which he owned at any time during the preceding year ;

(e) the identity of each trust or other fiduciary relation in which he held a beneficial interest having a value of \$10,000 or more, and the identity if known of each interest of the trust or other fiduciary relation in real or personal property in which the Senator, officer, or employee held a beneficial interest having a value of \$10,000 or more, at any time during the preceding year. If he cannot obtain the identity of the fiduciary interests, the Senator, officer, or employee shall request the fiduciary to report that information to the Comptroller General in the same manner that reports are filed under this rule ;

(f) the identity of each liability of \$5,000 or more owed by him, or by him and his spouse jointly, at any time during the preceding year ; and

(g) the source and value of all gifts in the aggregate amount or value of \$50 or more from any single source received by him during the preceding year.

2. Except as otherwise provided by this section, all papers filed under section 1 of this rule shall be kept by the Comptroller General for not less than seven years, and while so kept shall remain sealed. Upon receipt of a resolution of the Select Committee on Standards and Conduct, adopted by a recorded majority vote of the full committee, requesting the transmission to the committee of any of the reports filed by any individual under section 1 of this rule, the Comptroller General shall transmit to the committee the envelopes containing such reports. Within a reasonable time after such recorded vote has been taken, the individual concerned shall be informed of the vote to examine and audit, and shall be advised of the nature and scope of such examination. When any sealed envelope containing any such report is received by the committee, such envelope may be opened and the contents thereof may be examined only by members of the committee in executive session. If, upon such examination, the committee determines that further consideration by the committee is warranted and is within the jurisdiction of the committee, it may make the contents of any such envelope available for any use by any member of the committee, or any member of the staff of the committee, which is required for the discharge of his official duties. The committee may receive the papers as evidence, after giving to the individual concerned due notice and opportunity for hearing in a closed session. The Comptroller General shall report to the Select Committee on Standards and Conduct not later than the 1st day of June in each year the names of Senators, officers, and employees who have filed a report. Any paper which has been filed with the Comptroller General for longer than seven years, in accordance with the provisions of this section, shall be returned to the individual concerned or his legal representative. In the event of the death or termination of service of a Member of the Senate, an officer or employee, such papers shall be returned unopened to such individual, or to the surviving spouse or legal representative of such individual within one year of such death or termination of service.

3. Each Senator or person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator, and each officer or employee of the Senate who is compensated at a rate in excess of \$15,000 a year, shall file with the Secretary of the Senate, before the 15th day of May in each year, the following reports of his personal financial interests :

(a) the accounting required by rule XLII for all contributions received by him during the preceding year, except that contributions in the aggregate amount or value of less than \$50 received from any single source during the reporting period may be totaled without further itemization ; and

(b) the amount or value and source of each honorarium of \$300 or more received by him during the preceding year.

4. All papers filed under section 3 of this rule shall be kept by the Secretary of the Senate for not less than three years and shall be made available promptly for public inspection and copying.

5. This rule shall take effect on July 1, 1968. No reports shall be filed for any period before office or employment was held with the Senate, or during a period of office or employment with the Senate of less than ninety days in a year; except that the Senator, or officer or employee of the Senate, may file a copy of the return of taxes for the year 1968, or a report of substantially equivalent information for only the effective part of the year 1968.

RULE XLIII AND XLIV OF THE RULES OF THE HOUSE OF REPRESENTATIVES

RULE XLIII

CODE OF OFFICIAL CONDUCT

There is hereby established by and for the House of Representatives the following code of conduct, to be known as the "Code of Official Conduct":

1. A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

2. A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.

3. A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

4. A Member, officer, or employee of the House of Representatives shall accept no gift of substantial value, directly or indirectly, from any person, organization, or corporation having a direct interest in legislation before the Congress.

5. A Member, officer, or employee of the House of Representatives shall accept no honorarium for a speech, writing for publication, or other similar activity, from any person, organization, or corporation in excess of the usual and customary value for such services.

6. A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. He shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable prior campaign expenditures. He shall expend no funds from his campaign account not attributable to bona fide campaign purposes.

7. A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund raising events if the sponsors of such affairs do not give clear notice in advance to the donors or participants that the proceeds are intended for other purposes.

8. A Member of the House of Representatives shall retain no one from his clerk hire allowance who does not perform duties commensurate with the compensation he receives.

As used in this Code of Official Conduct of the House of Representatives—

(a) the terms "Member" and "Member of the House of Representatives" include the Resident Commissioner from Puerto Rico; and

(b) the term "officer or employee of the House of Representatives" means any individual whose compensation is disbursed by the Clerk of the House of Representatives.

RULE XLIV

FINANCIAL DISCLOSURE

Members, officers, principal assistants to Members and officers, and professional staff members of committees shall, not later than April 30, 1969, and by April 30 of each year thereafter, file with the Committee on Standards of Official Conduct a report disclosing certain financial interests as provided in this rule. The interest of a spouse or any other party, if constructively controlled by the person reporting, shall be considered to be the same as the interest of the person reporting. The report shall be in two parts as follows:

Part A

1. List the name, instrument of ownership, and any position of management held in any business entity doing a substantial business with the Federal Government or subject to Federal regulatory agencies, in which the ownership is in excess of \$5,000 fair market value as of the date of filing or from which income of \$1,000 or more was derived during the preceding calendar year. Do not list any time or demand deposit in a financial institution, or any debt instrument having a fixed yield unless it is convertible to an equity instrument.

2. List the name, address, and type of practice of any professional organization in which the person reporting, or his spouse, is an officer, director, or partner, or serves in any advisory capacity, from which income of \$1,000 or more was derived during the preceding calendar year.

3. List the source of each of the following items received during the preceding calendar year:

(a) Any income for services rendered (other than from the United States Government) exceeding \$5,000.

(b) Any capital gain from a single source exceeding \$5,000, other than from the sale of a residence occupied by the person reporting.

(c) Reimbursement for expenditures (other than from the United States Government) exceeding \$1,000 in each instance.

Campaign receipts shall not be included in this report.

Information filed under part A shall be maintained by the Committee on Standards of Official Conduct and made available at reasonable hours to responsible public inquiry, subject to such regulations as the committee may prescribe including, but not limited to, regulations requiring identification by name, occupation, address, and telephone number of each person examining information filed under part A, and the reason for each such inquiry.

The committee shall promptly notify each person required to file a report under this rule of each instance of an examination of his report. The committee shall also promptly notify a Member of each examination of the reports filed by his principal assistants and of each examination of the reports of professional staff members of committees who are responsible to such Member.

Part B

1. List the fair market value (as of the date of filing) of each item listed under paragraph 1 of part A and the income derived therefrom during the preceding calendar year.

2. List the amount of income derived from each item listed under paragraphs 2 and 3 of part A.

The information filed under this part B shall be sealed by the person filing and shall remain sealed unless the Committee on Standards of Official Conduct, pursuant to its investigative authority, determines by a vote of not less than seven members of the committee that the examination of such information is essential in an official investigation by the committee and promptly notifies the Member concerned of any such determination. The committee may, by a vote of not less than seven members of the committee, make public any portion of the information unsealed by the committee under the preceding sentence and which the committee deems to be in the public interest.

Any person required to file a report under this rule who has no interests covered by any of the provisions of this rule shall file a report so stating.

In any case in which a person required to file a sealed report under part B of this rule is no longer required to file such a report, the committee shall return to such person, or his legal representative, all sealed reports filed by such person under part B and remaining in the possession of the committee.

As used in this rule—

(1) the term "Members" includes the Resident Commissioner from Puerto Rico; and

(2) the term "committees" includes any committee or subcommittee of the House of Representatives and any joint committee of Congress, the expenses of which are paid from the contingent fund of the House of Representatives.

(b) Paragraph (a) of clause 16 of Rule XI of the Rules of the House of Representatives is amended by striking out "rules, joint rules" and inserting

in lieu thereof "rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct or relating to financial disclosure by a Member, officer, or employee of the House of Representatives)."

Senator CANNON. Prior to the adoption of the rules of conduct, the Senate created the Select Committee on Standards and Conduct, and the House created the Committee on Standards of Official Conduct.

Both congressional committees are charged with oversight and investigative jurisdiction over the conduct of Members, officers, and employees. Reports required by the Rules of the Senate are filed with the Secretary of the Senate for disclosure to the public and with the Comptroller General where copies of Federal income tax returns are necessary.

All disclosure reports in the House go to the Committee on Standards of Official Conduct, but are divided into parts A, public, and B, confidential.

The Federal judicial system is mixed. There are canons of ethics for judges and lawyers, but the highest court in the Nation, the Supreme Court, has no disclosure requirement.

During the debate in the Senate Chamber on Senate Resolution 266, the resolution to establish special rules of conduct for the Senate, much thought was given to the concept of a uniform code which would affect all branches of the Government equally and equitably.

I have always been of the opinion that all officers and employees of the United States, including elected officers, should be treated uniformly. It makes no sense to provide a set of rules for one branch and another set for other branches.

I introduced an amendment to Senate Resolution 266. The amendment, No. 616, approved by voice vote, expressed the sense of the Senate that a code of ethics should not be a mere resolution of the Senate, but should have the force and effect of law, and that such a law should impose uniform requirements upon all branches of the Government.

The existing Executive order and the Senate and House codes do not go as far as some would prefer, nor do they provide for the broad public disclosure that some believe to be necessary, but their existence is evidence of a desire to impose reasonable standards upon public officers and employees.

Considerable support has been voiced for the proposition that the Senate and House rules should be given sufficient time for a determination of their effectiveness, and that more experience in this field should be accumulated before considering changes in the existing rules. It has been argued that the various branches are so different that each requires a special approach to codes of ethics.

The Senate and House are elective bodies with terms of 6 years and 2 years, respectively. Running for office requires the continuing effort of Members of the Congress to engage in political activity not only by Members but also by some of their employees as well, whereas the judicial branch is not politically oriented and most of the executive branch are prohibited from political activity. It is very difficult to draft a meaningful law which would apply uniformly to these equal but very different branches of the Government. Some, however, still insist that a code of ethics should be imposed by law and not by Executive order or rule, and should be made applicable to all who work for the U.S. Government.

The subcommittee now opens its hearings on the bills S. 343 and S. 344.

Our first witness today will be Senator Clifford P. Case. You may proceed, Senator.

**STATEMENT OF HON. CLIFFORD P. CASE, A U.S. SENATOR FROM
THE STATE OF NEW JERSEY**

Senator CASE. Mr. Chairman, Senators, first of all I thank you very much for setting this hearing. I have been interested in this matter for a long time, as the Senator knows, and I have found the Committee on Rules to be extremely cooperative, particularly this subcommittee, so I am very happy to have the chance to appear before you on behalf of S. 343.

The bill is entitled—and I do not think with much exaggeration—“A bill to promote confidence in the legislative, executive, and judicial branches of the Government of the United States.”

From my point of view this has been a long time coming. It was in 1958 that I first introduced the public financial disclosure bill. Over the years interest has grown, and I am very happy that the bill S. 343 is sponsored by 18 Senators, including both the majority and minority leaders.

I would ask Mr. Chairman, if I may, that the names of the cosponsors be inserted at this point in the record.

The bill contains the names of most of them, but others have been added, and I think it will be helpful.

Senator CANNON. Without objection, they will be made a part of the record.

(The information referred to follows:)

S. 343 was introduced by Mr. Case and cosponsored by Mr. Church, Mr. Harris, Mr. Hart, Mr. Javits, Mr. Mansfield, Mr. Mathias, Mr. Mondale, Mr. Moss, Mr. Percy, Mr. Proxmire, Mr. Scott, Mr. Spong, Mr. Chiles, Mr. Eagleton, Mr. Muskie, Mr. Stevenson, and Mr. Saxbe.

Senator CASE. In the years since 1958 I have become ever more deeply convinced that the best protection of the integrity of the governmental processes lies in requiring full public disclosure of income and financial interests by top public officials in all three branches of the Government: legislative, executive, and judicial.

I was most interested in the opening statement, Mr. Chairman, that you made in this connection. I agree that there are different aspects to jobs of the people in the several branches of the Government and different ethical codes, perhaps, ought to apply.

I think one common requirement that each branch should probably have, however, is that of disclosure. Our bill provides that all Members of Congress and candidates for Congress, all persons in high executive office, all Federal judges, and top staff in all three branches in the \$18,000 level and above should be required to file annual reports covering their sources of income, including gifts of \$100 or more, their assets and liabilities, and any transactions involving real or personal property.

Most importantly the reports would be available to both the press and the public.

I believe such a public reporting requirement is far and away the most effective means to provide the assurance to which the public is entitled—that a public office will be treated as a public trust.

Moreover, it is an affirmative approach aimed at preventing abuse of public confidence. In cases of exploitation of public office, it would provide the basis for a civil suit by the Government to recover ill-gotten gains.

That is something that I hope is going to be developed and used more than it has been, Mr. Chairman. I have become convinced that the way to take corruption out of Government is to take the profit out of it. The way to take the profit out of it is to take it away from the people that make it.

Whenever a Government office is used as a means of making private profit, a civil suit will make misuse and abuse of the office much less attractive.

The civil suit has another advantage, of course, in that recovery is much more likely. A criminal case is pretty rough. It is very difficult to convict and the burden of proof is heavy, as it should be.

Penalties, I think, are at least as effective. This bill would extend protection, not only to the general public interest in the integrity of the Government, but I think in a real sense it is the best protection that all Members of the Senate, indeed any public officeholder, would have against unfounded rumor or baseless calumny.

No one can say for certain that had a public disclosure law been in effect in the last decade there would not have been the Baker case, the Dodd case, the rejection of several nominations to the Supreme Court, the recurring instances of conflicts of interest in the executive branch; but it is interesting to note that as soon as there was a public airing of the facts in these cases, action of one kind or another followed.

Here in the Congress we have acted to establish in each House a committee concerned with standards of conduct, and both Houses have added rules to provide limited financial disclosure. The executive branch also acted. An Executive order was issued to require all Government employees to make financial reports to their superiors.

More recently the judicial branch has evidenced concern with ethical standards for the bench.

But, Mr. Chairman, none of the steps taken so far is adequate to the need, because none combines fully the two elements that seem to me essential: First, that there be full disclosure—neither the House nor the Senate requires complete disclosure—and, second, that the disclosure be public. This, I think, is very important, an essential requirement.

The arguments for a full disclosure requirement have appeared over many years in the pages of the Congressional Record, and I only summarize them here.

First, it is preventive. The knowledge that one's financial activities and interests will become known is the best possible stop and think signal—the surest way to sharpen awareness of any possible conflict of public and private interests.

Second, it is automatic in operation. When the facts are on the table, the press and the public can make their own judgment, and I have no doubt that they will.

We all know how extraordinarily distasteful it is to sit in judgment on our peers. I think it is to the everlasting credit of this committee and the Senate, too, and the House, that in some instances at least, it has nerved itself to do this, but it is a very unpleasant job.

One of the reasons we get along here and the system works is that there is a great deal of respect for everybody's opinion and everybody's action, and we do not sit in judgment. At least we avoid it if we possibly can.

The problems we deal with are difficult enough to resolve, and the conflicts that we have to settle are hard enough to adjust to without having to get involved in personal problems.

This is a factor that is not to be denied and very much involved, is the reluctance to pass upon another's conduct.

I am reminded of an old Tammany Hall politician, George Washington Plunkett, who was "one of the boys." There were recurring waves of reform, as you know, in New York City during the height of the Tammany era. Plunkett used to describe these reformers as "long-haired dudes who part their names in the middle."

We all have a reluctance to be reformers and that is why I stress the fact that disclosure will operate automatically, and the burden of policing will not then rest as heavily as it now does upon the Senate and upon the members of the committee.

The judgment of the people, I think, will be a real and effective sanction.

Then, disclosure will help people to elect whom they wish by giving them full knowledge of the personal financial interests of those who present themselves as candidates for election or reelection.

In the case of the judiciary it would put into the public domain the facts essential to maintain confidence in our court system, never more important than now, and it would do so without impairing the independence of the judiciary. It would also give the judiciary itself information on which, through the Judicial Conference, or other appropriate means, it can take any steps that may be induced to strengthen observance of the highest standards of judicial conduct.

Public disclosure used to be considered an intolerable invasion of privacy, but it is certainly not uncommon today.

As our colleagues know, public disclosure has been almost a routine matter for presidential candidates recently, and for some years now many of us in the Senate and the House have voluntarily made annual reports.

Twice in recent years the Senate has come within four votes of adoption of a full disclosure rule for Senators and senatorial candidates, and that is very good.

I urge, Mr. Chairman, the committee to report S. 343 to the full Senate. I am confident that given the opportunity, the Senate will pass it.

Survey after survey has shown that the public at large has its doubts about the integrity of the governmental processes. The surveys have shown, too, that the people believe in the principle of full disclosure.

I would suggest that enactment of S. 343 would be the clearest possible evidence of our determination to insure the integrity of public office, whether legislative, executive, or judicial.

Mr. Chairman, I again want to express my appreciation to you and the members of this committee for your indulgence this morning.

Senator CANNON. Thank you very much, Senator Case, for a very fine statement.

Various disclosure proposals that have been made attempt to segregate people involved, employees, into two separate classes; that is, one class who must disclose and another class who need not disclose. The breakoff point ranges anywhere from \$15,000 to \$18,000 annually.

Generally those people above that income must make a disclosure and those below need not.

My question is this: Do you believe that a person earning a higher income, an officer or employee, is more prone or more susceptible to conflicts of interest than a man earning a lower income, say, in the \$10,000 or \$12,000 bracket, and who is in a position to not act properly if he desires?

Senator CASE. Mr. Chairman, this is really a practical question, it seems to me, where the line can be drawn. We all know how heavily we rely upon the members of our staffs. In this connection I want to thank the committee for permitting Miss Frances Henderson, my administrative assistant, to sit here. Her responsibility in the creation of this bill is enormous, and Miss Henderson is one of those who would be required to make a disclosure.

The point is that I think what we are trying to get at is the people in the position who influence policy decisions, and the people in the public minds who are important in determining the policy—that is why I think I have felt that the setting of higher limits would be adequate and desirable.

That would be my answer to your question. Those are the ones we want to reach.

Senator CANNON. In the bill I offered in the 88th Congress, the proposal I made was to have a breakoff point at \$10,000. Of course, we have had some inflation since then.

Senator CASE. The Chairman is correct. I started out at about \$12,000, and there has been inflation. This is not so much designed to get people at certain salaries, as it is to get people in certain areas of influence.

Senator CANNON. Under your proposal about 219,000 Federal officers and employees of all branches of the Government would be called upon to disclose income, holdings in securities and commodities, debts, outside activities, and other information to the Comptroller General. They would be covered by law because they are public or civil servants dealing with the public and Federal funds. We know that there are many others, however, who occupy positions in which public funds are managed.

Corporation executives who bid for and carry out Government contracts; bank officers who administer Federal programs; university and college administrators, and professors who receive and oversee Federal grants for studies and research; tax-exempt foundations which are the beneficiaries of Federal funds and private tax-exempt contributions to perform certain functions, are only some of those individuals who are or could be susceptible to the same pressures and influences as Federal officers and employees.

My question is: Ought not those persons that I have alluded to be required to file public statements of income, assets, holdings, debts, and other matters?

Senator CASE. Mr. Chairman, I think I would be inclined to feel that we ought to take this a step at a time. There are already certain requirements of disclosure in certain Federal regulatory statutes, under the Securities and Exchange Act; people who are candidates for office or a director have to make statements regarding their personal holdings in the corporations and also any possible conflicts or dealings with the corporation.

Senator CANNON. That is very limited.

Senator CASE. It is limited to the corporate field. But the principle of disclosure was one of the things that led me to suggest it for public officers.

The area of foundations has recently come under public scrutiny to a much greater degree than before. I think this is good and right, because foundations have great influence and probably will have an increasingly influence on public policy directly and indirectly.

I would not, for a moment, hesitate to include them, but I think I would be inclined for the moment to take Government as a start.

Senator CANNON. These bills do not require identification of the name and address of each business or professional corporation, firm or enterprise in which Federal officers and employees hold positions as officers, directors, partners, proprietors or other capacity, and the amount of compensation per annum for such office. Nor do they require identification of trusts or fiduciary relationships in which the officer or employee of the Government may have a beneficial interest.

Do you believe that such matters should be included or excluded from the disclosure provisions of the pending bills?

Senator CASE. I think the fact should be stated whenever the provision of the bill is complete enough to insure the disclosure of such information. I would certainly leave to the judgment of the committee any amendment that anyone might add, and I think the bill, properly construed, would include relationships of this kind when any financial interest was either regularly or—

Senator CANNON. If it does not include that, do you think it should?

Senator CASE. I would be happy to have an amendment specifically.

Senator CANNON. It appears to me that there are a great many opportunities for some individuals to exercise influence over the population of this Nation, including editorials and radio and television commentaries of executives and employees of our various news media. They may not be handling public funds, but they do exercise a powerful influence upon the public. And they are within the broad jurisdiction of the United States.

Now, would you care to comment on the desirability of requiring public disclosure of income, assets, holdings outside financial activities, et cetera, for such individuals in the public interest?

In other words, these people who are in a position to influence and did influence through those sources?

Senator CASE. I would want to give the matter considerable thought, Mr. Chairman.

I would be inclined, as I said in response to your earlier question, about prominent figures in business and what not, first to take the

step I have outlined in the bill before us, and then consider its extension partly in the light of how well the legislation worked in the public area.

Senator CANNON. The Senate code of ethics requires the filing of a copy of the Federal income tax return with the statement filed by Senators and Senate officers and employees with the Comptroller General. Would your bill repeal the Senate rules? Would your bill dispense with the filing of the copy of the income tax return?

Senator CASE. In effect it would require a major part of the information contained in the income tax return to remain public but in a separate fashion. I would certainly leave to the committee a matter of adjustment that it felt proper to make either under the bill or the Senate rules so that unduly burdensome requirements could be eliminated.

I would hope the substance of it would be retained no matter what the committee did about this.

Senator CANNON. I recall that when these matters were under discussion before, and the late Senator Dirksen made the point that he did not see that there should be two classes of citizens, that different rules should be applied to those in public life and those in private life, but those in public life should not be made second-class citizens.

In other words, all humans are equal in the eyes of law and equity and it would not be fair to subject every public servant to the most minute scrutiny, public inspection, and examination without requiring the same of other persons.

Would you care to comment on that?

Senator CASE. Well, first, on the latter point my bill does not require disclosure of income tax returns. There is information about charities and other personal and family relationships that I see no public value in having disclosed.

But, on the broader question, Senator Dirksen was a great public figure, but I just happened to disagree with his characterization of the effect of this bill, as subjecting people in public life to second-class citizenship.

I think it is a badge of honor to be thought important enough to be required to stand up and deliver. I very strongly differed with the Senator on that one.

Senator CANNON. One of the problems that we have constantly had pointed out to us in some of the committees, in examining the financial information from appointees to the public office, has been the argument that it is very difficult to get qualified people from the outside to serve in public office because they want their privacy. They are perfectly willing to make disclosures of anything that might subject them to a conflict-of-interest charge, but feel that private financial data beyond that point should not be made public.

As you are aware, the Commerce Committee, for example, and the Armed Services Committee, require filings, on a confidential basis, which are examined by the committees and by the counsel to determine whether there might be any possible conflicts of interest, and they are held within the committees and not made public.

Would you comment on that point?

Senator CASE. First of all, again taking your questions in reverse order, I am quite aware of the Commerce Committee; I remember it

from the day when I was a member of it, and other committees of which I have been a member do have requirements in regard to people who come in to them for confirmation, over whose activities they have responsibility for. The information is scrutinized, examined with care by the staff to the extent thought necessary by members of the committee, and then kept in the file, but not publicly disclosed except in instances where the committee deems some purpose would be served by that.

I just do not think it is adequate. One of the main thrusts of our bill is that this should be a matter in the public domain so that the press and the public know what the facts are and do not have to speculate as to whether this is a great committee, as it is in most cases; whether men of integrity are sitting on it with fine judgment.

This is to put the matter where it has to be in the public area where everybody can know about it.

I do not think that what has been the practice is adequate. And then many people do not ever come before our committees for confirmation. There are very powerful people in the executive branch who never do, and of course we, ourselves, do not come before our committees in the legislative branch.

Judges do routinely, and this is fairly well taken care of. In addition to that, if a man has ambitions to be a judge sometime, he knows he will have to face public scrutiny of his activities. As a result, over the course of his practice, he is more likely to be careful about the right and the wrong of each situation.

Now, as to the deterrent effect that this might have on people being able to seek or accept public office, public employment, there are cases where this has been shown. In New Jersey we have several examples of men in the State legislature who have resigned rather than meet State requirements of disclosure and other requirements designed to prevent conflict of interest.

My personal opinion is that they should have resigned and that the interests that were conflicting were incompatible with the proper discharge of their duties in the legislature.

So, there are cases where people would rather resign than give up some kinds of relationships, business interests, or activities.

In most cases, in almost every case, I think, it is desirable that they should not be in a position of holding public office. We have come a long way, Mr. Chairman, I think, in many areas, including the Federal, including the congressional area, and are beginning to recognize that holding public office is not a way to get rich on the side. I think we should come all the way.

Senator CANNON. I might say that I have asked a number of different agencies to comment, including the Comptroller General, who is given certain responsibilities under the bill, and the Department of Justice. Both the Comptroller General and the Department of Justice are opposed to both of the bills; the Department of Justice for a variety of reasons, and the Comptroller General simply does not want that responsibility thrust upon him and does not think it is proper.

Without objection, at this point in the hearing record, I will insert their letters, their responses.

(The letters, referred to above, from Robert F. Keller, Deputy Comptroller General, and Richard G. Kleindienst, Deputy Attorney General follow:)

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., November 2, 1971.

HON. HOWARD W. CANNON,
Chairman, Subcommittee on Privileges and Elections, Committee on Rules and Administration, U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of October 19, 1971, transmitted copies of S. 343 and S. 344, 92d Congress, advised that your Subcommittee will hold an open hearing thereon on November 4, 1971, and requested our comments on the bills. The primary purpose of these bills, which are substantially identical, is to require periodical financial disclosure by officers and certain employees of the Federal Government. S. 343 would include Members of the Senate and the House of Representatives (including the Resident Commissioner), each civil or military officer of the executive branch or any department or agency thereof, each judge or justice of a court of the United States, and each employee of the legislative, executive, or judicial branch of the Government of the United States or any department or agency thereof who is compensated at a rate in excess of \$18,000 per annum, and certain candidates in a general election for the office of Senator or Representative or Resident Commissioner. S. 344 would include Members of the Senate and House of Representatives (including Delegate and Resident Commissioner), each officer and employee of the United States or any department or agency thereof (including each officer and enlisted person in the Armed Forces) who receives a salary at a rate of \$18,000 or more per annum or holds a position of grade GS-14 or above (or of equivalent rank), each judge or justice of a court of the United States, certain candidates in a general election for the office of Senator or Representative, or Delegate or Resident Commissioner, and each member, chairman, or other officer of the national committee of a major political party. Section 2 of each bill proposes to require that all written communications and memorandums pertaining to oral communications made in any case, except communications to officers, employees or agents of the agency engaged in the performance of investigative or prosecuting functions for the agency with respect to such case, shall be made a part of the public record of the case.

To effect the primary purpose, persons covered by each bill would be required to file annually with the Comptroller General a financial disclosure report. The Comptroller General would prescribe the form and detail of the reports submitted and would be authorized to provide for the grouping of types of items required to be reported. Provision is made in both bills for fines of up to \$2,000 and for imprisonment of up to five years for persons who willfully fail to file a required report, or who willfully and knowingly file a false report.

The President, by Executive Order No. 11222 of May 8, 1965, prescribed standards of ethical conduct for Government officers and employees, and authorized and directed the Civil Service Commission to issue appropriate regulations and instructions implementing said order. Such regulations and instructions were promulgated by the Commission and published in 5 CFR 735, and require the head of each agency to prepare regulations in accordance therewith. Both the Executive order and the Commission's regulations and instructions provide for disclosure of financial information by certain personnel. Insofar as we know the various departments and agencies have complied with the order and regulations. While the financial information now required is not as broad as that which would be required under S. 343 or S. 344, we question whether there is a need for legislation insofar as officers and employees of the executive branch of the Government are concerned.

We are very much concerned with the duties to be performed by the General Accounting Office under the bill insofar as it pertains to Members of and candidates for Congress. We endeavor to remain completely nonpartisan and free from any type of influence in carrying out the functions vested in our Office by law. Since our function is, in part at least, of a quasi-judicial nature, we consider it to be in the interest of the Government that we remain completely independent of politics and completely objective in our considerations at all times. While the enactment of the bill would not involve our Office directly in partisan matters, we are fearful of being placed in a position in which we possibly might be criticized, though unjustly, or being improperly influenced by such considerations. If either S. 343 or S. 344 should become law, it would require our Office to maintain publicly available financial reports on the persons covered by the measure. Especially do we desire to avoid, as an agent of Congress, the position of gathering information and making public financial reports on individual Members of Congress.

The General Accounting Office operates as a control agency in the legislative branch to assure compliance with Federal statutes governing the expenditure of public moneys appropriated by the Congress for the various governmental purposes and to assist in improving the effectiveness and efficiency with which Government programs are administered. In executing these functions, we operate as an agent or arm of the Congress. The administrative functions and duties contemplated in these bills would involve the necessity for governing the reporting of and delving into personal affairs of Members of Congress who as a body constitute our principal. We do not believe that oversight of the personal financial transactions of individual Members of Congress is consistent with the posture we must maintain in executing our basic mission.

Accordingly, we urge that the administrative responsibilities under these bills, at least insofar as Members of and candidates for Congress are concerned, not be vested in the General Accounting Office.

Attached for your consideration are some technical or editorial changes which we believe should be considered by your subcommittee in connection with S. 343.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

Enclosure.

TECHNICAL OR EDITORIAL CHANGES SUGGESTED FOR S. 343

There appears to be a line missing between line 24 at the bottom of page 3 and line 1 at the top of page 4. The missing words apparently should be: "of items of income, sources of income, assets, liabilities, deal-"

Section 2 of this bill refers to "Section 5 of the Administrative Procedure Act (5 U.S.C. 1004)," and proposes to add a new subsection "(e)" thereto. The Administrative Procedure Act was repealed by section 8 of the act of September 6, 1966, Pub. L. 89-554, 80 Stat. 653, which act enacted title 5 of the United States Code into positive law. The language formerly contained in section 5 thereof and formerly codified as 5 U.S.C. 1004 is now contained in 5 U.S.C. 554, which already has a subsection (e). Section 2 of S. 343 should be amended accordingly.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C.

HON. HOWARD W. CANNON,
Chairman, Subcommittee on Privileges and Elections, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 343 and S. 344, bills "To promote public confidence in the legislative, executive, and judicial branches of the Government of the United States."

Both S. 343 and S. 344 would require that certain Federal officials file extensive annual financial reports with the Comptroller General. The Comptroller General would maintain the financial reports and they would be available for inspection by members of the public. The bills are similar in purpose but have certain differences in scope. Basically, S. 344 is the more comprehensive in terms of the scope of Federal officials covered. The financial reports would include all forms of income, reimbursement of expenses, gifts of over \$100, assets, liabilities, dealings in securities and commodities, and purchases and sales of real property of any interest therein. The information required also applies to transactions of the spouse in which there is a joint interest.

The willful failure to file such a financial report would be a felony punishable by a fine of \$2,000 and/or imprisonment for not more than five years. A false report filed knowingly and willfully would be punishable in the same manner.

Both S. 343 and S. 344 would apply to the following Federal officials: (1) Members of the Senate and House of Representatives (including the Resident Commissioner); (2) each officer and employee of any branch, department, or agency of the United States who receives a salary at the rate of \$18,000 or more per annum (including both civilian and military personnel); (3) each judge and justice of a court of the United States including the District Courts for Guam and the Virgin Islands, the Tax Court of the United States, and the Court of Military Appeals; and (4) each candidate of a political party in a general election for the office of Senator, Representative, or Resident Commissioner.

S. 344 would also include: (1) delegates to Congress; (2) those employees in GS-14 or above or the equivalent rank. (We note that such an officer or employee would be covered by the \$18,000 requirement since the pay schedule for a GS-14, step 1, presently commences at \$20,815); and (3) each member, chairman, or other officer of the national committee of a major political party. A major political party is defined as a party whose candidate for the office of President of the United States received more than 15 per cent of the total popular votes cast for all candidates for such office in the most recent Presidential election.

In most cases the financial reports would be filed not later than April 30 of each year. In the case of a political candidate, it would be filed within one month after he became a candidate for such office. The Comptroller General would be authorized to prescribe the form and detail of the financial reports.

The Department of Justice is opposed to the reporting and public disclosure provisions of these bills for a number of reasons. While there are certain arguments on behalf of having a uniform disclosure provision for all three branches of the government, we question the necessity and need for any new financial disclosure requirements insofar as employees of the Executive Branch are concerned.

The bills, as they apply to officers and employees of the Executive Branch, overlap in part and are inconsistent with the financial disclosure requirements of Executive Order 11222, 30 F.R. 6469 (1965) and the implementing Civil Service Commission regulations (5 C.F.R. 735.403).

The Executive Order in section 101 states its underlying policy in the following terms:

Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

This policy is given force and effect by the operating provisions of the Executive Order and the implementing regulations. These require the filing of financial statements by presidential appointees, and by employees in GS-13 or above occupying (a) positions in which they can take Government action in regard to contracting, procurement, grants, and subsidies, or (b) positions the responsibility of which might give rise to a conflict of interest.

In our view, the Executive Order and the regulations provide responsible officials of the Executive Branch with adequate means to determine whether there is any conflict between the officer's or employee's outside financial interests and his official duties. Such disclosure includes listing of (1) the names of all companies, firms, and organizations (including non-profit organizations) in which the employee, his spouse, minor child or other member of his immediate household has any financial interest or with which he has any employment relationship, or in which he has any continuing financial interest, such as those in pension or other plans, or in which he has any financial interest through ownership of securities; (2) the names of creditors, other than those to whom he may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses; and (3) interests in real property other than his home. Such information must be filed not later than 30 days after duty begins and must be kept current.

It is the practice of this Department that reports be filed at various levels within the Department, usually at the divisional level. (See 28 C.F.R. 45.735-22.) Here the reports are examined by an official who is sufficiently high up in the organizational ladder not to be in possible collusion with the employee but not so far up that he is out of touch with the officer's or employee's official actions and responsibilities. Such a practice, we feel, assures enforcement of the regulations by independent persons who have knowledge in the area. As can be observed, our procedure is in accord with the principle that a fiduciary's financial interest should be reviewed by those persons who have appointed or selected him and are ultimately held accountable for his actions.

So far as this Department has been able to ascertain, the current disclosure requirements referred to have been effective in minimizing conflict of interests in the Executive Branch and are fair to the individuals affected.

We have doubts that filing of financial reports by executive branch employees with an agency outside their own would produce any worthwhile results when compared to the cost to the Government and the additional burden which would be placed upon the officer or employee. We doubt that any person outside of a particular Government agency could adequately review the financial statements

because of his lack of knowledge of the officer's official duties, actions, and responsibilities.

Furthermore, the limits of \$18,000 and/or GS-14 in S. 343 and S. 344 are unrealistically low and would create burdens of review, compliance, and administration which would destroy the main usefulness of such reports. This Department, which is relatively small, has over 8,000 employees earning over \$18,000 annually.

We also have strong reservations about the extent and detail of the reporting requirements in S. 343 and S. 344, especially in such categories as assets and liabilities. We doubt that invasion of an employee's privacy is warranted to the extent proposed in these bills. In determining the scope of disclosure required to avoid a possible conflict of interest, a reasonable accommodation should be made between the need for adequate protection of the Government on the one hand and the need for adequate protection of the employee's privacy and his right to be free from an unduly oppressive burden on the other.

We are opposed to any public disclosure of financial reports as required in S. 343 and S. 344. To do so would convey no reasonable benefit for the harm which would be produced. Public disclosure of Executive Branch personnel reports would only expose these public officials to the eyes of the curious, the attentions of commercial exploiters, and as the possible victims of criminal activity. The limited purview of the responsibility of most public officials in the Executive Branch who would be covered under S. 343 and S. 344 does not warrant exposure to such risks.

In summary, the provision that the Comptroller General shall make each report available to the members of the public seems to us unwise in its application to the Executive Branch. Under the existing disclosure provisions, financial reports are maintained in confidence and reviewed only by the officials responsible for determining whether the reports suggest a conflict of interest. In our opinion the existing system is as likely to protect the Government against conflicting interests on the part of its employees as a public disclosure requirement, and possesses the additional advantage of insuring the employee's rights, albeit qualified, to privacy. We believe, moreover, that the public disclosure provision could seriously interfere with the recruitment of Government personnel.

Whether those portions of S. 343 and S. 344 which apply to the Legislative Branch, the Judicial Branch, and the national committees of the major political parties should be enacted involves policy considerations as to which the Department prefers to make no recommendation. The Department is opposed to enactment of these bills insofar as employees of the Executive Branch are concerned.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

Senator CASE. May I say that I would be very happy to scrutinize the letters and have the opportunity to comment upon them, if the record could be left open for a little while.

(Senator Case's comments, subsequently supplied for the hearing record, on the Comptroller General's and the Attorney General's views on S. 343 and S. 344, are as follows:)

U.S. SENATE,
Washington, D.C., January 31, 1972.

HON. HOWARD W. CANNON,
Chairman, Subcommittee on Privileges and Elections, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate the opportunity to comment on the statements of the Comptroller General and the Deputy Attorney General on S. 343 and S. 344.

The Comptroller General expresses fear that enactment of either bill would threaten the objectivity of the General Accounting Office. He makes plain the distaste of the GAO, as the agent of Congress, to gather and make available to the public financial reports of Members of Congress. He is "fearful of being placed in a position in which we (the GAO) possibly might be criticized, though unjustly, of being improperly influenced" by political considerations.

Were the GAO given responsibility for reviewing and evaluating the financial reports, his concern would be understandable. But the responsibility assigned to GAO is essentially custodial—to provide the form and detail in which reports shall be submitted and to maintain the files accessible to the public. It involves neither evaluation nor review, much less any “delving into personal affairs of Members of Congress”.

Rather the function of the GAO would be analogous to that of the Securities and Exchange Commission with regard to registration of securities. The SEC prescribes the form and detail in which a prospectus must be submitted. Registration does not, however, imply approval of an issue nor does the SEC warrant the accuracy of the registration statement. The purpose is not to insure investors against loss but rather to provide information upon which investors may make an informed and realistic evaluation of the worth of securities.

So it would be with the GAO. Its responsibility would be limited to make information as prescribed by Congress available, on the basis of which the public and the electorate may make judgments.

I can see no threat to the objectivity of the GAO, no inconsistency with its basic mission. And the reputation for objectivity which it has earned over the years, in conjunction with its unique place in the government structure, make it the most appropriate agency I know to maintain the reports required under the bills.

Speaking for the Executive Branch, the Department of Justice raises a variety of objections to the bills. Most of them stem from the point of view with which the Department approaches the proposals. It is a different point of view from that of the bills' sponsors.

Our concern is with the maintenance of public confidence in the integrity of governmental processes, a confidence that we believe cannot be achieved without knowledge on the part of the public. In contrast the Department would have the public take its word that all is as well as can be expected. We believe the public is the best judge of that, not those who have an interest to protect.

Specifically the Department points to the Executive Order and Civil Service Regulation requiring the filing of financial reports by Presidential appointees and certain categories of employees. These reports are filed with superior officers. The Deputy Attorney General states he believes that these have been “effective in minimizing conflict of interests” and he questions the “necessity and need for any new financial disclosure requirement” insofar as the Executive Branch is concerned.

I strongly disagree.

At the time the Executive Order was issued I pointed out that, while it is a step in the right direction, it does not and cannot take the place of public disclosure.

It is natural and understandable, for example, that a department head or bureau chief, wishing to keep a person whose skills are helpful to him, may persuade himself that a personal financial involvement involves no impropriety. In this connection I note that only recently a high official in the Department of Justice resigned following press accounts of certain financial dealings. I think, too, of an instance involving the Department of Interior several years ago. There an official in the Department had profited from information available only to corporate “insiders”. Though his activity was known to the Department, it was not until he was subpoenaed in an SEC proceeding and the matter became public knowledge that he submitted his resignation.

I suggest that those who are in positions of authority in the Executive Branch are in a less good position to pass judgment than an outside observer, a disinterested party as it were, in this case the public and the press.

The Department also has “strong reservations” about the extent and detail of the reporting requirements in the bills. It speaks of a “reasonable accommodation . . . between the need for adequate protection of the government on the one hand and the need for adequate protection of the employee's privacy and his right to be free from an unduly oppressive burden on the other.”

But what of the need for protection of the interests of the public in the integrity of government?

As for the so-called burden, those of us in the Congress who make annual financial reports to the public have not found them onerous. Indeed they would be far simpler to prepare for most people than their income tax returns.

I also emphatically disagree with the statement that public disclosure would convey “no reasonable benefit for the harm which would be produced . . . expose

public officials to the eyes of the curious, the attentions of commercial exploiters and as the possible victims of criminal activities."

As to the first, the public is entitled to be curious.

As to the other dire consequences predicted, I do not understand what difference the filing of the reports would make. Certainly none of these has happened to me or to any of my colleagues who regularly disclose their financial interests and activities.

Finally the Department refers to serious interference with recruitment of government personnel. As I mentioned at the hearings, I am reminded of the forebodings and the alarms sounded when the SEC proposed a regulation requiring publication of the compensation to, and the amount, and sales or purchases of corporate holdings of corporate officials and members of their families. It was called an invasion of privacy that would, among other things, discourage good men from holding corporate office, prove embarrassing to some corporations and encourage personnel raids by one corporation against another, all to the general detriment of corporate development.

None of these materialized and today publication of this information is accepted as a matter of course. I am certain that once begun, the filing of annual financial reports by government officials would come to be taken for granted. And I am even more certain that institutions of the reports would have a wholesome effect throughout the government at the same time that it would enormously strengthen the confidence of the American people in the public service.

As to the Department's suggestions for cutting down the number of reports to be filed, I have already indicated my willingness to accept higher salary and grade-level limitations. And, of course, I accept the technical corrections suggested by the Comptroller General.

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

Senator CANNON. Senator Stevens.

Senator STEVENS. Mr. Chairman, our leader, Senator Scott, is here. Yesterday he demonstrated his ability to ride an elephant. I think perhaps we ought to yield to him at this point.

Senator SCOTT. Mr. Chairman and Senator Stevens. I will be very brief. As a cosponsor of the bill I favor the principle you have in mind, Senator Case, as you know.

There are some things to which objection has been noted and I would like to ask you to comment on them. I believe you have commented on this objection of the Attorney General as to interference with the recruitment of Government personnel.

Senator CASE. I did not realize it was the Attorney General's objection that the chairman was voicing, but I do not think I would change my answer. This is a particularly difficult thing for lawyers, I recognize that, Mr. Chairman, and most of us are lawyers here. We know just how difficult it is. We have not by any means arrived at the full solution, complete solution of the problem.

I think, though, that the disclosure across the board is one of the best ways of dealing with the problem and the least harmful and the least restrictive.

Senator SCOTT. I think there might be some merit in considering the separability of disclosure pertaining to Government officials, and disclosure pertaining to non-Government officials. I have in mind the provision which includes the member, chairman, or other office of the national committees of major political parties. What concerns me about it is the fact that we include one group of governmental people and do not include others. It might be better to restrict this bill to Government employees, and appointees.

The theory I have in mind is the national committee of the two parties—that is what I am thinking about. Now, those are, by many

people, regarded as honorary, rather than honorific. They are often people who would either be one extreme or the other, people of very great wealth in a few cases, people of very considerable lack of means in a great many others.

If you think back over the members of the Democratic National Committee and the Republican National Committee, and I have known a great many of those people over the years, and it would be almost impossible to get some of those presently serving to continue, not because of unwillingness to show how affluent they are, but because of an actual shame in admitting how poor they are.

Senator CANNON. That would apply to a lot of us, but more on the Democratic side than on the other side.

Senator STEVENS. I do not want you to think you are alone.

Senator SCOTT. I believe it is the same approach which is included in the bill of Senator Spong of Virginia.

Senator CASE. Yes.

Senator SCOTT. I am not saying it should not be considered on its own merits, and perhaps it should. I am not holding any brief for the national chairman of either party. If they were to make voluntary disclosure, that would be a very good thing, very sanitary all the way. And I have been a national chairman. I see no special objection to that.

But, when you get down to this more than 200 or perhaps 250 members of the national committee, and all of the officers of the national committee, it is a question of where you stop, because some of these people—in the first place I am not sure how you define “officer of a national committee”—are elected and some are deputies to the elected officers. Do you include the finance committee, in which case I am pretty sure you would never get a finance chairman in any State of the Union that I can think of, unless he had no money whatever, and in that case he would have no influence in solicitating campaign contributions.

I feel pretty sure of that. So that I think we ought to test that one separately. As I say, I am a cosponsor of your bill. I favor the general approach; I favor the disclosure of Government officials. I think we should look to see which amount it ought to be.

I think we might be better advised to confine it to permanent, rather than temporary or brief, officials of the Government and those serving without compensation perhaps should not be included. But I do not think you will be able to include the two political parties as presently constituted if they realize that a condition for serving in any nongovernmental capacity requires them to make the same disclosure as governmental people do.

I think that is more understandable if you think of it in terms of the personalities involved than if you just envision some national committeeman or committeewoman.

In Pennsylvania one set of rules would apply. In another State a different set as to whether they look for the affluent person, or the person with sheer leadership qualifications, or whether they are trying to find a minority member, a black or a Latin American as truly representative of a part of the constituency who may have little or no means.

And in a given State you might have one national committeeman or woman whose total assets are \$5,000 and the other one whose assets are a million dollars.

Well, one or the other of those people are going to be unhappy, probably both of them, by this disclosure provision. I'd just as soon throw it out.

Senator CASE. This bill, of course, Senator, my bill does not include members of the national committee or chairmen, but just public officeholders and candidates for it.

I think maybe Senator Spong's bill may include that.

Senator SCORR. I am really addressing myself to Senator Spong's bill.

I was reading from the bill and I thought it was yours, but it is a comparative print. It is the Spong bill. I have to correct that.

What about the members of the Pay Board and the Price Commission, people who serve without compensation or serve with nominal compensation?

Senator CASE. Well, it seems to me it is a question of definition as to whether they are employees or not. In general, well, if they have this kind of important operative job, I think they should be included.

By "important operating job," I would, for example, include members of the Price Board and Pay Board under the overall roof. I would not include members of the Advisory Board, for example.

But I think in creating the—

Senator SCORR. Let us take the regents of the Smithsonian. Obviously you know members and Senators who belong to this, and they are covered anyway as legislators, but what about the citizen members who serve without compensation? What about those who come down here three or four times a year from all parts of the country at their own expense, and who serve solely out of a sense of civic responsibility and some pride, I suppose, in the Smithsonian?

Should they be required to make disclosure because they are often senior citizens who have been very much honored and respected in their States who are doing this only because it takes a limited amount of time, and in my opinion I can think of some who certainly would never do it at all if they had to make disclosure, because this is so minor a part of their total activities.

Senator CASE. It seems to me, Senator Scott, that again I would be inclined to think of the Smithsonian Board in a different category from the Secretary and permanent officers who are regular Senate employees.

I would like to think about it a little more. If I have any differences, I certainly would be pleased to file my own expression.

Senator SCORR. Yes; I would like that. I appreciate having had the chance to ask these questions.

As I say, I am broadly sympathetic to it. We ought to have the legislation. I do not think we ought to use such a sweeping brush that we permanently bar the Government from securing the voluntary and noncompensated services of public-spirited citizens.

In other words, it is good to do good. It is bad to do so much good that you do bad by it, and this is what I am getting at.

Senator CANNON. Would your bill apply, for example, to members of the Wage and Price Control Board now that has just recently been appointed?

Senator CASE. I am not sure that it would.

Senator CANNON. These people do receive some compensation and they are involved on behalf of the Government, and I would imagine the filings required by your bill would probably require a sheaf of papers that would just about fill this room.

Senator CASE. I must say they do not seem to me to be employees under my common understanding of it. I think, though, that when a group like this is assembled, created by either Executive order or congressional enactment, that this matter might be dealt with specifically, particularly in relation to a particular job.

Senator CANNON. But your bill specifically applies to Presidential appointees in the executive branch, and these people would all be Presidential appointees.

Senator CASE. It has a salary level. The generic word is "employee." I think a man has to be an employee. I would think there might be some question. You asked me earlier as a matter of substance whether members of these boards should be included, and I think they should.

Senator CANNON. You think they should be?

Senator CASE. Yes; where they have important operative jobs.

Whether they would be under the terms of the bill, I am not sure technically if they would be employees.

Senator CANNON. Senator Stevens?

Senator STEVENS. We are obligated to you for your continued interest in disclosure legislation. I think it ought to be reassuring to you to see the junior Members of the Senate who are following you today. They are all in support of your proposition.

I would like to ask a few questions. You mentioned candidates "of a political party" as being required to file reports. I would assume that you would also include independent candidates. We have some candidates now who are not alined with either political party, but are independents. Could we not make this applicable to "a candidate for office," rather than a candidate "of a political party"?

Senator CASE. My intention was to be all-inclusive. I think the words "of a political party" can be changed.

Senator CANNON. The Senate code of ethics just refers to candidates.

Senator CASE. I would certainly accept that change.

Senator STEVENS. Would you agree to an extension of the concept here so that we could require similar reports of State officials who administer Federal grants or funds?

Senator CASE. My own personal view is that this requirement ought to apply everywhere; whether as a matter of policy at this time the Congress and this committee in advising it should take that action is a matter I would leave to you.

I would be inclined, I think, to deal with the Federal establishment first. I think in my judgment it would be the wisest thing to do, but as a matter of principle, I think that every municipal, county, and State officeholder or candidate for office ought to be included in this kind of disclosure requirements.

But I do not press it at this time for action.

Senator CANNON. The State employees who administer Federal funds under these various programs are covered by the Hatch Act, so we do have a precedent.

Senator STEVENS. When I was in the State legislature we had a disclosure bill which got to the House but never got to the State senate. I think perhaps we might find some way here to achieve the same purpose in some of the States which have resisted disclosure legislation.

Senator CASE. I am in great sympathy with this. I must confess, since I began pressing for this legislation, I have been met by some of my good friends in State offices with: "What are you trying to do; kill us?"

Because this is the way they felt about it, that holding a public office was a means of making themselves a good pile, and they did not want to be touched. That kind of expression would not be made publicly by anybody now, and one of the best examples of change, I think, is the fact that in New Jersey we have moved considerably toward a higher ethical requirement. There was a time when it was just considered the thing to do; you got elected to the legislature so you could practice before boards and agencies of the State and attract clients, and you were presumed to have some unusual influence with them. This is entirely wrong, and it is now coming to be recognized as it was some time ago in the Federal sphere.

Senator STEVENS. By the same token if you have full disclosure, an attorney who, under the ethics of our profession, does not practice his profession after he gets into public life, could do so if he wishes and could weather the storm of public disclosure, could he not?

Senator CASE. I would not think that this could be construed as in any way reducing the standards the bar applies to itself under the canon of ethics and so forth. I would argue strongly that this should not be done.

Senator STEVENS. I, for one, have never understood why a person who owns a lumber business or insurance agency or a grocery chain or newspaper chain can come to the Congress and continue to run his business, but a lawyer who has spent all his life in building up his expertise, and by the time he gets to the point where he does have the expertise, decides to go into public office, he cannot continue to exercise his training.

I am in favor of your bill, but I think that is very much a double standard. I have one last question.

You mentioned gifts from relatives as being excluded from gifts which must be reported. Could you tell me why that is there? I understand that gifts between spouses are immediate family, but gifts from relatives, seems to me to be a fairly loose term. The question of degree of relationship comes in.

Senator CASE. That is a loose term. I should be happy to have the committee tighten it.

Senator STEVENS. Would members of the immediate family satisfy you?

Senator CASE. Yes; it would, indeed.

Senator STEVENS. Our Senate code of ethics says a gift from a spouse, child, or parent is excluded.

Senator CASE. I am reminded of the story where a brother—well, Chief Justice Taft was given a pension by his brother; his brother gave it to him all his life. It enabled Justice Taft and President Taft to serve without unduly penalizing his family in public life at a

time when the rewards of public service were much less adequate than they are now.

I would not exclude the brother from this thing. On the other hand, I do not make a great point of this. If it should be considered important enough by the committee to have the word "relative" struck out entirely, all right.

Senator STEVENS. If we had a way of defining people in the Federal Government or State or any level of government who make policy and apply this bill to those people, would that satisfy your objection?

Senator CASE. That is the target that we are aiming at. There are various considerations, not only those people who, in fact, make policy, but those who are thought to make policy.

Senator STEVENS. Thank you.

Senator CANNON. If the Senator will yield. You stated at one point that a lawyer could not practice after he comes to the Congress. That is not quite true. Lawyers can and frequently do. Many of them—well, I closed my law offices, but a number of them have maintained law offices and practice actively at the present time.

Senator STEVENS. I am informed the bar is coming out with a new canon which says you must close your office no later than your first election after you take office.

Senator CANNON. I am not familiar with that, but I do know at the present time that there are many lawyers in both the Senate and the House, who do continue to have their names in law firms and continue the practice of law. There is no prohibition against it at the present time.

Senator CASE. I have no sympathy for those people who are lawyers and think that they have got influence, and who exercise it improperly.

Senator CANNON. The basis of hiring a lawyer, I think, is that he has influence or one would not hire him. He has influence because of his expertise, his particular ability, or whatever the reason may be, because he can make a good presentation to a jury. If a client thinks that the lawyer has no influence, he will not hire him.

Senator CASE. Influence, that is using the word in a very broad sense. You want a good lawyer.

Senator STEVENS. You are both right, but in our part of the country, in the Northwest, if you are an elected official, you close your office immediately. I have never quite understood it, because there are things such as wills and trusts, involvement in the less spectacular areas of the law profession, that do not involve the Federal Government.

But it is a tradition in the Northwest that you close your office.

Senator CASE. It is so hard to draw the line. Even with wills and so on you have got tax questions; you have got questions of gifts and what not, where the Federal Government and legislatures are increasingly becoming more important—well, it is awfully hard to define absolutely clean areas.

Many of our colleagues have found this to be true and have recently retired from practice. For myself, since I have been in the Senate, I have not had time for any practice anyway.

Senator CANNON. Thank you very much.

Our next witness is Senator Spong. We are very happy to have you here. You may proceed as you see fit.

STATEMENT OF HON. WILLIAM B. SPONG, JR., A U.S. SENATOR FROM
THE STATE OF VIRGINIA

Senator SPONG. Mr. Chairman, I am very pleased to be here and to testify just after Senator Case, who has long been a pioneer in this field and with whom I am sponsoring a bill. Also he is cosponsor of a bill that I introduced.

I am going to summarize my statement and ask that it be placed in the record in its entirety in the interest of time.

Senator CANNON. Without objection, it will be inserted in the hearing record in its entirety.

Senator SPONG. I thank you very much for allowing me to appear before you this morning.

Appropriately this hearing comes at a time when the Senate is considering the qualifications of two nominees to the Supreme Court and, as part of that examination, closely scrutinizing their financial holdings. Where there is the slightest chance of a conflict of interest, the committee will insist the nominee divest himself of the assets, place them in a blind trust or otherwise put them out of temptation's way.

What the Congress imposes upon others, however, it has been reluctant to apply to itself. Financial disclosure by Members of Congress takes place for the most part behind sealed envelopes beyond the view of the public, beyond the view even of other Congressmen except in extraordinary circumstances. When it comes to the finances of Members of the Congress, it is the public that is asked to put up the blind trust.

Mr. Chairman, a few months ago this committee reported out and the Senate passed a bill designed to control campaign spending.

I would like to say I think both of you gentlemen deserve great credit for the work you did on that bill. It was my privilege to testify before you when that bill was here.

There was much that was controversial about that bill but on one provision there seemed to be universal agreement. That was the great benefit of requiring candidates to lay out all the facts about their campaign finances for public inspection. This is a simple and traditional remedy in our system of government; let the public know the facts and judge a man on his record.

Financial disclosure is nothing more than that. It does not attempt to define the rights and wrongs of any situation, it imposes no sanctions or penalties on anyone. It simply makes these matters a part of the record and gives the public a basis on which to make a reasoned, and I am confident, a fair judgment. It should also sharpen the moral judgments of those who know that their acts can be challenged.

The bills before this committee are in my judgment logical extensions of the disclosure principle embodied in the campaign spending bill, and a further step in the same direction of restoring public confidence in the integrity of those who make and enforce our laws.

If it is important for the public to know from whom a candidate received contributions in an election campaign, is it not also important to know from whom he receives dividends or fees or salaries during his time in office? If the first is the source of possible influence and obligation what can be said of the other?

In reality, financial disclosure as proposed in either of the bills before the committee is a modest step. It is far less than is asked of executive branch nominees who appear before the Congress seeking confirmation.

I will extend the rest of my remarks with your permission, Mr. Chairman.

Senator CANNON. We are happy to have you here, Senator Spong, and to have your statement in the record. I know you are pressed for time to attend the funeral of Senator Willis Robertson, whom I served with in the Senate.

Senator STEVENS. I think you make a great point that this is a companion bill to the one covering campaign spending, and this bill does not cover campaign matters. We have to be certain that these are kept apart.

Senator SPONG. I think it is a quite logical extension of the campaign spending bill.

Senator STEVENS. I do, too, but they are separate and apart.

Senator CANNON. Senator Spong, I did pose some questions to Senator Case, and I think they might well be propounded to you. I wonder if you would have your staff go over them and perhaps you could supply responses for inclusion in the record.

Senator SPONG. Senator Cannon, I would be very pleased to do that, and we will go over the questions and I will submit answers to the committee for the record.

I thank you for allowing me to leave.

Senator CANNON. Thank you very much.

(The formal statement of Senator Spong, and the responses of Senator Spong to questions by Senator Cannon, subsequently supplied for the hearing record, follow:)

STATEMENT OF HON. WILLIAM B. SPONG, JR., A U.S. SENATOR FROM THE
STATE OF VIRGINIA

Mr. Chairman I appreciate this opportunity to testify in support of public financial disclosure by Members of Congress and other Federal officials and employees.

Appropriately, this hearing comes at a time when the Senate is considering the qualifications of two nominees to the Supreme Court and, as part of that examination, closely scrutinizing their financial holdings. Where there is the slightest chance of a conflict of interest, the Committee will insist the nominee divest himself of the assets, place them in a blind trust or otherwise put them out of temptation's way.

What the Congress imposes upon others, however, it has been reluctant to apply to itself. Financial disclosure by Members of the Congress takes place for the most part behind sealed envelopes beyond the view of the public, beyond the view even of other Congressmen except in extraordinary circumstances. When it comes to the finances of Members of the Congress, it is the public that is asked to put up the blind trust.

Mr. Chairman, a few months ago, this Committee reported out and the Senate passed a bill designed to control campaign spending.

There was much that was controversial about that bill but on one provision there seemed to be universal agreement. And that was the great benefit of requiring candidates to lay out all the facts about their campaign finance for public inspection. This is a simple and traditional remedy in our system of government: let the public know the facts and judge a man on his record.

Financial disclosure is nothing more than that. It does not attempt to define the rights and wrongs of any situation, it imposes no sanctions or penalties on anyone. It simply makes these matters a part of the record and gives the public a

basis on which to make a reasoned and I am confident a fair judgment. It should also sharpen the moral judgments of those who know that their acts can be challenged.

The bills before this Committee are in my judgment logical extensions of the disclosure principle embodied in the campaign spending bill, and a further step in the same direction of restoring public confidence in the integrity of those who make and enforce our laws.

If it is important for the public to know from whom a candidate received contributions in an election campaign, is it not also important to know from whom he receives dividends or fees or salaries during his time in office? If the first is the source of possible influence and obligation, what can be said of the other?

In reality, financial disclosure as proposed in either of the bills before the Committee is a modest step. It is far less than is asked of Executive Branch nominees who appear before the Congress seeking confirmation. Let me give you one example of how fine a line is drawn for such nominees.

In a recent confirmation hearing before a Committee of which I am a member, one distinguished Senator closely quizzed the nominee about certain holdings of diversified mutual funds. The Senator conceded that decisions on what goes into such a portfolio are made by the fund manager and outside the direct control of the investor. Nevertheless he pointed to the possibility that, unknown and unintended by the nominee, certain kinds of stocks might be purchased which the nominee, if confirmed would be prohibited by law from owning. I think it was a good point and properly made. And, it illustrates how fastidious the Congress can be when examining the finances of other officials.

A better known case was the nomination of Judge Clement Haynsworth to the Supreme Court. That nomination was rejected by the Senate principally because Judge Haynsworth had not disclosed certain financial interests which had a bearing on cases before his court. I did not agree that his oversight constituted an ethical breach and I disagreed with the Senate's action. But it was taken nevertheless.

I would hope that there will not be many more instances of deliberation by this body in which it sits in judgment upon others, but fails to apply the same standards to itself by adopting the principle of full, public financial disclosure.

There are many who will oppose a requirement of this kind not from any sinister motives but because they feel strongly that it invades their right to privacy. I do not dismiss that argument, but I believe there is a larger principle at issue. Those who hold a public trust owe an accountability to the people they serve and no part of that record stewardship is legitimately a private matter.

This is not to suggest that members of Congress must disqualify themselves from participation in any issue in which he may have some private economic connection. I say this at the risk of departing somewhat from the purist position taken by Thomas Jefferson in his manual of parliamentary practice. He advised:

"Where the private interests of a member are concerned in a bill or question he is to withdraw. And where such an interest has appeared his voice has been disallowed, even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principle of the social compact, which denies to any man to be a judge in his own cause, it is for the honor of the House that this rule of immemorial observance should be strictly adhered to."

I think there are good reasons for allowing some deviation from that prescription today. The most cogent of these is that an official's outside economic involvements do not necessarily lead him to vote his private interests against the public good. Very often, there is a natural correlation between the official's own economic interests and the economic character of his constituency.

Financial disclosure should not be a special burden in that respect. On the contrary, I believe that most government officials and office holders will find financial disclosure a benefit for it will relieve them of the ill-founded suspicion that so often attaches to public acts today. Only where such an official doubts that he can justify a particular item of income or investment to the public would disclosure become an interference in his affairs. And that, I submit, would be a proper interference.

What little information is available today supports the view that public office need not be at the expense of private investments. For example, a recent Congressional Quarterly review of the limited financial disclosure statements made

by members of the House of Representatives (May 28, 1971) showed that 63 Representatives declared holding during 1970 in companies ranked among the nation's top 100 defense contractors. Three of this number were members of the House Armed Services Committee. Presumably, these Congressmen and their constituents were able to reconcile the potential conflicts that might develop between private and public interests.

The report lists 102 House members with some interest in or income from banks, savings and loan associations or bank holding companies. Ten of the 102 were members of the House Banking and Currency Committee.

Again, 45 Representatives listed holdings in federally regulated oil and gas industries, four of whom were members of the House Interior and Insular Affairs Committee which has jurisdiction over natural resources policy. Twenty-one members reported connections with radio or television companies, also a federally regulated industry.

In some cases, members have abstained from voting or participation in an issue because of their economic interests. At other times, it has been their judgment that no conflict existed. What is important in all this is that it was done in public view. The public was not asked for blind trust that their representative would always do the right thing but were given some basis on which to make their own judgments.

Public trust in the integrity of those who make and administer the laws is an indispensable element of our system of government but that trust has been in serious decline in recent years. It is unfortunate because I believe that the overwhelming number of those in Government today are honorable, hard-working, and dedicated public servants.

Nevertheless, there have been a few—a well publicized few—who have used their positions to further their own private interests. These have been rare and isolated cases. But, because the public has no basis for judging otherwise, they have engendered widespread doubts and suspicions about the motives of all those in Government.

A nationwide Gallup Poll taken in March 1967 asked respondents whether they thought misuse of government funds by elected officials was a common or uncommon practice. Sixty percent of those answering said they thought it was common; twenty-one percent said uncommon and nineteen percent had no opinion. Consider, sixty percent of those questioned believed official misconduct is common!

The bill I have introduced would require all members and candidates for \$18,000 a year or more, Federal judges, and certain officers and employees of the major national political parties to annually disclose the sources and amounts of their income, their assets and liabilities, gifts, and honorariums received by them, and all transactions in securities and real and personal property.

Frankly, I believe the committee should give serious thought to extending the requirement to other nongovernment groups which have a regular and direct impact on the course of the public's business; for example, registered lobbyists.

Disclosure of a public servant's personal financial interests not only will discourage wrong-doing and conflicts of interest, but will allow the people to act with knowledge in choosing those who would represent them in Congress of the United States. Such disclosure would eliminate doubt and suspicion about the activities of those who run our government and would restore the faith of the people in the honest operation of the laws.

During my campaign for the Senate, I promised that I would support legislation that would require the disclosure of the income and assets of Members of Congress and that I would make a voluntary accounting of my personal finances in the event that such legislation was not enacted.

I sponsored one of the bills before the Committee today and cosponsored other bills in the last four years. In the absence of congressional action, I have at the beginning of each year voluntarily made available to the public through the Congressional Record, a statement of my personal finances. Many other Senators have done the same.

Two years ago, the Senate did adopt a rule that each Member of the Senate and their top staff aides submit to the Comptroller General in a sealed envelope a copy of their income tax return and a statement of their assets and liabilities. This envelope can be opened only by order of the Senate Committee on Standards and Conduct in the event of an investigation for alleged violation of the rules. In addition, a report of all contributions and the amount and sources of all honorariums of \$300 or more will be made public.

The House also passed legislation that required limited disclosure of the financial interests and activities of its Members.

I do not believe that these half measures are enough. To regain the public's confidence in government, full public disclosure is required. It is essential, in my judgment that Congress come to grips with this problem.

QUESTIONS BY SENATOR CANNON AND RESPONSES THERETO BY SENATOR SPONG

Q. (Senator CANNON). Various disclosure proposals attempt to set an income limit for dividing Federal officers and employees into two groups—those who must file statements of assets, income, liabilities etc., and those who are exempt. Most income limitations vary between \$15,000 and \$18,000 annually. I realize that these figures are the results of subjective judgments and are not inflexible. However, I wonder if we are not setting the limits too high or whether there should be any cut-off at all.

Do you believe that a high income officer or employee is more prone or more susceptible to conflicts of interest or corruption than a lower income officer or employee?

Might not a \$10,000 per year employee seek to supplement his income more intensely than a \$20,000 per year employee?

Doesn't a \$10,000 per year employee sometimes perform duties which are as sensitive or as important as those performed by higher income officers and employees? Not in the sense of policy making or the decision making sense, but in the handling of classified or confidential documents?

A. (Senator SPONG). I do not believe an official with a high GS rating or its salary equivalent is more susceptible to corruption than lower officials. He does have greater opportunity, however, to influence policy because of his higher position and, therefore, should be required to make a public accounting of his financial connections.

A \$10,000-a-year employee might feel a greater need for additional income than a \$20,000 employee, but that is all relative to the individual's particular financial circumstances. Again, the test I would apply as to who should or should not make financial disclosure is how great an opportunity exists to influence public business.

Some lower paid employees obviously do have important assignments which in some circumstances might allow him to influence policy. I doubt that this happens very often with \$10,000-a-year employees and it would be a rare instance that such an individual would not be closely supervised and his actions checked at many points along the line.

Q. (Senator CANNON). About 219,000 Federal officers and employees—all branches of the government—would be called upon to disclose income, holdings in securities and commodities, debts, outside activities and other information to the Comptroller General. They would be covered by law because they are public or civil servants dealing with the public and Federal funds.

We know that there are many others, however, who occupy positions in which public funds are managed. Corporation executives who bid for and carry out government contracts, bank officers who administer Federal programs, university and college administrators and professors who receive and oversee Federal grants for studies and research, tax-exempt foundations which are the beneficiaries of Federal funds and private tax-exempt contributions to perform certain functions, are only some of those individuals who are or could be susceptible to the same pressures and influences as Federal officers and employees.

Ought not those persons I have alluded to be required to file public statements of income, assets, holdings, debts and other matters?

A. (Senator SPONG). In most cases, I do not believe there is any need to require full financial disclosure from consultants, contractors and others who deal with the federal government on a limited and occasional basis. There may be exceptions to this, of course, but I think they would be rare. Some thought might be given to having such individuals declare any financial interest which could be in conflict with the specific federal duties they are performing.

Q. (Senator CANNON). These bills pending before us do not require identification of the name and address of each business or professional corporation, firm or enterprise in which Federal officers and employees hold positions as officers, directors, partners, proprietors or other capacity, and the amount of compensation

per annum for such office. Nor do they require identification of trusts or fiduciary relationships in which the officer or employee of the government may have a beneficial interest.

Do you believe that such matters should be included or excluded from the disclosure provisions of the pending bills?

A. (Senator SPONG). My bill does not specifically require the name and address of the business or corporation in which a federal official or employee holds a position. However, it does allow the Comptroller General to prescribe the form and detail of the disclosure reports and I would anticipate that one requirement would be identification of the corporations and firms in which the official or employee has some interest. To be meaningful, I believe the report requires that kind of information.

Q. (Senator CANNON). It appears to me that there are a great many opportunities for some citizens to exercise influence over the population of this nation, including the editorials and radio and television commentaries of executives and employees of our various news media. They may not be handling public funds but they do exercise a powerful influence upon the public. And they are within the broad jurisdiction of the United States.

Would you comment on the desirability of requiring public disclosure of income, assets, holdings, outside financial activities, etc., for such individuals in the public interest?

A. (Senator SPONG). I think it would be highly desirable for all groups having a continuing influence on public policy to make public their financial interest. Except where federal officials and employees are involved, I doubt that the Congress constitutionally could require disclosure by non-governmental people and I don't think that would be desirable. What would be useful would be some form of voluntary disclosure by these groups.

Q. (Senator CANNON). The Senate Code of Ethics requires the filing of a copy of the Federal income tax return with the statement filed by certain Senate officers and employees with the Comptroller General.

Would your bill repeal the Senate Rules completely? Would your bill dispense with the filing of a copy of the Income Tax Return?

A. (Senator SPONG). It is doubtful that the financial disclosure report under S. 344 would be as complete as the income tax return now filed by Senate officials and employees with the Comptroller General. I believe that practice should continue and be supplementary to the disclosure called for in my bill.

Q. (Senator CANNON). In your opinion, is there a limit beyond which a public, as opposed to a private officer or employee, ought not to be subjected to public examination under the Constitution and laws of the United States?

A. (Senator SPONG). Obviously there are limits to the public scrutiny of an official's private affairs. For instance, the public has no need or right to know how an official spends his money. But there is a great distinction between public and private employment. The public employee must expect public concern about aspects of his life which could influence his conduct as an official or employee. The Constitution is based upon recognition that power corrupts. Its elaborate system of checks and balances is designed to prevent any one individual or group from exercising independent power for ends that he alone may advocate. Financial disclosure is only another check on the performance of federal officials and employees. I think it is consistent with the Constitution and, in this modern day, a necessary addition to its protections.

Q. (Senator CANNON). I understand and appreciate the principle that the Federal officer or employee is occupying a position of public trust. I also perceive that a public servant must be ready to account for his trusteeship. I am not sure to what extent the public servant should be deprived of a measure of privacy under the law of the government or pursuant to the natural law. I am not certain that the public servant must be under the microscope of public scrutiny at all times, for everything he thinks or does.

It seems to me that justice requires an equality between the person who chooses to enter public life and the person who remains in private life.

Humans are all equal in the eyes of the law and equity. Perhaps in the opinion of some the public servant should be subject to the utmost inspection and examination, even to the point of requiring public examination of each income tax return, among other things.

I am not of that opinion but I have espoused the principle of disclosure of outside income, assets and interests.

What is your opinion of the proposal that Federal officers and employees and all other executives, officers or others who administer or use public (Federal) funds, disclose income, assets, liabilities, outside financial or business interests and fiduciary interests, if they receive or will receive additional income or benefits from those interests equal to or in excess of 5, 10 or 20 thousand dollars per year?

A. (Senator SPONG). This proposal puts the emphasis in the wrong place. Outside income is important only where it could have some bearing upon an individual's judgments and actions on public questions. Where that individual has only limited and highly circumscribed access to the policy making process, I think it is unnecessary to require detailed disclosure from him.

Senator CANNON. The next witness is Senator Lawton Chiles of Florida.

STATEMENT OF HON. LAWTON CHILES, A U.S. SENATOR FROM THE THE STATE OF FLORIDA

Senator CHILES. Thank you, Mr. Chairman. I appreciate very much the opportunity to appear before the committee and testify in favor of the bill introduced by Senator Case, cosponsored by Senators Spong and Eagleton and others.

I think that the one thing that I ran into in my recent campaign when I walked through Florida was the general feeling that just pervaded all of the people that I talked to, the feeling that Government is too far away from them; that it is too big; it is unresponsive to them, and a general feeling, really, of distrust.

I had so many people say to me: "If you are not in there now I will vote for you." That is the feeling that many of us, I think, run into. I would have run into that same feeling, perhaps, if I had still been running for my State legislative seat. It is a feeling that probably is general now, this feeling of the loss of public confidence.

I think we all realize a betrayal of the public trust is the most serious charge which can be made against a public official. If an official uses his office to advance his own financial interests at the public's expense, he has committed a crime against the basic principles upon which our Government is built.

Thankfully, outright cases of such betrayal are few in our Government's history, and yet it is time that we recognize that this growing public cynicism about political finance is encouraged not only by revealing outright corruption, but also by the vague secrecy surrounding many of the areas of political finance. A lack of accurate and dependable information disturbs the public. It fosters skepticism and causes doubts concerning the honesty of all our public officials. In 1913 Justice Louis D. Brandeis wrote:

Publicity is justly commended as a remedy for social and industrial disease. Sunlight is said to be the best disinfectant and electric light the most efficient policeman.

I believe S. 343 sheds a little sunlight and electric light on the area of financial accountability. The public disclosure that this bill would require aims chiefly at promoting public confidence through curbing abuses and making it dangerous for candidates as well as officeholders in all three branches of Government to manipulate interest unethically, and providing relief from the burden of ill-founded suspicion.

Certain essential principles have dominated our thinking concerning money, politics, and government. We believe that money alone should not be the deciding factor in who shall hold public office. We

say a man ought to be able to try for a public office if he is able, regardless of his personal finances; we claim that public officials ought to be free agents, not beholden to anyone or any group, but rather they ought to act always in the general public interest.

We talk vaguely of some method of financial accountability which would maintain and foster public trust in the electoral process as well as the governmental process itself.

Unfortunately, these essential principles have been paid little more than lipservice in the past. Any genius we have has been exercised in getting around the law instead of in making that law effective and workable. Federal and State laws requiring publicity, limitation on income sources and expenditures, and so on have been inaccurately reported, generally inadequate, and shot through with loopholes.

I join with Senator Spong in complimenting this committee for the work they did in the Senate campaign bill. In my own State of Florida we worked hard to reform the law regarding campaign expenditures and public disclosures, and today Florida is one of the few States where the law is considered effective.

In Florida we do not think it is too effective. We think it still needs considerable change. But Florida, among the States, is a leader in the area of public disclosure and public disclosure laws concerning campaign expenditures, and conflict of interest for officeholders.

In 1969 in Florida we established a code of ethics concerning any interest, financial or otherwise, seriously conflicting with the officeholder's duties in the public interest. The code requires the reporting of such conflicts.

I think it is that that legislation did not pass in 1 year; it was introduced time after time, as legislation has been introduced up here. We constantly had the question raised of the double standard and that we are elected by the people and therefore we are given a trust the people have the right to elect us and we face them at the ballot box, and all of these reasons—everybody having their own argument why officeholders should not have to be held by any code or make any disclosure.

I think the one thing that we failed to realize and that those people failed to realize was that though this law, and the code of ethics law that we passed in Florida, will not catch a crook, a person that desires to cheat and is going to cheat no matter what he has to do; it would set a standard, a standard that an officeholder can apply to himself. The boundaries are there.

In addition to that, when we start talking about the double standard, we are failing to realize that if we do not have the public's confidence, no good work that we do is really going to be recognized, is going to be carried out, because we have a voluntary government. Only with the people's voluntary compliance can we operate this wonderful system of ours.

And I think that more than any other reason, more than the fact that we have dishonest people—most people, I think, in government really hold themselves to a higher degree of trust than the same percentage of people in business or in some other area. But I think it is awfully important how the public views this.

For that strong reason of trying to have public confidence we need to lean over backward to see that we have public disclosure and a code of ethics and public confidence.

Interestingly enough, since we passed those laws in Florida, they do not appear to keep anybody from really running for office. But I think all of us feel a little bit better about it, and certainly the public looks upon the Government now with more confidence than they did before.

Since both Houses of Congress have already adopted rules requiring some measure of financial disclosure, much of the discussion over whether any degree of disclosure should be required has become unnecessary.

We recognize that public officials often make disclosure to some superior who is responsible for their conduct. In our system it is the people themselves who are our superiors and it is our duty to them that all public officials owe their disclosure. Public disclosure would hopefully dispel suspicion and deter some avoidable conflicts of interest.

It would make important information available to colleagues and constituents, but most importantly I think it is the first step toward regaining what we need most of all, the public's confidence.

As we derive our powers from the people, if we are to act in the public interest, then we must first eliminate any doubt or suspicion concerning our integrity and make every effort to maintain the public confidence.

I appreciate the opportunity to talk before you.

Senator CANNON. Thank you very much, Senator Chiles. I believe you were here when I pointed out to Senator Case that about 219,000 Federal officers and employees in all branches of the Government would be involved here, but on the other hand there are many others who occupy positions in which public funds are managed, and perhaps you heard our discussion with respect to State officials who manage Government funds, grants, and so on.

Do you think in corporations who receive grants, nonprofit and so on, do you think it ought to likewise extend to those people?

Senator CHILES. I think the first thing we have to do is make a step. I think the bill by Senator Case which requires public financial disclosure by those public officials, the people in the judiciary and the people in the executive branch who would be earning a certain salary—I think the committee could use its judgment in determining what kind of salary level there would be—would mark that step. Primarily I think what we should be getting at is those who make policy decisions, those whose policy decisions could be influenced by some outside source of income that they have.

I think when we do that we go a long way toward restoring the public confidence. Then I think we need to continue to work, to look for areas and see what we need to do in addition to that.

But I think it would be possible to overload this bill to the point where you would have people who could have all kinds of excuses as to why I voted against it. "I voted against it because I did not want to hurt those poor college professors," for example, we would lose in these people the grantmaking authority if we included them in the bill.

So, I would be practical enough that I would try to start out first with the governmental people.

Senator CANNON. Well, we have another very real problem, and I raised this question a little while ago, and that concerns the President's

Wage and Price Control Board. This Board is appointed by the President. These people obviously have interests; they have interests required by law.

Senator CHILES. Yes, sir.

Senator CANNON. The question then arises: Can they make an impartial judgment, one that is not influenced because of their own private and personal interest?

Would you have people like that included, and if so, or if not, where would you draw the line?

Senator CHILES. I think you are always going to have difficulty anywhere you are going to draw the line. I would look for the people who are influencing policy, that are going to be making major policy decisions. I would include the Wage and Price Control people.

Senator CANNON. They certainly do make major policies.

Senator CHILES. I think they would. Again, as we are pointing out, this legislation, of course, is not going to keep anyone from serving; it is going to require a disclosure of what his interests are.

Senator CANNON. Of course the disclosure just means that, in accordance with the bill, the information is available if somebody wants to go get it.

Senator CHILES. Yes, sir.

Senator CANNON. In other words, it is not going to be published in the newspapers. It probably will be because the newspapers will get it and publish it, but it is not a requirement that it be published, which raises in my mind the question whether we ought to get right at the root of this whole problem and say that all of the information and everybody's tax returns would be made public. This would get around the question of whether you are having first- and second-class citizens and also the question of whether some Government employees are covered and some other Government employees are not covered.

Maybe that would be the best solution, to make the tax returns public information.

Senator CHILES. I would disagree with that, Mr. Chairman.

Senator CANNON. Why?

Senator CHILES. For the simple reason that I feel that the information as to what my assets are, what my net worth is, what my sources of income are, are all very relevant facts and information which should be made available to the public.

But how I interpret the U.S. Revenue Code in regard to how I treat my charitable deductions; how I treat the items that I see on that code, should not be necessary to the public. I think you have got a basic difference there. I think I am entitled to have the privilege of deciding what I want to contribute to the First Presbyterian Church, for example, and how I treat my tax return.

But what my sources of income are and what my assets are, where I am getting the money that I get, what my net worth is, I think that is the information that the public is entitled to.

Senator CANNON. Well, I find that a very close line. I am reminded of an instance not long ago that occurred with a political figure where information was disclosed that he did not pay any taxes while he was a public official. Much to do was made about it, and certainly

from the way the press reacted that must be information that they felt they should have been entitled to.

That was removed from the Federal Government level, but certainly the public appeared to be very much interested in whether or not this individual who was receiving a high salary could get by without paying any Federal income tax. That might be something that everybody would be interested in. The general public might want to know if you and I have some particular reasons for not paying as much income tax as Joe Doakes might have to on the same income.

These people might want to know it. Why should they be deprived?

Senator CHILES. I just think under the circumstances the income tax code is there, and how I interpret the code or how I file my tax return, is a right every citizen is entitled to. But I think those sources of money, where it is coming from, what my net worth is, is information that the public is entitled to.

Senator CANNON. This would require all transactions relating to property, and this would show where money goes; not only where it is coming from, but where it goes, if you are buying property and so on.

It seems to me that there is a very fine line, if any, of distinction.

I may say that in this committee, in a couple of cases that were under investigation, we examined the income tax returns of the individuals we happened to be investigating. We were able to secure those returns and examine those returns. Maybe it would be better if everybody's tax return was made public, and we would not have this problem we are concerned with today.

Senator CHILES. I think if we had that as legislation we would be right back to where we are now. We would not have anything.

Senator CANNON. Senator Stevens.

Senator STEVENS. I am inclined to agree with you, if you mean instead of public officeholders disclosing returns. I never understood why they should be secret anyway. As to this bill, you mentioned the Florida law was not working. I always thought it was.

Senator CHILES. I say to the other States, compared to what a lot of other States have, it probably is a model law. There are probably an awful lot of loopholes.

Senator STEVENS. That is what I am asking about; is there anything we can learn?

Senator CHILES. I am talking primarily about campaign expenditure laws.

Senator STEVENS. With regard to this bill in terms of disclosure, is it your point of view that sources of income ought to be identified? For instance, if a person got dividend income, do you think the source of that dividend income should be identified so that we could tell what the source of his income and the nature of his investment was?

Senator CHILES. I think that the source of income should be identified, yes, sir; and if you are going to have a meaningful disclosure—well, if you were able to lump it up, the dividends, it may be a very closely held corporation that was benefiting from one Government contract. If it was just under dividends, a number of dollars, there would be no disclosure.

Senator STEVENS. I think you made a very good point, and I am pleased to see that you are involved in pressing this on. I hope we can take it to the floor soon. I thank you very much.

Senator CANNON. Dividend income is required under the bill to be reported—as I say, I think that in terms of the Rockefellers, or the Shapps, or people like that, it might require pretty good sized filing to comply with the law.

Senator STEVENS. On the other hand, there are going to be those who do not have any at all, and they are liable to be embarrassed.

Senator CANNON. That is a very good point. One Senator said to me, "I hope this does not pass because I would be embarrassed to show what my assets were, to let my constituents know that I was not able to do better as a private businessman than I have been able to do."

Thank you very much.

Senator CHILES. Thank you.

Senator CANNON. The next witness is Senator Eagleton.

STATEMENT OF HON. THOMAS F. EAGLETON, A U.S. SENATOR FROM THE STATE OF MISSOURI

Senator EAGLETON. Thank you, Mr. Chairman and Senator Stevens.

Mr. Chairman, I welcome this opportunity to testify before the Subcommittee on Privileges and Elections on the need for more stringent financial disclosure by all public officials. I have long supported the concept of public disclosure of private holdings and since coming to the Senate have publicly disclosed my personal holdings even though it is not required by current law. I am pleased to be among the cosponsors of Senator Case's bill, S. 343, and I support Senator Spong's bill, S. 344, as well.

While I will address my remarks primarily to the need for fuller disclosure by Members of Congress, I want to make clear that I favor extending these requirements to employees of the executive and judicial branches, as provided in S. 343 and S. 344. Public officials in these positions hold a public trust no less sacred than that held by elected representatives in Congress, and much of what I say today applies to them with equal validity.

It is my firm belief that the public should have ready access to information which will allow them to make reasonable judgments about the way in which public officials have performed in office. They should be familiar with their representative's views on major issues. They should have access to his record of attendance. And certainly they should have an opportunity to judge whether he has voted his conscience or his pocketbook.

Some may argue that the best way to avoid conflicts of interest is to fully divest oneself of all holdings upon entering public life. I personally do not believe that persons of means should be barred from office, or that they should be forced to diminish their wealth upon entering public service. Certainly consideration should be given to placing their holdings out of their personal control, through trusts or other mechanisms, for the duration of their public service. But, whatever their financial profile is, I strongly believe that all their cards should be on the table. On the day of reckoning, the public should be able to see what personal interests their representative holds and how he voted on critical issues—and then make an informed determination as to whether he has exercised his power in the public interest.

It is true that both Houses of Congress now require Members to file financial disclosure reports. We in the Senate publicly disclose the source and amount of each honorarium over \$300, as well as gifts over \$50. In addition, we file confidential reports including our income tax returns and statements of our holdings and liabilities. These confidential reports are protected from public scrutiny, however, unless an investigation is called for alleged violations of the rules and an order is issued by the Committee on Standards and Conduct.

These sealed reports, safely stored in the office of the Comptroller General, offer no guidance whatever to the voting public. This information should not be reserved for use in the unlikely event of a scandal but should serve instead the more useful purpose of informing the electorate as to another aspect of their representatives' service. In the era of the "credibility gap" and widespread public disaffection and distrust of politics and Government, full public disclosure takes on a special importance which we in Congress have an obligation to recognize.

Just a few months ago, the Senate did recognize the right of the public to know the nature and extent of financial backing of candidates for public office. The Campaign Reform Act contains a comprehensive reporting system for contributions and expenditures, with adequate provision for making this information available to the public at stated intervals before election day. Why, one might ask, should any less be asked of those who are then elected and sit in positions of public trust?

In the past some have argued that full public disclosure is an unwarranted invasion of privacy. But each of us, upon entering public life, sacrificed knowingly a significant degree of personal privacy, apparently thinking it worth the price for the privilege of holding public office. As one distinguished Missourian, former President Truman, said:

Public office is a privilege, not a right, and people who accept the privilege of holding office in the Government must of necessity expect that their entire conduct should be open to inspection by the people they are serving.

Certainly financial interests are close enough to the core of public service that they cannot be shielded from disclosure on the basis of a "sense of privacy" on the part of public officials.

In sum, I support legislation requiring public officials to disclose fully and publicly their holdings and liabilities. To do less, in my view, would be to deprive our voting public of the raw material they need to vote responsibly and with a greater sense of trust in those who sit in positions of public power.

Thank you, Mr. Chairman.

Senator CANNON. Thank you, Senator Eagleton, for a very fine statement.

You have made one comment that I think perhaps we should clear the record on. You say, "Why, one might ask, should any less be asked of those who are then elected and sit in positions of public trust?"

As an author of the Election Reform Act, I want to say that the Election Reform Act relates mostly to campaign contributions and expenditures. It does not go to the issues that these proposals are directed to. That is: What are one's assets, income, holdings, where they came from, and what company does he have stock in and this sort of thing.

Senator EAGLETON. That is why I phrased it in terms of a rhetorical question. I say: If we require, as the Senate-passed bill does, that I disclose the source of my campaign contributions, shouldn't similar leverage be imposed upon a candidate once he is elected? I ask rhetorically: Why do we not go the full measure? Why not require disclosure of what the candidate himself owns, and thereby what influences might be brought to bear upon him by reason of his personal holdings.

Senator CANNON. You say: Why should any less be required of a man who is elected. In other words, the less is required of the candidate—

Senator EAGLETON. I would require more, obviously.

Senator CANNON. That is right. Now, I raised the question with some of the other witnesses about the point that about 219,000 Federal officers and employees in all branches of the Government would be affected under this bill.

On the other hand, there are many others: corporations, banks; there are universities and colleges, and Government contractors, and so on, all who receive Government moneys and should be accountable for it. Why, then, should these people not also be included because they would certainly—

Senator EAGLETON. I think I heard the tail end of Senator Chile's answer to basically that same question, and I subscribe to it. This is a first step. There is the bromide that public officials should be like Caesar's wife—above reproach. I think we should be Caesar's first wife. We ought to put our own house in order. We ought to be an example for the rest of the public.

After we pass S. 344, and get 218,000 filings taken care of, then we can move on to these other things.

Senator CANNON. These bills relate to people who have incomes of \$18,000 or more. A bill introduced a number of years ago on this same subject, which I introduced, proposed a cutoff of \$10,000 or more. Do you have any comments on this?

Senator EAGLETON. I have no strong feeling as to what the cutoff point should be. Depending on how far back you introduced your bill, you may have an inflation factor. Perhaps when you put your bill in, \$10,000 was what \$18,000 is today.

Senator CANNON. The staff reminds me that the Senate code of ethics has a cutoff point of \$10,000 when it relates to employees who are handling campaign financing.

Senator EAGLETON. I would not argue against reducing the \$18,000 figure.

Senator CANNON. Undoubtedly you heard my last comment to Senator Chile as to whether or not we would not solve the problem simply by making all the income tax returns public information.

What is your comment on that?

Senator EAGLETON. I would favor an amendment to the bill which would require any of those covered by the bill, all 218,000 of them, if they seek a second term of office to publicly file their income tax returns. That is, I would grandfather in those in for the present term. Then any Senator or House Member could decide when the time comes for reelection whether there is something sufficiently embarrassing in his

return that he would prefer not to disclose, and he could say farewell to Congress.

He would then make a free, open, and fair choice. If he sought reelection he would know that one of the things he would have to file would be his personal income tax return. I would make the same thing binding on officials appointed subsequent to the date of the act.

Senator CANNON. What would you do with the civil service employees?

Senator EAGLETON. Anybody who accepted appointment subsequent to the effective date of the act would be obliged to disclose.

Senator CANNON. You would not require that of people that were already in?

Senator EAGLETON. I would make that exception because when he assumed public service he did not have reason to believe that his income tax return would be made public. So I would not throw out a civil servant. Nor would I require a Supreme Court Justice to resign. But if this law were operative, I would make Messrs. Rehnquist and Powell disclose.

Senator CANNON. One of the arguments that we frequently hear is that the civil servants in the higher grades are the people who really determine the policy of the Government, who are really running the Government, so if that is the case, particularly the executive branch, military and so on, if that is the case, then you would be eliminating a very important element would you not?

Senator EAGLETON. For the instant, yes. But bear in mind in 2 years it would cover 435 House Members and 33 Members of the Senate. In 6 years, the total Congress would be covered, and in due course the entire executive branch, as well, by attrition.

Senator CANNON. I have already pointed out before you came, to one of the witnesses, that the Comptroller General and the Department of Justice both were asked to comment on the bill and both the departments are opposed to enactment of the bill for a variety of reasons.

The Comptroller does not want that responsibility thrust upon his lap, does not feel that that is proper—

Senator EAGLETON. In my 2½ years here I have not found any bill that the Comptroller General supports that gives him any additional duties. He is apparently pleased with what he is doing and wants to do no more.

Senator CANNON. The Department of Justice's letter and the Comptroller's letter are now a part of the hearing record.

Senator STEVENS.

Senator STEVENS. I wonder, if we are Caesar's first wife, what is the category for the second echelon of coverage?

Senator EAGLETON. A casual friend.

Senator STEVENS. I would like to ask: There is one group of people we have not mentioned, and the chairman, before you came in, mentioned the problem as to whether we should extend this to those people who have significant impact on public policy, such as TV commentators and newspapers. I think the record shows the answers on that.

We have not discussed the question of those people in a position of administering vast sums of money because of the tax laws, the charitable trusts, the large foundations. As a matter of fact, the subsequent

witness comes on behalf of Common Cause—I understand it is a tax-free organization—I may be corrected if I am wrong on that.

I wonder sometimes if we should not require those people who occupy positions in organizations such as this to make a public disclosure?

Senator EAGLETON. Well, I think that was implicit in Senator Cannon's earlier question, and I think that would be a proper and intelligent second step. I guess my answer is pragmatic but there are a lot of things, for instance, I would like to have seen in the campaign spending bill. I would like to have seen direct mail covered, et cetera, but I realize that with the passage of legislation that you could not necessarily do everything in one fell swoop.

I think S. 343 and S. 344 are a very significant beginning. I would suspect that, if this were to become law in the future, coverage insofar as those who try to exercise influence on Congress might be the second step.

Senator STEVENS. Thank you very much.

Senator CANNON. Thank you, Senator Eagleton.

The next witness is Dean James C. Kirby, Ohio State University College of Law.

STATEMENT OF JAMES C. KIRBY, JR., DEAN, OHIO STATE UNIVERSITY COLLEGE OF LAW; ACCOMPANIED BY ROBERT GALLAMORE, DIRECTOR; AND MITCHELL DORSON, ASSISTANT DIRECTOR, POLICY DEVELOPMENT FOR COMMON CAUSE

Mr. KIRBY. Mr. Chairman, as the committee knows, I am representing Common Cause; and with the chairman's permission, I would like to be accompanied by two staff members of the organization.

Senator CANNON. Fine.

Mr. KIRBY. On my right is Mr. Robert Gallamore, director of policy development for Common Cause, and on my left is his assistant, Mr. Mitchell Dorson.

As you know, I appear as a representative of Common Cause, of which I am a member, an organization of more than 220,000 members which is concerned with the way the public interest is often ignored and even subverted in the deliberations which lead to public policy.

Common Cause believes a number of structural and procedural reforms are badly needed if government is to become more responsive to the needs of its citizens and thus regain their confidence and trust. One such reform would be the public disclosure of private financial interests by high-ranking officials in all three branches of the government.

Excellent work has been done in this area by Senator Case and Senator Spong, and Senator Bayh, whose omnibus disclosure bill, S. 1885, is before the Senate Government Operations Committee. I would like to present today some of Common Cause's recommendations for limitation and modification of these proposals, changes we believe would serve both to encourage the divestment of possible conflicts of interest by those making disclosure and to make the disclosure more meaningful to the average citizen. In particular, Common Cause:

1. Supports the disclosure of the existence of financial interests but not of the specific dollar amounts of such interests;

2. Recommends a broad list of items to be disclosed, including professional services provided, offices and directorships held, and associations with individuals or firms lobbying or doing business with the Government;

3. Favors a strict prohibition of law practice by Members of Congress; and

4. Supports the proposal that Members state, prior to casting any vote on the floor or in committee, any possible conflict of interest on the matter pending.

We believe that adoption of these measures would encourage public officials to place their financial resources in relatively neutral investment such as savings accounts, Federal savings bonds, mutual funds, and blind trusts.

But, before going into these proposals in detail, let me speak briefly of the crisis of public confidence which faces the Congress and the Government today and makes this type of legislation so necessary. In addition, I will attempt to enumerate the substantial benefits which Common Cause believes would accrue from limited financial disclosure on the part of public officials.

Public visions of government officials robbing the public treasury go back at least to the days of the *Crédit Mobilier* and Teapot Dome scandals and the exposure of the Whiskey Ring and the Ohio Gang of the Grant and Harding administrations. No one would suspect that improvements have not occurred since that time, or since the turn of the century, when cartoonists often pictured Members of the Senate as being in the possession of huge trusts. But, in the past decade, details of former secretary to the Senate majority, Robert Baker, the late Senator Thomas Dodd, and former Representative Adam Clayton Powell using their public positions for private gain caused the average citizen increasingly to view all participants in the governmental process with suspicion and even contempt.

The public came shortly to feel that these cases were merely the most extreme manifestations of a general phenomenon; as one of your esteemed former colleagues, Senator Paul Douglas, of Illinois, wrote, they had "come to believe that the revealed sins of the few are the predominant practices of the many."

It is only when recent polls on the citizen's attitudes toward his Government are examined that the extent of the disaffection becomes clear. Fifty or one hundred years ago cynicism about public officials was limited to an informed minority which constituted such reform efforts as those of the Populists and the Progressives. Today it is the average citizen who is the cynic. One Gallup poll taken in the spring of 1967 revealed that 6 of 10 Americans believed shady conduct among Congressmen was "fairly common," and a Harris survey in the same period noted that over half the citizenry felt that at least some Congressmen were "receiving money personally for voting a certain way on bills that came up in Congress." Another Harris report published only last February was even more disturbing—it revealed that in the brief 6-year period from 1965 to 1971 the percentage of the public which gave Congress a positive rating declined from 64 percent to 26 percent. It is just as David Broder wrote in the *Washington Post* 14 months ago: "Disillusionment with 'the system' is not confined to the college youths or radicals or blacks.

Much of educated, affluent, middle-class America is equally turned off by government and politics today, distrustful of the ability or willingness of elected officials to meet the problems that plague America."

In such an atmosphere, it is doubtful that the already fragile Jeffersonian ideal of government "deriving its power from the consent of the governed" can be maintained indefinitely. Either the country will cease to respond to public problems in a peaceful way, or, what is far more likely, it will cease to respond at all, looking upon its Government with apathy and disdain. Clearly, initiatives are needed on the part of the Congress that will narrow the enormous credibility gap which divides the people from their leaders.

The idea that financial disclosure is one reform that can lessen public mistrust and improve the political process is at least as old as Jefferson, who, while President, defended the invasion of privacy entailed in holding office when he wrote: "When a man assumes a public trust he should consider himself a public property." Support for the concept was voiced by Theodore Roosevelt and Woodrow Wilson at the beginning of this century, and later reaffirmed by Presidents Eisenhower and Johnson. A 1951 senatorial subcommittee chaired by Senator Douglas regarded it as the most important single move Congress could make in the conflict-of-interest area. And as recently as 1967 the Gallup poll showed that the American people endorsed such a step by almost $3\frac{1}{2}$ to 1.

There is a precedent for the use of disclosure as a device both to improve the legislative process and to give the public confidence in the integrity of that process. In 1913 the landmark Underwood tariff was debated and passed by the Congress. The highlight of the Senate debate on the measure came when Senator Robert LaFollette and other progressives demanded that Senators publicly disclose their personal property holdings which might be affected by tariff legislation. The demand was met—and each Senator disclosed such interests in testimony before the Senate Judiciary Committee.

In the glare of publicity which followed disclosure, the Senate moved to improve rather than undermine the Underwood tariff—and it is noteworthy that the passage of that reform measure was followed by the enactment of other progressive social legislation in areas such as banking, trade, and antitrust. The new way of doing public business which the Senate disclosure typified was a breath of fresh air for the country, and the New York Times editorial on the passage of the Underwood tariff said in part, "This is no tariff by logrolling, by manipulation, by intrigue, by bribery. It was bought by no campaign contributions. It was dictated by no conspiracy between corrupt business and corrupt government."

That short period before World War I was the high-water mark for congressional disclosure. Present-day procedures are inadequate by comparison. In particular, public financial disclosure by Senators has been limited to reporting only the fringes of a Member's finances; his honoraria, political contributions received, and gifts. At the same time, the considerable private disclosure made to the Comptroller General has not lessened conflicts, nor has it prevented the embarrassment of some former Senators when details of their conflicts came to light.

Congress has had the opportunity for 25 years to pass legislation before it which would cement and expand upon the 1913 provisions; yet even in the face of unmistakable evidence of a growing erosion of public confidence, both Houses, and the Senate in particular, have opposed disclosure legislation on the strength of such spurious logic as that disclosure would make its Members "second-class citizens." The increasing distrust of Congressmen by their constituents demands that such legislation be given more thoughtful consideration than that.

Common Cause endorses limited financial disclosure for three major reasons. First, we believe that such a practice would protect and spotlight the integrity of the great majority of men and women in public life who are honest and who view their positions as public trusts. Disclosure would serve to dispel the notion that many public officials get rich in public office, when in fact most men and women remain in Government service only at considerable financial sacrifice.

Second, establishment of disclosure procedures would cause some officials to divest themselves of financial interests which might be construed as a conflict of interest with their duties, as former Representative George Bush did with his oil holdings before going on the House Ways and Means Committee. Alternatively, an official might disqualify himself from voting on a matter when such conflicts exist, as Senator Taft does in the case of broadcasting legislation, as Representative Thomas Pelly does on banking legislation, and as Senator Bentsen did during the vote on the proposed loan to Lockheed Aircraft.

Third, public disclosure would give both a Congressman's colleagues and his constituents a better opportunity to evaluate his performance and his judgment on issues, thereby reinforcing the idea of an official being accountable both to his associates and to those he represents.

Common Cause believes that one major modification of the proposals before this committee is necessary—that, in the case of financial interests, specific dollar amounts need not be revealed. In making this recommendation, it has adopted a suggestion made in a study by the Association of the Bar of the City of New York's Special Committee on Congressional Ethics, of which committee I was executive director. It was our committee's feeling, as stated in its report, "Congress and the Public Trust," that disclosure should "* * * be limited to that needed for the public intelligently to assess the trusteeship of Members."

It is the holding of the actual interest, rather than any specific dollar figure, that appears most relevant to us; and we concur with the opinion expressed 4 years ago by Senator Scott that complete disclosure could at the same time be unnecessarily embarrassing to the very rich and dangerous to poorer officials, whose relative poverty, once fully revealed, might subject them to greater pressures by the unscrupulous.

In striving to achieve some balance between the need for adequate disclosure and the importance of some privacy for those who would make reports, Common Cause recommends that sources of income, assets, debts and liabilities, and holdings in real property and securities of at least \$1,000 be reported, and that indication also be made whenever a holding or liability exceeds \$10,000 and \$50,000—but that no dollar amounts be listed in these categories. It is our feeling that

this type of disclosure most encourages divestment of possible conflicts of interest on the part of public officials, and the resulting investment of funds in savings accounts, Federal savings bonds, mutual funds, and the like.

In certain other categories—gifts over \$50 contributions for office expenses, and honorari over \$300—Common Cause believes that dollar amounts should be made public. We also endorse disclosure of all purchases of real property and of securities made in the calendar year just concluded. And we further recommend disclosure of the following: All professional services provided by the official making the report, all offices and directorships held, any lobbying of the Congress or the Executive by a business or professional associate of the official, and all firms with which the person making disclosure is connected which are regulated by or do business with the Federal Government.

Common Cause believes that any law practice by Members of Congress represents dangerous conflicts of interest and that it should be prohibited. We will work toward that end in the coming year, but until such a goal is obtained, we favor disclosure of all Federal agency business conducted by a law firm with which the person making disclosure has a relationship, as well as a list of all clients of such firms who paid fees of \$1,000 or more in the previous calendar year.

Finally, Common Cause supports a reform proposed in 1965 by Senator Javits, which would have required Members of Congress to declare the nature and extent of any direct or indirect pecuniary interest in any legislative matter before a vote on the floor or in a committee or subcommittee. As has been earlier noted, we consider this information vital to both a Member's colleagues and to his constituents—and we see the adoption of such a procedure to be still another way of opening up the legislative process and narrowing the gap of suspicion and mistrust which divides the country from its representatives.

Limited financial disclosure for Government officials will not be a panacea. Other initiatives will be required to curb conflicts of interest in Government, and Common Cause will be saying more about this in the coming months. Many procedural and substantive reforms are needed to make the Congress more responsive to the needs of the people, and to make the political process more equitable. But the degree of public antagonism toward the Congress and the Government as a whole makes restoring public trust a matter of the highest urgency. We support financial disclosure as one means of restoring that trust.

It has been 2½ years since the Senate last had the opportunity to debate and vote on a financial disclosure proposal. It is imperative that this committee give Senators another opportunity to consider the issue and to act on it.

I thank you, Mr. Chairman, for giving us this opportunity to present these views.

Senator CANNON. Thank you for giving us your views. I do not quite understand now from your statement, are you suggesting that these items on page 2, for example, in addition to those covered in the bills should be disclosed or are these separate and apart from—in other words, what I specifically would like for you to direct yourself to, first, do you think that this should apply to all three branches of the Government?

Second: Do you think that we ought to have a cutoff point as to salary or revenue from the governmental source; and if so, where it ought to be on and so on.

Could you discuss those?

Mr. KIRBY. We have not gone into the business of detailed draftsmanship. We think it more important that the basic principle here involved gets accepted, and then the details attended to. However, on the first question, we do in a sense adopt a more moderate view of so-called total disclosure than do the bills before you.

Our first suggestion that dollar amounts not be revealed would result in less disclosure, and it is to that extent a proposed amendment to the bills before you.

On the broadening of items, this is a disclosure item which should be viewed as a proposed amendment in substance, although it is not detailed.

On law practice, this is mentioned largely because we proposed disclosure of clients, of firms with which an official continues a relationship. But this is not viewed as the ultimate solution, only as an interim step until law practice can be totally eliminated, we hope.

And the fourth point is a disclosure item which would call for amendment.

On the major question of, you say should it apply to all three branches; yes. The points made earlier that Members of Congress should not be singled out from other high public officials is a valid one.

There are procedures at work now in the ABA Committee on Judicial Ethics which will require expanded Federal judges' financial disclosures. As to the dollar amount at which it should be cut off, I think that some dollar amount is appropriate.

We are concerned, as Senator Case was, with reaching only the officials above a certain level, who do have some potential for doing harm by serving conflicting interests. There is a point below which ministerial employees probably do not have that potential.

What the dollar amount should be, \$18,000 seems reasonable; \$10,000 probably was a few years ago. At the time this legislation becomes law it may be that \$20,000 or \$22,000 would be the appropriate figure.

I hope I answered all your questions.

Senator CANNON. I wonder if you would address yourself to the questions that I put to some of the other witnesses with respect to income tax returns. Why not make public the information in all income tax returns which would cover everybody, and we would get away from the question of whether there are two classes of citizens and so on.

Mr. KIRBY. Well, the Special Committee on Congressional Ethics of the City Bar of New York studied that at length. We had several top tax lawyers on that committee.

We finally unanimously rejected that idea. For one thing, it is surprising sometimes how little an income tax return shows you. A great deal of items of income can be lumped without showing the actual sources of income on a return. But more importantly, that how a man spends his money, particularly in the area of charitable contributions, is not the public's business; and if it was shown that he were

favoring a particular church, a particular school, or particular charity, it might be used against him unfairly.

If it were to be disclosed that he gave heavily to charity or lightly to charity, that might be used against him unfairly.

The income tax return would be an easy way out, but we do not think it is a good answer to the problem.

Senator CANNON. Senator Stevens.

Senator STEVENS. Well, I think your statement demonstrates why the bills have failed in the past. You not only set yourself up in favor of disclosure, but then you proceed to judge the people who are doing the disclosing in terms of what is or what is not conflict of interest.

I wish you had done us a service by supporting the bill instead of supporting future concepts of conflict of interest.

I could not disagree with you more about the legal profession. I find it very interesting that New York lawyers who make \$100,000 or \$200,000 a year can put themselves up in judgment of the attorneys that enter public life who want to continue some small amount of income. They do not seem to have any qualms about their clients who they represent who have millions and millions in trusts. They assist them to put them in such a way that they have these immunities. I just cannot understand your position.

Let me ask you—I have just one question: Do you believe in disclosure as a basis for restoring confidence or do you believe in disclosure as a basis for finding some way to increase distrust?

Mr. KIRBY. We believe in disclosure as a basis for restoring confidence.

I think the main difficulty in this whole area is that Congress has resisted disclosure so much. I think the mere fact that it resists causes an exaggerated sense of the public's view that Congress may have something to hide. The mere fact that disclosure was suddenly embraced alone would symbolically restore a lot of confidence.

Senator STEVENS. I agree with that, but at the same time you equate that with conflict of interest. I know a lawyer who left Government because he had five sons he wanted to put through law school but he could not afford to do it and be in Government because of the stringent requirements the bar association had placed on him.

He is now out in San Francisco earning \$200,000 a year representing private clients, when he could have contributed a great deal to this Government.

Where does the concept of disclosure end and the concept of conflict of interest start? Are you asking us to pass a law to require full disclosure so that you could then attack people who might be willing to continue in public life and run the risk that their constituents might not like it and would vote against them. They do not want the kind of insinuation that you bring before us today, that any lawyer who makes any money outside of his Government capacity should be subject to distrust.

I say that is what your statement before us here today means.

Mr. KIRBY. Well, in part that is not inaccurate.

However, let me say first that our goal is not to expose people so they can be attacked. The fewer people who are attacked after this disclosure becomes effective, the better.

It is our desire that people will rearrange their finances so they will not be vulnerable to attack.

Senator STEVENS. That is a very interesting thing. It is what I thought you meant. I support disclosure because I think the public should know the sources of income, the sources of potential alignments that a person might have in public life. There is no question about that.

But then you say, in effect, if you see a smart lawyer in the Government, he can put all of his money into mutual funds or into other sources of income, and be above suspicion.

I point out to you what Senator Spong said today in the statement he filed with the committee. He said :

In a recent confirmation hearing before a committee of which I am a member, one distinguished Senator closely quizzed the nominee about certain holdings of diversified mutual funds. The Senator conceded that decisions on what goes into such a portfolio are made by the fund manager and outside the direct control of the investor. Nevertheless, he pointed to the possibility that, unknown and unintended by the nominee, certain kinds of stocks might be purchased which the nominee, if confirmed, would be prohibited by law from owning. I think it was a good point and properly made. And, it illustrates how fastidious the Congress can be when examining the finances of other officials.

I agree with Senator Spong's statement entirely.

As I understand your position you would not mind at all if people put their money into mutual funds and had income from mutual funds and believed that this automatically whitewashes the whole concept of conflict of interest?

Mr. KIRBY. Not automatically, Senator. They have got to put their money somewhere. Nobody is saying that they have to divest themselves of all their earthly goods and give them to the poor.

Apparently you support more disclosure than we do. You may be right. It was our judgment, and the judgment of the city bar committee, that so-called total disclosure, the listing of personal effects, heirlooms, insurance policies, many things are irrelevant to the public.

Senator STEVENS. They are just as relevant when we come to a tax law that pertains to the transferability through the so-called loophole provision of an heir to property as it is to disclosing whether I made \$100 last year by writing a will for an old friend.

That is the discrepancy of your position.

Mr. KIRBY. I think our only disagreement is on the law practice. Let me talk about that a minute.

First of all, the American Bar Association's new code of professional responsibility has pretty well settled this question, because it provides that no public official can permit his name to continue to be used by a law firm for any significant period in which he is not actively and regularly engaged in the private practice of law.

Now, if a Senator or Representative who was going to satisfy that professional norm is going to have to hold himself—still to be actively and regularly engaged in the practice of law—

Senator STEVENS. I want you to understand that I do not.

Mr. KIRBY. I was glad to hear that most Northwest Representatives do that. That is the norm for the majority of lawyers in Congress. It is a conspicuous small minority that continues to practice. Senator Javits recently withdrew his name from the New York law firm because he found he did not satisfy this requirement of "active and regular"

practice unless he gave up time with his family, which he was not prepared to do.

If a Member wants to still claim that he is going to the office some days a week, and is actively and regularly practicing law and takes his chances on the political process, it will satisfy the professional standards of this, but I think it seriously opens the question of whether he is satisfying congressional ethics which should involve a full-time job working for his constituents.

Senator STEVENS. You see no difference at all if I inherited a lumber firm, and went up every other weekend, and made the policy decisions, and hired and fired the people and received income, there would be no possible conflict compared to an attorney who might go home every other weekend and practice on Saturday and Sunday in his law office and try to keep business going in case he did not make it the next time around.

Mr. KIRBY. Well, the city bar of New York recommended that they give up their directorships of businesses and so on for the same reasons.

The member occupies a fiduciary relationship to the company or client, which is inconsistent with the sort of objectivity that he ought to bring to bear on legislation when he considers it. A lawyer who is on a retainer for a lumber company—can he, when lumber legislation comes up, exercise an independent and impartial judgment in the interest of all the people? Our committee thought not.

Any client that he has is going to have some sort of Federal legislative interest.

Senator STEVENS. That is my problem with your position. You are going to make the decision for my electorate. Suppose my electorate does not object to that. I favor full and absolute disclosure, and I think the chairman is absolutely right. We should require them to disclose the tax return—

Mr. KIRBY. Would you disclose clients of law firms?

Senator STEVENS. Certainly; full and absolute disclosure, and let the public make up its mind. If I am practicing law in some town and represent a client—incidentally, I do not, but if a person is, and he desires to maintain that relationship and he is going to serve a period of time in public office, and obviously go back to maintaining his income, and he is willing to let the public know it, let the public make up its mind, why should Common Cause set the standards of what is and what is not conflict of interest, or the Bar Association of the City of New York?

Mr. KIRBY. Well, Senator, the chapter on law practice by Members of Congress, in Congress and the public trust develops this and it is not just a bunch of New York lawyers. We studied lawyers from the South and the West, one in particular I will not name now who said to me personally that law practice was an open sewer running right through the middle of Congress; that everything else compared to it was tame in the corruptive influence that it had.

Senator STEVENS. That is nice to say. In my experience, and exposure to them, I have not found it. I have heard it repeated. As a matter of fact, I do not know of anyone still actively practicing.

Mr. KIRBY. Then there is no problem. We have already achieved the results.

Senator STEVENS. That is not true; in terms of what you are doing, there are people who do maintain associations with firms, maintain their name on the door, I am sure, or something like that.

Mr. KIRBY. Then they are violating the canons of ethics which have been adopted in 35 or 40 States, if they are leaving their name there and drawing some income but are not performing any services.

Senator STEVENS. Well, we will get to that another time.

I hope you will support the full disclosure concept and leave the conflict of interest until later.

Mr. KIRBY. Full disclosure will not fail because of Common Cause.

Senator CANNON. I must say I am not overly impressed by actions of the ABA on this issue, because I found them to be wrong on a number of issues, including one very cursory examination of a nomination, and the examination was made by a couple of telephone calls. As a result of that, I resigned a couple of years ago.

Mr. KIRBY. I would not defend ABA all the time. This particular provision has been one that almost 40 States have adopted in their own codes.

Senator CANNON. Well, thank you very much. We appreciate your being here.

Mr. KIRBY. Thank you again.

Senator CANNON. Without objection, at this point I will insert a statement of Mr. Michael D. Martindale, past candidate for mayor of Bay City, Mich., submitted for the hearing record.

(The statement of Mr. Martindale follows:)

STATEMENT OF MICHAEL D. MARTINDALE, PAST CANDIDATE FOR MAYOR OF BAY CITY, MICH.

CHAIRMAN CANNON AND MEMBERS OF THE SUBCOMMITTEE: First, I wish to thank you for letting me submit testimony on this very important subject of public disclosure.

Second, I feel that this must be extended to the State and local levels as well. My findings after months of talking with Bay City County and State officials are as follows:

- A. Unfair since their elections and offices are on public trust.
- B. Too personal in regard to their personal life.
- C. The public is not knowledgeable in political affairs and such disclosures would only cloud public trust.
- D. The citizens have no right to know how public officials are conducting public business.
- E. Only Party members should have access to public officials' financial records and not every man, woman or child.

Many people that I have talked to have refused comment on this issue. Local and State officials feel that if these two bills are passed by the Congress, then it will move people at their levels for the same, thereby doing away with the old ways of politics and non-disclosure.

I also ask that these bills be amended to include the copies of disclosure statements and mailing them to people who are unable to travel to the Capital to view them. These disclosures should be copied and mailed as public documents, not confidential reports. Every citizen should have the right to know all he or she can about those they elected and should be able to question their elected officers and appointed officials duty and life in any aspect that they should desire.

These bills if passed by your committee will help the honest politician and hurt the dishonorable. If you fail to pass this bill of public confidence, by passing these bills in your committee, you will be adding and encouraging more corruption in our government at all levels. If you pass these bills, you will have

begun a step forward to kill corruption and one of its causes, secrecy. I ask that you encourage the members of Congress to pass this needed cure to some of this nation's governmental corruption.

Senator CANNON. The committee will now stand in recess, subject to the call of the Chair.

(Whereupon, at 12:18 p.m. the committee was recessed, subject to the call of the Chair.)





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