Mr. GADSDEN. Thank you.

(The subsequent correspondence and statement of Senator Scott follows:)

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., May 9, 1968.

Hon. GAYLORD NELSON,
U.S. Senate, Washington, D.C.

DEAR GAYLORD: You will recall that at the Monopoly Subcommittee hearing of Friday, May 3rd you granted me permission to submit a statement at the end of that day's hearings.

A copy of that statement is enclosed.

I would like to have it printed in the permanent record of the hearing of May 3, as if delivered personally, immediately following Mr. Gadsden's final remarks and just prior to your statement recessing the hearing.

Cordially,

HUGH SCOTT, *U.S. Senator.*

STATEMENT OF HON. HUGH SCOTT, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, it is entirely clear that today's hearings, requested by Merck & Co., have provided a substantial step forward in dispelling the pall of confusion that has accumulated on these issues during the last two weeks. The value of taking testimony from the party most directly involved in a problem was demonstrated today.

The testimony indicates that there is essentially no problem regarding the safety and effectiveness of this drug as it has been determined by a broad group of highly qualified experts. It is also apparent from the testimony that the Food and Drug Administration had ample evidence regarding safety and efficacy to support its action of licensing this drug.

No insurmountable problem exists with the way in which the Company presented product information to the practicing physician except as a matter of semantics—of subtle differences of opinion on the interpretation of words, judgments, and impressions during a time when the Food and Drug Administration itself has been groping with the problem of how to regulate the flow of information to the medical profession. Such differences as exist can more appropriately be resolved by conference rather than by public charges or legal threats. It would appear that the interests of physicians and patients would thus be better served.

After reading the statements and discussions of the hearings on this product, I am more regretful that the circumstances have led to a condition where a good Company, a good performance, and a good drug have so lamentably been characterized by headlines suggesting danger and deceit. The events of the past two weeks only reinforce the need to reexamine the structure of the hearings themselves so that the parties concerned can appear at the outset and provide a factual base against which criticisms can be leveled or improvements proposed. Fair balance has become a watchword in the drug field today. The planning and timing of Congressional hearings might well be so devised as to bring more balance in the final impression left with the public at large.

(A subsequent statement and supplemental information submitted by Senator Nelson follows:)

STATEMENT BY SENATOR GAYLORD NELSON, CHAIRMAN OF THE MONOPOLY SUBCOMMITTEE

The Monopoly Subcommittee of the Senate Small Business Committee to date has held five days of public hearings on indomethacin, which is manufactured and sold under the trade name of Indocin by Merck & Company. Of our witnesses, 3 were independent physicians from the academic field, 3 from the Food and Drug Administration, 6 from (or on behalf) of Merck & Company, and one, a practicing physician who evaluated the drug for Merck.

The testimony highlighted five problems which are very important to the health and welfare of our people. These are: (1) drug evaluation: (2) what is meant or should be meant by "substantial evidence of safety and efficacy;" (3) the use of euphemistic, soft and unclear language in drug warnings; (4) overpromotion