NOMINATIONS OF JAMES E. SMITH, THOMAS R. BOMAR, GRADY PERRY, JR., GLORIA E. A. TOOTE, ROBERT C. HOLLAND, AND JOHN R. EVANS

HEARING BEFORE THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

UNITED STATES SENATE

NINETY-THIRD CONGRESS
FIRST SESSION

THE NOMINATIONS OF JAMES E. SMITH TO BE COMPTROLLER OF THE CURRENCY; THOMAS R. BOMAR AND GRADY PERRY, JR., TO BE MEMBERS OF THE FEDERAL HOME LOAN BANK BOARD; GLORIA E. A. TOOTE TO BE AN ASSISTANT SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; ROBERT C. HOLLAND TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM; AND JOHN R. EVANS TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION

MAY 31, 1973

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NOMINATIONS OF JAMES E. SMITH, THOMAS R. BOMAR, 
GRADY PERRY, JR., GLORIA E. A. TOOTE, ROBERT C. 
HOLLAND, AND JOHN R. EVANS

THURSDAY, MAY 31, 1973

U.S. Senate,
COMMITTEE ON BANKING AND URBAN AFFAIRS,
Washington, D.C.

The committee met at 10 a.m., pursuant to call, in room 5302, New Senate Office Building, Senator John Sparkman (chairman of the committee), presiding.

Present: Senators Sparkman, Proxmire, Williams, McIntyre, Cranston, Stevenson, Johnston, Hathaway, Tower, Brooke, Brock, and Taft.

The CHAIRMAN. Let the committee come to order, please.

We have quite a list of appointees from whom we want to hear. That is the purpose of this meeting, to hear the gentlemen and one lady who have been nominated to fill various posts in the executive branch of the Government.

Let me say at the outset that all of these nominees have been cleared by the Senators that represent the home States of the nominees. I know one of these fellows from Alabama. I don’t remember anybody asking me about him, but I will give my clearance now.

Since we do have six nominees to hear from, unless another member of the committee wishes to make a statement, I will ask for the first nominee, Mr. James E. Smith, of Virginia, whom we know quite well—he has been before this committee many times—to take the witness stand.

Mr. Smith is nominated to be Comptroller of the Currency to replace Mr. William B. Camp who has for a long time been the Comptroller but who has retired because of illness.

Mr. Smith, we are very glad to have you. As I have already said, you have been before the committee many times.

Mr. Smith has done a very fine job in the Treasury for several years, and I know he will do an equally fine job in the Office of Comptroller of the Currency.

Now, there are a few formal questions I would like to ask you.

Have you submitted a financial statement to us?

STATEMENT OF JAMES E. SMITH, NOMINEE, TO BE COMPTROLLER OF THE CURRENCY

Mr. Smith. Yes, I have, Mr. Chairman.

The CHAIRMAN. Very well. As you know, that financial statement will be available to members of this committee here in the committee
room. Afterward it will be sealed, locked up in our safe, and will remain there so long as you hold this office and for 1 year thereafter.

All of the nominees might be reminded of that. That is our regular procedure.

You have checked, I presume, with the counsel as to whether or not you have any conflict of interest based upon your financial statement?

Mr. Smith. Yes, Mr. Chairman. The Acting General Counsel of the Treasury, Mr. Lee Ritger, reviewed my financial statement yesterday and concluded that I did not have any conflict of interest.

The Chairman. Now, there is another question that I want to submit to every nominee. If you are confirmed to this position, will you respond to requests of this committee and other congressional committees to appear when asked to do so and testify?

Mr. Smith. Unquestionably, Mr. Chairman. I have spent 20 years in this community, and nearly all 20 of them either working in or with the Congress, and I will be responsive to all requests to appear.

The Chairman. Very well.

We will place in the record your biographical sketch.

[The biographical sketch of Mr. Smith follows:]

Biographical Sketch of James E. Smith

Name: James E. Smith.
Title: Deputy Under Secretary.
Military service: None.
Career summary: Government: 1955-57—Investigator, Office of Security, Department of State; 1957-62—Legislative assistant to Senator Karl Mundt; 1962-63—Minority counsel to the Senate Subcommittee on Intergovernmental Relations; 1969 to August 1972—Special assistant to the Secretary for Congressional Relations; August 1972 to present—Deputy Under Secretary of the Treasury.
Memberships: Association of Former Senate Aides, South Dakota Bar Association.

The Chairman. Senator Tower.

Senator Tower. I don't have many questions, Mr. Chairman. I would simply like to say that Jim Smith is well known to us and has done a good job as congressional liaison with the Treasury Department. I don't know of any congressional liaison officer that I think we have had better relations with than Jim Smith.

I would like to ask one question. In the past there has sometimes been a tendency to turn down requests for charters for minority banks based, I think, on too zealous attention to the technicalities involved. I am hopeful that we can move more capital into the minority groups and bring them more into the mainstream of the free enterprise system.

I would simply express the hope that you would be particularly concerned about applications from blacks and from Mexican-Americans for the formation of banks and would show some sympathy to those applications.
Mr. Smith. Senator, just this: That I played a very modest role in the Treasury Department in the efforts of the last few years to strengthen the existing minority banking institutions through directing Government deposits into those institutions. I have not played a principal role in it, but I am certainly entirely sympathetic to the objectives that you suggest.

And I think, frankly, in terms of chartering policy generally, if you were to put it on a scale of 10 as to liberal versus conservative chartering policy, I might come out a 7 or an 8. I think that will be my attitude generally—to give competition and the benefits of competition the nod and the benefit of the doubt in close questions.

Senator Tower. Thank you very much. That's all I have.

The CHAIRMAN. Senator Proxmire.

Senator Proxmire. Mr. Smith, I concur that you have fine qualifications and excellent experience. It is good to have a man appointed who has the kind of background you have, and I certainly welcome this appointment.

There are some aspects of this that trouble me somewhat. Your principal employment except in the Treasury Department and a period when you served here on the Hill was with the American Bankers Association as deputy manager and associate Federal legislative counsel.

Mr. Smith. Yes, sir.

Senator Proxmire. Is that right?

Mr. Smith. Yes, sir.

Senator Proxmire. Does that mean that you were working on legislation on the Hill here for the American Bankers Association?

Mr. Smith. Yes, Senator. In unvarnished terms, I was one of the industry's lobbyists.

Senator Proxmire. As you know, I have a great admiration and respect for bankers. I think they are wonderful people. But the American Bankers Association has been wrong on almost every bit of legislation that has come up here in my view. They have opposed almost everything that has been before us. And I am very hopeful that as Comptroller of the Currency with the great authority you have, because you will determine who gets a national bank charter as I understand it—you are a member of the FDIC which determines charters for other banks—in this very powerful capacity that you would not be stand-pat, status-quo conservative as some Comptrollers have been in the past but more in the tradition of Mr. Saxon—that is, in favor of initiative, in favor of new competition, in favor of opening up opportunities for groups, not only minority groups—and I agree with Senator Tower this is something we ought to do our best to encourage—but others too.

Mr. Smith. Senator, let me say I served with the Bankers Association during Mr. Saxon's tenure. I have great admiration for his competence. I hope that I can do some very positive things in the office.

I don't think I can assure you that I can provide, perhaps, the same style and color as Mr. Saxon, but I'll do my best.

Your question certainly is a most valid one considering my former employment. I wish I could submit to you some objective evidence to assure you that I am going to be impartial and objective in this new responsibility if you see fit to confirm me.
I will say that in my 4½ years in the Treasury Department there have been occasions, and one ever so recently, in which I have taken a rather vigorous position contrary to the industry. I refer here to the famous NOW account issue.

Senator Proxmire. I certainly commend you on that.

Mr. Smith. I am not antagonistic to the industry, nor do I think I should be, but I am not a sycophant.

Senator Proxmire. I welcome your testimony on that, and it was a matter of direct and conspicuous conflict. The bankers are very much opposed to NOW accounts and you came up with a contrary position.

What experience have you had in the Treasury Department that relates to the Comptroller's functions?

Mr. Smith. I would suppose that the most direct experience has been working with banking legislation. I have, for example, worked on the Bank Holding Company Act amendments.

I think I can say with some accuracy that I have been involved in perhaps every major piece of banking legislation over the last 8 to 10 years in one role or another.

I am currently, at the direction of Secretary Shultz, chairing an interdepartmental group endeavoring to develop a legislative package out of the so-called Hunt Commission report relating to the structure of the financial institutions. And I say in advance that I regret our delay in getting that package to you. It has taken longer to hammer out the consensus than I thought it would.

But I think we are on the brink of an announcement there. I think that is very relevant to the work of the Comptroller.

Senator Proxmire. There was a story in the Post this morning I understand about bank charters being awarded to large political contributors. Would you favor a procedure of not permitting charters to go to people who had contributed or to members of groups that had made contributions? Or do you think legislation would be desirable in that respect? What is your feeling about that?

Mr. Smith. Well, on the one hand, obviously, I don't think people should be favored in consideration for bank charters because they have been involved in the elective process, either as an active campaigner or as a contributor. On the other hand, I would certainly want to give some thought to whether or not people should be denied the opportunity to participate in the organization of a bank because of a past history of political involvement.

Senator Proxmire. You understand the corrupting principle involved here.

Mr. Smith. Yes, sir.

Senator Proxmire. And certainly in the atmosphere that we are all aware of right now in the country, this could be a very serious problem.

Mr. Smith. Well, I will say this. I am satisfied from my own contact with the previous Comptroller's administration and the great professional staff that he has there that their decisions are not colored by such factors. I assure you that my own decisions will not be so colored either.

Senator Proxmire. Well, I hope you will think about the possibility or the desirability of legislation prohibiting consideration within a year, say, or a year and a half, something like that, of those who make political contributions for receiving a bank charter.
One other question. Have you submitted or agreed to submit in advance a signed resignation to the White House so they can pick it up whenever they want to do so?

Mr. Smith. No, I have not been asked to do so. Nor was I asked to do so in my present position, other than the general request at the end of the first term of this administration. I was appointed to my present position in August of 1972. No such request was made then. I don't anticipate any such request being made now.

Senator Proxmire. You say "other than." However, you did submit your resignation along with everybody else?

Mr. Smith. Yes, at the end of the first term of this administration.

Senator Proxmire. I am relieved. And I think it is tremendously important in your position, because this is a position that we would hope would be independent and, as you have indicated, should be independent of political considerations. Any such request of that kind would be most unfortunate.

So you tell us now that you have not been asked——

Mr. Smith. Right.

Senator Proxmire [continuing]. To submit an undated resignation to the President that he could pick up whenever he wishes?

Mr. Smith. That's right.

Senator Proxmire. Thank you.

The Chairman. Senator Williams.

Senator Proxmire. Thank you, Mr. Chairman.

I too am very pleased that Mr. Smith has been nominated for this position.

Mr. Smith. Thank you.

Senator Williams. It has been a pleasure to work with him over the years in his capacity as liaison to the Treasury Department.

I might have missed one of Senator Proxmire's questions but were you asked whether you would submit a resignation in blank if asked?

Mr. Smith. That was not the way the question was phrased. Not having been asked to in my present position and not having been asked to with respect to this new assignment, I'd rather not speculate, but I think I am sensitive to the issue.

Senator Williams. Now would be a good time to announce that you would not. It is very appropriate. Would you like to answer at this point?

Mr. Smith. I think I'd rather not speculate. [Laughter.]

Senator Williams. The laughter drowned out the response.

Mr. Smith. I said I think I would rather not speculate since I don't anticipate that I will be asked to submit a letter.

Senator Williams. This is your line of questioning [to Senator Proxmire].

Senator Proxmire. If the Senator would yield, I would hope you would reconsider that, Mr. Smith. After all, you are being appointed to a position of independence. I think it would be a tragedy if any President—how long does your term last?

Mr. Smith. It is a 5-year term.

Senator Proxmire. Well, now——

Mr. Smith. I understand I am filling out the balance——

Senator Proxmire. I don't want to make any adverse reference to President Nixon.
Mr. Smith. Senator, my reluctance to make such a pledge involves no misunderstanding of the principle involved. I just do not want to make an answer here that would imply that I believe I shall be asked to submit such a letter, and if—


Mr. Smith [continuing]. If we can make that clear that I do not expect to be, that in saying that I would refuse to provide such a letter if asked that it implies no expectation on my part that I will be asked for an undated letter, then I am perfectly willing to make such a statement of intention.

 Senator Proxmire. Then what you are saying, Mr. Smith, is you do not expect to be asked, there is no indication you would be asked. If you were asked, however, you would refuse to submit that kind of letter?

Mr. Smith. Yes. By the same token, I have no question but that I do serve at the pleasure of the President. He may for good and sufficient reason ask for my resignation. As a matter of fact, there is question I am told as to the period for which I have been nominated. Whether it is a new 5-year term or the balance of the previous 5-year term.

If I am in any way able to influence that result, that legal result, I would hope that it is the balance of the previous term simply because it expires in March of 1977. Such a result comports with my own view of the way things ought to be done. Whoever happens to be President, that being the beginning of a new term, I think should have the opportunity to select an individual for this important assignment.

Senator Proxmire. At any rate, you are saying you don’t expect to be asked to submit a resignation. However, if you were to be asked to do so, you would not comply? Is that correct?

Mr. Smith. Yes.

Senator Tower. Would the Senator yield? I don’t think he should be compelled to give a black-or-white answer to that, because there might be certain circumstances—

Senator Proxmire. As I understand it—

Senator Tower [continuing]. He can’t anticipate.

Senator Proxmire [continuing]. The position taken by Mr. Smith, as I understand it, was if the President should request his resignation that he would consider it at that time, and he might very well resign. But what he is saying is he would not submit to the President in advance an undated letter of resignation that the President can just pick up.

Mr. Smith. Right.

Senator Proxmire. And he said he would not.

Mr. Smith. Right.

The Chairman. Senator Williams.

Senator Williams. Just one further question. In your position you will come in contact with our dual banking system and with State banking commissioners. In one particular area—the granting of applications for new banks or for branches of existing banks. It seems to me there has been confusion in the area of comity between the Comptroller and the States. Are you familiar with what the situation is, and whether the Comptroller stands back until the State banking
commissioner considers a new application before he considers a later application for a bank in the same area?

Mr. Smith. No, I am not, Senator, conversant with that policy.

Senator Williams. This is an area that I believe is somewhat troublesome. At one point there was a ruling of comity—that the first application would be considered whether it was at the State level or the national level. I believe that now this is not quite clear and has not been clear in recent years.

Mr. Smith. Well, I can only say this: That I am a devout believer in the dual system. I think it has served the structure of our financial industry well, and I intend to take affirmative steps to counsel with and advise with State banking superintendents on the policies of the Comptroller's office.

Senator Williams. On an application for a State bank, the State banking commissioner makes the final decision, doesn't he?

Mr. Smith. Yes, he does.

Senator Williams. With the FDIC being a natural secondary partner?

Mr. Smith. That's right.

Senator Williams. A junior partner? Normally a bank will not be chartered unless there has been FDIC approval?

Mr. Smith. That's right.

Senator Williams. I have known situations where a State bank was chartered without FDIC approval, and then the FDIC felt they had better catch up to the situation and insure the bank.

I would, at a later date, like to know more about this policy.

Mr. Smith. All right, sir. I will get myself informed.

Senator Williams. I support his nomination, Mr. Chairman.

The Chairman. Senator McIntyre.

Senator McIntyre. Thank you, Mr. Chairman.

Your biographical sketch says 1969 to August 1972 you were Special Assistant to the Secretary for Congressional Relations. That is the Secretary of the Treasury; right?

Mr. Smith. Yes, sir.

Senator McIntyre. So you have been over in the Treasury Department now for what—3 or 4 years?

Mr. Smith. About 43/4 years.

Senator McIntyre. In 1971 there was a report rendered—the Hunt Commission report.

Mr. Smith. Yes, sir.

Senator McIntyre. Can you give this poor committee—we are now locked in combat with the House conferees over the NOW accounts—can you give us any idea, any remote suspicion, if the administration is going to speak to the Hunt Commission report?

Mr. Smith. Yes, sir. And I made a pledge to you some several weeks ago which I have not fulfilled on. We are in what I hope is the final lap of our development of a position. We have had a package of recommendations before the so-called Troika on two occasions in the past 6 weeks. That is a busy group of fellows, as you know. And I think that in and of itself demonstrates a real interest.

I have instructions from Secretary Shultz to undertake some revisions which have now been made. We are proceeding to recirculate them among the financial agencies and other interested agencies, and
I would hope that within 10 days or so we can be back to the Troika and hopefully with a final package that can then be announced sometime in June or early July hopefully.

Senator McIntyre. I hope that will be carried out.

How are the NOW accounts doing? Or don't you want to talk about it?

Mr. Smith. I would say they are fairing reasonably well.

Senator McIntyre. Well, I have known Mr. Smith, Mr. Chairman. He has been down here and he has worked very closely with Charles Walker, Under Secretary of the Treasury. I have a high regard for this gentleman and would hope he would bring the experience he has had in these years to this very important office.

I would expect that Mr. Smith will be a fine, outstanding Controller of the Currency and am happy to support him.

Mr. Smith. Thank you, Senator.

The Chairman. Senator Brock.

Senator Brock. If I may, I would just like to echo the Senator from New Hampshire's statement. I have known Mr. Smith for some time, and I am delighted with this appointment. I cannot adequately express my pleasure and my hope that you are going to do as well as I know you have the capacity to do.

I only have one area of concern that I would like to mention this morning, and that is in the area of—I know it is not always within your direct jurisdiction and authority—but the rather remarkable explosion of bankholding companies of late and the concern that many community banks have with their opportunity for continued existence.

There is a rather sizable element of concern among the so-called smaller banks, rural banks, community banks, that they are going to be placed in the position of not being able to compete.

I obviously don't expect a response from you on this particular point this morning, but I hope it would be a matter of some concern to you in your new capacity to be sure that our smaller towns, rural areas continue to receive the kind of personalized service that they do from the smaller banks.

I think it is important that they be a part of our institutional structure and we don't end up with a situation in which you only have one or two or three banking complexes that service an entire State. I think that is something that certainly would cause me a great deal of concern if it went to that extent.

Mr. Smith. I share your concern. I am a native of South Dakota, and that's all we have is small communities, so I am sensitive to the issue you speak of.

Senator Brock. I think the point I was making is somewhat in response to Senator Williams' comment about the duality of our banking systems. I think that is one of the safeguards we have.

But even in that instance a complex of State banks that are created to get out of the national banking system so they can go the holding company route poses rather severe difficulties for a national bank if it is not of sufficient size to effectively compete.

Mr. Smith. Right.

Senator Brock. I think that is something that warrants our considerable attention over the next year or so.

Mr. Smith. Thank you, Senator.
The CHAIRMAN. Senator Johnston.

Senator Johnston. Mr. Smith, I am also interested in this relationship between the Comptroller and the FDIC. Now, you sit on the Board of the FDIC? Is that right?

Mr. Smith. Yes, Senator.

Senator Johnston. What do you see as the role of the FDIC in State banks? Should they simply come along and insure what the State does or should they have a hand in that?

Mr. Smith. No, I think they have some responsibility to make some independent judgments. The directors are, after all, charged with the fiduciary management of the insurance fund, and they certainly ought not to go out and insure a situation which they deem for good and sufficient reason to be a highly risky one, despite what a State superintendent may have done.

I think those situations—I am not highly conversant with it—I think they arise ever so infrequently. When they do, I think they have to be faced forthrightly.

Senator Johnston. Now, the FDIC Board is made up of whom? Who are the decisionmakers?

Mr. Smith. It is made up of two appointive Directors. The Comptroller is a director by provision of statute. There are two other directors. And it further provides that no more than two of the directors may be of the same political faith, so you tend to have a majority party chairman, if you will, and a minority director on the Board. It is a three-man Board—a three-person Board.

Senator Johnston. That's all I know, Mr. Smith, except to say that while I haven't known you, my colleagues here are so high on you and your reputation around the Hill is such that I can join in also in enthusiastically supporting your nomination.

Mr. Smith. Thank you. You have some very generous colleagues.

The CHAIRMAN. Senator Tower.

Senator Tower. I note on examining your biographical sketch you have precisely the same birthday I do.

Therefore, he has got to be a "good guy." [Laughter.]

Mr. Smith. Thank you.

Senator Johnston. I thought you were much older, John.

[Laughter.]

The CHAIRMAN. Same year.

Any further questions?

[No response.]

The CHAIRMAN. Thank you very much.

I want to add my testimony that Mr. Smith has been an outstanding member of the Treasury's staff and he has done a wonderful job. I know he will do the same in the Comptroller's office. I congratulate you and wish you great success.

Mr. Smith. Thank you very much, Mr. Chairman. I will do my best.

The CHAIRMAN. Next we call Mr. Thomas R. Bomar of Maryland to be a member of the Federal Home Loan Bank Board for the remainder of the term. I believe that carries with it the chairmanship. Oh, it is to replace Dr. Preston Martin, who has resigned. Are you automatically Chairman?
STATEMENT OF THOMAS R. BOMAR, NOMINEE, TO BE A MEMBER OF THE FEDERAL HOME LOAN BANK BOARD

Mr. Bomar. Mr. Chairman, it is my understanding that the President designates one member of the Board, of the three-man Board, to be Chairman.

The Chairman. But does not do it in the nomination?

Mr. Bomar. I am not certain of that, Senator.

The Chairman. I am sure that is right. I was a little puzzled by the fact it just says a member of the Board, but I am sure that is correct.

We are very glad to have you, Mr. Bomar.

By the way, your biographical sketch will be placed in the record.

[The biographical sketch of Mr. Bomar follows:]

BIOGRAPHICAL SKETCH OF THOMAS R. BOMAR

Current address—8400 Pittsfield Court, Potomac, Md. 20854.

Birthplace—Sherman, Tex.

Birth date—July 16, 1937.

Married, two children.

Employment history:

From Sept. 1, 1970 to present, Organization. Titles and Responsibilities—Federal Home Loan Mortgage Corporation, Washington, D.C.; Executive Vice President and Chief Executive Officer; Organized and developed this organization created by Emergency Home Finance Act of 1970.

Apr. 1, 1970 to Sept. 1, 1970, Amor Associates, Encino, Calif. Partnership with one other individual. During this short period the principal assignment was a consultant to the FHLLB and FII, Banks.

Apr. 1, 1967 to Apr. 1, 1970, Larwin Group, Inc., Beverly Hills, Calif. This organization is a holding company (now owned by CNA Financial Corp., Chicago) whose subsidiaries are engaged in multiple forms of real estate activity. During the time at this organization primary titles and duties were: V.P. Tract Loan Department. Brentwood Mortgage Corp. (mortgage bankers); vice president and controller, Brentwood Mortgage Corp.; financial vice president, Brentwood Mortgage Corp.; executive vice president, Rexford Financial Corp. (construction loan mortgage banker); financial vice president and chief operating officer. BMC Management, Inc. (manager of Larwin mortgage investors, a $10 million REIT specializing in construction and development loans in various states coast to coast); vice president, Larwin Mortgage Investors, a REIT vice president, Larwin Group, Inc. (holding company).


Education:

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<th>Degree</th>
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<td>MBA</td>
<td>January 1961</td>
<td>Management and finance</td>
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<td>BS</td>
<td>January 1960</td>
<td>Management and accounting</td>
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<td>AA</td>
<td>January 1958</td>
<td>Business administration</td>
<td>Glendale College, Glendale, Calif.</td>
</tr>
<tr>
<td>Graduate</td>
<td>January 1955</td>
<td>Business administration</td>
<td>Hoover High School, Glendale, Calif.</td>
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</tbody>
</table>

Education honors:

Beta Gamma Sigma, Gamma of California, UCLA Graduate School of Business Administration, 1960 (life member).
Senator John J. Sparkman,
Chairman, Senate Committee on Banking, Housing, and Urban Affairs,
Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Mr. Thomas R. Bomar has been nominated by President Nixon to serve as Chairman of the Federal Home Loan Bank Board, and his nomination is before your committee for approval.

Mr. Bomar is highly regarded by my constituents in the banking profession and I would like to supplement their support by asking that your committee give Mr. Bomar every consideration for the appointment.

I appreciate your attention to this matter and I know that your committee will give careful consideration to this most important appointment.

With kindest personal regards, I remain
Sincerely yours,

GILLIS LONG,
Member of Congress.

The Chairman. I am sure your biographical sketch shows that you have been connected with the Home Loan Bank Board—for how long?

Mr. Bomar. I have been with the Federal Home Loan Mortgage Corporation, Mr. Chairman, since September of 1970, which is an affiliate of the Board.

The Chairman. Well, I knew it was the mortgage end of it.

Mr. Bomar. Yes, sir.

The Chairman. And all the reports that I have had have been to the effect that he has done an excellent job and knows the establishment of that organization gave us a wider mortgage market and more flexibility, and I think it has been most helpful for home mortgages in this country. I am interested in your work.

Mr. Bomar. Thank you.

The Chairman. Now, let me ask you the questions that I have asked the others. You have filed with us your financial statement?

Mr. Bomar. Mr. Chairman, I have that right here in an envelope.

The Chairman. Very well; if you will leave it with us. And you understand the conditions under which we take it?

Mr. Bomar. Yes, sir.

The Chairman. All right; now, I will ask you this question that I have asked all of the nominees, and that is if you are confirmed in this position will you respond to questions from this committee or any regularly constituted committee of the Congress, to a request to appear and testify?

Mr. Bomar. Yes, sir; of course.

The Chairman. Let me ask you this. While your financial statement is here, you have obtained I presume counsel’s finding on it?

Mr. Bomar. Yes, Mr. Chairman, I have.

The Chairman. And do you have any holdings or any interest that might constitute a conflict of interest?

Mr. Bomar. No, sir; I do not in my opinion, and the General Counsel of the Federal Home Loan Bank Board has issued a letter to me in which he concurs in that judgment.

The Chairman. All right, Senator Tower.

Senator Tower. Mr. Chairman, I hold Mr. Bomar in high regard, except I note he was born in Sherman, Tex., in Sam Rayburn’s district but had the eminent poor judgment to move to California. I trust it was before he reached the age of discretion and had no say in the matter. [Laughter.]
Mr. Bomar. Yes, sir; that's correct.

Senator Tower. I have no questions, Mr. Chairman, but Senator Brooke has asked me to submit two questions in writing to Mr. Bomar, if he would answer those for the record.

We will provide you with these so you can answer them for Senator Brooke.

Mr. Bomar. Yes, sir.

[The following letter was in answer to questions posed by Senator Brooke.]

FEDERAL HOME LOAN BANK BOARD,

DEAR SENATOR BROOKE:
The following is respectfully submitted in response to your written questions given to me at the Senate Banking, Housing and Urban Affairs Committee meeting on May 31, 1973 at which the matter of my confirmation by the Senate was considered.

I believe that it is only equitable for interest rate ceilings to be the same for savings and loan associations and cooperative banks. However, the nature and timing of any action with respect to rate ceilings on cooperative banks would depend upon actions taken by the FDIC with respect to interest rate ceilings on mutual savings banks.

I do not think that it is desirable at this time to raise the passbook interest rate ceiling for savings and loan associations. However, my position on this matter would have to depend upon the trend in other interest rates and, most importantly, interest rate ceilings on banks. If the latter were to be raised by the Federal Reserve Board and FDIC, I would support parallel action to maintain the competitive position of savings and loan associations and to prevent an adverse impact on the flow of housing credit.

While most savings and loan associations would increase interest rates paid on savings accounts, many individual associations would still find themselves hard pressed to pay higher rates or could do so only at the expense of needed additions to reserves. Fortunately, savings and loan associations are continuing to improve their portfolio yields, partly as a result of expanded loan and investment powers.

As you know, the statutory responsibilities for rate ceilings for savings and loan associations reside in the Board. Board actions in this area are based on a thorough analysis of public policy considerations, such as impact on the liquidity and solvency of associations, the flow of housing credit, and equity to the saver.

Sincerely,

THOMAS R. BOMAR, Chairman.

The CHAIRMAN. Senator Proxmire.

Senator PROXMIRE. Mr. Bomar, you were Chief Executive Officer of the Federal Home Loan Mortgage Corporation?

Mr. Bomar. I am presently, Senator.

Senator PROXMIRE. You have been, as I said, since September 1, 1970.

That is almost 3 years.

Mr. Bomar. Yes, sir.

Senator PROXMIRE. What does the Federal Home Loan Mortgage Corporation do, for the record?

Mr. Bomar. The Federal Home Loan Mortgage Corporation was created by an act of Congress, the Emergency Home Finance Act of 1970, and its chartered purpose is to make a secondary market in residential mortgages.

Senator PROXMIRE. As you said, this was created by statute. You have been the only Chief Executive Officer and Executive Vice President?

Mr. Bomar. Yes, Senator. Correct.
Senator Proxmire. You started, you organized, you established this agency as I understand it?

Mr. Bomar. Yes, sir.

Senator Proxmire. What do you see as the principal duty of the Home Loan Bank Board now or the principal responsibility and obligation?

Mr. Bomar. The Federal Home Loan Bank Board has a number of functions, Senator, as you are aware. It is a regulatory agency. The Federal Home Loan Bank Board serves as the administrative head of the Federal Savings and Loan Insurance Corporation. The three members of the Federal Home Loan Bank Board are the Directors of the Federal Home Loan Mortgage Corporation. And it is a Federal regulatory body chartering Federal savings and loan associations, establishing Federal Savings and Loan Insurance Corporation regulations, administering the 12 Federal home loan banks and the Federal Home Loan Mortgage Corporation.

Senator Proxmire. As you know, the principal concern that many of us have with respect to this agency is what role it can play in stimulating housing, and we are very conscious on this committee of the importance of housing for our economy and the failure that our society has suffered up until recently at least in providing adequate housing for our people.

In this respect, what do you see as the principal problems for the Home Loan Bank Board, two or three problems, over the next couple of years?

Mr. Bomar. Well, providing funds for housing, as you indicate, Senator, has always been a very tough problem for us in this country and countries all over the work, and certainly we need to do much better.

I would be hopeful that the Federal Home Loan Bank Board could work with HUD advising as it can on the establishment of its programs, that it could enact regulations and pursue policies which would help stabilize funds flows to housing on the best possible prices. And that is a very complex undertaking, sir.

Senator Proxmire. Well, how can that be accomplished best under present circumstances? One of the things that bothers me is that there is evidence that the housing boom that we enjoyed for a couple of years may be reaching a conclusion. There is pressure on interest rates that seems to be great. They have been moving up sharply.

Mr. Bomar. Yes.

Senator Proxmire. Not in the mortgage area, but in other areas, and mortgages are likely to follow. What do you think the Home Loan Bank Board can do about it?

Mr. Bomar. Well, with the Federal Home Loan Mortgage Corporation which was created almost 3 years ago now we have a device so as to be able to fuel money into the housing market in this fashion.

Second, the 12 Federal home loan banks have in the past successfully—and we think that we can do so again and perhaps even more successfully—pumped sufficient funds in the housing market by raising it in the capital market to help stabilize funds flows.

We understand that there will be questions forthcoming with regard to the structure of financial institutions and what might be done.
in order to stabilize the opportunity for thrift institutions to raise funds so as to stabilize the mortgage market.

Senator Proxmire. Your agency is so critical in housing construction. Just vital. I am very hopeful that you will be a real champion of housing in the capacity you are moving into.

Let me ask you briefly about the Larwin Group, Inc., Beverly Hills, Calif.

Mr. Bomar. Yes, sir.

Senator Proxmire. That is a holding company as I understand it and engaged in a number of forms of real estate activity. You were associated with that organization for 3 years. Is that right?

Mr. Bomar. Yes, Senator.

Senator Proxmire. 1967 through 1970. In fact, that was the last private occupation you had before you came to be Chief Executive Officer of the Home Loan Mortgage Corporation.

Mr. Bomar. There was an interim period for about 6 months after I left the Larwin group and before I came with the Federal Home Loan Mortgage Corporation where I was a partner with another fellow in a consulting firm. But except for that—

Senator Proxmire. But you had before the consulting job 3 years with Larwin?

Mr. Bomar. Yes.

Senator Proxmire. What did Larwin do? What was their mission?

Mr. Bomar. Larwin’s principal activity was as a residential—or as a homebuilder. In addition to that, they had a commercial properties division and still do. They had a mortgage banking division, a real estate investment trust management company, an insurance agency operation, and various other facets relating to the construction of homes and commercial properties, management and financing of them.

Senator Proxmire. You were vice president and controller of various of these subsidiaries? Is that correct?

Mr. Bomar. Larwin has a number of subsidiaries. I was the vice president of the holding company when I left. I had been the financial vice president and chief operating officer of the trust management company. I had been vice president of the mortgage company, executive vice president of another one of the construction-oriented mortgage companies. I was an officer of various of the companies generally dealing with the financial aspects of the organization.

Senator Proxmire. You certainly have had a lot of experience for a man of your age. You are still a young man. Much of this experience was when you were only 30 years old, when, I guess, you took over in these capacities for Larwin. Very impressive.

Let me ask you the same question I asked the previous witness because you are going to be an important figure in an independent agency. Have you submitted a resignation to the White House in any form?

Mr. Bomar. No, Senator, I have not.

Senator Proxmire. Would you submit such a resignation if requested?

Mr. Bomar. If I understand the question properly, if I was—

Senator Proxmire. I didn't phrase the question properly. Let me say again would you submit a resignation that could be acted upon at any time by the President if requested to do so?
Mr. Bomar. I will have to respond, Senator, as Mr. Smith did. Nothing has been requested of that nature, I certainly don't anticipate that and see no reason such would be requested. I have never heard of that being done except at the end of the last administration when a number of people did that. I see no particular benefit or reason to do anything like that. But if requested—

Senator Proxmire. If asked, would you submit it or not?

Mr. Bomar. If I were asked to resign for good reason, I would resign.

Senator Proxmire. Well, that's something else. I am not asking that question. I am asking if you were asked to submit a resignation in advance that could be acted upon at any time by the President.

You see, what concerns me as a Member of Congress is that this is an independent agency, and it's one thing for the President to be able to ask for your resignation and secure it, and that may be perfectly proper. It's something else for the President—any President; I'm not talking about the present President—any President to have in his power the capacity just to cut you off with that.

Mr. Bomar. Yes, sir.

Senator Proxmire. If he asks you to resign, you might decide to do so or not to do so. On the other hand, if the President has an undated resignation in his possession and can act to cut you off, then the power that the Executive has over this independent agency would be very considerable.

Mr. Bomar. Yes, that's correct.

Senator Proxmire. My question is: Would you if requested submit that kind of a conditional—or that kind of an unconditional I should say—resignation, signed resignation form, in advance to the President?

Mr. Bomar. Senator, this is an area that we are dealing with that I really do not have great familiarity with what is the proper thing to do. I am not aware of any circumstances under which that would be requested, and I cannot conceive of a situation in which I would comply with that kind of request.

But I really am not aware of all the particulars under which that kind of request might be made and am reluctant to say that I absolutely would not do it under any circumstances, not being familiar enough with what all the circumstances might be.

Senator Proxmire. So what you are saying is that you might if the President should request it and the circumstances should indicate it wise in your view—you might submit such a resignation signed that he could act on when he wished to do so?

Mr. Bomar. Sir, I would be very reluctant to do anything like that, and it would be my expectation that I would not do that. But not having ever considered this, not being aware of the ramifications of it, it is difficult for me to say that I absolutely under any set of circumstances would not do that.

I think if I was asked to resign I would simply resign.

Senator Proxmire. I understood Mr. Smith to say he would do so without qualifications. In other words, he would not submit such a resignation form to the President for him to use, that he would not do so. You say you haven't considered it and you probably would not agree to that kind of a request but you don't know the circumstances and it is conceivable that you might. Is that right?
Mr. BOMAR. Senator, I think I would have to say that was the situation. I would like to ask the General Counsel of the Board's opinion about this kind of situation and gain some kind of insight into the kind of particulars that might be forthcoming and would be glad to submit that kind of statement for the record for you if you would like.

Senator PROXMIRE. I hope so. We might want to act on your nomination this morning. Frankly, I would be opposed to your nomination unless you would give an unequivocal statement that you would not submit such a resignation of the kind described to the President, and I would do my best to hold it up on the floor. That is something you might not be concerned about. But that is my position on it, and you should know it.

I would hope before we act on your nomination on the floor that we could get word from you one way or the other.

Mr. BOMAR. Senator, if I could be allowed to do so, I would be very happy to. There is a counsel for the Board, the Mortgage Corporation, in the room, and some other people who have experience in this area, and after the questioning is completed if I might be permitted just a moment to ask them the answer to this particular question, ask their advice on it, I will be happy to respond immediately.

Senator PROXMIRE. Thank you.

Senator TOWER. If the Senator would yield, Mr. Bomar has said he can't conceive of a circumstance under which he would do this, and to me that is an adequate answer. Because we can't foresee what circumstances might arise. But as long as a man says that he can't conceive of any circumstances in which he would do this, I think that is adequate.

Senator PROXMIRE. May I say to the Senator from Texas that doesn't satisfy me. I think Mr. Smith's answer did. The reason this doesn't satisfy me is I just want an unequivocal answer. I think Mr. Bomar does seem to be well qualified. He is a young man who has done brilliantly in business and done very well in his Government capacity. But I think this is so important, the independence of this agency, and this is a device which would subvert it, that I would want an unequivocal, clear-cut answer, not a conditional answer that circumstances might develop that he can't imagine now.

Mr. BOMAR. Senator, I understand the principle that you are driving at. It is certainly a very worthy principle. And I anticipate that I can give you that kind of unequivocal answer. But I don't want to give unequivocal answers about questions about which I do not have sufficient familiarity, and this is one of those.

Senator PROXMIRE. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Williams.

Senator WILLIAMS. Thank you, Mr. Chairman.

There is just one problem I face with this line of inquiry on resignation, and I have been a party to it with the prior nominee. I don't believe that in the past any Executive has asked for blanket resignations from members of independent agencies. Has there been any precedent?

Senator PROXMIRE. Well, we have, of course, the experience at the beginning of this administration where the President requested top officials in all the executive department to submit resignations. I have no objection to that. I understand that.
Senator Williams. But there was nothing to suggest that any appointees to independent agencies—

Senator Proxmire. No, and Mr. Smith made that very clear that he didn’t think he would be asked to do it. He didn’t have any notion that that would be asked. But I want to make sure that that doesn’t develop—

Senator Williams. I just want to—

Senator Proxmire. The Senator from New Jersey is correct in his implication that there is no evidence that there is any intention on the part of the administration.

Senator Williams. I just wanted to clarify that, and, therefore, we are in a sense questioning hypothetically and in a sense academically, but it is an important question. We are not pointing any finger of accusation that this might be imminent.

Senator Proxmire mentioned earlier that he can’t recall when so many nominees for important positions have been before this committee at one session, and I have noticed that too. I also noticed that without exception all of the nominees today have a depth of background and experience in the areas to which they have been nominated, which is good news indeed.

Senator Proxmire. If the Senator would yield, I was struck by the same thing. These are the best qualified group of nominees as a group that I can recall in the 15 years I have been on this committee. I think that it is remarkable. You all have fine backgrounds in the Government, you are career people. I think the President has done extraordinarily well.

Senator Williams. That was the point I was going to make too. I agree.

There is one question I would like to ask Mr. Bomar.

Mr. Bomar. Yes, sir.

Senator Williams. In the secondary market activities of the Federal Home Loan Mortgage Corporation, what residential housing does the Corporation reach? Does it reach the programed housing—235, for example? Is this one of the residential housing areas that there is a secondary market for?

Mr. Bomar. Yes, Senator. The corporation is limited in its ability to buy residential mortgages, being those that either are FHA or VA, or if they are conventional, not having Government insurance or guarantee of some sort, then the amounts of those loans, the dollar amounts of those loans, must be in general conformity with the limits set under 203 (b) and section 207 of the Housing Act.

Senator Williams. Is 235 within those limits as part of—

Mr. Bomar. Yes, sir. The mortgage corporation has bought a lot of 235 loans.

Senator Williams. How has the moratorium announced on February 11 affected the activity of the corporation?

Mr. Bomar. The activity of the corporation has been very heavy this year. The corporation has done over $3 billion worth of business since its formation, and the principal activity of the mortgage corporation is moving into the conventional loan area, and the volume of business in the FHA-VA sector is much less.

Therefore, there is no impact, and the 235’s when the moratorium was established—there were many still in the pipeline, and even though
the corporation might still be in the FHA-VA business, I doubt if that would have had an impact by now.

Senator Williams. When you say you are increasing your activity in the conventional residential mortgage market—

Mr. Bomar. Yes, sir.

Senator Williams. This is not housing which is designed for lower income families, is it?

Mr. Bomar. Well, a great deal of it is. The mortgage corporation's average loan amount on a single family house in the conventional sector is around $26,000 to $27,000. So we are dealing with the lower priced housing market predominantly.

Senator Williams. What is that figure, $26,000? Is that the mortgage?

Mr. Bomar. That is the approximate average mortgage amount; yes, sir.

Senator Williams. What would the average selling price of the house be if that were the mortgage?

Mr. Bomar. It is not very much more than that in most instances since a great proportion of the volume is in the new 95-percent conventional loan that comes to private mortgage insurance. I don't have a figure on what the average home sale price is, but most of these loans are from 80 to 95 percent, the great proportion of them being the 95-percent, loan-to-value ratio loans. So we are dealing with the more—certainly not low priced housing when you get into the $30,000 range but more reasonably priced housing.

Senator Williams. What would be the interest rate on the mortgages supporting that kind of housing?

Mr. Bomar. Sir, that depends upon the market. The prices that the mortgage corporation posts are generally in line with the market at that particular time.

Senator Williams. It's hard to talk averages, but try to. What would be the average right now?

Mr. Bomar. Well, as of right now the corporation has seven loan purchase programs, and for the FHA-VA programs those prices are stated in terms of percentages of par, and the price is about 92½ cents or 92½ percent of par.

There is a participation program which is the most active in which savings and loan associations or commercial banks sell up to 85 percent interest in packages of either all single family loans or single family loans combined with apartment houses. Those are priced at a net yield to the corporation, and that current price, sir, is 7 3/8 percent. No, 7 3/4 percent. Excuse me.

The prices have changed in the last week, and I'm not sure if it was 7 3/4 or 7 3/8. I would have to check that. But approximately.

For conventional loans that is priced on a different basis, conventional home loans, and that is currently priced at 8 3/4 percent, which nets the corporation after servicing 7 3/8 percent.

So there is a whole range of prices depending upon how those individual institutions, whether they be banks or savings and loans, choose to sell.

Senator Williams. It seems to me without some support of the interest payment on their mortgages the lower income people are just being—new housing is just plain not available.
Mr. Bomar. It is extremely difficult, Senator. When mortgage rates begin to increase, it certainly forces people out of the market.

With the cost of constructing a home today, all the way from the raw land prices to the development stage, it's a very expensive process, and it is a critical problem.

Senator Williams. Do you hear in your profession—among your professional acquaintances in Government or out—how the administration's study of the present housing programs is going?

Mr. Bomar. Sir, I have not heard.

Senator Williams. You have not?

Mr. Bomar. The Federal Home Loan Bank Board and the Federal Home Loan Mortgage Corporation have responded to questions put to us by the HUD group with regard to certain aspects, what our opinions might be in these areas. We have responded to those questions. But I don't have any idea of what their overall status is.

Senator Williams. Thank you very much.

Mr. Bomar. Yes, sir.

The Chairman. Any further questions?

Senator Proxmire. Mr. Chairman, I have a couple of questions Senator Stevenson wants to ask for the record directed to Mr. Bomar.

Mr. Bomar. Yes, sir.

[The questions and answers referred to and a letter from the U.S. Savings and Loan League regarding Mr. Bomar's nomination follow:]

Federal Home Loan Bank Board,
Washington, D.C.

Hon. Adlai E. Stevenson III,
U.S. Senate,
Washington, D.C.

Dear Senator Stevenson: The following is respectfully submitted in response to your written questions given to me at the Senate Banking, Housing and Urban Affairs Committee meeting on May 31, 1973, at which the matter of my confirmation by the Senate was considered.

The questions are prefaced with the following statement: "The regulations of the Federal Home Loan Bank Board state that it is the Board's policy to follow State law in deciding whether to allow Federal savings and loans to establish branch offices."

This statement is not entirely accurate. The Board's policy is set forth in Section 556.5 of the Rules and Regulations for the Federal Savings and Loan System, paragraph (b) (1) of which states in pertinent part: "As a general policy, the Board permits branches and mobile facilities by Federal savings and loan associations in a particular State if the State law, or State practice in absence of statutory prohibition, permits savings and loan associations, savings banks, or commercial banks of the State to establish branches in such State or to conduct chain, group, or affiliate operations."

Thus, the Board's policy also takes into account State law and practice regarding branching by savings banks and commercial banks and regarding chain, group, and affiliate operations. These additional matters are directly relevant in the State of Illinois.

The reasons for the Board's decision of January 12, 1973, were set out in Acting Chairman Kamp's letter of that date to all members of the Illinois Congressional Delegation. A copy of the letter is attached for your convenience.

The Board's policy should not, in my judgment, "follow state policy on branching" in instances in which state policy would be inconsistent with the purposes of the Home Owners' Loan Act of 1933, which Congress has charged the Board with administering. If there is a community, in Illinois or any other state, where the Board finds a necessity for a facility of a local mutual thrift institution which people may use to invest their funds and finance their homes, and the Board finds that such a facility has a reasonable probability of usefulness and success without undue injury to properly conducted existing local thrift and
home-financing institutions, the Board would be acting in full accord with the purposes of the Act when it permitted a Federal savings and loan association to establish a branch there. I would suggest that, if such a facility could not be established by a state-chartered savings and loan institution because of restrictions of state law or policy, the principle of substantial competitive equality could be served by amending the state law or policy which, if observed by the Federal authority, would result in the denial of a needed public service.

There is nothing in the letter or spirit of the Board’s regulations or statements of policy to suggest suspension of implementation of the Board’s decision of January 12 as formalized by Resolution No. 75-178, of February 7, 1973. (A copy of the letter is also attached.)

The Board’s position, for reasons indicated above, has been established independently of any pending or future enactment of the Illinois legislature.

In a number of recent cases Federal associations located in Illinois have in effect "relocated", or sought to relocate, their home offices by establishing branch offices while retaining their existing home offices and redesignating the new facilities as home offices and the old ones as branch offices. In such a case, the community from which the home office is relocated is not deprived of any savings and loan services, as paragraph (a) of Section 545.14 of the Rules and Regulations for the Federal Savings and Loan System provides: "Any business of a Federal association, as authorized by the association’s board of directors, may be transacted at a branch office."

Since the same services may be provided by a home office and a branch office, it does not appear necessary to change the regulations "to consider the impact of the move on the community from which the S&L proposes to move" in this kind of case.

The simple relocation of an office of a Federal association which takes away a facility from a community is another matter. In such a case, our present regulations do not specifically require that the move’s impact on that community be considered or that notice be provided in that community. Appropriate amendments may be desirable and I will direct the staff to prepare such amendments for prompt consideration by the Board.

Sincerely,

THOMAS R. BOMAR, Chairman.

LETTER TO ALL MEMBERS OF THE ILLINOIS CONGRESSIONAL DELEGATION

The Federal Home Loan Bank Board has decided today to permit applications for de novo branching to be filed after January 31, 1973, by Federal savings and loan associations in Illinois. It is the present intention of the Board to permit Federal associations to file only one branch or other facility application during 1973. The purpose of this letter is to inform you of the Board’s decision and to set forth the legal basis and summarize the facts which the Board has considered in making its decision.

In Section 5(a) of the Home Owners’ Loan Act of 1933 the Congress delegated to the Federal Home Loan Bank Board the exclusive authority to charter and regulate Federal savings and loan associations. This regulatory authority includes the power to approve or deny applications from Federal savings and loan associations to establish branches without reference to state law governing branching by state-chartered savings and loan associations or banks.

As a matter of general policy rather than statutory requirement, the Board considers a state’s branching practices in determining its branching policies for Federal savings and loan associations in the state. This Board policy is set forth in Section 556.5 of the Rules and Regulations for the Federal Savings and Loan System. Paragraph (b) (1) of this section states in part:

"As a general policy, the Board permits branches and mobile facilities by Federal savings and loan associations in a particular State if the State law, or State practice in absence of statutory prohibition, permits savings and loan associations, savings banks, or commercial banks of the State to establish branches in such State or to conduct chain, group, or affiliate operations."

Illinois is presently the only State in which the Board does not permit Federal savings and loan associations to branch de novo. The Board now believes it necessary for competitive reasons to permit Federal associations in Illinois to branch de novo. The Board’s position is based upon facts which show a multiplication of State-approved savings and loan and banking facilities, and the existence of substantial affiliate banking operations in Illinois.
Following an amendment to the Illinois Constitution, the legislature in late 1971 passed the “Facility Act,” which authorized the Illinois Savings and Loan Commissioner to permit the establishment of a “facility” in the case of a supervisory merger or incident to relocation by an association of its main office [52 Ill. Ann. Stats. Section 709]. A “facility,” as defined in the Act, may not originate mortgage loans, but may exercise virtually all of the other powers of a savings and loan association.

The Commissioner's policy of merging, for supervisory reasons, smaller state associations into larger ones is allowing state associations to increase their area of operations by retaining the former home office of the smaller association as a “facility” following the merger. Unlike the Board, the Commissioner does not require the smaller association then to be in unsound financial condition in order to consider the transaction as a supervisory merger.

It is important to note that a “facility” may be established under the Facility Act incident to any relocation by a state-chartered association of its main office. This is in sharp contrast to the Board's policy for Federal associations which permits the establishment of a branch in a main office relocation only if the main office was in a declining low-income inner-city neighborhood.

The Board is aware that some 39 state-chartered associations have already established “facilities” or filed petitions under the Act to do so.

While the Facility Act has been in effect only a short while, the competitive disadvantages it creates for Federal associations are obvious. It is apparent that state-chartered associations are using the Act to extend their operations into new prime markets while Federal associations remain locked into their present areas with little opportunity to tap shifting sources of savings.

CHAIN OR GROUP BANKING

The long-standing practice of “chain banking” has been well described by Chairman Wright Patman “as the situation where the same individual or individuals controls two or more banks.” Chain banking may also be known as “group” banking.

There are three principal advantages of chain banking: large loans are split among members of a chain, so that lending limits are not violated; banks in a chain share services such as computer time and advertising expenses, thus reducing costs; and the leading bank in the chain acts as correspondent bank for the others, again reducing costs. The effects of chain banking are substantially the same as those of branch banking—the chain participants are able to share resources and tap larger financial markets.

The Board has been able to identify, as of August 1972, at least 29 separate groups of banks in Illinois which it believes are affiliated through interlocking directors and officers and operated as chains. Together these groups control 130 banks, and as of August 1972, had been issued permits or had applications on file for permission to organize 22 additional banks, or a total of 171 banks. Four examples of these groups are the Heritage Bank Group, the Beverly Group, the Streams Group and the Progressive Bankers Group. Based on the evidence that the Board has seen on the interlocking directors and officers of the 29 groups, the Board has no doubt that many other groups exist. The Illinois Bankers Association has recently reported that there are approximately 100 different groups, which include over one third of the banks in Illinois.

Federal associations are prohibited from having interlocking directors and officers, and as a result of their mutual form of organization common control through share capital is not possible.

HOLDING COMPANY OPERATIONS

General Bankshares Corporation, a multiple bank holding company, owns at least 89% of the stock of three commercial banks in Illinois (the Bank of Benton, the Illinois State Bank of Quincy and the Bank of Zeigler). Financial General Bankshares appears to be affiliated with four banks of the Heritage Group.

1 January 2, 1963 letter to the Small Business Committee of the House of Representatives.
Bass Financial Corporation, a registered savings and loan holding company, appears to own and control two state-chartered stock associations in Illinois (Park Forest Savings and Loan Association and Unity Savings Association, Chicago). There are 14 other state chartered associations which are controlled by savings and loan holding companies. Although no holding company, other than Bass, controls more than one association in Illinois, it is likely that the savings and loan holding companies will also acquire control of other Illinois associations.

Federal associations, which are all mutually owned, are prohibited from being part of a holding company by Section 408(1) of the National Housing Act, and are able to extend their operations only through separate facilities of the same entry.

DRIVE-IN/PEDESTRIAN FACILITIES

Under the 1970 revisions to the Illinois Banking Act, commercial banks may establish a drive-in facility (which may also serve walk-in customers) within 1500 feet of its home office [16½ Ill. Ann. Stats. Section 105(13)]. A bank facility is similar to an Illinois savings and loan facility; it is prohibited only from accepting and approving loan applications. These facilities are in effect permitting banks to branch doubling their number of offices. In a highly concentrated market, such as downtown Chicago where eight banks have established drive-in/pedestrian facilities, it is difficult to distinguish these facilities from branch offices. It is also important to note that these facilities can be established by banks without obtaining the approval of any state banking official.

CONCLUSION

Through the use of chain and group banking, drive-in/pedestrian facilities and bank holding companies, there now exists in Illinois affiliate banking and a multiplication of bank offices. Through the use of main office relocations without limitation to declining neighborhoods, supervisory mergers under less stringent conditions, and savings and loan holding companies, there is also now a multiplication of offices by state-chartered savings and loan associations in Illinois. As a result Federal savings and loan associations are at a severe and increasing competitive disadvantage with respect to both commercial banks and state chartered savings and loan associations in Illinois. Federal associations in Illinois are at a severe and increasing competitive disadvantage with respect to both commercial banks and state chartered savings and loan associations in Illinois. Federal associations in Illinois recognize this competitive disadvantage and are demanding that the Board promptly permit de novo branching.

The Board now needs to apply to Federal associations in Illinois its general policy with respect to branching set forth in Section 556.5 of the Rules and Regulations for the Federal Savings and Loan System. In applying this policy the Board would permit de novo branching after January 31, 1973 where these criteria are met: a need for the branch in the community to be served; a reasonable probability of success and no "undue injury" to existing thrift institutions properly conducted [Reg. Section 545.14(c)]. The Board will not consider applications to establish branches to be located more than 100 miles from the home office of the association [Reg. Section 556.5(b)(3)]. In addition, during 1973 the Board presently intends to limit Federal associations in Illinois to one application for a full branch or other facility. By this limitation, the Board expects to be able to process applications on a fair and orderly basis.

Sincerely yours,

Carl O. Kamp, Jr.,
Acting Chairman.

Federal Home Loan Bank Board

No. 73-178

Date: February 7, 1973.

Federal Savings and Loan Associations

STATEMENT OF POLICY REGARDING APPLICATIONS FOR PERMISSION TO ESTABLISH BRANCH OFFICES AND MOBILE FACILITIES IN ILLINOIS

The Federal Home Loan Bank Board, in considering its policy regarding applications by Federal savings and loan associations for permission to establish de novo branch offices, mobile facilities, and satellite offices in Illinois, has
determined that commercial banks in Illinois are conducting affiliate operations. Accordingly, under the Board's statement of policy set out in paragraph (b)(1) of § 556.5 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 556.5(b)(1)), de novo branch offices, mobile facilities, and satellite offices of Federal associations in Illinois are now, for the first time, permitted by the Board. However, in order to effect an orderly transition, the Board hereby imposes the following limitations with respect to applications by Federal associations for permission to establish de novo branch offices, mobile facilities, and satellite offices in Illinois:

1. The Board will process and consider only such applications as are filed on or after February 1, 1973.
2. During 1973, the Board will process and consider only one such application by each association; this limitation will apply with respect to any such application filed on or before December 31, 1973. If more than one such application is filed during 1973, all but the earliest application will be returned to the applicant.
3. In connection with the approval of any such application, the Board will provide, as a condition of such approval, that the branch office, mobile facility, or satellite office applied for shall not be opened prior to July 1, 1973.

JACK CARTER, Secretary

UNITED STATES SAVINGS AND LOAN LEAGUE

Senator JOHN SPARKMAN,
Chairman, Senate Banking, Housing and Urban Affairs Committee, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The United States Savings and Loan League is pleased to endorse the nomination of Thomas Bomar to serve as Member and Chairman of the Federal Home Loan Bank Board. Mr. Bomar is well qualified by experience and has achieved an outstanding record as Chief Executive Officer of the Federal Home Loan Mortgage Corporation. We are confident he will provide great leadership in the important position to which he has been nominated.

Sincerely,

STEPHEN SLIPHER, Legislative Director.

The CHAIRMAN. Thank you very much, Mr. Bomar. We wish you well.

Mr. BONAR. Mr. Chairman, can I—

The CHAIRMAN. I certainly endorse the statements that have been made praising your work in your present position.

Mr. Bomar. Thank you, sir. If I may just say one thing, I will respond to Senator Proxmire’s direct question in just a few minutes. I will send it up to you.

The CHAIRMAN. Very well.

Senator PROXMIRE. Thank you very much. I appreciate it.

The CHAIRMAN. Thank you very much.

Our next nominee is Mr. Grady Perry, Jr., to be a member of the Federal Home Loan Bank Board for a term of 4 years expiring June 30, 1977, to take the place of Thomas Hal Clarke who is retiring.

Mr. Perry, we have your financial statement. I assume you have a certificate from the counsel to the effect that there is no conflict of interest in your holdings in the position to which you have been appointed.
STATEMENT OF GRADY PERRY, JR., NOMINEE TO BE A MEMBER OF THE FEDERAL HOME LOAN BANK BOARD

Mr. Perry, Mr. Chairman, I have a letter from Mr. Charles Allen who is the general counsel to the Federal Home Loan Bank Board which is attached with my financial statement that indicates that there is a possibility of a conflict with reference to stockholdings of myself and my family in certain commercial banks in the State of Alabama. Mr. Allen has informed me that these conflicts can be eliminated by the creation of a blind, no-control trust that would completely remove any administration, interest, control or other association with these holdings during my tenure as a member of the Federal Home Loan Board. This would be done promptly upon my confirmation.

Further, I would disqualify myself in passing upon applications involving insured institutions or persons seeking to organize such institutions which may be competitors or potential competitors of the commercial banks in which I, my wife or my children have an interest.

The CHAIRMAN. And you agree to do all of that?

Mr. PERRY. Yes, sir; I agree to do that.

The CHAIRMAN. You have heard the question I have put to the other nominees. I will ask you the same. If confirmed in this position, will you respond to requests of committees, this committee and other committees of Congress, to appear and testify?

Mr. PERRY. Absolutely, Senator; without reservation.

The CHAIRMAN. We will insert Mr. Perry's biographical sketch in the record at this point.

[The information follows:]

Biographical Sketch of Grady Perry, Jr.

Present address—9208 Twin Hill Lane, Laurel, Md. 20810.
Birthplace—Fayetteville, Ala.
Birth date—February 23, 1931.
Family—Married to Louise Wallace of Gadsden, Ala. Two sons: Jeffrey Perry, age 14, and Gregory Perry, age 9.

Employment history:

July 1965 to present—Congressional Liaison Officer, Federal Home Loan Bank Board, Washington, D.C. The Congressional Liaison Officer acts as liaison between the Board and the Congress, government agencies, the savings and loan industry, and the agency staff. Advises and consults with the Board on issues and policies before the Board. Participates in the formulation of Board policy, with emphasis on legislation.


January 1955—February 1957—Legislative Assistant to Congressman Albert Rains (Ala.).


Military experience:

April 1952—April 1954—Served in the United States Marine Corps with 13 months service in Korea.

Education—Undergraduate work at George Washington University and American University in Business Administration. Graduate courses in Real Estate at American University.

The CHAIRMAN. You have been with the Home Loan Bank Board how long?

Mr. PERRY. Senator, I went with the Federal Home Loan Bank Board in July 1965.
The **CHAIRMAN.** And prior to that time you were employed on Capitol Hill, weren't you?

Mr. **PERRY.** Yes, sir. I have about 15 years experience on the House side of the Capitol.

The **CHAIRMAN.** And how long a time were you the assistant to Congressman Albert Rains who for several years was chairman of the Housing Subcommittee on the House side?

Mr. **PERRY.** Well, Senator, my entire experience on Capitol Hill has been in association with Congressman Rains. I came to Washington in 1949 and I went with Federal Home Loan Bank Board upon Mr. Rains' retirement in 1965.

The **CHAIRMAN.** Well, you did serve for a time in the document room, didn't you?

Mr. **PERRY.** Yes, sir. That is correct. This was also under the sponsorship of Congressman Rains.

The **CHAIRMAN.** I have known Grady Perry for a long, long time, and I know the good job he has done during the time he has been the representative of the Home Loan Bank Board in congressional relations, and I know he will do a good job in this position. I am happy to see you nominated, and I wish you well.

Mr. **PERRY.** Thank you very much, Senator. I appreciate that.

The **CHAIRMAN.** Senator Tower.

**Senator Tower.** Mr. Chairman. I have no questions of Mr. Perry. He certainly comes highly recommended.

I would note that in working for Albert Rains he must have learned quite a bit about the housing business because nobody on Capitol Hill was more authoritative in that field. So I see no reason why I shouldn't support Mr. Perry wholeheartedly.

Mr. **PERRY.** Thank you very much, Senator.

The **CHAIRMAN.** By the way, there came out a newsletter from the Federal Home Loan Bank Board recently and impressed me as telling about his nomination to this position, giving facts about him, and there were comments from the other members of the Board. I would like to read them into the record.

The **Acting Chairman of the Board, Mr. Kamp,** said:

I am extremely pleased that the President has nominated Grady Perry to be a Member of the Federal Home Loan Bank Board to succeed Thomas Hal Clarke. Because of his last eight years as Congressional Liaison Officer with the Bank Board, Mr. Perry brings to his new position a unique insight. He possesses all of those qualities essential to meeting the demands of his new position. The Federal Home Loan Bank Board is indeed fortunate to have acquired such an individual.

I may comment Mr. Kamp is the minority party on the Board.

He also said—Mr. Kamp did—and I quote:

The Board will sorely miss the services of Thomas Hal Clarke, who is returning to private life, but in the person of Mr. Perry we have a most able successor.

The **Presidential Chairman-designate, Mr. Bomar,** whom you have just heard, said:

The President's nomination of Grady Perry to be a Member of the Federal Home Loan Bank Board is an excellent one. I am familiar with Grady's effective service as the Board's Congressional Liaison Officer and will welcome the chance to work with him on the Board.
Retiring member Thomas Hal Clarke said, and I quote:

I am delighted that the President has named Mr. Grady Perry to succeed me at the Democratic Member of the Federal Home Loan Bank Board. Mr. Perry will bring to this position an impressive background of experience which will be of great benefit to the Federal Home Loan Bank Board and the savings and loan industry. He and the new Board have my sincere and best wishes.

Senator Proxmire.
Senator Proxmire. Well, I join in the general enthusiasm about your nomination, Mr. Perry.

Mr. Perry. Thank you, sir.
Senator Proxmire. I think you are highly qualified for this job. While you were congressional liaison officer you did an excellent job for the Home Loan Bank Board for a number of years now, 8 years. But you have also been their liaison man with the savings and loan industry, I understand, so that you know the industry as well as you know the Congress and know the legislative problems and know the policies of the Board, all of which it seems to me well qualifies you for this particular job.

I would like to hear from you, Mr. Perry, very briefly, a minute or two, on what you think are the principal steps that the Home Loan Bank Board can take to shore up the housing situation and to provide the best possible opportunities under the circumstances for housing to move ahead.

Mr. Perry. Well, Senator, Mr. Bomar has addressed himself to this.
Senator Proxmire. Do you want to pull the microphone closer?
Mr. Perry. Mr. Bomar has previously addressed himself to this question. I believe that the Federal Home Loan Mortgage Corporation which was created by the Emergency Housing Act of 1970, can assist in smoothing out the flows of funds into housing. I think that the empowerments in several of the housing acts, principally the 1968 Housing Act, have been very helpful to the Board, and I would hope that we will be able to develop further improvements which we will be submitting to you in the near future.

Senator Proxmire. With your background, as everybody has pointed out—there is something about Alabama. They contribute more to housing, I think, than any State by far. Senator Sparkman, of course, is "Mr. Housing" in the Senate, and Albert Rains for years did a great job in the House. And as another man from Alabama, you, Mr. Perry, are going to continue, I'm sure, in that tradition.

Mr. Perry. Yes sir, I will do my very best.
Senator Proxmire. You know how strongly we all feel about that. I think I can save the time of the committee, Mr. Chairman, if we can have Mr. Bomar come back up. He is ready to reply. And then I could ask Mr. Perry the same thing. Because they are in the same agency.

The Chairman. Mr. Bomar.
Senator Proxmire. Mr. Bomar, I understand you had an opportunity to consult with counsel on this matter. Let me ask you: Would you if requested submit to the President a resignation form in advance, signed in advance, so that he could execute it at any time at his discretion to remove you from the agency if he cared to do so?

Mr. Bomar. No, sir, I would not.
Senator Proxmire. You would not? Your position is now unequivocal?

Mr. Bomar. Yes, sir.

Senator Proxmire. All right. I think that is clear. Do you want to amplify that in any way?

Mr. Bomar. No, sir. I have conferred with people from the Board who are familiar with this and have no reservations about that statement, Senator.

Senator Proxmire. All right. Thank you very much, Mr. Bomar.

Now, Mr. Perry, what is your response to this question?

Mr. Perry. Well, Senator, my appointment is for a term expiring June 30, 1977. The good Lord willing, I intend to complete that term.

Senator Proxmire. Let me ask you the explicit question. Would you if requested by the President of the United States to submit to him a form signed, undated, so that he could execute it at any time and remove you from your position—

Mr. Perry. No, sir, I would not.

Senator Proxmire [continuing]. At the Federal Home Loan Bank Board?

Mr. Perry. I would not.

Senator Proxmire. You would not?

Mr. Perry. No, sir.

Senator Proxmire. Thank you, Mr. Chairman.

The Chairman. Any further questions?

[No response.]

Thank you very much, and we all wish you well.

[The following information was received for the record.]

NEWS RELEASE—FEDERAL HOME LOAN BANK BOARD, MAY 22, 1973

Responding today to the White House announcement of his nomination as the Democratic Member of the Federal Home Loan Bank Board, Grady Perry, Jr., said: "I am most honored that President Nixon has asked me to succeed Thomas Hal Clarke as the Democratic Member of the Federal Home Loan Bank Board. I consider it a privilege to serve with Presidential Chairman-designate Thomas R. Bomar and my other Bank Board colleagues in carrying forward the long tradition of bipartisan Bank Board policy which has done so much to encourage national thrift and home building programs for the American family."

A native of Gadsden, Alabama, Mr. Perry came to the Federal Home Loan Bank Board in 1965 as the Congressional Liaison Officer and has served continuously in this capacity.

Prior to joining the Board, he was Chief Clerk of the Subcommittee on Housing, Committee on Banking and Currency, U.S. House of Representatives. Mr. Perry also served as Legislative Assistant to former Representative Albert Rains of Alabama.

Mr. Perry did his undergraduate work at George Washington University and The American University and has attended graduate courses in Real Estate at The American University.

He served in the United States Marine Corps including 13 months in Korea (April 1952—April 1954). Married to the former Louise Wallace, also of Gadsden, the Perrys have two sons, Jeffrey and Gregory, and live in Laurel, Maryland.

Other FHLBB officials commenting on Mr. Perry's nomination included Acting Chairman Carl O. Kamp, Jr.; Chairman-designate Thomas R. Bomar; and Board Member Thomas Hal Clarke.

Acting Chairman Kamp said: "I am extremely pleased that the President has nominated Grady Perry to be a Member of the Federal Home Loan Bank Board to succeed Thomas Hal Clarke. Because of his last eight years as Congressional Liaison Officer with the Bank Board, Mr. Perry brings to his new position a
unique insight. He possesses all of those qualities essential to meeting the demands of his new position. The Federal Home Loan Bank Board is indeed fortunate to have acquired such an individual."

Acting Chairman Kamp also took the occasion to state: "The Board will sorely miss the services of Thomas Hal Clarke, who is returning to private life, but in the person of Mr. Perry we have a most able successor."

Presidential Chairman-designate Thomas R. Bomar said: "The President's nomination of Grady Perry to be a Member of the Federal Home Loan Bank Board is an excellent one. I am familiar with Grady's effective service as the Board's Congressional Liaison Officer and will welcome the chance to work with him on the Board."

Board Member Thomas Hal Clarke said: "I am delighted that the President has named Mr. Grady Perry to succeed me as the Democratic Member of the Federal Home Loan Bank Board. Mr. Perry will bring to this position an impressive background of experience which will be of great benefit to the Federal Home Loan Bank Board and the savings and loan industry. He and the new Board have my sincere and best wishes.

UNITED STATES SAVINGS AND LOAN LEAGUE.

Senator JOHN SPARKMAN,
Chairman, Senate Banking, Housing and Urban Affairs Committee, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The United States Savings & Loan League strongly endorses the appointment of Grady Perry, Jr., as a Member of the Federal Home Loan Bank Board.

Mr. Perry's great knowledge of housing legislation and his outstanding record at the Federal Home Loan Bank Board will enable him to serve with distinction as a Member of the Board.

Sincerely,

STEPHEN SLIPHER,
Legislative Director.

The CHAIRMAN. Next is Dr. Gloria E. A. Toote, of New York, to be an Assistant Secretary of Housing and Urban Development in place of Samuel J. Simmons, who has resigned.

Doctor, we are glad to have you with us. Have you filed a financial statement?

STATEMENT OF DR. GLORIA E. A. TOOTE, NOMINEE, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Dr. Toote. I have, sir, and there is a letter from the General Counsel relative to the statement enclosed in the envelope.

The CHAIRMAN. Did he certify that you had no conflict of interest?

Dr. Toote. He did so.

The CHAIRMAN. And you state to us that you have no holdings of interests that would constitute a conflict of interest?

Dr. Toote. No holdings or interests that would be a conflict of interest.

The CHAIRMAN. If confirmed in this position, will you respond to requests from this committee or any other regular committee, any other appropriate committee, of the Congress to appear and testify?

Dr. Toote. Indeed I would, sir. In fact, I have made an effort to see the members of this committee before even the date of this hearing. I shall always be available and attempt to be as responsive as possible.

The CHAIRMAN. Doctor, I have read your biographical sketch, which will be placed in the record. We have also received statements from Senators Javits and Buckley endorsing Dr. Toote which will be inserted in the record at this point.
[The information follows:]

**Biographical Sketch of Dr. Gloria E. A. Toote**

Dr. Gloria E. A. Toote was nominated by President Nixon on May 7, 1973 to be Assistant Secretary for Equal Opportunity of the Department of Housing and Urban Development.

Dr. Toote served as Assistant Director of ACTION, where she directed the Office of Voluntary Action Liaison since November 1971. Prior to joining the Administration, Dr. Toote was President of Toote Town Publishing Inc., and engaged in the private practice of law in New York City.

She was president of Town Sound Recording Studios Inc. from 1966 to 1970. Dr. Toote also worked with several law firms in New York and is a former member of the editorial staff of the National Affairs Section at Time Magazine. A native New Yorker, Dr. Toote is a former aide to New York Governor Nelson Rockefeller.

A scholarship student at the Howard University School of Law, Dr. Toote was the youngest graduate in the history of that school when she earned her Doctor of Jurisprudence degree in 1954. She received her LL.M. degree from the Columbia University Graduate School of Law in 1956.

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**Statement of Senator Jacob K. Javits, in Support of the Nomination of Gloria E. A. Toote**

Mr. Chairman and members of the Committee: I am pleased to support the nomination of Gloria E. A. Toote for the position of Assistant Secretary for Equal Opportunity at the Department of Housing and Urban Development.

Gloria Toote is a native New Yorker and is presently serving as Assistant Director of Action and Director of the Office of Voluntary Action Liaison at Action. She is eminently qualified for the job of Assistant Secretary for Equal Opportunity by reason of her prior legal training at Howard Law School, where she received the Civil Rights Scholarship Award and her training at Columbia Law School where she received her master of laws with a thesis on constitutional law. She has also worked at several law firms in New York and served as Assistant Counsel to the New York State Workman's Compensation Board.

The position of Assistant Secretary for Equal Opportunity at H.U.D. is a very important one since we still have a long way to go to achieve true equality in housing in the U.S. A citizen's right to an adequate home in any area where he or she desires to live is one of our fundamental rights and federal programs should be directed toward achieving that objective. This is especially true of our housing program. Thus it is important that there be a strong Assistant Secretary of Equal Opportunity at H.U.D.

I believe Gloria Toote, because of her experience, her legal training and her dedication to the cause of equal opportunity, will make an excellent Assistant Secretary and should be favorably reported by the Committee and confirmed by the Senate.

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**Statement of James L. Buckley, U.S. Senator From the State of New York**

It is a privilege to recommend to this distinguished Committee, Dr. Gloria Toote, to be Assistant Secretary of the Department of Housing and Urban Development.

Dr. Toote has the distinction of being the youngest graduate in the history of Howard University School of Law. Following graduation from Howard, Dr. Toote went on to Columbia University Graduate School of Law from which she was graduated in 1956.

She is admitted to the practice of law in New York State, in the United States District Court for the Southern District of New York, in the United States District Court for the Eastern District of New York and before the Supreme Court of the United States.

Dr. Toote has been engaged in the general practice of law for the past eighteen years.

At present, she is Assistant Director of ACTION and Director of Voluntary Action Liaison for ACTION.
I believe that Dr. Toote is well qualified for the position to which she has been nominated and I support her nomination without reservation.

The Chairman. I think that we will be very fortunate in having you to head up the service that you will be rendering in Housing and Urban Development, and for my part I wish you well.

Dr. Toote. Thank you, sir.

The Chairman. Senator Tower.

Senator Tower. Mr. Chairman, Dr. Toote comes highly recommended, and I think she has the proper experience to commend her to this job. I therefore have no questions. I would be delighted to support her confirmation.

The Chairman. Senator Proxmire.

Senator Proxmire. Dr. Toote, you graduated from Howard University as a doctor of jurisprudence.

Dr. Toote. Yes.

Senator Proxmire. You were the youngest graduate they had ever had there. Is that right?

Dr. Toote. Yes, sir.

Senator Proxmire. Well, that is certainly to your credit. My step-daughter just graduated from Marquette Law School as doctor of jurisprudence. I am proud and happy to say, 10 days ago.

The Chairman. May I ask at that point what year did you graduate from American University?

Dr. Toote. 1954.

The Chairman. 1954?

Dr. Toote. Yes. I then went to Columbia University for 2 more years of study in the field of constitutional law.

The Chairman. I have been a member of the board of trustees of the American University for I guess 30 years. I don't know exactly, but it has been a long time.

Senator Proxmire. Dr. Toote, you are to be an Assistant Secretary of Housing and Urban Development. What would be your principal responsibilities?

Dr. Toote. Fair housing and equal employment opportunities.

Senator Proxmire. Fair housing and what?

Dr. Toote. Equal employment opportunities.

Senator Proxmire. Equal employment opportunities?

Dr. Toote. Yes.

Senator Proxmire. Well, that is a very, very vital area. You were formerly an official in ACTION?

Dr. Toote. Yes. I am still serving in ACTION as Assistant Director.

Senator Proxmire. And you are taking the place of Mr. Simmons?

Dr. Toote. That is correct.

Senator Proxmire. What do you see as your—I said Howard before. The Chairman. I'm sorry. I understood American University. I was misinformed.

Dr. Toote. It is an excellent school, sir. Both are excellent schools.

Senator Proxmire. We have been troubled for a long time about discrimination in all forms of our life, as you know. I think we have made a lot of progress in recent years. What do you see that HUD can do to provide fair housing without discrimination in the next few years?
Dr. Toote. Unfortunately, I am not prepared at this moment to have any specific plans or designs. My basic intent is to study the programs presently in existence in my office. Those that are effective will be carried on. Those that are not effective will be worked upon to make them effective.

I will then study the skills of my staff, both regionally and at headquarters.

Based upon that, my goals will then be made, and hopefully at the close of my position or close of my term in office we will see some real impact in the area of housing that possibly may not have been perceived at this time.

I have been reading a great deal and just relating and speaking to as many people as possible, but I come with no preconceived plans. The area is a very large one. As a citizen I am not satisfied with the growth of housing in America. I know it can be better. I believe it will be better, and I just simply wish to play a vital role.

Senator Proxmire. It is a nationwide problem. We have it very seriously in our State of Wisconsin—lack of housing opportunity for minority groups.

One final question. How about the employment aspect? What do you understand your functions to be with respect to fair employment opportunities? I understand it is not only fair housing but fair employment.

Dr. Toote. Fair employment relative to members of the community who live in an area where public housing will be constructed or housing even that has Federal money. I shall attempt to encourage builders, construction companies, and so forth, to utilize the talents of the members of that community and those that are lacking talent to offer training to them so that they may participate in a specific program and have a gainful form of income.

Senator Proxmire. Just one final suggestion to you. It would be very helpful to us if you could develop statistics that would show the progress or lack of progress in both these areas, housing discrimination and employment discrimination. Any kind of statistics that come to your mind would be very helpful so we can get as objective and clearcut an understanding as we can of where the problems are, where the lack of progress is. Then I think we would be in better position to know what we have to do to correct it.

Dr. Toote. That is very much in line with my thinking, sir, and I will be delighted to do that.

Senator Proxmire. I have no more questions.

The Chairman. Anything else?
[No response.]

The Chairman. Thank you very much. We congratulate you and wish you well.

Next, Mr. Robert C. Holland, of Nebraska, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1964 in place of James Louis Robertson, resigned.

Mr. Holland, we are very glad to have you, sir.
STATEMENT OF ROBERT C. HOLLAND, NOMINEE, TO BE A MEMBER
OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE
SYSTEM

Mr. Holland. Thank you, Mr. Chairman.
The Chairman. You have filed a financial statement?
Mr. Holland. Yes; I did.
The Chairman. Certified to by the counsel of the Board, I believe?
Mr. Holland. Yes; he has looked at my statement and he finds no
conflict of interest represented therein.
The Chairman. And you will tell us that you have no holdings or
interests that you consider a conflict of interest?
Mr. Holland. That's right, sir. I do not.
The Chairman. Let us insert in the record at this point a letter
endorsing Mr. Holland, received jointly from Senators Hruska and
Curtis.
[The letter follows:]

U.S. Senate,

Hon. John Sparkman,
Chairman, Senate Banking, Housing and Urban Affairs,
Washington, D.C.

Dear Mr. Chairman: It is our understanding that Robert C. Holland has
been nominated to serve on the Board of Governors of the Federal Reserve
System and will appear before your Committee, May 31. This is to register our
solid support and wholehearted endorsement of Mr. Holland.

Mr. Holland is a Nebraska native. We have known him for many years and
have always been proud of his fine accomplishments. His record is before you
and speaks for itself. In fact, in our judgment, there is no more eloquent recom­
mendation for him than his record.

Hence, we would hope that your committee would look with favor on Mr.
Holland’s nomination and report it favorably to the Senate.

With kind regards,
Sincerely,

Roman L. Hruska,
U.S. Senator.

Carl T. Curtis,
U.S. Senator.

The Chairman. How long have you been at the Federal Reserve
Board?
Mr. Holland. I have been at the Board 12 years. Before that I was
with the Federal Reserve Bank of Chicago for 12 years.
The Chairman. I will ask you the other question that I have asked,
and that is: If you are confirmed to this position, will you respond to
requests from this committee or any other appropriate committee of
Congress to appear and testify?
Mr. Holland. Yes, I will, Mr. Chairman.
The Chairman. Senator Tower.
Senator Tower. Mr. Holland, you will become the Vice Chairman
of the Board, will you not?
Mr. Holland. No, Senator. The President has appointed a present
member of the Board, Gov. George Mitchell, to be Vice Chairman
of the Board.

Senator Tower. I see. I did not understand that. I thought that
you would be Vice Chairman.
Mr. Chairman, I think that this is the first time that a professional staff member has been elevated to the Board. Is that correct?

Mr. Holland. That's right, Senator.

Senator Tower. And certainly Dr. Burns thinks that he merits this elevation, and I think it is a good idea. He has certainly got a wealth of experience.

I don't have any particular questions I think that I would ask him at this time and intend to support his confirmation.

The Chairman. Senator Proxmire?

Senator Proxmire. Mr. Holland, I have been very critical of some of the past appointees of the Board. I am not critical of your appointment. I think it is an excellent appointment.

You have exactly the kind of background that I think should be rewarded with promotion and appointment to the Board. It mystifies me as to why there aren't more career appointments.

Here you are, an outstanding economist, a man who has served with the Federal Reserve in one capacity or another for 24 years, 12 years in Washington on the Board itself and 12 years in the field. And you have served in a position as Executive Director, Secretary of the Board, Secretary of the Federal Open Market Committee, Adviser to the Board. You understand monetary policy thoroughly. That has been your field.

You are also a Ph. D. as I understand it in economics from the University of Pennsylvania, and an M.A. in economics, so you have the training, the background. You have the experience. You have all the kind of qualifications that seem to be most desirable.

I think that this is a topflight appointment.

Let me ask you about your understanding of the relationship of the Board first to the executive and second to the legislative branch. What do you see as the Board's responsibility in each direction?

Mr. Holland. Well, the Board is essentially a creature of Congress. It was created by Congress. The whole Federal Reserve System is the creature of Congress. I regard it as being accountable to the Congress and accountable for its stewardship through the reports that we render periodically, including our annual reports, as well as through testimony before your various committees by our chairman. In effect, we are your stewards in the field of money, and I think we have to deliver on that stewardship the best way we know how, accounting to you as time and developments make it appropriate to account.

This field of money is a complex and technical one. I think accounting over periods like a year is a very useful way to let the technicalities and the fluctuations of the moment fall into some kind of perspective, thereby giving you a good chance to look at what the Federal Reserve has done and satisfy yourself about it.

With respect to the administration, our relationship I think is a little different. Former Chairman Martin has described our position succinctly by saying that we are independent within the government, not independent of the government. In that respect we confer with members of the administration with regard to economic policy or monetary policy or other aspects of policy that need to be discussed in order to insure proper coordination. In the last analysis the Board has to make its own judgments on monetary policy, and I would expect it will, sir.
Senator Proxmire. So you are independent in the sense you make your own judgments? You consult with the executive branch, you listen to their concerns and their advice, but you make your own independent judgment?

Mr. Holland. That's right.

Senator Proxmire. As far as Congress is concerned, you are the creature of Congress? When we act formally in legislative form, that is the law and you respect it and abide by it?

Mr. Holland. Precisely.

Senator Proxmire. I was very disturbed, as I am sure you were and Dr. Burns and others were, at the enormous increase in the money supply last year. I thought it was inflationary. I think with the lag involved it is one of the reasons why we are suffering the present inflation we are going to suffer for some time. Can you give us just a notion of what you feel the Board can do about this very, very serious inflationary problem we now suffer in view of the immense increase in the money supply last year, the biggest by far in history?

Mr. Holland. The money supply increase for 1972 was a sizable number, a little over 8 percent when you measure from the beginning of the year to the end. But in a way I don't think that gives a very fair representation of what monetary policy is and what volume of money was allowed to be generated in our banking system in 1972. You always have a problem when you take a measurement where you begin and where you end the measurement.

Senator Proxmire. I agree if you take a month it is not fair, but if you take a year the aggregates tend to balance out.

Mr. Holland. Except if you happen to use December of 1972, as the end point for measurement purposes the month of December then has a powerful effect...

Senator Proxmire. It has 11 other months to modify that.

Mr. Holland. But if I may say, Senator, the money supply growth in 1972 fluctuated over the year. We had a bulge in mid-year. We had more moderate money supply growth in the fall. Then we had a bulge at the year-end. December was the biggest month in as long as I can remember. It was big for a lot of one-time and reversible reasons.

The very succeeding month, January, showed no growth in the money supply at all as some of the technical factors that had expanded the money supply in December reversed themselves.

Senator Proxmire. All right. If you took 13 months and included January, you would still have an increase of money supply over 7 percent for that period.

Mr. Holland. That's right.

Senator Proxmire. Which is excessive under the circumstances, inflationary.

Mr. Holland. Since that time the increase has been running about 5 percent. So you can see a difference in the rate of growth of the money supply from that point to now—and an entirely appropriate rate of difference, I might say.

I think we are living through a serious kind of inflation where it is important for monetary policy to dampen the growth of demand. Our monetary policy, as our Chairman has mentioned, is one of trying to foster a moderate growth in money and credit, which means a slower rate of growth than that statistically defined 8-plus percent of 1972.
We had some success with that policy in the early months of this year. I think one wants to be a little careful about the very latest weeks. It is difficult in making comparisons. For example, it is very likely the money supply figure right now is being bulged temporarily because many of us—I include myself in this list, and perhaps some of you—have been getting income tax refunds as a result of the effects of over-withholding of last year's tax.

Senator Proxmire. You say the money supply has slowed down compared to last year. Still it's a substantial increase of 5 percent or a little over 5 percent, at the top range of the 2 to 6 percent the Joint Economic Committee suggested should be the zone. And we are suffering inflation.

At the same time—I don't want to seem to be going both ways at once—but how about the housing problem? What can be done under these circumstances if you are going to have a moderate increase in the money supply not to abort an increase in the housing starts which our economy may need as we go down the pike and which certainly the people in our country who have inadequate housing do need?

Mr. Holland. That's right, Senator, and I think there are some other aspects of the economy that one has to keep in mind when one is applying monetary pressure.

One is the effect on housing. Another is the effect on thrift institutions that help people to save and put those savings into housing.

Senator Proxmire. What do you see that the Federal Reserve Board can do? In the past, as the Chairman has pointed out many times, it has been the principal victim when you have slowed down the money supply increase.

Mr. Holland. That's right.

Senator Proxmire. When you have tried to be anti-inflationary, you have been anti-inflationary in housing, in State, and local government secondarily, and almost nothing else.

Mr. Holland. I think out of each of the successive experiences—and there have been some painful ones in the last decade—there have been a number of adaptations of public policy developed to try to level out a little bit this effect of tight money.

I might say your committee and the Congress have been effective in creating some of those.

I think it is clear now, for example, that some of those policies to maintain the flow of funds into housing are helping the situation now to be better than it otherwise would be.

Senator Proxmire. Do you think it is going to be adequate if we have a slowdown of the money supply increase to 4 to 5 percent?

Mr. Holland. I think we are in a very delicate time, Senator, right in through here. I think the next few months are going to be critical months with respect to whether we can cool down the inflation without generating pressures that could mean an unhappy business situation in 1973 and 1974.

The Federal Reserve has been working in other areas to try to smooth the effect of this monetary restraint program that it has been following. You notice we have been taking actions to raise reserve requirements on banks. Chairman Burns addressed a letter just the other week to the chief executives of banks urging them to tighten their lending policies, in order to achieve the moderate dampening of credit that we need to cool off this inflation.
At the same time, in that statement, we did say to the bankers it would be appropriate for them to continue to accommodate the needs of their local communities, and when we said needs of the local communities we meant farmers, small businessmen, the consumers, and the home buyers in those areas.

Senator PROXIMIRE. Well, to me, one of the biggest unsolved economic problems we have in this country is the problem of how we can reduce inflationary pressures without cutting the heart out of housing. The Federal Reserve Board has indicated in the past through the Chairman that we have made progress. And we have in some areas. But the Federal Reserve Board hasn't seemed to have taken any modification of its own policies, and I would hope you would really consider that as seriously as you can—what the Federal Reserve Board might do.

We have suggested some proposals that might be considered rather radical, but they make sense. In other countries there is a greater degree of insulation of housing from monetary policy, greater concentration on slowing down business operations which aren't quite as sensitive to monetary policy.

But I don't want to take your time or the committee's time. This is a confirmation hearing. And while I am excited about your appointment and I think you are going to be a most useful Governor of the Federal Reserve Board in many ways in response to Congress as an expert, and so forth, I wanted to mention those things.

One other thing, Governor Roberts was in charge for the Federal Reserve Board of truth in lending, as I understand it.

Mr. HOLLAND. Yes, he had delegated authority.

Senator PROXIMIRE. I think we all would agree he was a fine Governor and served this country very, very well.

Mr. HOLLAND. He would be pleased to have you say so.

Senator PROXIMIRE. And I greatly admired him.

Now, would you be in charge of truth in lending? Do you understand you would be taking over that function?

Mr. HOLLAND. Probably not, Senator.

Senator PROXIMIRE. Probably not?

Mr. HOLLAND. The Chairman will make redistribution of the various delegation assignments of the Board.

Senator PROXIMIRE. That has not been determined yet?

Mr. HOLLAND. He has not acted yet, but I wouldn't expect to get it, I have expertise in some areas—

Senator PROXIMIRE. When will that determination be made?

Mr. HOLLAND. Probably within the next few weeks.

Senator PROXIMIRE. All right. One other question. You heard this asked of Mr. Bomar and the other nominee, Mr. Perry, of the Federal Home Loan Bank Board, and Mr. Smith also, if they would, if requested, submit an unsigned resignation to the President for him to act on. Let me ask you first have you submitted such a resignation?

Mr. HOLLAND. No.

Senator PROXIMIRE. Would you submit a resignation if you were asked to do so?

Mr. HOLLAND. Undated and in blank; no, sir, I would not. I don't think that is fitting with my position or my agency's relationship.
Senator Proxmire. When you say undated and in blank, I take it there are circumstances under which you might resign if requested? Is that right?

Mr. Holland. I hope I would never create that kind of circumstances, but I think a public servant always has to stand accountable for what he does.

Senator Proxmire. But you would not submit a resignation undated?

Mr. Holland. No.

Senator Proxmire. Which he could act on at his discretion?

Mr. Holland. No, sir.

Senator Proxmire. Thank you very much.

Mr. Holland. Thank you very much.

The Chairman. Mr. Holland, you were making some comments a moment ago about some of the policies the Board has put into effect. One was calling on business, banks, financial institutions, to tighten up on their big loans, to distribute their capital more equitably or something like that. How did they respond to that?

Mr. Holland. The response is very interesting, I think, Mr. Chairman, although we did it recently enough so it is rather early to count the returns.

The Chairman. The reason I ask that question is I read an article in the financial pages a few days ago to the effect that it was not going to work. Did you see that article?

Mr. Holland. Yes, I did.

The Chairman. I just wondered what your reactions to it were.

Mr. Holland. That banker and a good many bankers like him say, "Two-thirds of all our credits are in term loans, and the rest are largely takedowns on comments, so it's hard to cut back." And he's right. That's true. But I think it is easy to exaggerate how much effect one needs to get from a letter like that to be very helpful to the national interest.

If that letter changes 1 lending decision in 50, it will have moderated enough the flow of credit demands to have substantially helped.

The Chairman. Do what?

Mr. Holland. Will have moderated enough the amount of credit extensions to have substantially helped us in this current very inflationary interval. We don't have to change everybody's mind. We just have to change, on the margin, a few decisions toward less spending, less credit-financed spending.

The end of that same news story, Mr. Chairman, is that after several bankers were quoted as saying it is hard to affect credit flows, one banker said, "Well, it's true Chairman Burns has often written us and asked us to do things we didn't like or thought were wrong, but we sometimes found out in the end what he asked us was good for us."

The Chairman. I am glad to hear that. I was glad when the board took that action. In fact, I thought many different times in the terrific crunch that occurred in 1966 and 1967 that that ought to have been done.

But let me ask you about another thing. How is your dual interest rate working?

Mr. Holland. Mr. Chairman, that belongs to the Committee on Interest and Dividends, not the Federal Reserve, though the chairman of both of those bodies happens to be Arthur Burns.

The Chairman. Wait. I want to get that. Belongs to what?
Mr. Holland. The dual prime rate idea was developed by the Committee on Interest and Dividends, which is chaired by Arthur Burns—

The Chairman. Oh.

Mr. Holland [continuing]. But separate from the Federal Reserve.

The Chairman. Yes. I saw Dr. Burns had commented on it. In fact, he talked to me about it one time.

Mr. Holland. Oh, yes.

The Chairman. And I overlooked the fact that it came out of the Committee on Interest and Dividends—and Profits I believe, isn’t it?

Mr. Holland. I can say, however, that I am informed that that is working relatively well as a practical, pragmatic way of trying to sort out impacts and generate more responsible interest rate behavior. It seems to work, I would say, reasonably well.

The Chairman. I thought it was a good proposal. I hope it does work.

Any further questions?

Senator Brock?

Senator Brock. No questions.

The Chairman. Mr. Johnston?

Thank you very much.

Senator Proxmire. Let me ask if I could—and I apologize again for detaining you—but the Chairman pointed out that there was a reaction of at least some bankers that that jawboning, that rhetoric on distributing their capital more equitably wasn’t working, and your response was if one bank in 50 responds you have made some progress.

Mr. Holland. Or if one loan in 50 a banker makes—

Senator Proxmire. You see, the difficulty with that is the good fellows will do it and at their expense and the expense of their bank and their stockholders perhaps, but isn’t that too much to ask? Why shouldn’t you have a differential reserve requirement for housing, for instance? Then it would be automatic. Then it would be in their profit interest to react to provide a better break for housing under these circumstances.

Mr. Holland. We think this letter, fitted in as it is between a couple of other approaches. Senator, will give us a reasonable, more workable result—a more workable one than by putting reserve requirements on housing or special reserve requirements on the asset side of bank balance sheets.

After all, this letter comes not in isolation but is addressed after the Federal Reserve had taken a series of actions to produce a greater degree of credit restraint.

We think of that letter as, in effect, calling the bank’s attention to the fact that there is more pressure on them. The sooner they are aware of it, the sooner they make appropriate adjustments to it, the sooner we will get the kind of restraint we want, and the sooner we will have made whatever contribution we can to dampening this whole period of inflation.

We might have a conversation or two with a banker who was not paying any attention whatsoever to the need for restraint—to do no more than try to make clear to him the kind of national interest we were trying to articulate in that letter.

Senator Proxmire. Thank you.
The CHAIRMAN. Thank you very much, Mr. Holland. We congratulate you and wish you well. We will put your biographical sketch in the record.

[The information follows:]

**Biographical Sketch of Robert C. Holland**


**Education:**
- 1938-42—Tekamah High School, Tekamah, Nebr.
- 1942-43—University of Nebraska, Lincoln, Nebr. 1946, Regents Scholarship, University of Nebraska.
- 1951-54—University of Chicago, Chicago, Ill. (part-time).

**Military service:** U.S. Army 1943-1944—A.S.T.P., University of Wisconsin, Madison, Wis.; 1944-45—Private, 96th Infantry Division (United States, South Pacific, Philippines Invasion Campaign); 1945—U.S. Corps of Cadets, U.S. Military Academy, West Point, N.Y.; honorable discharge.

**Employment:**
- 1949-51—Federal Reserve Bank of Chicago, Chicago, Ill.; 1949-57, financial economist; 1957-59, Assistant Vice President (research) and Assistant Vice President (loans); 1959-61, vice president (loans).
- 1950-57—Instructor, American Institute of Banking (evenings).
- 1961 to present—Board of Governors of the Federal Reserve System, Washington, D.C.; 1961-63, Adviser, Division of Research and Statistics; 1962-66, Associate Economist, Federal Open Market Committee; 1964-65, Associate Director, Division of Research and Statistics; 1965-67, Adviser to the Board; 1966 to present, Secretary, Federal Open Market Committee; 1968-71, Secretary of the Board; 1971 to present, Executive Director.


**Special services:** 1965—Member, National Bureau of Economic Research Advisory Committee on Exploratory Study of Banking Markets and Bank Structure. 1965-66—Member, National Council of Churches, Commission on Church and Economic Life. 1967-68—Member, Program Committee on The Church and Economic Life, National Council of Churches. 1971—Member, Task Force on Finance, Lutheran Church in America. 1973—Member, Finance Department Advisory Committee, The Wharton School of Finance and Commerce, University of Pennsylvania.

**Publications:**

**Political affiliation:** Republican.
The Chairman. Next is Mr. John R. Evans, of Utah, to be a member of the Securities and Exchange Commission for a term of 5 years expiring June 5, 1978.

We are glad to see you before us again. When were you confirmed previously?

STATEMENT OF JOHN R. EVANS, OF UTAH, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM OF 5 YEARS EXPIRING JUNE 5, 1978

Mr. Evans. When I was confirmed? I don't remember the exact date. My appointment became effective on the 3d of March.

The Chairman. The 3d of March. And you are back again?

Mr. Evans. Right. I was appointed to fill the remaining part of a term expiring on June 5, of this year.

The Chairman. Now you are up for a 5-year term? Is that correct?

Mr. Evans. That is correct.

The Chairman. We are very glad to have you. You have filed a financial statement?

Mr. Evans. It was filed by the SEC. I don't have any idea what my securities holdings are at this point.

The Chairman. I notice there is one in here, and it does certify you have no conflict of interest.

Mr. Evans. That is what I understand.

The Chairman. Of course, we went over this with you just back in March, didn't we?

Mr. Evans. Right; since that time, even though there was no conflict, I decided to put my securities under a blind trust, and this is why I couldn't personally file a statement. All the information regarding the account goes to Mr. Albert Fontes, Assistant Director of our Personnel Office, and so I have no connection with it at all.

The Chairman. I saw that in connection with the financial statement.

Now I will ask you this question also. You have heard it before. If confirmed in this position, will you respond to requests from this committee or any other appropriate committee of the Congress to appear and testify?

Mr. Evans. Yes, I will.

The Chairman. Let us put Mr. Evans' biographical sketch in the record at this point.

[The biographical sketch of Mr. Evans follows:]

BIOGRAPHICAL SKETCH OF JOHN R. EVANS


The CHAIRMAN. Senator Tower.

Senator Tower. Well, of course, having known and worked with John for years and respected his ability and his integrity, I can't think of any pertinent questions I would have to ask him now. I would note that tomorrow he will be 41 and it is all downhill from there. [Laughter.]

We are glad to have you back, John, and, of course, I am delighted to support your nomination.

The CHAIRMAN. Senator Proxmire.

Senator Proxmire. I agree. We know you so well. You served on this committee and served so very ably. Although you were a minority staff member, those of us on the majority had great respect for you even when we disagreed with the position which you were supporting.

So you are I think well qualified certainly to continue. But I would like to ask you—I just can't resist taking advantage of this opportunity. There is so much that has happened to the SEC in the last couple of months. As far as you could, give us reassurance or some notion of what the SEC is doing to cope with a very difficult situation.

Your Chairman has resigned. The stock market has been very, very unsettled. Under the circumstances could you tell us what the SEC is doing to try to bring greater stability to the securities markets and greater confidence?

Mr. Evans. I can try.

First, I don't believe that the SEC has brought about the instability. I believe there are some more basic factors than that. Among those factors are such things as inflationary price increases, questions about governmental action on wages and prices, our foreign trade balance, a recent devaluation of the dollar, the continuing lack of strength of the dollar, and record prices for gold. There have also been some forecasts suggesting a downturn in the economy either later this year or early next year.

I also think that Watergate has had a significant impact on a lot of investors. In addition, the SEC has recently brought some major actions alleging fraud and the use of insider information in cases involving Mr. Vesco, Equity Funding, and the earlier action against Four Seasons Nursing Centers. As these matters have been made public, I expect they have had an impact on investor confidence. In any event, there has been a lack of trading by individuals and the low trading volume on exchanges has resulted in losses by a significant number of broker dealers.

The SEC cannot deal directly with basic economic factors which bring about instability in our securities markets. In the areas under our jurisdiction, however, we can have some influence. As far as what the SEC is doing without a chairman, we are going right ahead with the same pattern that we were following before. We are moving ahead with implementation of steps toward a central market system. We are working on guidelines relating to use of insider information. We are upgrading accounting practices required in filings before the Com-
mission. We are continuing our enforcement activities and we are upgrading financial standards of broker-dealers. The staff, of course, has many additional projects under consideration, all of which are intended to improve protection of investors and thus increase confidence in our securities markets. We have not slowed down as a result of not having a chairman.

In fact, I would say that the staff as well as the Commission itself has tried to redouble its efforts in order to be sure that no one can even suggest that there is a problem at the SEC as a result of the Chairman's resignation. We felt very sad about that, but we are going ahead in any event.

Senator Proxmire. That is reassuring. You have had two very vigorous chairmen; both Mr. Casey and Mr. Cook were extremely active and were working hard for reforms of various kinds. You feel that the momentum is there and it is being continued?

Mr. Evans. Yes, I do.

Senator Proxmire. Let me ask you this, Mr. Evans. I asked the previous witnesses, and you may have heard their responses. Have you submitted to the White House a letter of resignation that the President could act on at his discretion?

Mr. Evans. No, I have not.

Senator Proxmire. Would you submit such a letter if requested to do so?

Mr. Evans. After hearing your question to the others, I checked with our Acting General Counsel, Mr. North, to see what the situation was, not knowing the law in relation to that. He said that this has never occurred so far as he is aware in an independent agency.

Obviously, the purpose of having a term, a 5-year term, or whatever it may be is to assure independence of those who receive the term. And my reaction is I don't know why such a letter would be requested or why such a resignation would be requested. I think this would jeopardize the very system that has been setup.

I can think of a situation wherein it might occur. Congress might authorize the President to take action like this, and in a situation like that I would feel I was bound to send in such a resignation. Without such authorization I see no reason why I ever should nor do I understand why one would ever be requested.

Senator Proxmire. Well, all I want to know is whether absent a change in the law would you, if requested, submit your resignation signed and undated that the President could act on.

Mr. Evans. No, I would not.

Senator Proxmire. Would not? Thank you.

The Chairman. Senator Brock.

Senator Brock. I was interested, John, in your response to the question with regard to the ongoing activities of the SEC. Is it your feeling that, while obviously you would be better off with a chairman, that there is no reason you should hesitate or delay in any respect with the programs that are underway with the SEC both with regard to reforms being considered and supervision of the regulation? They are all a matter of the responsibility of the Securities and Exchange Commission?

Mr. Evans. Right. There is no reason for us to hesitate. We have four Commissioners. Three is all we need to act. And as long as three are present for any action I see no reason why we should hesitate.
Even if we had five, those same three could control the actions of the Commission.

Senator Brock. I regret the loss of a man that I considered to be outstanding in this particular area, but I share I think Senator Proxmire's interest in encouraging you to give visibility to this effort because I think it is important. There are enough unsettling factors in the market without this being added to the list, and I am grateful for the fact that you indicate it is not and will not become so.

Mr. Evans. I think, Senator, there are those who would like to reduce the effectiveness of our agency. I think Vesco and some people connected with him, for example, would like to do this, and they have made statements to the effect that the agency had a cloud over it.

As far as I am concerned, there is no cloud over our agency. I think—and I have said this before—that what was done by Mr. Cook was to assure that no cloud was going to be over our agency, and, whether it was necessary or not, he did it so that no one could either question the effectiveness or the desire of our agency to be independent without any political overtones.

I have found no political overtones at all in the Commission. Now we have two Democrats and two Republicans on the Commission, but we are not partisan in our decisions.

I might say this, and maybe this is somewhat risky because I have found when I was a member of the committee staff that those who spoke too much got in trouble—but I think it is our responsibility as a commission not only to be independent of White House pressure but also of pressure from individual Members of Congress. When Congress acts, obviously we carry out the law to the best of our ability. But I think that Members of Congress should realize that as a commission we can't comply with the wishes of individual Members when it comes to matters of enforcement and regulation. I hope this is understood by the Members of Congress.

But I think as an independent agency we have to remain independent of both, if we are going to do the job we think we ought to do. Sometimes this is hard because demands by individual Members pursuant to an oversight responsibility can create some problems for our enforcement action. I would certainly hope that oversight is not carried out in a way so that our enforcement cases are jeopardized. There is that possibility.

Senator Tower. You therefore distinguish between the collective action of Congress and pressure that might be brought to bear by individual Members?

Mr. Evans. Very much so. As far as collective action by Congress, that is what we are there to do—carry that out and administer the law.

Senator Tower. I concur.

Senator Brock. I appreciate your statement. I would point out while you have two Democrats and two Republicans, rarely do the issues before you contain any partisan overtones at all. I hope that they are never decided on any partisan basis. I don't see any justification for that.

I think the fact that you might identify with a political party indicates a certain philosophical coloration but I know of no issue before the SEC that would involve any partisan matter at all.

Mr. Evans. I am not aware of any. I think our actions cross lines completely. When we consider major policy decisions such as mem-
bership on exchanges or brokerage commission rates, there are different interest groups obviously. Many billions of dollars are involved. And we have to just do the best we can. Actually, we are in a very unenviable position, because whatever we do is considered wrong by a major percentage of those who are affected by our action. That's part of the job.

Senator Brock. I thank you for your response.

Mr. Chairman, I would simply say I know of no nomination that I have taken greater delight in supporting than that of John Evans. He is an outstanding person.

The Chairman. I am sure that is true with all of us.

Senator McIntyre, any questions?

Senator McIntyre. I yield to Senator Johnston.

The Chairman. Senator Johnston.

Senator Johnston. We had this conversation today about letters of resignation. Is or is not the SEC appointed at the pleasure of the President, or is it for a term?

Mr. Evans. It is for a term, a 5-year term.

Senator Johnston. Removable only for cause?

Mr. Evans. That's right.

Senator Johnston. Is the same thing true for the other offices we have considered?

The Chairman. Independent agencies.

Senator Johnston. All independent agencies are not removable by the President?

Mr. Evans. Except for cause. There are basis on which he can do this. But this is different, I think, from what Senator Proxmire is asking. He is asking, would we sign a letter in advance that any time the President wanted——

Senator Johnston. I had the impression today with some of these other offices that they were removable at the President's pleasure, even though they were independent, but I am glad to hear they are completely independent.

Senator Tower. One of them is Dr. Toote.

Senator Proxmire. I didn't ask Dr. Toote. She is in HUD, and that should be at the pleasure of the President, certainly.

The Chairman. By the way, you may remember back in FDR's time he tried to remove such an appointee. As I recall, it was in the Federal Trade Commission. And the Court ruled definitely against him.

Any other questions?

Senator Taft?

Senator Taft. No questions.

The Chairman. Senator McIntyre?

Senator McIntyre. I just wanted to say that Mr. Evans is over there now, isn't he, performing his duties?

The Chairman. This is a reappointment for a regular term.

Senator McIntyre. For a 5-year term. And I just want to go on record as saying during the time John Evans was here on this committee I respected his integrity and everything about the way he performed his duties, and you must be now getting your feet wet, and I am delighted that the President has decided to keep you on for 5 more years, and I want to wish you the very best.
Mr. Evans. Thank you, Senator.

The Chairman. Senator Taft, do you have any questions?

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

The Chairman. Thank you very much, and we all wish you well. Now the committee will go into executive session and I ask all of those not connected with the committee to retire.

[Whereupon, at 11:53 a.m., the committee proceeded in executive session.]