

The original documents are located in Box 29, folder “Rockefeller, Nelson - Confirmation Hearings: Senate Committee Report” of the John Marsh Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

12/5/74

THE WHITE HOUSE
WASHINGTON

to: John
From
Tom
Kurohaya



93D CONGRESS }
2d Session }

SENATE

{ EXECUTIVE REPT.
No. 93-34 }

NOMINATION OF NELSON A. ROCKEFELLER
OF NEW YORK TO BE VICE PRESIDENT
OF THE UNITED STATES

REPORT
OF THE
COMMITTEE ON
RULES AND ADMINISTRATION
together with
ADDITIONAL APPROVING VIEWS



DECEMBER 3, 1974.—Ordered to be printed
(Filed under authority of the order of the Senate of November 22, 1974)

U.S. GOVERNMENT PRINTING OFFICE

41-217

WASHINGTON : 1974

CONTENTS

COMMITTEE ON RULES AND ADMINISTRATION

HOWARD W. CANNON, Nevada, *Chairman*

| | |
|----------------------------------|-----------------------------|
| CLAIBORNE PELL, Rhode Island | MARLOW W. COOK, Kentucky |
| ROBERT C. BYRD, West Virginia | HUGH SCOTT, Pennsylvania |
| JAMES B. ALLEN, Alabama | ROBERT P. GRIFFIN, Michigan |
| HARRISON A. WILLIAMS, New Jersey | MARK O. HATFIELD, Oregon |

WILLIAM MCWHORTER COCHRANE, *Staff Director*
 CHESTER H. SMITH, *Chief Counsel*
 HUGH Q. ALEXANDER, *Senior Counsel*
 JOHN P. CODER, *Professional Staff Member*
 JACK L. SAPP, *Professional Staff Member*
 RAYMOND N. NELSON, *Professional Staff Member*
 JOSEPH E. O'LEARY, *Professional Staff Member (Minority)*
 PEGGY PARRISH, *Assistant Chief Clerk*
 ROBERT C. HECKMAN, *Assistant Chief Clerk (Auditor)*
 KAY BALLARD, *Staff Assistant*
 DONNA BLUME, *Secretarial Assistant*
 KARLEEN MILLNICK, *Staff Assistant (Minority)*

JAMES H. DUFFY, *Chief Counsel, Subcommittee on Privileges and Elections*
 JOHN K. SWEARINGEN, *Staff Director, Subcommittee on Computer Services*
 ANTHONY L. HARVEY, *Senior Systems Analyst, Subcommittee on Computer Services*

**ADDITIONAL SENATE PERSONNEL ASSISTING THE COMMITTEE
DURING THIS STUDY**

RICHARD D. CASAD, *Chief Investigator*
 BARBARA DAHLKE, *Press Assistant*
 SHARON WILLIAMS, *Research Assistant*

PERSONAL REPRESENTATIVES OF COMMITTEE MEMBERS

Senator CANNON—CHESTER B. SOBSEY, HARRY CLAIBORNE, and DENVER DICKERSON
 Senator PELL—WILLIAM YOUNG
 Senator BYRD—TOM HART
 Senator ALLEN—HUGH Q. ALEXANDER
 Senator WILLIAMS—NIK EDES
 Senator COOK—ROBERT SCOTT MADDEN and CRAIG W. HOUSMAN
 Senator SCOTT—DENNIS UNKOVIC and KEN DAVIS
 Senator GRIFFIN—JAMES SCHOENER
 Senator HATFIELD—LARRY SMITH

PERSONNEL FROM OTHER AGENCIES

CHARLES W. MADDOX, ALLEN L. LOUDERBACK, GARY ROEMER, and MICHAEL D. MCCLOSKEY,
General Accounting Office
 JOSEPH B. GORMAN, LARRY EIG, and ROBERT DEGOSTIN,
Congressional Research Service, Library of Congress
 W. A. DOWLESS, *Government Printing Office*

(ii)

| | Page |
|--|------|
| I. Introduction : | |
| Jurisdiction of the Committee on Rules and Administration in respect to the nomination..... | 1 |
| Section 2 of the 25th amendment..... | 1 |
| Composition of the Committee on Rules and Administration..... | 2 |
| Staff utilized by the committee for this investigation..... | 2 |
| II. Preliminary Committee actions on the nomination : | |
| August 21, 1974..... | 3 |
| September 11, 1974..... | 4 |
| Information received by the committee from various sources prior to the open hearings..... | 6 |
| Committee use of computer services..... | 8 |
| III. Public hearings on the nomination : | |
| Information received by the Committee during and subsequent to the public hearings..... | 11 |
| September 23, 1974..... | 12 |
| September 24, 1974..... | 13 |
| September 25, 1974..... | 13 |
| September 26, 1974..... | 14 |
| November 13, 1974..... | 15 |
| November 14, 1974..... | 17 |
| November 15, 1974..... | 17 |
| November 18, 1974..... | 17 |
| November 22, 1974 (executive session)..... | 18 |
| IV. Public service of Nelson A. Rockefeller..... | 19 |
| V. Financial status of the nominee..... | 23 |
| Major issues raised during the public hearings..... | 23 |
| Wealth of the nominee, his wife, and children..... | 24 |
| Ownership by the nominee or his trusts of oil stocks..... | 27 |
| Ownership by the nominee or his trusts of large amounts of stock in U.S. and foreign corporations..... | 28 |
| The nominee and his taxes..... | 29 |
| Conclusion..... | 31 |
| VI. Views of the nominee on current issues : | |
| Abortion..... | 33 |
| Areas to cut back in Federal spending..... | 35 |
| Balanced budget..... | 36 |
| Busing of school children to achieve racial balance..... | 39 |
| Capital punishment..... | 41 |
| CIA intervention in internal affairs of other nations..... | 42 |
| Education..... | 45 |
| Energy shortage..... | 46 |
| Executive privilege and separation of powers..... | 49 |
| Food shortage..... | 54 |
| Foreign policy..... | 55 |
| Impoundment of funds..... | 70 |
| Inflation..... | 70 |
| Interest rates..... | 74 |
| Medicaid..... | 76 |
| National health insurance..... | 77 |
| Prayers in public schools..... | 78 |
| Revenue sharing..... | 79 |
| Taxes : | |
| Capitol gains tax..... | 81 |
| Excess profits tax..... | 82 |
| Tax increase..... | 82 |
| Investment tax credits..... | 83 |
| Minimum tax for the wealthy..... | 84 |
| Urban development..... | 84 |
| Watergate affair..... | 87 |

(iii)

| | |
|--|------|
| VII. Special issues bearing on the qualifications of the nominee: | Page |
| Potential conflicts of interest of the nominee..... | 91 |
| Loans and gifts made by Mr. Rockefeller..... | 96 |
| Nominee's involvement with Victor J. Lasky's book "Arthur J. Goldberg: The Old and the New"..... | 149 |
| Political contributions of Nelson A. Rockefeller and the Rockefeller family..... | 154 |
| Nominee's involvement with the Grumman contracts..... | 156 |
| Governor Rockefeller's pardon of Judson Morhouse..... | 157 |
| Attica Prison uprising..... | 159 |
| Triborough Bridge and Tunnel Authority..... | 160 |
| Finger Lakes Racetrack..... | 163 |
| Rockefeller involvement in the merger of Eastern Airlines and Caribbean Atlantic Airlines..... | 165 |
| VIII. Nominee's responses to selected specific questions: | |
| Pardon of a former President by his successor..... | 167 |
| Nominee's intention to stand by answers given to committee..... | 168 |
| The role of the Vice President..... | 169 |
| Nominee's interest in the Vice Presidency..... | 169 |
| Reluctance of Mr. Rockefeller to speak out during the Watergate affair..... | 170 |
| Mr. Nixon's role in Mr. Rockefeller's nomination..... | 171 |
| Further political aspirations of the nominee..... | 172 |
| White House wire taps on newsmen and National Security staff..... | 173 |
| Nominee's relations with organized labor..... | 173 |
| Nominee's attitude toward the press..... | 174 |
| Nominee's attitude toward presiding over the Senate..... | 174 |
| Access by Members of Congress to the President..... | 175 |
| Circumstances under which the President would be justified in lying to the American people..... | 175 |
| Transfer by the nominee of his dedication to the people of New York State to dedication to the people of all the States..... | 175 |
| IX. General statement by the committee..... | 177 |
| Summary and general statement..... | 177 |
| Five principal areas of concern..... | 178 |
| Potential conflicts of interest..... | 178 |
| The nominee and his taxes..... | 179 |
| Rockefeller loans and gifts..... | 179 |
| Political contributions of Nelson A. Rockefeller and the Rockefeller family..... | 180 |
| Nominee's involvement with Victor J. Lasky's book "Arthur J. Goldberg: The Old and the New"..... | 181 |
| Committee action..... | 181 |
| X. Rollcall vote on the nomination..... | 183 |
| Additional approving views of Mr. Allen..... | 185 |
| Additional views of Mr. Pell..... | 187 |

APPENDIX

| | |
|--|-----|
| Exhibit 1—Rules of procedure governing the investigation into the qualifications of Mr. Nelson A. Rockefeller to become Vice President of the United States..... | 189 |
| Exhibit 2—Biographical summary of Nelson A. Rockefeller..... | 195 |

NOMINATION OF NELSON A. ROCKEFELLER OF NEW YORK TO BE VICE PRESIDENT OF THE UNITED STATES

DECEMBER 3, 1974.—Ordered to be printed

(Filed under authority of the order of the Senate of November 22, 1974)

Mr. CANNON, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany the nomination of Nelson A. Rockefeller]

The Committee on Rules and Administration, to which was referred the nomination of Nelson A. Rockefeller of New York to be Vice President of the United States, having considered the same, reports favorably thereon and recommends that the nomination be confirmed.

I. INTRODUCTION

The nomination of Mr. Rockefeller, former Governor of the State of New York, for the Office of Vice President of the United States, was received by the Senate on August 20, 1974, and referred to the Committee on Rules and Administration the same day, in accord with the Committee's jurisdiction under rule XXV of the Standing Rules of the Senate (paragraph (p) (1) (D) of section 1), as follows:

JURISDICTION OF THE COMMITTEE ON RULES AND ADMINISTRATION IN RESPECT TO THE NOMINATION

(D) Matters relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; Federal elections generally; Presidential succession.

This nomination together with its consideration by both Houses of Congress constitutes the second implementation of Section 2 of the Twenty-fifth Amendment to the Constitution of the United States (certified February 23, 1967), which section is as follows:

SECTION 2 OF THE TWENTY-FIFTH AMENDMENT

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

COMPOSITION OF THE COMMITTEE ON RULES AND ADMINISTRATION

The membership of the Committee on Rules and Administration as presently constituted is as follows: Senator Howard W. Cannon, Nevada (Chairman); Senator Claiborne Pell, Rhode Island; Senator Robert C. Byrd, West Virginia; Senator James B. Allen, Alabama; Senator Harrison A. Williams, New Jersey; Senator Marlow W. Cook, Kentucky (Ranking Minority Member); Senator Hugh Scott, Pennsylvania; Senator Robert P. Griffin, Michigan; and Senator Mark O. Hatfield, Oregon.

STAFF UTILIZED BY THE COMMITTEE FOR THIS INVESTIGATION

For the purposes of its investigation into the qualifications of Nelson A. Rockefeller to be Vice President of the United States the Committee on Rules and Administration utilized the services of its own staff as augmented by the assistance of other Senate personnel including personal representatives of the Members, and certain personnel from other Legislative agencies, as follows:

Full committee staff.—William McWhorter Cochrane, Staff Director; Chester H. Smith, Chief Counsel; Hugh Q. Alexander, Senior Counsel; John P. Coder, Professional Staff Member; Jack L. Sapp, Professional Staff Member; Raymond N. Nelson, Professional Staff Member; Joseph E. O'Leary, Professional Staff Member (Minority); Peggy Parrish, Assistant Chief Clerk; Robert C. Heckman, Assistant Chief Clerk (Auditor); Kay Ballard, Staff Assistant; Donna Blume, Secretarial Assistant; and Karleen Millnick, Staff Assistant (Minority).

Subcommittee staff.—James H. Duffy, Chief Counsel, Subcommittee on Privileges and Elections; John K. Swearingen, Director, and Anthony L. Harvey, Senior Systems Analyst, Subcommittee on Computer Services.

Other Senate personnel.—Richard D. Casad, Chief Investigator (Permanent Investigations Subcommittee); Barbara Dahlke, Press Assistant (Senator Cannon); and Sharon Williams, Research Assistant (Senator Cannon).

Personal Representatives of Committee Members: Senator Cannon—Chester B. Sobsey, Harry Claiborne, and Denver Dickerson; Senator Pell—William Young; Senator Byrd—Tom Hart; Senator Allen—Hugh Q. Alexander; Senator Williams—Nik Edes; Senator Cook—Robert Scott Madden and Craig W. Housman; Senator Scott—Dennis Unkovic and Ken Davis; Senator Griffin—James Schoener and Clyde Flynn; and Senator Hatfield—Larry Smith.

From Other Legislative Agencies: General Accounting Office—Charles W. Maddox, Allen L. Louderback, Gary Roemer, and Michael D. McClosky; *Legislative Reference Service, Library of Congress*—Joseph B. Gorman, Larry Eig, and Robert DeGostin; and *Government Printing Office*—W. A. Dowless.

II. PRELIMINARY COMMITTEE ACTIONS ON THE NOMINATION

AUGUST 21, 1974

The Committee on Rules and Administration commenced its consideration of the nomination of Nelson A. Rockefeller to be Vice President at an executive session on August 21, 1974, the day after the nomination had been received. Chairman Cannon reported to the Committee on the preliminary steps he had taken since being advised by the White House of the pending nomination on the previous day. First, he stated, he had met and talked with Mr. Rockefeller the previous afternoon. The Chairman then advised that he had addressed letters to the following persons, with the indicated requests:

(1) To Mr. Rockefeller requesting that he make available to the Committee complete information concerning his financial status and his health;

(2) To the Attorney General requesting a full investigation of the nominee by the Federal Bureau of Investigation, as expeditiously as possible;

(3) To the Chairman of the Joint Committee on Internal Revenue Taxation requesting an audit of the nominee's Federal income and other tax returns for the past six years;

(4) To the Comptroller General requesting the assignment of investigators as needed to assist the Committee in its investigation of the nominee;

(5) To the Chairman of the Senate Permanent Investigations Subcommittee requesting the assignment of an investigator; and

(6) To the Librarian of Congress and to the Director of the Congressional Research Service, requesting that the full resources of the Library of Congress be made available to provide the Committee with all pertinent information on the nominee.

Chairman Cannon also stated (1) that he had requested the Committee's Staff Director to discuss with the Staff Director of the House Judiciary Committee the procedures for full cooperation between the two committees in respect to the nomination, including the complete sharing of information, and (2) that he had instructed the Majority and Minority Counsels of the Subcommittee on Privileges and Elections, with the assistance of General Accounting Office investigators, to investigate the nominee's gubernatorial campaign spending reports and records.

After commending the Chairman for his expeditious actions and approving the same, the Committee agreed that a letter should be directed to the Special Watergate Prosecutor requesting any information he may have bearing on the nominee's qualifications for the office.

After discussion on a number of aspects of the procedure to be followed, the Committee agreed to the following:

The matter of releasing the income tax returns of the nominee would be considered later—after Mr. Rockefeller had appeared in open hearing.

The decision as to the date and place of the open hearings would be determined after receipt of the FBI report.

Television and radio coverage of the hearings would be permitted, but on a pooled basis.

The special rules adopted by the Committee for the Ford nomination would be reviewed for possible use with the Rockefeller nomination.

Each Committee Member could designate a staff representative to receive information and to report to his Member on Committee meetings the latter may have to miss.

It was generally agreed that in the open hearings the witnesses would be heard in the following order: The two Members of the Senate from New York State; the nominee; other Members of the Senate and Members of the House of Representatives; and then representatives of private organizations or private individuals. It was also agreed that the Committee would recall the nominee after hearing the other witnesses, if deemed desirable or necessary.

As its final action at that day's meeting the Committee approved the following:

(1) As requested by the FBI, the raw FBI files would be available only to the Chairman and the Ranking Minority Member, with the understanding that they would advise the other Committee Members of any information therein which may bear on the qualifications of the nominee to serve as Vice President. This agreement was subsequently modified to permit either the Chairman or the Ranking Minority Member to designate another Committee Member to perform that function.

(2) Any other confidential or delicate information received by the Committee would in the first instance be made available only to the top Majority staff member (Staff Director William M. Cochrane) and to the top Minority staff member (Professional Staff Member Joseph E. O'Leary). Such information would be released to other staff personnel only as approved by the Chairman and the Ranking Minority Member.

SEPTEMBER 11, 1974

The Committee on Rules and Administration met on September 11, 1974, to discuss its progress with the investigation of the nominee, to hear a report from its Chairman, and to make final decisions on its public hearings on the nomination. Chairman Cannon discussed the information that the Committee had received to date from Governor Rockefeller, stressing that while all such information would be made available to the Committee's Members, the Committee was bound by confidentiality restrictions not to release the substance of any of that information to the public, at least not at this time. (A listing of the

materials received from Governor Rockefeller and other sources may be found below.)

The Chairman advised the Committee that additional information had been requested and would be forthcoming from Mr. Rockefeller. He also stated that he personally had reviewed approximately 1,500 pages of FBI material on the nominee, and that an additional FBI report into the nominee's financial holdings was expected in a few days.

At the suggestion of Chairman Cannon, the Committee then proceeded to discuss what its policy should be in respect to the potential conflict of interest of the nominee, due to his possession of great wealth. He pointed out that normally, in view of an applicable conflict-of-interest statute, nominees to Executive branch offices who possess considerable wealth are either required to place their financial holdings in a blind trust or to divest themselves of the same.

It is true, the Chairman continued, that if Mr. Rockefeller were running for the Vice Presidency—as opposed to having been nominated thereto—there would be no divestiture requirement. But, he added, under the circumstances attendant to this nomination the Committee must assume the responsibility of minimizing any possible conflict of interest of the nominee, or even the appearance of such a conflict of interest.

After considerable discussion of this subject the Committee arrived at the following conclusions:

(1) To require that Governor Rockefeller place his financial holdings in a blind trust or to require his divestiture of the same would not be feasible or realistic.

(2) The only practical means to cope with the potential conflict of interest of the nominee is to require him to make full disclosure of his financial holdings. (The Committee had earlier agreed that whether this disclosure should include the nominee's income tax returns would be determined during or after the public hearings.)

The Committee then proceeded to consider the rules of procedure which it had adopted for its consideration of the nomination of Gerald R. Ford to be Vice President of the United States. After discussion, it was agreed that those same rules would be adopted by the Committee for its use during the Rockefeller investigation, with one amended provision: The requirement that a witness file 50 copies of his written statement with the Committee "24 hours in advance" of his appearance was changed to "48 hours in advance."

The Committee then returned to the consideration of the manner in which Mr. Rockefeller's financial statement would be made public. After discussion, it was unanimously agreed that the nominee would be requested to do so himself when he appeared at the open hearing.

As its last action at this meeting the Committee agreed (1) to commence the open hearings on Monday, September 23, 1974; and (2) to limit each Member's questioning period to 15 minutes in each successive turn.

INFORMATION RECEIVED BY THE COMMITTEE FROM VARIOUS SOURCES
PRIOR TO THE OPEN HEARINGS

(Date information received in parentheses)

FROM NELSON A. ROCKEFELLER

Note.—Most of the information itemized below that the Committee has received from Mr. Rockefeller has been supplied by him without waiver of confidentiality, and with the understanding that it would be available for examination only by Committee Members themselves or by staff members designated by the Chairman.

- (1) Federal income tax returns of Nelson A. Rockefeller for the years 1967 through 1973, inclusive (August 26, 1974).
- (2) New York City income tax returns for Nelson A. Rockefeller and Margaretta Fitler Rockefeller for the years 1967 through 1973, inclusive (August 29, 1974).
- (3) United States fiduciary income tax returns for the trust under indenture dated May 3, 1963, made by and for the benefit of Margaretta Fitler Murphy (now Rockefeller) for the calendar years 1967 through 1973, inclusive (August 29, 1974).
- (4) United States fiduciary income tax returns for the trust under indenture dated May 3, 1963, made by Nelson A. Rockefeller for the benefit of Margaretta Fitler Murphy (now Rockefeller) for the fiscal years ended January 31, 1968, through 1974, inclusive (August 29, 1974).
- (5) Federal gift tax returns for Nelson A. Rockefeller and Federal gift tax returns for Margaretta Fitler Rockefeller for the calendar years 1967 through 1970, inclusive; the four quarters of 1971 through 1973, inclusive; and the quarters ended March 1974 and June 1974 (August 29, 1974).
- (6) Venezuelan "Declaracion de Rentas" of Nelson A. Rockefeller for the calendar year 1973 (August 29, 1974).
- (7) New York State income tax returns for Nelson A. Rockefeller and Margaretta Fitler Rockefeller for the years 1967 through 1973, inclusive (August 29, 1974).
- (8) (a) A statement of net worth of Nelson A. Rockefeller and his wife, Margaretta Fitler Rockefeller; (b) a summary of their Federal income tax returns for 1967-1973, inclusive; and (c) a summary of taxes paid during the same years (August 30, 1974).
- (9) (a) A biographical summary of Nelson A. Rockefeller; and (b) a list of all associations with which Mr. Rockefeller and his wife, Margaretta Fitler Rockefeller, have been involved over the years (September 9, 1974).
- (10) Deed of Trust dated December 18, 1934, made by John D. Rockefeller, Jr., for the benefit of Nelson A. Rockefeller, the Deed of Trust dated December 18, 1934, made by John D. Rockefeller, Jr., for the benefit of Abby A. Rockefeller, and summaries of the relevant provisions thereof (September 10, 1974).
- (11) United States fiduciary income tax returns for both of the trusts under Deed of Trust dated December 18, 1934, made by John D. Rockefeller, Jr., for the benefit of Nelson A. Rockefeller and Abby A.

Rockefeller, respectively, for the years 1967 through 1973, inclusive (September 10, 1974).

(12) Audited list of the securities held in the two trusts dated December 18, 1934, as of August 23, 1974, updated to August 28, 1974 (September 10, 1974).

(13) Trust under indenture dated May 3, 1963, made by and for the benefit of Margaretta Fitler Murphy (now Rockefeller), and the trust under indenture dated May 3, 1963, made by Nelson A. Rockefeller for the benefit of Margaretta Fitler Murphy (now Rockefeller), and summaries of the relevant provisions thereof (September 10, 1974).

(14) Listing of all securities held by the two trusts under indenture dated May 3, 1963, for the benefit of Margaretta Fitler Murphy (now Rockefeller) (September 10, 1974).

(15) Listing of real property owned by Nelson A. Rockefeller and Margaretta Fitler Rockefeller along with a description of Nelson A. Rockefeller's Venezuelan real estate interests (September 10, 1974).

(16) Statement regarding four Rockefeller founded institutions and the relation to them, if any, of Governor Rockefeller. The institutions are the Rockefeller University, the Rockefeller Foundation, the Rockefeller Brothers Fund, and Rockefeller Center, Inc. (September 12, 1974).

(17) Summary of trusts held for the benefit of Nelson A. Rockefeller, Margaretta Fitler Rockefeller, and trusts created by Nelson A. Rockefeller for the benefit of his children, grandchildren, and former wife, Mary Clark Rockefeller (September 12, 1974).

(18) Analysis of domestic and foreign dividend and interest income collected in each of the two 1934 trusts for the benefit of Mr. Rockefeller, indicating the industry (and in many cases, the company) by dollar amounts and by percentages, for the years 1964-1973, inclusive (September 12, 1974).

(19) One copy each of *United States Business Performance Abroad*, *The Case Study of The International Basic Economy Corporation*, and *The AIA Story* (September 12, 1974).

(20) Record of Nelson A. Rockefeller's medical history, supplied to the Committee by Dr. W. Kenneth Riland at the direction of Mr. Rockefeller (September 12, 1974).

(21) List of foreign awards received by Nelson A. Rockefeller from 1945 to 1972 (September 18, 1974).

(22) Gifts to Nelson A. Rockefeller from foreign heads of state (September 18, 1974).

(23) Amended descriptive list of associations of which Nelson A. Rockefeller and Margaretta F. Rockefeller are members (September 18, 1974).

(24) Copy of the "Berlinger Report" on the award of certain data processing contracts by the New York State Department of Social Services (September 18, 1974).

(25) List of foreign countries visited by Nelson A. Rockefeller as a representative of the United States Government (September 20, 1974).

(26) Amended list of gifts to Nelson A. Rockefeller from foreign heads of state (September 20, 1974).

(27) Descriptive list of associations to which Nelson A. Rockefeller formerly belonged (September 20, 1974).

FROM THE ATTORNEY GENERAL OF THE UNITED STATES

A summary and analysis of the Federal conflict of interest law, 18 U.S.C. 208, and of any other statutes which might apply to Mr. Rockefeller if he were confirmed as Vice President; and an opinion as to whether it would be lawful for Mr. Rockefeller, while serving as Vice President, to be an officer, director, or stockholder of, or to hold any other beneficial interest in, any company having contracts with any agency of the United States Government (September 20, 1974).

FROM THE LIBRARY OF CONGRESS AND ITS CONGRESSIONAL RESEARCH SERVICE

A wealth of information in the public domain (articles from newspapers and periodicals, special studies, etc.) encompassing Nelson A. Rockefeller's entire adult life.

FROM THE CHAIRMAN OF THE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

Advice that the Select Committee did not in the course of its hearings develop any information indicating in any way that Governor Rockefeller had any connection with the events known collectively as the Watergate affair (September 9, 1974).

FROM THE NEW YORK STATE BOARD OF ELECTIONS

Copies of reports on campaign receipts and expenditures filed with the New York Secretary of State by the Friends of the Rockefeller Team on January 5, 1972, January 4, 1973, and October 29, 1973 (September 17, 1974).

COMMITTEE USE OF COMPUTER SERVICES

As part of its staff investigative effort prior to the public hearings, the Rules Committee explored the use of computerized information retrieval systems and existing files of machine-readable data accessible to the Committee either with its own computer terminals, through the Library of Congress, or from other agencies in the public or private sectors. Three files and three computer systems were searched for information on the nominee, Nelson A. Rockefeller, the Rockefeller family, associates, especially those receiving gifts from the nominee or closely allied with the nominee in New York State politics, and on subjects pertaining generally to the Committee's public hearings. The three files and their respective systems were: (1) the Select Committee on Presidential Campaign Activities through the use of the Library of Congress' "Bib Sys" computer system; (2) the New York Times Information Bank, using a commercial computer system developed by the Times; and (3) the Library's Congressional Research Services on-line Bibliographic file, using a computer system developed by the Library's Information Systems Office called "Scorpio."

1. The Select Committee's system, known as the Watergate file, was transferred to the Library of Congress, under the jurisdiction of the Senate Committee on Rules and Administration, upon completion of the Select Committee's work in September 1974. This file contains approximately 30,000 abstracting and indexing records pertaining to the entire scope of the Select Committee's investigation. Searches of the Watergate file provided Rules Committee investigators with information pertaining to meetings held between the nominee, his immediate family, and New York Republican leaders and White House and reelection staff during an intensive period of fund-raising by the Committee for the Re-election of the President. Much of this activity was prior to April 7, 1972, at which time the new disclosure and reporting provisions of the Federal Election Campaign Act of 1971 (P.L. 92-225) took effect. Leads concerning the leaks of information about wire-tapping, and intervention by New York State officials on behalf of defense contractors located in New York State, were also found.

2. The New York Times Information Bank contains almost 900,000 abstract and indexing records and can be searched both from a terminal located in the Library of Congress' Senate Reference Center and at the Times' computer center located in New York City. A large retrieval from the entire file was made for 10 general subjects. The computer reports provided both specific leads for staff investigators and a comprehensive framework for establishing, in outline form and in chronological order, the nominee's political activities, his philanthropic contributions and associations, the Rockefeller family financial and charitable involvements, the business and financial dealings of the nominee in Latin America, and additional subject considerations. Information concerning Governor Rockefeller's role in the Attica prison uprising and subsequent prospective involvement in litigation over alleged mishandling of this event; the Governor and the Morhouse pardon; and other subjects of interest were found as a result of this search.

3. Committee staff used computer terminals located in the Rule's Committee's Subcommittee on Computer Services to access the Library's Congressional Research Service's Bibliographic file. These searches were especially useful in providing citations to recent background articles on Governor Rockefeller, his 15 years as Governor of New York State, his views on a number of pressing public issues, and his new Commission on Critical Choices.

III. PUBLIC HEARINGS ON THE NOMINATION

INFORMATION RECEIVED BY THE COMMITTEE DURING AND SUBSEQUENT TO THE PUBLIC HEARINGS

(Date information received in parentheses)

A listing of the most pertinent information received by the Committee during and subsequent to the public hearings follows:

FROM NELSON A. ROCKEFELLER

(1) A letter from Nelson A. Rockefeller enclosing a revised financial statement setting forth the assets, liabilities, and net worth of Nelson A. Rockefeller and Mrs. Margaretta F. Rockefeller, with a section relating to trusts created by John D. Rockefeller, Jr., Nelson A. Rockefeller, or Margaretta F. Rockefeller, for the benefit of the descendants of Nelson A. Rockefeller or Margaretta F. Rockefeller, and a section on assets held outright by Nelson A. Rockefeller's descendants (September 21, 1974).

(2) A letter from Nelson A. Rockefeller setting forth information requested by the Chairman concerning the nominee's gifts and loans to present and former public officials (October 11, 1974).

(3) A letter from Nelson A. Rockefeller enclosing a list of all gifts made by him to charitable, educational, and other tax-exempt organizations during the years 1957 through June 30, 1974 (October 18, 1974).

(4) A letter from Nelson A. Rockefeller containing information concerning the Internal Revenue Service audit of his Federal income and gift tax returns for the years 1969 through 1973 and a revised 10-year summary of his Federal income tax returns and taxes paid (October 18, 1974).

(5) A letter from Nelson A. Rockefeller enclosing copies of his Federal gift tax returns for the years 1957 through 1966 and for the third quarter of 1974; copies of Mrs. Margaretta F. Rockefeller's Federal gift tax returns for the years 1963 through 1966 and for the third quarter of 1974; and an English translation of the "Declaracion de Rentas" submitted to Venezuela for calendar year 1967 which he had previously filed with the Rules Committee (October 22, 1974).

(6) A letter from Nelson A. Rockefeller enclosing a list of all loans made by him during the years 1957 to the present, supplementing and not duplicating the list he submitted on October 11, 1974 (October 28, 1974).

(7) A list from Nelson A. Rockefeller of all his political contributions during the years 1957 to the present (November 11, 1974).

(8) A list from Nelson A. Rockefeller of all political contributions made by Mrs. Margaretta F. Rockefeller during the years 1963 to the present (November 14, 1974).

FROM THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

A report from the staff of the Joint Committee on Internal Revenue Taxation on its examination of Nelson A. Rockefeller's tax returns and other financial records (October 22, 1974).

FROM FREEMAN H. CARY, M.D.

A letter from Freeman H. Cary, M.D., the attending physician, Congress of the United States, regarding his review of the medical health record of Nelson A. Rockefeller (September 25, 1974).

SEPTEMBER 23, 1974

The public hearings of the Committee on Rules and Administration on the nomination of Nelson A. Rockefeller to be Vice President of the United States commenced on Monday, September 23, 1974, in room 318 (Senate Caucus Room) of the Russell Senate Office Building.

In his opening statement Senator Howard W. Cannon, Chairman of the Committee, stressed the following points:

(1) That within the limits of one year this Committee will have considered the nominations of two separate individuals to be Vice President of the United States;

(2) That history has verified the prophecy he made when the Committee embarked upon its investigation of the qualifications of Congressman Ford to be Vice President, to wit:

If history is to instruct us, this Committee should view its obligations as no less important than the selection of a potential President of the United States.

(3) That, while during its consideration of the Ford nomination the Committee established the principle that approval of his nomination should not be predicated on his political affiliation or his voting record in Congress, but rather on his qualifications to serve in the Office, in the case of Mr. Rockefeller's nomination the Committee must consider a new and significant element—the public-policy implications of a nominee whose vast financial holdings touch many segments of the American economic system;

(4) That it is the serious intention of this Committee, extremely conscious that "we are acting on behalf of every citizen of the United States", to examine exhaustively, objectively, and honestly the qualifications of this nominee before making its report to the Senate, "so that those who do not approve of the nominee will know that no stone was left unturned in the search for truth"; and

(5) Alluding to the response "I do not think the American people would stand for it", which then Vice Presidential nominee Ford gave to his question about the power of a President to terminate an investigation or criminal prosecution of a former President who has resigned, Chairman Cannon expressed his—

serious concern that the present nominee's responses to questions posed during these hearings will stand the test of time; that they

will be substantive rather than hypothetical; that they will be forthright rather than equivocal; that they will not be subjected to later tailoring to fit a particular expediency.

In his opening statement, Senator Marlow W. Cook, Ranking Minority Member of the Committee, summarized the historical context in which this nomination has been received and stated that he also had reviewed all the FBI files on the nominee, as well as all other pertinent material, adding that the FBI files alone were several feet thick. He commended Chairman Cannon for his promptness in implementing the investigation and the nominee for his cooperation and prompt response to all Committee requests for information. He expressed his attitude in respect to this nomination as follows:

The Congress is again on trial, and as a result of that trial, I would only hope that we could improve our image by expeditious and efficient action in regard to this nominee. Obviously, we have no fixed time schedule, but we desire to be responsive to the President and the Nation in this important matter. However, thoroughness and honesty must be our watchwords, as the people of the Nation will not accept less, and we, as their representatives, would not be satisfied with less.

The Chairman then called upon Senator Jacob K. Javits and Senator James L. Buckley, senior and junior Senators, respectively, from the State of New York, who introduced Mr. Rockefeller and commended his nomination to favorable consideration by the Committee. The nominee, Nelson A. Rockefeller, then proceeded with his formal statement, after which he was interrogated by each Committee Member in successive turns. (The essential and pertinent issues raised in these proceedings will be discussed later in this report.)

The hearing was continued in the afternoon with Mr. Rockefeller as the only witness.

SEPTEMBER 24, 1974

The public hearing by the Committee on Rules and Administration on the nomination of Nelson A. Rockefeller to be Vice President of the United States was continued this day in morning and afternoon sessions, with Mr. Rockefeller being the only witness.

SEPTEMBER 25, 1974

The Committee's public hearings on the nomination of Nelson A. Rockefeller to be Vice President continued this day, with morning and afternoon sessions. During the morning, Mr. Rockefeller was further interrogated by Committee members. At the conclusion of that session, Chairman Cannon expressed his appreciation to Mr. Rockefeller for his cooperation, adding that "you have been very forthright in your testimony before the Committee". The Chairman then announced that during the afternoon session the Committee would proceed to hear from Members of Congress on the nomination. He advised Mr. Rockefeller, however, that he may be recalled later for additional testimony.

During the afternoon session, the Committee heard testimony in support of the nomination from six Members of the United States Senate and four Members of the House of Representatives, who testified in the following order:

Senator George D. Aiken, of Vermont;
 Senator Roman L. Hruska, of Nebraska;
 Senator Jennings Randolph, of West Virginia;
 Congressman John J. Rhodes, of Arizona;
 Senator John Tower, of Texas;
 Senator Clifford P. Hansen, of Wyoming;
 Congressman Robert E. Jones, of Alabama;
 Congressman Howard W. Robison, of New York;
 Senator Edward W. Brooke, of Massachusetts; and
 Congressman John B. Anderson, of Illinois.

In addition, the Committee has received written statements supporting the nomination from the following Members of Congress:

Senator Hubert H. Humphrey, of Minnesota;
 Congressman Jim Wright, of Texas;
 Congressman Stanford E. Parris, of Virginia; and
 Congresswoman Shirley Chisholm, of New York.

SEPTEMBER 26, 1974

The Committee continued its open hearings on the Rockefeller nomination with morning and afternoon sessions. Senator Jesse Helms, of North Carolina, was the first witness. Senator Helms read into the record a series of questions he felt should be posed to Mr. Rockefeller. (The text of those questions and Mr. Rockefeller's responses thereto are contained in the printed hearings on this nomination as part of, and following, Senator Helms' testimony.)

The Committee then heard testimony from a number of individuals representing various private organizations. A listing of those witnesses, with an expression of their views, is as follows:

George Frain, Secretary-Treasurer, Businessmen Affected Severely by the Yearly Action Plans, Inc., accompanied by Philip J. Brown, president, and Anton Wood, consultant on minority problems of the small businessman (opposed to confirmation);

Edward J. Golden, immediate past president, National Right to Life Committee, accompanied by Dr. Ada Ryan, president, New York State Doctors and Nurses Against Abortion (opposed to confirmation);

Prof. Charles E. Rice, on behalf of The United States Coalition for Life (opposed to confirmation);

Ms. Angela Davis, co-chairperson of the National Alliance Against Racist and Political Repression (opposed to confirmation);

Dr. Maurice A. Dawkins, national director, Government and Legislative Relations Service, OIC of America (supported confirmation);

Ms. Carol Burris, president, Women's Lobby, Inc., Washington, D.C. (supported confirmation);

Lyndon H. LaRouche, national chairman of the National Caucus of Labor Committees and representative of the United States Labor Party (opposed to confirmation);

Hon. Constance E. Cook, Member, New York State Assembly—128th District, The New York Religious Coalition for Abortion Rights (supported confirmation);

Ms. Mary Joyce Johnson, Vice President, National Lawyers Guild, New York, N.Y. (opposed to confirmation);

Haywood Burns, Esq., Legal Coordinator, Attica Brothers Legal Defense, accompanied by "Big Black", national director, Attica Brothers Legal Defense (opposed to confirmation);

Rev. Kenneth E. Lee, president, Washington Christian Action Council (opposed to confirmation);

Col. Curtis B. Dall, chairman, Board of Policy, Liberty Lobby (opposed to confirmation); and

Samuel C. Jackson, chairman, Council of 100, an Organization of Black Republicans (supported confirmation).

After the above witnesses had been heard and interrogated, Chairman Cannon announced that the Committee would stand in recess, subject to the call of the Chair.

NOVEMBER 13, 1974

The Committee on Rules and Administration on November 13, 1974, resumed its open hearings on the nomination of Nelson A. Rockefeller to be Vice President of the United States. During his opening statement, Chairman Cannon specified four areas of public concern relating to the nominee which had developed since the first series of the public hearings were concluded on September 26, 1974, namely:

(1) What the nominee's involvement was with a politically oriented and motivated book written by Victor J. Lasky during the 1970 New York gubernatorial race between Governor Rockefeller and former Supreme Court Justice Arthur J. Goldberg. (Originally, by his disclaimer of any knowledge about this, it appeared that Governor Rockefeller had no personal involvement. Subsequently, in published statements, he was quoted as assuming "full responsibility.")

(2) The important matter of the nominee's and his family's substantial political campaign contributions and what they may have concerned.

(3) Tax questions developed by the Joint Congressional Committee on Internal Revenue Taxation in an audit of the nominee's returns plus a substantial liability of the nominee of almost \$1 million for unpaid taxes from 1969 to 1974.

(4) Several million dollars worth of loans and/or gifts made by the nominee to friends, aides, political associates, and others.

Chairman Cannon then stated that he had received a letter dated November 11, 1974, from President Gerald R. Ford in which the President expressed his concern with the length of time already spent by Congress on the Rockefeller nomination and urged the Chairman's

"assistance and cooperation" in expediting Senate procedure on the nomination. In his reply to President Ford, which Chairman Cannon read into the record near the conclusion of the day's hearing, he stated, in pertinent part:

Let me assure you most respectfully that it is my purpose, as I will say in my opening statement at Governor Rockefeller's hearings later this morning, that "this nomination should have the highest congressional priority." Likewise, we know you will agree that full and appropriate consideration must be accorded to this procedure, as your letter sets out.

I feel most sincerely that our Committee on Rules and Administration is meeting that test. Twenty-three business days after this nomination was received in the Senate from you, our Committee began its hearings, although the final reports of the Federal Bureau of Investigation were not received by me until November 4.

Additionally, our Committee's request for a complete accounting of Governor Rockefeller's campaign contributions was not met until last Monday evening, November 11, at 9 p.m., when this information was received. Likewise, the voluminous report of the Joint Committee on Internal Revenue Taxation on the nominee's tax returns was not completed until October 23.

Therefore, I felt it desirable to recite briefly the above facts incident to our Committee's work. As I will reiterate at our hearings this morning, "Our country deserves at the earliest possible time a sitting Vice President."

I am hopeful that goal can be accomplished as expeditiously as our constitutional responsibilities will permit. You will have my wholehearted cooperation.

In his opening statement Senator Scott, as acting Ranking Minority Member, expressed his satisfaction that this series of the open hearings was being televised and his regrets that the first series was not (except for public TV). Senator Scott then stated that he too had drafted a reply to a similar letter from President Ford, in which he expressed his own regret that "Congress has failed to implement and expedite the Twenty-fifth Amendment." Before reading into the record excerpts from several editorials on the subject, Senator Scott stated:

There have been numerous editorials on this subject, almost unflinchingly critical of the delays of the Congress. We have conducted exhaustive hearings. Many of the delays are not the fault of the Senate Rules Committee, but the delays incident to securing information from the Joint Committee on Internal Revenue Taxation, and from various agencies of the Federal Government, although the FBI greatly expedited its part of this process.

The Chairman then requested Mr. Rockefeller to resume his testimony. The nominee submitted for the record a formal statement in which he provided information in response to the "areas of concern" which Chairman Cannon had referred to earlier that day. The Committee continued to hear only from Mr. Rockefeller through the after-

noon session as well. (The issues and other subjects brought forth in the hearings will be discussed later in this report.)

NOVEMBER 14, 1974

The Committee continued its open hearings on the nomination this day, with morning and afternoon sessions. Mr. Rockefeller continued his testimony through the morning and well into the afternoon session. When excusing the nominee, Chairman Cannon advised him that the Committee would reserve the right to recall him if it were deemed necessary.

The balance of the afternoon session was spent in hearing the testimony of former Supreme Court Justice Arthur J. Goldberg, who was the subject of a book written by Victor Lasky for use during the period Mr. Goldberg was contending with Mr. Rockefeller for the governorship of New York State.

NOVEMBER 15, 1974

The Committee devoted most of its morning and afternoon sessions on this day to hearing from witnesses on various aspects of the conception, the financing, and the publication of Victor Lasky's book entitled "Arthur J. Goldberg: The Old and the New." The exception was in the case of Robert B. Anderson, who testified in respect to a loan he had received from Mr. Rockefeller. The day's witnesses, in order of their appearance, were as follows:

John A. Wells, Esq., Rogers and Wells, New York, N.Y.;
 Robert B. Orr, Esq., Upper Black Eddy, Pa.;
 Joseph H. Jacovini, Esq., Dilworth, Paxson, Kalish, Levy & Coleman, Philadelphia, Pa.;
 Donal C. O'Brien, Jr., Esq., New York, N.Y.;
 Neil McCaffrey, President, Arlington House, Inc., New Rochelle, N.Y.;
 John E. Lockwood, Esq., Milbank, Tweed, Hadley & McCloy, New York, N.Y.;
 Laurance S. Rockefeller, New York, N.Y.;
 Robert B. Anderson, New York, N.Y.;
 J. Richardson Dilworth, New York, N.Y.; and
 Victor J. Lasky, Washington, D.C.

NOVEMBER 18, 1974

The Committee devoted this day, the final day of the open hearings, to interrogating four recipients of loans or gifts from Mr. Rockefeller, and to receiving the testimony of the spokesman for Americans for Democratic Action. The witnesses were as follows:

William J. Ronan, Senior Advisor, Rockefeller Family Associates, New York, N.Y.;
 Emmet John Hughes, Princeton, N.J.;
 Edward J. Logue, President and Chief Executive Officer, New York State Urban Development Corporation;
 James W. Gaynor, New Rochelle, N.Y.; and
 Joseph L. Rauh, Jr., vice president, Americans for Democratic Action (opposed to confirmation).

NOVEMBER 22, 1974¹

The Committee had met briefly on November 20, 1974, to discuss the nomination, but since certain Members were unavoidably absent, final action on the nomination was deferred until an executive session on November 22, 1974.

After considerable discussion, the Committee prior to its vote on the nomination unanimously agreed that—

Every member of the Committee reserves to himself the right to cast his vote as he sees fit when the nomination is considered in the Senate itself.

The Chairman then posed the following question to the Committee:

Shall the nomination of Nelson A. Rockefeller to be Vice President of the United States be reported with the recommendation that Mr. Rockefeller be confirmed?

The question, which had been duly moved by Senator Cook, was seconded jointly by Senators Robert C. Byrd and Hugh Scott and was unanimously adopted 9 to 0.

After the vote Senator Allen requested and received permission to include in the Committee's report on the nomination certain supplemental views on his part.

The Committee then proceeded to reconsider the desirability of requiring the nominee to place his financial holdings in a blind trust. After discussion it was unanimously agreed that, even though Mr. Rockefeller had offered to do so, the Committee would not condition its recommended approval of the nomination by inclusion of such a stipulation. In the judgment of the Committee such a requirement would not be meaningful. Moreover, by his long period of public service without such a requirement in effect, and by his candid revelation to the American public of the details of his immense wealth the nominee has rendered the blind-trust issue practically moot.

In view of the apprehension which has arisen in respect to his loans and gifts to public officials who had served within his State administration, Mr. Rockefeller had offered at the hearings to henceforth limit that practice to purely nominal gifts (birthdays, retirements, weddings, etc.) or to assistance in respect to medical or other serious familial emergencies. After discussion, it was unanimously agreed that, even though the Committee has taken cognizance of that offer, it has no intention of requiring such a pledge as a condition precedent to the Committee's favorable recommendation on the nomination. On this point, the Chairman summarized the Committee's views, as follows:

I think it would be a mistake to impose something that is not imposed by the Constitution and is not imposed by law.

What the man does with his own money after he has satisfied his obligations to the Federal Government [is his own business], and we do not impose that kind of restriction on Senators or any other public official.

¹ This summary of the executive session during which the nomination was approved although not properly part of the public hearings, is included here to complete the record.

IV. PUBLIC SERVICE OF NELSON A. ROCKEFELLER

Nelson A. Rockefeller's record of public service to State and Nation, and to the international community extends over a period of nearly four decades, reflecting his express commitment to family and personal ideals of stewardship, civic responsibility, and the ethic of service as an obligation. The principal areas of his earliest public interest and activity included Rockefeller Center in New York City, which he served as executive vice president in 1937 and as president in 1939; the Rockefeller Brothers Fund (of which he was chairman); and Latin America, with which he has been deeply involved throughout his life. In 1937 and again in 1939 he visited the Latin American countries to study their general conditions. After the second trip he reported to President Franklin Roosevelt on his observations, urging a program of inter-American cooperation, which eventually led to his first full-time position of public service as Coordinator of Inter-American Affairs, an office established by the President in 1940 and headed by Rockefeller until 1944. In this capacity he was instrumental in developing (with the U.S. Department of State) five major activities—an information program, cultural exchange, economic assistance, a voluntary blacklist (of Nazi firms), and *servicio* social programs associated with an Institute of Inter-American Affairs (providing aid to public health, education, and agriculture), authorized by the Inter-American Conference at Havana in 1942. In this same area, the Inter-American Development Commission, created by an earlier Inter-American Conference, was activated, with Rockefeller as Chairman of a hemisphere commission involving all 21 American Republics in a program furthering closer ties between the business and financial communities. He also served as American Co-Chairman for the Mexican-American Development Commission (founded in 1942), sponsoring more than a score of projects to strengthen Mexico's industrialization and to bridge her transition from war to peace.

Rockefeller's cultural concerns and his interest in such contacts with Latin America led him to serve as Chairman of the Junior Advisory Committee for the Museum of Modern Art (associated in its founding with his family), of which he later became (in sequence) Trustee, Treasurer, President, and Chairman of the Board. In 1939 he was named a member of the Board of Trustees of the Metropolitan Museum of Art, and later headed its Commission on Far Eastern Art. His life-long interest in collecting Pre-Columbian, African, Oceanic, and Eskimo art led to his founding of the Museum of Primitive Art (until 1956 called the Museum of Indigenous Arts), which he presented to the Metropolitan Museum in 1969 as a memorial to his son, Michael C. Rockefeller, who had been killed in New Guinea.

In 1944 he was appointed by President Roosevelt to serve as Assistant Secretary of State for American Republic Affairs, in which capacity he represented the United States at the Chapultepec Confer-

ence in Mexico City (February 1945) on Problems of War and Peace. The Act of Chapultepec, which the Conference drafted (and which Rockefeller signed for this country), providing for mutual security and common defense, was a prototype of such later regional pacts as NATO. Later, at the founding United Nations Conference on International Organization (at San Francisco), Rockefeller advocated such pacts as appropriate to the structure of the U.N., and, as liaison officer with other Western Hemisphere ministers, helped draft Article 51 of the U.N. Charter (on collective self-defense). He resigned in August of 1945 and returned to private life as president of Rockefeller Center and the Museum of Modern Art. He was instrumental in bringing the United Nations to New York City.

His concern for the concept of hemispheric unity led to the founding of the American International Association for Economic and Social Development, the AIA, a nonprofit corporation patterned after the old Institute of Inter-American Affairs and serving social needs in Latin America (such as its rural credit program in Brazil). Rockefeller served as its President from 1946 to 1953 and from 1957 to 1958. Its programs were terminated after 30 years. From 1947 to 1953 and from 1956 to 1958 he served as president of the International Basic Economy Corporation, IBEC, a business venture for social aid programs with a profit incentive, at first limited to Latin America (notably Venezuela and Brazil) and later worldwide in scope.

In furtherance of President Truman's 1948 "Point Four" program for international development, Rockefeller was named Chairman of the Presidential Advisory Commission, whose report, "Partners in Progress", outlined proposals for the freedom, peace, and well-being of the global community through a program of foreign assistance after the example of the AIA and the Office of Coordinator of Inter-American Affairs.

Named by President Eisenhower as Chairman of the President's Advisory Commission on Government Organization, Rockefeller served in this capacity for seven years, overseeing major reorganization proposals in the Executive Branch,¹ seeking greater efficiency and effectiveness; most of these basic changes were approved by Congress. Among them were the plans which, extending social security to some 10 million persons, led to the creation of the Department of Health, Education, and Welfare, in which Rockefeller was appointed as Undersecretary. In 1954 he resigned to accept a position as Special Assistant to the President for Foreign Affairs, in which office he accompanied President Eisenhower to the Geneva Summit Conference (1955) and was instrumental in the "Open Skies" proposal for aerial inspection. He resigned in December of 1955 and again returned to private life, turning from Cabinet and national security concerns to one of his earliest interests—local government (he had served for 21 years on the Board of Health of Westchester County), and served as Chairman of the Board of the Government Affairs Foundation, concerned with municipal and local administration. Its program was terminated in 1968.

The Special Studies Project, "America at Mid-Century", launched in 1956 with Rockefeller Brothers Fund support, engaged his atten-

tion as Chairman from 1956 to 1958, and resulted in six panel reports (the last in 1959) on foreign policy and defense, education, economic and social problems, and the quality of American life in general. The "Prospect for America" study on national and international socioeconomic policies involved Dr. Henry Kissinger of Harvard University as Study Director. While thus engaged in the critical examination of national and global problems, Rockefeller also devoted time and energy to his State. In 1956 and again in 1959 he was named Chairman (first by Governor Harriman and then by legislative leaders) of the New York State Constitutional Convention Preparatory Commission, which issued 17 volumes analyzing the State's constitution in relation to present-day needs.

Elected Governor of New York in 1958, he returned to public office and served for 15 years, being reelected three times. Governor Rockefeller has noted 25 areas of legislative action during his tenure, reflecting his leadership and particular concerns: the arts, consumer protection, criminal justice, drug abuse, economic growth, education, environmental protection, farm families, health, housing, highway safety, human rights, labor benefits, local government, a public lottery, mental health, welfare, veterans' benefits, transportation, youth, prison reform, women, parks and recreation, older persons, and off-track betting. During his administration, Governor Rockefeller directed 82 task forces to the problems and needs of the State. Chairman of the Human Resources Committee of the National Governors' Conference, he was an early advocate of revenue sharing in State and Nation.

In 1964 he was named by President Johnson to the President's Advisory Committee on Intergovernmental Relations, of which he was a member until 1968.

In 1969 he was named by President Nixon to head a 21-member Presidential mission to Latin America encompassing some 3,000 leading persons in 20 nations. His report, "The Quality of Life in the Western Hemisphere", was presented to the President and to Congress later that year. Also in 1969 Governor Rockefeller made a presentation to the Executive Branch on "The Fiscal Crisis in the Federal System", reflecting his concern with the interdependence of State and Federal Government, the financial crisis in welfare, health insurance and education, and the need for block grants (replacing the categorical grant system).

He was also appointed by President Nixon to membership on the President's Advisory Committee on International Intelligence.

In 1973 he was named by President Nixon to be Chairman of the Commission on Critical Choices for Americans, a bipartisan, broadly representative body of 42 members, including (ex-officio) the President, the Majority and Minority leaders in both houses of Congress, and key figures in the Executive Branch. The work of the Commission is concerned with the quality and direction of American Life as the Nation enters its third century and the defining of desirable, realistic goals for 1985 and for 2000. Governor Rockefeller has been appointed by President Ford to the National Water Quality Commission, whose members have elected him Chairman.

He resigned as Governor of New York in 1973. On August 20, 1974, he was nominated by President Ford to the Office of Vice President of the United States.

¹ He was Chairman of the Committee to Reorganize the Defense Department.

V. FINANCIAL STATUS OF THE NOMINEE

Examination of the fitness of Nelson A. Rockefeller to be Vice President of the United States posed an unusual task for the nine Senators comprising the membership of the Senate Committee on Rules and Administration. Never before in American history had someone of such unusual wealth, and attendant economic power, been nominated by a major political party or by the President, under the terms of the 25th Amendment, for the constitutional office of Vice President. Although the Committee undertook an extensive investigation, both through staff and agencies in Washington and at numerous field locations, and carried out intensive public hearings, the Committee's role of surrogate for the kind of searching, adversarial examination of the nominee's wealth and influence which would have occurred during the heat of a national campaign between the two major parties, remained unclear. Compounding the problem was the question of financial disclosure.

Was the Committee setting a higher standard for the nominee than presently exists for nominees of political parties? Legislation which would require complete disclosure of a candidate or an elected Federal officeholder's personal wealth and sources of income has been pending for several Congresses; none has yet passed. Moreover, nominees for President and Vice President are not now required, either by their political party or by Federal statute, to disclose the nature, magnitude, and sources of their personal wealth: To this was added the unusual circumstance of the incumbent President, like the pending nominee for Vice President, having been appointed rather than elected. Thus, were Nelson A. Rockefeller to be confirmed as Vice President, the two highest offices in the land would be held by men upon whom no electoral judgment had been made by the American people. The Senate Rules and Administration Committee, both as a Committee and as individual members, felt keenly this political burden and undertook as searching an examination of the nominee as the circumstances allowed.

MAJOR ISSUES RAISED DURING THE PUBLIC HEARINGS

The issue of primary importance to the Committee was the size of the nominee's personal fortune, and a general estimate and explanation of how this personal fortune, together with that of the nominee's family and of institutions identified with the Rockefeller family, translated into specific economic power both in the United States and throughout the world. Chairman Cannon expressed this concern by asking the nominee:

On another subject, the economic power which you and your family exert directly and indirectly upon the domestic and international economy in oil, real estate, banks, insurance, and many other endeavors, gives rise to a question which must be paramount in the minds of many citizens. That question is: How can you conduct yourself in office in a manner

that would avoid even the appearance of conflict of interest when decisions you will be called upon to make cannot help but influence the profits and losses of one or more of your holdings?

In addition, Chairman Cannon referred in his opening statement that same day to "the public policy implications of a nominee whose vast financial holdings touch many segments of the American economic system".

Of equal importance to the Committee was the question of what would arise were this Rockefeller economic power to be combined with national political power. Senator Robert C. Byrd expressed his and other Members' concern by asking the nominee:

Would the combination of these two—great economic wealth plus great political power—in your judgment clothe the office of the Vice Presidency or the Presidency with an inordinate great power, certainly a far greater power than either of those offices would ordinarily clothe the average occupant whose financial means is much less than yours?

Another question before the Committee was the perpetuation of the Rockefeller fortune through foundations, closely held family corporations, and the device of trusts held for the benefit of future Rockefeller generations. Senator James B. Allen questioned the nominee:

On the matter of trusts, how many more generations will have to go before they finally distribute it and get into the hands of the ultimate recipients of the trusts?

WEALTH OF THE NOMINEE, HIS WIFE, AND CHILDREN

Governor Rockefeller made full and willing disclosure to the Senate Rules Committee. His attitude toward his own wealth and economic influence, at the outset, was one of minimizing its magnitude and significance. During the course of Committee questioning, however, and as the nominee and his staff responded to requests for additional information and detail, his statements to the Committee began to reflect a deepening understanding on his part to the concerns of Americans over his and his family's enormous wealth and the unusual status it accorded their political, economic, and social behavior. This widening comprehension on Governor Rockefeller's part was matched by reports of continually larger amounts of personal wealth each time further disclosure was made. The chart below summarizes the large increases in reported wealth which occurred with each subsequent disclosure by the nominee:

| | |
|---|--------------|
| Submitted Aug. 30, 1974: | |
| Preliminary estimate of net worth..... | \$33,040,826 |
| Submitted in opening statement, Sept. 23, 1974: | |
| Revised statement of net worth..... | \$62,581,225 |
| Trust No. 1..... | 106,272,184 |
| Trust No. 2..... | 10,231,574 |
| Added during hearing, Sept. 23, 1974: | |
| Margaretta F. Rockefeller Trust..... | 3,854,857 |
| Trust and holdings of descendants of Nelson A. and Margaretta F. Rockefeller..... | 35,670,298 |
| Grand total..... | 218,610,138 |

The nominee's estimate of his and his own immediate family's wealth thus increased from \$33 million to \$218 million. This wealth, as outlined above, consists of real and personal property (see Chart 1) owned outright by the nominee and Mrs. Rockefeller, trusts established by preceding generations of Rockefellers to which Nelson A. Rockefeller is the sole life beneficiary, trusts established by John D. Rockefeller, Jr. for the children of Nelson A. Rockefeller, and a trust established by the nominee for Mrs. Rockefeller.

In fairness to the nominee, it should be noted that his first estimate of his net worth (\$33,040,826) was a preliminary one, supplied rather quickly at the Committee's request with many of its assets therefore necessarily being listed at cost for lack of time to obtain appraisals for current value.

In response to a question by Senator Griffin, Governor Rockefeller explained the change in net worth and the inclusion of trusts as follows:

Senator, I appreciate very much your giving me the opportunity to make that point. The figure of \$33 million was a figure that was submitted at the request of the Committee by me, giving net worth which had three differences from the subsequent figure. They were as follows: I showed \$20 million in art and real estate as having been pledged, and showed that as a deduction from net worth in view of the fact that I pledged it to public use, but it was clearly included. It was there. That was not mentioned when the material was leaked. Second, the Committee asked me—we gave the information immediately that we had, which was in the many instances cost value appraisals. They asked for updated appraisals. Therefore, that accounted—we got additional appraisals—that accounted for about \$8 million, and then this left about \$1 million of other items in detail. But it was because we got the material together rapidly. I deducted, thinking that that was a logical picture, in view of the fact that there were commitments on \$20 million of art and real estate, that it was to be given, publicly committed, and I have now included the art as part of assets, but then showed it as a pledged gift, and I have updated the appraisals both on art and real estate.

May I add one other thing? Subsequently, the Committee asked for additional information relating to the children. So yesterday we submitted to the Committee, or on Saturday, we submitted to the Committee information regarding the children's holdings, and that was then included this morning in my remarks in the information that had been given to the Committee on Saturday, and that involved about \$35 million, together with \$3.8 million in trusts for my wife's benefit during her lifetime.

Now, unfortunately, as these things come out it indicates that there is a constant shifting of the figures. It is not a constant shifting of the figures. It is giving information requested.

The staff report of the Joint Committee on Internal Revenue Taxation revised the net worth figure upward from \$62,581,225, submitted

in the September 23 statement, to \$73,658,000. These changes are shown in detail in Chart 1.

CHART 1
NET WORTH OF NELSON A. AND MARGARETTA F. ROCKEFELLER

| | Preliminary estimate (as of Aug. 23, 1974) ¹ | Statement of Sept. 23, 1974 (as of Aug. 23, 1974) | IRS evaluation (as of Aug. 31, 1974) | IRS adjustments |
|----------------------------------|---|---|--------------------------------------|-----------------|
| ASSETS | | | | |
| Cash | | | | |
| Accounts receivable | \$376,168 | \$394,898 | \$155,000 | |
| Advances | | | 52,000 | -\$187,898 |
| Notes receivable | 739,153 | 713,326 | 727,000 | +13,674 |
| Partnership interest | 247,891 | 247,891 | 266,000 | +18,109 |
| Securities | 1,393,450 | 1,518,270 | 1,518,000 | -270 |
| Retirement fund | 210,450 | 157,124 | 157,000 | -124 |
| Art: | | | | |
| Original | 12,932,599 | 12,794,376 | 15,458,000 | +2,663,624 |
| Pledged to charity | 21,803 | 21,803 | 22,000 | +197 |
| Jewelry | \$24,145,725 | | | |
| Coins | -\$14,122,000 | | | |
| Real estate: | | | | |
| Original | 10,023,725 | 33,561,325 | 37,850,000 | +4,288,675 |
| Pledged to charity | 521,136 | 521,136 | 1,000,000 | +478,864 |
| Furnishings | 12,600 | 12,600 | 12,000 | -600 |
| Automobiles, boats, and aircraft | 14,003,426 | | | |
| Total | -\$6,327,790 | | | |
| LIABILITIES | | | | |
| Loans and notes payable | | | | |
| Accounts payable | 7,675,636 | 11,252,261 | 18,045,000 | +6,792,739 |
| Estimated tax payable | 1,191,328 | 1,191,328 | 777,000 | -414,328 |
| Mortgage payable | 1,767,900 | 1,767,900 | 1,768,000 | +100 |
| Net worth | 37,113,839 | 64,154,238 | 77,807,000 | +13,652,762 |
| Loans and notes payable | | | | |
| Accounts payable | 1,567,500 | 1,567,500 | 1,530,000 | -37,500 |
| Estimated tax payable | 5,513 | 5,513 | 42,000 | +36,487 |
| Mortgage payable | 2,500,000 | | 2,577,000 | +2,577,000 |
| Net worth | 4,073,013 | 1,573,013 | 4,149,000 | +2,575,987 |
| Net worth | 33,040,826 | 62,581,225 | 73,658,000 | +11,076,775 |

¹ This column of figures, which constitutes the summary detail for the preliminary net worth estimate for Governor and Mrs. Rockefeller, was released from restrictions of confidentiality by the Governor on December 2, 1974.

² In the Rockefeller statements mortgages on real estate were subtracted from the gross asset to show equity value. The IRS statement shows real estate at gross asset value and the mortgages as liabilities. The effect on net worth is the same for each of these methods.

³ The taxes were payable in a future quarter. Since Mr. Rockefeller is on a cash basis for tax purposes this future liability was deleted from the Sept. 23, 1974, statement and from IRS evaluations.

An excerpt from the confidential Joint Committee print that explains the changes was entered into the public hearings upon agreement of Chairman Cannon and Mr. Rockefeller:

PART II. ESTIMATED VALUE OF THE ASSETS AND LIABILITIES OF THE NOMINEE AND HIS SPOUSE AS OF AUGUST 31, 1974

Exhibit A indicates that the estimated excess of the value of the assets over liabilities, as of August 31, 1974, of the nominee and his spouse was \$73,658,000 without taking into account the value of their beneficial interests in trusts, or \$107,658,000 if the value of these interests are included. This

is an estimated value as determined by the staff from different sources.

The security holdings (which are listed on a separate schedule) are largely listed securities, and to the extent so listed were obtained from stock market reports as of August 30, 1974. Two of the corporations included in this listing hold large amounts of real estate in South America. In these cases, valuations which had been made in 1962 were updated by Internal Revenue Service personnel in Venezuela based upon changes in real estate valuations since that time in the areas involved.

The amount shown as beneficial interests in trusts represents the present value (computed at 8 percent) of the projected income stream of the income interests involved. The income stream is based upon the average income distributions from the trusts over the last 6 years.

The estimated values of the paintings, primitive art, and porcelain were made for the staff by members of the Internal Revenue Service Art Panel and Internal Revenue Service expert appraisers. In this case, only the higher valued items were appraised; other items are included at cost. The silver and jewelry were appraised by an Internal Revenue Service expert in these areas. The coins represent a recent purchase and therefore could be valued at cost.

The real estate shown was appraised by different experts from the Internal Revenue Service with, in most cases, new appraisals being made. However, in the case of the New Jersey property and some New York properties, updates of prior appraisals were used. New appraisals were also made of the furnishings included in the statement. In the case of most of the remaining assets, the valuations were made either by the taxpayer, or, in the case of items such as cash, accounts receivable, etc., a cost basis was used. The liabilities are stated at face or principal amounts.

OWNERSHIP BY THE NOMINEE OR HIS TRUSTS OF OIL STOCKS

The Standard Oil Companies are synonymous in the public's mind with the family name Rockefeller. One of many areas of potential conflict of interest was seen by the Committee to be in the area of oil and energy, both as the potential related to the domestic production and distribution of oil and oil derivatives and in the context of international oil, the politics of the Middle East, and the spectre of expropriation of American-owned oil refineries and producing fields in those countries which are oil producers and exporters. The nominee found no possibility of such conflict; the Committee nonetheless chose to detail the holdings of the nominee and his immediate family and their trusts and identify the percentages of ownership which those holdings represent. Chart 2 lists those holdings.

CHART 2

MAJOR OIL STOCK HOLDINGS OF NELSON A. ROCKEFELLER AND TRUSTS

| Company | Personal holdings (IRS evaluation) | Trust No. 1 | Trust No. 2 | Descendants' trusts | Mrs. Rockefeller's trust | Total number of shares | Percent holdings |
|-------------------------------|------------------------------------|--------------|-------------|---------------------|--------------------------|------------------------|------------------|
| Continental Oil Co. | \$75,760 | | | | | 2,800 | (1) |
| Exxon Corp. | 964,231 | \$20,726,450 | \$4,371,250 | \$1,840,969 | \$141,360 | 417,015 | 0.236 |
| Marathon Oil Co. | 210,680 | | | 67,784 | | 9,728 | .033 |
| Mobile Oil Corp. | 187,590 | | | 89,429 | 7,400 | 7,687 | .015 |
| Pan Ocean Oil Corp. | 1,483 | | | | | 167 | (1) |
| Standard Oil Co. (California) | 146,314 | 5,055,575 | 3,450,384 | 2,134,048 | 227,850 | 449,558 | .254 |
| Standard Oil Co. (Indiana) | 397,600 | | | 71,000 | | 6,600 | .118 |
| Texaco, Inc. | 23,000 | | | | 63,802 | 1,000 | (1) |
| Pennzoil Corp. | | | | 141,687 | | 2,585 1/2 | .108 |
| Gulf Oil Corp. | | | | | 21,150 | 1,200 | (1) |
| Total oil stock | 1,946,648 | 25,782,025 | 7,821,634 | 4,244,917 | 461,562 | | |

¹ Less than 0.005 percent.

OWNERSHIP BY THE NOMINEE OR HIS TRUSTS OF LARGE AMOUNTS OF STOCK IN U.S. AND FOREIGN CORPORATIONS

Chart 3 lists 12 corporations in which the nominee or his trusts own more than \$1 million of their stock. Percentages of ownership in these corporations represented by the respective stock holdings are also listed. These stock holdings serve to further illustrate the financial involvement of the nominee in many aspects of American business, both at home and abroad.

The Committee made no attempt to establish the nature and magnitude of the personal wealth of the nominee's brothers and sister nor how this wealth in combination serves to enhance the economic influence of the Rockefeller family. Neither was this information disclosed by the nominee, by any other member of the Rockefeller family, or by any close associate. Also not investigated were the specific holdings and interlocking relationships of foundations, closely held corporations, university portfolios, banks, and other institutions which have long been identified with the Rockefeller interests.

CHART 3

OTHER MAJOR STOCK HOLDINGS OF NELSON A. ROCKEFELLER AND TRUSTS

| Company | Personal holdings (IRS evaluation) | Trust No. 1 | Trust No. 2 | Descendants' trusts | Mrs. Rockefeller's trust | Total number of shares | Percent holdings |
|-----------------------------------|------------------------------------|-------------|-------------|---------------------|--------------------------|------------------------|------------------|
| Archer Daniels Midland | \$985,568 | | | \$337,500 | | 78,404 | 0.523 |
| Caterpillar Tractor Co. | 202,650 | \$2,706,439 | | 634,970 | | 73,456 | .128 |
| Dow Chemical | 1,031,765 | | | 315,900 | \$175,149 | 26,031 | .028 |
| Eastman Kodak Co. | 345,739 | \$,615,000 | | 1,939,746 | | 48,524 | .091 |
| General Electric Co. | 18,256 | 2,185,994 | | 267,019 | 280,275 | 72,648 | .093 |
| International Basic Economy Corp. | 29,866 | 922,275 | | 3,660,772 | | 1,923,697 | .47 |
| IBEC Class 10 | | | | 847,839 | | 347,760 | |
| IBM Corp. | 890,912 | 15,076,224 | | 3,414,720 | 416,064 | 103,635 | .073 |
| Malnar, Ltd. | 5,278,925 | | | | | 281,803 | (1) |
| Merck & Co., Inc. | 19,050 | \$,353,060 | | 1,360,932 | 25,400 | 106,432 | .143 |
| 3-M Corp. | | 1,296,000 | | 840,000 | | 35,600 | .031 |
| Monte Sacro S.A. | 2,345,341 | | | | | 5,000 | (1) |
| Rockefeller Center, Inc. | | 25,499,500 | | | | 325,000 | (1) |
| Total other major holdings | 11,248,072 | 62,654,482 | | 15,690,867 | 896,888 | | |

¹ Indicates companies controlled or owned outright by Mr. Rockefeller or the Rockefeller family.

THE NOMINEE AND HIS TAXES

No subject more directly affects every American than that of taxes. Federal income taxes, State and local income taxes, State and local sales taxes, and for the affluent, capital gains and gift taxes are an annual accounting which represents sizable percentages of salary and other income being paid to various tax collection agencies. Governor Rockefeller's wealth, and the amount of his annual income, places him in a category of taxpayer whose returns are usually audited every year. The Internal Revenue Service is normally 2 or 3 years behind in their audits of individuals and corporate income tax returns. In the case of the nominee, audits of his 1969, 1970, and 1971 income tax returns were in the process of being conducted at the time the President announced Governor Rockefeller's nomination. At the request of the Committee, the Internal Revenue Service agreed to expedite their audit of Mr. Rockefeller's tax returns for the years 1969, 1970, 1971, 1972, 1973, and the first two quarters of 1974. This was done; the results of the IRS audit are outlined in summary form below. (See Chart 4.)

CHART 4

NELSON A. AND MARGARETTA F. ROCKEFELLER—SUMMARY OF TAXES PAID, IRS AUDIT, AND ADJUSTMENTS 1969-73

| | As submitted | IRS audit | Adjustments |
|-----------------------|--------------|-------------|-------------|
| 1969 | | | |
| Income | \$3,914,401 | \$4,069,779 | \$155,378 |
| Deductions | 3,095,162 | 3,072,431 | 22,731 |
| Income subject to tax | 819,239 | 997,348 | 178,109 |
| Federal taxes: | | | |
| Income | 566,867 | 705,552 | 138,685 |
| Gift | 216,436 | 216,436 | N/C |
| Subtotal, Federal | 783,303 | 921,988 | 138,685 |
| State taxes | 700,977 | 700,977 | N/C |
| City/town taxes | 183,469 | 183,469 | N/C |
| Total taxes | 1,667,749 | 1,806,434 | +138,685 |
| 1970 | | | |
| Income | 2,443,703 | 2,443,703 | N/C |
| Deductions | 2,666,636 | 2,257,241 | 409,395 |
| Income subject to tax | (222,933) | 186,462 | 409,395 |
| Federal taxes: | | | |
| Income | | 104,180 | 104,180 |
| Gift | 342,008 | 342,008 | N/C |
| Subtotal, Federal | 342,008 | 446,188 | 104,180 |
| State taxes | 248,133 | 248,133 | N/C |
| City/town taxes | 224,560 | 224,560 | N/C |
| Total taxes | 814,701 | 918,881 | +104,180 |
| 1971 | | | |
| Income | 3,985,920 | 3,993,767 | 7,847 |
| Deductions | 2,603,186 | 2,239,030 | 364,156 |
| Income subject to tax | 1,382,734 | 1,754,737 | 372,003 |
| Federal taxes: | | | |
| Income | 909,770 | 1,176,700 | 266,930 |
| Gift | 35,280 | 35,280 | N/C |
| Subtotal, Federal | 945,050 | 1,211,980 | 266,930 |
| State taxes | 283,021 | 283,021 | N/C |
| City/town taxes | 211,534 | 211,534 | N/C |
| Total taxes | 1,439,605 | 1,706,535 | +266,930 |

CHART 4

NELSON A. AND MARGARETTA F. ROCKEFELLER—SUMMARY OF TAXES PAID, IRS AUDIT, AND ADJUSTMENTS,
1969-73—Continued

| | As submitted | IRS audit | Adjustments |
|--------------------------------------|--------------|-----------|--------------|
| 1972 | | | |
| Income..... | 5,109,773 | 5,109,168 | (605) |
| Deductions..... | 3,773,770 | 3,535,596 | 238,174 |
| Income subject to tax..... | 1,336,003 | 1,573,572 | 237,569 |
| Federal taxes: | | | |
| Income..... | 903,757 | 1,067,099 | 163,342 |
| Gift..... | 69,591 | 104,992 | 35,401 |
| Subtotal, Federal..... | 973,348 | 1,172,091 | 198,743 |
| State taxes..... | 738,959 | 738,959 | N/C |
| City/town taxes..... | 330,228 | 330,228 | N/C |
| Total taxes..... | 2,042,535 | 2,241,278 | +198,743 |
| 1973 | | | |
| Income..... | 4,810,873 | 4,818,040 | 7,167 |
| Deductions..... | 3,660,088 | 3,474,835 | 185,253 |
| Income subject to tax..... | 1,150,785 | 1,343,205 | 192,420 |
| Federal taxes: | | | |
| Income..... | 758,369 | 905,950 | 147,581 |
| Gift..... | 410,896 | 450,487 | 39,591 |
| Subtotal, Federal..... | 1,169,265 | 1,356,437 | 187,172 |
| State taxes..... | 629,348 | 629,348 | N/C |
| City/town taxes..... | 295,209 | 295,209 | N/C |
| Total taxes..... | 2,093,822 | 2,280,994 | 187,172 |
| Total adjustments, 5 years, 1969-73: | | | |
| Income..... | | | +\$169,787 |
| Deductions..... | | | -\$1,219,709 |
| Income subject to tax..... | | | +\$1,389,496 |
| Federal taxes: | | | |
| Income..... | | | +820,718 |
| Gift..... | | | +74,993 |
| Subtotal, Federal..... | | | +895,711 |
| State taxes..... | | | N/C |
| City/town taxes..... | | | N/C |
| Total taxes..... | | | +895,711 |

¹ Difference between IRS reported figure of \$80,621 and figure of \$74,993 shown in this report is represented by the figure of \$5,628 for 1974 not included in this computation.

As indicated, the Federal Internal Revenue Service found additional income taxes owed the Federal Government by the nominee for each of the 5 years audited. The amounts of additional taxes ranged from \$104,000 in 1970 for which the nominee initially paid no Federal income taxes to \$266,000 for 1971. (The nominee asserted, however, that this was an unfortunate mistake made by those who manage his two life-beneficiary trusts.) The IRS determined tax liability for 1970, the year in which the nominee found no Federal income tax liability, was caused by an IRS disallowance of \$409,395 in deductions to gross taxable income by the nominee. This resulted in an IRS determined income subject to tax of \$186,462 and Federal income taxes of \$104,180. As released, the IRS audit made adjustments of any magnitude in income for only one of the 5 taxable years being audited. Upon being informed of the changes determined by IRS in the course of their audit, changes which provided Mr. Rockefeller with a 5-year addi-

tional Federal tax liability of \$895,711, the nominee effectively waived administrative appeal within IRS of this administrative determination, and submitted payment of \$895,711. Of this amount, \$820,718 represented additional Federal income taxes for the 5 taxable years in question, and \$74,993 represented additional Federal gift taxes. Mr. Rockefeller, in his prepared statement for the November 13 public hearings, asserted that the IRS adjustments involved four legal questions and that his tax counsel advised him:

The issues raised involve legal questions on which tax attorneys can and do differ.

The treatment on my returns of the items in issue is in accordance with the law when the returns were filed, as pointed out to IRS during the audit.

Except for minor items, counsel believes the IRS adjustments should be further contested.

The time limitations on the audit did not allow counsel to follow the normal course of extensively briefing and discussing the issues with the IRS auditors nor of taking appeals on the significant contested issues to higher levels within the IRS for discussion with personnel who have settlement authority.

Under the circumstances, while I have agreed to pay the additional taxes resulting from all of the income tax and gift tax adjustments made by the IRS, I have the same rights as any other citizen to appeal any of the adjustments, should I decide to do so.

No statement was made by Governor Rockefeller of any intention he may have of challenging the additional assessments in the U.S. Tax Court, even though he reserved the right to do so.

CONCLUSION

The Committee concluded that public disclosure of the financial status of the nominee, as it is documented in the public historical record represented by the hearings and report of the Senate Rules and Administration Committee, would serve to alert both the nominee and the American people of the Committee's concern for possible conflicts of interest and unusual concentration of power represented by Nelson A. Rockefeller's nomination to be Vice President of the United States. No judgment was made by the Committee as to the existence of any conflict of interest on the basis of sheer wealth alone. Neither was there any assessment made by the Committee of the nominee and his taxes. Rather, it was the Committee's judgment that public knowledge of the nominee's holdings would serve to sharpen his own understanding of the potential conflicts, and would also inform the nominee of how others in the Senate viewed a constitutional officer possessing such enormous personal economic affluence.

...and for three years been asking for a bill, and perhaps one can say I got more than I asked for, but I signed it.

Then there was tremendous discussion in our State about this bill. The Attorney General immediately worked out reg-

national Federal tax liability of \$805,711, the nominee effectively waived administrative appeal with the IRS of this administrative determination, and submitted payment of \$250,711. Of this amount, \$280,718 represented additional Federal income taxes for the 7 taxable years in question, and \$14,983 represented additional Federal gift taxes. Mr. Rockefeller in his prepared statement for the November 18 public hearings, stated that the IRS adjustments involved four legal questions and that his counsel advised him:

The issues raised involve legal questions on which tax attorneys can and do differ.

The treatment on my returns of the items in issue is in accordance with the law when the returns were filed.

Except for minor items, counsel believes the IRS adjustments should be further contested.

The IRS limitations on the audit did not allow counsel to follow the normal course of extensively briefing and discussing the issues with the IRS auditors nor of taking appeals on the significant contested issues to higher levels within the IRS.

Under the circumstances, while I have agreed to pay the additional taxes resulting from all of the income tax and gift tax adjustments made by the IRS, I have the same right as any other citizen to appeal any of the adjustments, should I decide to do so.

No statement was made by Governor Rockefeller of any intention he may have of challenging the additional assessments in the U.S. Tax Court, even though he reserved the right to do so.

Conclusion

The Committee concluded that public disclosure of the financial status of the nominee, as it is documented in the public historical record represented by the hearings and report of the Senate Rules and Administration Committee, would serve to alert both the nominee and the American people of the Committee's concern for possible conflicts of interest and unusual concentration of power represented by the Rockefeller nomination to the Vice Presidency of the United States. No judgment was made by the Committee as to the existence of any conflict of interest on the basis of sheer wealth alone. Neither was there any assessment made by the Committee of the nominee and his taxes. Rather, it was the Committee's judgment that public knowledge of the nominee's holdings would serve to further the Committee's understanding of the potential conflicts and would also inform the nominee of how others in the Senate viewed a constitutional officer possessing such enormous personal and economic influence. The amount of tax in dispute was \$280,718, plus \$14,983 in gift taxes. In addition, any of adjustments made in the audit IRS was determined upon being audited years being audited. Upon being determined by IRS in the course of their audit, Mr. Rockefeller provided his answers, including

VI. VIEWS OF THE NOMINEE ON CURRENT ISSUES

ABORTION

Mr. Rockefeller outlined for the Committee his views and record on the issue of abortion, in response to the request of Senator Pell. Because of the controversial nature of Mr. Rockefeller's position on this issue, his response is included in full.

MR. ROCKEFELLER. * * * In 1967 or 1968, because of the complaints of various groups in our community about this whole question of the abuse of the then existing law as regarding abortion, the illegal abortions, I appointed a Commission to study the whole question. They came up with a report, which I would be glad to submit for the record, in which they said they thought the laws should be overhauled, and they recommended that abortion be permitted in the case of rape, abortion be permitted in the case of incest, abortion be permitted in the case of pregnancy below 16 of an unmarried person, just to mention three of the items.

I submitted the report to the legislature, and requested them to study this question, saying I thought that our very restricted laws should be reconsidered.

The following year I again recommended that action be considered, and during the following three years after more evidence was in I actually suggested some provisions, some amendments, and some legislation.

Up to that point the legislature had done nothing. But my recommendations were what I would call modest recommendations. Then the Senate put a bill out on the floor for total repeal, and I would have to think that the fact that it passed was quite a shock to the leadership.

The bill then went over to the House, to the Assembly, and was stalemated. It was tabled, and then brought back, and one member of the legislature in a flood of tears shifted his vote to a favorable vote, and the bill was passed.

Pardon me. I should have said they rewrote the bill. Excuse me. They rewrote the bill and cut it down some to 24 weeks. I think it was, with some restrictions about where, and so forth. It then went back to the Senate and was passed again.

I have to say that the 24 weeks was a source of concern to me, the abortion up to 24 weeks after pregnancy. However, I had for three years been asking for a bill, and perhaps one can say I got more than I asked for, but I signed it.

Then there was tremendous discussion in our State about this bill. The Attorney General immediately worked out reg-

ulations for safe conduct of abortions to prevent sort of fast buck operations from being set up, and so forth, and abortions could only be conducted under certain supervised conditions.

I talked to the legislature, prepared a bill to amend the law to make it 18 weeks, hoping to prevent what has been so dramatically set forth as to the character of the present law, and the danger of so-called liberal abortions. This presented for the legislators a very difficult problem, because there were those who supported 24 weeks, there were those who were opposed to it, and the 18 weeks they did not feel made enough difference, so that the thought of having to go through the voting just exacerbated the situation and, therefore, it was their judgment that it was better not to do anything. Let the situation go for another year.

But in the meantime a bill was proposed which was a repealer. We did not have the bill for the 18 weeks or the 20 weeks. This was a very difficult thing for the legislature, because for a while the bill was held up in committee. Finally they let it out on the floor, because they had to. Because of the fact that it was an election year, and because of the fact it was a very difficult political situation, and there was a close vote, and it was going to cause the same difficulties, and so forth, that it had before, I announced prior to the actual vote that I would veto the bill if it passed.

But that took a lot of people off the spot, and the bill was then passed, and I vetoed the repeal.

That is the history of the bill in New York State.

Subsequently the Supreme Court made a ruling, and that ended the discussion in New York State.

Senator PELL. Is it your view there should be any Federal intervention on this subject one way or the other?

Mr. ROCKEFELLER. Well, this is the most controversial subject that in the years I have been in public life I have ever run across. It arouses the most tremendous emotional tensions on both sides.

In retrospect I wish that it had been worked out—the 18 weeks—and that I had been more firm with the legislature in trying to convince them that that was a good thing, but this was new at the time and it moved in a way that was totally unexpected to me.

If it does go the route you are taking, it is going to have the most tremendous traumatic effect throughout the country.

Senator Hruska pointed out later in the hearings that while it is of interest to review Mr. Rockefeller's actions on abortion as Governor of the State of New York, any changes in national policy toward abortion as established in 1972 by the Supreme Court would have to be made by the Congress, as a constitutional amendment, and the President and Vice President have no part in that process.

Senator HRUSKA. * * * The Supreme Court has ruled on the abortion issue. If there is going to be any change in that

Supreme Court decision, it will be at the hands of Congress to pass a resolution to amend the Constitution and then refer that resolution to the State legislatures for their action. Now, such an amendment is in the stage of hearings now, in a subcommittee on which I serve of the Committee on the Judiciary.

Neither the President nor the Vice President is a part of that process. The Vice President does not even have an opportunity to break a tie that might arise in the Senate as a result of that resolution coming before it.

So I would suggest that inasmuch as the Vice President does not have any part in that issue, that it would be well for us to take note of what he did as governor of New York, to be sure, but also to consider his confirmation on the basis of his entire record, the sum total of all of his qualifications—and not simply upon any single issue.

Public witnesses testified before the Committee both in support of, and opposition to, Mr. Rockefeller's position on abortion. Opposition was expressed by Mr. Edward Golden, Director of the National Right to Life Committee; Dr. Ada Ryan, President of New York State Doctors and Nurses Against Abortion; Professor Charles E. Rice, National Adviser for the United States Coalition for Life; and the Reverend Kenneth E. Lee, President of the Washington Christian Action Council. Testifying in favor of Mr. Rockefeller's stand on abortion were the Honorable Constance E. Cook, Member of the New York State Assembly, who represented the New York Religious Coalition for Abortion Rights; and Ms. Carol Burris, President of Women's Lobby, Inc.

A dialogue developed between Professor Rice and Members of the Committee regarding the issue of whether or not a vote to confirm Mr. Rockefeller as Vice President should be, or would be considered, a vote to endorse his views on abortion. Professor Rice believed so; the Chairman and Senators Griffin, Allen, and Williams disagreed.

AREAS TO CUT BACK IN FEDERAL SPENDING

Senator HATFIELD. * * * Would you designate the area where you would cut back in Federal spending, and say human resources, social area, welfare area, education area, as over and against, say, the Department of Defense budget and military expenditures?

Mr. ROCKEFELLER. I do not think any area would be exempt from total scrutiny to see whether the activities now being conducted are top priority, whether it is in Defense or elsewhere, and I have to say in fairness to the Defense Department that as Governor, I came down here and fought in the Executive Branch and the Congress to preserve this base or that shipyard, even though I had to assume that from what the military said, they did not need it.

But politically, I am embarrassed, but I have participated in that kind of activity.

Senator HATFIELD. You would then support military cut-back if it is in some proportion to the other cutbacks in the overall budget?

Mr. ROCKEFELLER. Proportion to me is not as important as to what the potential impact is.

BALANCED BUDGET

Mr. Rockefeller was questioned on two occasions as to his views on the desirability of a balanced budget. First, Senator Hatfield was interested in Rockefeller's opinion in light of his experience as a Governor who was forced to raise taxes in order to balance the budget.

Senator HATFIELD. In light of the suggestions now being made by some economists to halt the problems of inflation that we should increase taxes, would you care to delineate between the motivation of increasing taxes as Governor of New York, which I assume was for the purpose of balancing the budget, and providing the needed services of the State, and the use of tax increases to halt inflation, and what are your views on that?

Mr. ROCKEFELLER. Well, inflation, as I see it today, is not a typical or a traditional inflation in this country. Inflation today importantly relates to two international developments; one being the OPEC countries, the Arab countries, and their colleagues, increasing 400 percent the price of petroleum products, and secondly the shortfall on food supply in the world.

Even though the United States has increased in the most dramatic way production of food, this was at a time when there were droughts and short production in many key areas of Asia and Africa and Latin America, and at the same time that Europe and Japan's standard of living was going up, and at the same time that population was going up, so we were faced with a situation when the Soviets moved in to buy those large quantities of grain, that that just triggered a tremendous push in the price of grains, and then that was reflected back.

So we have two new situations which are complicating in relation to the domestic situation, and I think will continue to be a complicating factor. I think there are ways these can be dealt with, but it is not simple. There is no one simple answer.

Secondly, the more traditional aspects of inflation, namely spending large amounts by government, and the borrowing of money, deficit financing, the Keynesian theory, to stimulate economy has been useful I think in periods of low employment, or high unemployment.

But now we have this strange combination of inflation and high unemployment, so now traditional methods of expenditures do not work.

I have advocated for some time, as a matter of fact, I supported President Nixon in his effort, to bring the Federal budget into balance last year. The discussion about the im-

pounding of funds, it seems to me, if my memory is correct, the Congress had voted—authorized appropriations in sums larger than the estimated revenues. These could only be met by either increasing taxes, increasing the debt ceiling, or cutting expenditures.

At that time I do not think anyone was very excited about increasing taxes. The debt ceiling was not raised. And as the appropriations stood, I supported the fact that he did not spend all the money which had been authorized because I did not see how he could without further feeding inflation.

So I stand in a position of supporting holding down expenditures at this time.

This is contrary to what, Mr. Chairman, you said about my record in the State, and I think we are in a different period, and I think the same is true for the State, that this is a period to do what is basically essential, but to postpone some of the things which are desirable, but which just continue to feed inflation.

Senator Allen at a later point in the confirmation hearings inquired what former Governor Rockefeller would recommend to balance the budget in fiscal 1976.

Senator ALLEN. Governor Rockefeller, in the last 6 years the national debt has been increased by upward of \$100 billion. We have had a balanced budget only about three times, I believe, in the last 30 years. It is almost a thing of the past.

The interest that the Government pays on the increase in the bond indebtedness of the Nation during the last 6 years run to about \$8 billion a year and the interest on the entire national debt, the debt limit, now is \$495 billion. We will be up to that in about February of next year. It could run possibly \$28 billion to \$30 billion a year in interest alone.

The President has pledged to give the Nation, with the cooperation of Congress, a balanced budget in the fiscal year 1976 which, of course, would start July 1, 1975.

Would it be your purpose to cooperate with the President in seeing that the Federal budget is balanced in the fiscal year 1976?

Mr. ROCKEFELLER. Yes, sir.

Senator ALLEN. Well, now, how would you recommend that be accomplished?

By the way, I notice you did not list as one of the formulae in an antiinflation program the balancing of the budget.

Mr. ROCKEFELLER. I would do that.

Senator ALLEN. You feel that is necessary?

Mr. ROCKEFELLER. At the present time I really feel it is.

Senator ALLEN. How would you approach the problem of balancing the budget? Would you cut expenditures or would you increase revenues through additional taxes?

Mr. ROCKEFELLER. Well, I think at this point, and I might say as a backdrop, Senator, that for 15 years I have had to present a balanced budget each year to the legislature because

in our State you cannot run a deficit. You have to have a balanced budget. You have to come in with the source of revenue when you come in with the budget. It is a good discipline.

So that, I would think that under the present circumstances with the percentages already mentioned here of 33 percent, 35 percent of gross national product going into government with the need to have more capital in production and to increase the efficiency of production so we get greater productivity and cost.

I would think the balancing of the budget by cutting and holding down expenses, difficult as it is, that it can be done. We had to do it. It is a very difficult thing.

Senator ALLEN. Can you suggest various ways in which a cut can be made?

Mr. ROCKEFELLER. I think every Department, every Agency, has to do two things:

One, review its program to see if the program is still needed in terms of the changing conditions and if it is not, cut it off, examine to see whether the program could be operated more efficiently and, I think that there must be a more efficient way than we are now doing between Federal, State, and local governments.

Senator ALLEN. Well, do many Federal bureaucrats come in and say it would be well to dispense with the programs that they are managing. Did you ever see that happen? Or State bureaucrats for that matter.

Mr. ROCKEFELLER. No, sir. That is not the No. 1 characteristic. That comes way down the line and has to be encouraged and the tough part is really for the elected officials and their designated appointed officials and this is a very difficult thing.

As I said, we let over 11,000 people go and that was one of the most traumatic experiences and while the legislature was enthusiastic about it in principle, after we let them go then I got all the people back that said you let the wrong people go—that came out of their district.

It is a very tough thing, but I think we have to face the hard realities. Then, I think, we have to review new programs, lots of new ideas and those have to be considered very carefully to see if they can be postponed or not.

I would like to mention one more thing, Senator Allen, if I might, in connection with this. It is not only direct Federal expenditures but in the laws that are written by the Congress, signed by the President, there are mandated expenditures by local government and State government to match these, so that there is a secondary factor that you forced a local government to spend more money. That needs to be reviewed, plus the fact in the whole series of legislative acts now, mandated expenses on private enterprise in relation to safety, in relation to ecology, and so forth.

I think we have to reexamine those because there are many industries now paying up to 33 percent capital costs for one or another of these very important programs. But, I think we have to say we can postpone for a period certain steps that are being taken.

BUSING OF SCHOOL CHILDREN TO ACHIEVE RACIAL BALANCE

Mr. Rockefeller's views on busing were considered at some length by Senator Allen:

Senator ALLEN. I do want to get to the subject of the matter of forced busing of school children.

Now, Mr. Ford, when he was before the committee in connection with his nomination as Vice President stated very emphatically that he was opposed to any forced busing of school children for the purpose of creating a racial balance and I recall that you have testified that you would try to reach agreement with the President on national policies and that if there was not some difference on a matter of fundamental principle that you would go along with his views.

Does your view correspond with the President on this subject or if not, is it of such a nature that you would be willing to conform your views to the President's views?

Mr. ROCKEFELLER. The best way to answer that is to give you briefly the record in the State of New York.

A very large percentage of children are bused anyhow because we have central schools, particularly in the rural and suburban areas, and so the children will come to school by bus anyhow. So busing for quality education is a tradition that has been with us for a long time. Our State has a policy of maximizing integration feeling it was a useful thing in the total education of both black and white and other groups. We have run into a great deal of difficulty in suburban areas and in some of the city areas on this subject—a great deal of opposition. There was a bill passed in the legislature a number of years ago which limited the use of busing for integration to local option. In other words, the local school board had to conform to the State provisions. I signed that bill.

That bill was then held unconstitutional by the courts as not being in accordance with the interpretation of the Federal Constitution. A similar bill was passed the next year and because it was unconstitutional I vetoed it.

But I am very aware of the tremendous trauma that is caused by the subject both in white and black communities. I think that we are in a transition period. I think that it has been very useful in some areas and has caused tremendous hardship in others and therefore I would think that we have to handle this with great discretion, great delicacy as far as the Nation is concerned.

Senator ALLEN. But on the matter of forced busing for racial balance you would have no difficulty going along with the President's views on that?

Mr. ROCKEFELLER. I think that I would conform. I don't think that I—the answer is yes, I would conform to his political position, if that is his position. I have not talked to him about the issue.

Senator ALLEN. Again, in your statement—I think I understood correctly—when you said there in New York you had sought to maximize integration. I believe the record will

show that far from maximizing integration there is actually more segregation in New York than there was several years ago. I mean segregation, according to reports of the school board, has been increasing in New York rather than decreasing.

Mr. ROCKEFELLER. That's correct.

Senator ALLEN. So actually there hasn't been much maximizing of integration.

Mr. ROCKEFELLER. We sought to and that was the policy of the Board of Regents which established the policy. We have an independent Board of Regents and they establish the policy separate from the Governor and the difficulty is that under the present provisions of the law you cannot bus children from the city across city lines to county lines so that when you have large areas of black population in the city and a large area of white population adjoining in a county, under the present law they are not allowed to bus them back and forth across the line.

Therefore, it is extremely difficult to integrate them in the city because you may have a whole borough that is almost solidly black.

Now we ran into a very interesting situation where I had visitations from the leaders of the Harlem community saying they didn't want integration. They wanted to have an all black school in Harlem. They wanted to have the identity of community and so forth. So we got a very complex series of crosscurrents plus the living habits which means we have huge areas of solid black communities so that to get integration is virtually impossible in those city areas adjacent to white counties, suburban areas.

Senator ALLEN. It looks like then by State law you have fixed it to where you can't have a great deal of integration there.

Mr. ROCKEFELLER. In those areas, you are correct, sir.

Senator ALLEN. Yes, sir.

Don't you feel though that we ought to have a uniform policy for desegregating the public schools in the country? Is it right and fair in my section of the country down South to require busing of students from one end of the city to another and from one end of the county to another to achieve a racial balance where that's not done in other sections of the country and I might even say particularly in New York and the other large cities of the country. Is that fair?

Mr. ROCKEFELLER. Seems like a lot of logic to your position.

Senator ALLEN. So do you feel we ought to have a uniform policy? In other words, what's good for one section of the country ought to be good for another. Would you go along with that view on a uniform national policy?

Mr. ROCKEFELLER. Well, the uniform national policy may be more difficult than local home rule option. In other words, what our legislature was striking for was trying to allow a community to determine whether they wanted it or not. Some

communities do want it and it has been very successful in many areas.

And I think—I went to an integrated school myself, and I think it has very real value, providing the quality of education is preserved. But a quality education and this other question, preparation for life—of course, we had a very interesting experience where we had integration in our colleges, State university, and integration of dormitories, but the black students don't want to be in integrated dormitories. They want to be in black dormitories.

Senator ALLEN. That's the situation we have in many cases down South. But despite the wish of the black communities they are forced to bus their students in order to achieve a racial balance.

Now if that's required in one section of the country it is not illogical that it be required throughout the country, is it, or vice versa?

Mr. ROCKEFELLER. I accept what you say. I accept what you say.

CAPITAL PUNISHMENT

Senator Allen inquired briefly into Mr. Rockefeller's views on capital punishment:

Senator ALLEN. * * * Governor Rockefeller, what is your attitude about capital punishment as a deterrent to crime and the need for restoration of the death penalty?

Mr. ROCKEFELLER. I never advocated when I was Governor the abolition of capital punishment.

The legislature passed the bill to abolish capital punishment except for the murder of a policeman premeditated or the murder of a prison guard premeditated. The sentiment at that time was strongly in favor of this and I signed the bill. I have advocated the inclusion of other areas since then for the use of capital punishment as a deterrent.

The reason I signed the bill in the first place was I made a very careful survey of States that had capital punishment and that did not. It was very hard to see a marked difference in the crime rates in those two categories of States.

Senator ALLEN. Well, do you feel there are some crimes so heinous that capital punishment is the only proper penalty that can be meted out?

Mr. ROCKEFELLER. Well, I have always thought of capital punishment as being used for the purpose of deterrent to the crime and that was my basis for the support of capital punishment in the areas that were left and for the inclusion of certain other areas subsequently. Where it is a deterrent, I think, it should be used.

Senator ALLEN. What other areas would you suggest?

Mr. ROCKEFELLER. There was an extension. We extended the capital punishment and I discussed the possibility of using it in connection with pushers of hard drugs. The law that I finally got involved life sentence for any pusher and

that was as far as the legislature felt they should go. But, I think one has to use that criteria of deterrence as being the basis for a decision. At least, that was my basis for decision.

CIA INTERVENTION IN INTERNAL AFFAIRS OF OTHER NATIONS

Mr. Rockefeller was questioned about his views on Central Intelligence Agency intervention in the internal affairs of other nations such as Chile. He declined to express an opinion on the merits or demerits of any particular action, but he did volunteer his opinion that the United States must be realistic about defending its national interests.

Senator HATFIELD. * * * You have long been considered an expert in Latin American affairs, which you indicated in your testimony you headed up a mission for President Nixon in 1969.

Do you believe that Central Intelligence Agency should ever actively participate in internal affairs of another sovereign country such as in the case of Chile?

Mr. ROCKEFELLER. The U.S. Government has under its present laws since 1948, when the Defense—whatever the Act was called—President Truman proposed, has a wide range of powers relating to the defense of the United States through intelligence, counter-intelligence and covert activities.

These are all activities which are in between or lead up to perhaps diplomatic protest and war.

Now, I do not pretend to get into the merits or demerits of any particular action, and I do not think it is appropriate for discussion by me in public.

I have to say that those covert activities conducted by the Central Intelligence have been reported annually with appropriations, along with the appropriations to the agency, to two subcommittees in each House. And so it is not as though something was done that nobody knew about, that whatever activities were undertaken were undertaken with the approval of the top administrators in the Government representing our national defense.

I assume they were done in the best national interest and that the procedures with Congress were procedures that were established by the Congress.

Now, that is since 1948. I think the flexibility of the present potential actions by our Government are important in the event of some unforeseen circumstance. Therefore, I would question whether the potentiality of activity should be eliminated.

I think it would be a mistake. How they are conducting what is done is a matter for good judgment.

Senator HATFIELD. In light of the Articles of Caracas in 1954, consultation of foreign ministers in 1967, Article Nos. 18 and 19 of the OAS Charter, the Articles of the declarations on the United Nations, you feel that this kind of covert activity is contributory in light of those commitments and the statements made in those various declarations?

Mr. ROCKEFELLER. Well, Senator—

Senator HATFIELD. Based on 1948.

Mr. ROCKEFELLER. Senator, I understand what you are saying.

I bought a book of probably the greatest authority on the Art of War in history, written by Mr. Sun Tzu. It is the authoritative book in terms of strategy from what I am told.

So it says in the book, edited by B. H. Liddell Hart of Oxford, one of the recognized authorities, and the book probably is one of the most influential books in both the Chinese and Soviet international military operations. There is a whole chapter on the employment of secret agents. This is 2,500 years ago.

I really believe there is a gray world that exists among nations; that sad and tragic as it is, it is there. I think that this country has done as well, if not better, than any other country in trying to conduct its affairs on an open friendly basis with other nations.

But I think the Congress and the Executive and the nations recognize that there are these gray areas and that we have to defend our national security.

Mr. Rockefeller was further questioned as to whether or not the President's Foreign Intelligence Advisory Committee, of which he is a member, had been consulted about CIA activities in Chile.

Senator PELL. Another question here. As I understood, you stated that you had been named to be a member of the President's Foreign Intelligence Advisory Committee some years ago that was set up some years ago following the Bay of Pigs. Is that a correct recollection on my part?

Mr. ROCKEFELLER. That is correct, by President Nixon in his first year in office.

The committee had been in effect since President Kennedy established the committee after the Bay of Pigs.

Senator PELL. Are you still a member of that committee?

Mr. ROCKEFELLER. I am, sir.

Senator PELL. Was that committee consulted in connection with the decision to use the CIA and other means to destabilize the Allende government in Chile?

Mr. ROCKEFELLER. It was not, sir, but I have to just for the matter—just for the sake of the record, the word “destabilization” was never used by the CIA. That was the word that was used by the Member of Congress who transmitted the letter to the—I think it was the Chairman, which he introduced but which had not been used. That had not been described as the objective of the CIA.

Senator PELL. What do you think would be a better word to describe the activity, objective of the CIA?

Mr. ROCKEFELLER. Not having been in on the hearings before the Committee of Congress when this was presented, not being familiar with the program that was carried out, I could not say, but I did ask the head of CIA whether they

had used the word "destabilize," which to me was a very unusual word to use for an action they were going to take, and he said "no," that it had not been, that it had been used by a Member of Congress.

I only mention that, but I was not familiar with the action.

In additional questioning, Committee members sought to determine if the CIA had ever utilized any of the Rockefeller business interests in Latin America for political activity.

Senator HATFIELD. Governor, has the CIA ever utilized any of the Rockefeller business interests in Latin America for political activity?

Mr. ROCKEFELLER. Not to my knowledge, sir.

Senator HATFIELD. Outside of your official contacts that you would have in normal routine conduct of your responsibilities under six various Presidents, have you had relationships with the CIA in relation to any covert activity in Latin America?

Mr. ROCKEFELLER. Yes, sir.

Senator HATFIELD. Would you care to share with the Committee—

Mr. ROCKEFELLER. Did you say outside of—

Senator HATFIELD. Outside—

Mr. ROCKEFELLER. Not outside, inside. Not outside.

Senator HATFIELD. Let me restate it for the record to make sure we have clarification.

The only contacts you have ever had with the CIA have been through official responsibilities that you were executing as appointments under a President?

Mr. ROCKEFELLER. Exactly.

Senator HATFIELD. You had none whatsoever, or to your knowledge, with any of the business interests of your family?

Mr. ROCKEFELLER. Contact with the CIA? No, sir.

Senator HATFIELD. Are you aware of any members of your family, or business interests of your family, who have had relationships with the CIA?

Mr. ROCKEFELLER. No, sir.

Senator HATFIELD. Brothers or representatives of corporations or foundations, or any of the other of these agencies or instrumentalities that bear the Rockefeller interest or name?

Mr. ROCKEFELLER. I have a cousin who worked for them at one point.

Senator HATFIELD. I am talking now about any of the activities, particularly in Latin American covert activities of the CIA.

Mr. ROCKEFELLER. I had a member of my family, not the Rockefeller family, the Aldrich family, who actually worked for them. But I assume that is not what you are covering.

EDUCATION

In responding to queries about his record as Governor of the State of New York, Mr. Rockefeller referred to progress in education during his terms of office.

Mr. ROCKEFELLER. * * * The State Universities went from 38,000 students to 235,000 full time students in 72 campuses.

This is giving opportunity to all of our citizens, plus the City University so they have a chance to prepare themselves so that they can participate in this economy and earn food for their families and themselves.

Following a question by Senator Cook pertaining to revenue sharing, the nominee supported the concept of converting categorical grants into block grants and explained how this could benefit education.

Mr. ROCKEFELLER. * * * If the Congress were to put those into block grants for primary-secondary education, for higher education for certain areas, and would remove the tremendous complexity and restrictions and all the matching fund provisions, I think that that would answer the point that I was trying to make.

Senator Cook. I would like to interrupt you at this stage of the proceedings because the next part of that question was, if it is imperative that revenue sharing be continued, which this Senator believes it should, then do you not believe that what you are really talking about is moving in the direction of an education revenue sharing program to match the success we have had in two communities, two States, two local governments?

Mr. ROCKEFELLER. Very definitely, Senator. Very definitely.

Based on his experience as Governor, Mr. Rockefeller implied that there might be some practical reasons to support the idea of having a Department of Education and Culture, separate from the Department of Health, Education, and Welfare.

Senator PELL. * * * Governor, you have taken a very leading role in your State in education and in the arts. Some of us in the Congress would be very interested in your views, particularly in the arts.

What would be your reaction to some day having a separate Department of Education and Culture spun off from HEW and including the present endowments for the arts and humanities and the various other cultural activities?

Mr. ROCKEFELLER. Well, interestingly enough, Senator, our experience in New York was that culture in the border regions was a stepchild. Historic activities and sites were there.

For the simple reason that the pressure groups in education are so great that whatever dollars are available they want them for the schools and therefore we set this up as

a separate entity, where it stood on its own and was not in competition with any departmental agency and I am not sure that there is not some merit to that from the practical point of view, although I agree with you.

ENERGY SHORTAGE

Early in the hearings, in response to a question by Senator Pell, Mr. Rockefeller said that this Nation should do two things regarding the energy shortage: conserve energy and undertake an aggressive policy of energy source production. Later, he outlined for the Committee his recommendations regarding the energy crisis.

Senator GRIFFIN. *** If you are confirmed and become part of the Ford administration, do you have any ideas about what can be done to deal with the serious energy problem?

Mr. ROCKEFELLER. I do, sir.

Senator GRIFFIN. Would you care to elaborate?

Mr. ROCKEFELLER. *** In energy there are three major objectives that the American people, I think, want. One, they want cheap energy; two, they want secure energy; and, three, they want clean energy.

Now, it just happens that these are in somewhat of a conflict. The cheapest energy, obviously, is to be obtained from the Mediterranean and the Arab countries, but it is not secure. It is clean, however; so it is cheap and clean, but insecure.

We have energy in this country from sulphurous coal and sulphurous oil or sulphurous oil from Venezuela, which is more secure but now it is expensive, but it is not clean.

So that in this picture we have to, No. 1—find the means in our Government of reconciling our various national objectives into a policy of action rather than allowing these very important, equally exciting and necessary objectives to counterbalance each other and result in no action, which is, I think, the most serious and dangerous problem America faces today, namely, that we have so many objectives and we have so many strong interest groups supporting those objectives that they counterbalance each other and the tendency is not to act as effectively as we should.

I happen to believe that not only for national security but for our position in the world with the other industrial nations and the developing nations we have to be in a position where our energy requirements can be produced ultimately domestically and I personally would like to see us in a position where we are exporters and we can help our friends.

This is dual. The course we have not yet determined because we have many sources of energy in the United States with which we have not experimented is the shale oil and down in the South a clay which has large quantities of oil.

The oil in the shale in the Colorado area is equivalent to twice the known reserves in all of the Mediterranean Arab countries, so we have tremendous supplies.

The oil in the clay in the South, in the Tennessee area, represents almost an equal amount of oil to the entire known Arab reserves.

We have—I will not say unlimited, because nothing is unlimited—tremendous quantities of coal, deep coal, surface coal, some dirty, some clean.

The extraction of the coal and the extraction of the oil from these sands and clay can be done by surface mining or it can be done possibly in what is known as *in situ*. In other words—if you drill down into the shale, put off an explosion and set it on fire, put in water, you can bring up gas, because it takes its natural form, and then you have the capacity to meet that need by then putting it back into the state of oil. ***

So I say that we have the resources, we have the technology, and we have the capacity, the organizing genius as Americans.

The question is do we have clear objectives as to what we want to accomplish? Have we organized or can we organize ourselves to meet those governmentally in terms of policy objectives, governmentally in terms of creating a framework within which private initiative can function with its creative, dynamic, driving force, and meeting the standards of government but not so encumbered with the red tape of bureaucracy? I think one of the dangers we face, is that we may lose that unique capacity which has been America's strength, namely, this capacity to meet new situations.

So I say to you, sir, in my opinion we can reconcile these differences and by 1985 we can meet our own needs from our own sources, protect and improve our environment, and do it within the framework of prices which now exist.

This is a goal that has not been set. It is a higher goal in terms of objectives than has been discussed, but I think, from our national point of view, that this is the kind of broad planning, broad-range thinking we have got to come to as a nation if we want to preserve our role of leadership as a nation concerned regarding human dignity, regarding freedom in the world. We have got to be in a position to be safe, secure ourselves, and at the same time have the capacity to work with and help our neighbors.

And this is true in food; this is true in raw materials.

Science and technology are moving so rapidly. They have got to have more support from government.

We have got to have objectives so we put the emphasis.

But when President Kennedy said, "This Nation is going to the moon by such and such a date," he electrified the Nation. He mobilized our capacities—and we did it.

Now, it was a lot more difficult to go to the moon in the time that he said than it is to meet these problems of energy and to determine the mix and to determine the saving.

We can save energy that would almost cut down on the amount we are importing now if we set our mind to it.

Now, the President has taken important first steps. * * * But I think, sir, in energy, the right mix, depending on what the scientific developments show; in raw materials—as I mentioned yesterday or the day when I was here before—we can produce in this country unlimited amounts of aluminum from new sources which we have in silicate sands that exist in the country. We do not have to import bauxite. How much does it cost or what substitutes can we use?

I have to feel, sir, that if we put ourselves to solving problems here and in other lands that it can give us—presents a purpose that we have not had in a long time, and give the young people a sense of purpose and involvement, and mobilize our resources and use them effectively, and that it could conceivably work toward the creation of a common purpose with other nations of the world in a common effort for the benefit of mankind.

So I happen to feel optimistic and excited about the potential of the future with the peculiar genius that Americans have in their freedom and in their individual initiative and creativity.

Senator Byrd asked for the views of the nominee on whether or not the gasoline shortage of early 1974 was contrived by the large oil companies, and Mr. Rockefeller replied in the negative.

Mr. ROCKEFELLER. * * * I do not think there were any willful shortages created. I think the price was increased because on the basis of new Middle East prices; replacement costs are going to be a lot higher.

They have to have the capital in order to make the investments for new production to supply their customers, and I said yesterday that I thought there should be an excess profits tax on energy companies; that is oil companies and coal so that the money they invested to increase production needed to meet our demands in this country would be subject to regular taxes and if they did not use it for that purpose, then they should be subject to an excess profits tax.

Senator Byrd. So based on my definition I take it that you do not feel that there was any such action on the part of the oil companies?

Mr. ROCKEFELLER. Not in relation to the creation of shortages, but the price structure was set based on replacement. This is an over-simplification.

Senator Byrd also asked Mr. Rockefeller if he thought the present oil depletion allowance should be increased or decreased.

Mr. ROCKEFELLER. * * * In my judgment there have got to be methods of accumulating capital to invest in new production. Whether it is depletion or some other incentive or some other source I do not think makes much difference, but I think it is essential that the country recognize our national interest and shape its tax structure and incentives in such a way as to result in accumulating the capital to put in.

Now, there are only two sources of capital. One is individuals and the other is corporations.

Now, the Government can tax the individuals and the corporations and the Government can invest the capital.

Senator BYRD. Then I am left to believe that you do not favor a further reduction in the depletion allowance?

Mr. ROCKEFELLER. Well, if they changed the depletion allowance then there has to be some other provision to permit the accumulation of capital.

Senator Cook asked if the nominee would encourage cooperation between the private sector and Government on energy research and development. Mr. Rockefeller agreed that most of this research is done by private contractors and that the information developed should be declassified, in order to accelerate the research process.

In response to a query from the Chairman, Mr. Rockefeller endorsed his position, as previously stated, that consumers can be protected from profiteering by the oil companies by a system of taxing all energy company organizations that are not used for exploration, research, development, refineries, transportation, and marketing. The Chairman then asked what action the nominee would take to bring down the cost to the consumer of gas and oil. Mr. Rockefeller suggested developing new sources of energy, and also said:

Mr. ROCKEFELLER. I do not think there is any way of bringing down prices in this period of short supply because our imports are increasing, as I pointed out, from 27 percent to 35 percent in a year, and our production of oil and gas in the country is peaked out and is now going down so that we find ourselves in a very difficult situation in this country and one that I think has to be faced head on.

If the Government puts on price control and a large amount of the oil comes from overseas, then there is a difficult situation there because maybe it goes somewhere else where higher prices are paid. This is a very complex situation.

EXECUTIVE PRIVILEGE AND SEPARATION OF POWERS

In the context of problems which have arisen in the last few years, Mr. Rockefeller was asked to discuss his views of separation of powers between the Federal legislative and executive branches.

Mr. ROCKEFELLER. * * * [L]et me go to the situation itself, namely the relationship between the executive and the legislative branches of Government.

I have had tremendous respect all my life for the legislative branch of Government, and in our State, at least, the equal responsibility of the two branches, feeling that in order to best represent the interests of the people, it was essential the two branches get together and be involved in the legislation and be involved in the program.

Mr. Rockefeller proceeded to describe the processes he followed as Governor working with the leadership of the State legislature. He

stated that he had an ongoing discussion, informally, with the leadership in order to get their views and to go over legislation in detail so there would be no misunderstanding of concept or of semantics. This procedure was followed also during the periods when the opposition party was in control of one or more houses of the legislature. He went on to describe a change in that procedure which he felt was beneficial.

* * * [B]y the time I gave a message to the legislature, I was already aware of the general outline of the leaders' positions. They were aware of mine.

I had accommodated points that they might have, and then in the preparation of the legislation I also worked with them so that the details of the language would not be in conflict of objectives which they had in terms of their own feelings as to what should be accomplished.

Three years ago, the legislature decided they wanted to bring the committee chairmen in, not just the leaders, but the committee chairmen, so that was fine with me.

We met with the committee chairmen for breakfast, and went through the same procedure at another level, and came out the same way.

Now, what we did, I think, was we achieved constructive legislation for the people. It appeared that I was dominating but, in actual fact, that was the furthest from the truth. And, as you know, there is nothing a legislature likes less than to have a Governor who is arbitrary and executive and dictatorial.

I was not. I sought their cooperation. I sought to accommodate and to work with them.

Senator Byrd introduced the subject of executive privilege, noting that the Supreme Court had held that there was some constitutional justification for the doctrine with regard to military and diplomatic and national security secrets. He pointed out that the Supreme Court also had held that the doctrine was not absolute. The Senator put the question of executive privilege to the nominee.

Senator ROBERT C. BYRD. Time and time again during the past 2 years the Congress felt the sting of executive privilege when it sought to secure information from White House aides and other people within the administration to aid in developing legislation, to aid it in the nominations process, and to aid it in the investigative process.

* * * * *
As Vice President, of course, you would not be subject to respond to these questions because you would not be in a position to apply them.

But, as we have seen, many things are uncertain. In the event you became President would you invoke the doctrine of executive privilege to prevent White House aides or other members of the administration from appearing before congressional committees at the request of those committees in their pursuit of information on which to base legislation or

on which to determine the judgment of the Senate with respect to the confirmation of nominations or with respect to the carrying out of the investigative process all of which are constitutional functions of the Congress?

Mr. ROCKEFELLER. Senator, I think the abuse of executive privilege can be one of the most serious detriments to the effective functioning of democracy that we have. On the other hand, I think executive privilege is a concept, I guess, as established by the Founding Fathers, that needs to be in certain areas, as you have stated, where there is the opportunity for discussion within their executive branch, as I suppose this is true within the legislative branch, much where there are confidential discussions. This is information they want to keep confidential.

Therefore, it is very hard and I guess that is why the Supreme Court did not make a definitive statement themselves. It is very hard to make a sharp delineation of this.

But the most fundamental thing is, that I totally agree with you, on not abusing executive privilege and that as Governor of the State I used it virtually not at all. I remember that some sitings in the office in New York and I went down and testified down at Foley Square about the process. I didn't need to do it. So, I understand what you are saying.

When I was Coordinator of American Affairs I worked for President Roosevelt in the White House, but I testified with his consent freely in the Congress.

SENATOR ROBERT C. BYRD. Governor, if you were President—and this is a hypothetical question; yet, it is one which could become a reality—would you invoke the doctrine of executive privilege to refuse a congressional demand for information needed in aid of legislation or in the nomination's process or in the investigative process as long as that information did not contain military, diplomatic, or national security secrets?

Mr. ROCKEFELLER. Certainly I would not want to and would not ever abuse the privilege. To make a blanket statement such as you have made leaves no room for movement I would hardly think.

Senator ROBERT C. BYRD. Movement in what direction? What need for movement is there in the way I phrased the question?

Mr. ROCKEFELLER. Well, the way you phrased the question, anybody in the White House could be called at any time by the Congress and if the Congress decided to abuse the opposite side of this coin they could make the administration, the management of the Government, almost impossible because Congress could be in the executive branch on every decision if they wanted to. I think that would be a very disastrous thing. I think the Government was created with an executive and legislative branch in order to have the separation of powers.

Now, the separation of powers must have some meaning.

* * * * *

There followed further discussion during which Senator Byrd asked for a specific statement on Mr. Rockefeller's policy, if he were President, with respect to permitting White House aides to testify. Mr. Rockefeller stated that he had in the past permitted his aides to testify before investigating committees. With regard to the Attica investigation, he made all his aides who were involved testify, and testified before the investigating committee himself.

Senator Byrd continued to press for an answer to the question of Mr. Rockefeller's policy on executive privilege. The nominee was not prepared to make a commitment because of contingencies which might arise that would cause him to operate under a different policy.

Senator ROBERT C. BYRD. *** I am not posing the question to you except with the idea in mind that eventually you may become President and possibly before the opportunity would come for the people of the United States to pass on your candidacy, I think the people are entitled to an answer to this question.

Would you, yes or no, invoke the doctrine of executive privilege against the appearance of White House aides when they are requested to do so by congressional committees in the carrying out of legitimate functions of those committees under the Constitution as long as military secrets, diplomatic secrets, and national security secrets were not involved?

Mr. ROCKEFELLER. Well, I can say very categorically Senator, that my total inclination is to say yes—or no. I mean, I should say no, I would not invoke executive privilege. But, I would have to reserve in that case, in that statement, some area that I do not now conceive which might be of a character where this power, having been traditionally in the President, that I think to throw out the window a power without study and care and so forth would be perhaps a very injudicious thing for me to do. And, therefore, I have this reservation, but my total objective is to reestablish, were I to be in such a position, reestablish the open, candid, understanding relations between the executive and the legislative in every possible way in order to make this country, restore to this country, that sense of confidence in government and confidence in openness.

So, I do not foresee the situation, but, again, unfortunately I am not a lawyer at all. But, you are a very good lawyer. Therefore, I get caught a little bit in a black and white statement which leaves no room for discretion at some future day in relation to some problem that I do not now foresee.

Mr. ROCKEFELLER. Well, having spent my life as an administrator and having delegated responsibility to individuals to carry out certain functions, and they have under them other individuals, I look to somebody to be responsible. That person will collect and digest and so forth and give me his opinion or recommend the action.

Now, that is the man in my opinion that should be talking with the congressional committee about the policy or the de-

cision of the Government. If you go to his underlings, and you can talk to anyone of 15 or 50 or whatever it is, it would be very easy for Congress to destroy the morale and effectiveness of the executive branch because you get one working against the other and you can set one against the other as I foresee.

Now, as you said you would be reasonable and I recognize that and I say well, I will be reasonable. But, you have got a specific black and white question which you want answered. Therefore, my being reasonable does not satisfy the case. I do not see how I can go further and be honest.

Senator ROBERT C. BYRD. *** Would you *** attempt to invoke the doctrine of executive privilege to keep those aides or those Cabinet Members or other persons within your administration or within the White House from appearing before congressional committees, taking into consideration that the request is legitimate, taking into consideration that the word of Mr. A as to what Mr. B said is the best evidence for that committee, taking into consideration that no military, diplomatic or national security secrets are involved? Would you invoke the doctrine?

Mr. ROCKEFELLER. Again, Senator, let me before coming to the specific question say that you expressed the fact I come here as a strong executive before this committee. But, I also come with a strong record of cooperation with the legislature. As a matter of fact, I have been criticized for working too closely with the legislature and I have had 12 years in Washington working under President Roosevelt and President Eisenhower, during which period I also worked with the Congress in whatever capacity it was. So, I understand everything you are saying.

I have given my assurance that my objectives are similar to yours and I have given my record as the argument supporting it. I would pick up the word you used "confrontation". I do not believe in confrontation. To me that is a word of last resort, whether it is war or anything else. I believe in trying to find the community of interest that best serves common objectives and that would be true in the executive and legislature.

... You are asking here about my concern. I want to cooperate, but I do not want to be in a position should it happen that what I say should find me sitting here and you saying look, Governor, when you were sitting before us you said that you under no circumstances would resist any request of anybody in your administration to come before a committee providing it did not have national defense, military or diplomatic information.

Senator ROBERT C. BYRD. What other reason would there be?

Mr. ROCKEFELLER. I cannot foresee, but I have lived long enough to know.

I only made one commitment that really got me into trouble and that is no tax increase in 1963 and then I had to ask for a tax increase and, believe me, after that I am gun shy about making a commitment. I was torn between my responsibility to the people to undertake certain things that I felt were essential and my commitment that I had made and I stayed with my responsibility to the people.

* * * * *

Mr. ROCKEFELLER. I can think of no cases at the present time in which I would invoke the doctrine. But, I think I would be irresponsible as one who might be in a position to become President to make a flat commitment which at some time in the future, despite the fact that I would use every reasonable method of complying with the request to make a flat statement.

FOOD SHORTAGE¹

Mr. Rockefeller told the Committee that, in order to solve the world's food shortage, the United States should increase food production, develop a system to deal with food reserves, and work with other nations toward that end.

Mr. ROCKEFELLER. * * * So on food I would think number one we ought to encourage maximum production in this country commensurate with some sound practices. Two, that there needs to be some system relating to the question of reserves so that you avoid the tremendous fluctuation which might come with an accelerated production beyond what we have and then good crops in the other parts of the world—there might be serious fluctuation which is very difficult for the farmers—and also that would permit reserves to be available for crises, starvation situations in other countries. * * *

Number three, under food, it seems to me essential—and now I think the President has touched on all of these in his statement and so has Dr. Kissinger. That we work with all of the other nations. We're the largest exporter of food in the world. And for a nation to be a sovereign nation and not to be able to feed its people it is a very serious situation.

Mr. Rockefeller suggested that the United States and other nations in a favorable position regarding food supplies should cooperate with the United Nations in a major worldwide effort to increase the food producing capacities of less favored nations on a long term plan. He recalled that U.S. aid to India, during its serious food shortage of the mid-sixties, was conditional on India's promise to plan systematically for the future to increase food production in order to meet the needs of its own people.

Mr. ROCKEFELLER. * * * This was a very elaborate and well-worked out program by the Indian Government with cooperation of the World Bank and other national and international organizations.

¹ See also portions of the following discussion on "Foreign Policy."

It seems to me that gives us a pattern for the future that is tremendously important. Because we cannot feed the world. There are only three exporting countries left—net exporters—the United States, Australia and Canada, and there is no chance that the production in these countries is meeting that 6 percent world growth figure that looks as though it would be required.

Therefore the countries—other countries are going to have to produce their own food and we have got to help them, the World Bank has to help them, the Arabs have a problem as to their role in this and this really is a question for world attention, and the sooner we get after it the better.

FOREIGN POLICY

The Committee questioned Mr. Rockefeller extensively about both the role he might play in American foreign policy and his specific views on various aspects of current foreign policy and future concerns. Senator Cook asked Mr. Rockefeller to elaborate on the role he would play in foreign policy formulation in light of the President's stated intention to rely on Mr. Rockefeller in this area and on Mr. Rockefeller's longstanding friendship with Secretary of State Henry Kissinger.

Senator Cook. Now, Governor, the President has indicated his faith and intent to rely heavily upon our Secretary of State Kissinger.

Likewise, he has indicated to you a place and role in foreign affairs.

In light of your long association with the Secretary of State and the announced intentions of the President, what role do you envision for yourself in foreign affairs and what relationship do you expect to maintain with the Secretary of State?

Mr. ROCKEFELLER. In the very broad conversations which I have had with the President on this subject, I got the impression, frankly, that what he had in mind was my assistance in the domestic field and not in the foreign field. I am only saying that because of what you said that he had indicated publicly that he wanted me to be of assistance to him in the international field.

I had the impression that he was talking about the domestic field when he and I talked. So we have to start with that difference.

I really do not know. I am sure there will be something that will develop only as and when I do get confirmed.

My relationship with Secretary Kissinger is long standing. I have been sort of a sounding board for him on various questions. Everybody has to talk to somebody once in awhile that they have known for a long while and known well, and he and I have that relationship. I would do the same, raise questions with him, not taking much of his time, because of the tremendous pressure of the office.

Whatever the relationship was, it would be that prescribed by the President and would be within the framework of the

Constitution and his powers and whatever he asked me to do. I would not intervene or interfere in any way, and I think I am sensitive to these questions.

Mr. Rockefeller was also asked the sensitive question of how he might handle a disagreement on foreign policy with the President. Mr. Rockefeller responded that he would support the President because he believed a united front between President and Vice President was essential. He also expressed the view and executive-legislative cooperation in the field of foreign policy was essential in pursuing the best interests of the country.

Senator GRIFFIN. Do you think you would be likely to find yourself in that position [of disagreement] on issues of foreign policy?

Mr. ROCKEFELLER. Well, I would feel that in the field of foreign policy it would be totally inappropriate for me to express a position in that case on an issue. My position would be one of supporting him. I think the great tradition that grew up during the Eisenhower years, and really during I guess the Roosevelt years, but the Eisenhower years particularly, where the leadership of the Congress gave such extraordinarily strong bipartisan support, he consulted the leaders, and we had a united front abroad. I think it is tremendously important that this country have a united front to the maximum degree possible and certainly the Vice President has got to be in a position of the united front with his President. Otherwise I think it would be very seriously destabilizing to our international relations.

But I would like to say, Senator, now that you gave me this opportunity on this subject by your question that I have spent my life from 1940 when I first started working for President Roosevelt, I worked with him directly for five years, on the Hill working here, and then subsequently President Eisenhower, and then 15 years with leaders of New York State Legislature, my feeling very strongly is that major policy questions have to have executive-legislative effective cooperation plus bipartisan cooperation to the maximum degree possible in order to reflect the best interests of our country. That is my position.

Senator Allen asked Mr. Rockefeller to comment on published reports that Secretary of State Kissinger might be on his way out. In response, Mr. Rockefeller took the opportunity to praise Mr. Kissinger and to review his accomplishments as Secretary of State.

Senator ALLEN. Some of the political rivals, columnists, are suggesting that Secretary of State Kissinger may possibly be on his way out. I certainly hope that is not true. But, would you feel that that would be contrary to the best interest of the United States?

I know the close relationship you have with Dr. Kissinger and the relationship you have had in the past. As a matter of fact, I feel he is something of a protege of yours.

But, what would be your feeling about that? Do you think there is any substance to these reports that are reported in the press from time to time?

Mr. ROCKEFELLER. Well, Senator, I never thought this subject might come up and that I would have a chance to express myself, but I am delighted to have a chance to express myself in this hearing because I think that Henry Kissinger for this Nation at this particular moment in our history has been an absolute Godsend in terms of his total grasp of the world picture and his capacity to think conceptually, to open up operations for the United States.

To take the situation out in the Far East, we were locked in with mainland China and the countries to the south. We were locked into a military confrontation which is the worst position in the world to have and as that little book I referred to yesterday said, no nation can benefit from a protracted war. My friend in the book 2,500 years ago said really good generals never get into war. They do not have to.

But, I think that Dr. Kissinger's role in this country and his skill as a negotiator and his ability to establish confidence in other people, even people who have had no confidence in us in recent years, such as the Egyptians and the Syrians, is essential to this country at this time and I think to take some small areas, fringe areas, and to try magnifying them.

I know it is human nature if somebody achieves a high position that at that point they start shooting at them. This is the right of the country and the free press, but I just cannot believe that we would be as a nation or as a government shortsighted enough to lose this man's talents at this particular moment in history.

Senator ALLEN. Well, you have full confidence in him and you would express that opinion to the President?

Mr. ROCKEFELLER. Absolutely, sir.

Senator Griffin questioned Mr. Rockefeller as to the possibility of a conflict of interest between his financial interests in Latin America and his ability as Vice President to influence foreign policy in the Western Hemisphere. Mr. Rockefeller refuted the allegation that he might have a conflict of interest because of either his or his family's holdings in Latin America. He took the opportunity to explain his activities in Latin America and concluded that more could be done on a mutual basis in the Western Hemisphere.

Senator GRIFFIN. * * * Mr. Rockefeller, one of the great assets I think that the Ford administration will have if you are confirmed and become Vice President is that you'll bring some expertise, experience, and reputation in a number of areas particularly Latin America. If the questioning has focused very much on Latin America before these hearings I'm not aware of it other than some reference to Cuba. I would like to ask you to outline some of your—and your family's—interests in Latin America, financial and otherwise. I think that the people will naturally have a question of whether in that area there would be any conflict of interest.

There has been, as you know, a policy or program of nationalization in Venezuela with respect to oil and iron industry and some movement in that direction in other countries in Latin America.

Do you see this process of nationalization as a continuing one; what is it likely to mean in terms of our relations with the countries in that hemisphere and do you have any suggestions or comments about our policy with regard to Latin America? That is a big question.

Mr. ROCKEFELLER. I understand and I appreciate it.

I would say this is an overall, that I have always felt that the ownership of property abroad by an American corporation or another foreign corporation in a foreign country was not any God given right but it was permitted by some law of the country created by man. And therefore the use of that property by the American corporation would have to be conducted in such a way that it would be clearly to the interest of the country itself, inure to their benefit directly or indirectly, or at some point they would say, "Well, this is something that we ought to take back" and they would expropriate it.

So I've been very conscious of that over the last 35 years. And I think American corporations have increasingly during that period been aware of their social and economic responsibilities to the people of the country.

American capitalism has gone abroad; first primarily for raw materials; and second; then to assemble and finally to manufacture abroad to protect markets that they have developed—the sale of American goods. And there is, as you have mentioned, a trend toward nationalism in these countries but it is not new.

In 1939 Mexico expropriated all of the oil properties; Peru expropriated the oil properties 10 years ago or whatever it was. Maybe 15 years ago.

Venezuela's lease expires I think in 1982, and the whole trend now is one of participation in ownership or outright ownership of raw materials by foreign countries. Of course, the materials have to be sold so there's a problem. So there has to be some kind of an arrangement worked out with its iron ore, or copper, or oil, or whatnot.

Agricultural exports have been another major item with which American concerns have been involved. And my interests directly have been primarily in IBEC, International Basic Economy Corporation, which I set up during the war to help develop the basic economy of the countries in the Western Hemisphere principally in food and housing. And as a result of that program I still own some agricultural lands in Venezuela. I sold the ones I had in Brazil and Ecuador.

Senator GRIFFIN. How about oil interests in Venezuela?

Mr. ROCKEFELLER. I have ownership in Exxon and other companies who own subsidiaries in those countries but—and who have distribution of course—but those properties are sub-

ject to the laws of the country, as I said, the trend in Venezuela is the big producer although some of the west coast countries have come in more recently in production.

I understand this trend and I think that as the countries go through these experiences they will sort out what they feel is in their best interest and they will operate in a way that in the long term will affect the best interests of their people. But the raw material products have to be sold outside the countries except in a country like Brazil, for instance, which nationalized its oil industry many years ago. Petragas.

So that that problem is not a problem as far as I am concerned. It is an evolution that is taking place worldwide. The basic economic activities; production of food, wholesale distribution of food, and retail distribution. The cost of food is very high in Latin America. The system of distribution of 25 years ago—it is very inefficient.

I tried to help and this not being a field I was too familiar with, I probably went about it in somewhat of a naive way starting with production and wholesale distribution and finally retail distribution. The production was a very chaotic situation, tragic situation, because the middle man who would wait until the farmers' crop was right—say the tomatoes—would hold off until they were falling off the vine and go in and get it at a sacrifice price which inured to the great disinterest to the farmer. I was interested in trying to improve the U.S. technology in agricultural production in the Western Hemisphere and have done that.

I remember a situation in Venezuela where they had what's known as the Ohablanca, a white leaf that came from Japan. A straw shipped from Japan gave this disease to rice plants. We started rice in Venezuela as a matter of fact. Then this disease hit and we experimented with about 35,000—excuse me—3,500 different varieties until we could find a blight resistant variety for Venezuela which we used then which was available for use of the country as a whole. So we've tried to help on the production side. Then in trying to protect the farmers, I went through an experiment of wholesale, getting into wholesale business. This was great except when we sold to the retailers they would just jack the price up. We paid them a low price, paid the farmers a good price with a smaller margin. But they just jacked the price up and saved the old prices.

So finally we went into supermarkets. Everybody said this would not work because the Latins wouldn't change their customs. They wanted the little customs such as they have in Italy and France, the little stores with their personal relationships. This turned out to be a great success.

Then we bought directly from the farmers and we got—I think in Venezuela it was 42 or 40-something stores, supermarkets.

In Argentina for instance there were supermarkets—my son as I said, runs all of this. I have given the stock to the family.

When I went on that trip for President Nixon, 2 days before I got to Argentina the guerillas burned down 8 of the 10 stores and my son called me the day before I left. I thought he was going to be pretty upset and he just said, "Well, Dad, I just wanted to find out when you're going to be here because I've got to get down and I didn't want to be there when you were there." He said he had insurance. I don't know whether he ever collected. But it is rough. But it's life.

I went there and the President of Argentina said "You've got a lot of courage coming here. We've got a lot of problems." And I said, "Look, Mr. President, it is your country; you've got a lot of courage to receive me." So I don't feel any conflict here. I understand these problems. They wanted to develop their economy and raise their standard of living. They needed exports. They needed to export the things they can produce and they needed to import the things we produce. They have about a \$500 million favorable balance of trade with us. They would like to increase their exports to us.

I think there's more that could be done on a mutual basis for the Western Hemisphere as a whole.

Senator Pell asked Mr. Rockefeller for his views on improving relations with Cuba. Mr. Rockefeller responded by stating that he had not discussed the question of Cuba since 1969, but that there seemed to be a softening in attitude toward Cuba since he had last discussed this question with various heads of State.

Senator PELL. Finally, in connection with Cuba there seems to be a feeling that perhaps we should improve and regularize our relationship there. Do you have any views in that regard?

Mr. ROCKEFELLER. I have not in recent years discussed the question of Cuba, not since '69. In '69 when I was on that trip for the President and went to twenty countries and talked to the heads of state I got a pretty good feel at that time as to the attitude of the other American republic leaders about Cuba. At that time there was very little sentiment for reestablishing relations. From what I have read in the papers, there seems to be some softening of that position, and I would assume that this is a question which would be taken up in discussion with the heads of other states to get a consensus position.

Senator Allen questioned Mr. Rockefeller about his views on our relations with Russia. Specifically, Senator Allen asked Mr. Rockefeller to elaborate on his comment during the Johnson administration that the United States must not confuse a change in Soviet tone with a change in Soviet goals, in view of present foreign policy toward the Soviet Union. He further asked Mr. Rockefeller's views on most favored nation status for the Soviet Union. Mr. Rockefeller responded by saying that we should encourage a change in tone from the Soviet Union because this led to cooperation, but that we should continue to

deal from a position of strength. In reference to the trade bill, Mr. Rockefeller expressed the opinion that conferring most favored nation status on the Soviet Union granted the administration important tools with which to negotiate.

Senator ALLEN. * * * Some years ago you commented on the then administration, I believe the administration of President Johnson, saying that the administration in its dealings with Russia was confusing a change in Soviet tone with a change in Soviet goals. I think that was a very fine statement.

Do you think that the Nation today is running the danger or the risk of falling into that same pitfall?

Mr. ROCKEFELLER. Well, this is a terribly important point which you raise, Senator.

We want them to change their tone because we want to have cooperative relationships in this world in which we are all involved because it makes it easier to work to solve problems.

But, I do not think that we want to forget the basic objectives of international communism as being what Khrushchev said, I guess our grandchildren, they were going to bury.

I have to think that everybody is entitled to have their own plans and have their own objectives in this world, but I think it is up to us to be sophisticated enough to recognize it and deal with them. If we are strong and if we are aware, then we are going to stay in a position where we can deal with somebody else to the mutual benefit of both, but if we get weak then it gets into the question you are dealing because you are blackmailed instead of because you are dealing from strength.

Senator ALLEN. Well, détente is nothing more than a mirage; is it? Is there anything substantial there? Does Russia go back on any commitments that it makes if it serves its purposes to do so?

Mr. ROCKEFELLER. Well, that may be true. It is just like any contract. It is really only effective as long as it serves the interest of both parties. If it does not serve it you had better soon start to renegotiate the contract.

I think that détente as long as we are strong and as long as we are aware, I think it is a very fine thing because we are able—settling of the Vietnam war I think required Soviet cooperation and the Chinese cooperation. I think that was very well handled. The Middle East situation requires this cooperation.

Senator ALLEN. What about the trade bill now pending in Congress that would make a most-favored nation out of Russia?

Now, by what stretch of the imagination would Russia, our potential adversary, be entitled to treatment under our tariff laws as a most favorable nation?

Mr. ROCKEFELLER. Well, I think this trade law is terribly important to give the administration the tools to negotiate with. You cannot negotiate unless you have something that



you can give in return for something somebody else does for you.

Senator ALLEN. Well, that is all right. What about the specific questions of making Russia a most favored nation along with our allies under the same bill?

Mr. ROCKEFELLER. Well, I do not know the details, but I would assume that this is psychologically, prestigewise—very important to the Soviet Union and, therefore, something that would mean a lot to them and that they were willing to do things that we need done in return.

Now, No. 2, there are areas we could cooperate with them in trade on a mutual beneficial basis and if we are sophisticated and if we are wise and intelligent and do not get taken to the cleaners, then I think that these are useful tools for the negotiators to have.

Senator Pell questioned Mr. Rockefeller as to his views on the bilateral military assistance program, especially with regard to whether or not the program should be cut back. Mr. Rockefeller responded by saying that some of the uses to which military assistance have been put are unfortunate, but that the program on balance has been beneficial.

Senator PELL. On another subject, in foreign relations. Since World War II all too often United States bilateral military assistance has been used by one of our allies against another. The most recent instances are Turkey and India.

I wonder if you have any views with regard to the bilateral military assistance program? Would you advise the President if he asked you for counsel to reduce it or would you say it should be kept the way it is?

Mr. ROCKEFELLER. Senator Pell, this has got to be one of the most difficult problems the United States faces. There are three aspects. Newly formed or existing governments and nations want to feel that sense of self-confidence and pride or whatever it is that goes with a military establishment. They may need it for internal security or in their opinions, or they may need it in relation to a defense against their enemies or neighbors they may distrust. And, of course, our concept basically was using it with allies for a common defense in the event of a major confrontation.

Now if we were the only source of arms as a supplier then we could regulate what went to those countries. Unfortunately we live in a world where there are many countries who are exporting arms and there are countries who are looking to gain foreign exchange by export of arms as a means of earning a balance of payments. So in a sense there is a tremendous competition in this field.

I think the United States over the years has benefited by the fact that our weapons were used in other countries and that through the training program that many of those people have come to our own country and we have come to understand them and are more familiar with their thinking and ways and, therefore, I would say, on a balance it is to our benefit al-

though each time the arms are used against a neighbor, as you cite it, it is a tragic thing and embarrassing. But it is not a black and white area. It is a difficult and complex area and I think on balance would be better off with the program than without it.

In view of increasing world demand for food, Senator Hatfield questioned Mr. Rockefeller extensively about his views on the role of food in American foreign policy. Senator Hatfield specifically asked Mr. Rockefeller to comment on a statement contained in a report circulated by the Institute for Policy Studies at the U.N. Conference on World Famine and Food that U.S. food aid to India in 1965-66 was conditional upon penetration of U.S. capital into the field of fertilizer and petrochemicals headed by the Rockefeller group. He further asked Mr. Rockefeller's views in general upon conditions attached by the U.S. Government to food and economic aid rendered to nations in need. Mr. Rockefeller refuted the charge that aid to India in 1965-66 had been conditional upon opening markets to Rockefeller interests. However, he did state that the U.S. Government had required India to make an effort to increase its own food production in order to receive food aid, and he added that he thought such a request was logical.

Senator HATFIELD. Governor, in Rome last week was convened a United Nations Conference on World Famine and Food. And I noted in your testimony this morning on page six, you made the statement:

"I have been more fortunate in material things than most Americans, and therefore felt a greater sense of responsibility to use material assets for the good of others, and to commit myself to the service of the public. Unfortunately, the tradition of sharing with others seems now to have become a political issue."

In that conference, sir, there was widely circulated a report under the title "Transnational Institute Report," which has a Washington, D.C., address, Institute for Policy Studies, 1520 New Hampshire Avenue, Northwest. This Transnational Institute is a community of scholars from different countries dedicated to the study of problems that can no longer be studied within the confines of any single country. And it lists the names of various scholars of the various countries.

On page 40 of that report it states:

In retrospect we can see that even though government relations between India and the United States are frequently cool, private technical aid through the Rockefeller and Ford Foundations, and through universities, managed to change the direction of the thought and viewpoints of the Indian elite, and bring them to adopt North American concepts of development.

During the famine of 1965-66, food aid was made conditional upon the penetration of U.S. capital into the field of fertilizer, petrochemical industries headed by the Rockefeller group.

Would you care to comment on the accuracy of that, or how it relates to your view about food aid and economic aid that might be rendered by this country to areas of need in the world being contingent upon either expansion of American markets, or military, or political considerations?

Mr. ROCKEFELLER. Well, I am not familiar with the report nor the organization.

I would say that there are two subjects dealt with that are separate subjects. They are dealt with in a manner that sounds casual, but in my opinion is coincidental: That the Rockefeller and Ford Foundation did a fantastically important significant job in India in helping them with what is known as the Green Revolution, bringing in new, highly productive strains of rice, wheat, et cetera.

Now, that is No. 1. That is the first, if I read it or listened to you correctly.

The second was that the U.S. policy, and I do not know the years, was that they would not provide funds for fertilizer, money, aid, or whatever it was—no; I guess it's not to provide aid unless they did certain things.

Senator HATFIELD. It was conditional aid, as it is phrased here.

Mr. ROCKEFELLER. That is correct.

Now, this has nothing to do with the Rockefeller Foundation or the Ford Foundation.

I happened to have listened to a report by an official of the Government referring to the period, if my memory is correct, 1965—that might not be the right year—in which the Indians were asking, if that is when their last famine was, for large amounts of food.

I thought to myself in listening to this report of this gentleman that the United States took a very intelligent position: Look, India, your problems are not just happenstance at the moment. They are chronic. They are serious. They are continuing. There is no point in our rushing in with aid unless you take the long term steps to develop the capacity to feed your own people with a growing population.

And it is my understanding that that was the basis of the administration's position, whether it was the Johnson administration, or whatever administration at the time, I do not remember.

I thought it made a great deal of sense. And from what this gentleman said, India at that point took the measures that were necessary in terms of water, fertilizer, procedures to expand very importantly their food production, and that they, with the aid of the United States, gave them as part of this package arrangement—got themselves into a position where they were feeding their own population.

Now, to me there is a very interesting and important story in this, that the United States cannot feed the world. The population growth rates are so rapid that only those nations who have got the rapid growth rates are going to be able, if they take the steps, and we help them in taking the steps, are

going to be able to get themselves into a position where they can be self-supporting nations for their people. They are not going to have the money, with the price of energy, to buy the food, or even the fertilizer.

Therefore, while I think the concept of the linking of those two is very misleading, I think the concept of helping nations to meet crises, but also encouraging nations to solve their long term problems internally is essential.

Senator HATFIELD. Governor, as I understand, you are delineating between conditional aid that is provided in reference to American capital and American markets and American industry, and that which may be conditional upon adopting certain technological production systems?

Mr. ROCKEFELLER. I was really relating it to food.

Senator Hatfield pursued the questioning by asking Mr. Rockefeller if food aid had been predicated upon economic gain for American interests or on encouraging India to change its methods of food production. In reply, Mr. Rockefeller pointed out that the United States had never ably represented its economic interests abroad. Further, he noted that the Arab nations have displaced the United States as world capitalists and that this country is no longer in a position of exporting fertilizer.

Senator HATFIELD. Well, I know, but in this report it indicates which—of course, fertilizer is very much related to food here—that the aid was conditional upon the opportunity to penetrate that area for the sale of fertilizers from certain American interests, economic interests.

My point is, was the aid predicated upon an economic gain for the United States, or on encouraging India to change technological production systems?

Mr. ROCKEFELLER. Well, if you forgive me, Senator, the United States has never been very able in representing its own interests in terms of monetary gain. So that I doubt very much—the United States has not followed policies that represented the broad economic objectives of a strong nation.

The Government has followed policies of trying to aid, which is beautiful and wonderful and essential, but we have reached the point in the world where unless our Government encourages other nations to become self-sufficient, famine is going to be a way of life in this world. And it is very dangerous.

Therefore, I would say it is essential that we encourage these nations to develop their own capacity.

I would add one other thing. The capitalists of the world are now Arabs, if you will forgive me, not Americans. That is where the money is being concentrated. That is where the money is going to have to come from to invest in fertilizer plants and irrigation systems, and in desalinization plants around the world, because that is where the money is going to be, and therefore we are faced with a totally new situation, not how do we represent the sale of American fertilizer, which is in short supply at home.

We are not in a position to sell fertilizer abroad unless there is a major cutback of the use of fertilizer in the United States.

Senator Hatfield followed his line of questioning by asking Mr. Rockefeller his views on cutbacks in consumption patterns in the United States. Mr. Rockefeller replied that the world's problems were severe and would require long-range planning.

Senator HATFIELD. How do you feel about cutbacks in various consumption patterns today in the United States?

Mr. ROCKEFELLER. I am a great believer, Senator, as I am sure you know, because I know you are too, in long-range planning. I do not think the world's problems today can be met by crash operations. They are too serious. They are too real. They are too tremendous in scale.

We have got to know where we are going. We have got to look down the road ten years ahead. And we have got to be able to work with nations across the board to achieve objectives which are going to protect the interests of humanity, of human dignity, and the concept of freedom.

Senator HATFIELD. Is that not a pretty hollow ring to one of the 10,000 that is dying today because of starvation?

Mr. ROCKEFELLER. Yes, it is a hollow ring, sir, but his children may be well saved as a result of it.

Senator HATFIELD. Do we talk of the immediate starving people?

Mr. ROCKEFELLER. That makes a wonderful statement. I do not know how many people you figure are going to starve in India and Bangladesh in this next year. But I would venture the guess, that the United States does not have the food, or do those countries have the capacity to deliver the food to prevent that starvation—tragic, unbelievable as that is.

The vehicle by which the U.S. Government provides food aid is Public Law 480. Senator Hatfield asked Mr. Rockefeller if he favored an increase in exports under this program for this year. Mr. Rockefeller replied that an increase in exports under Public Law 480 would raise prices in the United States since we no longer have the surpluses of former years. He added his view that the world shortage of food may well be the greatest challenge the United States has had to face.

Senator HATFIELD. Do you feel we can increase our Public Law 480 exports this year?

Mr. ROCKEFELLER. Public Law 480 is a law, sir. It is not food.

Senator HATFIELD. It is the vehicle by which we can supply food.

Mr. ROCKEFELLER. That is correct. That means taking the food from this country. That means the prices of food going up in this country, and as long as we have the courage to face that, and we want to say to the American people, okay, we are going to do this, and that price is going to be this, but let us not kid the American people any more on any of these subjects. They are too serious.

Senator HATFIELD. Let us not kid the American people or ourselves either, that we are going to build foundations for peace upon stunted minds and stunted bodies of people who are starving today, while we talk about long term development, and long term productions, because, Governor, from 1969 to 1972 we were able to export on the average of nine million tons annually under Public Law 480. Today we are looking at a figure of three to 3.4 million tons.

I have not noticed the price of food going down because we have kept more here at home. Also, I have not noticed the American people have benefited either from international stability by this reduction in food exports.

Mr. ROCKEFELLER. But, Senator, we have had 40 years of surpluses in the United States of overproduction, which the United States and the Department of Agriculture wrestled with trying to preserve the prices from going down through the bottom to protect the American farmers.

All of a sudden, and I am sorry—I have it, I think, in here, the chart showing when the price of wheat and grain went from a very low figure right straight up. It was when the Soviet Union bought close to a billion dollars worth of grain, that was the turning point, when we went from a surplus nation to a nation of short supply.

The world is in short supply. The demand is outstripping the available supplies. There are only three exporting nations now, United States, Canada and Australia. We are facing not a short term emergency problem. We have got that too. But we are facing the most serious long term problem in terms of growth of population, development of foreign exchange, and food that the world has ever known in its history, and it is the greatest challenge to the United States that we have ever had.

Senator Hatfield commented on the inequities in the distribution of American food aid with the State Department attempting to use the aid to the benefit of our military and political allies whereas the Agriculture Department sought to increase American markets for the future. Mr. Rockefeller disagreed with this statement as lacking a clear sense of national purpose and as discounting the conflicting interests inherent in the American system.

Senator HATFIELD. Yes, I think it is, Governor. I think we also have to let the American people know that that exporting policy we have been following has been dictated primarily between alternating influence of the State Department and the Agriculture Department.

The State Department says let us give food where not necessarily hunger exists, but where our political and military allies exist. And when we export 600,000 tons of fertilizer into the world of need, and half of that goes to South Vietnam alone, with the relative population of South Vietnam to the other areas of the world in need, and when 64 percent of it is going to be exported this year to that same country of South Vietnam, when we can put 15 percent of our foreign

economic aid into the Middle Eastern countries that are already enjoying 90 to 109 percent of the daily calorie intake requirement, we obviously, then, on the one hand are not concerned necessarily with the human suffering as much as we are with political and military alliances.

And on the other hand, we have the Agriculture Department that sees foreign aid under Public Law 480 as where we can develop the most potential for our American markets in the future. I think we have to also recognize that this has not been under the great guise of humanitarianism that we have tried to promote foreign aid, and while many American people today feel that foreign aid has really been a waste, because where are our friendships in the world that we have supposed to have been buying with this foreign aid.

Mr. ROCKEFELLER. Senator, I don't disagree with you. What I think you are doing is giving the most eloquent statement as to the lack of clear sense of national purpose of this country in this critical moment in history. We have conflicting forces, conflicting pressures, conflicting interests, which have not been reconciled, and they all have sponsoring groups with tremendously strong vested interests behind them.

Senator HATFIELD. That is why I wanted to know about your statement that "Unfortunately the tradition of sharing with others seems now to become a political issue." Is that what our foreign aid program is today?

Mr. ROCKEFELLER. Well, I was applying it to myself, if you will forgive me, sir. But I would be glad to apply it on a broader base.

Senator HATFIELD. So that is what the basis of our foreign aid is today?

Mr. ROCKEFELLER. A political issue? Well, I would like to say, sir, that unless we represent our national interests abroad as well as our conscience, we will not be serving the American people.

Senator HATFIELD. Are those interests abroad economic, military, political, or humanitarian, or—

Mr. ROCKEFELLER. A combination of all of them.

Senator HATFIELD. And what is No. 1 in the emphasis?

Mr. ROCKEFELLER. The well-being of the American people.

Senator HATFIELD. As represented through what—military, political?

Mr. ROCKEFELLER. The preservation of human dignity and freedom for the future, not only for us, but of mankind. We are the last bastion to fight for that.

Senator HATFIELD. Because our future is tied in with common humanity throughout the world.

Mr. ROCKEFELLER. Yes, sir—totally interdependent.

Returning to the question of an increase in exports under the Public Law 480 program, Senator Hatfield again asked Mr. Rockefeller if he would favor such an increase. Mr. Rockefeller responded by saying that we had increased exports to the Soviets, but that the issue was complicated with many interdependent factors.

Senator HATFIELD. Then you would not be for increasing support for Public Law 480 at this time?

Mr. ROCKEFELLER. I didn't say that. You didn't ask me that before. I think you have got to say to the American people—look, as I am sure Dr. Kissinger has already said, we have got to do our share. Now, we have sold, what, a billion dollars worth to the Soviets. They have just bought some more. The Arab countries are worried sick about what they are going to do with these accumulating dollar balance of payments. Maybe it isn't just food, because the balance-of-payments issue is a serious one. Maybe it is who has got the food and who pays for the food, and who works the system for distribution. And I think all of these have to be brought together. This is a complicated, exciting moment in history, one in which this country, I think, can emerge as never before with a sense of purpose, a sense of meaning, for humanity as a whole—in giving meaning to the lives of individual citizens within our country. But we can't do it piecemeal, and we can't do it by slogans. We have got to do it by understanding the deep, fundamental facts and realities. Forgive me. I feel very strongly about these things.

In summing up, Senator Hatfield asked Mr. Rockefeller if he agreed with the statement that world famine and starvation presented the greatest threat to world stability and the peace and security of the United States. Mr. Rockefeller agreed that world hunger was an enormous threat, but he would not qualify it as the single greatest threat.

Senator HATFIELD. Would you agree—in my closing question to you at this time—that the specter of hunger and famine, starvation, if not from the point of view of humanitarian concern, but looking at it purely and strictly from a pragmatic point of view, really is probably the greatest threat to the world stability and peace and security of the United States, more than any other single factor, especially when in one area of the world they have nuclear fission?

Mr. ROCKEFELLER. Senator, I would like to agree with you, but I am under oath. I have got to say to you, sir, that I don't think that a large amount of starvation is going to be reported to the world, even by the nations in which it is taking place. Therefore, I am not sure that this is going to be—a person who is starving is not able to represent himself, his friends, or his neighbors in any way effectively. So that tragically, I worry that maybe what should be, as you say, the most fundamental issue may not be, because of the human suffering of those people and their incapacity to do anything about it. They are cutting down trees to feed the cattle the leaves off the trees, so the cattle can live another week. When that is done, the grass is gone, then the erosion takes place with the wind blowing. Now, it has rained in the sub-Sahara. Maybe we will see some changes. But we have got some fundamental questions to face in this world—fundamental from a humani-

tarian point of view. But as to whether it is going to be the biggest issue—unless we make it so.

Senator HATFIELD. You don't see our national interest or security threatened here with that issue?

Mr. ROCKEFELLER. I see it threatened, our national security and our national interest. But this is not the only threat. This is part of the threat.

Senator HATFIELD. It is a lesser threat than perhaps military arms and military assistance?

Mr. ROCKEFELLER. No; I would not say that. I would say it is a threat that can be used by those who would like to undermine or destroy—I listened to one of the commentators last night on television. Maybe it was the night before. He was talking about this conference you referred to, in which he said that the Communist world went through their usual polemics about capitalism and selfish imperialism causing this hunger, and one other quote, and so forth.

There are plenty of people who will try to pin this on us. So that we have a responsibility all right in terms of representing the national interest of the American people. But we can't solve this from within our country alone. This is a very big issue, and it is tied to other issues, and maybe nations have got to figure, with population growth rates as they are, that food growth rates have got to be commensurate, and if they are not, then maybe it is not all the fault of the American people, who are generous, kind, wonderful, decent people, wanting to do the right thing.

IMPOUNDMENT OF FUNDS

There was only one specific reference to impoundment of funds in Mr. Rockefeller's testimony. In a more general discussion of balanced budgets and inflation, Mr. Rockefeller noted the dilemma which faced former President Nixon. (See following section, on "Inflation.")

INFLATION

The Committee asked Mr. Rockefeller to state his views on how he, as Vice President, would be involved in the fight against inflation. The nominee responded that any role he would play would be one directly requested and outlined by the President.

The Committee subsequently asked Mr. Rockefeller about his position with regard to a tax increase as a method of halting inflation.

Senator HATFIELD. Governor, a while ago, from questions asked by Senator Cook, you indicated the problems that you faced in New York State as Governor, and you mentioned the fact that you had been able to persuade a reluctant legislature to increase taxes in order to put the State of New York on a sound fiscal basis.

In light of the suggestions now being made by some economists to halt the problems of inflation, that we should increase taxes, would you care to delineate between the motiva-

tion of increasing taxes as Governor of New York, which I assume was for the purpose of balancing the budget, and providing the needed services of the State, and the use of tax increases to halt inflation, and what are your views on that?

Mr. ROCKEFELLER. Well, inflation, as I see it today, is not a typical or a traditional inflation in this country. Inflation today importantly relates to two international developments; one being the OPEC countries, the Arab countries, and their colleagues, increasing 400 percent the price of petroleum products, and secondly the shortfall on food supply in the world.

* * * * *

Secondly, the more traditional aspects of inflation, namely spending large amounts by government, and the borrowing of money, deficit financing, the Keynesian theory, to stimulate economy—has been useful, I think, in periods of low employment or high unemployment.

But now we have this strange combination of inflation and high unemployment, so now traditional methods of expenditures do not work.

I have advocated for some time—as a matter of fact, I supported President Nixon in his effort to bring the Federal budget into balance last year. The discussion about the impounding of funds, it seems to me, if my memory is correct, the Congress had voted—authorized appropriations in sums larger than the estimated revenues. These could only be met by either increasing taxes, increasing the debt ceiling, or cutting expenditures.

At that time I do not think anyone was very excited about increasing taxes. The debt ceiling was not raised. And as the appropriations stood, I supported the fact that he did not spend all the money which had been authorized because I did not see how he could without further feeding inflation.

So I stand in a position of supporting holding down expenditures at this time.

This is contrary to what, Mr. Chairman, you said about my record in the State, and I think we are in a different period, and I think the same is true for the State, that this is a period to do what is basically essential, but to postpone some of the things which are desirable, but which just continue to feed cost inflation.

Senator HATFIELD. Would you support a tax increase at this time?

Mr. ROCKEFELLER. That is where I am coming to the tax increase:

Now, we come to the question of tax increase, as to how the monies, the gross national product, should be used. And while I majored in economics, I am not an economist, but I do think that with these tremendous shifts that are taking place in the world—and I did not mention raw materials, but that is another one that is coming into this same area, along with food and energy—there are very large demands on our eco-

economic system for increased productivity. We have short supplies in many areas.

The capital market at the present time has dried up to a considerable degree, and that is one of the reasons why we have these great pressures on the interest rates, because the demand has been for borrowed money, because they have not either had the earnings, or been able to sell securities, either common stock, preferred stock, and in many cases float bond issues.

Now, this is particularly true of the utility companies, and they have been caught in a very serious bind. So that I would think generally speaking that we have got to channel more of our gross national product into capital formation for investment in new production, and that the past percentages are not going to be enough, and therefore perhaps we have got to slow down some on consumer goods during this period, and on Government spending.

So that this brings me to the tax increase. Certainly, a tax increase would help cut down on inflation pressures, but I am not sure that cutting expenditures would not have the same effect, and that better to have the capital rather than going into expenditures of Government—going into capital production.

That is a long story to try to answer your question, but that is a little bit, Senator Allen, what you were talking about, inflation, and how you view it, and I think that is how I view it.

Senator HATFIELD. You would not rule out the possibility of an increase in taxes as one method of halting inflation at this time?

Mr. ROCKEFELLER. I am not sure that I do not think there should be tax reforms, because in a period of inflation inequities are bound to result from rising prices, and I think one of the most serious things is that the people in this country should feel there are inequities, that one segment of society is doing better, the other one is penalized.

When asked if increasing taxes would be a legitimate tool for the Federal Government to use in trying to curb inflation, Mr. Rockefeller replied that he would prefer, at this time, to see a cutting of expenditures. Repeating that there is no single, simple remedy for inflation, the nominee isolated the energy and food shortages as primary areas for concern. On energy he advocated conservation and domestic production of sources. Mr. Rockefeller stated that domestic food production must be increased creating a reserve to cushion the shocks on price and on demand. He stated that we must also assist other countries in producing their own food.

With regard to wage and price controls and their effect on inflation, Mr. Rockefeller made the statement:

Mr. ROCKEFELLER. * * * I am skeptical of it for the reasons you first outlined at the present time until our productivity gets back closer to what the demands of the consuming public in this country and the world are. To me the most serious

problem we have is increased productivity and the channeling of capital to those areas where this productivity has got to be accelerated.

Senator BYRD. You say skeptical of it. Are you skeptical of the wage and price controls or voluntary wage and price guidelines or both?

Mr. ROCKEFELLER. I am skeptical of the success of that in achieving both price stability which is cutting down inflation plus the increase in productivity.

When the Committee resumed the hearings in November, Mr. Rockefeller responded to a request for his views on fighting inflation by describing it as an economic political problem and discussing factors contributing to it.

On inflation, we face a totally new inflation situation. It is not a domestic situation that has the patterns that we are familiar with, or in my opinion, even responds to what became very popularly known as the Keynesian theories, even though our last President was a late convert to that concept, and did try to operate a full employment budget.

I think we as a nation have now to face and integrate and go through the responsibility of seeing how you relate the energy crisis, the food crisis, the raw material crises which are growing, which relate to the rate of economic growth, and the rate of economic growth to the quality of life, the whole debate whether we should go back to zero growth.

Zero growth for those who want it is great, because it does not, in their opinion, add to pollution, and it is the sort of theory: Let us pull up the ladder post, we are already on board and you leave the others down.

I do not think that is good enough. I think that science and technology, as I mentioned earlier, have not been given, or have become to have a bad name, whereas in my opinion they are the greatest strength, because of the ingenuity of the American people in solving many of these problems, that is we have the capacity to look at these facts, which I think we do, and to see how they fit together, and we develop a concept of the world which perhaps is new, but which relates to our fundamental beliefs in the worth and dignity of the individual, which in the last analysis I have to think is what distinguishes our society from other societies, then we build a sense of purpose around those.

And in dealing on these subjects I think we are going to find that we will solve the inflation problem which really grows out of the totally interdependent world and increase demands which are greater than supplies or artificially high prices, which have accelerated inflation.

Now it is either world demand with short supply, or artificial prices because of political reasons, and we have seen politicizing various phases of our economic life, so inflation is no longer an economic problem. It is now an economic political problem. And, of course, tragically a social problem, because it is the people who are hurt most.

INTEREST RATES

In the course of a discussion of housing problems, Senator Hatfield asked Mr. Rockefeller what he would suggest to solve the problems in view of high interest rates and other factors.

Mr. ROCKEFELLER. Well, building materials are not as short now as they were, because housing slowed down. I think money is really the heart of the problem, the high interest rates, and lack of money. This gets back, I think, partly to this fundamental question of the capital formation in this country. The capital markets of this free society are at the moment in very bad shape; the high interest rates which result from scarcity of money, and a rapid effort to expand both inventory and plant by producers of goods and services who were unable, either through earnings, or through the sale of preferred stock, or even buyers have had to borrow from banks.

So you have had an unusual situation where corporations are competing at a very high level for borrowings, and then the banks have paid higher interest rates, and then they have this new floating interest rate which is syphoning money out of the savings accounts and out of the—what do you call them—savings and loan associations.

So that, we are in a totally new very serious situation. There is no one single simple answer. Traditionally, housing in this country was built by private capital. Then the Government has tried to come in, first low income housing to help on low income, and then low income and middle income housing.

I personally think that for the long run there has got to be some means for channeling savings more effectively into the construction area of housing for investment, and I am not sure that pension funds, which have been in the stock market and now, I think, they have found that that was a mistake, whether pension money funds as is done in other countries should not be channeled into housing through incentives and legislation. There is about \$7 billion to \$9 billion a year.

Senator HATFIELD. Did you say that could include tax exempt status for a certain amount of interest earned from small savings accounts that would provide people an incentive as a contrast to those who heavily invest in tax-exempt municipal bonds and get such tax breaks, that you would provide this, or could provide this for small savers?

Mr. ROCKEFELLER. That certainly is one possibility. I would feel it was totally inappropriate for me to speculate on just how, or what the provisions should be.

Following an exchange about wage and price controls, Mr. Rockefeller responded to a request from Senator Byrd for the nominee's recommendations on high interest rates.

Mr. ROCKEFELLER. Well, if the capital market were functioning then I don't think the interest rates on loan money would be so high. But the market, the capital markets due to a series of other complicated circumstances are really not supplying the essential capital that is needed today and the incentives for saving and putting it into equity, stock for investment, by corporations is just not there in the face of these high interest rates. They think they can do better in loaning the money. And this is the reason for the housing situation and this is the reason for the shortage of industrial capital for expansion.

Senator ROBERT C. BYRD. Would you advocate that the Federal Reserve further relax its tight money policy?

Mr. ROCKEFELLER. I would think it would be difficult to do so without some other steps being taken to encourage the flow of funds into the capital market at the same time. But I think taken together that would be possible.

Senator ROBERT C. BYRD. All right.

Then your formula would be what? One, two, three, four.

Mr. ROCKEFELLER. Well, the formula, the objective of the formula is to increase production at home and abroad on food; at home and abroad on energy; at home and abroad on raw materials. And on the production of industrial capacity—there I think that this is primarily a responsibility of ours at home. And to do this I would think the incentives for capital formation and investment in all of these areas is tremendously important.

Now the farmers for instance with exceptions have done very well within the last couple of years so they have capital with which to expand and this is good. There's a problem on tax laws about inheritance and those are up for discussion and I think those have to be considered in relation to investment on food production. I won't get into that.

The whole thing is interwoven which is to me the fascinating thing today. We cannot solve one problem without solving another. We have to see this in relation to the others. We come to energy and we say what percentage of energy do we seek to produce in this country in relation to our demand.

The objective is to increase productivity in all of these areas. The means of doing it are to increase incentives for capital formation and investment that make possible that increased productivity. Part of that and the cheapest way of all is savings with incentives, tax incentives or Government incentives, and penalties. It's got to have the combination of the two. On savings particularly in energy of all forms.

Senator ROBERT C. BYRD. What about high interest rates?

Mr. ROCKEFELLER. Well, my feeling is that if you combine the incentives for capital formation that you can then ease

the money supply, and the interest rates will come down. But to do it without that will make an increasingly artificial situation where we build productivity out of the loans instead of out of equity investments. We're in a very unsound position in this country with respect to percentages—borrowing of corporations as distinct from equity or preferred stock is way too high.

Senator Cook continued the discussion on the subject of high interest rates with Mr. Rockefeller. The Senator made the point that there is a need to infuse savings into the private sector in order to improve the interest-rate situation. He pointed out that over-borrowing on the part of the public sector has caused the capital markets to function less well than they could. Mr. Rockefeller agreed that these were factors contributing to high interest rates and the availability of funds. He reiterated his opinion that due to the complexity of the problem a look at all of the facets are necessary to unscramble it.

Among the questions put to the nominee about his financial assets was a query as to what interest rate he paid on the liabilities he had in the form of notes. After conferring with counsel, Mr. Rockefeller stated that he paid the current rate of twelve percent at Chase Manhattan.

MEDICAID

Mr. Rockefeller cited the Medicaid program as an example of the flaws in the present Federal grant-in-aid system:

When you passed the Title No. XIX, and the Medicaid, we studied that law very carefully, and we raised our eligibility standards for Medicare. And we are entitled to \$217 million.

I got a call from Senator Javits, who said, for God sake, come down to Washington. We have a crisis.

I came down, met with the whole delegation. New York State has taken all the money planned by the Congress for the entire United States. I said, look, Senator, we did not write the law. We knew nothing about the law. We were not consulted about the law. We found it when it was passed and signed. We had a good Philadelphia lawyer study it, the law, and we took those steps which entitled 1,200,000 people in our state to get Medicaid, and it was a Congressman who said, "By God, if I had known what was in that law, I would have voted against it."

I said, "Go back and tell your constituents that because they were our constituents and they would feel more confident about the representation."

So, this was the kind of thing.

What happened?

The Congress cut back. We had to cut back. Six hundred thousand people lost what we promised them, and they do not think that we can wonder why people are disillusioned about government when that kind of thing happens.

NATIONAL HEALTH INSURANCE

In response to a question with regard to his views on a national health insurance program, Mr. Rockefeller said that he had first recommended such a program in 1960. He also described some of the elements which such a program must include, if it is to be workable and financially feasible.

Senator Cook. Governor, the other day I had a conversation with many employees at the Armco Steel Plant in my State who are members of the AFL-CIO, (I might also say the Kentucky Medical Association is meeting in Louisville this week.)

The one question they asked me is your attitude about a national health insurance program, because they do not want to be included in a national insurance program. They worked hard and negotiated long to have one of the finest health programs that anybody could have. They are very concerned about the attitude that the politician has about a national health insurance program.

This surprised me. As a matter of fact, it surprised me so much that I got a copy of their program from management so that I could read it * * *

* * * * *

Now, I am wondering how you feel about that national health insurance philosophy, as it applies to programs that are now existent, within the corporate structure and within the labor structure, where they feel their health programs will stand in jeopardy if they are included in a mass Federal health program so that they may not have the benefits that they feel they now do have.

Mr. ROCKEFELLER. I understand exactly what you are saying, and I share with those individuals the concern which they have in the preservation of the opportunities which they enjoy in their own health insurance plan.

At the same time, I have to say that I think there are two fundamental requirements for the quality of opportunity in this country. One is good education, and the other is good health. Every citizen needs good education and good health if he is going to be able to maximize his own potential.

We studied this question of health insurance, and particularly for catastrophic illness in the early days of the administration. I had some studies made before I became Governor. I started with the concept of approaching it on a State basis, that we should have a State health insurance plan built around the corporate plans contributory to both corporation and individual, but with latitude for individual plans, and then with State assistance to those who either were non-employed by a corporation, or where a small corporation did not have the capacity to do it, where the State was going to supplement.

Now, this was an interesting plan, and a good plan, but the trouble was it added so much to the cost of doing business in New York as distinct from other parts of the country, that we feel we could not do it as a State without jeopardizing our competitive position with other States.

Therefore, in 1960 I made my first recommendation that there should be national health insurance for the aged, but based on the private plans, which had already been developed, and incorporating those, and not making it, except where there was a necessity, a plan where the Government would come in to help contribute for the individual.

Now, I have studied this ever since. I followed the plans as they have come along. I think that one or the other aspects of this, which is terribly important: we all think about the financing, but the delivery system itself is a very major part of this, and if you pump money into the health field without expanding the service end of it, you just push the prices up, which is what has happened.

We have been in a very difficult period in the United States. But it is difficult the way we go about things sort of slowly evolving and experimenting. It gets us there in the long run. It is pretty expensive on the way.

I think we have to work out an intelligent plan, building on what has been done, and industry and labor have pioneered in this, done a magnificent job, and extend this same opportunity to others on a contributory basis, but with support from the Government on a level that the Government can afford. That is not going to destroy the fiscal integrity of our Nation.

PRAYERS IN PUBLIC SCHOOLS

Senator Allen sought to elicit from Mr. Rockefeller specific statements on the question of prayers in public schools:

Senator ALLEN. The other subject that I wanted to cover was your attitude about voluntary prayers in public schools. What is your attitude on that?

Mr. ROCKEFELLER. Well, I believe in prayer. And when I took office there were prayers in the public schools of our State. The Supreme Court decision then declared those illegal and so they were terminated.

Senator ALLEN. Haven't you at one time advocated a constitutional amendment that would permit voluntary prayers in public buildings, public schools?

Mr. ROCKEFELLER. I don't know as I advocated an amendment. As I said, I believe in it. I don't think I have advocated an amendment.

Senator ALLEN. I notice on page 264 of this book prepared by the Library of Congress, in 1964, he—referring to you—did state his position in greater detail supporting a constitutional amendment providing for prayer in the public schools under certain conditions.

Senator Allen continued his questioning the next day:

Senator ALLEN. Yesterday I asked you about your advocacy of a constitutional amendment that would under certain circumstances permit voluntary prayers in public schools and you did not at that time recall having taken a position. Have you since checked to find what your attitude in the past has been?

Mr. ROCKEFELLER. I could not find any place where I actually recommended a constitutional amendment.

* * * * *

Senator ALLEN. Now, this compilation of some of your public statements prepared by the Library of Congress on page 265 does give this account of your advocacy of the constitutional amendment, and I might say that I strongly favor a constitutional amendment in this area, but three principles were stated by you as a criteria in support of a constitutional amendment permitting school prayer.

One is participation by the student on a voluntary basis.

Two is the nondenominational nature of the prayer.

And (c) the right of each school board to make its own determination as to the use of the prayer which conforms to the principles of (a) and (b).

Would that be in line with your present views?

Mr. ROCKEFELLER. I was wrong. I did advocate, Senator. I did not remember.

On February 7, 1964, at a news conference in the Medford Airport in Connecticut I said as follows: What I think that should be done is that Congress should hold hearings on this subject so that the American people can effectively express in a tangible way their concern and feeling about the subject. Then out of those hearings I feel confident that an amendment could be developed which would permit on the basis of free choice prayers and Bible studies in the schools.

Senator ALLEN. And you are still of that view?

Mr. ROCKEFELLER. Yes.

REVENUE SHARING

One witness before the Committee described Mr. Rockefeller as the "godfather of revenue sharing." In response to questions from members of the Committee, Mr. Rockefeller indicated his belief that the extension of the general revenue sharing program was "imperative." He also supported the concept of converting categorical grants into block grants, and suggested that all matching fund provisions be removed from grant-in-aid programs.

Senator COOK. Governor, in your discussions with Senator Hatfield, you talked about solutions to the economic problems.

Do you find that—and I also make a parallel to the remarks by Senator Pell this morning in regard to the Lockheed vote, it is imperative in your mind as the former four-term Governor for the State of New York, now a nominee for the Vice

Presidency of the United States, that the Congress move to extend revenue sharing to the States?

Mr. ROCKEFELLER. The word "imperative." All right. I will accept the word "imperative."

I think myself, for two reasons, it is imperative if you include categorical grants being made into block grants as part of that concept. In other words, revenue sharing was a new outright grant by Congress to the States. The big bulk of the money comes through these 1,000 and some categorical grants.

If the Congress were to put those into block grants for primary-secondary education, for higher education for certain areas, that it would remove the tremendous complexity and restrictions and all the matching fund provisions, I think that that would answer the point that I was trying to make.

Senator COOK. I would like to interrupt you at this stage of the proceedings because the next part of that question was, if it is imperative that revenue sharing be continued, which this Senator believes it should, then do you not believe that what you are really talking about is moving in the direction of an education revenue sharing program to match the success we have had in two communities, two States, two local governments?

Mr. ROCKEFELLER. Very definitely, Senator. Very definitely.

* * * * *

Mr. ROCKEFELLER. I happen to believe that the government closest to the people is the best government and therefore, I am very strong for local government. So New York State, under my administration, constantly increased State aid to local government, to a point where 62 cents of every dollar in taxes the State collects goes back to local government to help them meet their responsibilities to the people at the local level. We are number one among all States in the Nation on the amount of money per capita going back to local government. I think it is sound.

We use the income tax because it is a fair tax, a broad base tax, it is a progressive tax, and we felt it was fairer than the real estate tax that local government had to use primarily for their purposes. So this is where the largest share of increase in our expenditures went.

New York State is number 47 among States in the amount of money it spends per capita on State government. So we are on the top of the list on what we give to local government, and the bottom of the list on what we do for State government expenditures.

I have to say to you, sir, in my opinion the Federal Government has to do more in the direction in which you started so beautifully with revenue-sharing, which is to help government get closer to the people, meet their responsibilities with unrestricted funds so that those funds can be used responsibly to the benefit of the people at the local level.

* * * * *

Mr. ROCKEFELLER. I would like to mention one more thing, Senator Allen, if I might, in connection with this. It is not only direct Federal expenditures but in the laws that are written by the Congress, signed by the President, there are mandated expenditures by local government and State government to match these, so that there is a secondary factor that you forced a local government to spend more money. That needs to be reviewed, plus the fact in the whole series of legislative acts now mandated expenses on private enterprise in relation to safety, in relation to ecology, and so forth.

I think we have to reexamine those because there are many industries now paying up to 33 percent capital costs for one or another of these very important programs. But, I think we have to say can we postpone for a period certain steps that are being taken?

Senator ALLEN. You do plan to exert your best efforts and cooperation with the President to see that the Federal Government does have a balanced budget for the fiscal year starting July 1, 1975?

Mr. ROCKEFELLER. Yes, sir, I do, and I just have to add this other one thing: that I think it would be very useful if Congress when they pass legislation said this is what it is going to cost the Federal Government, this is what it is going to cost State and local governments, and this is what it is going to cost private enterprise, so you put those figures into the law too so everyone can take a look at it.

Senator ALLEN. Well, the revenue sharing program eliminated a lot of matching for Federal grants.

Mr. ROCKEFELLER. Very helpful.

Senator ALLEN. You thought that that was wise expenditure of taxpayers' funds?

Mr. ROCKEFELLER. Yes, sir. And, if you get categorical grants put into block grants and you say the number from over 1,000 down to 50 or 60, you are going to eliminate an awful lot of layers of government structure. A good friend of mine, one Governor out West, in connection with the water quality—this is an area I have been very interested in—is a believer in cleaning up our own waters, and he has to have two staffs. One staff is to answer the questions, fill out the forms for Washington, make the applications and redo them, and so forth.

The other staff is to carry out the program in the State in which he resides.

TAXES

Capital Gains Tax

On September 23, 1974, Mr. Rockefeller was questioned as to the tax recommendations he made to the New York State Legislature and the impact these recommendations might have on Mr. Rockefeller's tax liability, with particular emphasis on New York State's taxation of capital gains. On September 24, Mr. Rockefeller responded in full to these questions.

Mr. ROCKEFELLER. * * * Senator Cook inquired [yesterday] as to the increase in New York State capital gains tax. The facts are the tax on capital gains was increased in three ways during my tenure as Governor.

First, since there was no separate capital gains tax in New York State, the three increases in income tax rates during my administration also increased taxes on capital gains; second, a minimum income tax on capital gains went into effect in 1970 patterned after the Federal minimum tax enacted in 1969.

The minimum tax, initially 3 percent, was increased to 6 percent in 1972.

Third, the percentage of long term capital gains required to be included in income subject to tax was increased from 50 percent to 60 percent.

Excess Profits Tax

Mr. Rockefeller proffered a suggestion for an excess profits tax with regard to energy companies as a means of encouraging reinvestment of capital.

Mr. ROCKEFELLER. * * * I advocated, and maybe this goes back to a question that Chairman Cannon asked before, I advocated last year there should be an excess profits tax on energy companies for the simple reason that they did have large profits, importantly from inventory increases in value, but that because of the tremendous requirements for investment in new production, from new sources of energy, and that in my judgment a lot of that should be in the United States because our dependence on imports is growing.

We have now gone from 27 percent of imports of oil, at the time of the boycott, to 35 percent now, and we are spending \$25 billion a year in exporting—I mean importing oil products, and we are going to have a very serious problem on balance of payments.

So that there is a double reason to want to produce more petroleum and coal and gas through standard procedures, or through new procedures, making gas out of coal, oil out of shale, or oil sands.

To do that is going to take a lot of capital. I think there should be a provision, this is my own personal feeling, there should be a provision that says that if the monies are used for increasing production, plus essential dividends and interest, and working capital, then they would be subject to normal taxes, but if they are not used for that, but for some other purpose, then I would have to say I think they should be subject to an excess profits tax.

*Tax Increase*¹

Senator HATFIELD. Would you support a tax increase at this time?

Mr. ROCKEFELLER. That is where I am coming to the tax increase.

¹ See also discussion under "Inflation" *supra*.

Now, we come to the question of tax increase, as to how the monies, the gross national product should be used. And while I majored in economics, I am not an economist, but I do think that with these tremendous shifts that are taking place in the world—and I did not mention raw materials, but that is another one that is coming into this same area, along with food and energy—there are very large demands on our economic system for increased productivity. We have short supplies in many areas.

The capital market at the present time has dried up to a considerable degree, and that is one of the reasons why we have these great pressures on the interest rates, because the demand has been for borrowed money, because they have not either had the earnings, or been able to sell securities, either common stock, preferred stock, and in many cases float bond issues.

Now, this is particularly true of the utility companies, and they have been caught in a very serious bind. So that I would think generally speaking that we have got to channel more of our gross national product into capital formation for investment in new production, and that the past percentages are not going to be enough, and therefore perhaps we have got to slow down some on consumer goods during this period, and on Government spending.

So that this brings me to the tax increase. Certainly, a tax increase would help cut down on inflation pressures, but I am not sure that cutting expenditures would not have the same effect, and that better to have the capital rather than going into expenditures of Government—going into capital production.

That is a long story to try to answer your question, but that is a little bit, Senator Allen, what you were talking about, inflation, and how do I view it, and I think that is how I view it.

Senator HATFIELD. You would not rule out the possibility of an increase in taxes as one method of halting inflation at this time?

Mr. ROCKEFELLER. I am not sure that I do not think there should be tax reforms, because in a period of inflation inequities are bound to result from rising prices, and I think one of the most serious things is that the people in this country should feel there are inequities, that one segment of society is doing better, the other one is penalized.

Investment Tax Credits

Mr. Rockefeller endorsed an investment tax credit for individuals.

Mr. ROCKEFELLER. It seems to me that since we give the corporate structure an investment tax credit, that if we want more funds to go into savings, we have to give the individual an investment tax credit or incentive so that it is to his advantage to save. Then we can get funds into the banks, and the building and loans, and into the credit unions, and as a direct result of that advantage and as a direct result of the

increase in savings, then the interest rate will automatically come down.

Minimum Tax for the Wealthy

Senator ALLEN. Do you then favor a minimum tax for the wealthy no matter what the source of income?

Mr. ROCKEFELLER. I think frankly, Senator, now that you raised it, I think there's a lot of merit in that concept because if a person that has the capacity to have resources and makes it possible for him to buy tax-exempt bonds and to have no income from any other source and would then not be eligible for a tax. And I think this is something that might well be considered as part of a tax reorganization plan.

Senator ALLEN. Well, do you think that at present the so-called minimum tax is high enough or is adequate to fill the need?

Mr. ROCKEFELLER. I wasn't aware that there was such a thing as a minimum tax.

Senator ALLEN. Yes. There is a so-called minimum tax on the books now. It's been said that there are more loopholes to it than there are means of getting remedies, but we do have a so-called minimum tax.

Mr. ROCKEFELLER. I assume when you were suggesting this that you had in mind a flat minimum?

Senator ALLEN. Yes. No matter what the source of income.

Mr. ROCKEFELLER. No matter what the source of income was and what the deductions were, there would be at least an x minimum tax paid?

Senator ALLEN. Yes.

Mr. ROCKEFELLER. That's the one I responded to positively, thinking that it has merit, from the point of view of equity.

Senator ALLEN. What do you think of the present tax provisions on the books? Do you think that's adequate, is it high enough, sufficient to meet the needs without creating loopholes whereby it could be avoided? We still have many millionaires not paying any income tax.

Mr. ROCKEFELLER. Well, I suppose the answer would be that if I thought what you have just said were right, then I would not think that a flat minimum would be necessary. So I would have to say that I don't think the present tax covers it, and therefore this should be considered.

URBAN DEVELOPMENT

Mr. Rockefeller told the Committee that the redevelopment of inner cities is an extremely difficult problem that will require the solution of such social problems as drug abuse and poor education in addition to the physical problems of providing decent housing. He explained the work of the New York State Urban Development Corporation, and gave his views on the steps that might be taken to solve the current housing crunch.

Senator PELL. You touched earlier on the question of block grants in Federal aid and your view that they are desirable.

We are faced, as you know here in our country with the fact that many of our inner cities are becoming black and suburbia remains white.

If you have block grants many local governments will put money where the voice is and where the wealth is and where the vote is, because the ghetto areas are very poor when it comes to fielding a vote; and this is one of the problems with the block grants because the money does not go where Congress intends it.

How would you handle this problem of upgrading the central core areas of the city?

Would you support the idea of a greater Federal direct contribution to the education process, or what would you do?

Mr. ROCKEFELLER. Well, we set up in New York here a development corporation, which corporation has the power of condemnation, the power to sell bonds, and the power to overrule local zoning regulations.

We ran into the same suburban problems you are talking about. But the group in that organization has come to the conclusion that you cannot do, for instance, rehabilitation of existing homes unless you do a large area and unless the services in that area of the city are also raised to a level that is going to be commensurate with the needs of the people—otherwise your efforts will fail—so that it is a total community approach.

I feel very strongly that it's necessary to reestablish the vitality and integrity of these core areas to make them areas where people can live in a decent environment and bring up their children in a decent environment. There has to be total approach, but that involves control of drugs. It involves problems in education, and it involves problems in housing, and also very serious problems in helping the people within these areas to get training for themselves that permits them to take advantage of the opportunities. It is an extremely difficult problem.

* * * * *

Mr. ROCKEFELLER. * * * We had had this housing finance agency which was designed primarily to sponsor—I mean to put up money for privately sponsored or municipally sponsored housing, low and middle income.

But the sponsors were drying up. So we figured the Government itself had to go into the sponsorship. So we developed this corporation after a study which had the power to become sponsors as well as financiers; had the power to sell its own bonds; it had the power to condemn property; it had the power to override local zoning; it had the power to override local building codes, all of which were obstacles to large-scale development.

* * * * *

Senator HATFIELD. * * * You have been interested in housing and, as you know, today we are in a very serious housing

crunch, probably as much as what has historically been the problem of the lower economic groups.

What would you suggest today as to how we would solve and meet the problems that we have in the housing area in light of the high interest rates, the shortage of building materials, and so forth?

Mr. ROCKEFELLER. Well, building materials are not as short now as they were, because housing slowed down. I think money is really the heart of the problem, the high interest rates, and lack of money. This gets back, I think, partly to this fundamental question of the capital formation in this country. The capital markets of this free society are at the moment in very bad shape; the high interest rates which result from scarcity of money, and a rapid effort to expand both inventory and plant by producers of goods and services who were unable, either through earnings, or through the sale of stock preferred, or even buyers have had to borrow from banks.

So you have had an unusual situation where corporations are competing at a very high level for borrowings, and then the banks have paid higher interest rates, and then they have this new floating interest rate which is syphoning money out of the savings accounts and out of the—what do you call them—savings and loan associations.

So that, we are in a totally new very serious situation. There is no one single simple answer. Traditionally, housing in this country was built by private capital. Then the Government has tried to come in, first low income housing to help on low income, and then low income and middle income housing.

I played a very active part in this in New York State. I mentioned the Dunbar Apartments which my father had built 50, 60 years ago in Harlem. It was the first attempt by private citizens to build low income housing. The apartments were great, but the undertaking was a financial disaster. But the housing is still there.

So with that background we developed housing and financing in New York State to try to get money, low interest money into privately sponsored housing, or philanthropically through the church or community and also through the Urban Development Corporation.

Then the 236 money which the Congress adopted, that was very helpful from the point of view of local government subsidizing interest rates, but the problem was they were making 30-year commitments every time they underwrote a rate, and as the rate went up, the government . . .

I remember our former colleague, George Romney saying at one point that they now had over \$100 billion of full commitments in 236 money, and that the program could not go on.

So we had not found the sound way to do it. I personally think that for the long run there has got to be some means for channeling savings more effectively into the

construction area of housing for investment, and I am not sure that pension funds, which have been in the stock market and now, I think, they have found that that was a mistake, whether pension money fund as is done in other countries should not be channeled into housing through incentives and legislation. There is about \$7 billion to \$9 billion a year.

Senator HATFIELD. Did you say that could include tax exempt status for a certain amount of interest earned from small savings accounts that would provide people an incentive as a contrast to those who heavily invest in tax-exempt municipal bonds and get such tax breaks, that you would provide this, or could provide this for small savers?

Mr. ROCKEFELLER. That certainly is one possibility. I would feel it was totally inappropriate for me to speculate on just how, or what the provisions should be.

What I really was trying to do was to touch on the nature of the problem, the magnitude of the problem, the new aspects of the problem and, I think, in the backdrop of all this is we have to recognize that as the Times pointed out in that editorial on Sunday, there are between \$2 or \$3 billion a week in taxes—they did not say "taxes," but money siphoned out of the rest of the world by the OPEC Arab oil countries. They are taking this like a tax.

Senator HATFIELD. But you would be for loosening some of the tight money policies relating to selecting credits, or selecting systems for housing purposes?

Mr. ROCKEFELLER. I think it has got to be. I think myself a long-term solution has got to be more than just tampering with the existing system. I think there has to be some fundamental additions or changes in our approach and concepts, and these are merging.

WATERGATE AFFAIR

In his testimony, Mr. Rockefeller spoke at length on many aspects of the Watergate affair and its aftermath. In response to a question put to him by the Chairman, he denied any connection with the financing of the operation.

The CHAIRMAN. Mr. Rockefeller, in the years 1972 and 1973 were you ever contacted by Mr. John Mitchell, Mr. Bob Haldeman, Mr. John Ehrlichman or Mr. John Dean, or any of those named persons, or any other persons, with respect to furnishing money in connection with Watergate cover up activities?

Mr. ROCKEFELLER. No, sir.

The CHAIRMAN. Did you furnish any money to any of these people or any other people for those purposes during that period?

Mr. ROCKEFELLER. No, sir.

The CHAIRMAN. It has been rumored that you furnished funds to help finance the disruption of the 1972 Democratic Convention. Is that true?

Mr. ROCKEFELLER. It is not true, sir, and I am very grateful to President Ford for having caused an investigation to be made immediately when that rumor was brought to the White House when he was considering his nominee and turned it over to Mr. Jaworski and the FBI and they came back with a totally negative answer.

Mr. Rockefeller expressed great admiration for the American system's ability to deal with the Watergate matter. He had special praise for the role of Congress in helping to restore the confidence of the American people in the constitutional processes.

The CHAIRMAN. Mr. Rockefeller, in an early May 1973 Republican Governors Conference you praised Mr. Nixon's dealing with the Watergate situation by stating, "He is dealing with it in a very forthright way."

Now, in retrospect would you say that that statement is still valid today or would you desire to amend it?

Mr. ROCKEFELLER. No. I would have to amend it.

I feel very badly to say—I thought that was what he was doing, but subsequent events proved that I was not informed and that was not the case.

The CHAIRMAN. In February of 1974 you stated that "Those who would harass and drive the President from office by resignation would not only circumvent but abrogate the Constitution of the United States."

Do you believe that the motive of the Select Committee on the Presidential Campaign Activities, known as the Watergate Committee, was to harass and drive the President from office by resignation?

Mr. ROCKEFELLER. No. I consider what the Senate committee did and what the House Judiciary Committee did which was within the framework of the Constitution, I was referring to public and private statements made by many people and written by many writers that he should get out.

I was asked at one time to head a committee of Republicans to go to him and demand he resign. I felt what had happened should come out. The public should know. And I think the House Judiciary Committee, in this culminating action which it took, did a great deal to restore the confidence of the American people in a constitutional system, in the capacity of the Congress to function effectively. And then with the revelation which came in the last days of those hearings—when the entire committee voted unanimously to render an opinion of impeachment on two or three counts.

I thought the process had then been carried out in the most effective way.

I think the Supreme Court deserves tremendous credit for their unanimous decision, that they had to turn the tapes over. I think that was part of this constitutional process. Both work together.

Then the resignation and his acceptance of the pardon, I think culminated the whole thing and is a proof of the guilt.

In answer to a question of the Chairman regarding Mr. Rockefeller's opinion of the pardon of Richard Nixon, the nominee praised President Ford's decision. He later said that pardons for other Watergate participants could only be considered on a case-by-case basis. [For information about Mr. Rockefeller's general position on the pardon of a former President by his successor, see part VIII of this report, below.]

The CHAIRMAN. On another subject, Mr. Rockefeller, does the news media correctly state your feeling that you approved of President Ford's pardon of Mr. Nixon?

Mr. ROCKEFELLER. I think the way to express it is to submit the statement I made for the record which was that his act was an act of conscience, of compassion and of courage; that, in my opinion, it would be very controversial for the short run, and for the long run it would probably accelerate the healing of the wounds this country has suffered during the past 2 years.

That was exactly my statement. I was not privy to the basis on which the decision was made.

I admire the President tremendously. I am absolutely confident, as we all are, that this must have been for him a very difficult decision and that, in his judgment, knowing all the facts and all the circumstances, this was the right time and the right thing to do.

The CHAIRMAN. As Vice President, how would you advise President Ford on the issue of Presidential pardons for all persons indicted or convicted on Watergate-related offenses?

Mr. ROCKEFELLER. Well, if he should ask me, my advice would be that each one be considered on its own merits when application was made.

The CHAIRMAN. If, in the course of events, you were to become President of the United States, would you pardon any of the convicted Watergate defendants?

Mr. ROCKEFELLER. I would not be able to make a statement in advance because I would have to do what I did in the State which was to have my counsel review the case in detail, talk to the prosecutor, talk to the judge who made the conviction, et cetera, and only after that, and in the light of the situation which now exists in the backdrop of the situation, I would make a decision.

VII. SPECIAL ISSUES BEARING ON THE QUALIFICATIONS OF THE NOMINEE

POTENTIAL CONFLICTS OF INTEREST OF THE NOMINEE

Probably the single most troublesome and central issue in the Committee's hearings and consideration of the nominee's qualifications, fitness, and capability to hold the Office of Vice President of the United States was the conflict-of-interest question, and its broad ramifications—a key public policy consideration made acutely more important by the vast wealth and business holdings nationwide and worldwide of Governor Rockefeller and his family.

Throughout the Committee's hearings that question became a focal point for Committee members, for the nominee, and for witnesses, in an obvious recognition that the potential melding of great wealth and economic power with the great political power of the Vice Presidency or Presidency was worthy of considerable thought, attention, and ultimate judgment.

Consistently in the background in the consideration of most questions during the hearings was the full realization that probably never before had a Committee of the Congress or the Congress itself ever been confronted with a heavier responsibility in a confirmation proceeding. There was the obvious fact that never before in American history has a member of a great family, one probably possessing greater wealth and broader business interests than any in this country, been this close to achieving the second, or possibly ultimately the first highest office in this land.

The Committee felt very deeply its unique responsibility: that each of its members and ultimately each Member of Congress is charged by the Twenty-fifth Amendment to the Constitution of the United States with substituting his or her individual judgment for those of each and every American voter (currently more than 98 million) to whom the task of electing a Vice President has always fallen during our country's 198-year history, with a single exception—the confirmation of Congressman Gerald R. Ford as Vice President of the United States 1 year ago.

The Committee began its consideration of the conflict-of-interest question with the premise that the Constitution sets out no guidelines for the President or Vice President in this area. Neither has the Congress enacted conflict-of-interest laws touching those two offices as it has done for Members of Congress and for officials of the executive departments. The Committee was keenly aware of the fact that in a normal national election process, such questions and their impact would be answered by the electorate at the voting booths by its choosing both a President and Vice President.

But the question before the Committee was, as Chairman Cannon stated it:

What do we do about the possibility of a conflict of interest, or, at least the appearance of a conflict of interest that we are all anxious to avoid?

FIVE AREAS OF CONCERN EXAMINED

To explore aspects of more precise conflict-of-interest questions, Committee members sought to examine the nominee and other witnesses and thereby secure judgmental conclusions about five primary areas of concern:

- (1) Could Governor Rockefeller subjugate his personal interests and those of his family as represented in their vast holdings and act dispassionately in the Nation's best interest?
- (2) What were the nominee's own judgments about his wealth and business holdings as they represented great economic power, potential or otherwise?
- (3) Would requiring the nominee to place his holdings into a blind trust be meaningful because of their vastness, or would some other form of divestiture be appropriate?
- (4) Would public disclosure of the nominee's holdings spread onto the public record, as already accomplished at the Committee's request and by Governor Rockefeller's cooperation, provide for a sufficient continuing public examination in succeeding years for comparative monitoring purposes?
- (5) Does the nominee's public service record of 34 years in State and Federal governmental positions, including 15 years as Governor of the State of New York, support a conclusion that his actions have not heretofore favored his own personal wealth and business interests as opposed to the public's interest?

DISCUSSION ON QUESTIONS 1 AND 2

Personal-Family Interests vs. National Interests

In respect to questions No. 1 and 2 above, as to whether Mr. Rockefeller could view the public interest as Vice President as superior to his personal holdings and wealth, there was the following colloquy after a query from Senator Robert Byrd of West Virginia:

Senator BYRD. Can you separate the interests of big business from the national interest when they differ?

Mr. ROCKEFELLER. Yes sir. No problem.

This direct inquiry and reply followed a series of earlier questions and responses about the influence, potential or not, which can accompany wealth when it is joined with political power. Mr. Rockefeller's direct answer came after an earlier and broader question about whether the nominee, if required to cast a deciding vote on a matter cutting across economic policies and affecting the interests of airlines, hotels, insurance companies, banks, etc., could separate the true interest of big business from the true national interests where such interests obviously

differ. In addition to his direct answer above, the nominee's response was that the general question was a basic one in the confirmation hearings.

When asked by Chairman Cannon how he, as Vice President, could avoid even the appearance of conflict of interest in light of his and his family's financial holdings, Mr. Rockefeller maintained that his individual economic power has been greatly exaggerated. He pointed out that he wields no control over the family trusts of which he is a beneficiary or over the assets of the Rockefeller Brothers Foundation. Nor, he said, are the funds of the Rockefeller Foundation in any way controlled by his family.

Additionally his contention was that the Rockefeller corporations begun by his grandfather, John D. Rockefeller, Sr., have moved "from private family ownership to the corporate structure with a multitude of stockholders." He further said:

... Today management of American corporations are not controlled by some family or individual force outside. They are people who have worked their way up through the company. They are very independent individuals, and there is not this net worth of control which is popularly conceded. . . .

... I am not beholden to any interest or to any person. Should I be confirmed in this job, my sole and only criteria for decision on any subject would be what I felt in my best judgment, based on the length of experience, lifetime or the experience, was the best interest of the people of the United States of America. . . .

Mr. Rockefeller stated that the influence of his family as board members of various foundations and corporations is minimal. He claimed the maximum total holdings of the Rockefeller families in any single company (oil holdings) are 2.06 percent of the outstanding stock.

He further contended that he owned no Chase Manhattan Bank stock himself and the trusts of which he is a beneficiary own none outright. Mr. Rockefeller added that the trusts do hold a portion of the stock of Rockefeller Center and that Rockefeller Center has holdings in the Chase Manhattan Bank, of which his brother, David, is the chief executive officer. As to bank control, he assured the Committee that the total holdings of the Rockefeller family outright and in the trusts represent 2.54 percent of Chase Manhattan stock.

The question of what appropriate steps, if any, should be required by the Committee to deal affirmatively with the underlying question of a possibility or appearance of a conflict of interest posed by the nominee's tremendous wealth and business holdings, personally and family-wise, was explored consistently throughout the hearings.

DISCUSSION ON QUESTIONS 3 AND 4

Blind Trust, Public Disclosure Alternatives

The direct alternatives, as set forth more precisely in questions No. 3 and 4 above, drew varied comments from witnesses and Committee members during the hearings but little in substantive conclusions because of the complexities of the facts at hand.

The Congress over the years as a part of the confirmation process has required of various nominees for high executive department offices where conflicts appear likely (1) that the nominee's stock and/or business holdings be placed in a blind trust with profits eventually going to the beneficiary, or (2) that such stocks and holdings be placed in a blind trust where a charity was a beneficiary of profits, or (3) that the nominee be required to engage in actual divestiture.

But the obvious problems in the case of Governor Rockefeller became almost immediately apparent. As stated by Chairman Cannon, the question of the meaningfulness of a blind trust where the holdings are so broad might be almost moot. Or more succinctly, would this device accomplish the desired purpose of a "trust that was blind" where the assets are so great that they cannot be shifted easily from the nominee's knowledge or view?

Blind Trust Offer.—Governor Rockefeller offered to meet this issue directly in his opening statement to the Committee on September 23 by suggesting the establishment of a blind trust. He said:

*** I have created a blind trust with Morgan Guaranty Trust Co., and should I be confirmed and should Congress request it, I will be glad to put all of my securities that I own outright in that blind trust for the duration. And I will only keep in my own name real estate in the United States and art.

Now, I will also request the trustees of the two trusts created by my father, of which I am a lifetime beneficiary, I will request them to treat me as if they were a blind trust during the duration.

Questioning of various Congressional and public witnesses brought no support for the blind trust approach because, as Chairman Cannon pointed out—

If they (the holdings) are placed in a trust, he certainly is going to know what they consist of, because they are very substantial holdings in a number of big companies in this country....

Divestiture Question.—The question of actual divestiture came up obliquely with respect to whether the conflict-of-interest laws should be specifically applicable to the President and Vice President and whether in this particular instance some form of divestiture should be required. There was no affirmative suggestion at any time that divestiture could be a realistic approach considering the immensity of the nominee's business holdings and the possible effects such divestiture might have in the business world or some phases of the economy.

Public Disclosure Question.—The next alternative considered was the public disclosure of the nominee's broad holdings, something requested by the Committee and promptly agreed to by the nominee. This information was spread on the public record by Governor Rockefeller at the September 23 hearing and additionally on November 13. The nominee's statements showed a personal net worth of \$62½ million plus a lifetime income from two trusts with total assets of \$116 million, and estimates were that total holdings of the Rockefeller family probably approached \$1½ billion.

Various Congressional witnesses appearing in support of Governor Rockefeller's nomination, when questioned about some method whereby the Committee or the Congress might deal affirmatively with the matter of the appearance of a conflict of interest, supported the viewpoint that full public disclosure of the Governor's assets and the continued monitoring of that disclosure would be adequate.

To Chairman Cannon's question of whether full disclosure would be sufficient, Senator John Tower of Texas, replied:

I think full disclosure is adequate. Certainly, the financial-economic posture of the Rockefeller family is something that has been public knowledge for so long that I don't think there is much subject to question. And there has never in modern times been any suggestion of wrongdoing or fast-dealing or of exploitation on the part of the Rockefellers. In the absence of that I see no reason to pursue the matter at great length.

To a comparable question, Representative John Rhodes of Arizona, testified:

*** full disclosure and the surveillance which that will cause, not only by the people of the country, but by the press, will be certainly adequate to make sure that there is no undue conflict of interest.

DISCUSSION ON QUESTION 5

Public Service Record of the Nominee

On question No. 5 above, as to whether Governor Rockefeller's public service record of 34 years in Federal and State governmental positions would indicate any abuse of power favoring his personal interests vis-a-vis the public interest, the Committee found that the public interest had prevailed with no evidence of personal favoritism to his or his family's business interests shown.

As an example, Senator Marlow Cook of Kentucky questioned the nominee about his tax recommendations while he was Governor of New York and received the response that during those years he had succeeded in instituting higher income, corporate, and capital gains tax rates in his State, such increases adversely affecting the Rockefeller family's finances and his own.

In his testimony supportive of Governor Rockefeller's nomination, Senator Roman Hruska of Nebraska said:

*** In the light of this man's record and *** his conduct in high public office, the second largest State in the Union and often considered the second most responsible political post in the Union, it seems to me that should be taken into consideration by and large and be abided by.

And to a question by Senator Robert C. Byrd of West Virginia about how economic and political power together could be adversely used to injure the American people, Governor Rockefeller replied:

*** If I had spent a lifetime abusing economic power, I would not be sitting here, I have to assume today, because this

is an open book and it would have long since been uncovered and that would have been the end. Therefore I can only say that the experience can be useful ***

CONCLUSION

Blind Trust Establishment Not Required

To resolve the conflict-of-interest question, the Committee voted unanimously in executive session on November 22 not to require Governor Rockefeller to establish a blind trust for his holdings as he had offered to do in his September 23 testimony.

It was the Committee's judgment that in the absence of such a blind-trust requirement (1) Governor Rockefeller could be expected to act in the national interest vis-a-vis his personal and/or family's financial interests, and (2) that the Committee, the Congress, and the American people should rely on his 15 years in public elective office of the first (and later the second) largest State in the Union as the best indication that he would not act contrary to the best interests of the people of this country.

LOANS AND GIFTS MADE BY MR. ROCKEFELLER

One of the significant issues developed during the course of the confirmation hearings of Nelson A. Rockefeller to be Vice President of the United States concerns the loans and gifts he presented to various public officials during their periods of government service, and to others either involved in government or active in the private sector in society.

Questions of legality, propriety, and moral value are implicit in these transactions.

Governor Rockefeller made the following loans or gifts to various individuals and offered the accompanying explanation for each loan or gift:

LOANS

- Richard S. Aldrich*----- \$26,000
My first cousin and long-time close friend and associate; former New York City Councilman and unsalaried member of State Housing Finance Agency; private citizen at time of loan.
- Winthrop Aldrich*----- \$12,000
My deceased uncle who was the closest to us in my mother's family; former United States Ambassador to Court of St. James's; private citizen at the time of the loan.
- Robert B. Anderson*----- \$60,000
A long-time friend and former Federal Cabinet officer; private citizen at the time of loan.

- George A. Dudley*----- \$6,000
A friend and associate of more than thirty-five years; Chief Executive Officer, New York State Council on Architecture; private citizen at time of loan.
- John J. Gilhooley*----- \$2,500
A close friend and former Federal sub-cabinet officer and City Transit Authority member; private citizen at time of loan.
- Wallace K. Harrison*----- \$60,000
An intimate friend and associate for over forty years; former Director of the Office of Inter-American Affairs during the 1940's; private citizen at time of loan.
- Francis A. Jamieson*----- \$12,000
A friend and close associate from the late thirties until his death in 1961; with Office of Coordinator of Inter-American Affairs in 1940's; private citizen at time of loan.
- W. Kenneth Riland*----- \$6,000
Personal physician and close friend since 1940; member of State Public Health Council and member of Commission on the Uses and Regulation of Acupuncture; private citizen at time of loan.
- Theodore C. Streibert*----- \$6,000
Friend and associate in the family office; Director of U.S. Information Agency in 1950's; private citizen at time of loan.
- Various Constitutional Commission Employees*----- \$3,000
These were loans in the form of salary advances to the staff of the Temporary State Commission on the Constitutional Convention during the period in 1958 in which legislative funding had terminated and prior to establishment of new legislative funding.
- Louise A. Boyer*----- \$6,000
- Leonard Glenn*----- \$2,500
- Vera Goeller*----- \$15,000
- Walter Gordon*----- \$2,125
- Walter Gordon*----- \$1,650
- Eugene Holman, Jr.*----- \$21,212

| | |
|--|-----------|
| Frederick S. Johnson | \$6,000 |
| Richard H. Mansfield | \$6,000 |
| Robert C. and Martha M. Orf | \$3,500 |
| Ann R. Pierson | \$12,500 |
| Anna M. Rosenberg | \$6,000 |
| Ruth Tillinghast | \$6,000 |
| Various Constitutional Commission employees | \$3,600 |
| Various Constitutional Commission employees | \$3,968 |
| Joan Braden | \$10,283 |
| Leonard Glenn | \$1,400 |
| Albert L. Hadley | \$15,000 |
| Margaretta F. Rockefeller | \$15,000 |
| Rodman C. Rockefeller | \$27,000 |
| Steven C. Rockefeller | \$12,600 |
| Carl E. Siegesmund | \$11,250 |
| Various family office employees | \$101,250 |
| GIFTS | |
| Richard S. Aldrich | \$18,167 |
| <p>Mr. Aldrich is my first cousin; he has been my friend and associate for more than thirty years. On June 23, 1969, I appointed him as a member of the New York State Housing Finance Agency, a position he still holds. In 1965, four years before that appointment, I made a gift to him in the amount of \$18,167 as an expression of my personal affection, friendship, and esteem.</p> | |
| G. Russell Clark | \$25,000 |
| <p>Mr. Clark was Executive Manager of the American Bankers Association and was a well-recognized expert on banking systems. I appointed him Superintendent of Banks on February 18, 1959. Prior to this appointment, on January 27, 1959, I made a gift of \$25,000 to Mr. Clark to assist him in his relocation expenses before he took office.</p> | |

Henry L. Diamond ----- \$100,006

On April 24, 1970, I appointed Henry Diamond, a highly recognized expert in the field of conservation and ecology, as head of the newly formed Department of Environmental Conservation, in which capacity he did an outstanding job. After his resignation in December 1973, I made two gifts to him totaling \$100,006 to help him in meeting certain pressing family obligations which he had. Mr. Diamond presently serves as Executive Director of the Commission on Critical Choices for Americans.

Mr. and Mrs. James W. Gaynor ----- \$107,000

Mr. Gaynor was an outstanding engineer located in Denver, Colorado. On January 14, 1959, I appointed him as New York State Commissioner of Housing and Community Renewal, a position he resigned in 1969. I made gifts to Mr. Gaynor on two different occasions. The first was a gift of \$7,000 which I made in February 1959 to assist them in moving from Denver to New York. The second gift was made in December of 1970 when I gave Mr. Gaynor \$100,000, forgiving various loans which were made to him to help with personal and business losses occasioned by his relocation.

Henry A. Kissinger ----- \$50,000

Dr. Kissinger has been a close personal friend and associate for more than eighteen years. In January of 1969, after he had resigned as a consultant to me and before he became Assistant to the President for National Security Affairs, I made him a gift of \$50,000. This gift was made not only because of my affection and appreciation for Dr. Kissinger's invaluable assistance, but to help him during a particularly difficult time in meeting financial responsibilities to his children and former wife.

Edward J. Logue ----- \$176,389

I first knew of Mr. Logue as one of the nation's outstanding urban planners and builders, first in New Haven and later in Boston. As New York State organized its Urban Development Corporation, I asked Mr. Logue to serve as its President and Chief Executive Officer. Mr. Logue was interested in the position, but was concerned with the necessity of repaying a number of outstanding personal obligations he had in Massachusetts. In order to help with these obligations and also to enable him to relocate in New York, I made him gifts in 1968 totaling \$31,389. I also loaned him \$145,000 of which \$45,000 has been repaid and \$100,000 is still outstanding.

Alton G. Marshall-----

\$306,887

Mr. Marshall first entered State government in 1947 and served New York State in a number of capacities. He was one of my early associates and became one of my valued advisers. In 1965 I appointed Mr. Marshall as my Executive Officer and in 1966 as my Secretary. After fifteen years of dedicated and brilliant service in my administration, Mr. Marshall resigned in December 1970 to become President of Rockefeller Center, Inc. At that time I forgave his indebtedness of \$306,867, resulting from loans I had made to him in 1967-1969 to help him meet exceptionally serious family obligations and problems, including health and education.

L. Judson Morhouse-----

\$100,000

Mr. Morhouse was the unsalaried Chairman of the Republican State Committee from 1954 to 1962. In March 1959, after I was elected Governor, I appointed Mr. Morhouse a member of the New York State Thruway Authority and he served until his resignation in January 1963. In 1960, at Mr. Morhouse's request, I loaned him \$100,000 to enable him to make an investment. The loan was secured by stock. Mr. Morhouse had very pressing family obligations to meet at that time. In 1962 Mr. Morhouse was indicted for bribery in connection with an attempt to obtain a liquor license. He was subsequently convicted and spent a period in jail. In 1970, after a panel of doctors appointed by the State Medical Society unanimously certified that his life was in danger if he stayed in jail because he had both cancer of the colon and Parkinson's disease, I commuted his sentence. After I resigned as Governor in December 1973, and it was clear there was no prospect of his repaying the loan, I forgave the debt which was discounted to \$86,313 and paid the gift tax.

Joseph H. Murphy-----

\$20,000

Mr. Murphy was a close personal friend and associate from the beginning of my State administration. On January 1, 1959, I appointed him Commissioner of Taxation and Finance. He resigned from that position on June 30, 1969, and then became Chairman of the New York State Housing Finance Agency. In November 1967, I made a \$20,000 loan to help him meet certain pressing family obligations relating to his children's education and to help him meet his obligations to an aged parent, which loan I forgave in 1970.

William J. Ronan-----

\$510,000

Dr. Ronan is a long-time personal friend and associate. Our close relationship goes back to when Dr. Ronan served as Executive Director of the Temporary State Commission of

¹ The two additional gifts of \$75,000 in December 1958, and \$40,000 in May 1974, testified to by both Gov. Rockefeller and Dr. Ronan, bring the total for gifts and forgiven loans from Gov. Rockefeller to Dr. Ronan to a grand total of \$625,000.

the Constitutional Convention in 1956 and 1957. It was there that I first became aware of his extraordinary ability and, upon my election as Governor, I asked him to serve as my Secretary. He served in that capacity with great distinction until 1966, at which time I appointed him the full-time Chairman of the Metropolitan Commuter Transportation Authority (this subsequently became the Metropolitan Transportation Authority, and I appointed Dr. Ronan its Chairman). Dr. Ronan resigned as Chairman of the MTA in May 1974, and became the unsalaried Chairman of the Port Authority of New York and New Jersey by appointment of Governors Wilson and Byrne. Governor Wilson also appointed Dr. Ronan as a member of the New York State Power Authority on May 16, 1974. The first gift to Dr. Ronan, of \$75,000, was made on December 19, 1958, prior to his appointment on January 1, 1959, as my Secretary. Sixteen years later on May 3, 1974, I made a second gift to Dr. Ronan in the amount of \$550,000 by way of a cash gift of \$40,000 and the forgiveness of six loans totaling \$510,000 that I had made to him over a period of seven years. The gifts were made to Dr. Ronan in recognition of our long friendship, his pressing family responsibilities and problems, and to assist him in meeting continuing financial responsibilities after retirement.

Fred A. Young-----

\$15,000

On January 14, 1965, I made a gift of \$15,000 to Fred A. Young, who had been Chief Judge of the Court of Claims of the State of New York, but who was at that time Republican State Chairman. Mr. Young was experiencing a tragic and continuing problem involving one of his children. Subsequently, in December of 1965, I reappointed him to the Court of Claims and in January 1966 designated him as Presiding Judge.

Victor Borella-----

\$100,000

Mr. Borella is a long-time friend, associate, and adviser of nearly 45 years. From November 1967 to December 1971, he served as a Special Assistant to the Governor on labor matters. In May of 1972, when he retired and moved out of state, I gave him \$100,000 as an expression of my great esteem for him by forgiving a loan I had made in November of 1968, to help him with medical expenses and other family obligations.

James M. Cannon-----

\$40,000

Mr. Cannon is a personal friend of ten years and associate for the last five. He was Special Assistant to the Governor from February 9, 1969, to December 1973. In January 1974, after he had resigned from State government to join my personal staff, I made a gift in the amount of \$40,000 out of friendship and respect.

Jerry Danzig----- \$29,738

Mr. Danzig is a long-time friend and associate who has worked with me in both my personal office and in State government. He was a special assistant to the Governor from February 4, 1969, to December 1973. Out of admiration and friendship, I made him gifts totaling \$29,738 over a five-year period.

Mrs. Mary Kresky----- \$29,624

Mrs. Kresky served as a program associate on the personal staff of the Governor and then as Assistant Secretary to the Governor since 1965. In January 1974 she became Associate Director of the Commission on Critical Choices for Americans. Because of my great respect and admiration for her, when she was married in November of 1972, I gave her a wedding present of stock valued at \$24,560. As a result of the unfortunate subsequent decline of this stock, I made an additional gift of stock to her in January 1974 of \$5,064.

Hugh Morrow----- \$165,000

Mr. Hugh Morrow is a long-time close personal friend who served on my personal staff for many years and more recently on my staff in State government as Director of Communications from February 1969 to December 1973. In 1967 he had very serious financial obligations to meet in connection with the health and education of his ten children and to meet several serious and tragic emergencies that occurred in his family, and I loaned him \$35,000. I forgave this debt on December 31, 1970. Subsequently, Mr. Morrow incurred substantial additional debts at a bank for the same purposes and in 1974 I made a gift to Mr. Morrow of \$100,000 enabling him to pay that loan, and loaned him \$30,000 which is still outstanding.

Thomas E. Stephens----- \$31,000

Mr. Stephens was a long-time friend and a man for whom I had tremendous admiration since the days when we had worked with each other in Washington at the time he was Appointments Secretary to President Eisenhower. On December 31, 1962, I forgave the balance of two loans in the amount of \$27,000. At that time Mr. Stephens was in extreme financial difficulty because of a series of tragic events. I made another gift to him in 1967 in the amount of \$4,000. Mr. Stephens served in a number of posts in State government, including a short period in the Executive Chamber as a Special Assistant.

Mrs. Ann Whitman----- \$22,782

I have had a long friendship and association with Mrs. Whitman for over twenty years dating back to the 1950's in Washington when she was President Eisenhower's Secretary

for eight years. She came to work with me in the 1960's first as my personal Secretary and then as Executive Assistant when I was Governor. In July 1972, I made a loan of \$25,000 to Mrs. Whitman to help in meeting some of the financial problems facing her after retirement. In June 1973, because of my great respect and admiration for her, I gave her a birthday present of stock, then valued at \$19,237. Due to the subsequent decline in value of the stock, I made an additional gift to her in January 1974 of stock valued at \$3,545.

Victor Andrade----- \$38,200

Mr. Victor Andrade is not and never was a public official in the United States. He was Ambassador from Bolivia at the time I was Coordinator of Inter-American Affairs and Assistant Secretary of State. Later he was Minister of Foreign Affairs of Bolivia. Ever since the 1940's he has been a close personal friend of mine and a great friend of the United States. As a result of various political upheavals in Bolivia, he has been exiled from the country at various times, living mostly in the United States without adequate means of support. Over the years I have made gifts to him totaling \$38,200.

Robert R. Douglass----- \$139,090.50

In 1973 and 1974 I made gifts to a trust for the benefit of a long-time personal friend and associate on private affairs who is not now and never was an official or employee of State government. The total of these gifts to the trust was \$139,090.50. Mr. Douglass is not the recipient of these gifts but is merely the trustee who administers the trust.

Emmet John Hughes----- \$155,000

Mr. Hughes is not and never was a State official. He has been a close friend of mine from the days of the Eisenhower administration, when he was at various times on the President's staff. On January 9, 1959, I gave Mr. Hughes \$5,000 as token of my high esteem for him. A year later, in the early 1960's, he was employed by the family office as a public relations adviser and speech writer. He also did some consulting work in 1968 and 1969. In the spring of 1968, I made Mr. Hughes a loan of \$150,000 to enable him to make investments. In December of 1970 I decided to forgive this loan because of my personal friendship for Mr. Hughes and my respect for his talents as a writer.

John N. Mitchell----- \$6,500

In July 1971, I loaned Mr. John N. Mitchell an oil painting by J. B. Stearns to hang in the Conference Room of the Justice Department. After his resignation as Attorney General in 1972, the painting was returned. This transaction was inadvertently reported by my accountants as a gift of \$6,500 which has been corrected.

Mario Noto \$12,850

In my 1973 gift tax return, Mario Noto was inadvertently listed as the recipient of a gift of \$12,850.00. In fact, Mr. Noto was a manufacturing jeweler who produced a statuette of the Seal of the City of Albany, which I presented as a memento at Christmas time to a large number of my close friends and associates. The error in reporting this as a gift to Mr. Noto is being corrected.

Carl Vergari \$4,639

Expenditures of \$4,639 which I undertook in behalf of Mr. Carl Vergari's campaign for District Attorney of Westchester County in 1971 were inadvertently reported on my 1971 gift tax return as a personal gift to "Vergari, Carl, District Attorney."

LEGALITY OF MR. ROCKEFELLER'S LOANS AND GIFTS

Investigation by the Committee of the various loans and gifts developed information bearing on the possible illegality of such activities. The following sections of two New York State statutes signed into law by Governor Rockefeller were considered in relation to Governor Rockefeller's loans and gifts to New York State officials.

New York Public Officers' Law

No officer or employee of a state agency, member of the legislature or legislative employee shall, directly or indirectly, solicit, accept or receive any gift having a value of twenty-five dollars or more whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. No person shall, directly or indirectly offer or make any such gift to any officer or employee of a state agency, member of the legislature or legislative employee under such circumstances.

New York Penal Code

A person is guilty of giving unlawful gratuities when he knowingly confers, or offers or agrees to confer, any benefit upon a public servant for having engaged in official conduct which he was required or authorized to perform, and for which he was not entitled to any special or additional compensation.

During the course of its confirmation hearings the Committee on Rules and Administration received a letter signed by six law school professors addressing itself to the legality of Governor Rockefeller's loans and gifts to State officials. The text of the letter follows:

UNIVERSITY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., November 8, 1974.

DEAR SENATOR CANNON AND REPRESENTATIVE RODINO: Accounts in the newspapers have indicated that Nelson A. Rockefeller, nominee for Vice President of the United States, has in the period since September 1, 1967, made substantial loans to persons who at the time of the loans were public servants of the State of New York, and that he has forgiven these loans at periods of time when the borrowers were not in the public service of New York. We do not know all of the facts bearing on these loans and their forgiveness. But enough evidence has been made public to raise substantial legal questions in our minds.

Accompanying this letter to you is our opinion as to the circumstances under which a relevant statute of the New York Penal Code would be violated by such loans and such forgiveness of loans. To determine whether there has been violation of this statute, we ask your Committee to ascertain the following from the nominee:

- (1) at what dates were the loans made?
- (2) at what rate of interest were the loans made?
- (3) on what security were the loans given?
- (4) what was the credit standing of the recipients of the loans?
- (5) were there any extensions of loans, and when?
- (6) at the times the loans were made, was there any understanding or expectation that the loans would be forgiven at a later time?
- (7) at the times the loans were forgiven was there an understanding or expectation that the donee would soon resume public service?

The statute involved is important to the integrity of government. If it has been violated by the nominee, its violation could be a disqualification for holding high office in the Government of the United States.

We would be grateful if you could distribute copies of our letter and memorandum to members of your Committee as part of the official record.

Very truly yours,

PROFESSOR BARBARA BABCOCK,
Stanford Law School

PROFESSOR PAUL BENDER,
Pennsylvania Law School

PROFESSOR ROBERT MNOOKIN,
University of California Law School, Berkeley

DEAN CLINTON BAMBERGER,
Catholic University Law School

PROFESSOR NORMAN DORSEN,
New York University Law School

PROFESSOR FRANK NEWMAN,
University of California Law School, Berkeley

Memorandum Re: New York Penal Law Section 200.30

The Statute

"GIVING UNLAWFUL GRATUITIES"

"A person is guilty of giving unlawful gratuities when he knowingly confers, or offers or agrees to confer, any benefit upon a public servant for having engaged in official conduct which he was required or authorized to perform, and for which he was not entitled to any special or additional compensation. Giving unlawful gratuities is a class A misdemeanor. L.1965 c 1030, eff. Sept. 1, 1967."

The Purpose of the Statute

The statute is part of Article 200 of the Penal Code, "Bribery Involving Public Servants and Related Offenses." Other sections of the article deal with the crime of bribery (conferring of a benefit on a public servant with the agreement or understanding that the public servant's action will thereby be influenced) and with the crime of rewarding official misconduct (conferring of a benefit upon a public servant for having violated his duty as a public servant). The statute with which we are concerned is meant to augment and supplement the bribery and misconduct laws by prohibiting the related offense of conferring a benefit for official conduct.

The purpose of the statute seems twofold:

- (1) to make compensation for public services a matter of public, not private determination;
- (2) to keep public servants from being influenced, consciously or subconsciously, by gratuities for actions that are part of their official duty.

In the words of the practice commentary on the statute in McKinney's *Consolidated Law of New York*, "tipping a public servant undermines the integrity of governmental administration."

What Constitutes a Crime Under the Statute

Three elements are required under the statute:

(a) A "benefit" must be conferred upon a public servant. A benefit is defined by Penal Law Section 10.017 as "any gain or advantage." The phrasing is comprehensive. A loan made at below-the-ordinary rate of interest, or without ordinary security being taken, or in a larger amount than would be usual for a person with a credit standing of the recipient, or without expectation of repayment, or extended beyond the due date, or given with the expectation of being forgiven is a "benefit." There need not be a possibility or probability of preferential treatment to have a violation of the statute. See *People v. La Pietra*, 64 Misc. 2d 807, 316 N.Y.S. 2d 289 (1970).

(b) The recipient must be a "public servant." A person performing official duties for the State of New York or agency of the State of New York is a "public servant."

A question may be raised as to whether the recipient must be a public servant at the time of receiving the benefit for the statute to be violated. In our view this is not always necessary. It would seem evident that the statute could easily be evaded if a public servant could resign and immediately after resignation receive a

benefit for his official conduct. A court could rule that such an evasion of the statute would not be permitted and that the statute should be construed to include a public servant receiving a benefit after his resignation from office. Further, if it was understood or expected that the resigned public servant would soon resume public service after the benefit had been received, there would be even stronger reason for a court not to permit such evasion; in such a case, not only would the public servant receive a benefit for official conduct but he would go on to further public service with the tip-receiver's sense of obligation to the donor.

Finally, if there were an understanding or expectation that loans given while the recipient was in public service would be forgiven after the term of public employment, the statutory purpose would seem to be violated.

(c) There must be an intent to confer a benefit on the public servant for having engaged in official conduct. This is the only intent required. An intent to corrupt the public servant or an intent to influence action of the public servant is not required; these are the kinds of intent required by the bribery statute. See *United States v. Irwin*, 354 F.2d 192, 196-198 (2d Cir. 1965), cert. denied 383 U.S. 967 (1966) (similar analysis of comparable Federal statute). Nor is an intent to reward for misconduct required; this statute aims at reward for conduct which was "required or authorized."

The intent needed consists of two elements—to confer the benefit and to relate that benefit to previous proper conduct. Thus, for example, if a benefit is conferred upon an individual who has performed duties as a public servant because he is "a good man" the requisite intent to violate the statute exists. In this context, the basis for determining whether the public servant is a "good man" includes his previous public service, and the benefit is given, at least in part, in recognition of that public service.

Defenses Under the Statute

The following are defenses which might be raised under the statute but would not be sufficient to negate evidence of illegality if the elements set out above are found to exist:

(a) *Good motive.* Good motive may accompany the statutory intent without negating the intent. The donor of the benefit may be a friend of the public servant and conferring the benefit out of friendship. But if he confers the benefit on the public servant because he is a good public servant, the donor's friendship for the recipient does not diminish his intent to reward past conduct—indeed, the rational basis on which the donor can desire the continuation of the public servant in office is appreciation of past services which give rise to an expectation of future proper service.

(b) *Donor's status.* The statute applies to any "person" conferring a benefit. The status of the donor is therefore not a defense. That the donor is rich and may not value the gift very highly has no bearing on whether a benefit has been conferred upon the public servant. Further, that the donor is himself a public servant is also irrelevant. The integrity of government is



undermined by one public servant having a private basis for expecting gratitude from the public servant who has received the benefit. Indeed, an advantage of the statute is that it aims to prevent rich office holders from obtaining a special advantage of this kind.

The Validity of the Statute

No constitutional defect appears in the statute. Section 200.35 is part of the revised Penal Law of New York, approved by Governor Nelson A. Rockefeller on July 20, 1965. In his memorandum of approval, Governor Rockefeller noted that the provisions approved prescribe "conduct which has traditionally been considered criminal in Anglo-Saxon jurisprudence." (See "Governor's Memorandum," McKinney's Consolidated Laws of New York, Book 39, P. XXXV.) The law is the complement to a section of the New York Penal Law enacted in 1909. In our opinion it is well within the police power of New York State to protect the integrity of government service. The analogous Federal law 18 U.S. Code § 201 (f), has been upheld as constitutional. See *United States v. Irwin*, supra.

The Committee also received legal opinions from law firms representing Governor Rockefeller and from Edward J. Logue, who was a recipient of a gift and loan. Those opinions are as follows:



Legality of Loans and Gifts by Nelson A. Rockefeller to Members of his Staff and to Other State Employees

In determining the legality of loans and gifts to public officials in New York State, three separate statutory provisions must be considered. For the reasons set forth below, the loans and gifts made by Nelson A. Rockefeller to certain state officials were not in violation of, or inconsistent with, any of these statutory provisions. It is essential at the outset to recall that at the time all of the loans and all but four of the gifts were made Governor Rockefeller was Governor of the State of New York. The members of the Governor's staff and other state officials who were borrowers or donees were all appointed to their positions by Governor Rockefeller; they were responsible to, and subject to the direction from him in the performance of their official duties; they could be rewarded or influenced by promotions; and they served at his pleasure and could be dismissed at his instance. As subordinates to the Governor all such officials were, and were supposed to be, subject not only to his influence but to his orders in carrying out the policies of the State. MILBANK, TWEED, HADLEY & MCCLOY 1 CHASE MANHATTAN PLAZA NEW YORK, N. Y. 10005

The relationship between the Governor and a member of his staff is not merely that of employer and employee. In fact, before the Governor takes office in 1973 he has already been selected by the Governor and the State.

Legality of Loans and Gifts
by Nelson A. Rockefeller to
Members of his Staff and to
Other State Employees

In determining the legality of loans and gifts to public officials in New York State, three separate statutory provisions must be considered. For the reasons set forth below, the loans and gifts made by Nelson A. Rockefeller to certain state officials were not in violation of, or inconsistent with the spirit of, any of these statutory provisions.

It is essential at the outset to recall that at the time all of the loans and all but four of the gifts were made Nelson A. Rockefeller was Governor of the State of New York. The members of the Governor's staff and other state officials who were borrowers or donees were all appointed to their positions by Governor Rockefeller; they were responsible to, and subject to direction from him in the performance of their official duties; they could be rewarded or influenced by promotions; and they served at his pleasure and could be dismissed at his instance. As subordinates to the Governor all such officials were, and were supposed to be, subject not only to his influence as chief executive of the state, but to his orders in carrying out the policies of his administration. A governor who failed to influence the conduct of officials of the government which he headed would be derelict in his duty.

The relationship between a governor and a member of

his staff or other state official is not, by its nature, a relationship in which "tipping" or influence-buying can have a place. Gubernatorial recognition of official conduct is expressed by retention of the individual in office or by promotion.

The New York statutes on "tipping" and gifts to reward or influence official conduct are simply inapplicable to this special relationship between the chief executive of the state and his subordinates. Those statutes are directed to the activity of a private individual outside the state government, who seeks to reward or influence a public servant through a gift or gratuity in return for official conduct favoring the donor. None of the benefits conferred by Governor Rockefeller on state employees can be regarded as responsive to official conduct on the part of the recipient.

In his statements to and testimony before the Senate Committee Governor Rockefeller has set forth the circumstances of, and his reasons and purposes in making, the loans and gifts to state employees.* That his overriding and consistent motivations were friendship and assistance in situations of need is underscored by two facts which have been largely ignored:

(a) During the same period of time the Governor made loans and gifts in amounts aggregating \$1,692,219 to a total of 58 other friends who were not state employees.

(b) During that period a large number of

* In connection with the suggestion that the purpose of the loans and gifts was to bind state employees to the Governor's service, it should be noted that, of the 11 recipients, 5 left state service before the Governor resigned in December 1973 and 4 remained as state officials thereafter.

other state employees who worked with the Governor, including individuals on his staff, received no loans or gifts whatsoever from the Governor.

In addition, the so-called "pattern" of giving through loans is negated by the facts that some of the loans bore interest, some were secured by collateral, some were repaid, and some were not forgiven and remain outstanding.

Finally, Governor Rockefeller's testimony shows that he himself signed into law the two principal statutes involved (Transcript, p. 1118) and, being fully aware of their provisions, sought and received legal advice with respect to the policy of making loans and gifts to persons in the employ of the state (Transcript, p. 1119). Thus, there was no criminal intent involved.

With these considerations in mind, this memorandum will analyze the New York statutes and then demonstrate their inapplicability to the individual instances involved.

1. Penal Law, Section 200.30

Section 200.30 of the Penal Law (L. 1965, C. 1030), effective September 1, 1967, in substance makes it unlawful for a person knowingly to confer "any benefit upon a public servant for having engaged in official conduct which he was required or authorized to perform, and for which he was not entitled to any special or additional compensation." The key question is the purpose of the benefit conferred. The nature of the purpose

forbidden by the statute is emphasized by the fact that Section 200.30 is but one of the many provisions contained in Article 200 of the Penal Law, which is entitled "Bribery Involving Public Servants and Related Offenses." This is also demonstrated by Governor Rockefeller's memorandum of July 20, 1965, approving the bill which became Section 200.30, and stating that the bill "reorganizes and modernizes penal provisions proscribing conduct which has traditionally been considered criminal in Anglo-Saxon jurisprudence."

Section 200.30 relates solely to benefits conferred by a person in return for official conduct theretofore performed by the recipient. It is a logical and necessary extension of other provisions in the bribery laws of New York relating to payments made prospectively to influence action or induce misconduct (see Sections 200.00 - 200.50). It prohibits benefits or "tips" to public officials by private citizens having business with the state government. As indicated in the Practice Commentary to McKinney's publication of the section, the purpose of the statute is to prevent persons dealing with the government from obtaining preferred treatment over others who deal with the government: "The giver of unlawful gratuities to a public servant puts all citizens who have dealings with such venal official under pressure to 'tip,' or risk his disfavor." (underlining supplied)

The statute is similar in some respects to an earlier federal law, 18 U.S.C. Sec. 201(f). Relying on the leading case interpreting this federal statute, United States v. Irwin, 354 F. 2d 192 (2nd Cir. 1965), cert. denied, 383 U.S. 967 (1967), the

Practice Commentary recognizes that Sec. 200.30 is "designed to remove the temptation for a public official to give preferment to one member of the public over another." 354 F. 2d at 196 (underscoring supplied).

Further evidence of the inherent nature of the concept that this statute does not proscribe the giving of a benefit by one supervisory public official to another public official is the fact that the accompanying statute, Sec. 200.35, has had numerous cases decided under it, none of which involve the giving of a benefit by one public servant to another public servant.

It is thus clear that the benefit, to be unlawful, must be made by one who is governed or regulated by, not by one who employs and supervises, the public officer in question. Benefits conferred by one state employee on another who is directly responsible to the former are not covered.

The essential element for a violation of Section 200.30 is "substantial evidence" of an intent to give an unlawful gratuity -- i.e., an intent to reward a public servant for having engaged in official conduct. This is the teaching of the only two reported cases interpreting Section 200.30 since it became effective in 1967, DiMase v. City Manager of City of Yonkers, 30 N.Y. 2d 838, 286 N.E. 2d 466, 335 N.Y.S. 2d 82 (1972), and People v. LaPietra, 316 N.Y.S. 2d 289 (D.Ct. Suffolk Co., 1970). See also People v. Clark, 242 N.Y. 313, 151 N.E. 631 (1926) dealing with a related statute.

In DiMase, a city official was accused of offering a gratuity to a county officer in violation of Section 200.30. While the trial commissioner found the evidence inconclusive on the issue of the donor's intent, the City Manager reversed this finding and dismissed the city official. The Appellate Division reversed the decision of the City Manager, finding insufficient evidence on the issue of the donor's intent. 37 App.Div. 2d 972 (1972). The Court of Appeals affirmed. 30 N.Y. 2d 838 (1972). Thus, it may be concluded that the highest Court in New York requires, as an essential element of the offense defined in Section 200.30, a clear showing that the benefit was conferred with the intent to reward a public servant in return for his having engaged in official conduct.

In LaPietra, *supra*, (decided two years before the final decision in DiMase), after two patrolmen had completed an investigation of an accident involving a vehicle owned by the defendant's corporation, the defendant gave one patrolman, in the presence of the second, a ten dollar bill and stated: "Here, you fellows, buy some coffee for all the homework you have done." The defendant was convicted of violating Section 200.30 and the Court, on a coram nobis application, held that the facts adduced during the trial clearly constituted a crime under Section 200.30.

It has been contended that Section 200.30 embraces benefits to public servants both before they enter and after

they leave government service. The language of Section 200.30, which refers to "a public servant," simply does not support this interpretation. In contrast, the federal "tipping" statute (18 U.S.C. § 201 (f)) expressly includes within its scope not only "any public official" but also any "former public official or person selected to be a public official." The New York statute, enacted three years after the federal statute, does not go this far, and is limited to a person who is a public servant at the time of receipt of the benefit. Under these circumstances, construction of the New York statute to include former and selected public officials would be so overly broad as to be unconstitutional. In New York, as elsewhere, it is a well established constitutional principle that criminal statutes must be narrowly construed to furnish fair and unequivocal warning of the nature of the prohibited conduct. People v. Byron, 17 N.Y. 2d 64 (1966). Both the purpose and language of Sec. 200.30 restrict its scope to benefits given a public servant during his term of office.

Finally, it has been argued that if a benefit is conferred upon a public servant because he is "a good man," the requisite intent to violate the statute exists. This position fails to make the critical distinction between a gift to a "good man" and a gift to a good man as a reward for official conduct. Such an interpretation of the intent requirement as upheld by the courts would in effect eliminate it from the statute.

Thus, whether a loan imposing the obligation of repayment, with or without interest, is to be regarded as a "benefit" within the statute, the requisite intent to reward for past service is absent in the situations before the Committee. The loans and gifts were acts of friendship and compassion, not related to the service performed by the recipient. This conclusion is substantiated by the uncontroverted facts that Governor Rockefeller made substantial loans and gifts to other persons in private life under similar circumstances and that he did not make any loans or gifts to the many other comparable officials in his administration who served well but whose circumstances were different.

2. Public Officers Law, Section 73 (5). Section 73 (5) of the Public Officers Law (L. 1965 c. 1012), which became effective on January 1, 1966, provides in material part that no person shall, directly or indirectly, offer or make any gift of \$25 or more in the form of money, a loan or otherwise, to any "officer or employee of a state agency" and no such officer or employee shall receive any such gift "under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part." Section 73(10) provides in substance that "any person who knowingly and intentionally violates the provisions of [Section 73(5)] . . . shall be guilty of a misdemeanor."

Section 73 (5) applies to officers and employees of a

"state agency" only. Section 73(1) of the law defines "state agency" as ". . . any state department, or division, board, commission, or bureau of any state department." Therefore, in some cases Section 73(5) does not apply to Governor Rockefeller's loans and gifts to persons serving on certain state authorities, which are not state agencies as defined. In other cases the statute does not apply because it was not in effect at the time of the loan or gift.

In all cases, however, the essential statutory criterion is not met. While there is no reported case construing Section 73(5), it cannot be said that it adopts a "tort standard" of liability for a misdemeanor since, as in the case of Section 200.30 of the Penal Law, the element of intent is uppermost, as reinforced by Section 73(10). The statute would appear to require, for a violation to occur, that an inference could reasonably be drawn from the circumstances of the gift that the donor actually intended to influence or reward the donee in connection with the performance of his official duties.

The circumstances under which Governor Rockefeller, the chief executive of the State of New York, made gifts to his own subordinates could not lead to an inference that the gifts were intended to influence, or as a reward for the subordinates' official action since they were in any event subject to the Governor's wishes and commands. There could not be any inference in the mind of a recipient that the purpose of the loan or gift, stated to be out of friendship or in response to a personal need, was

anything other than for the stated purpose.

As in the case of § 200.30 of the Penal Law, this provision of the Public Officers Law is intended, in part, to avoid secret influence over certain public officials. In the case of Governor Rockefeller, the influence was open and much publicized: the Governor had named each official to his state office, and the official remained in office at the pleasure of the Governor.

3. Civil Service Law, Section 135

Section 135 of the Civil Service Law, effective with amendments since 1901, provides in essence that no person employed in any state department, bureau, commission, or office shall receive "any extra salary or compensation in addition to" that fixed by law, except for overtime pay.

The terms employed in Section 135 are nowhere defined in the statute, nor has there been any reported case construing them. Perhaps significantly, no penalty whatsoever is prescribed for violation of Section 135.

A simple reading of Section 135 indicates that it is concerned solely with salaries and compensation paid by the state, and not with loans, gifts or other benefits provided from non-state sources. The legislative purpose was ". . . to prevent employees rendering clerical services from obtaining compensation under the theory of working overtime . . . and thus to obviate constant claims for extra services by clerks working for stated salaries." 1911 Op. Atty.Gen. 92, 602.

It has been ruled that it is not a violation of this provision for a state employee to receive outside compensation

from a third party or even from another agency of the state, so long as the additional work does not interfere with the recipient's primary responsibilities. 1943 Op. Atty. Gen. 445

In light of the language and evident purpose of Section 135, it is clear that Governor Rockefeller's loans and gifts to state employees in no way violated its provisions.

* * * * *

The Appendix hereto sets forth, in tabular form, the reasons why, in the light of the record before the Committee, neither Section 200.30 of the Penal Law, nor Section 73(5) of the Public Officers Law (Section 135 of the Civil Service Law being clearly inapplicable), was violated by any of the loans and gifts involved.

November 19, 1974

APPENDIX

LOANS AND GIFTS BY NELSON A. ROCKEFELLER TO MEMBERS OF HIS STAFF AND TO OTHER STATE EMPLOYEES

| Name & Official Position | Date of Loan | Amount of Loan | Type of Loan | Amount Repaid | Balance | Date of Gift | Amount of Gift | Applicability of Section | Statute not in effect at time of gift |
|--|--------------|--------------------------------|----------------|---------------|----------------------|--------------|-------------------------------|---|---------------------------------------|
| Mr. & Mrs. James V. Gaynor, NY's Commissioner of Housing and Community Renewal, 1/55-1/65 | 11/26/68 | \$100,000 | 5 yr. w/o int. | -- | See "Amount of Gift" | 5/30/72 | \$100,000 Forgiveness of note | Applicability of Section 200.30 | Statute not in effect at time of gift |
| Victor S. Borella, Special Assistant to the Governor for Labor Affairs, 11/67-12/71 | 11/26/68 | \$100,000 | 5 yr. w/o int. | -- | See "Amount of Gift" | 6/30/69 | \$10,000 | Gift not intended to reward official conduct | Statute not in effect at time of gift |
| Jerzy Danzig, Special Assistant to the Governor 5/1/69-present | 11/26/68 | \$100,000 | 5 yr. w/o int. | -- | See "Amount of Gift" | 6/9/71 | 4,000 | Gifts not intended to reward official conduct | Statute not in effect at time of gift |
| Mrs. Mary McAniff Kresley, Assistant Secretary to the Governor for Intergovernmental Affairs, 5/1/76-11/3/77 | 11/26/68 | \$50,000 | 5 yr. w/o int. | -- | See "Amount of Gift" | 1/23/72 | 5,738 | Gifts not intended to reward official conduct | Statute not in effect at time of gift |
| Mrs. Mary McAniff Kresley, Assistant Secretary to the Governor for Intergovernmental Affairs, 5/1/76-11/3/77 | 5/17/65 | \$0,000 | 5 yr. w/o int. | -- | See "Amount of Gift" | 2/8/73 | 5,000 | Gifts not intended to reward official conduct | Statute not in effect at time of gift |
| Mrs. Mary McAniff Kresley, Assistant Secretary to the Governor for Intergovernmental Affairs, 5/1/76-11/3/77 | 5/17/65 | \$0,000 | 5 yr. w/o int. | -- | See "Amount of Gift" | 1/31/74 | 5,000 | Gifts not intended to reward official conduct | Statute not in effect at time of gift |
| Mrs. Mary McAniff Kresley, Assistant Secretary to the Governor for Intergovernmental Affairs, 5/1/76-11/3/77 | 12/31/70 | \$100,000 Forgiveness of notes | | | | | | Statute not in effect at time of gift | Statute not in effect at time of gift |
| Mrs. Mary McAniff Kresley, Assistant Secretary to the Governor for Intergovernmental Affairs, 5/1/76-11/3/77 | 10/31/72 | \$ 24,564 | | | | | | Statute not in effect at time of gift | Statute not in effect at time of gift |
| Mrs. Mary McAniff Kresley, Assistant Secretary to the Governor for Intergovernmental Affairs, 5/1/76-11/3/77 | 1/ 3/74 | 5,064 | | | | | | Statute not in effect at time of gift | Statute not in effect at time of gift |

Applicability of Section 73(5)

Not reasonable to infer that MAR intended to influence or to reward; not state officer or employee at time of gift

Not reasonable to infer that MAR intended to influence or to reward; not state officer or employee at time of gift

Not reasonable to infer that MAR intended to influence or to reward

Statute not in effect at time of gift

Applicability of Section 200.30

Gift not intended to reward official conduct; not a public servant at time of gift

Gift not intended to reward official conduct

Gifts not intended to reward official conduct

Statute not in effect at time of gift

MEMORANDUM

ON

APPLICATION OF NEW YORK PUBLIC OFFICERS LAW §73(5)
TO CERTAIN GIFTS AND LOANS
FROM NELSON A. ROCKEFELLER TO EDWARD J. LOGUE

NOVEMBER 18, 1974

BERLE, BUTZEL & KASS
425 PARK AVENUE
NEW YORK, NEW YORK 10022
(212) 838-2700

November 18, 1974

Application of New York Public Officers Law §73(5)
to Certain Gifts and Loans
from Nelson A. Rockefeller to Edward J. Logue

I. Introduction

The relevant facts concerning the purpose, amount, and dates of gifts and loans made by Governor Nelson A. Rockefeller to Edward J. Logue are set forth in Mr. Logue's statement, to the Senate Committee on Rules and Administration on November 18, 1974 in connection with Committee hearings on Governor Rockefeller's confirmation as Vice President of the United States. A copy of that statement is attached hereto.

This memorandum reviews the extent, if any, to which New York Public Officers Law §73(5) might apply to any of such gifts or loans.

II. Applicable Law

New York Public Officers Law §73(5) provides as follows:

"5. No officer or employee of a state agency, member of the legislature or legislative employee shall, directly or indirectly, solicit, accept or receive any gift having a value of twenty-five dollars or more whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be

inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.

Section 73(5) became effective January 1, 1966.

III. Application to Rockefeller Gifts and Loans

A. Officer of State Agency

Mr. Logue was nominated and confirmed as President of UDC on May 24, 1968 and assumed his duties in that office on July 1, 1968. As such, he became subject to the provisions of §73(5) by July 1, 1968 and, possibly, as early as May 24, 1968.

B. Receipt of Gifts

As indicated in his statement, Mr. Logue received gifts from Governor Rockefeller of \$5,000 on July 23, 1968 and \$6,839 on August 26, 1968 after he had become UDC's President. It is also possible, though by no means clear, that Mr. Logue's receipt of interest-free loans aggregating \$145,000 in May, 1969 (of which \$45,000 was repaid in June, 1969) might be deemed to constitute "gifts" to the extent of some "imputed" interest figure. Since the loans themselves were evidenced by signed notes and fully collateralized, it is clear, of course, that the principal amounts of such loans would not qualify as "gifts" under §73(5). Nor would the May 9, 1968 gift (made before Mr. Logue was an officer of UDC) come under the statute.

C. Influencing Official Duties

Under §73(5), a prohibited gift to a public officer must be made "under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part." (emphasis added).

In the case of Governor Rockefeller's "gifts" to Mr. Logue, it is clear that they could not reasonably be intended or expected to influence Mr. Logue's official duties. These duties consist of carrying out the office of President and Chief Executive Officer of UDC. Pursuant to §4(1) of the New York State Urban Development Corporation Act, the President is appointed by the Governor and "shall serve at the pleasure of the Governor." By statute, then, Mr. Logue served at Governor Rockefeller's pleasure (as he presently serves at Governor Wilson's pleasure) and, as such, reported directly to the Governor. Quite apart from any gifts, Governor Rockefeller was able to "influence" Mr. Logue's official duties simply by directing him to adopt a particular course of action and removing him from office if he failed to comply. In addition, since the Governor also appointed the Board of Directors and had complete responsibility for all executive legislative proposals and appropriation requests for UDC, he was in a position to exercise virtually

complete control over the Corporation if he so desired.

Under these circumstances, we believe that no reasonable person could fairly conclude that Governor Rockefeller's gifts to Mr. Logue were either intended to, or could in fact, influence the performance of Mr. Logue's official duties. The influence, it is clear, was there by statute and both preceded and outlasted the "gifts" in question.

D. Reward for Official Action

Section 73(5) also prohibits gifts made under circumstances where it could reasonably be inferred that they were "intended as a reward for any official action" by the recipient. As set forth in Mr. Logue's statement, the sole purpose of Governor Rockefeller's gifts was to induce Mr. Logue to make the personal decision to leave Boston and relocate himself and his family in New York. Far from being "official action," this was an intensely private decision having no bearing whatsoever on the conduct of UDC's daily operations or the manner in which Mr. Logue carried out his official responsibilities.

E. Narrow Construction of Criminal Statute

In New York as well as elsewhere, it is well established that criminal statutes must be narrowly construed to furnish fair and unequivocal warning of the nature of

the prohibited conduct. N.Y. Penal Law §1.05(2); People v. Byron, 17 N.Y. 2d 64 (1966). In the present case, both the purpose and language of §73(5) restrict the scope of that section to official, not personal, acts.

Consistent with this policy, if there were any doubt as to the possible application of §73(5) to the "gifts" to Mr. Logue, these doubts should be resolved through a narrower (and, we submit, more reasonable,) construction of the statute. This is particularly true in the present case where, both upon his arrival from Massachusetts and during the ensuing year, Mr. Logue in no way expected or intended to receive any unlawful or improper gift, whether for the performance of his official acts, for the making of his personal decision to leave Boston or otherwise.

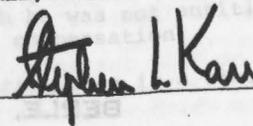
IV. Conclusion

For reasons stated above, it is clear that neither Mr. Logue's agreement to receive the 1968 gifts and the 1969 loans nor his actual receipt of such gifts and loans conflicted in any respect with either the specific terms, purpose or spirit of New York Public Officers Law §73(5).

Respectfully submitted,

BERLE, BUTZEL & KASS

By



MEMORANDUM

O N

APPLICATION OF NEW YORK PENAL LAW §200.35
TO CERTAIN GIFTS AND LOANS
FROM NELSON A. ROCKEFELLER TO EDWARD J. LOGUE

NOVEMBER 18, 1974

BERLE, BUTZEL & KASS
425 PARK AVENUE
NEW YORK, NEW YORK 10022
(212) 838-2700

November 18, 1974

Application of New York Penal Law §200.35
to Certain Gifts and Loans
from Nelson A. Rockefeller to Edward J. Logue

I. Introduction

The relevant facts concerning the purpose, amount, and dates of gifts and loans made by Governor Nelson A. Rockefeller to Edward J. Logue are set forth in Mr. Logue's statement to the Senate Committee on Rules and Administration on November 18, 1974 in connection with Committee hearings on Governor Rockefeller's confirmation as Vice President of the United States. A copy of that statement is attached hereto.

This memorandum reviews the extent, if any, to which New York Penal Law §200.35 might apply to any of such gifts or loans.

II. Applicable Law

New York Penal Law §200.35 provides as follows:

"§200.35 Receiving unlawful gratuities

"A public servant is guilty of receiving unlawful gratuities when he solicits, accepts or agrees to accept any benefit for having engaged in official conduct which he was required or authorized to perform, and for which he was not entitled to any special or additional compensation.

"Receiving unlawful gratuities is a class A misdemeanor."

As indicated by the Practice Commentary set forth in McKinney's New York Laws, §200.35 is derived without substantial change from New York Penal Law §§855, 1826 and 1831. The new statute became effective September 1, 1967.

A "public servant" is defined in Penal Law §10.00(15) to mean, among other things, any "public officer...of any political subdivision...or...any governmental instrumentality within the state." §10.00(17) defines "benefit" to mean "any gain or advantage to the beneficiary."

III. Application to Rockefeller Gifts and Loans

A. Mr. Logue as a Public Servant

The New York State Urban Development Corporation is a political subdivision of the State of New York. See New York State Urban Development Corporation Act §4(1). As its President and Chief Executive Officer, Mr. Logue is a "public servant" for purposes of §200.35. This status commenced either when Mr. Logue assumed his duties as President on July 1, 1968 or, possibly, when Governor Rockefeller nominated (and the State Senate confirmed) him for that position on May 24, 1968.

B. Acceptance of Benefits

It is clear from Mr. Logue's statement that, although he did not "solicit" any gifts or loans from Governor Rockefeller, he did, during April, 1968 "agree to accept" both the gifts which were later made to discharge his outstanding campaign obligations and the financial assistance

thereafter required to enable his family to relocate to New York. Note, however, that this agreement to accept such benefits occurred well before Mr. Logue became a "public servant" under the statute and cannot, therefore, constitute a violation of §200.35.

It is possible that, having agreed to accept benefits before becoming a public servant, Mr. Logue may also be deemed to have "accepted" at least some of such benefits after he had become a public servant. If so, this reasoning would apply to both the July 23, 1968 and August 26, 1968 gifts from Governor Rockefeller (in the amounts of \$5,000 and \$6,839, respectively), as well as to the May 5 and May 29, 1969 installments of the interest-free loan which Governor Rockefeller made to Mr. Logue pursuant to their April, 1968 understanding.

C. Reward for Official Conduct

If Mr. Logue was a "public servant" who "accepted" benefits in July and August, 1968 and May, 1969, §200.35 still has no application unless such benefits are accepted "for having engaged in official conduct which he was required or authorized to perform." This requirement is essential to carry out the overall purpose of the statute. McKinney's Practice Commentary (prepared by Professor Richard G. Denzer and Peter McQuillan, the Penal Law's principal draftsmen) cites U.S. v. Irwin, 354 F2d 192 (2d Cir.1965) cert. den. 383 U.S. 967 (1966) to the effect that the

purpose of §200.35 is "to prohibit an individual dealing with a Government employee in the course of his official duties, from giving the employee additional compensation or a tip or gratuity for or because of an official act..." (emphasis added). As stated by the Court in Irwin, the statute is "designed to remove the temptation for a public official to give preferment to one member of the public over another." 354 F.2d at 196 (emphasis added).

The purpose of §200.35, then, is to prevent discrimination among members of the public dealing with a public official in order to assure that a duty which is owed to all such persons by the official is carried out in an impartial manner. In the case of Mr. Logue, this purpose would include, for example, architects, contractors or developers dealing with UDC in its day-to-day activities. This purpose would not, however, include the Governor of the State of New York, who does not deal with UDC as a member of the public but participates instead in the formulation and delivery of UDC's services to the public.

The Irwin case also emphasizes the requirement for "an official act" in order to bring both §200.35 and comparable federal statutes into play. This is consistent with both the statutory purpose discussed above and long-established New York law, which has uniformly insisted (under §200.35 and its predecessor section) on proof that any benefits must be in exchange for such an official act. See,

for example, People v. La Pietra, 64 Misc.2d 807, 316 N.Y.S. 2d 289 (Dst.Ct., Suffolk Co. 1970), in which the Court, citing Irwin, indicated that the benefits in question must be given "by reason of some official act performed or to be performed by the public servant." See also People v. Walsh, 138 Misc. 159, 246 N.Y.S. 171 (Ct. of Gen. Ses., N.Y. Co. 1930), in which, under the predecessor of §200.35, the Court again required that the benefits in question be "for doing and performing an official act." The Court there went on to state:

"To sustain an indictment against a public officer...it is essential that the evidence establish that the emolument, gratuity, and advantage were received by him as a direct consequence of an official act" (246 N.Y.S. at 172) (emphasis added).

Where the evidence failed to establish that a payment to a public official was for an act or service within the scope of his employment, an indictment under the predecessor to §200.35 was dismissed. People v. Samuels, 188 Misc. 607, 71 N.Y.S.2d 562, 564 (County Ct., Suffolk Co. 1947). See also People v. Solomon, 212 N.Y. 446 (1914) (payment must be for "doing or omitting to do certain enumerated acts"); Seymour v. Larkin, 254 App. Div. 215, 4 N.Y.2d 428 (4th Dept. 1938); People v. Kuss, 57 Misc. 2d 425, 292 N.Y.S. 2d 720 (S.Ct. West. Co. 1968), aff'd. 36 App. Div. 2d 306, 320 N.Y.S.2d 169 (2nd Dept. 1971) aff'd. 32 N.Y. 2d 436, 345 N.Y.S.2d 1002 (1973) for the requirement for an "official act" under the predecessor to §200.35.

The requirement for an "official act," and the nature thereof, was further explained by the New York Court of Appeals in People v. Clougher, 246 N.Y. 106, 158 N.E. 38 (1927), in which the Court stated:

"An agreement to take something for performing or committing to perform some discretionary act to which he has some relation by virtue of his employment is enough to constitute the crime. This is the fair import of section 1826." 246 N.Y. at 133 (emphasis added).

In the case of Mr. Logue, the "benefits" received in no way related to the performance of any "official act" on his part. They did, however, relate to his personal and private decision to leave Boston and relocate in New York in the first place and were intended to influence his conduct in making that decision. However, neither the 1968 gifts nor the 1969 loans had any bearing whatsoever on the manner in which Mr. Logue discharged his official functions once they had been assumed. For this reason, these benefits were not "for" any official act or conduct on his part. Since Mr. Logue was neither "required [n]or authorized" to leave Boston and come to New York, the benefits which enabled him to do so are simply not within the scope of §200.35.

Finally, it should be noted that §200.35 refers only to benefits for services in which an official has engaged in the past. Under the broadest conceivable interpretation of the statute, this requirement for past conduct eliminates the July 23, 1968 and August 26, 1968 gifts from

consideration since Governor Rockefeller could hardly have contributed \$11,839 to Mr. Logue "for" his first two months as President of UDC. Indeed, this analysis is probably applicable to the May, 1969 loans as well, which were made before Mr. Logue had completed his first year in the job. It is simply not credible, under any reading of the statute, that such "benefits" were extended to Mr. Logue on account of his services during this brief period.

D. Narrow Construction of Criminal Statute

In New York, as elsewhere, it is well established that criminal statutes must be narrowly construed according to the fair import of their terms. The purpose of such narrow construction is to furnish fair and unequivocal warning of the nature of the prohibited conduct. N.Y. Penal Law §1.05(2); People v. Byron, 17 N.Y. 2d 64 (1966). In the present case, both the purpose and language of §200.35--as well as every single reported case of which we are aware--restrict the scope of that section to official acts dealing with members of the public. For a United States Senate Committee to extend §200.35 beyond limits repeatedly drawn by the New York Courts is in direct conflict with New York's established policy for the construction of its criminal laws and that statute in particular. See, in this connection, People v. Clark, 232 N.Y. 313, 151 N.E. 631 (1926) holding that a specific intent to receive unlawful compensation must

be established under the predecessor of §200.35.

Consistent with this policy, if there were any doubt as to the possible application of §200.35 to the benefits extended to Mr. Logue, those doubts must be resolved through a construction of the statute in accordance with all previous New York decisions. This is particularly true in the present case where, both upon his arrival from Massachusetts and during the ensuing year, Mr. Logue in no way expected or intended to receive any unlawful or improper payment, whether for the performance of his official acts, for the making of his personal decision to leave Boston or otherwise.

IV. Conclusion

For reasons stated above, it is clear that neither Mr. Logue's agreement to receive the 1968 gifts and the 1969 loans nor his actual receipt of such gifts and loans conflicted in any respect with either the specific terms, purpose or spirit of New York Penal Law §200.35.

Respectfully submitted,

BERLE, BUTZEL & KASS

By Stephen J. Kass

The Attorney General of the United States in response to a letter from Senator Howard W. Cannon, Chairman of the Senate Committee on Rules and Administration, provided the following opinion concerning Governor Rockefeller's nomination and Federal conflict-of-interest laws:

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., September 20, 1974.

HON. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter to the Attorney General of September 16 in connection with the hearings to be held by your committee on the nomination of Nelson A. Rockefeller to be Vice President of the United States.

You have asked for a summary and analysis of the Federal conflict of interest law, 18 U.S.C. 208, and of any other statutes which might apply to Mr. Rockefeller if he were confirmed as Vice President. In addition, you have specifically requested an opinion as to whether it would be lawful for Mr. Rockefeller, while serving as Vice President, to be an officer, director or stockholder of, or to hold any other beneficial interest in, any company having contracts with any agency of the United States Government.

I should note at the outset that the legislative history of the Twenty-Fifth Amendment, pursuant to which Mr. Rockefeller has been nominated as Vice President, is silent as to the question of conflict of interest; the subject does not appear to have been of any concern to the Congress when it proposed the amendment. There are, however, two statutes which are relevant to the questions you raise. One, as noted in your letter, is 18 U.S.C. 208; the other is 18 U.S.C. 431.

18 U.S.C. 208

In substance, 18 U.S.C. 208(a) prohibits an officer or employee of the "executive branch" from participating personally and substantially in any particular matter in which "to his knowledge," he, his spouse, minor child, partner or organization in which he is serving as officer, director or trustee has a financial interest. Section 208(b) authorizes a waiver of the prohibition by the "official responsible for appointment" where the outside financial interest is deemed not substantial enough to affect the integrity of the officer's or employee's services.

To summarize the views expressed in detail below: Section 208 does not expressly apply to the Vice President. Some of its language and its legislative history indicate the contrary. Moreover, serious doubt as to constitutionality urges against an interpretation which would render Section 208 applicable to the President; and it seems almost certain that the President and Vice President were intended to be treated alike.

Section 208(a) prohibits an "officer or employee of the executive branch" from participating as such in a particular matter in which, "to his knowledge," he, his spouse, minor child, partner or other business associates with which he is connected, have a financial interest. The section does not refer to, or specifically cover, the President or Vice President. Moreover, the legislative history of sections 202-209 (the conflict of interest provisions), as evidenced by committee reports and debates in the Senate and the House of Representatives, does not demonstrate that section 208 was intended to apply to the Chief Executive and his immediate successor. In seeking to ascertain the intention of Congress, it is useful to refer to the report, *Conflict of Interest and Federal Service* (1960), prepared by the Special Committee on the Federal Conflict of Interest Laws, the Association of the Bar of the City of New York (Bar Association Report), where it was said (pp. 16-17):

"The role of the Presidency is a vital aspect of the administration of conflict of interest restrictions in the executive branch, and the proper function of the Chief Executive in this field is a major center of consideration in this study. But the conflict of interest problems of the President and the Vice President as individual persons must inevitably be treated separately from the rest of the executive branch. For example, as Chief of State, the President is the inevitable target of a running stream of symbolic gifts pouring in from all over the world, for reasons ranging from the best to the worst. The uniqueness of the President's situation is also illustrated by the fact that disqualification of the President from policy decisions because of personal conflicting interests is inconceivable. Personal conflict of interest problems of the Presidency and the Vice Presidency are unique and are therefore not within the scope of this book."

While the recommendations of the Bar Association were not entirely accepted in the conflict of interest legislation as enacted, both the House and Senate committees reporting on the bill and members of Congress in debate acknowledged the contributions made by the Bar Association in the ultimate formulation of the legislation. See, e.g., H. Rept. No. 748, 87th Cong., 1st Sess. 8 (1961); S. Rept. No. 2213, 87th Cong., 2d Sess. 4 (1962). It seems most unlikely that disagreement on so important an aspect of the Bar Association's report—that personal conflict of interest problems of the President and the Vice President "must inevitably be treated separately from the rest of the executive branch"—would have gone without mention by both committees and in floor debate. I believe it more reasonable to conclude that Congress in speaking of an "officer or employee of the executive branch" in section 208 meant to include only those "officers of the United States" who receive their appointment from the President under Article II, section 3, of the Constitution and those subordinate officials who are employed by departments and agencies in the executive branch.

My belief is strengthened by the fact that the waiver provision in subsection (b) of section 208 assumes the existence of an "official responsible for appointment" of the officer or employee in question. At the time the statute was enacted, of course, the Vice President was elected; and the subsequent Twenty-fifth Amendment to the Constitution does not use the term "appointment" in describing the President's role in the selection of his successor. It is conceivable, of course, that the provision of a waiver procedure exercisable only by the "official responsible for appointment" was merely meant to indicate by omission the unavailability of a waiver for nonappointed officers or employees; but one would think that an exempting mechanism would be more necessary for the President and the Vice President (if they were covered) than for other officials. On balance, subsection (b) tends to negate coverage of the President and Vice President.

These considerations derived both from the statutory language and its legislative history are buttressed by two applicable canons of statutory construction. The first is that interpretations which give rise to serious questions of constitutionality should be avoided if reasonably possible. The effect of applying section 208 to the President is certainly either to disable him from performing some of the functions prescribed by the Constitution or to establish a qualification for his serving as President (to wit, elimination of financial conflicts) beyond those contained in the Constitution. The same may be said with respect to the Vice President, unless the Vice President's only constitutionally prescribed function (presiding over the Senate) is not covered by section 208 because it is not an executive act. In any event, whether or not application of section 208 to the Vice President is constitutionally permissible, it would seem that any reasonable construction of the statute would treat the President and the Vice President alike. In light of the weighty constitutional problems with respect to the President, the statute should not be interpreted to apply to either official.

Another canon of construction calls for strict construction of a criminal statute—which is what is at issue here. It would argue strongly against interpreting the statute to apply to the President and Vice President in light of what must be conceded to be (at very least) the textual uncertainty described above.

Although, as I see it, these considerations are dispositive, without regard to them it might be asserted that the Vice President is not an officer of the executive branch for purposes of section 208. The Vice President's only constitutionally prescribed function is that of presiding over the Senate. Article I, sec. 3, cl. 4.

18 U.S.C. 431

As to your specific question concerning the permissibility of a Vice President's financial or managerial connection with a Government contractor: The only possibly relevant statute of which we are aware is 18 U.S.C. 431, dealing with con-

tracts by a "Member" of Congress. It prohibits the member "directly or indirectly, himself or by any person in trust for him, or for his use or benefit, or on his account" from undertaking, executing, holding, or enjoying, in whole or in part, any contract made on behalf of the United States or any agency thereof, by any officer or employee authorized to make contracts on its behalf.

The key issue thus is whether the Vice President is a "Member of . . . Congress" within the meaning of 18 U.S.C. 431. I do not so regard him. Certainly the Vice President is not a Member of Congress as that term is used in the Constitution. To be sure, for certain purposes he can be regarded as being in the legislative branch. Thus, for example, the Vice President is empowered to be President of the Senate and to vote in the event of an equal division in the Senate. Art. 1, sec. 3, cl. 4. Unlike Members of the Senate, however, the Vice President (like the President) is subject to impeachment. Art. II, sec. 4. Moreover, while clauses 1 and 2 of section 5 of Article I provide that each House shall be the judge of the elections, returns and qualifications of its own "members" and may punish them for disorderly behavior and expel them, these clauses plainly do not apply to the Vice President. The Constitution also provides that no person holding "any Office under the United States" (which, of course, includes the Vice President), shall be a "Member of either House" during his continuance in office. Art. I, sec. 6, cl. 2. Considered as a whole, these provisions indicate that the Vice President has a unique status in the legislative branch, but not the status of a "Member" of the Congress within the meaning of the Constitution.

Turning next to the meaning of "Member . . . of Congress" in the precise context of 18 U.S.C. 431: Since it is a criminal statute, to be strictly construed, I cannot interpret it to apply to the Vice President when it makes no specific reference to him, and when he is not regarded as a "Member" of either the House of Representatives or the Senate (the Congress) under the Constitution. It should be noted that the statute in question was passed less than twenty years after the Constitution was written, so that it is not unreasonable to assume a parallel use of terminology. This is particularly the case since our examination of the legislative history of that section discloses no mention whatever of the Vice President. Congress has not been at a loss for words when it intends a statute, criminal or civil, to reach offenses against a Vice President or to apply to him in other respects.¹ For these reasons, I conclude that the statute does not apply to that office.

If you have any further specific questions, I will be glad to be of whatever help I can to the Committee.

Sincerely,

LAURENCE H. SILBERMAN,
Acting Attorney General.

¹ See, e.g., 18 U.S.C. 871, 1751; 10 U.S.C. 888, 9342(a); 5 U.S.C. 2106. For example, in 5 U.S.C. 2106, which deals with Government organization and employees, it is provided: "For the purposes of this title, 'Member of Congress' means the Vice President, a member of the Senate or the House of Representatives. . . ."

APPENDIX A

18 U.S.C. 208, ACTS AFFECTING A PERSONAL FINANCIAL INTEREST

"(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

"Shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

"(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services."

APPENDIX B

18 U.S.C. 431, CONTRACTS BY MEMBERS OF CONGRESS

"Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, directly or indirectly, himself, or by any other person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in whole or in part, any contract or agreement, made or entered into in behalf of the United States or any agency thereof, by any officer or person authorized to make contracts on its behalf, shall be fined not more than \$3,000.

"All contracts or agreements made in violation of this section shall be void; and whenever any sum of money is ad-

vanced by the United States or any agency thereof, in consideration of any such contract or agreement, it shall forthwith be repaid; and in case of failure or refusal to repay the same when demanded by the proper officer of the department or agency under whose authority such contract or agreement shall have been made or entered into, suit shall at once be brought against the person so failing or refusing and his sureties for the recovery of the money so advanced."

Senator Robert C. Byrd highlighted many of the Committee's concerns, and its responsibilities, when he directed the following comments to the legality of the loans and gifts:

* * * Dr. Ronan, in your statement you said it would be a bit of irony if Governor Rockefeller should be denied confirmation because he shared part of his wealth with those he loved and trusted.

I do not feel that any of us would want to deny confirmation to Governor Rockefeller because he shared part of his wealth with those he had loved and trusted and it would be an easy decision indeed if it were such a simple matter.

Those of us who have the responsibility for confirmation feel that the matter may go deeper than this. He made loans and gifts among officers and employees of the State agencies and these public employees and public servants numbered from half a dozen to a dozen persons and of course he might have trusted many others, but the loans and gifts were confined to this small, seemingly select group. Your case is an outstanding one in that the total of gifts has been pointed out here over a period of years as amounting to \$625,000 and nothing has been said about the interest on those gifts.

I sought, in my own way a moment ago, to try to reach an estimate of the interest, the amount of interest that you would have had to pay on these loans over this period of time, if they had all carried a 4-percent interest rate, and I came up with a very conservative estimate, I think, of something like \$152,000. I am not an accountant but in my rough way of computation here I came up with at least \$152,000 which interest in itself constituted quite a considerable gift.

I cannot say, and of course I do not say, that any ulterior motive on your part or on Mr. Rockefeller's part is to be ascribed to any of the gifts that were made to you or to any of the others. But some troublesome questions have arisen. You have indicated that as chairman of the board and chief executive officer of the MTA you had responsibility over 61,000 employees, you negotiated with major union contracts, and there were construction programs totaling in the billions of dollars. During all this time you solicited—according to your own statement—various loans from Mr. Rockefeller. These were non-interest-bearing loans. Certain of them extended beyond the normal maturity dates.

Now while Mr. Rockefeller was before the committee several of us asked long and tedious and seemingly repetitious

questions dealing with loans and gifts and whether or not there had been extensions of the loans and whether or not they had been interest-bearing and so on. There was a purpose for those questions and that purpose dealt with the two New York laws which have been alluded to here today and of course heretofore.

I am in no position to say the public officers statute was violated either in letter or intent. But the facts in your case and in one or two of the other cases seem to come pretty close to meeting the essential elements of one or other of the laws. For example, one of the elements requires that the recipient be an employee of a State agency. MTA is a State agency, and you were an employee.

Another element has to do with solicitation or receipt of any gift of a value of \$25 or more and a loan qualifies under that statute because it is specifically mentioned. There is no question but that you were the recipient of various loans, each having a value of more than \$25, and that you not only received but also solicited the loans.

So that element of the law is met.

And the remaining element is one on which reasonable men certainly could differ and it might be a jury question in case anyone were to be indicted for violating the statute. That element requires that there be circumstances in which it could be reasonably inferred that the gift was intended to influence the State officer or employee or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action. Violation of the statutes is a misdemeanor.

Although it is a criminal statute, the standard of proof, as I indicated here the other day, is not one that is required to be beyond a reasonable doubt. All that is necessary is that a reasonable inference can be drawn—which seems to be a tort standard.

I think it is quite possible that a reasonable man could draw such a reasonable inference from the circumstances in your case, in which event all the elements for violation of the statute would have been met.

The fact that you resigned from the MTA 2 days prior to the cancellation of the loans does not negate the fact that such loans were made to you while you were an employee of the State agency. To combat the inference that might reasonably be drawn, both you and Mr. Rockefeller have stated that the loans were made on the basis of friendship and that the purpose was to look to your family needs and to your own retirement. This is one of the reasons why we have continued to ask about a pension plan and so on.

You stated that there was no obligation upon you to provide any service to Mr. Rockefeller. Nor any effort to condition your outlook or views.

Now the other statute that is involved is the so-called tipping statute, the violation of which would be a class A misdemeanor. The reasoning behind that statute is that a public

servant should not get any extra gratuity for having done his job and one of the elements of that statute is that a benefit be conferred or offered to the public servant. That is the reason for the question as to whether or not any discussion was had prior to the cancellation of the gift. The fact that you had resigned from MTA 2 days prior to the cancellation of the loan, does not relieve the donor from having conferred a benefit in view of the fact that this element of the statute is met by the virtue of the loans having been made to you without interest and without collateral.

So you were benefited. You were a public servant at the time the benefit was conferred.

The final element, however, which is required for violation of the statute, "for having engaged in official conduct," and that is a troublesome element. Mr. Rockefeller indicated that your services were outstanding and exemplary, and from that statement one could perhaps draw the inference that you were not only the object of his favoritism because of his friendship and affection for you, but also, consciously or subconsciously, because of your capability and remarkable expertise in the performance and conduct of office. In the case of the tipping statute, however, more than a reasonable inference is necessary. Proof beyond a reasonable doubt would undoubtedly be the standard that would have to be applied.

The fact that the loans were canceled just 2 days following your resignation might indicate an intention to evade the statute. Also the repeated reference to the fact that Mr. Rockefeller was your boss and, therefore, you would have to carry out his commands, is certainly not in mitigation of the elements of the statute which simply says a person "is guilty" if he does thus and so or "no person shall" do thus and so—regardless of the fact that he may have ordered one to do thus and so. So the fact that you were his employee does not really mitigate the sanction of the statute, once it is violated. I want to say in closing that I felt it necessary to lay this statement into the record for the benefit of all who may read the record, because these are things that have been troubling me and various other members of the committee, and I think that the record should explain, as well as I have been able to state, as to what our purposes were in asking such questions and also to indicate that there is a very, very fine line here. The question, I think, comes down to how close can one get to that fine line without having actually violated either or both of the statutes.

I do not say that either of them was violated in connection with any of the gifts or loans, as far as the evidence at hand shows. It does not appear to be enough evidence to overcome the clear expression by Mr. Rockefeller and you that the loans and gifts were in all cases made purely out of love and friendship.

But again I cannot gainsay the impression I have received from these various gifts and loans, that a curious pattern evolves; not one that is conclusive, but there appear to be too

many instances to be merely coincidental, in which the crucial element—not identical in every case—is always missing. In other words, it seems that each case was drawn to preclude the crucial element, and it was done by basing the gift or benefit on friendship, and so forth. And while, as I say, an inference may be properly drawn in these various cases, without more, I think the benefit of any doubt ought to be given to the person involved—in this case the nominee, especially in view of the fact that he is the President's choice and the country does need a Vice President.

I think what it boils down to is simply the question I raised when Mr. Rockefeller first came before this committee and that is the potential problem that could occur when tremendous wealth is tied to the tremendous power of high political office. This question was raised again by Mr. Rockefeller himself in his prepared statement when he appeared before the committee last week. As to the New York statutes, they involve the misuse, consciously or subconsciously, intentionally or unintentionally, of wealth by a holder of high office and the concomitant undermining of the integrity of Government.

If these hearings have accomplished nothing more, they have conveyed to you, Mr. Ronan, and to Mr. Rockefeller especially, I would think, a greater awareness of these potential dangers, and by his own words he has so stated.

He has undergone some trial and travail—some refer to it as an ordeal—but it was an ordeal to which he was entitled, and, having felt the pressure and the pressure which is yet to come in the other body he will perhaps have emerged as a wiser man and perhaps more fit than ever for the high office of the Vice President. The confidence of the people in the political system may also, hopefully, have been strengthened.

In evaluating the impact of the possible legality of loans and gifts made by Governor Rockefeller the Committee carefully refrained from any attempt to preempt the responsibility of U.S. Government and State authorities charged with the task of making a legal determination concerning these actions. The Committee feels it is not a proper forum to accomplish that end. However, consideration was necessary, supported by in-depth questioning, to develop a platform from which the potential impact on the fitness of Governor Rockefeller could be determined.

PROPRIETY OF GIFTS AND LOANS

Aside from questions of legality the loans and gifts made by Governor Rockefeller pose questions just as far-reaching, in the view of the Committee, which deal with Governor Rockefeller's moral judgment and sense of propriety. As stated by Chairman Cannon in a question to Governor Rockefeller—

Would you agree that such generous financial assistance to Mr. Morhouse would so obligate him that he could not act independently on any matter in which your views or your

aspirations or opinions were under consideration? In other words, instead of him being his own man, he would be Mr. Rockefeller's man?

The Committee found it necessary to develop information to determine whether or not Governor Rockefeller's loans and gifts were made for purposes other than as represented by Governor Rockefeller and the recipients. Were they made as gestures of affection and friendship or were they made to achieve a gain by Governor Rockefeller, or as a reward to the recipients for services rendered?

During the course of detailed questioning by the Committee, Governor Rockefeller adamantly denied that any ulterior motives were present in connection with his generosity. When the obvious inferences involving propriety and moral values which could be drawn from such loans and gifts to public officials were continually directed to Governor Rockefeller's attention by members of the Committee, Governor Rockefeller recognized in retrospect the validity of the concern. Governor Rockefeller stated in response to a question by Senator Pell:

And I would repeat again, as I did yesterday, that I now clearly understand that my desire to be helpful has been misinterpreted or has been—has created uncertainty or some dissatisfaction and, therefore—in this moment of history, it is tremendously serious because the people have got to have confidence in their representatives, and should I be confirmed, they have got to have confidence in every aspect of my actions, my thoughts, and my position on the issues and, therefore, I do not want to leave any area where there could be any uncertainty or suspicion, and I appreciate your making the point.

The Committee accepted the sincerity of Governor Rockefeller in recognizing the problems associated with his granting of loans and gifts, and his commitment to exercise great care in the future regarding these activities. As stated by Chairman Cannon during the hearings:

I would suggest that any offer of commitment should certainly be contingent upon the Committee establishing that requirement. This requirement goes far beyond the present law, or beyond any present standards of conduct that have been established. And certainly it would be, as the Senator from Kentucky is pointing out, very unfair to this nominee to require him, as a condition precedent to his approval or rejection by this Committee, to commit himself to things that go far beyond the law or the official standards of conduct, and with which the other members of the Committee may not agree.

The Committee in conclusion decided not to require of Governor Rockefeller more stringent standards of conduct than that required of other governmental office-holders. Chairman Cannon expressed his view, concurred in by the Committee, stating:

I think it would be a mistake to impose something that is not imposed by the Constitution and is not imposed by law.

What the man does with his own money after he has satisfied his obligations to the Federal Government [is his own business], and we do not impose that kind of restriction on Senators or any other public official.

NOMINEE'S INVOLVEMENT WITH VICTOR J. LASKY'S BOOK "ARTHUR J. GOLDBERG: THE OLD AND THE NEW"

Sometime between July 1 and July 10, 1970, John Wells, partner in the law firm of Royall, Koegel, and Wells, discussed with Victor J. Lasky the idea of a book on Arthur J. Goldberg. Although Wells was not involved in the 1970 Rockefeller campaign, he had in past campaigns been a most active participant. Since Goldberg was going to run against Rockefeller, Wells was of the opinion that the public should be apprised that Goldberg had only held appointed positions, such as Secretary of Labor, Supreme Court Justice, and United Nations Ambassador, as opposed to an elected office and was, therefore, in a position of expressing views and positions without ever having them tested. He also thought that the book could make a profit.

Lasky had considerable material and was willing to write a book along the lines described by Wells for a fee which was set later at \$10,000. Lasky also made preliminary arrangements with Neil McCaffrey, president of *Arlington House* to publish the book.

Having made these preliminary arrangements, Wells then met with Nelson Rockefeller and in his testimony he stated:

I told the Governor why I thought a book reviewing Mr. Goldberg's record and actions over the years was badly needed. I said a mass of material had been written on Mr. Goldberg, but it was newspaper and magazine treatment, and had never been brought together and subjected to critical scrutiny as a whole.

I said Mr. Goldberg's performance in office as Secretary of Labor, as a member of the Supreme Court, and as U.N. Ambassador, should be reviewed as well as the methods he adopted to secure the Democratic nomination for Governor.

I said that the job merely required pulling together published material, subjecting it to critical scrutiny, and in effect writing an opposition brief on Mr. Goldberg's record.

I also said that in my judgment Mr. Goldberg had not met the five year residency requirement of the State Constitution. I said that I proposed to set up a corporation to sponsor the book and that it would contract with Lasky and the publisher. I said I needed an investor, if this program of public education were to proceed.

I said I thought the book would be commercially feasible, that is, it could be done at a profit—could be. Sales would be made through the publisher's normal commercial channels and to organizations, committees, and individuals supporting the Governor for reelection.

Above all, and this is important, I made it very clear that this would not be a vicious, low, personal scandalous attack. It would not be one of that genre of writings which had been

referred to by the Committee and by others here of underhanded, nasty stuff.

That was not the intention, and that is not what was done.

I said if the content of the book would be carefully reviewed from a factual and legal point of view, there would be nothing libelous. In short, this would be a completely legitimate effort to bring the facts concerning Mr. Goldberg's past views and actions, that is his record, into public view for the purpose of legitimate criticism.

Governor Rockefeller was noncommittal. He listened and did not say yes, no, or maybe.

The meeting ended on a mutual "nice to see you" basis.

Although non-committal to Wells, Nelson Rockefeller testified—

I referred Jack Wells to my counsel, Donal O'Brien, and sent a message to my brother Laurance asking if he could help Jack Wells find some investors. That was the extent of my involvement with the project. Later I saw a copy of the book, but I never really looked at it.

Laurance Rockefeller testified that his brother's secretary, Mrs. Boyer, approached him on the matter and said it was to be a commercial venture, that they were looking for stockholders and would he participate and help put together a group to finance the publication. Laurance Rockefeller also stated—

that I did not have the time to put together a group but that I would be willing to underwrite the venture. As it turned out, no other investors were forthcoming, and I ended up making the entire investment which I believe was \$65,000.

My conversation with Mrs. Boyer could not have lasted more than five minutes and this is the last that I remember hearing about it until Dick Dilworth, our senior financial advisor, told me that he was going to be interviewed by the FBI concerning my investment in the book. I do not recall discussing the book with anyone other than Mrs. Boyer. I am confident that I never discussed it with my brother Nelson.

It can only be presumed that Louise Boyer so informed Nelson Rockefeller. Nelson Rockefeller also contacted Donal O'Brien, a Rockefeller attorney, and told him to see what he could do to help Wells in his venture. O'Brien discussed the book with Wells and decided that the project would be handled by his associate, Robert D. Orr, who was also a Rockefeller attorney. Orr met with Wells and O'Brien and was informed of the project. It was his impression that Laurance Rockefeller was underwriting the book, and it was Orr's task to look after Laurance Rockefeller's interests. Orr and O'Brien discussed the best manner of making arrangements for funding the book which would keep the Rockefeller name from becoming involved, and arranged with J. Richardson Dilworth, Rockefeller family advisor, for a nominee to handle the funds. Dilworth contacted his uncle, Richardson Dilworth (now deceased), in Philadelphia, and requested that a nominee be appointed. Richardson Dilworth arranged for an attorney with his firm, Joseph Jacovini of Philadelphia, to be the nominee and informed him his contact would be Robert Orr.

Meanwhile Wells, had proceeded to establish a corporation, Literary Productions, Inc., to handle the publication and distribution of the book. The single director and officer was Robert Collier. Wells also consummated his arrangements with Lasky to write the book for a fee of \$10,000 and with *Arlington House Publications* to publish 100,000 copies of the book for 48¢ a copy, or a total of \$48,000. In due course, checks from the corporation were drawn in these amounts and paid to Lasky, the author, and McCaffrey, the president of the publishing house. The book was published and 20,000 copies were delivered to the Citizens for Rockefeller committee. A "few thousand" were sent to name Republicans throughout the State and county chairmen, and an untold number were delivered to some 500 outlets in New York and placed on newsstands throughout the State. The remainder ultimately were destroyed.

On July 29, 1970, Jacovini received a letter from J. Richardson Dilworth with a check for \$40,000, and on July 30, he received instructions from Robert Orr to make a check for \$35,000 payable to Literary Productions, Inc. Jacovini drew the check as requested and sent it to Orr on July 31. In a letter dated August 11, 1970, to Jacovini from Orr, the \$35,000 check was returned with instructions to void it and issue a new check in the same amount to the same payee. The letter also informed that a messenger from the law firm of Royall, Koegel and Wells, 1730 K Street, N.W., Washington, D.C., would be sent to Philadelphia to pick up the check and deliver a certificate for 350 shares of stock in Literary Productions, Inc. made out in Jacovini's name. When questioned on this point, Jacovini stated that it was normal to transfer securities by messenger.

Circumstances surrounding the voiding of one check and the use of a messenger were considered in detail by the Committee members. In answer to a question raised by the Chairman, Mr. Orr stated:

My recollection is that the 31st of July was the day I had gone to see Mr. Jacovini, and I furnished him with \$40,000. He had then opened an account in his own name as nominee and prepared to draw checks and perform such services as that upon request. I asked him to send the \$35,000 check to me because I had understood from Mr. Wells' firm—and when I say "his firm" I am not able to recall who, whether Mr. Wells, Mr. Sheehy—I was to have money available when the corporation might require it, and I therefore held this \$35,000 check that Mr. Jacovini had sent pending a request for the money from the Wells' firm. As it turned out, they did not need it apparently as soon as had been expected, and by the time they asked for it I had had it in my hands and it was more than two weeks old. Also they had asked that a messenger pick it up from Mr. Jacovini, so I simply asked him to draw a fresh check.

Jacovini wrote to Orr on August 17 and acknowledged receipt of the shares of Literary Productions, Inc. On August 27, 1970, Orr again wrote to Jacovini and enclosed a check for \$25,000 to be deposited to his nominee account. Jacovini was told to issue a check payable to Literary Productions, Inc. in the amount of \$25,000 which would be picked up by a messenger who in turn would deliver an additional 250 shares of LPI in the same manner as in the first transaction.

On October 12, 1971, Jacovini was informed that Arthur Rashap was replacing Robert Orr as his contact, as Orr had retired. Jacovini was instructed to execute a consent in lieu of meeting with shareholders and return it with the corporate charter so that Literary Productions, Inc. could be dissolved. Jacovini completed this transaction on October 18, 1971, and LPI was dissolved October 29, 1971.

On April 27, 1973, Jacovini wrote to Arthur Rashap indicating he was still holding the stock certificates for Literary Productions, Inc., and he had a balance of \$6,827.26 in the nominee account. Of this amount, \$5,000 was left from the \$65,000 which had been deposited, and the other \$1,827.26, to the best of his recollection, Jacovini believes was sent to him in a check along with the instructions he received on October 12, 1971. Wells testified that a liquidation distribution check in this amount was sent to Jacovini.

On May 9, 1973, Rashap directed Jacovini to draw a check for \$6,827.26 for the full amount payable to J. Richardson Dilworth and send it to Rashap. Jacovini complied with the letter and asked what he should do with the stock certificates. On June 25, Rashap informed Jacovini that because of a mixup he had to cancel the first check of May 21st. Rashap instructed Jacovini to issue a new check identical to the one which had been voided and return it with the stock certificates. On July 30, 1973, Jacovini sent the check and certificates and closed the nominee account. Jacovini stated his law firm never billed anyone for the work done in this matter because the time spent was negligible.

J. Richardson Dilworth cannot recall exactly how the first check he received from Jacovini was handled. He remembers signing it, but for some reason the endorsement was incorrect and the check was voided. An examination of the check did not reveal any additional information. The second check was endorsed by Dilworth and deposited to his own account. He in turn drew a check in like amount and deposited it in the account of Laurance Rockefeller. This amount was the sole return that Laurance received on his \$65,000 investment. The loss of \$58,172 was never listed as a business loss, but Laurance Rockefeller explained that—

The check which we heard so much about today was not made available until July of 1973. Therefore, if my tax people, counsel, had had all the information that they needed to claim a deduction, they had their first chance in 1974. Now, they have advised me they did not have that information and, therefore, could not make a claim. My hope is that they will get it, and in 1975 proceed to make the claim.

There seems to be little doubt that the idea of a book originated with Wells and was furthered in his conversation with Lasky. Nelson Rockefeller first denied that he ever authorized the book to be published or had knowledge of its content. He has since taken full responsibility for its publication. The Committee was never convinced that this was a business venture as opposed to one which was primarily involved with the political campaign.

Concerning the business venture aspects, Lasky had written several successful books which had made considerable profit, and while he "did not believe this could be a best seller," Lasky did believe it had

a chance to make a profit. He also was fully cognizant of the political overtones.

Wells was not involved in the campaign, but he certainly was interested in furthering Rockefeller's chances for victory. Nelson Rockefeller admits that he treated the idea of the book, as presented to him by Wells in the short discussion, all too hastily and should have killed it at the time. While he did not give a cent to the publication, he did further its progress by contacting his brother Laurance and requesting that Laurance find the necessary investors for the book, and also by contacting one of his attorneys, Donal O'Brien, requesting that he get together with Wells to see what could be worked out. Wells took these instructions from Nelson Rockefeller as being tantamount to a go-ahead to get the book published.

So far as Laurance Rockefeller was concerned, he did not know what was to be in the book, he never saw a manuscript or discussed the book in any detail, and in fact never saw a copy of the book prior to the time the issue was raised recently. When he was approached by Nelson Rockefeller's secretary with the request to find investors for the venture, there was no question in his mind that the book had the backing of his brother Nelson, or it would never have been brought to his attention by Nelson's secretary, Louise Boyer. As the sum involved was not significant in his mind and as he did not have time to look for investors within the timeframe necessary to get the book published during the campaign, he opted to underwrite the book himself until investors could be found. Laurance had no other role to play in the entire process.

O'Brien, Wells, and Orr never really made a search for any investors. Once they had the money in the form of an underwriting from Laurance Rockefeller, that ended that phase of the operation. Neither O'Brien nor Orr were involved in Nelson Rockefeller's political campaigns, but are concerned primarily with the legal aspects of his affairs. They recognized the political overtones of the book, but looked upon it as a business venture.

In keeping with the policy and procedures followed normally by the Rockefellers, in many transactions a nominee is used to keep the Rockefeller name from being involved in any way. Usually, this procedure is adopted to prevent costs from escalating once it is known that Rockefeller is interested in a project. In this case, it can only be assumed that this procedure was used to keep anyone from knowing that Rockefeller was in any way involved with the publication of the book on Arthur Goldberg. The creation of a corporation was entirely legal, and it also furthered the aim of keeping the Rockefeller name from being involved.

While it was never exactly pinned down as to who signed the checks which were sent to the nominee to create the funds for the project, it was obviously an arrangement within the Rockefeller office whereby funds in the amount of \$65,000 were transferred from Laurance Rockefeller's account to the nominee. The question as to why two separate checks in the amount of \$35,000 each were drawn by the nominee in favor of Literary Productions, Inc. has been raised in the minds of the Members, but it did seem plausible that the use of a messenger to deliver and pick up as opposed to using certified mail was logical.

It was impossible to determine exactly what caused the required issuance of a second check in the amount of \$6,827.26 to Mr. Dilworth. It does not seem there was anything illegal in this transaction, and the money was rightfully returned to the sole investor, Laurance Rockefeller, when Literary Productions, Inc. was dissolved.

The Committee concludes that the book, "Arthur J. Goldberg, The Old and The New," had political overtones which overshadowed those of a business venture. Nelson Rockefeller exercised poor judgment when he was informed initially about the book and by his action gave tacit agreement to its publication.

Laurance Rockefeller was the victim of well-meaning intentions and became involved in what he thought was a business venture which had been endorsed by his brother. There was a definite attempt to use every means possible of keeping the Rockefeller name from being connected in any way with the publication, and in the Committee's mind this was done strictly on political grounds as opposed to any relationship to a business venture. There was no evidence of any illegal act by anyone concerned.

POLITICAL CONTRIBUTIONS OF NELSON A. ROCKEFELLER AND THE ROCKEFELLER FAMILY

The nominee has personally engaged in seven major campaigns (four gubernatorial and three Presidential) during his public life. The Rockefeller family and the nominee have made significant political expenditures to finance these elections. Additionally, over the last 18 years Mr. Rockefeller has made contributions to various political candidates throughout the United States. One of the issues reviewed by the Committee was whether or not any question of propriety was raised by the amounts of the contributions or means by which the contributions were advanced.

On November 13, 1974, the nominee in a prepared statement to the Committee outlined his personal contributions and those of his family to Rockefeller campaigns and the campaigns of others.

Mr. ROCKEFELLER. During the past eighteen years, my total contributions to political parties, campaign committees and candidates have amounted to \$3,265,000, two-thirds of which I gave in connection with the four state and three national campaigns in which I was involved personally.

I am grateful to my brothers John, Laurance, and David, and my sister, Abby, for their support of my political activities over 17 years amounting to a total of \$2,850,000. And I would like to make special mention of my most enthusiastic and generous backer, my stepmother, the late Martha Baird Rockefeller, who averaged about \$1.5 million per campaign.

Appended to the nominee's prepared statement was a complete list of his total political contributions for the years 1957 through 1974. The total for the period was \$3,265,374. The Committee has not received or discovered any discrepancy in these figures.

The nominee during questioning elaborated on the amounts of contributions by himself and his family. Nelson Rockefeller's stepmother, Martha Baird Rockefeller, averaged approximately \$1.5 million per

campaign; for the four gubernatorial and three Presidential races the total was close to \$11 million. Contributions from the nominee's three brothers and one sister for these seven campaigns amounted to \$2,850,000. Approximately two thirds of the nominee's total contributions to political parties, campaign committees, and candidates of \$3,265,000 went into these seven campaigns.

During testimony the nominee volunteered information concerning additional expenditures he made which are not technically considered campaign contributions. For example, the nominee financed extensive research studies and papers on various national, international, and local issues. Additionally, Nelson Rockefeller paid the salaries and travel expenditures for individuals who would travel on behalf of the nominee to study the national political situation. For the period of the last seventeen years the nominee estimates he may have paid approximately \$5 million for these services. Therefore, the nominee and his family, directly and indirectly, have given approximately \$20 million over a period of 17 years for seven campaigns, background studies, and research projects on a wide variety of issues.

In response to a question from Senator Griffin as to whether the members of the Rockefeller Family jointly agreed who should receive political contributions in various campaigns, the nominee answered, "No sir. In fact, we disagree." The testimony established that there is no coordinated pattern of giving to candidates on behalf of the Rockefeller family. Rather, each member decides on an individual basis the amount, if any, which a political candidate may receive. This applied to contributions by the Rockefeller family members to Nelson Rockefeller in his various campaigns.

During his testimony, the nominee did express his intention to continue to make political contributions to selected political candidates if confirmed as Vice President. The Committee feels this raises no potential problems.

The nominee and the Committee discussed the \$100,000 his sister Abby and the \$250,000 his brother David gave Nelson Rockefeller in 1964. The nominee was running for President at this time and the question arose whether these amounts were gifts or political contributions. The money was deposited in the nominee's personal checking account and used to defray various expenses including political or campaign expenses. Section 608 of Title 18, United States Code, in 1964 prohibited individual contributions in excess of \$5,000 during any calendar year to Presidential candidates. The Committee has a memorandum on file from the nominee's counsel that these two amounts were gifts, not political contributions. The nominee elaborated in his testimony that these gifts were a gesture of love and affection from two members of his family who had been upset by the nominee's divorce two years earlier. The nominee commented:

If you look at the amount of money I had in my account at the time I received these checks, I had more money at that time in my account to pay all of the political expenditures which I paid than was required, and none of that money was used for that purpose.

The Committee feels there is no problem here with potential violation of Section 608 of Title 18 of the United States Code.

In its search for information concerning political contributions to or on behalf of the nominee and expenditures made by him during the course of his campaigns for Federal and State elective office, the committee contacted every possible source. Prior to April 7, 1972, Federal law did not apply to any campaign for nomination to Federal office and therefore no reports or statements of political finances were required to be filed by the nominee with any Federal depository.

New York State election law required reports of receipts and expenditures for political purposes to be filed by candidates running for State office, but after such reports had been on file for more than three years, they could be and were lawfully destroyed.

Except for miscellaneous bits of information available from studies conducted by private groups, the bulk of political data was obtained from the personal files of Mr. Rockefeller. Personal accounts and income tax returns covering the period from 1947 to 1974 disclosed the political finances of the nominee in considerable detail. Without the cooperation of the nominee the committee would have experienced great difficulty, at best, in piecing together a record of those finances.

For maintaining those records the committee commends the nominee, and for the wholehearted cooperation in making all of his records available for study, the committee wishes to thank him.

NOMINEE'S INVOLVEMENT WITH THE GRUMMAN CONTRACTS

The Committee addressed actions taken by the nominee involving Grumman Aircraft of New York concerning the renegotiation of a contract with the Defense Department for the manufacture of the F-14 fighter aircraft and the attempt by Grumman to secure a contract with NASA for the manufacture of a space shuttle contract.

As Governor of the State of New York, Nelson Rockefeller spoke with the President, the Vice President, and other Government officials, and wrote to John Mitchell and other Government officials to further the aims of the Grumman company. When asked by the Chairman if he thought that action of this type as Governor was a proper use of political influence or were his efforts an attempt to circumvent the contractual procedures that are involved in the awarding of a defense contract, he replied:

Senator, I have to say to you that in the ideal sense that certainly there should be no involvement in contracts by the military with politicians. But, seeing we have a competitive system in our country where various contractors are bidding for work from the Department, all are legitimate bidders or they would not be allowed to bid. Where a decision has to be made relating to it, by officials other than military, there is bound to be a consideration. And I hardly think this can be a new subject to anybody who has been in Washington: There are bound to be considerations that relate to the geographic areas of the country and the political parties that are involved, not parties, but the individuals. I have always felt, and I tried to do this when there were Democratic Presidents here or Republican Presidents. It was my responsibility to put the interests of the contractors in New York State who were legitimate contractors, and whose receipt of the contract

would be to their interest, to the State's interest, in the sense it gave more employment. It was my responsibility to put forward the arguments in favor, which I always did. I thought I was doing my duty for my constituents.

The Chairman commented further:

My question is, whether or not that is actually going too far when it involves assistants to the President; and also involves an ex-Attorney General. It involves, and I may say these documents were taken from the files of CREEP, the Committee to Re-Elect the President, the assistant to the President, and your own conversation with the President. I must say, in all fairness, however, that Grumman did not get the national contract for the space shuttle. It did go to North American, so maybe our system is a pretty good one after all.

There was no question that the nominee used his office to attempt to assist a New York industry to gain a Government contract. The Committee accepted his argument that he was doing his duty for his constituents and did not press the matter further.

GOVERNOR ROCKEFELLER'S PARDON OF L. JUDSON MORHOUSE

At the time Mr. Rockefeller first ran for Governor of New York, Mr. L. Judson Morhouse had been New York Republican State Chairman for 4 years. He supported Mr. Rockefeller for Governor. Mr. Nelson Rockefeller was sworn in as Governor of New York on January 1, 1959. In March of that year he appointed Mr. Morhouse to the New York Thruway Authority.

In 1959 in an effort to help Mr. Morhouse financially (he did not draw a salary as State Chairman), Governor Rockefeller requested his brother Laurance to assist Morhouse. Laurance Rockefeller, through his staff, loaned L. Judson Morhouse \$49,000 to purchase recommended stock in two companies controlled by the L. Rockefeller's as follows: 4,000 shares of Geophysics Corp. of America for \$24,000 and 2,500 shares of Marx Oxygen Co. for \$25,000. A note was signed by Mr. Morhouse December 22, 1959, for \$49,000 bearing interest at the rate of 3 percent and the stock was held as security.

In 1960, at the request of Mr. Morhouse, Governor Rockefeller loaned him \$100,000 for further investment. Said loan was later forgiven, after Mr. Rockefeller resigned as Governor.

In 1961 the stock bought by Mr. Morhouse, with Mr. L. Rockefeller's help, had increased to the extent that after paying off Mr. L. Rockefeller's note he had a net profit of \$30,000 and still owned 4,000 shares of Geophysics at an estimated value of \$240,000 at that time.

In 1963 Mr. Morhouse became involved in an attempted bribery to secure a liquor license. He was immediately asked to resign his State job and as New York Republican State Chairman. He was convicted May 20, 1966, for crimes of bribery and taking unlawful fees. His conviction was affirmed November 25, 1970. On December 23, 1970, Governor Rockefeller commuted Mr. Morhouse's prison sentence based on his medical condition.



Mr. Rockefeller explained his pardon of Mr. Morhouse in the following statement:

On December 23, 1970, I commuted Mr. Morhouse's sentence and issued the following public statement.

"Mr. Morhouse, now fifty-six years old, was sentenced to a term of imprisonment of not less than two nor more than three years upon his conviction on May 20, 1966, in New York County for the crimes of bribery and taking unlawful fees. He was found guilty of aiding and abetting others to give a bribe to a public official, and aiding and abetting the public official to receive an unlawful fee. His conviction was affirmed by the New York Court of Appeals on November 25, 1970. Subsequently, on December 8, 1970, he applied for commutation of his sentence and submitted affidavits provided by four attending physicians and surgeons in support of his application.

"During the time his appeal was pending, Mr. Morhouse's physical condition deteriorated to the point where, according to competent medical opinion, incarceration might well cause death. The supporting affidavits reveal the following medical history.

"In 1968, Mr. Morhouse was found to be suffering from Parkinson's disease, an incurable disease of the nervous system. Some symptoms have been allayed by large doses each day of the experimental drug L-dopa, plus other medication and a prescribed program of physical therapy.

"In November 1969, he was operated on for cancer of the rectum and, as a result, his rectum and two-thirds of his large intestine were removed, making necessary a permanent colostomy. The colostomy must be irrigated each day for approximately one hour with special equipment, necessitating ready access to appropriate facilities.

"During that same hospitalization, in December of 1969, complications developed which required a prostatectomy to be performed upon him. He continues to suffer recurring urinary infections requiring regular medical attention.

"Affidavits supporting the application for commutation of sentence from the attending physicians and surgeons state that 'in view of the distressing combination of afflictions from which Mr. Morhouse is suffering, his imprisonment might well prove fatal' and 'imprisonment would put Mr. Morhouse's life in serious danger and could cause his death.'

"In addition, an independent panel of doctors provided by the Medical Society of the State of New York reviewed the medical evidence in this case and concurred in the opinion of the attending physicians that imprisonment of Mr. Morhouse would seriously imperil his continuing deteriorating state of health and would probably cause his death.

"Commutation of sentence is based solely upon applicant's medical condition. His jail sentence has been commuted to time already served in prison. He will be subject to parole supervision for the remainder of his maximum sentence under

terms and conditions established by the Board of Parole. This action in no way affects the existence or validity of his conviction."

ATTICA PRISON UPRISING

In his opening statement to the Committee, Mr. Rockefeller recalled his successes and failures during his fifteen-year incumbency as Governor of New York. In the latter category he said there were "five events that I shall always deeply regret." Among them he cited—

the fourth—and most agonizing of all—related to the events at the Attica prison uprising that led to the loss of 43 lives. These tragic developments will always remain in dispute but as one who has accepted the responsibility to govern and uphold the constitution and the laws of the State, I had to do what I sincerely felt was best at the time under all the existing circumstances.

The Attica riot erupted on September 9, 1971, as a result of the Rockefeller administration's refusal to grant a list of grievances, including better food and medical facilities, recreation facilities, and the right to have legal counsel representation before the parole board. The inmates held 39 correctional officers and civilians as hostages and demanded amnesty and safe passage to a "non-imperialist" country. Governor Rockefeller refused the demands, saying that granting of amnesty "could lead to a very serious breakdown both of the structure of government, the freedom of the individual, and the security of the individual."

There then ensued what the investigating Attica Commission later described as "the bloodiest one-day encounter between Americans since the Civil War," as State police opened fire on the inmates, leaving 43 prisoners and hostages dead and scores wounded before the siege was ended.

In addition to Governor Rockefeller's own testimony, the Committee heard other witnesses, all of whom criticized the manner in which the Governor had handled the situation. During this latter presentation, Chairman Cannon made the point that the Committee did not intend to reopen the Attica case but wished to secure necessary information that could have a bearing on the nominee's qualifications to be Vice President of the United States.

Accepting the truism that hindsight has perfect vision while foresight wears blinders, the Attica tragedy, on balance, points an accusing finger at Governor Rockefeller for his failure to go to the prison before the police assault was launched. One year after the riot, the New York State Special Commission on Attica released its report and said, among other things, that the Governor should have gone to Attica—

not as much a matter of duress or because the inmates demanded his presence, but because his responsibilities as the State's chief executive made it appropriate that he be present at the scene of the critical decision involving great risk of loss of life, after Commissioner Oswald (the Governor's key staff member at the scene) had requested him to come.

In defense of his action, Governor Rockefeller said he supported the decision made at Attica because of his feeling that those persons he appoints in various areas of expertise should have his "fullest support and backing." He added that "the turning point at Attica came when the demands of the prisoners transcended prison reform and crossed over into the arena of politics."

The Governor also told the Committee that his aides had advised him that he did not have the legal authority to grant amnesty to the rioters. In commenting on the Commission's report, the Chairman stated that—

The report indicates that Commissioner Oswald agreed to 28 separate demands that were made, and the hangup came on basically three issues, or perhaps even two issues: one was the right to be transported out finally to a non-imperialist country, and the other to be granted complete amnesty.

The Committee agreed that Attica was a tragic occurrence, and while the failure of Governor Rockefeller to take personal action did trouble some members, no questions were raised concerning his decision to deny amnesty and transportation to non-imperialistic countries. In his testimony, the nominee admitted that proper procedures at the beginning may have prevented the tragedy.

TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY

The Triborough Bridge and Tunnel Authority was raised as an issue because of the relationships of Nelson A. Rockefeller as Governor of the State of New York, David Rockefeller as president of the Chase Manhattan Bank, and Dr. William Ronan, who became board chairman and chief executive officer of the newly formed Metropolitan Transportation Authority in 1968 at the time the TBTA was incorporated into the Authority.

At issue was whether the interests of the bondholders in the TBTA and that of the public interests were properly looked after in the creation of the new authority and whether any conflict of interest was involved because of the very close relationship of the three principals in carrying out their individual responsibilities.

Also involved, because of the great Rockefeller wealth, was the question where personal and family interests and fortunes and that of public interests and responsibilities begin and end and where they commingle.

A major consideration, in addition to that of the brother relationship of the two Rockefellers, was the subordinate role of Dr. Ronan, who had served as secretary and adviser to Mr. Rockefeller as Governor, especially in respect to a series of loans which were eventually forgiven and became the basis of an outright gift totaling \$625,000 to Mr. Ronan by the nominee.

Also at issue was the fact that the Chase Manhattan Bank, headed by the Governor's brother, was the trustee for the bondholders and that the bank, having originally brought suit against the merger, then dropped it and agreed to a settlement.

In an agreement that was worked out, the suit was settled with the bondholders getting an extra quarter of 1 percent interest. The reve-

nues from the profitmaking TBTA would go toward losses of the subway and bus systems in the new MTA.

Speculation about conflict of interest had been raised in the press and particularly in a recent book by Robert A. Caro, entitled, "The Power Broker: Robert Moses and the Fall of New York". Again, the personal relationships of the three men were among the issues raised.

Press reports told of a meeting between the two brothers and of the sealing of an agreement by the judge involved in the case.

In response to these allegations and also questions raised at the hearings by Senator Jesse Helms, Nelson Rockefeller supplemented his testimony (incorporated in the printed hearings) by a statement which in part said such charges—

* * * Grow out of an inaccurate and extremely misleading account in a book entitled "The Power Broker"—of what actually happened when my administration saved mass transportation in New York State from total collapse.

Far from being a conspiracy between myself, my brother, and others, as the book, several newspaper articles and questions imply, the actions were initiated by the legislature and consummated in full view of press and public, benefited bondholders and transit users alike, and were publicly hailed by the New York Times as "the greatest advance in the metropolitan transportation system in at least half a century."

In part, his statement continued—

Before the law could take effect the Chase Manhattan Bank, as trustee for the TBTA's bondholders, brought suit against TBTA and others to prevent the transfer of funds. The suit claimed that a covenant in TBTA's trust indenture prohibited the release of TBTA's funds free of the bondholders' security lien except for very limited purposes which did not include the subsidy of subway fares.

In addition, Mr. Rockefeller wrote, a meeting was held on February 9, 1968, with all parties to the lawsuit at his 22 West 55th Street office in New York City. He said the location of the meeting and the participants as well as the resulting stipulation were reported in several national newspapers, such as the New York Times, the New York Daily News, the Wall Street Journal, and other newspapers.

Contrary to published accounts, he said—

The stipulation was not sealed or considered secret and it was widely reported in the newspapers. It has always been open for public inspection. We checked with former State Supreme Court Justice Hecht concerning the stipulation and the court records in this suit. Justice Hecht stated that the records were not sealed * * *

In answer to whether he and his brother David met on this matter to discuss the suit and its impact upon the State of New York policies and upon the rights of bondholders, Mr. Rockefeller stated—

My brother, David, was present at part of the February 9, 1968, meeting, of all parties and their attorneys at which the stipulation was executed, culminating extensive negotiations

by lawyers on both sides and resulting in the suspension of the litigation pending approval by the bondholders. * * *

The nominee denied that either he or his brother signed the stipulation. He said it was signed by attorneys representing the Chase Manhattan Bank, the Triborough Bridge and Tunnel Authority, the City of New York, and the State of New York.

In response to a question regarding the stipulation being sealed by New York Supreme Court Justice Hecht Jr. or any other judge, his statement said—

No, it wasn't sealed. This is total fiction. The stipulation was approved by Supreme Court Justice Hecht Jr. It has been a public record since its approval.

The question of his relationship with Dr. Ronan, particularly concerning the large loans over the period of his close association with the nominee resulting in the eventual gift of \$625,000, persisted in varying forms during the hearings.

At issue was just how much independence Dr. Ronan could or would exercise as he went from being secretary to the Governor, to heading up the MTA, and then as member and later board chairman of the New York and New Jersey Port Authority. Senator Williams pursued this point with Mr. Rockefeller at the hearings:

Senator WILLIAMS. Still on the question of gifts to someone in public office, and just how they would approach their public responsibility, in the tough situation where their conscience or their judgment indicated a certain course, and that ran counter to the wishes, the desires of the donor of the gift, of which they were the beneficiary. * * *

* * * * *

Mr. ROCKEFELLER. Senator, I have to say that I know there are individuals who will fall totally in that category, that you can buy, and that you have them, and they are just what you would imply—are vassals. I do not think anybody who wants to do anything in life that amounts to anything is going to surround themselves with that kind of person, because they are not going to get anywhere.

You have to get the best, the most brilliant, and most independent people, who are creative, imaginative, and have drive.

So this, I think, partly is the individual. You cannot legislate honesty. You cannot buy honesty, or you cannot buy corruption from somebody who is honest.

* * * * *

Senator WILLIAMS. * * * My point was, if Ronan had disagreed with you, would he have had the guts to say you are wrong or not?

Mr. ROCKEFELLER. Sure, he'd had the guts to say I'm wrong.

Senator WILLIAMS. You put this on an individual basis, the quality of the person you made the gift to. That is where it finally rests with you, is that right?

In all of these situations, and we have a list here of 10 people in public office that are beneficiaries of gifts, it finally boils down to the public security that these people are doing their job because you evaluated them, and you know that if their conscience and your desires are in conflict, conscience will prevail?

Mr. ROCKEFELLER. If my desire and their conscience are in conflict, and they tell me—and the reason I like them and admire them is because they would tell me. But if I disagree with them, I was elected Governor and they were not, and I would then have to make the decision.

So I might go against them, as I did. But that was my responsibility.

At one point in his testimony, Mr. Rockefeller, in explaining the agreement with the TBTA so that its surplus could be used to help defray bus and subway deficits, said—

Now, nobody benefited except the subway riders and bus riders and the commuters who were the poor people of the city.

While keeping in mind that the TBTA bondholders got an extra one-quarter of 1 percent interest in the agreement the committee is inclined to go along with Mr. Rockefeller's comment.

FINGER LAKES RACETRACK

During the course of the Committee's investigation certain information was received alleging that Mr. Rockefeller was in some way involved in or had knowledge of money payments made to the New York State Republican Party in exchange for party officials assisting in securing the issuance of a license for a racetrack in upstate New York. This matter was, in part, investigated during hearings before the House Select Committee on Crime in 1972 and by the New York County District Attorney's office between 1963 and 1965.

There are variations in the testimony as to all of the details surrounding this case. However, the general outline of the events which took place is that certain individuals, Messrs. John and James Nilon, knew of a proposed racetrack, known as the Finger Lakes Racetrack, to be built in Farmington, New York, and these individuals wanted the contracts for the food, beverage, parking, and program concessions at that racetrack. The Nilon brothers were subsequently informed by the racetrack promoters that they would be given the concession contracts if they would provide \$100,000 which would be passed on to persons who could exert political influence to get the racetrack license granted. In April of 1959 the Nilon brothers transmitted \$100,000 in cash to Mr. Morris Gold and Mr. Hyman Mintz (a New York State Assemblyman) who, in turn, passed the money on to Mr. L. Judson Morhouse, the Chairman of the New York State Republican Party. The \$100,000 was given to Mr. Morhouse by Mr. Mintz while Morhouse was vacationing in Florida. Some time later, either in April, May, or June of 1959, this money was returned to Mr. Gold, who then returned it to the Nilon brothers.

While the aforementioned events are generally undisputed, the Committee's concern with this matter arose from further allegations that Mr. Morhouse returned the \$100,000 payment after discussing it with Mr. Rockefeller. The important question before the Committee was the extent of the nominee's knowledge of the events surrounding the matter and what he told Mr. Morhouse with respect to the return of the money.

In testimony before the Committee, Mr. Rockefeller indicated that he was approached by Mr. Morhouse at a Republican fund-raising dinner and was told that Mr. Mintz had given him (Mr. Morhouse) \$100,000 as a cash contribution to the Republican party. Mr. Rockefeller summed up his reaction to this offer as follows:

I was indignant. Mr. Morhouse did not say, "This comes from the racetrack people." * * * He said it was a cash contribution from friends of the Party. My concern was * * * that this did not just sound like Mr. Bucky Mintz coming in with \$100,000. To begin with, he did not have it—or at least I do not think he did. So I looked through what was said to what I thought was the case, and I said, "Tell that guy to get that money back and to get it back to the people who gave it to him."

While the nominee's testimony indicated that these events took place at a fund-raising dinner in June of 1959, other evidence gathered by the Committee places this date at some time in late April of that year. This discrepancy was communicated to the nominee and the Committee takes note of his statement in response to questions on this matter before the House Judiciary Committee on November 22, 1974, when he said, "There is some dispute as to exactly what the date was in terms of the difference of the memories of different people, but there is no question as to what happened." The Committee notes that there are differences as to the precise date of Mr. Rockefeller's conversations with respect to this matter but that the important consideration is whether the nominee had any knowledge of the source of these funds and what he said to Mr. Morhouse upon learning that the money had been offered. There is virtually no dispute that until the investigation of the nominee was undertaken Mr. Rockefeller was unaware that the money came as result of the events surrounding the issuance of the racetrack license. Also, there is virtually no dispute that Mr. Rockefeller ordered that Mr. Morhouse refuse to take the money and demanded that it be returned to those individuals who provided it.

The Committee also wishes to note that an investigation of the entire affair was conducted by the New York County District Attorney's office and it was brought before a grand jury. No indictments were forthcoming, however, because the New York bribery statute did not reach the facts developed in the case. Subsequently, Mr. Gold and Mr. Mintz were indicted and convicted on bribery charges with respect to the grand jury investigation itself.

ROCKEFELLER INVOLVEMENT IN THE MERGER OF EASTERN AIRLINES AND CARIBBEAN ATLANTIC AIRLINES

The question was raised concerning the relationship between a Rockefeller family donation of \$200,000 to Richard Nixon's campaign and an August 1972 telegram by Laurance Rockefeller to Nixon requesting that Eastern Airlines be allowed to acquire CARIBAIR.

In the telegram, Laurance Rockefeller pointed out his personal involvement with living standards in Puerto Rico and the Virgin Islands and identified his interest in Eastern Airlines as well as in resort hotels serviced by Eastern. He also commented on his involvement in the creation of the Virgin Islands National Park. He expressed his view that the future well-being of the area and its orientation toward the United States is heavily dependent on the extent and quality of service by United States air carriers.

Of the \$200,000 Rockefeller family contribution, Laurance had himself contributed \$50,000 and stated that the contribution was in no way connected with the telegram. He informed the Committee:

I have been a long-time supporter of the Republican Party, both in my home State and on a national level. My contribution to the 1972 campaign and those of other members of my family were not unusual. It was agreed that these contributions would be credited against the amount to be raised within New York State and they were in no way tied to any special privilege, favor, or understanding. To suggest so is pathetic irony. On this subject, I stand behind the statement which I made to the press when this matter was first reported. At that time, I said, "It would not have occurred to me that my support of the Republican Party would cancel my rights to be heard on any issue on its merit. True, I did not hesitate to send the wire. I expected no special consideration and I received none."

The Committee found that the merger was in fact directed by Nixon in April 1973 some nine months following the Rockefeller telegram, and support for that action came from the Governors of Puerto Rico and the Virgin Islands as well as many hotel and manufacturing associations in the area.

The Committee found no evidence that Nelson Rockefeller was involved with his brother's actions in this matter and found no evidence of wrongdoing.

VIII. NOMINEE'S RESPONSES TO SELECTED SPECIFIC QUESTIONS

PARDON OF A FORMER PRESIDENT BY HIS SUCCESSOR

Although he felt that he would allow the judicial process to come to a conclusion prior to considering the pardon of a former President, Mr. Rockefeller said that he could not commit himself to such a policy because he could not predict what future circumstances might be.

The CHAIRMAN. * * *. I am asking specifically this question: If a President resigned his office before his term expired would you, as his successor, use the pardon power to prevent or terminate any investigation or criminal prosecution against the former President?

Mr. ROCKEFELLER. Mr. Chairman, my total inclination is to say no, and I can assure you that I would follow the procedures I followed in the past as Governor, and that I believe deeply in the right of people to know. But I do not think that I should at this point say that I will amend the Constitution of the United States by anticipating some circumstances which I do not know, and renounce the power which the Constitution gives to a future President, or to the President.

So I have to say that, because I just feel deeply about the Constitution, and if the Founding Fathers wrote that provision in the Constitution, I do not want to, here before this distinguished Committee, to amend the Constitution.

The CHAIRMAN. I am not trying to get you to attempt to amend the Constitution, but this relates to a question of timing. I do not think you have renounced your constitutional right if you answered no to that question, but that would still mean you had the power to pardon after the judicial process had been carried out.

Mr. ROCKEFELLER. My total reaction is to say, and to agree with you, that I would let the thing run, but I just do not want to get into a box which my predecessor, the Vice President, got into by being frank and open, and finding whatever the circumstances were, which I do not know other circumstances which at the time he was not aware of, and, therefore, changed his point of view.

I just think I take the responsibility very heavily, and I feel very strongly about the Constitution, but I share totally your feeling about the right and need of the constitutional process which you referred to in relation to prosecution, in general prosecution running the course.

NOMINEE'S INTENTION TO STAND BY ANSWERS GIVEN TO THE COMMITTEE

Senator BYRD. * * * What assurance do we have, what assurance do the American people have that your statements in response to those questions are going to be dependable guidelines on which your future conduct can be predicted and standards by which we may pass judgment on your nomination?

Mr. ROCKEFELLER. Solely my integrity and my record.

Senator BYRD. Do you consider the questions to be hypothetical, to be disregarded later in situations relevant to the questions asked?

Mr. ROCKEFELLER. I do not think any question is hypothetical.

I think that the answer to the question, if it is to be given with integrity, must leave room for variables which may not have been included in the question.

Senator BYRD. I have no question concerning your integrity. I also had no question concerning the integrity of Mr. Ford.

But do you, yes or no, consider the questions today to be merely hypothetical questions which answers thereto can be literally put aside at some future date in a then current situation which would be relevant to the questions asked?

Mr. ROCKEFELLER. The answer is "No."

Senator BYRD. You consider the questions to be serious and that the answers thereto should likewise be serious?

Mr. ROCKEFELLER. I do, sir.

Senator BYRD. You expect the American people and the members of this committee to take your answers at face value, not merely answers based upon expediency in order to respond to the exigencies of the moment?

Mr. ROCKEFELLER. Well, I do expect them to because I do not give expedient answers. I try to give honest, thorough, careful answers.

But I am not willing to oversimplify for the sake of seeming to be responsive. I have got to say what I honestly feel if you and the public are going to have some understanding of the processes that go on in my—part of my mind and which would be the basis of decision.

Senator BYRD. You would expect, then, to be held to answer at some future time to the responses which you have made here today and which you will make subsequent to today in answer to questions from this committee?

You would also expect to be held accountable for those answers by the American people at a future time when your stewardship may be placed before them for judgment.

Mr. ROCKEFELLER. The answer is yes, with the understanding that they were the best judgment that I could give under these circumstances at this time.

THE ROLE OF THE VICE PRESIDENT

In response to questions from members of the Committee, the nominee indicated that if confirmed his primary duty would be to assist the President. He reported that during the Eisenhower administration he had chaired a committee on advisory organization which had studied the functions of the Vice President. This committee concluded that the only constitutionally prescribed function was that of presiding over the Senate. The nominee noted the following problems with regard to assigning specific responsibilities to the Vice President:

I think the President has to be very careful though that he does not, and the Vice President, too, allow the Vice President to get between him and members of his Cabinet whom he has appointed and who owe responsibility to him. Otherwise there can be confusion or division of loyalty.

Mr. Rockefeller made the following remarks with regard to his support of the President in matters of public policy in cases where he and the President disagree:

My feeling is that my responsibility would be, should I be confirmed, to the President to privately and personally express any strongly held views I might have on an issue to him alone. And he would take them or reject them, whatever the circumstances were, because he has full responsibility in making the decision and I would then publicly support his position unless I found that it was in total violation, which I cannot believe, of a fundamentally held belief of my own, in which case I would prefer to say nothing. If it were of a momentous character, then I would feel impelled to go to him and say: I have expressed my views. You made a decision. I find that I must disassociate myself from that position.

Now, this would be an extreme case, and I would hope not to find myself in that position. I would prefer, if I was not in complete agreement, which I am sure I would be in agreement the great majority of time, to just remain silent. But I would reserve that other.

Senator GRIFFIN. Do you think you would be likely to find yourself in that position on issues of foreign policy?

Mr. ROCKEFELLER. Well, I would feel that in the field of foreign policy it would be totally inappropriate for me to express a position in that case on an issue. My position would be one of supporting him. * * * I think it is tremendously important that this country have a united front to the maximum degree possible and certainly the Vice President has got to be in a position of the united front with his President.

NOMINEE'S INTEREST IN THE VICE PRESIDENCY

The members of the Committee explored the reasons why Mr. Rockefeller had accepted the nomination for the office of the Vice

Presidency, particularly in view of his previous public remarks regarding his lack of interest in the position in 1960. The following excerpts from the nominee's testimony describe his change in viewpoint:

I have reached a different point in my life due to a long life of active experience and this country has reached a point where I think we are in very critical circumstances as a Nation and as a world and if I can be of any use, available to the President for whatever assistance I might give him should I be confirmed, I would be honored.

RELUCTANCE OF MR. ROCKEFELLER TO SPEAK OUT DURING THE WATERGATE AFFAIR

In his testimony, Mr. Rockefeller gave three reasons why he had not spoken more forcefully on the Watergate issue: (1) as a State Governor he did not feel that he would properly serve his constituents by attacking Mr. Nixon, and potentially jeopardizing New York's relationship with the Federal Government; (2) he did not feel that he should inject himself in the constitutional process; and (3) he did not feel an elected official had a right to express himself on a subject unless he really knew what he was talking about.

Senator WILLIAMS. * * * Now, again in an area of great national concern.

First, your administration was unmarred by any scandal or corruption that has ever been noticed. It was negligible and, as we say, it was known to be a corruption-free or clean administration.

Because of this, there was disappointment, I think, among many that during a period of great national tragedy and some of our darkest days in the Nation, the Watergate crisis, that you appeared reluctant to speak out against the activities of the former President.

I just wonder if you feel that you acted appropriately during that particular national crisis?

Mr. ROCKEFELLER. Well, I have to think, Senator, that if I were doing it again—based on what I knew at the time—when I said and did what I did—that I would.

Had I known what we all knew after the period, then I do not think I would have, but I did not know it then.

I have followed this policy in relation to the Federal Government, and this is true with Democratic or Republican Presidents while I was Governor.

I was elected to represent the best interests of the people of New York State. New York State is totally intermeshed with Washington, the Federal Government, both legislative and executive, actual decision-making in connection with our conducting our own affairs. We depend on you for money, the interpretation of regulations, et cetera, et cetera.

Therefore, to effectively represent the people of New York, I have to maintain or had to while I was Governor the best possible relations I could with the elected officials in Washington, whether they were in the Congress or whether they were in the executive.

I have never been one who, for my own political benefit, or because I thought it was good public relations, to go out and attack somebody whom I was supposed to work with for the benefit of my constituents.

Therefore, the position I took was that I thought that these very serious allegations that were brought to light by the media should be handled in the constitutional framework; that the Founding Fathers had developed the procedures in the Constitution to deal with them. And I felt that while many wanted me to come out and say that he ought to resign—it was even proposed that I lead a delegation to tell him to resign—personally thought that prior to that final admission on the President's part, that if he were forced to resign without the evidence coming out, that this country would be left hanging, that it would set a very bad precedent. And what we needed was proceeding through the constitutional process.

This is what happened, and I thought it was very useful.

I would add one other thing. That is, I expressed my moral indignation, and I expressed the indignation of the people.

Of course, I did not express it as dramatically as did many others and, therefore, my expression did not get as much attention as those who were more dramatic in their statements.

But I do also feel that we have a weakness in this country, that every time anything happens and the media being on their toes, they go to anybody that is in a prominent position or an elected official and ask him for his opinion. Unfortunately, too often, those opinions are given, whether the person who gives them has basis to make a sound opinion or not.

I do not think an elected official has a right to express himself on a subject unless he really knows what he is talking about. Then he should say, "I am sorry. I do not have enough information to make an intelligent decision."

MR. NIXON'S ROLE IN MR. ROCKEFELLER'S NOMINATION

Mr. Rockefeller testified that he did not believe that Richard Nixon played any role in Rockefeller's nomination as Vice President.

The CHAIRMAN. Mr. Rockefeller, the New York Times of August 20, 1974, describing the events surrounding your selection as the Vice President, gives this account:

"When Mr. Rockefeller arrived, Mr. Hartmann said the President told him flatly for the first time that he was the nominee, although Mr. Rockefeller clearly had got the message in an earlier telephone conversation with Mr. Ford and General Haig. The President and Mr. Rockefeller then placed a telephone call to former President Nixon, who was then at his home in San Clemente, California.

"Mr. Ford, with Mr. Rockefeller on another phone, told Mr. Nixon of his decision. Mr. Nixon, according to J. F. ter Horst, the White House Press Secretary, told the President that he had made a good choice by picking a 'big man for a big job.' While Mr. Rockefeller talked briefly with Mr. Nixon, Mr. Ford went to another line, telephoned George Bush, the

Republican National Chairman, who had been a top contender for the post, and told him that he had chosen Mr. Rockefeller.

"Then the President escorted Mr. Rockefeller into the Oval Office, where the television cameras, and the Government officials were waiting."

My curiosity is somewhat aroused as to why the first order of business would be to call Mr. Nixon.

Mr. ROCKEFELLER. Well, I suppose I would describe it as a courtesy.

The CHAIRMAN. Was your selection part of any understanding reached during the decision stage of Mr. Nixon's resignation?

Mr. ROCKEFELLER. I cannot believe it. He had the same opportunity himself.

The CHAIRMAN. Do you know whether Mr. Nixon promoted your selection in any manner?

Mr. ROCKEFELLER. I cannot believe that either.

The CHAIRMAN. Had you discussed the Vice Presidency with Mr. Nixon prior to your selection?

Mr. ROCKEFELLER. No. I had talked to Mr. Ford on Saturday about my health and a series of questions he wanted to ask me. So I had to think something was in the wind.

But I had not talked to Mr. Nixon. I had not talked to Mr. Nixon in quite a while.

The CHAIRMAN. Why did you and President Ford feel it was important that Mr. Nixon have this knowledge before the formal announcement?

Mr. ROCKEFELLER. Mr. Ford did not announce it to me. He picked up a phone and placed a call for Mr. Nixon. I was in the room with Mr. Ford and his wife. I thought to myself that is a very decent thing to do. But I did not say anything to anybody. I just thought that is a very nice courtesy.

The CHAIRMAN. Did you get the impression from that event that Mr. Nixon still had a vital voice in the affairs of the White House?

Mr. ROCKEFELLER. No, sir. I talked to him myself on the telephone, after Mr. Ford finished, and I just thought that was a courtesy, and I like people who are thoughtful, and I think Mr. Ford is a very thoughtful man.

FURTHER POLITICAL ASPIRATIONS OF THE NOMINEE

Senator PELL. * * * I was wondering if you could give your views if there was a vacancy in 1976 with regard to the possibility of your running.

Mr. ROCKEFELLER. Well, Senator, I have just stated that I consider this a moment of tremendous change and great many problems but also great opportunities for our country and the world and that I am anxious to serve my country in any way that I can.

I have to assume that that would not preclude the Presidency.

WHITE HOUSE WIRE TAPS ON NEWSMEN AND NATIONAL SECURITY STAFF

The CHAIRMAN. I would like to quote to you a brief passage from the testimony of Mr. John Dean before the Senate Watergate Committee on Monday, June 25, 1973, and I quote:

"We then discussed the leak in Time magazine of the fact that the White House had placed wire taps on newsmen and White House staff people. The President asked me if I knew how this had leaked. I told him that I did not; that I knew several people were aware of it. But I did not know anyone who had leaked it. He asked me who knew about it. I told him that Mr. Sullivan had told me that he thought that Director Hoover had told somebody about it shortly after it happened because Hoover was against it and that Sullivan said that he had heard that this information had gone to Governor Rockefeller and, in turn, had come back from Governor Rockefeller to Dr. Kissinger."

Governor, did you, as John Dean indicated in his sworn testimony before the Senate Watergate Committee, receive information that the White House had placed telephone taps on newsmen and Dr. Kissinger's national security staff?

Mr. ROCKEFELLER. I read the transcript, thanks to your Committee making it available. And I have no knowledge of this situation that is referred to.

The CHAIRMAN. Do you have any idea why John Dean made that statement?

Mr. ROCKEFELLER. Well, the way I read it, a Mr. Sullivan, who is not identified, said he thought that is what happened, but he had not confirmed it.

The CHAIRMAN. But you had personally no knowledge of that?

Mr. ROCKEFELLER. (Nodding.)

Senator ROBERT C. BYRD. Mr. Chairman, let the record show the answer.

Mr. ROCKEFELLER. No.

NOMINEE'S RELATIONS WITH ORGANIZED LABOR

Mr. Rockefeller was asked for his comments as to how he expected to be able to relate to labor.

Mr. ROCKEFELLER. Well, my first contact and experience with organized labor was during the early thirties in the construction of Rockefeller Center.

As I mentioned earlier, all contracts were let with union labor and I came to know the men and the leaders very well because of my activities there and we had craftsmanship awards and municipal committees and families spoke; and as a matter of fact that is where I first came to know President George Meany who was then head of the Plumbers Union and later head of the CIO—AFL—CIO in New York State. We became very good friends in those years.

As a matter of fact he went on the advisory committee of the Office of Coordinator of Inter-American Affairs in 1940 and I have been friends with him ever since.

Now, when I first came into the governorship, labor was supporting the Democratic candidate as was their tradition and we had some very frank discussions and encounters over the years, and by the third election they did not take the position on either side. In my fourth election—maybe it was the third and fourth—I actually had the support of the AFL-CIO. Based on their feeling that what I had done for the State was in the best interest of the working men and women whether they were union employees or not. And they so stated in their statement of support.

NOMINEE'S ATTITUDE TOWARD THE PRESS

Mr. Rockefeller's attitude toward the press was a matter of concern to members of the Committee, and, consequently, he was questioned directly about this topic.

Senator HUGH SCOTT. I would like to ask you something on another matter. Some of our public officials at times have been engaged in rather bitter antagonism with the press, with the members of all news media.

What is your feeling as to how you as a public official should deal with the press in seeking to obtain information for the American people?

Mr. ROCKEFELLER. Senator Scott, I testified in this room before Senator Ervin on the Federal shield law, as we call it in New York State. I proposed—and it was passed—a Federal shield law protecting newspapermen, the right of privacy and source of information.

To me the free press in the United States—well, let us call it the free media—is an essential part of democracy of the country and I think we owe them all a tremendous debt of gratitude for their role in preserving under these very difficult circumstances a free society.

Let us face it, we all have scars from the free press but I would much rather have scars and see the system survive than be without blemishes and have something happen to the system.

So that I am all for it and I will to the best of my ability, will always try to answer the questions as openly and frankly as I can.

NOMINEE'S ATTITUDE TOWARD PRESIDING OVER THE SENATE

Senator Scott questioned the nominee with regard to his attitude toward presiding over the Senate.

Mr. ROCKEFELLER. * * * I would look forward to presiding if possible and both from the point of constitutional responsibility and second because of my great respect for the tremen-

dously important role that the Senate plays, that the whole legislative process plays; and last but not least, a tremendously strong nostalgic feeling about my grandfather who preceded Senator Pell.

ACCESS BY MEMBERS OF CONGRESS TO THE PRESIDENT

Senator PELL. If you were ever President, would you reinstate the precedent that Presidents Truman and Roosevelt established that Congressmen, as a matter of right, would be given an appointment with the President for 15 minutes, within a day or two days of their request for an appointment?

Mr. ROCKEFELLER. It sounds like a good procedure to me. If you were out in the country you could not or if there was some crisis at the moment, I was not aware of that policy, I have not studied it.

If it were over-used by Congress, of course you could do nothing; you would be doing nothing else, but I am sure that that would not be.

So I like the general thrust of what you say.

CIRCUMSTANCES UNDER WHICH THE PRESIDENT WOULD BE JUSTIFIED IN LYING TO THE AMERICAN PEOPLE

Senator PELL. * * * On a different subject and one that in fact is not as important under this administration as the previous one, but do you think there are any circumstances under which a President can lie to the American people?

Mr. ROCKEFELLER. I do not think a President should lie to the American people. I do not think that democracy can survive on lies.

I think democracy has to be based on open integrity and I think that a President or somebody else may say in the national interest I do not feel that I should comment on that question, but I would not feel that he should tell a lie.

TRANSFER BY THE NOMINEE OF HIS DEDICATION TO THE PEOPLE OF NEW YORK STATE TO DEDICATION TO THE PEOPLE OF ALL THE STATES

The CHAIRMAN. Now, if you are confirmed, your constituency will be broader than it was in the State of New York, and I would like to know what assurances you can give us that you would not use the power and the prestige and influence of your office of Vice President to secure favorable action on bids of New York concerns involving Government contracts?

Mr. ROCKEFELLER. Well, that is a very legitimate question, and I accept it totally, and my responsibility would be solely to represent the best interests of this country, and not any one State, or any one segment. I would be glad to abide by that.

Rockefeller's political affiliation but rather his qualifications to serve in the Office.

Likewise, there was the underlying question of public policy implications of the nominee's vast financial holdings touching many segments of the American economic system. Additionally, Chairman Cannon spelled out as a guideline for consideration the viewpoint adopted by the Committee one year ago in the Ford hearings, that:

* * * We are acting on behalf of every citizen of the United States to examine exhaustively, objectively and honestly the qualifications of this nominee * * * those who do not approve of the nominee will know that no stone was left unturned in the search for truth * * *.

This viewpoint was reiterated by Ranking Minority Member Marlow W. Cook, as follows:

* * * We desire to be responsive to the President and the Nation in this important matter. However, thoroughness and honesty must be our watchword, as the people of the Nation will not accept less, and we, as their representatives, would not be satisfied with less.

FIVE PRINCIPAL AREAS OF CONCERN

Because the hearings had touched upon many broad policy and philosophical questions, both past and prospective, it became necessary for the Committee to focus on certain major issues in its judgment process. In summary, the five principal areas of concern and the Committee's conclusions thereon, covered in greater detail in earlier sections in this report, are:

(1) *Potential Conflicts of Interest*

Neither the Constitution nor Federal laws impose conflict-of-interest restrictions on the Offices of President or Vice President as they do for Members of Congress and officials of the executive departments. Therefore, whether this nominee would face potential problems in avoiding conflict-of-interest questions during his prospective office tenure because of his and his family's broad financial and business holdings was a source of close examination and concern by the Committee. Governor Rockefeller, by his testimony, had offered, if Congress requested, to place all of his personal securities in a blind trust.

The Committee accepted Governor Rockefeller's candor and straightforward responses that he would be guided by public interest considerations vis-a-vis his family's business interests. This conclusion was supported by the absence of any evidence that any meaningful conflict of interest accusations had been raised against the nominee during his 15 years as Governor of the State of New York (the situs of his family's headquarters and major holdings).

To the accompanying question of whether the nominee's holdings should be placed in a blind trust or be divested of the nominee's direct control by some other method, the Committee's judgment was (1) because of the immensity of his financial holdings, a blind trust would lack real meaningfulness, and (2) that any actual divestiture would not

be realistic for the same reasons plus possible adverse effects such might have in the business world or on some phases of the economy.

The Committee agreed that public disclosure of Governor Rockefeller's wealth and financial holdings, as requested by the Committee and promptly carried out by the nominee, would permit a monitoring of those business interests by the public and the news media that would be adequate.

(2) *The Nominee and His Taxes*

Because the requirement that Americans pay their share of taxes to Federal, State, and local jurisdictions occupies a key role in weighing the general honesty and integrity of every taxpayer, the question of Mr. Rockefeller's tax returns was a particularly important one for the Committee in its consideration of his wealth and annual income.

An audit by the staff of the Joint Committee on Internal Revenue Taxation, as requested by this Committee for the five years, 1969 through 1973, and supplied to the Committee on October 22, 1974, as "Examination of Vice President Designate Nelson A. Rockefeller's Tax Returns and Other Financial Returns," included the statement:

* * * The staff finds no evidence of fraud or negligence in these returns. * * *

At the Committee's request, the Internal Revenue Service had expedited an on-going audit of the nominee's returns for the five years, with such showing an additional tax liability of \$820,718 in Federal income taxes and \$74,993 in additional Federal gift taxes (details are covered more fully in the earlier "The Nominee and His Taxes" section of this report).

As is normal, the Internal Revenue Service was several years behind in its audit of Governor Rockefeller's returns but such audit was in progress for 1969, 1970, and 1971 when his nomination was submitted to the Congress. At the Committee's request, the IRS expedited the audits for the full five years 1969 through 1973, and for the first two quarters of 1974, with the report claiming certain liabilities. Governor Rockefeller advised the Committee on November 23:

* * * I have agreed to pay the additional taxes—in fact, I did pay yesterday—while I have paid the additional taxes resulting from all of the income tax and gift tax adjustments made by the IRS, I have the same rights as any other citizen, to appeal any of the adjustments should I decide to do so. * * *

The Committee concludes, by virtue of the findings of the staff of the Committee on Internal Revenue Taxation and the Internal Revenue Service audits, that Governor Rockefeller is current in his tax obligations.

(3) *Rockefeller Loans and Gifts*

An issue that occupied considerable attention and testimony during the November 13, 14, 15, and 18 hearings was that of Governor Rockefeller having made some several million dollars' worth of loans and/or gifts, some 60 in total number, over a period of 20 years, to New York

State public officials and others, including friends, aides, and political associates.

Because of the questionable propriety, legality, and moral aspects of a pattern of gift-giving and loans to public officials and the inherent possibility of establishing questionable bonds of allegiance thereby, which do not measure up to the proper standards of rectitude in our present day political system, Committee members questioned this practice by the nominee at considerable length.

Testimony by Governor Rockefeller and some recipients of gifts and/or loans showed only that such gift-giving was carried out as gestures of personal affection, friendship, or concern for health or family problems. There was no evidence of any ulterior motive, personal or economic gain, or wrong-doing for any purpose.

The Committee refrained from pre-empting the responsibility of the Federal Government or New York State authorities charged with making determinations about the legality of such gifts, forgiven loans, or regular loans.

To focus on the propriety and moral values of gift-giving and loans to governmental employees, the Committee felt that Governor Rockefeller became aware of its concern by his testimony:

* * * I now clearly understand that my desire to be helpful has been misinterpreted * * * in this moment of history, it is tremendously serious because people have got to have confidence in their representatives. * * *

Governor Rockefeller affirmatively offered to henceforth limit his gift-giving practices to personal occasions (birthdays, weddings, retirements, etc.) or to assist in medical or serious familial emergencies.

The Committee concluded that it was inappropriate to impose requirements or limitations not covered by law. But it did recognize his commitment to exercise greater care in the future granting of loans and gifts wherein official standards of conduct by the donor or donee might be open to question.

(4) *Political Contributions of Nelson A. Rockefeller and the Rockefeller Family*

Another area of concern the Committee felt a deep obligation to examine in weighing the nominee's qualifications was that of substantial political campaign contributions by himself and his family. These totaled approximately \$20 million over a period of 17 years for seven major campaigns by Governor Rockefeller for President and for Governor of New York State plus various politically oriented research projects and background studies.

To determine the legality of such contributions, the Committee's request for a complete accounting was met with wholehearted cooperation by the nominee. All records were made available for the Committee's study.

The Committee's review of the Governor's use of his money, some \$3,265,000 for four New York gubernatorial and three Presidential campaigns; the contribution of \$2,850,000 by his three brothers, John, Laurance, and David, and by his sister Abby, and a total contribution estimated at \$10,500,000 from his step-mother, Martha Baird Rockefeller, at \$1½ million per campaign for the seven races, totaled approximately \$16 million.

At no point did the Committee ascertain any violation of Federal election laws. To a question of whether the family political contributions were pooled by agreements, Governor Rockefeller said, "No sir. In fact, we disagree."

The Committee found no question about the propriety of the amounts of the contributions or the means by which the contributions were advanced. The nominee testified that he intended to continue to make political contributions to selected political candidates if confirmed as Vice President not unlike contributions he has made over the years to other candidates throughout the country.

(5) *Nominee's Involvement With Victor J. Lasky's Book "Arthur J. Goldberg: The Old and the New"*

Whether Governor Rockefeller had been an affirmative promoter or a passive participant in sponsoring a politically oriented book during the 1970 New York gubernatorial race which was critical of his opponent, former U.S. Supreme Court Justice Arthur J. Goldberg, was a question that involved considerable testimony.

Whether the nominee's involvement with this politically motivated book, written by Victor J. Lasky, skirted fair campaign practice standards became a public issue when Governor Rockefeller originally disclaimed any knowledge about the book's publication. Subsequently, after refreshing his recollection about the details involving his own participation, that of his personal secretary, his brother Laurance's \$65,000 underwriting of the book, and other factors, Governor Rockefeller assumed "full responsibility".

Governor Rockefeller told the Committee:

In regard to the financing of the book on Mr. Justice Goldberg, let us face it * * * I made a mistake * * * I made a hasty, ill-considered decision in the middle of a hectic campaign in 1970. I have already apologized to Mr. Justice Goldberg, publicly, and privately, and I want to take this opportunity to publicly apologize to my brother, Laurance, for having gotten him involved in an undertaking which is out of character for the family.

The publication of the Goldberg book and the nominee's involvement (covered in depth in an earlier section of this report) is concluded not to have originated with Governor Rockefeller, although he furthered its progress.

The Committee must conclude that Governor Rockefeller exercised poor judgment—"out of character" for him—when he tacitly approved the publication of the Lasky book and subsequently requested his brother Laurance to arrange for its financing. While the Committee was not impressed by the contention that the book was simply another Rockefeller financial enterprise, it does concede that there was no evidence of any illegal act by any party participating in the book's publication.

COMMITTEE ACTION

On November 22, 1974, the Committee on Rules and Administration concluded the inquiry it had begun three months earlier into the qualifications and fitness of Nelson A. Rockefeller of New York to be Vice President of the United States.

On a rollcall vote with eight members present, the Committee unanimously agreed to recommend to the Senate that Mr. Rockefeller's nomination be confirmed.

Earlier the Committee had also unanimously agreed: Every member of the Committee would reserve to himself the right to cast his vote as he sees fit when the nomination is considered in the Senate itself.

Discussion Points

The members of the Committee came to the confirmation decision after long hours of study and discussion of an in-depth examination of the public and private life of the nominee and his viewpoints on national issues.

The Committee's discussions reflected variances of agreement among individual members about issues raised during the hearings and the weight to be given to various factors. But the Committee felt it should consider the nominee on the basis of his entire record and the sum total of all of his qualifications, not simply a single issue unless it was of preponderant importance to an individual member. But the Committee found no bar or impediment which would disqualify him for the office to which he had been nominated.

The Committee fully realized, as it had done one year ago with Congressman Ford's Vice Presidential nomination, that its actions and guidelines for its decisionmaking would be of historical significance as a precedent for other Committees and other Congresses in the future years should the Twenty-fifth Amendment again become operative by reason of a Vice Presidential vacancy.

With respect to this particular nominee, the Committee noted that any President could be expected to nominate a person from his own political party and more likely one of his own philosophy to fill a Vice Presidential vacancy. Additionally, the Committee accepted the premise that some of the electorate, and indeed some of the Committee members, might not agree that Nelson A. Rockefeller was the best choice the President could have made from among leading Republicans to serve in the second highest office in the land. Nevertheless, it was the Committee's responsibility to consider and make judgment as to whether this nominee as submitted to the Congress is qualified to be confirmed as Vice President.

The Committee sought to explore all facets of Governor Rockefeller's fitness and qualifications for the Office of Vice President: His public and private life, his personal character, his integrity and honesty, and his experience and knowledge, plus one unique and unprecedented factor—the concentration of great economic and great political power in a single individual, and what that symbolism in a Vice President or a President would mean to this country.

The Committee's judgment was that Governor Rockefeller in all critical areas of concern fully met the reasonable tests and standards that the Congress should apply.

X. ROLLCALL VOTE ON THE NOMINATION

On the question "Shall the nomination of Nelson A. Rockefeller to be Vice President of the United States be reported with the recommendation that Mr. Rockefeller be confirmed?", the Committee voted as follows:

YEAS—9

NAYS—0

Mr. Cannon
Mr. Cook
Mr. Pell
Mr. Scott
Mr. Byrd
Mr. Griffin
Mr. Allen
Mr. Hatfield¹
Mr. Williams

Thus, the motion was unanimously adopted.

NOTE.—Prior to the above rollcall vote, the Committee unanimously agreed that "every member of the Committee reserves the right to cast his vote as he sees fit when the nomination is considered in the Senate itself." The Committee also unanimously agreed (1) that by his candid revelation to the American public of the details of his immense wealth the nominee had rendered the blind-trust issue practically moot, and (2) that even though it had taken cognizance of the nominee's offer to limit his loans and gifts, it had no intention of requiring such a pledge as a condition precedent to a favorable recommendation on the nomination.

¹ Voted by proxy.

On a rollcall vote with eight members present, the Committee unanimously agreed to recommend to the Senate that Mr. Rockefeller's nomination be confirmed.

Earlier the Committee had also unanimously agreed: Every member of the Committee has the right to cast his vote as he sees fit.

ROLLCALL VOTE ON THE NOMINATION

On the question "Shall the nomination of Nelson A. Rockefeller to be Vice President of the United States be reported with the recommendation that Mr. Rockefeller be confirmed?" the Committee voted as follows:

The Commission discussions reflected various points of view among individual members about issues raised during the hearing. The Commission considered the nominee on the basis of his qualifications, not simply a single issue of preponderant importance to an individual member. The Commission found no bar or impediment which would prevent his nomination.

The Commission fully realized, as it has done in the past, that the nomination of a Vice President is a matter of national importance and that the Commission's responsibility is to make a recommendation to the Senate based on the facts and circumstances.

The Commission also unanimously agreed (1) that by his own revelation to the American public of the details of his income and assets, the nominee had rendered the blind trust issue practically moot and (2) that even though it had taken cognizance of the nominee's offer to limit his income and assets, it had no intention of reporting such a condition precedent to a favorable recommendation. It was the Commission's responsibility to consider and make a recommendation to whether this nominee as submitted to the Congress should be confirmed as Vice President.

The Commission sought to explore all facets of Governor Rockefeller's fitness and qualifications for the Office of Vice President: His public and private life, his personal character, his integrity and honesty, and his experience and knowledge, plus one unique and unprecedented factor—the concentration of great economic and great political power in a single individual, and what that symbolism in a Vice President or a President would mean to this country.

The Commission's judgment was that Governor Rockefeller in all critical areas of concern fully met the reasonable tests and standards that the Congress should apply.

ADDITIONAL VIEWS OF MR. PELL

ADDITIONAL APPROVING VIEWS OF MR. ALLEN

In the Senate Rules Committee I have voted to approve the President's nomination of the Honorable Nelson A. Rockefeller to be Vice President of the United States. Reaching a decision as to my vote was not easy.

While I have regard for Governor Rockefeller's integrity, ability and dedication, I disagree with his "big government," tax and spend philosophy. In sworn testimony at the hearings, however, he stated that he would, basically, seek to conform his positions to those of the President. He further conceded that there are limits on spending and on furnishing services and programs beyond which government cannot go, and that the Federal government must operate with a balanced budget.

In response to questions from me at the hearing, he indicated that in recent years he had moved philosophically toward the right in his conception of the role of government.

The United States needs a Vice President. Our government needs the stability that would result from filling the vacancy in the office of Vice President. President Ford has nominated Governor Rockefeller for this position and has urged his early confirmation.

The President feels that he can work with Governor Rockefeller as Vice President. Certainly Governor Rockefeller shows every indication of having a sincere desire to work with the President and the Congress in promoting and protecting the national interest and the well-being of the people of America.

While I disagree with much of Governor Rockefeller's philosophy, I realize that it would be impractical for me to expect a nominee with whose views I wholly agree. Therefore, acting in what I consider to be the national interest, I have voted for Governor Rockefeller's confirmation as Vice President.

JAMES B. ALLEN.

(185)

ADDITIONAL VIEWS OF MR. PELL

I have joined with the unanimous vote of the Committee on Rules and Administration recommending to the Senate confirmation of the nomination of Nelson A. Rockefeller to be Vice President of the United States.

In addition, I endorse the general findings of the Committee as set forth in this report. There are some differences in emphasis and perspective that make these additional views necessary.

Of major concern to me was the pattern of excessive gifts and loans to officials of the State of New York and its agencies, which became known during the course of the Committee investigation and hearings. I believe such gifts inevitably add an extra and unnecessary element to the relationships between public officials whose undivided dedication should be to the advancement of the public good. In terms of personal generosity, the gifts and loans were commendable; in terms of public policy they were unwise. That such benefactions could induce or permit greater service to the public is overbalanced by the prospect that such gifts can appeal to the ever-present frailties of human nature.

I believe that this practice was unwise in State government and would be equally undesirable in the Federal Government.

For that reason, I was pleased that Governor Rockefeller, in response to my expressions of concern and questions during the hearings, pledged to refrain from such gratuities should he be confirmed as Vice President of the United States. His statement to me, as agreed upon during the Committee hearings, was as follows:

I wish to confirm clearly and in writing what my position on gifts and loans to Federal officials would be in the event of my confirmation.

I recognize that misunderstandings may have arisen out of the loans and gifts I made to State officials while I was Governor of the State of New York.

If confirmed I would, of course, comply with both the spirit and the letter of all applicable Federal laws. I would not make any loans or gifts to Federal employees, with two reservations:

- (1) Gifts in relatively nominal amounts to friends on Christmas, weddings, birthdays and other such occasions;
- (2) Under exceptional circumstances, assistance to friends in the event of medical hardships of a compelling human character.

The Committee, as stated in this report, voted not to require such a pledge of the Governor as a condition of its action on his nomination. I am nonetheless pleased that he made this pledge and believe a firm adherence to it will best serve both the Nation and Governor Rockefeller in the execution of his duties should he be confirmed.

Judged solely on the basis of breadth and length of experience in public service, including elective office, and on the basis of the positions

of great public responsibility he has held, I can think of no other member of the President's own party with equal qualifications.

Most important, Governor Rockefeller has a positive philosophy and problem-solving outlook that is much needed in our Nation today, particularly in the topmost reaches of our government.

The very important question remains whether there are significant disqualifying factors involving the nominee's integrity or past conduct, such as to render him unfit for the office.

This is particularly crucial, in my view, because of the widespread lack of public confidence in government and government officials generally, a skepticism which is understandable in view of the abuses of public trust in the Watergate affair. Consequently, I emphasized in the hearings that the nominee must have the confidence, not only of the Members of Congress, but of the public, if he were to be able to serve effectively.

With this in mind, some circumstances in the course of the Committee inquiry, in addition to the loans and gifts, were to me very disquieting: Governor Rockefeller's sanctioning of the hidden financing of a critical biography of his gubernatorial opponent, Justice Goldberg; his insensitivity to the influence that his family's wealth might wield even if such influence was not intended; and the possible question of conflict of interest.

In each case, however, I believe Governor Rockefeller has provided explanations or statements that relieve much of my own concern and which should, I believe, substantially diminish public concern.

In the case of the biography of Justice Goldberg, the Governor admitted to a serious error of judgment and apologized for it.

In regard to the influence of his and his family's wealth, Governor Rockefeller, I believe, in the course of the hearings had come to understand that even "myths," if they are believed, can have important consequences. This is one very beneficial effect of the hearing.

In regard to conflicts of interest, I believe that Governor Rockefeller's full disclosure of his financial interests should serve as a sufficient safeguard against the use of his Constitutional office for personal or family benefit to the detriment of the public good.

I am compelled to add a final personal note. During the hearings, it was disclosed that Governor Rockefeller and Mrs. Rockefeller contributed substantial funds to the effort to replace me in the 1972 election for the Senate in Rhode Island. I had not previously been aware of these contributions, because compulsory disclosure laws were not then in effect. It came as a surprise to me that Governor Rockefeller contributed more to the effort to replace me than he did to any other non-Presidential election campaign outside his own State of New York in that year. In addition, Mrs. Rockefeller contributed 11 times as much to replace me as she contributed to all other political causes combined in that year. I make special mention of these contributions to dispel any thoughts that I might in some undisclosed way be obligated to the Rockefeller family wealth.

My own conclusion, from a careful examination of Governor Rockefeller's record and the testimony of witnesses before the Committee, is that Governor Rockefeller is highly qualified to serve in the position of Vice President of the United States, and I join, without reservation, in the Committee's recommendation that his nomination be confirmed by the Senate.

CLAIBORNE PELL.

APPENDIX

EXHIBIT 1

RULES OF PROCEDURE GOVERNING THE INVESTIGATION INTO THE QUALIFICATIONS OF MR. NELSON A. ROCKEFELLER TO BECOME VICE PRESIDENT OF THE UNITED STATES¹

ADOPTED SEPTEMBER 11, 1974

1. The investigation will be conducted by the full membership of the Committee on Rules and Administration (hereinafter referred to as the "Committee") rather than by any subcommittee thereof.

2. Committee hearings or meetings shall be conducted by the Chairman or member designated by the Chairman.

3. The Chairman shall have authority to call meetings of the Committee. This authority may be delegated by the Chairman to any other member of the Committee. Should a majority of the members request the Chairman in writing to call a meeting of the Committee and should the Chairman fail to call such meeting within 10 days thereafter, such majority may call a meeting by filing a written notice with the Staff Director who shall promptly notify each member of the Committee in writing. If the Chairman is not present at any such meeting, and has not designated another member to conduct the meeting, the Ranking Majority Member present shall preside.

4. Any three members of the Committee shall constitute a quorum for the purpose of taking testimony under oath: *Provided, however*, That once a quorum is established, any one member can continue the hearing.

5. Any absent member may vote by proxy on any issue which comes before the Committee for decision, provided he gives instruction regarding the specific question involved.

6. Subpoenas for attendance of witnesses and the production of memoranda, documents, and records may be issued by the Committee Chairman or any other member of the Committee designated by the Chairman after consultation with the Ranking Minority Member and upon a majority vote of the members of the Committee present at a meeting. Witnesses shall be subpoenaed at a reasonably sufficient time in advance of any hearing in order to give the witness an opportunity to prepare for the hearing, employ counsel should he so desire, and/or produce documents, books, records, memoranda, and papers called for by a subpoena *duces tecum*. The Committee shall determine, in each

¹ These rules, with one minor change, are the same as adopted by the Committee on October 18, 1973, for use during its consideration of the nomination of Gerald R. Ford to be Vice President.

particular instance, what period of time constitutes reasonable notice; however, in no case shall it be less than 24 hours.

7. All witnesses at public or executive hearings who testify to matters of fact shall be sworn. The oath shall be administered by the Chairman or a member of the Committee.

8. All witnesses at public or executive hearings shall have the right to be accompanied by Counsel.

9. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearings, and to advise such witness while he is testifying of his legal rights; however, counsel shall not have the right to interrogate witnesses. This rule shall not be construed to excuse a witness from testifying in the event his counsel is ejected for contumacy or disorderly conduct; nor shall this rule be construed as authorizing the counsel to coach the witness, answer for the witness, or put words in the witness' mouth. The failure of any witness to secure counsel shall not excuse such witness from attendance in response to subpoena.

10. Any person who is the subject of an investigation in public hearings may submit to the Chairman of the Committee questions in writing for the cross-examination of other witnesses called by the Committee. With the consent of a majority of the members of the Committee present and voting, these questions shall be put to the witnesses by the Chairman or by a member of the Committee.

11. Any member of the Committee may request that the Chairman direct one or more staff members to secure evidence and interview possible witnesses. Any member of the Committee may request that a witness be called to testify before the Committee in executive session. Such requests shall be honored by the Chairman unless he finds that the evidence in question, or interview of a possible witness or the testimony of the witness is irrelevant to the investigation, in which case the questions shall be determined by a majority vote of the Committee.

12. All inquiries conducted and all information received from any source will be made a matter of record and included as a part of the Committee's files of the investigation.

13. Preliminary investigations may be initiated by the Committee staff with the approval of the Chairman or at his direction. In such an instance, the Chairman shall notify the Ranking Minority Member of the Committee of his action.

14. Unless otherwise determined by the Chairman or a majority of the Committee members present, no person shall be allowed to be present during a hearing or meeting held in executive session except members and employees of the Committee, one designated representative of each member, who for the purpose of these rules shall be considered a member of the Committee staff, the witness, if any, and his counsel, stenographers, or interpreters of the Committee.

15. It shall be the duty of the Staff Director to keep or cause to be kept a record of all Committee proceedings, including the record of votes on any matter on which a record vote is taken, and of all motions, points of order, parliamentary inquiries, rulings of the Chair and appeals therefrom. The record shall show those members present at

each meeting. Such record shall be available to any member of the Committee upon request.

16. Except when publication is authorized by the Chairman, no member of the Committee or staff shall make public the name of any witness subpoenaed before the Committee or release any information to the public relating to a witness under subpoena, or the issuance of a subpoena prior to the time and date set for his appearance.

17. All witnesses appearing before the Committee, pursuant to subpoena, shall be furnished a printed copy of the rules of procedure of the Committee.

18. The time and order of interrogation of witnesses appearing before the Committee shall be controlled by the Chairman in consultation with the Ranking Minority Member. Interrogation of witnesses at Committee hearings shall be conducted by Committee members.

19. Any objection raised by a witness or his counsel to procedures or to the admissibility of testimony and evidence shall be ruled upon by the Chairman or presiding member and such rulings shall be the rulings of the Committee, unless a disagreement thereon is expressed by a majority of the Committee present. In the case of a tie, the rule of the Chair will prevail.

20. All witnesses shall make a prepared or written statement for the record of the proceedings and shall file not less than 50 copies of such statement with the Counsel of the Committee 48 hours in advance of the hearings at which the statement is to be presented. All such statements or portions thereof so received which are relevant and germane to the subject of investigation may, at the conclusion of the testimony of the witness and with the approval of a majority of the Committee members be inserted in the official transcript of the proceedings.

21. At the conclusion of the interrogation of his client, counsel shall be permitted to make such reasonable and pertinent requests of the Committee, including copy of the testimony of other witnesses, or presentation of other evidence, as he shall deem necessary to protect his client's rights. These requests shall be ruled upon by the Committee members present.

22. Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by a Committee member, tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the Committee to testify on his own behalf, or, in the alternative; (b) file a sworn statement of facts relevant to the testimony, or other evidence or comment complained of. Such request or such statement shall be submitted to the Committee for its consideration and action.

23. No testimony taken or material presented in an executive session, nor any summary or excerpt thereof shall be made available to other than the Committee members, employees of the Committee, and one designated representative of each member, and no such material or testimony shall be made public or presented at a public hearing, either in whole or in part, unless authorized by a majority of the Committee members or as otherwise provided for in these rules. Any material of a confidential nature, including but not limited to income tax returns

and financial statements, will be made available to Committee members and the senior majority and minority staff members only, unless such information shall be released by the person involved.

24. No evidence or testimony, nor any summary or excerpt thereof given in executive session which the Chairman determines may tend to defame, degrade, or incriminate any person shall be released, or presented at a public hearing, unless such person shall have been afforded the opportunity to testify or file a statement in rebuttal, and any pertinent evidence or testimony given by such person, or on his behalf, shall be made a part of the transcript, summary, or excerpt prior to the public release of such portion of the testimony.

25. A witness shall, upon request, be given a reasonable opportunity before any transcript is made public to inspect in the office of the Committee the transcript of his testimony to determine whether it was correctly transcribed, and may be accompanied by his counsel during such inspection.

26. Any corrections in the transcript of the testimony of any witness which the witness desires to make shall be submitted in writing to the Committee within five days of the taking of his testimony. However, changes shall be made only for the purpose of making minor grammatical corrections and editing, and not for the purpose of changing the substance of the testimony. Any questions arising with respect to such editing shall be decided by the Chairman.

27. Any Committee hearing that is open to the public may be covered, in whole or in part, by a pool arrangement to include the various commercial and public television and radio networks. Still photography and other media coverage is permitted. All such coverage must be orderly and unobtrusive.

28. The coverage of any hearing of the Committee by television, radio, or still photography shall be under the direct supervision of the Chairman, after consultation with the Ranking Minority Member, and the Chairman may for good cause terminate such media coverage in whole or in part, or take such other action as the circumstances may warrant.

29. A witness may request, on grounds of distraction, harassment or physical discomfort, that during his testimony, television, motion picture, and other cameras and lights shall not be directed at him, such requests to be ruled on by the Committee members present at the hearing.

30. No recommendation that a witness be cited for contempt of Congress shall be forwarded to the Senate unless and until the Committee has, upon notice to all its members, met and considered the alleged contempt and by a majority of the Committee voted that such recommendation be made.

31. The Chairman of the Committee, after consulting with the Ranking Minority Member, shall have the authority to utilize the services, information, facilities, and personnel of the departments and establishments of the Government, and to procure the temporary or intermittent services of experts or consultants to make studies or assist or advise the Committee with respect to any matter under investigation.

32. All information developed by or made known to any member of the Committee staff shall be deemed to be confidential. No member of the Committee staff shall communicate to any person, other than a member of the Committee or the Committee staff, any substantive information with respect to any substantive matter related to the activities of the Committee. All communications with the press and other persons not on the Committee or Committee staff in respect to confidential substantive matters shall be by members of the Committee only. Official releases of information to the press on behalf of the Committee shall be made only with the express consent of the Chairman and Ranking Minority Member.

33. These rules may be modified, amended, or repealed by a vote of the Committee; provided, that a notice in writing of the proposed change has been given to each member at least twenty-four hours prior to such proposed action.

EXHIBIT 2

BIOGRAPHICAL SUMMARY OF NELSON A. ROCKEFELLER

(Supplied to the Committee by the Nominee)

Nelson Aldrich Rockefeller was born on July 8, 1908 at Bar Harbor, Maine, the third child of John Davison Rockefeller, Jr. and Abby Aldrich Rockefeller. During his youth and early manhood, Mr. Rockefeller lived at the family homes in Pocantico Hills, Tarrytown, New York and in New York City. He completed his studies at the Lincoln School in New York City in 1926 and went on to Dartmouth College from which he graduated in 1930 with a degree in economics and where he was elected to Phi Beta Kappa.

After graduation from college, Mr. Rockefeller was engaged in family and individual business enterprises. This period included activities in real estate, banking, family philanthropies and Mr. Rockefeller's formation of Special Work, Inc., a firm engaged largely in real estate rentals. Mr. Rockefeller's major business interests in time became focused on Rockefeller Center and Latin America. In 1938 he became President of Rockefeller Center.

Mr. Rockefeller had become in 1935 a director of the Creole Petroleum Company, the Venezuelan subsidiary of Standard Oil of New Jersey. This association led eventually to his life-long and deep interest in the countries of Latin America. He made extensive visits in 1937 and 1939 to Latin America to study economic, social and political conditions. He resigned his directorship in the Creole Petroleum Company in 1940. In the same year Mr. Rockefeller organized the Compañia de Fomento Venezolana to undertake economic development projects in Venezuela. This agency was responsible for construction of the Avila Hotel in Caracas, which was completed and opened in 1942.

During this period, Mr. Rockefeller was also active in support of the arts, an interest which he maintains to the present day. He served successively as a trustee, treasurer, president and chairman of the board of the Museum of Modern Art. In 1954 he founded the Museum of Primitive Art devoted to the collection of the indigenous art of the Americas, Africa and Oceania and early Asia and Europe.

After his 1939 visit to Latin America, Mr. Rockefeller prepared a memorandum for President Franklin D. Roosevelt outlining his deep concern over Nazi influence and penetration into that part of the world and recommending a U.S. program of cooperation with these nations to help raise the standard of living and to achieve better relations among the nations of the Hemisphere. Largely as a result of this report, President Roosevelt asked Mr. Rockefeller in August of 1940 to initiate and head a new program ultimately known as the Office of the Coordinator of Inter-American Affairs. This was Mr. Rocke-

feller's first full-time position in public service. During this period he resided at a home on Foxhall Road in the District of Columbia, which he still maintains.

Mr. Rockefeller served as Coordinator of Inter-American Affairs until December 1944, when President Roosevelt appointed him Assistant Secretary of State for American Republic Affairs. In this post Mr. Rockefeller initiated the Inter-American Conference on Problems of War and Peace in Mexico City in February of 1945. Out of this Conference came the Act of Chapultepec which provided the framework for economic, social and defense cooperation among the nations of the Americas and set the principle that an attack on one of these nations would be regarded as an attack on all and jointly resisted. Mr. Rockefeller signed the Act of Chapultepec for the United States. He also served at the founding United Nations Conference on International Organization at San Francisco in 1945. At the Conference there was considerable opposition to the idea of permitting, within the U.N. Charter, the formation of regional pacts such as the Act of Chapultepec. Mr. Rockefeller, who believed that the inclusion was essential, especially to U.S. policy in Latin America, successfully urged the need for regional pacts within the framework of the United Nations. The importance of this victory was underscored by the subsequent formation of NATO and other regional pacts by which nations unite for their defense.

During these war-time years, Mr. Rockefeller also acted as Chairman of the Inter-American Development Commission, which included all 21 American Republics and was formed to find ways of filling the gap caused by the loss of European markets. He also served as American Co-Chairman of the Mexican American Development Commission to help Mexico emerge as an industrial nation in the transition from war to peace. As a result of the Commission's work, 22 projects were developed which enabled Mexico to use all its foreign exchange for productive, economic and social purposes at the end of the war at pre-war prices.

Mr. Rockefeller resigned as Assistant Secretary of State for American Republic Affairs on August 24, 1945.

Upon his return to private life in New York in 1946, Mr. Rockefeller became Chairman of the Board of Rockefeller Center and undertook a program of physical expansion. Two other initiatives during this period illustrate Mr. Rockefeller's continuing interest in Latin America specifically and international economic development generally. In July of 1946 the Rockefeller brothers established a philanthropic organization, the American International Association for Economic and Social Development (AIA). Nelson Rockefeller served as President from July 1946 to June 1953 and from January 1957 to December 1958. AIA financed non-profit projects to ameliorate health, educational, agricultural and other social problems in the poorer areas of Latin America. In 1947 Mr. Rockefeller organized the International Basic Economy Corporation (IBEC), a business corporation to help raise living standards in foreign countries through new economic enterprises. In its early years, IBEC concentrated on enterprises in Latin America but later expanded its activities to other world areas. He served as IBEC President from January 1947 to June of 1953 and from January 1956 to December of 1958.

In his Inaugural Address of January 1949, President Truman announced the Point IV program for providing technical assistance to developing nations. This concept was based in part on programs Mr. Rockefeller and his staff had developed through the office of the Coordinator of American Affairs and the private, philanthropic AIA.

In November of 1950 President Truman asked Mr. Rockefeller to serve as Chairman of the International Development Advisory Board, a post which he accepted. The Board was charged with recommending policies for carrying out the Point IV program. The report emerging from the Board's work, entitled "Partners in Progress," provided the basic blueprint for America's foreign assistance program.

On November 4, 1952, Dwight D. Eisenhower was elected President of the United States. On November 20, the President-elect asked Mr. Rockefeller to serve as Chairman of the President's Advisory Committee on Government Organization, a group created to recommend ways of improving the efficiency and effectiveness of the executive branch of government. As Chairman of that committee, Mr. Rockefeller recommended thirteen reorganization plans to the President, ten of which were approved by the Congress. These plans achieved basic changes in the organization of the Department of Defense, the Department of Agriculture and the Office of Defense Mobilization among others. Another of the plans led to the establishment of the Department of Health, Education and Welfare, of which Mr. Rockefeller subsequently became Under-Secretary. Mr. Rockefeller was especially active in the new Department's legislative program, including measures which covered an additional ten million persons under the social security program. He resigned as HEW Undersecretary in 1954 to become Special Assistant to the President for Foreign Affairs.

While serving as Special Assistant to the President for Foreign Affairs, Mr. Rockefeller played a key role in the development of the "Open Skies" proposal for checking on world armaments by a mutual air reconnaissance. He accompanied the President to the Geneva Summit Conference of 1955 where the plan was proposed to the world.

Mr. Rockefeller resigned as Special Assistant on December 31, 1955 and returned to his private and philanthropic interests. He maintained an active interest and involvement in public affairs. Thus, in 1956, Mr. Rockefeller organized, with the backing of the Rockefeller Brothers Fund, a Special Studies Project under the title, "America at Mid Century." The objective of this project was to study major problems and to give the American people a better understanding of the economic, military, educational, moral and other situations they would face in the future. Mr. Rockefeller served as Chairman of the Special Studies Project during its existence from September 1956 to April 1958. Mr. Rockefeller engaged as Special Studies Director Dr. Henry A. Kissinger, then at Harvard University. The two men had first worked together when Mr. Rockefeller, as President Eisenhower's Special Assistant for Foreign Affairs, had brought together a group of leading academicians, including Dr. Kissinger, to help consider possible new foreign policy initiatives for the 1955 Geneva Summit Conference. The final report of the Special Studies Project, "Prospect for America," attracted nationwide attention for the blueprints it set forth in the areas of national security, educational and economic programs.

From 1956 to 1959, Mr. Rockefeller also headed two studies of New York State's Constitution, authorized by the legislature, the first by appointment of former Governor Averell Harriman and the second by appointment of the legislative leaders.

Mr. Rockefeller first ran for public office in 1958 and was elected Governor of New York State on November 4, defeating incumbent Governor Harriman. He took office January 1, 1959. He was subsequently elected Governor three more times, thus becoming the only Governor in the Nation's history to be elected to four 4-year terms. His 1970 election over former Supreme Court Justice and United Nations Ambassador Arthur J. Goldberg was by a record 683,794 votes.

As Governor, Mr. Rockefeller expanded the State University of New York from 38,000 full-time students to 235,000 full-time students and from 41 to 72 campuses, making it the largest in the world. He also inaugurated a pioneering program to provide financial assistance to hard-pressed private colleges and universities.

Governor Rockefeller successfully proposed four bond issues relating to the environment totaling approximately \$2.5 billion. These bond issues helped finance 348 new sewage treatment plants, the acquisition of park lands and the development of 55 new state parks.

A \$2.5 billion Transportation Bond Issue provided the first state financing in the Nation for mass transportation as well as highway and airport construction.

In 1971, Governor Rockefeller achieved the first major overhaul of the state's welfare system in a generation. He appointed a Welfare Inspector General to root out fraud, and instituted work requirements for able-bodied persons on welfare. As a result of these reforms, the welfare rolls in New York State dropped by 160,000 persons in Governor Rockefeller's last year in office, the largest decline since World War II, at a saving to the taxpayers of \$400 million.

In combating crime, Governor Rockefeller doubled the size of the State police; established the state-wide prosecutor of organized crime; established a special prosecutor to investigate and prosecute corruption in the police and criminal justice system of New York City; set the Nation's toughest drug penalty, a mandatory life sentence for hard drug pushing; and established the Crime Victims Compensation Board to provide financial relief to the innocent victims of crime.

Under Governor Rockefeller's leadership, New York State carried out the Nation's largest State medical care program for the needy under Medicaid; financed medical facilities for 12,500 hospital and 24,400 nursing home patients; created the Bureau of Heart Disease; the Birth Defects Institute; the Kidney Disease Institute; and the Burns Care Institute; created two new state medical schools and provided financial aid to existing medical schools, the equivalent of adding two more schools.

Governor Rockefeller carried out vigorous programs to expand the State's economy. These efforts helped attract over 9,300 new plants or major expansions to the State. He also created the State Job Development Authority to provide low-cost loans for business expansions, which created 21,000 new jobs and retained nearly 7,000 existing jobs;

created the Job Incentive Board, which provided tax incentives for businesses to locate and expand in low-income areas, adding 6,200 new jobs and retaining 6,300 existing jobs; and established New York State trade offices in major foreign cities.

In protecting consumers, Governor Rockefeller initiated no-fault auto insurance in the State; created the State Consumer Protection Board and a permanent Consumer Frauds Bureau in the Attorney General's office which has handled 270,000 consumer complaints; and strengthened the consumer's rights in installment sales.

In the housing area, New York State, under Governor Rockefeller's leadership, completed or started over 88,000 units of housing for limited income families and the aging; and created the Urban Development Corporation, which has thus far completed or started 30,000 homes.

The Rockefeller Administration created the Nation's first State Council on the Arts; and began the first program of direct state aid to cultural organizations faced with economic collapse, aiding 850 symphony orchestras, museums, theatre and dance companies and other cultural resources.

Governor Rockefeller achieved virtual total prohibition of discrimination in housing, employment and places of public accommodation; outlawed job discrimination based on a person's sex or age; outlawed "block-busting" as a means of artificially depressing housing values; and increased by nearly 50 per cent the numbers of black and Puerto Rican persons holding state jobs.

Governor Rockefeller gave New York its first state-wide minimum wage which was increased five times, while unemployment insurance benefits were increased four times. The Rockefeller Administration also included migrant workers, for the first time, under the state minimum wage law.

In the area of mental health, the Rockefeller Administration employed modern treatment techniques which reduced the number of patients in state mental hospitals from nearly 90,000 to 43,000 and the median stay from 240 to 41 days.

Under Governor Rockefeller's leadership, New York State enacted the Nation's first mandatory automobile seat belt legislation and set requirements for padded dashes, visors, tire safety, and dual braking systems; required all motor vehicles to be safety inspected annually; and developed the first state-financed model safety car.

In the area of prison reform, Governor Rockefeller instituted a large-scale construction program to rehabilitate and modernize prison facilities; initiated prison furloughs for medical and other reasons; initiated a special recruitment program which has increased the number of correction officers from minority groups; and reduced the civil penalties that reduce job opportunities to ex-inmates.

Governor Rockefeller appointed women to head the largest number of state agencies in New York's history, including: the Department of Civil Service, Department of State, Division of Housing, Office of the Aging, State University Board of Trustees, and Consumer Protection Board. His administration also prohibited discrimination against women in education, employment, housing, places of public accommodation and in credit applications; admitted women for the first

time into the State police; created a Women's Unit in the Governor's Office; and backed state ratification of the Equal Rights Amendment to the Federal Constitution.

For the older citizen, the Rockefeller Administration created the State Office for the Aging; authorized property tax reduction for older home owners; and developed special housing programs for the aging leading to the construction of nearly 12,000 units.

For New York State's farm families, the Rockefeller Administration set up the agricultural districting program to insure the preservation of prime farm lands; provided farmers with real property tax exemption on new farm buildings; provided a one per cent tax credit on new investment in farm machinery, equipment and construction; and built or reconstructed 14,000 miles of farm-to-market roads.

As Governor, Mr. Rockefeller was extremely active in the National Governors Conference where he served as Chairman of the Human Resources Committee for several years. He was a prime mover in the ultimate passage of Federal Revenue Sharing in 1972.

Because of his long-time interest and expertise in the area, Mr. Rockefeller was asked, in 1969, to head a Presidential Mission to Latin America. The findings and recommendations of the 21-member mission were delivered to the President and the Congress in the fall of 1969.

On December 18, 1973, Governor Rockefeller decided against seeking a fifth term and resigned as Governor of New York after 15 years in office. He did so, Mr. Rockefeller stated, out of his belief that "I could render a greater public service to the people of my state and the Nation by devoting myself to the work of two bipartisan national commissions which I chair, the Commission on Critical Choices for Americans, and the National Commission on Water Quality."

The bipartisan Commission on Critical Choices for Americans is studying the critical policy decisions the United States must face as the Nation moves into its third century. The 42 members of this bipartisan Commission include President Ford and the majority and minority leaders of both houses of the Congress.

On August 20, 1974, President Ford, under the Twenty-fifth Amendment to the Constitution, nominated Mr. Rockefeller as Vice President of the United States.

Mr. Rockefeller's marriage to Mary Todhunter Clark was terminated by divorce in March 1962. There were five children: Rodman C.; Mrs. Ann R. Coste; Steven C.; Mrs. Thomas Morgan; and the late Michael C. Rockefeller. On May 4, 1963, he married the former Margaretta Fitler Murphy. They have two sons, Nelson, Jr., and Mark Fitler. They reside at Pocantico Hills, Tarrytown, New York, and also have homes at 812 Fifth Avenue, New York City, 2500 Foxhall Road, Washington, D.C., and Seal Harbor, Maine.