

**NOMINATIONS OF G. BRADFORD COOK,
PHILIP A. LOOMIS, JR., AND
JOHN R. EVANS**

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United States HEARING
**COMMITTEE ON
BANKING, HOUSING AND URBAN AFFAIRS,
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION
ON
THE NOMINATIONS OF G. BRADFORD COOK, PHILIP A.
LOOMIS, JR., AND JOHN R. EVANS TO BE MEMBERS OF
THE SECURITIES AND EXCHANGE COMMISSION**

FEBRUARY 21, 1973

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and Urban Affairs



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NOMINATIONS OF G. BRADFORD COOK, PHILIP A. LOOMIS, JR., AND JOHN R. EVANS

WEDNESDAY, FEBRUARY 21, 1973

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

The committee met at 9:40 a.m., in room 5302, New Senate Office Building, Senator John Sparkman, chairman of the committee, presiding.

Present: Senators Sparkman, Proxmire, Williams, Johnston, Hathaway, Brooke, Packwood, Taft, and Weicker.

Senator PROXMIRE. The committee will come to order. The chairman has been delayed, and has asked me to start the hearings in his absence. The purpose of the hearing today is to consider the nominations of Mr. G. Bradford Cook, of Illinois, to be a member of the SEC; Mr. Philip H. Loomis, Jr., of California, to be a member of the SEC; and Mr. John R. Evans, of Utah, to be a member of the SEC.

Unless other members of the committee have statements to make, I shall ask Mr. Cook to take the witness stand. We have a biographical sketch supplied by Mr. Cook, we will put it in the record at this point.

(The information follows.)

BIOGRAPHY OF G. BRADFORD COOK

FEBRUARY 16, 1973.

G. Bradford Cook is Director of the Division of Market Regulation of the Securities and Exchange Commission. Prior to August of 1972, he had been serving as General Counsel of the Commission.

A native of Lincoln, Nebraska, Mr. Cook was educated at Phillips Exeter Academy, Stanford and the University of Nebraska Law School, where he served as Associate Editor of the Nebraska Law Review. Prior to assuming the position of General Counsel in September of 1971, Mr. Cook was a partner in the Chicago law firm of Winston & Strawn, where he specialized in corporate and securities law. He is a member of the American, Nebraska, Illinois and Chicago Bar Associations and is admitted to practice as well before a number of federal courts.

Mr. Cook is a member of the American Bar Association's Corporation, Banking & Business Law Section, the Securities and Corporate Law Sections of the Chicago Bar Association and is an Adviser to the American Law Institute's Federal Securities Code. He is married and the father of four children, and makes his home in the District of Columbia.

Senator PROXMIRE. Mr. Cook, do you have a statement that you would like to make to the committee?

Mr. Cook. No; I have no prepared statement to make.

Senator PROXMIRE. You come to the chairmanship of the Securities and Exchange Commission with an excellent background, a man who has been counsel to the SEC—is that correct?

(1)

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

JOHN SPARKMAN, Alabama, Chairman

WILLIAM PROXMIRE, Wisconsin
HARRISON A. WILLIAMS, Jr., New Jersey
THOMAS F. McINTYRE, New Hampshire
ALAN GRANSTON, California
ADLAI E. STEVENSON III, Illinois
J. BENNETT JOHNSTON, Jr., Louisiana
WILLIAM D. HATHAWAY, Maine
ROBERT R. BIDEN, Jr., Delaware

JOHN TOWER, Texas
WALLACE F. BENNETT, Utah
EDWARD W. BROOKE, Massachusetts
BOB PACKWOOD, Oregon
BILL BROCK, Tennessee
ROBERT TAFT, Jr., Ohio
LOWELL P. WEICKER, Jr., Connecticut

ROBERT L. O'NEAL, Jr., Staff Director and General Counsel
MICHAEL E. BURNS, Minority Counsel

(1)

Mr. Cook. Yes; I was.

Senator PROXMIER. For some time, and has had substantial experience as a lawyer, and as a corporate lawyer, is unusually well qualified, and far better qualified in terms of direct, explicit experience than most people who have been nominated to this position.

I would just like to ask you questions along two lines very briefly. One, you have had considerable holdings, and therefore the conflict-of-interest question, of course, would naturally arise in the mind of some members of the committee, and perhaps in the mind of some some members of the public, and in order to clear the air as much as possible, I want to make sure we understand the situation.

Your holdings are almost entirely in a "blind trust," is that correct?

Mr. Cook. Well, my personal holdings, which consist primarily of privately held assets -- assets that don't have any ready market value -- are not held in a "blind trust." My wife's assets have been held in a "blind trust" since I came to Washington in August 1971.

The trustee is the Northern Trust Co., in Chicago, and I am not aware of anything that goes on in her portfolio, which is, or rather was at the time the trust, established, primarily in public issues.

Senator PROXMIER. You give a list, there is a list given, I don't know whether this was supplied by you or the committee staff, on page 2, of your corporate business enterprises, including your directorships and so on. These indicate that you still hold these directorships?

Mr. Cook. The only directorship which I presently hold is in Glenmar Lodge, Inc., which is toward the bottom of the list. That is just a small company in northern Minnesota that holds property contiguous to my summer home and my parents' summer home.

Senator PROXMIER. That is simply to inform us of your former directorships and so forth?

Mr. Cook. Yes.

Senator PROXMIER. You no longer hold these?

Mr. Cook. No; I resigned from all these boards when I came to the Government.

Senator PROXMIER. You indicate some of the major clients you have served: CNA, First National Corp., Central National Bank of Chicago, and so forth. I take it this is not to indicate that you might go back to them, but simply to give us information that you worked with them before?

Mr. Cook. To give you that; yes.

Senator PROXMIER. Have you any intention of returning to corporate practice soon, or do you expect to stay in your present position for some time?

Mr. Cook. If I am confirmed, I hope to serve in my present position, indefinitely. I have no present plans to return to private practice.

Senator PROXMIER. I just have one other question I would like to ask you. The SEC staff recommended new regulations to tighten up the disclosure practices of defense contractors. In testimony before the Joint Economic Committee last December, I think, Mr. Loomis indicated that these new regulations were rejected by the Commission. I feel, and some of the other members of that committee feel, that these disclosure recommendations are most important, and that very often investors in defense contracting firms have not been informed of what insiders knew and what the Defense Department knew

about the prospects, the imminent prospects of overruns and so forth, and we felt, therefore, the regulations recommended by the staff would be helpful.

What is your view on that?

Mr. Cook. Well, I have done just a cursory examination or investigation of the area, because in my capacity as General Counsel and, later, as Director of the Division of Marketing Regulation, I was not directly related to the problem. In preparing to be here today, I spoke to some of the staff members, and I recall that we did issue a release -- an accounting release -- which calls for increased disclosure of unusual charges and potential charges, which I think will be helpful in the defense contracting area.

The staff does intend to examine in depth the 10-K reports which will be coming in at the end of March for the defense contracting industry.

Senator PROXMIER. Would you tell us what these reports are?

Mr. Cook. The 10-K is an annual report filed by all registered companies under the 1934 act. The form requires extensive disclosure, in areas touching both finance and business disclosures. In effect, a 10-K filing is analogous to the prospectus that we require to be filed in order to make a public offering.

Those forms give a very detailed report of the corporations, and they normally come in around the end of March for those companies which are on a calendar reporting year.

Now, as I understand the present staff position of those who are working in this area, their plan is to examine these thoroughly and then to reevaluate the possibility of coming out with guidelines or additional recommendations.

It would be inappropriate for me to judge the issue, not having the facts before me. Again, my areas of concern were just not connected with this.

Senator PROXMIER. I may have other questions, but I yield to the Chairman.

(At this point Senator Sparkman assumes the Chair.)

The CHAIRMAN. I apologize for being late. I had a group come in that I had to see.

Let me ask you just one or two formal questions. Did you ask him about those financial statements?

Senator PROXMIER. Well, he simply said that his wife's holdings were in a "blind trust," and his own holdings are not connected with any kind of public --

Mr. Cook. I have a few public companies that I acquired some time ago. Since I came to the Government in September 1971, I have neither bought nor sold any of my assets.

I have historically always been an investor, and the public issues that I do have really became public through subsequent mergers.

Senator PROXMIER. I misunderstand. I am sorry. Have you cleared your holdings with the White House Counsel?

Mr. COOK. Walter North, the Acting General Counsel of the Commission, has filed a certificate with my financial statement in effect saying that there is no conflict of interest.

The CHAIRMAN. We have it here, and there is a certificate from the Acting General Counsel of SEC in which he says that he found nothing in such statements which was not fully in compliance with the

requirements of the Executive order, and he found nothing in the statements which does not fully comply with the requirements of the rules of the Securities and Exchange Commission.

Mr. Cook. I believe that is correct, yes.

The CHAIRMAN. You understand that your financial statement will be kept on file in the committee, and Members of the Senate may see it in the committee offices, but after that is done, we seal it up and put it in our files and it will be kept there for the duration of your tenure, plus 1 year.

Mr. Cook. Fine.

The CHAIRMAN. It will be kept confidential. Any member of the committee who wants to see it may do so.

Now I want to ask you something else, and that is with reference to your willingness to appear before congressional committees and testify when asked to do so.

Mr. Cook. I see no problem or conflict there. I would be ready to testify anytime I am asked to.

The CHAIRMAN. As a matter of fact, we are required now to certify on the report that the person whom we are recommending—that the person is willing to respond to reasonable summons to appear and testify before duly constituted Senate committees.

You would answer that in the affirmative?

Mr. Cook. Yes.

The CHAIRMAN. Very well.

Senator Bennett?

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

The CHAIRMAN. Senator Williams?

Senator WILLIAMS. Just one or two, Mr. Chairman.

Mr. Cook, you have been at the SEC as General Counsel, and you appreciate the good relationship that the members of this committee have enjoyed with the Chairman of the Securities and Exchange Commission, as well as with the Commissioners, over the last 3 years of our very deep and complete study of the securities industry.

It was a period of close and very helpful communications with the Commission, and I get the impression that you will follow the close rapport of Chairman Casey as we work on the legislative aspects of the study.

Do you have that feeling of close communication with the Congress?

Mr. Cook. Yes, I do. We may disagree on some issues.

Senator WILLIAMS. That, of course, will follow, but beyond that. In our communications formally and informally, we have frequently arrived at a community of interest.

Mr. Cook. Yes, I think there is a very good unofficial relationship.

Senator WILLIAMS. I don't want to deal with all the major issues before us, but just to get an impression of your philosophy and attitude on one of the issues, fixed Commission rates. Chairman Casey during his tenure broke the fixed Commission rate barrier and set two levels at which there must be negotiations for competitive rates.

Do you share this approach?

Mr. Cook. Based upon the present figures from the industry as we have them today, I see no reason to deviate from the prior statements made by Chairman Casey before your committee. I believe it was last March, when he testified that we anticipated that by April 1974,

the negotiated portion of the Commission rate should be on that amount above \$100,000.

Senator WILLIAMS. Thank you. I have no further questions.

The CHAIRMAN. You mean negotiate down to \$100,000?

Mr. Cook. Yes, the amount above \$100,000 would be subject to negotiation.

The CHAIRMAN. Then it would be a fixed rate on \$100,000 and below?

Mr. Cook. That has been the prior position of the Commission, and I see no reason to deviate from that today based on the information that we now have.

The CHAIRMAN. Senator Brooke?

Senator BROOKE. Yes, I really have no questions, Mr. Chairman. I would just like to say that I think this is perhaps one of the great days for the Securities and Exchange Commission. I think that Chairman Casey was truly an outstanding Chairman of that Commission. I have had the opportunity to talk with Chairman Cook and I am convinced and satisfied that he certainly will carry on the high standards and traditions that have been established by Chairman Casey.

The President has sent your name over for confirmation together with Mr. Loomis, who in my opinion is one of the work horses of the Commission and a very distinguished member of the Commission. I am pleased that he is coming back to the Commission, and John Evans, who has really distinguished himself as an outstanding professional member of this committee staff, with a background which I am sure will qualify him for great service on the Commission. So it seems that you are going with a great team, Mr. Chairman, and I personally look forward to working with you and with the Commission in the days ahead.

That is one matter, and it has really very little to do with you, but I am very interested in "blind trusts," and I wonder just how blind "blind trusts" are sometimes when you say that as far as your wife's trust is concerned, and this is true, and I know it has happened in other cases, where under the joint tax returns, for example, you become aware of what was held.

Suppose in a "blind trust," the trustee sells X number of shares of stock, not all of the stock in a particular company. You are then aware that the—are you then aware of the fact that the trustee still holds X number of shares of that stock?

Mr. Cook. No. The only information I have—of course, as you say, Senator Brooke, it is from the joint tax return—is as to what has been sold, and its tax impact. I get this information each April, of course, but that does not tell me whether the trustee still retains any part of an issue.

Senator BROOKE. If you know in fact at first how much stock you had when you established the "blind trust"?

Mr. Cook. I could do it that way, except to be quite honest, I have never looked back at the figures, and when I set the "blind trust" up, I also continued to report, or rather the trustee continued to report, directly to the Commission, to Mr. Fontes who monitors the trust.

Even though there is a "blind trust," and there might be a conflict, he could apprise the trustee of any conflicts. What I am saying is that I bent over backward to be sure there would be no conflict here.

Senator BROOKE. I am sure you did, but I am talking about "blind trusts" generally, how blind they are, and whether you really have maximum concealment from the beneficiaries of the trust.

Mr. COOK. There is the problem that if I could recall an issue, in which I owned, say, a thousand shares when the trust was set up, and I see on my tax return that 500 have been sold, then I could deduce that there might be 500 left in the portfolio.

I suppose that is a possibility. I intend to keep the same procedures that I had when I was a staff member and have the trustee continue to report directly to the Commission, any of my holdings.

Senator BROOKE. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Packwood?

Senator PACKWOOD. I have no questions.

The CHAIRMAN. Senator Tarr?

Senator TARR. Would you just give me some comment as to what you feel the proper relationship between the Commission and the staff ought to be? Are you familiar with the relationships in the past?

Mr. COOK. Being presently a staff member, I think the easiest way to sum up was when Bill Casey was being interviewed prior to his leaving, and someone asked him, "If you had to give my advice to your successor, what would that be?" He said, "Listen to the staff, because they are normally right."

I think that sums it up very well. There is no doubt that the Commissioners set the policy, but I think of all the agencies in this Government that I am familiar with, the Securities and Exchange Commission is the most competent, and has the most capable and dedicated staff members. I have relied upon them in the last year and a half in my present position and I certainly intend to rely upon them in the future.

Senator TARR. Where does the role of the Commissioner, so far as policy-making is concerned, come in as against advice from the staff?

Mr. COOK. There have been occasions when the staff has made a recommendation which the Commission has, in effect, reversed, or not followed, which is not unusual. The Commission sometimes is looking at a broader picture. Perhaps there are other areas that the particular division that is working on a project is not aware of, and therefore the Commission might overrule the staff position.

But in my experience in the last year and a half, I think there were very few times where there has been a formal recommendation from a division of the staff which has been overruled or changed by the Commission.

It happens, it will continue to happen, and it should happen, but I look upon the staff as the fact-finding body to try to make its recommendations based upon past experiences, and those facts it has developed, just as a brief would be submitted to a court of law. Sometimes the judge accepts it and sometimes he does not.

Senator TARR. In fact, or in theory?

Mr. COOK. Normally, the Commission does not dispute facts, although, on occasions, it can happen. Sometimes in certain cases, the staff has done the investigation, and puts together a memorandum to the Commission setting forth the factual background and making a recommendation.

Many times, attached to that memorandum will be a submission by the opposite party where they will argue different facts, and the

Commission, after consultation with the staff, makes its decision based upon the entire record.

Senator TARR. What is the relationship to the staff of the individual Commissioner making up his mind on particular questions before the Commission?

How does this operate?

Does he just have one staff report, or does he have some of the staff assigned to him personally to brief him on the alternatives involved?

Mr. COOK. Each Commissioner has a legal assistant who helps advise the Commissioner as to the particular matter. Many of those legal assistants discuss the matter extensively with the division which has prepared the memorandum, and based upon that discussion advises his or her Commissioner.

Senator TARR. But there is only one report to the Commission basically? There is only one report by the Commission staff?

Mr. COOK. Only one memorandum?

Senator TARR. Yes.

Mr. COOK. No, sometimes the divisions themselves disagree on the matters, and you will have a memorandum coming up from one of the divisions which will be hotly contested by another division.

Senator TARR. But the nature of the staff reports apparently take a position on the principal questions of either side—

Mr. COOK. It is hard to give percentages, but substantively, they do. In some cases on very open questions on which there really is no precedent, the memorandum will merely point out both sides of the issue and ask for the Commission's guidance in deciding the issue.

There are those types of memorandums that come to the Commission. But most of the memorandums that come from the Divisions come up with a recommendation from the staff.

Senator TARR. The criticism, of course, that you are getting from business, and what my questions are directed to, is the fact that there has been a growing feeling, and it has subsided perhaps a little in the past year or so during Mr. Casey's jurisdiction, that the Commission is nothing but puppets for the staff. It has been said that unless you have the staff on your side, that the Commission is not in a position to decide in your favor.

You to some extent agree with that, apparently?

Mr. COOK. No, Senator, you misunderstand what I am saying. The Wells committee, which was formed about a year ago, attempted to deal with the area which I believe you are referring to; specifically the enforcement area.

This is the area where I think the most controversy might be in the outside business world. The Wells committee made a recommendation to bring fairness, so-to-speak, to the staff's procedures so that outside persons could make written submissions at the same time the staff sent up its memorandum. This theoretically gives the Commission both sides of the argument.

I think that has been helpful. I certainly don't think that the Commission is a rubber stamp. It has not been under Bill Casey and it will not be if I am Chairman, a rubber stamp.

All cases are reviewed from a very technical nature by the legal assistants and by the Commissioners, and I can assure you that there are very heated debates and arguments at the Commission table on these cases.

Senator TAFT. Let me ask you specifically about the *American Electric Power* case. Do you feel that the Commission ought to stay in this field, an area in which the decisions of the Commission must be based on the best kinds of technical knowledge and consideration that can be applied to this kind of a case?

Mr. Cook. The public utility aspect?

Senator TAFT. Yes.

Mr. Cook. I would have to check the record, but my memory, if it serves me correctly, indicates we have at least not taken a negative stand on that. I believe an affirmative stand—saying that that Division of the Commission should be transferred to the Federal Power Commission—would be preferable, as I believe it is a very technical field.

I think a lot of the securities problems that arose during the 1930's and caused the act to be adopted are dated, and today it is more of a technical field than it is a securities field.

Senator TAFT. I agree with you, I think, the more I take a look at that particular case and other similar ones.

Thank you.

The Chairman. Senator Proxmire?

Senator PROXMIRE. I would like to follow up on the questions I asked you. I am thinking of companies like Lockheed and Grumman, which have had great problems performing as defense contractors and failed to inform the public of their problems until they became controversial.

Why shouldn't defense contractors be required, as a matter of law, to make full disclosure in their SEC statements with respect to large cost overruns that will materially affect their financial condition?

Mr. Cook. Well, it would be my opinion—although I don't pretend to be an expert—if overruns are material—and you indicated they are large, and therefore, would be material—they should be disclosed as a matter of general disclosure. I think the controversy that has arisen between some of the positions that you have taken and some of the positions that the staff has taken is that specific guidelines, aimed solely at the defense contractors, may not be appropriate, and that they should conform with the general guidelines which generally exist.

Now, I understand the staff is working with the independent accountants and will monitor the 10-K annual reports coming in to make sure that the disclosures which are presently required are followed.

Senator PROXMIRE. Would this mean that where there is a large cost overrun that it would have a significant effect, a very significant effect, on the financial position, that they should be required to disclose it? Would the guideline require that?

Mr. Cook. It is terribly difficult to give a simplistic answer to that.

Senator PROXMIRE. Why is it? I can't understand why it should be difficult.

Mr. Cook. If it is large and, in fact, it does exist, and, in fact, management knows it exists—that is, it is within their knowledge—then it should be disclosed.

Senator PROXMIRE. I see what you are getting at. They may not acknowledge that it was

Mr. Cook. They may not know it, or they may, in good faith, sometimes think that it doesn't exist, and then, suddenly, they wake up.

I think there are a lot of companies who, in good faith, continue to carry losses and then, all at once, write them off.

As I indicated, we have required specific disclosure in that area.

Senator PROXMIRE. Here is one area where we have a record, especially with the firms I have mentioned, where they have known about overruns for years before they let their investors know about it. There is no question about it.

The documentation is clear, in executive sessions involving the Congress and the company.

Mr. Cook. I think when they know—when it is hard information, or rather as it gets harder—they should make the proper disclosure, disclosures that would set out the problems and what the impact might be on their financial health.

Senator PROXMIRE. In the past, there has been a tendency for the SEC to rely upon the certification of CPA firms and not go behind the statements contained in submissions of defense contractors.

In view of the great magnitude of cost overruns and the great injury that has been done to stockholders in companies who have failed to make timely disclosures of problems, don't you think the SEC should make at least spot checks of large defense contractors to determine whether there are cost overruns in defense contracts?

Mr. Cook. We cannot audit the defense industry.

Congress, when it set up the 1933 Securities Act, said in effect: "We are not going to have a corps of Government auditors, and we will rely upon the independent accountants." But we are reviewing the files, consulting with the accountants to make sure they understand their responsibilities, and we are not just going to accept the filings and put them in the drawer.

Senator PROXMIRE. You wouldn't support legislation that would authorize SEC audit of those contractors?

Mr. Cook. Well, I believe the defense industry incurs auditing costs now of around \$20 million. This figure came to me last night from a staff member. If that is true, then we would in effect, have to double our budget to do the job. I think that might be asking too much.

Senator PROXMIRE. I am asking for spot checks, not a huge, comprehensive audit of every defense contract, but spot checks of large contracts, especially where they are developing trouble signs.

Mr. Cook. You have to determine the term "audit." We are going to start spot checking in March. "Audit" means something entirely different. We are going to spot check, and if we find problems, that will lead to deeper auditing.

Senator PROXMIRE. Why shouldn't the defense contractors be required to disclose to the stockholders their large contracts, that the contracts are subject to renegotiation, and termination at the convenience of the government, that it may take long periods of time to decide claims, and so forth?

With Litton this is a very decisive matter, as to whether or not they are going to be a going concern now.

Mr. Cook. Well, generally, again as part of the existing disclosure, all issuers who raise money from the public, and also in their 10-K's

must disclose their material contracts and all the material facts relating to those contracts.

Now, again, I am not personally familiar with the Litton situation other than what I have read in the paper. I have not done any personal investigation within the Commission, so I do not know if this has not been done.

Senator PROXMIER. Our experience was that it affected Litton, Lockheed, and Grumman, that disclosure left much to be desired. This morning I read a letter to me from a man in Hasbrouck, N.J., who claims I have ruined him by my questions about Lockheed. Of course, if he was ruined at all, it was because the disclosure wasn't made to him. He was an investor, and he had a right to know about these things, and he wasn't told about it until the congressional inquiry.

Mr. Cook. I agree. I think they should be disclosed.

Senator PROXMIER. This is the main function, as I see it, of the SEC, to require disclosure, so that investors are informed.

How about the relationship between the SEC and the White House? How do you view that? How independent is your operation?

Mr. Cook. How is it what?

Senator PROXMIER. The relationship between the SEC and the White House. Senator Taft asked you about the relationship between the Commission and the staff. I am asking you about the White House.

Mr. Cook. It is not the same.

Senator PROXMIER. Does that mean you don't listen to their advice with the same degree—

Mr. Cook. We listen to advice from everybody. You can say our doors are open all the time.

My experience at the staff level has included, once in a while, some contact with the White House, but I couldn't even give you a specific situation.

Senator PROXMIER. Are those communications on the record?

Mr. Cook. Pardon me?

Senator PROXMIER. Are those communications on the record?

Mr. Cook. No. In our record open to the public?

Senator PROXMIER. Yes.

Mr. Cook. No, no more than other calls I get from anyone in the country. My contacts have all been innocuous, to say the least.

Senator PROXMIER. Why shouldn't those communications be on the record?

Mr. Cook. Well, first of all, you know, it is impossible, unless you are going to have a loudspeaker attached to everyone's phone in the Commission, blating out conversations to the street, or unless everything is written down by a stenographer. We have many, many calls, many, many inquiries from all segments of the public.

Senator PROXMIER. Do you get that many calls from the White House?

Mr. Cook. No, I said all segments of the public.

Senator PROXMIER. But you said it would be such a problem.

Mr. Cook. I don't think calls from the White House are any different than calls from the Hill.

Senator PROXMIER. You have an unusual degree of self-assurance and self-confidence. Most people think a call from the President would be of more significance than from a Senator.

Mr. Cook. I have had no such calls.

Senator PROXMIER. Or a staff member, speaking for the President.

Mr. Cook. I have had very few calls from the White House.

Senator PROXMIER. How about your relationship with the man who is in charge of the economic policies of the administration, Mr. Shultz?

Mr. Cook. I have never had any conversations with him. I have never met him.

Senator PROXMIER. You have never met him?

Mr. Cook. No, I have not.

Senator PROXMIER. Don't you think it would be a good idea to make his acquaintance, the man who is supposed to be running the economy?

Mr. Cook. I don't concern myself with running the economy, but I haven't had the opportunity or privilege to be asked to meet him. I hope I do.

Senator PROXMIER. Maybe we can arrange it by inviting both you men to testify the same day.

Mr. Cook. That is a rather strained way to meet socially.

Senator PROXMIER. Thank you, Mr. Chairman.

I agree that Mr. Cook is eminently qualified, and I am delighted to have a chance to support him.

The CHAIRMAN. Senator Johnston?

Senator JOHNSTON. No questions.

The CHAIRMAN. Anyone else?

Thank you very much, Mr. Cook, we surely wish you well. You have a hard job.

Mr. Cook. It will be easier, now, after today.

The CHAIRMAN. All right, next we have Mr. Philip H. Loomis, Jr., of California, to be a member of the SEC.

Mr. Loomis, we are glad to have you, sir, again.

Mr. LOOMIS. I am very pleased to be here again. I don't have a prepared statement, because you talked to me last time.

The CHAIRMAN. You have been here a good many times. We are always glad to see you.

We have your financial statement. That is what I am opening right now. It will be available to Senators here, and then we will look it in our files.

Mr. LOOMIS. My financial statement is essentially unchanged. I have not bought a share or sold a share since I was here before you in 1971. There may have been a stock split or something.

The CHAIRMAN. We have a statement from the acting general counsel, in which he says he finds nothing that does not fully comply with the requirements of rule 3 of the Commission's code of regulations, and also he found nothing in your statement which does not fully comply with the requirements of the Executive order. That will be put in our files and kept here.

I will ask you this question, Mr. Loomis—you heard me address it to Mr. Cook: Do you agree that if you are affirmed in this position that you will respond to any reasonable requests from Senate committees to testify before them?

Mr. LOOMIS. Unquestionably, I will do that. I have done it throughout my career in Government. When a Senate committee wants me, I come.

The CHAIRMAN. Very well, sir.

We have your biographical sketch, too, and that will be made a part of the record.

(The information follows:)

Biographical Sketch of Philip A. Loomis, Jr.

Born in Colorado Springs, Colorado, June 11, 1915. A.B., Princeton, 1938 (Highest Honors); LL.B., Yale Law School, 1941 (cum laude). Editorial board of the Yale Law Journal. Married to the late Maryanna Hunter Oliver in 1949 and have three children. Admitted to the California bar, 1941. U.S. Supreme Court bar, 1955. Practiced law with the firm of O'Melveny & Myers, Los Angeles, 1941 and 1946-1954. Attorney, O.P.A., 1942-1944; Associate Counsel, Northrop Aircraft, Inc. (now Northrop Corporation), 1944-1946.

Joined SEC staff as a consultant in 1954; appointed Associate Director, Division of Trading and Exchanges (now Trading and Markets) in 1955 and Director later that year. Drafted the 1960 amendments to the Investment Advisors Act of 1940. Had primary staff responsibility for the legislation which became the Securities Acts Amendments of 1964. Became General Counsel in 1963. Had primary SEC staff responsibility for the legislation which became the Securities Investor Protection Act of 1970.

Received the Career Service Award of the National Civil Service League in 1961, the SEC Distinguished Service Award in 1966 and the Justice Tom C. Clark Award of the Federal Bar Association in 1971. Member of the American Bar Association, American Law Institute, Federal Bar Association, State Bar of California, Los Angeles Bar Association, Chevy Chase Club.

The CHAIRMAN. How long have you been with the SEC?

Mr. LOOMIS. I came as a consultant in 1954, and was made a regular staff member in 1955.

The CHAIRMAN. You ought to know the inside workings of it pretty well by now.

Mr. LOOMIS. Well, I hope I have learned a little.

The CHAIRMAN. Senator Proxmire?

Senator PROXMIER. Again, I think this is a fine nomination. It is the kind of nomination we should have, a man who has worked his way through the organization and knows it thoroughly, has a fine career record, and I think is going to continue to be a fine Commissioner.

The CHAIRMAN. Senator Bennett?

Senator BENNETT. No questions.

The CHAIRMAN. Senator Williams?

Senator WILLIAMS. I want to applaud the President for his nomination of Commissioner Loomis. We have worked very closely—our subcommittee on securities—with Commissioner Loomis. It has been a very productive exchange.

I would like to lead you into a question, Mr. Loomis. The fact that you haven't bought any shares, or sold any shares of stock, since you were last here to be confirmed—this doesn't reflect any lack of confidence in the market?

Mr. LOOMIS. No. I am very happy with what I have, and I didn't think that I should be trading while I am with the Commission.

The CHAIRMAN. Senator Brooke?

Senator BROOKE. No questions.

The CHAIRMAN. Senator Johnston?

Senator JOHNSTON. No questions, Mr. Chairman.

The CHAIRMAN. Senator Packwood?

Senator PACKWOOD. No questions.

The CHAIRMAN. It looks like you are sailing through easily here. Thank you very much. We wish you well in this new position.

Senator BENNETT. I thought you were going down to testify. Are you going to call John up?

The CHAIRMAN. John Evans, another nominee to the Securities and Exchange Commission.

I will turn him over to Senator Bennett.

Senator BENNETT. Mr. Chairman, I am very proud and happy to come down and sit at this side of the witness table today, because it has been a great privilege for me to work with John over the past 10 years. I am very happy that the President has nominated him for this wider service.

I am sure you don't need a long speech from me, because all the members of the committee who have been on the committee longer than a few months have known John's ability. They have known the kind of work he can do; they know the kind of a man that he is.

I have had an unusual personal opportunity because John has been my chauffeur to and from work for the last 6 or 7 years. We spent at least an hour a day together, discussing the problems of this committee, and other problems facing the Senate, so I have had an opportunity to really know how responsible and able this young man is.

You all have a copy of his biographical sketch before you. I don't think I need to repeat that but ask that it be made part of the record, Mr. Chairman. I think that it's a good idea to have an ex-staff man of this committee on the SEC. I think he will bring to the SEC an understanding of what their activities look like from the point of view of a Senate committee and its staff, and I think he can be very helpful there.

(The biographical sketch follows.)

Biographical Sketch of John R. Evans

Personal. Born June 1, 1932, Bisbee, Arizona. Married Dec. 18, 1964, to the former Gale Gagon of Provo, Utah. Father of three sons—John, Michael, and Richard.

Member of the Church of Jesus Christ of Latter-Day Saints (Mormon). Presently serving as a Washington Stake High Councilor.

Present address: 9208 Seven Locks Road, Bethesda, Maryland 20861. Telephone: 469-6836.

Legal and voting residence: Murray, Utah.

Education. University of Utah, B.S. (economics) 1957, Secondary Teaching Certificate (business) 1959, M.S. (economics with banking and finance minor) 1959.

Scholastic Honors: Beta Gamma Sigma, 1959.

Employment. Present: June 1, 1971: Professional Staff Member, U.S. Senate Committee on Banking, Housing and Urban Affairs.

Former: July 1964 to June 1971: Minority Staff Director, U.S. Senate Committee on Banking, Housing and Urban Affairs.

Feb. 1963 to July 1964: Economic Assistant to U.S. Senator Wallace F. Bennett.

Jan. 1961 to Feb. 1963: Research Analyst, Bureau of Economic and Business Research, University of Utah.

1962 (School Year): Economics Instructor, University of Utah.

Jan. 1960 to Jan. 1961: Research Assistant, Bureau of Economic and Business Research, University of Utah.

Senator BENNETT. He is an economist. I don't think that will hurt him, either.

Mr. Chairman, I have the text of a statement prepared by my colleague, Senator Moss of Utah, who was here at 9:30 to support

John's nomination, but had to go on to another meeting. I ask that this statement be included in the record at this point.

The CHAIRMAN. Without objection, that will be done.
(The statement follows.)

**STATEMENT OF FRANK E. MOSS, U.S. SENATOR FROM THE
STATE OF UTAH**

Senator Moss. It is a pleasure to appear here this morning to urge the committee to report favorably the nomination of John R. Evans of Murray, Utah, to be a member of the Securities and Exchange Commission.

I can support John with considerable enthusiasm, and some nostalgia. He is not only an able and fine young man from my own State, but he has been nominated as a commissioner in the agency in which I held my first job after graduating from George Washington University Law School. I was a member of the legal staff of the Securities and Exchange Commission for about a year, and I have always felt that the experience I got there was some of the most valuable of my entire career.

However, as in all agency work, we attorneys were just there to help those in administrative positions to do what they needed to do—to tell them when something could be done legally and when it could not—so I have some firsthand knowledge about the vast responsibilities which John Evans will be assuming.

And I feel he is completely competent to assume them.

I shall not take the time here this morning to tell the committee how able he is, because you know him through the quality of the work he has done for you as a professional staff member. I have often said that I think there can be no better qualifying experience for a job in one of the executive agencies or regulatory commissions than several years of service in a professional capacity on the congressional committee which deals with the laws which govern that agency or commission. John has worked directly on all securities legislation since 1941—annual fund legislation, investor protection legislation—and the many other bills which are now public law and on which the Securities and Exchange Commission is taking action. He knows these as an expert—and as an economist with a vast knowledge of the securities industry and its operation.

Mr. Chairman, the appointment of John Evans is an admirable appointment, and it has my complete support.

The CHAIRMAN. I might say at this point that all three of these nominees were nominated by their respective Senators.

Senator Bennett, we appreciate what you have said about John Evans.

Of course, we all know him, and I endorse fully what you have said. I think John has been one of the most capable and finest staff members that we have ever had on this committee or any other committee.

John, you filed a disclosure statement. We have it, and you know from past years what we do with them. We have a statement also from the acting General Counsel of the SEC which states that he finds nothing that does not fully comply with the requirements of rule 3 of the Commission's code of regulations. Also he found nothing in

your statement which does not fully comply with the requirements of the Executive order.

Mr. EVANS. Yes.

The CHAIRMAN. Now that you are going to be on the other side of the table, I wonder how you will respond to this question.

[Laughter.]

Mr. EVANS. I think you know how I will respond.

The CHAIRMAN. Will you respond to any reasonable summons that may be given to you by a committee of the Senate—in fact, I like to say, a committee of the Congress, and include both Houses, when you receive such summons, and testify?

Mr. EVANS. I certainly will, if asked to.

Senator BENNETT. Could you change that word "summons" to "invitation"?

The CHAIRMAN. I think I said "summons," because that is the way it is written here, "respond to a reasonable summons to appear and testify before duly constituted Senate committees." The only suggestion I would make to that, I would say "Congressional committees," because I think it ought to apply to both sides, but the House doesn't have the opportunity to put him on the griddle as far as confirmation. We do.

We wish you great happiness and success in your work, and hope you may get a good many summonses to appear before us, and we will see you back here.

Do you have questions to ask him?

Senator PROXMIRE. Well, John, you have been a very valuable and helpful and intelligent member of the staff on the minority side. I think there are few people with whom I have clashed more regularly or emphatically than you, acting for your principal, of course, Senator Bennett. I have always felt great admiration for your ability.

Unfortunately, it has been used, in my view, in the wrong way.

[Laughter.]

Senator PROXMIRE. I trust that as an SEC commissioner, the silver cord will be broken. In other words, you will no longer feel obligated to any member of the Senate in any way, shape or form, that you will be independent, that you may have an intellectual or theoretical agreement—you can't do anything about that, unfortunately—but you, I am sure, feel now that you will be independent completely of any past association, is that correct?

Mr. EVANS. Yes, Senator. I intend to make independent decisions not influenced by personal relationships. I wouldn't want, however, to sever any good relationship I have with Senator Bennett, other members of the committee, or other members of the Senate. I hope that I would continue to have a good relationship—

Senator PROXMIRE. What I am worrying about, I have a thing about chauffeurs, and I wonder if you are going to continue as a chauffeur for Senator Bennett while you are getting \$38,000 a year from the Government.

Mr. EVANS. He hasn't asked me to do that. He wouldn't feel it was part of my responsibility if I am approved as a Commissioner. On occasion, if I brought him to work, I don't think it would be unacceptable. I would bring you, if you lived close to me.

Senator PROXMIRE. You would have to run with me. If any day, if you did, it would be voluntarily, it wouldn't be moonlighting and you wouldn't be paid for it.

Mr. EVANS. No, I wouldn't be paid for it, I am sure. It has been a voluntary arrangement with Senator Bennett and has provided an opportunity to discuss committee matters as well as for me to gain a great deal from Senator Bennett. It has been a uniquely rewarding thing for me, but I have not been paid in monetary terms.

Senator BENNETT. He never has been, and if it will set your mind at rest, I am already setting up a different method of getting to work. [Laughter.]

Senator PROXMIRE. I am delighted, along with the chairman.

The CHAIRMAN. I am curious to know, do you get one of these uniformed chauffeurs and cars that Senator Proxmire has been talking about?

Mr. EVANS. No, I don't think so. I have a 1965 Mustang that brings me very well.

Senator PROXMIRE. I don't know whether Mr. Cook gets a chauffeur'd car or not, but his agency comes before a subcommittee of the Appropriations Committee, of which I am chairman. I will see if money is allocated for that, and if it is, I will do my best to knock it out.

I agree that the nominee is a fine one, and I am delighted to see his nomination.

The CHAIRMAN. Senator Brooke?

Senator BROOKE. Mr. Chairman, the only thing I can say is that this is an excellent appointment. I am particularly pleased that the President has seen fit to appoint a professional member of the staff. We have an outstanding staff. Too often, those who serve on the staff do not get an opportunity to serve in the executive branch of the government, and I would suspect that Senator Bennett had something to do with making the recommendation, but at any rate, I would want to commend the President for appointing John Evans, as I said, an outstanding member of the Banking, Housing and Urban Affairs Committee staff, and I am sure he will serve with distinction.

I have no doubt that he will serve the Democrats as well as he will serve the Republicans, Mr. Chairman. He has been partisan, because that was a bit of his job, to be partisan, but his job now is not to be partisan, and I am sure he will not be partisan.

Mr. EVANS. Thank you, Senator.

The CHAIRMAN. Senator Williams?

Senator WILLIAMS. No questions. I wish to join all of the members in stating my pleasure at the nomination of John Evans to this important post. Our relationship and John's staff work with the Securities Subcommittee has brought a great deal of accord—as a matter of fact, the bill before us following this hearing has work done by my staff, Senator Bennett's staff, and we are cosponsors of this major legislation. It has been a good relationship with a great amount of accord.

Congratulations to you, John, I am very pleased.

The CHAIRMAN. Senator Packwood?

Senator PACKWOOD. John, I will vote for you with reluctance. I hate to see you leave this committee. The expertise you take there, we will lose here, and it is irreplaceable.

I wish you good luck.

The CHAIRMAN. Senator Johnston?

Senator JOHNSTON. Nothing, Mr. Chairman, except to echo the enthusiasm everyone has for these three nominations, particularly John Evans here. I am quite sure that when word gets out to the public as to the qualities that these three nominees have, the stock market will go up.

The CHAIRMAN. It could stand it.

Senator Hathaway?

Senator HATHAWAY. I hope one stock in particular. [Laughter.]

Mr. Chairman, I am fully satisfied with the qualifications of the nominees, and I don't have any questions.

Senator PROXMIRE. Mr. Chairman, I don't mean to disagree with my colleagues, but I hope we don't view the SEC as an executive agency. I hope it is quasi-judicial, and Mr. Cook implied a rather distant relationship with the White House and Mr. Schultz, and he operates—

Senator BROOKE. Executive appointment, is what I meant, not an executive agency.

The CHAIRMAN. Even though John Evans has primarily been with the minority, I have relied on him a great deal from time to time. I always knew where he stood, but I knew that he always dug into the facts and advised us the way he thought it ought to be. John, we all rejoice in your getting this position, and we wish you well.

Mr. EVANS. Thank you very much.

I would like to say one thing. The only reluctance I have in taking this position is the severing of the close relationship I have had with members of the committee and the committee staff. As Senator Proxmire said, there have been disagreements sometimes. I think it is good to have these disagreements. They bring out things that are important and result in better legislation.

I do look with regret upon not being able to retain this relationship with members of this committee. I do trust that it won't be completely severed.

Perhaps one thing I can do at the SEC is to help it to have a closer relationship with the Congress, so that we can get some of these important issues involving securities markets settled a little faster, without as much conflict and disagreement.

The CHAIRMAN. Thank you very much, John.

The committee now will go into executive session.

We will ask all of those not connected with the committee to leave the room, please.

(Whereupon, the meeting on nominations was adjourned.)