NATIONAL COMMISSION ON PRODUCT SAFETY

HEARING

BEFORE THE

CONSUMER SUBCOMMITTEE

OF THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETIETH CONGRESS

FIRST SESSION

ON

S.J. Res. 33

A JOINT RESOLUTION TO ESTABLISH A NATIONAL COMMISSION ON PRODUCT SAFETY

MARCH 1, 1967

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NATIONAL COMMISSION ON PRODUCT SAFETY

WEDNESDAY, MARCH 1, 1967

U.S. SENATE,
COMMITTEE ON COMMERCE,
CONSUMER SUBCOMMITTEE,
Washington, D.C.

The subcommittee met at 10:23 a.m., in room 5110, New Senate Office Building, Hon. Warren G. Magnuson (chairman of the committee and subcommittee) presiding.

The CHAIRMAN. The committee will come to order.

The Chair would like to make an opening statement on the matter before the committee at the present time.

The hearings starting this morning are on Senate Joint Resolution 33, a joint resolution introduced by myself, Senator Cotton, and Senator Brewster, to establish a National Commission on Product Safety.

This is the first consumer bill to be heard by the Commerce Committee in this session of Congress. I think it is appropriate that it be first because, in my judgment, it may prove ultimately to be the most significant single piece of consumer legislation produced by the 90th Congress.

The Commission would be composed of, as many of you here know, seven members appointed by the President from among persons specially qualified to serve by virtue of their education, training, or experience, with a chairman and a cochairman designated by the President.

The Commission would be directed to—

Conduct a comprehensive study and investigation of the scope and adequacy of measures now employed to protect consumers against injuries which may be caused by hazardous household products, including:

First, the identity of household products which are determined to present an unreasonable hazard to the health and safety of the consuming public;

Second, the extent to which self-regulation by industry affords such protection;

Third, the protection against such hazardous products afforded at common law in the States, including the relationship of product warranty—which is a very important part of this—to such protection; and

Fourth, a review of Federal, State, and local laws relating to the protection of consumers against hazardous products, including the scope of coverage, the effectiveness of sanctions, the adequacy of investigatory powers, the uniformity of application, and the quality of enforcement.

Staff counsel assigned to this hearing: Michael Pertschuk.

Many States now do have laws directed to this subject. They are all different. The enforcement procedures are different. Sometimes the enforcement, the quality of enforcement, varies in different States.

Finally, the Commission is directed to make interim reports and a final report, not later than January 1, 1969, at which time it shall deliver to Congress and the President its findings and conclusions, including recommendations for such legislation or other remedial action as it deems appropriate. It may be that they need not recommend any Federal action at all. It may be that they will, or some other course of procedure.

This proposal is based upon the following premises: First, that the consumer has a right to the reasonable safety of the products which he purchases for his use; second, that manufacturers are entitled to reasonable uniformity and certitude in the laws with which they must comply; and, third, that both of these rights are essential to that orderly flow of interstate commerce which Congress is obliged to preserve.

I would like to insert at this point for the record the text of the bill, interested agency comments, and those portions of the President's consumer message endorsing the proposal and the Commission suggestion, together with a statement which I made on the floor of the Senate on February 8, 1967.

[S.J. Res. 33, 90th Cong., 1st sess.]

JOINT RESOLUTION To establish a National Commission on Product Safety

Whereas the American consumer has a right to be protected against unreasonable risk of bodily harm from products purchased on the open market for the use of himself and his family;

Whereas manufacturers whose products are marketed substantially in interstate commerce are entitled to a reasonable degree of uniformity in the application of safety regulations to such products;

Whereas Federal, State, and local laws relating to consumer protection against such hazardous products are widely divergent and fail to provide adequately for consumer protection; and

Whereas it is desirable to establish a commission to review the scope, adequacy, and uniformity of existing legislation and self-regulation and to make recommendations for appropriate remedial action if the review deems advisable by the President, the Congress, the States, and private industry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established a National Commission on Product Safety (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of seven members appointed by the President from among persons who are specially qualified to serve on such Commission by virtue of their education, training, or experience.

(c) Any vacancy in the Commission shall not affect its powers.

(d) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

(e) Four members of the Commission shall constitute a quorum.

DUTIES OF THE COMMISSION

SEC. 2. (a) The Commission shall conduct a comprehensive study and investigation of the scope and adequacy of measures now employed to protect consumers against unreasonable risk of injuries which may be caused by hazardous household products. Such study and investigation shall include consideration of the following:

(1) the identity of household products, except such products excluded in section 6, which are determined to present an unreasonable hazard to the health and safety of the consumming public;

(2) the extent to which self-regulation by industry affords such protection;

(3) the protection against such hazardous products afforded at common law in the States, including the relationship of product warranty to such protection; and

(4) a review of Federal, State, and local laws relating to the protection of consumers against such hazardous products, including the scope of coverage, the effectiveness of sanctions, the adequacy of investigatory powers, the uniformity of application, and the quality of enforcement.

(b) The Commission may transmit to the President and to the Congress such interim reports as it deems advisable and shall transmit its final report to the President and to the Congress not later than January 1, 1969. Such final report shall contain a detailed statement of the findings and conclusions of the Commission together with its recommendations for such legislation as it deems appropriate.

POWERS OF THE COMMISSION

SEC. 3. (a) The Commission, or any two members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under paragraph (a) of this section, to invoke the aid of any district court of the United States in requiring compliance with such subpena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under paragraphs (3) and (4) of this subsection; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal agency available information deemed useful in the discharge of its duties. Each Federal agency is authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission to the extent permitted by law.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff: *Provided, however*, That the Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designate individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. Each member of the Commission may receive compensation at the rate of $100 for each day such member is engaged upon work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

ADMINISTRATION

SEC. 5. (a) The Commission is authorized, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, to appoint and fix the compensation of an Executive Director and the Executive Director, with the approval of the Commission, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of such title.

(b) The Executive Director, with the approval of the Commission, is authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed $100 per diem.

(c) The head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to assist in carrying out the duties of the Commission under this Act.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the chairman of the Commission and the Administrator of the General Services. Regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Administrator for the administrative control of funds shall apply to appropriations of the Commission, but the Commission shall not be required to prescribe such regulations.

(e) Ninety days after submission of its final report, as provided in section 2(b), the Commission shall cease to exist.

DEFINITION

SEC. 6. The term "household products" means products customarily produced or distributed for sale through retail sales agencies or instrumentalities for use by a consumer or any member of his family. Such term does not include products regulated under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Federal Hazardous Substances Labeling Act (15 U.S.C. 1261 et seq.), the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.), and the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.).

AUTHORIZATION

SEC. 7. There are authorized to be appropriated such sums, not to exceed $2,000,000, as may be necessary to carry out the provision of this Act.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
March 3, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of February 14 requesting comment on S.J. Res. 33, a joint resolution "To establish a National Commission on Product Safety".

The joint resolution would carry out the President's recommendation, made in his recent Message To Protect The American Consumer, that the Congress enact legislation establishing a National Commission on Product Safety.

In view of the need for the study envisioned by this proposal, we recommend enactment of this bill. Inasmuch as this Department will be represented in the testimony to be given on behalf of the Administration at the forthcoming hearings on S.J. Res. 33, we shall not burden this report with a detailed analysis and justification of this measure.

The Bureau of the Budget advises that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

WILBUR J. COHEN,
Under Secretary.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 2, 1967.

[redacted].

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated February 14, 1967, you requested our comments on S.J. Res. 33, 90th Congress which has as its purpose to establish a National Commission on Product Safety.

While we favor the objectives of this measure, we have no special information that would assist the committee in its consideration of S.J. Res. 33 and accordingly have no comments to offer concerning the manner in which these objectives should be accomplished.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

THE WHITE HOUSE.

TO PROTECT THE AMERICAN CONSUMER

To the Congress of the United States:

Almost 100 years ago the 42nd Congress enacted and President Grant signed the first consumer protection law—to prohibit the fraudulent use of the mails.

We have passed many milestones since then on the road to consumer protection. One landmark was the Pure Food and Drug Act of 1906. Shortly after its enactment, President Theodore Roosevelt wrote:

"The work thus begun must be unflinchingly carried forward in the interest both of the public and of the great body of . . . producers who are engaged in honest business."

Congresses and Presidents have "unflinchingly carried forward" in the public interest—from the Federal Trade Commission Act passed during Woodrow Wilson's day and the Securities Act under Franklin Roosevelt, to the Truth-in-Packaging Act under the 89th Congress last year.

The consumer has also benefited from wise government policies to promote and stabilize prosperity. The American consumer today enjoys the highest standard of living ever experienced in the world. And it has risen rapidly in recent years. During the past three years, the consumer has reaped the harvest of a vigorous prosperity:

Nearly 6 million more Americans are at work, contributing to production and collecting growing paychecks;

Real income after taxes has advanced 13 percent for the average American, a gain as large as in the preceding 8 years;

The net financial wealth of American families has risen $150 billion.

We were concerned with the rise in prices last year, even though the incomes of most families outpaced the price level. Over the past several months, price increases have waned in intensity. And there is clear and welcome evidence that interest rates have been moving down. We must take whatever steps are necessary to continue these trends.

With the cooperation of business, labor and the consumer, Government policies will be working this year

To improve our record on prices and interest rates, and

To continue the steady growth of family incomes.

The rising incomes of prosperity have brought new vigor to the marketplace. American business has responded with matchless ingenuity and enterprise to produce the widest range of quality products ever offered for sale.

But the march of technology that has brought unparalleled abundance and opportunity to the consumer has also exposed him to new complexities and hazards. It has made his choices more difficult. It has made many of our laws obsolete and has created the need for new legal remedies and safeguards. In short, we are faced with new problems of prosperity.

Most of these problems are resolved in the free competitive market through the energies of private enterprise. It is remarkable how well the free enterprise system does its job. The Government does not and will not tell business what to produce or labor where to work. Nor will it tell the consumer what to buy.

By comparison with the scope of the market, the task of the Government is relatively small. Nonetheless, that task is vital and must be executed fully and faithfully. It must be kept up to date with the realities of modern life and a sophisticated marketplace.

The Government must work to make consumer choice fully effective. The consumer must be protected against unsafe products, against misleading information, and against the deceitful practices of a few businessmen that can undermine confidence in the vast majority of diligent and reputable firms.

The 89th Congress fulfilled these responsibilities. It will surely go down in history as a consumer's Congress. I proposed and you in the Congress enacted a series of measures designed to protect the consumer in the modern supermarket, on the new high-speed turnpikes of America and in our growing banking and savings institutions:

The Truth-in-Packaging Act has launched a system to tell the buyer just what he is purchasing, how much it weighs, and who made it.

The Traffic and Highway Safety Acts have begun the first comprehensive national attack on the mounting toll of death and destruction on the highways.

The Child Protection Act is safeguarding our youngsters against needless tragedy from hazardous toys.

Additional insurance protection has been afforded to the millions of Americans who place their savings on deposit.

I now call upon the 90th Congress, in Theodore Roosevelt's words, to carry forward unflinchingly in the public interest, and to build on the record of progress of the 89th Congress. For there is important unfinished and new business on the agenda to:

Provide consumers with accurate and clear information on the cost of credit.

Give our investors better protection in their purchases of undeveloped land, their interests in private pension and welfare plans and their holdings of mutual funds.

Insure that medical devices and laboratories designed to aid health do not instead intensify illness.

Close the gaps in our system to meat inspection.

Reshape our laws dealing with hazardous household products.

Improve our shameful record of losses of life and property through fires.

Minimize the likelihood of massive electric power failures.

Insure the safety of natural gas pipelines.

I have submitted many proposals at this session to benefit the poor and the disadvantaged of our land. The recommendations I am making today will help all Americans. Most of all, they will help middle income families—the vast majority of Americans who can afford to enjoy the abundance of the marketplace, but who can ill afford the high cost of deceit, misinformation and confusion.

PROTECTIONS AGAINST HAZARDS IN THE HOME

Time and again during the 20th Century, Congress has enacted new legislation to protect the health and safety of consumers. Our lawmakers have responded to changing needs and circumstances. Often they have been spurred by particular tragedies or specific disclosures.

News stories about young girls burned by flaming sweaters brought swift Congressional action in 1953 to deal with certain flammable wearing apparel. The tragic deaths of children by suffocation in refrigerators led to the Refrigerator Safety Act.

It is right and gratifying that the national conscience responds vigorously to such events. But the result is a patchwork of frequently uncoordinated laws, incomplete and uneven in coverage, often containing loop holes and gaps unknown and unrecognized by the general public. The time has come to take an over-all look at our national safety legislation and to determine how it can best be streamlined to meet the needs of today.

1. National Commission on Product Safety

It is particularly urgent to review our safeguards against hazardous household products. Recent estimates indicate that over 400,000 accidents a year can be attributed to powermowers, washing machines, power tools, and cooking utensils.

Consumers must, of course, exercise proper caution in using equipment which inherently has some risk. But consumers should not be exposed to unnecessary risks resulting from improper design or defective manufacture. Today, too often, the consumer cannot be sure where such hazards lie.

The time has come for a comprehensive review of the:

Scope and potential of voluntary industry efforts to develop safety standards and to engage in self-regulation.

Relationship among Federal, State and local laws and regulations.

Proper identification of products which present undue and unreasonable hazards to the health and safety of consumers.

Question of responsibility and enforcement, particularly of manufacturers' liability for injuries caused by hazardous products.

When we have the answers to these questions, we can move from a patchwork of regulation to the comprehensive network of safeguards the American consumer deserves.

I recommend that the Congress enact legislation establishing a National Commission on Product Safety to insure prompt study of these questions by America's outstanding experts.

The entire Nation would look forward to a full report from the Commission, including proposals to establish uniform, comprehensive and effective safeguards in the area of household products.

[From the Congressional Record, Feb. 8, 1967]

ESTABLISHMENT OF A NATIONAL COMMISSION ON PRODUCT SAFETY

Mr. MAGNUSON. Mr. President, I introduce on behalf of myself, the distinguished senior Senator from New Hampshire [Mr. COTTON], and the senior Senator from Maryland [Mr. BREWSTER], a joint resolution to establish a National Commission on Product Safety.

All too often in our history, national safety legislation has been enacted as a direct consequence of some large-scale disaster, a crusading campaign by an aroused segment of the public directed toward a specific hazard, a book which has opened the eyes of the Nation to a serious problem, or the persevering efforts of a public servant following his or her duty to the exclusion of all other considerations.

Fortunately, Congress has responded appropriately to these special situations and, when the need justified action, Congress has not hesitated to take whatever action the public interest required. But is this the best way to handle the general problem? Is this the best way to attack conditions which cost thousands of lives and millions of injuries every year through accidents occurring in and around the home? Must we wait for more blazing headlines? Must we witness new scenes of tragedy and suffering on the television screens? Must we be prodded into action under the headline of some public outrage at some new threat to life and limb?

In my view, there has never been a clearer example of an area of public interest, where foresight must replace hindsight, than we have before us in the field of product safety.

On the one hand, consumers and users must be physically protected from some of the products of modern technology. At the same time, manufacturers need assurance that they will not be subjected to a hodge-podge of varying or conflicting safety regulations, at different levels of Government, and in different parts of the country. This is entirely possible should some household hazard emerge in the future as a matter of great public concern.

Some people honestly believe that Congress has dealt adequately with the problem of product safety. Certainly, the 89th Congress made an outstanding record in this field. But, as before, the legislation was directed toward specific products and specific problems.

Consumers Union has prepared a report for the Commerce Committee analyzing its product testing over the past 10 years. During that period, they found electrical hazards—caused by excessive current leakage—in television sets, table radios, portable phonographs, clock radios, home intercoms, stereo amplifiers, automobile battery chargers, toasters, clothes dryers, waffle irons, blenders, coffee makers, electric frying pans, griddles, vaporizers, fans, heating pads, travel irons, heaters, electric toothbrushes, kitchen ranges, toys, electric drills, and other devices.

Their tests revealed mechanical hazards in electric fans, rotary lawnmowers, food waste disposers, toy cars, and garden sprayers. Fire hazards were found in portable heaters, travel irons, blankets and carpets. Hazards were discovered in auto seat belts, children's sleds, electric toys, chemistry sets, stuffed toys, and toy guns.

In all, 376 products were adjudged so hazardous as to be unacceptable in the home.

The problem obviously exists across a broad spectrum of manufactured products. But how widespread is the danger? According to estimates of the U.S. Public Health Service, 125,000 injuries a year are caused by faulty heating devices, 100,000 injuries a year from stoves, 100,000 injuries from power mowers, 40,000 injuries from glass doors. The list could go on.

But let us pierce the curtain of statistics and examine the problem in human terms. A man from Stafford, Va., tells of his child being burned by the hot chassis of a table radio. A housewife from Pittsburgh writes that her foot brushed the underside of a new laundry tub, which, unknown to her, was razor sharp. The result was a deep cut, and a scar which may remain for life. A mother in Minnesota, setting up a folding baby walker, unknowingly catches her child's hand in the joint of the walker. There was extensive injury to the bone, nerves, and muscles of the baby's hand. These are, at random, just a few examples.

As Senators are aware, Hazardous Substance Act amendments were passed in the last session, but the proposal that is being introduced at this time was not established then. We joined in the joint resolution with the definite understanding that we would proceed to this phase of the matter in this session.

What, then, is the nature of our proposal?

First, the proposed Commission on Product Safety is not antibusiness. It is designed to help private enterprise properly fulfill its vital function of providing goods and services to meet the needs of the American people. This joint resolution is not an action fathered by panic. It is a step aimed at the acquisition of knowledge and information. We are not making this proposal out of a transient sense of urgency gripping the Nation. We are making the proposal in the hope and expectation that a calm and reasoned study of the problem of product safety will result in an intelligent base from which we can chart whatever course of action is required.

Against the background I have briefly sketched, the senior Senator from New Hampshire, the Senator from Maryland, and I propose the creation of the National Commission on Product Safety. The Commission is to be composed of seven members appointed by the President from among persons specially qualified to serve by virtue of their education, training, or experience, with a chairman and a cochairman designated by the President.

The Commission is directed to—

Conduct a comprehensive study and investigation of the scope and adequacy of measures now employed to protect consumers against injuries which may be caused by hazardous household products. Such study and investigation shall include consideration of the following:

First. The identity of household products which are determined to present an unreasonable hazard to the health and safety of the consuming public.

Second. The extent to which self-regulation by industry affords such protection.

Industry has practiced much self-regulation. Most industry is doing the best job it knows how to do in this field, with all the confusion that exists.

Third. The protection against such hazardous products afforded at common law in the States, including the relationship of product warranty to such protection; and

Fourth. A review—I stress "review"—of Federal, State and local laws relating to the protection of consumers against hazardous products, including the scope of coverage, the effectiveness of sanctions, the adequacy of investigatory powers, the uniformity of application and the quality of enforcement.

Finally, the Commission is directed to make interim reports and a final report, not later than January 1, 1969, at which time it shall deliver to Congress and the President its findings and conclusions, including recommendations for such legislation and other remedial action as it deems appropriate.

To carry out these duties, the Commission is given the usual powers to hold hearings and to obtain relevant information, to employ a qualified staff, to utilize the resources of other Federal agencies, and to contract with both private and public agencies for specific research projects. The Commission is to be limited to a total authorization of $2 million.

To make the Commission's workload manageable, and to avoid the expenditure of time and effort on products which have been thoroughly subjected to recent congressional scrutiny, the Commission's studies will not include motor vehicles, food, drugs, cosmetics, cigarettes, or pesticides. Legislation has already been enacted or studies have been made with respect to these items, and we have received much cooperation from the manufacturers of these products.

This proposal is based upon the following premises: First, that the consumer has a right to the reasonable safety of the products which he purchases for his use; second, that manufacturers are entitled to reasonable uniformity and certitude in the laws with which they must comply; and, third, that both of these rights are essential to that orderly flow of interstate commerce which Congress is obliged to preserve.

Senator COTTON, Senator BREWSTER, and I, of course are highly gratified that the President, in the state of the Union message, endorsed legislation to protect our homes from hazardous household products. We are hopeful that, with the administration's support, this necessary and timely proposal to create a National Commission on Product Safety will receive not only the approval of the Senate which it achieved last year, but prompt and enthusiastic enactment by Congress.

We are also pleased that Congressman Moss, of California, is today introducing a companion measure in the House.

REPORT TO SENATOR WARREN G. MAGNUSON FROM CONSUMERS UNION ON PRODUCTS TESTED AND RATED SO HAZARDOUS AS TO BE UNACCEPTABLE FOR THE 10-YEAR PERIOD 1956–66

Products rated not acceptable

SUMMARY

Year	Electrical hazards		Mechanical	Fire	Other	Total
	Electronic	Appliance				
1956	3	3	3		26	35
1957	12	8	8			28
1958	9	21	3			33
1959	3	17	31			51
1960		8		5	34	47
1961	8	4	4	8	10	34
1962	16	7	4			27
1963	1	21	15		3	40
1964		4			2	6
1965		14	25	7	8	54
1966	4	6	10		1	21
Total	56	113	103	20	84	376

ELECTRICAL HAZARD

Product	Hazard	Issue
ELECTRONIC PRODUCTS		
TV sets (2)	Excessive leakage current	February 1956.
AM–FM table radios (2)	do	November 1956.
Portable phonographs (7)	do	August 1957.
Home intercoms (1)	do	September 1957.
Hobby kits (4)	do	November 1957.
AM clock radio (1)	do	June 1958.
AM table radios (4)	do	Do.
AM portable radios (4) (when used on house current).	do	July 1958.
TV set (1)	do	January 1959.
Radio kits (2)	do	February 1959.
Table radios, AM–FM (3)	do	May 1961.
Table radios, AM (5)	do	August 1961.
TV set (1)	do	January 1962.
Do	do	March 1962.
Home intercoms (5)	do	Do.
Portable phonographs (2)	do	June 1962.
Stereo amplifiers (2)	do	September 1962.
TV set (1)	do	October 1962.
Do	do	November 1962.
Electronic science kits (3)	do	Do.
TV set (1)	do	April 1963.
Table radio, AM (1)	do	July 1966.
Table radio, AM–FM (1)	do	October 1966.
Automobile battery chargers (2)	do	November 1966.
APPLIANCES, TOYS, AND TOOLS		
Toasters (3)	do	May 1956.
Clothes dryer (1)	Inadequate strain relief	July 1957.
Waffle irons (2)	Long terminal pins	September 1957.
Waffle iron (1)	Worn insulation	Do.
Blenders (4)	Liquid entered base	November 1957.
Coffeemakers (3)	Excessive leakage current	January 1958.
Coffeemaker (1)	Liquid entering base	Do.
Frying pans (2)	Long terminal pins	May 1958.
Frying pan (1)	Excessive leakage current	Do.
Toasters (7)	do	December 1958.
Frying pans (2)	Long terminal pins	Do.
Frying pan (1)	Excessive leakage current	Do.
Griddle (1)	Long terminal pins	Do.
Griddles (2)	Excessive leakage current	Do.
Saucepan (1)	Long terminal pins	Do.
Vaporizer (1)	do	January 1959.
Do	Excessive leakage current	Do.
Tabletop oven (1)	Long terminal pins	April 1959.
Do	Excessive leakage current	Do.
Sanders (2)	do	May 1959.
Fan (1)	do	June 1959.
Food mixers (4)	do	November 1959.
Coffeemaker (1)	Long terminal pins	December 1959.
Coffeemakers (5)	Excessive leakage current	Do.
Heating pads (22)	Inadequate strain relief and excessive leakage current.	January 1960.
TV set (1)	Excessive leakage current	March 1960.
Travel iron (1)	do	June 1960.
Portable heaters (4)	do	October 1960.
Portable heater (1)	Inadequate strain relief	Do.
Blender (1)	Liquid entered base	November 1960.
Outdoor grilles	No grounding provision	June 1961.
Dehumidifier (1)	Exposed terminal	July 1961.
Clothes dryers (2)	do	August 1961.
Dish drier (1)	Excessive leakage current	September 1961.
Steam cooker (1)	Liquid entered base	May 1962.
Electric toothbrush (1)	Excessive leakage current	Do.
Toasters (4)	Inadequate strain relief	June 1962.
Electric toothbrush (1)	Excessive leakage current	August 1962.
Vaporizers (5)	do	January 1963.
Immersible water heater (1)	do	February 1963.
Faucet water heaters (2)	do	June 1963.
Broilers (6)	do	July 1963.
Broilers (5)	Long terminal pins	Do.
Garage door opener (1)	Pinched wire	August 1963.
Hair dryer (1)	Excessive leakage current	November 1963.
High-oven range (1)	Exposed terminal	March 1964.
Frying pans (2)	Excessive leakage current	June 1964.
Electric toy (1)	do	November 1964.
Humidifier (1)	Inadequate strain relief	January 1965.
Do	Exposed terminal	Do.
Broiler (1)	Exposed element	April 1965.
Kitchen ranges (2)	Exposed terminal	September 1965.
Kitchen ranges (4)	do	October 1965.

Product	Hazard	Issue
APPLIANCES, TOYS, AND TOOLS—con.		
Portable heaters (3)	Excessive leakage current	Oct. 1965.
Portable heater (1)	Exposed terminal	Do.
Blenders (1)	Excessive leakage current	November 1965.
Drills (3)	Pinched wire	July 1966.
Heating pads (3)	Excessive leakage current	October 1966.
MECHANICAL HAZARD		
Electric fans (3)	Inadequately guarded blades	July 1956.
Lawn mowers (5)	High discharge	June 1957.
Lawn mowers, rotary (3)	Rearward discharge	Do.
Food waste disposers (2)	Chunks thrown out	August 1959.
Plastic-bag toy (1)		Do.
Lawn mowers (19)	Exposed blade	July 1960.
Lawn mowers (6)	Rearward discharge	Do.
Lawn mowers (4)	High discharge	Do.
Lawn mowers (2)	Loose blade	Do.
Drill attachments (4)	No guard under blade	February 1961.
Toy cars	Rigid axles	March 1961.
Wringer washing machines		May 1962.
Electric fan (1)	Inadequately guarded blades	July 1962.
Toothbrush (1)	Lip and gum irritation	August 1962.
Radial arm saws (2)	Could be started inadvertently	November 1962.
Lawn mower (1)	High discharge	July 1963.
Lawn mowers (5)	Exposed blade	Do.
Lawn mowers (9)	Rearward discharge	Do.
Lawn mowers (4)	High discharge	June 1965.
Lawn mowers (10)	Rearward discharge	Do.
Lawn mowers (5)	Exposed blade	Do.
Do	Poor handle	Do.
Blender (1)	Inadvertent start	November 1965.
Food waste disposers (3)	Chunks thrown out	March 1966.
Lawn mower (1)	Exposed blade	June 1966.
Do	Unshielded belt	Do.
Do	User in path of discharge	Do.
Garden sprayers (2)	Top may blow off	July 1966.
Seat belt retractors (2)	Frayed seat belts	October 1966.
FIRE HAZARD		
Travel irons (3)	No thermostat	June 1960.
Portable heaters (2)	Failed drape test	October 1960.
Carpets		Do.
Paint removers (8)	Flammable	October 1961.
Masonry waterproofer	do	January 1964.
Baby blankets		May 1964.
Regular blankets		October 1964.
Portable heaters (7)	Failed drape test	October 1965.
OTHER HAZARDS		
Auto seat belts		May 1956.
Auto seat belts (34)		February 1960.
Auto seat blets (10)		October 1961.
Oven cleaners (2)	Pressurized and alkaline	August 1963.
Children's sleds (1)	Sharp points	November 1963.
Electric toys (2)	Hot surfaces	November 1964.
Oven cleaner (1)	Pressurized and alkaline	February 1965.
Bubble bath	Irritation	August 1965.
Slip preventive (1)	Corrosive chemical	September 1965.
Portable heater (1)	Hot surfaces	October 1965.
Shotgun (1)	Unsafe "safety"	Do.
Chemistry sets (4)	Inadequate caution labels	November 1965.
Stuffed toys	Sharp "eyes"	February 1966.
Toy gun (1)	Deafening	June 1966.
Beads	Poisonous	Do.

The CHAIRMAN. Our first witness today will be Dr. Hollomon, Assistant Secretary for Science and Technology, Department of Commerce. We will be glad to hear from you.

You have been promoted, you are Acting Under Secretary.

STATEMENT OF HON. J. HERBERT HOLLOMON, ACTING UNDER SECRETARY AND ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY, DEPARTMENT OF COMMERCE; ACCOMPANIED BY GORDON CHRISTENSON, ASSISTANT GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE; AND JAMES V. RYAN, ASSISTANT CHIEF, FIRE RESEARCH SECTION, NATIONAL BUREAU OF STANDARDS

Mr. HOLLOMON. I have two jobs, but one salary.

The CHAIRMAN. We hope they will relegate you to one soon.

Mr. HOLLOMON. Relegate is the proper word, Mr. Chairman.

It is a pleasure to be with you. I have with me at my right Mr. Gordon Christenson, Assistant General Counsel of the Department. On my left, Mr. James Ryan, physicist of the National Bureau of Standards.

Mr. Chairman, and members of the Consumer Subcommittee, I am here to urge enactment of Senate Joint Resolution 33, to establish a National Commission on Product Safety. This bill is in general accord with the President's recommendation to Congress in the consumer protection message. The bill was introduced in the Senate with bipartisan support. I would like to say that I think the actions of yourself, Senator Cotton, and Senator Brewster to anticipate the kinds of problems that may be raised with respect to future protection is very wise.

The CHAIRMAN. And of course, it should be noted that the proposal was unanimously endorsed by this committee last year at the last session.

Mr. HOLLOMON. The bill recognizes the need for further inquiry into two aspects of product safety: The right of the consumer to be protected from unreasonable risk of bodily harm and the right of the manufacturer to a reasonable degree of uniformity in safety regulations.

This bill calls for the establishment of a Commission of seven members, appointed by the President. The Commission will be charged with the task of carrying out a comprehensive study and investigation of the scope and adequacy of measures now employed to protect consumers against unreasonable risk of injuries which may be caused by hazardous household products. In carrying out this mandate, the Commission will be directed to consider the identification of unreasonably hazardous products, the protection afforded by industry self-regulation, the protection afforded by warranty and common law, and the protection afforded by Federal, State, and local law. The Commission is to submit a final report and recommendations by January 1, 1969.

The available figures indicate that thousands of injuries in the home are caused by household products. The victims of these accidents often are young children. We do not know fully in each case how State and local statutes, codes, and regulations protect against unreasonably hazardous household products. We do not know at this time how best to provide adequate protection. We do know that the problem is compounded by differing and nonuniform legal requirements for the manufacturer in the various States. One thing is

abundantly clear: Some way must be found to lessen the incidence of these injuries or to prevent unreasonably hazardous household products from reaching the consumer in the first place.

Let me emphasize one point at the outset: It is unlikely that all household products could be made completely safe without making them useless. For example, who would want a lawnmower that could never injure wayward fingers or toes, but could not cut grass? Also experience has shown that education alone is not an adequate prevention against injuries, though it is certainly necessary. The consumer has the right to expect that everything feasible has been done to design in a household product an optimum balance between safety and utility.

Most of us and our fellow citizens seek to make our homes into places of comfort, safety, and beauty. We invest much of our resources to this end. We place in our homes things of beauty, means of entertainment, and aids to the everyday tasks required to make the home a better place to live.

The vigor and inventiveness of American industry has provided a wealth of products designed to make homelife more pleasant and comfortable. The consumer has taken full advantage of this abundance. He has bought televisions and hi-fi's for entertainment, washers and vacuum sweepers for cleanliness, skillets and stoves that can be told when to start and stop cooking, earth tillers for gardening, and mowers for beautiful lawns. For his hobbies he has bought saws, kilns, projectors, and a host of other products.

No longer must the worker and consumer rely solely on the strength of his back. The scrubboard and foot-treadle sewing machine have become antiques. We have sought to reduce man's burdens through machines and appliances. Many of these use energy, delivered to him as electricity or in fossil fuels ready for consumption. Ready energy sources have made the appliances possible and their manufacture economical.

Most manufacturers are not indifferent to the safety of the products they offer to the consumer for his use. Many producers carry on extensive programs related to the safety of products. When the product cannot be made both completely safe and capable of performing its useful function, warning labels and detailed instructions often are provided.

Yet, the fact remains that hundreds of thousands are injured every year in or about their homes. The U.S. Public Health Service has estimated that nearly 1 million injuries were associated with only 12 types of products or appliances. Four of these—powermowers, washing machines, cooking utensils, and power tools—accounted for over 400,000 injuries.

Admittedly some consumers ignore labels, or do not follow instructions or even do not read them. However, one group of experts has found many products to be unreasonably hazardous for home use. I refer to the report prepared for this committee by Consumers Union. I will mention its contents only briefly. For the 10-year period 1956–1966, the report found that nearly 400 products were unacceptable. Of these, over 150 electronic products, appliances, toys, and tools had electrical hazards; over 100 products had mechanical hazards, and the others had sharp edges, were poisonous, represented fire hazards, or

contained some other hazardous characteristic. The detailed listings included 77 lawnmowers, 11 power tools and 64 cooking utensils. This report is helpful, but it is only a beginning to the problem of identifying by analysis those products which do present unreasonable risks of harm in the home. The legislation before you, would carry this process of identification to its conclusion.

The legislation also calls for study of the extent to which self-regulation by industry affords protection. The most optimistic consumer assumes that some nebulous "they" would not allow unsafe products on the market. For some, "they" are the manufacturers, all of them. For others, "they" are retail merchants, Government, or consumers organizations.

The chief protection now afforded the consumer is the body of engineering or product standards, when they are applied in the manufacture of products. These standards are traditionally voluntary. A good standard provides a basis for determining whether or not a product meets specific levels of safety. A good safety standard should not be confused with other standards for performance of intended function, basic composition, or process of manufacture.

In 1964, the Commerce Department's Advisory Panel on Engineering and Commodity Standards identified nearly 14,000 voluntary standards. The number of these that are primarily safety standards was not established. Although many standards contribute to safety, for example in assuring performance of function, it is not clear when human safety is built into these standards through identifiable levels of safety related to performance. I note that household appliances are not covered by any large number of safety standards identified in that panel's study. The legislation before you would consider the adequacy of such standards in self-regulation.

Product standards are developed by many groups and organizations. However, these can be divided into two categories: public or Government, and private.

Government organizations at all levels have developed numerous product standards. However, most of the Government product standards are written for Federal, State or local government procurement. They are not meant to apply to products manufactured for sale to the public on the open market. Only in a few areas covered by specific legislation has the Federal Government set mandatory standards for general consumer products. These include auto brake fluid, seat belts, refrigerator door latches, and the new standards for the entire automobile.

The private standards development process also follows a variety of paths. As with Government standards, the first requirement is or should be the establishment of the purpose and need for a standard. One purpose may be public safety. Thousands of specifications are written by individual companies for their purchasing or in-house operations. The consumer is affected by these specifications only insofar as they have an influence on the final product.

Other private standards are set by the committee process. The committee may be that of a corporation, a scientific or technical society, a trade association, or an association specializing in standards. After review of available data, check tests, roundrobins, expert opinions, economic analyses, and other pertinent factors, the committee recommends

to its parent organization the publication of a standard. Generally, the parent organization will review such a recommendation prior to publishing the standard. The most serious question raised about the process is one of involvement—whether the affected interests, including the consumer, participate in developing the standard by which a product is measured.

Although some standardization organizations require a balance of consumer, producer, and general interests in their committees, these consumers are often industrial consumers which use raw materials or intermediate products. The end user is more often not represented.

The manufacturer of household products is a consumer of materials and components. These consumers should be heard, and are heard, as consumers in the formulation, review, and acceptance of standards on their raw materials and components. But the final consumer should also be represented in work on the standard for products he buys for his home. There are many more standards for components such as electrical wire, plastics, and insulation than there are for household products. Whether the household consumer is adequately represented in the development of private household product standards and whether adequate standards exist are questions which the Commission should explore.

The protection of the consumer need not rely entirely on standards and education. The consumer has recourse to the courts.

The legislation will direct the commission to study the protection afforded by common law in the States, including the relationship of product warranty to such protection. By bringing suit to recover damages, an injured user asks the court to establish liability and assess damages caused by a hazardous product. However, State laws are not uniform. We should have information on the nature and extent of liability for hazardous products in each of our States. Complicated legal situations are becoming commonplace as more appliances come with new houses. Technically the homeowner buys the product from the builder who buys it from a distributor in another county, who buys it from a manufacturer in another State. Is warranty the best protection? What standards for legal liability should be set and by whom? Should there be a Federal statute on product liability? Whom may the injured consumer sue, where, and in what court? The proposed legislation will help find answers to these questions by directing the Commission to study Federal, State, and local laws relating to the protection of consumers against hazardous products. I would urge the Commission to give priority to the question of manufacturers liability.

There is a good analogy and precedent for raising the question of manufacturers liability. When it was recognized that the employer was responsible for reasonable diligence in providing safe working conditions for his employees, the workmen's compensation laws were enacted. An important result of the workmen's compensation laws has been that the working man does not directly bear the total financial burden of medical treatment. But more important is the fact that the incidence and severity of on-the-job injuries have been sharply reduced. National Safety Council figures show a fourfold reduction in the average number of disabling working hours per employee between

1926 and 1952. The death rate was reduced by 17 percent from 1955 to 1965.

The legal question of liability traditionally has been left to State law. Certainly, Federal and State relationships should receive the attention of the Commission. Not to be forgotten in addition is the effect of existing non-uniform laws on industry. The prospect of having to operate under a single uniform statute on liability rather than under 50 or more should receive serious consideration.

No study of accidental injury can be meaningful without a careful and detailed examination of the hazards and the injuries resulting therefrom. To do this the Commission will need the testimony of those knowledgeable in the field. The legislation will give the Commission the authority to take testimony and obtain information that it needs.

In giving its cooperation and information to the Commission, industry has every right to expect that such information as may be of a proprietary nature will not be used or disclosed so as to provide assistance to their competitors in the marketplace. The legislation requires that this safeguard be maintained.

Finally, there may be some minor drafting changes in the legislation which may be desirable for the purpose of avoiding unnecessary restrictions on the scope of the Commission's authority. We would be happy to work with the committee staff on those, with your permission, Mr. Chairman, if you would like us to.

In summary, the joint resolution provides for detailed study of the national problem by a well constituted Commission. It establishes guidelines for the areas to be included and for the information to be assembled. It gives the Commission the authority and power necessary to obtain that information and charges them to avoid improper disclosure of proprietary or privileged information. These guidelines are appropriate for the conduct of the very important tasks of the Commission.

I urge the prompt enactment of this legislation introduced by Chairman Magnuson and Senators Cotton and Brewster. I heartily endorse their foresight. The work of the proposed Commission will set the course for the Nation for many years to come in product safety.

The CHAIRMAN. That is a very fine statement, Dr. Hollomon. We appreciate your views on this matter.

First, I want to comment on the fact that you have mentioned in many places in your statement the work of the private sector, the manufacturers, in trying to achieve more safety in their products. And I think that should never be overlooked because many companies that manufacture the type of products we are talking about have done a great deal of research in the field, and have attempted to reduce the possibility of unsafe products being put on the market to a minimum. But they sometimes are at a loss to do this job when they find they are restricted maybe by different laws in different places, or there is no coordination of work in research to make the product safer. I think that most of them feel that this legislation would be very valuable to the manufacturer in the long run, because his ultimate objective is to have a safer product.

I think the record ought to be clear that the proposal in your opinion doesn't envision a full-time job for the commissioners, does it?

Mr. HOLLOMON. That is right, sir.

The CHAIRMAN. The commissioners wouldn't be permanent employees of the Government, let's say.

Mr. HOLLOMON. That is correct, sir. It should have an appropriate staff, however.

The CHAIRMAN. They would have to have the staff to correlate all of this; yes.

Mr. HOLLOMON. Yes.

The CHAIRMAN. You mentioned that the Federal Government has set some mandatory standards of safety.

Mr. HOLLOMON. Yes, sir.

The CHAIRMAN. But mainly in the field of auto safety.

Mr. HOLLOMON. That is correct.

The CHAIRMAN. Which this committee directed, for instance, General Services Administration to do 3 years ago.

Does the Federal Government require mandatory standards in any other field that you can think of in their purchases?

Mr. HOLLOMON. Yes, sir. In their purchases? They require standards——

The CHAIRMAN. In the procurement of the Federal Government.

Mr. HOLLOMON. Yes, sir. We have standards for the procurement of items of many kinds in the Federal Government that are issued largely—not exclusively—but largely by the General Services Administration, and by the procurement agencies of the Department of Defense, which are the primary procurement agencies of the Federal Government. Not exclusively, but primarily.

Many of the products which are purchased by the Federal Government—almost all of them—are purchased under standards developed by the Government. Some of these obviously include safety factors; some do not.

I have been trying to get some curtains in my office, for example, for about 4½ weeks. I find that the problem is that the curtains must meet flammability standards. This is a Federal procurement requirement. Though it has caused a little delay, I will be delighted that these standards are met in these curtains. That is an example.

The CHAIRMAN. Of course, we are proposing an extension of the act to take care of drapes and things of that kind.

Mr. HOLLOMON. I just pointed out that the Federal procurement in this case requires a safety requirement that is not generally the case in the purchase of the product on the open market. This is just a specific example.

The CHAIRMAN. That is what I am trying to arrive at here—that if and when the Federal Government does set standards, they seem to be in most cases usually higher than on products sold in the open market.

Mr. HOLLOMON. That is frequently the case, Mr. Chairman.

We have a fair number of standards for purchase of materials and products in the Federal Government, but none of these are enforced in anyway as mandatory standards in the open market.

The CHAIRMAN. What role does the U.S. Bureau of Standards play in procurement by the Government?

Mr. HOLLOMON. We play several roles. One is to have a technical staff that is available to the Government agencies in the assistance of

the developments of standards. And in a special relationship with GSA, we perform tests on products and improve tests on products to meet the requirements which the GSA imposes in the procurement of articles for Government use. We perform both advisory service with the technical staff of the Bureau of Standards, and secondly, we perform cooperative tests with the GSA in this regard.

It was in this manner that the Department, and the National Bureau of Standards, first became involved in tire standards, in helping to set the standards for tires which were purchased by the Government. We provide both technical advice and testing.

The CHAIRMAN. This was the beginning of the auto safety series of legislation?

Mr. HOLLOMON. Yes, sir.

The CHAIRMAN. When they found the tire situation, and ended up with the passage by this committee of the tire safety bill?

Mr. HOLLOMON. Exactly, sir.

The CHAIRMAN. Can a private concern, making a product to go on the open market—a household product, say, use the facilities of the Bureau of Standards?

Mr. HOLLOMON. We do not test individual products, Mr. Chairman, that are available on the open market, to determine the relative quality or characteristic of one product over that of his competitor. That we do not do.

However, we do provide assistance to industry to help develop appropriate tests which would measure the characteristics of products that would be applicable across the board. We are not a kind of Government "consumers union" where anybody can bring a product in and say, "Will you evaluate it?" and somehow stamp the imprint of the Government on that product. We do not do that. We don't think it is appropriate.

But we do work with the industry in a number of cases to help them, and to help us, develop standards—the methods of testing, and the methods of evaluation of products in use.

The CHAIRMAN. Let's get a concrete illustration. Suppose Senator Cotton and I were making a household product that involved the use of electric cording. We could take that cording, or confer with the Bureau of Standards as to how to test that cording in our own factory to make it more safe before we attached it to the product. Is that correct?

Mr. HOLLOMON. We would give advice, consult, and work with people to develop such tests. But we do not endorse——

The CHAIRMAN. You wouldn't endorse our product?

Mr. HOLLOMON. Not at all.

The CHAIRMAN. But you might tell us how to handle, say, the electric cording?

Mr. HOLLOMON. That is correct. Particularly in companies that did not have large technical facilities to do this work.

The CHAIRMAN. Do the companies pay for that service?

Mr. HOLLOMON. If it is just ordinary consulting, the answer is "No": that is, if a large amount of work is not involved. If a large amount of work is involved, then we make some arrangements with the industry such that costs are shared.

The CHAIRMAN. It seems as though they should pay if they want the service.

Mr. HOLLOMON. That is right. If a man just comes in and says, "Do you know what is known on this subject?"—the doors of the Bureau of Standards are open for that purpose.

The CHAIRMAN. How do you envision the Bureau of Standards would fit into the work of this Commission?

Mr. HOLLOMON. I would think, Mr. Chairman, that they would be available for technical advice. We participate in a very large number of activities which relate to this matter. We, for example, have relationships with all the States; weights and measures officials, as to their functions in the States. We would support the Commission through technical advance, through availability of personnel, or in any way that the Commission would need technical assistance in the matter.

The CHAIRMAN. Senator Scott?

Senator SCOTT. I want to ask a single question if Senator Cotton doesn't mind.

Senator COTTON. Not at all.

Senator SCOTT. If you were asked by a manufacturer, to tell him what you had relating to the tensile strength of alloys, or to the fireproofing of fabrics, how would you handle that?

Mr. HOLLOMON. We would give him whatever nonproprietary information we had, Senator.

Senator SCOTT. Would you have normally a considerable body of information on questions of that kind?

Mr. HOLLOMON. On both of those questions which you have selected, we would have a fair amount of information. There are some others which you could have selected which we wouldn't have very much. In those particular cases we happen to have a fair amount of expertise and information.

Senator SCOTT. Thank you.

The CHAIRMAN. And there is a bill before our committee called the standard reference data bill, which would aid in this.

Mr. HOLLOMON. Very much so.

Senator SCOTT. We have the technical services bill, which makes Federal information available to State officials, too.

Mr. HOLLOMON. Yes, sir.

Mr. CHAIRMAN. Senator Cotton?

Senator COTTON. Suppose Senator Magnuson and I, in manufacturing this cord, come to you for assistance and advice, and your people find the cord that we are planning to manufacture is a fire hazard or is dangerous. Yet we persist in manufacturing it. Is there anything that you can do about that?

Mr. HOLLOMON. No, sir.

Senator COTTON. You have no power whatsoever to restrain us?

Mr. HOLLOMON. No, sir. None whatsoever. Barring the whole automobile issue, leaving that aside, which you gentlemen are so well aware of, the only case we have power to restrain, at the present time, is in the case of refrigerator door latches.

The CHAIRMAN. That was caused by a series of events when we found youngsters suffocating in refrigerators and the committee acted some years ago.

Mr. HOLLOMON. Yes, sir, and we have power to restrain.

The CHAIRMAN. Which shows how piecemeal this has been.

Mr. HOLLOMON. Exactly.

Senator COTTON. I realize this is something that would be taken up by the Commission. But in going back to the cord, if we insisted in manufacturing the cord which you in your opinion found hazardous, you do not have power to do anything about it. Do you want that power?

Mr. HOLLOMON. I don't think that is appropriate power for the National Bureau of Standards. I think the appropriate authority for the National Bureau of Standards—not talking about the Commerce Department—is to give technical advice, technical assistance, and not be a regulatory agency. If this Commission recommends that there be a regulatory proceeding for such hazardous products, I think that regulatory function should be separated from the function that deals with technical assistance. I don't think you can serve those two masters effectively.

Senator COTTON. You believe there should be somebody at the Federal level who has the power to prevent the manufacture of our cord?

Mr. HOLLOMON. Sir, I don't know what the answer to that question is. I think it is very possible that there should not be. I think that the issue here is that we now have, for example, the underwriter laboratories, which are cooperatively developed through the industry to try to test such cords as you illustrate, and the power, the influence of the imprint of the underwriter laboratories has become important in the market as a safety protection. A manufacturer can go to those laboratories to have this cord tested. If they are not appropriate, the cord can't get the stamp of the underwriter laboratories.

I suspect that this Commission will find voluntary activities in certain fields are completely adequate. I would not recommend at this stage that we should have such power. I would think that this Commission has to look at the case and see whether it is more appropriate, for example, to insure that the manufacturers are appropriately liable. If they are, that may take care of the question. Maybe we don't need regulation at all. I just think that—I have an open mind. That is why I am so happy——

The CHAIRMAN. Senator Cotton and I would be liable in most cases if, after the test, if they told us it was not safe, we then persisted in going ahead, wouldn't we?

Senator COTTON. I am afraid we would. [Laughter.]

I guess after they made the test, if they didn't approve it, it would be a lost cause.

Mr. HOLLOMON. That is why I am so much in favor of the Commission. Frankly, Senator, I don't know what the best answer to this case is in every instance.

Senator COTTON. We had some rather startling exhibits of, for example, children's toys which contained various hazardous substances. Children put them in their mouths and were actually poisoned. If this proposed Commission, for instance, is going to study or attempt to codify the common law of liability in the various States and courts, if it is going into all of these fields, I have a couple of questions.

In the first place, how large a staff would you contemplate would be necessary for this Commission?

Mr. HOLLOMON. I think that the amount of money allowed for this Commission, as I remember, is $2 million over the lifetime of the Com-

mission. And with the amount of data that are available, once you set somebody to collecting it, this is an appropriate amount of money to support an adequate staff. The difficulty here, Senator, is that nobody has ever set himself to the task of putting everything that is available together. I would think that a staff of from five to ten people would be adequate to this Commission, with studies and consultants.

Senator COTTON. I am reminded of the old adage that the best committee is a committee of two, with one sick, and that the larger you make the Commission the harder it is to get a quorum and the harder it is to get action, and the more you slow it up. But would you consider that in the personnel of the Commission there ought to be those who at least furnish the information, have the viewpoint of the consumer, of the manufacturer, of the wholesaler or retailer, of the various segments of business activity that are going to be involved? In other words would you contemplate that there ought to be on that Commission people who have a background of that technical knowledge, or do you contemplate a commission like a jury that starts from scratch and draws all their conclusions from the evidence?

Mr. HOLLOMON. I don't think the Commission could possibly represent all the interests here because of the number of people interested. I feel that the Commission should be selected on the basis that some of them have industrial experience, some of them have technical experience, one or more, and some who are generally interested in the whole matter of the public interest. I think the most important aspect of the Commission is that they enter the matter with open minds, and that they serve the public by looking into the matter.

I think they need to be competent in whatever field they are in. I would think, for example, the Commission might well have someone who knows the problem of State and Federal laws and their relationships. But I don't think that we need to have representatives of every point of view that would be adopted.

I think it would save the Commission a great deal of time if a few members of the Commission were technically expert, yes, sir.

Senator COTTON. We are already running into problems in the matter of the enforcement of the auto safety law which came out of this committee. Very naturally we would, since it is a complicated situation. When you run the whole gamut of household appliances, power tools, lawnmowers, as well as poisonous substances, and presumably a survey with the purpose of trying to establish some uniformity of the laws of liabilities of all the States, the Commission will have to have access to some very, very good legal advice.

Mr. HOLLOMON. Yes, sir, they certainly must.

Senator COTTON. Do you contemplate having such help from the lawyers of the Department of Justice or some other Department of Government?

You have opened up some vistas here. It seems to me that this Commission, if it goes into all of these fields, will have a problem getting tools to work with, and the knowledge to really come out with something definite.

Mr. HOLLOMON. Senator Cotton, I believe that the Commission will find that the industry, Government, both State, local, and the Federal Government, can participate by providing help and assistance to the

Commission and its staff. I know that the entire Federal establishment is ready to do so. Not only in the National Bureau of Standards, of which I can speak, on a technical basis, but also from people in the Attorney General's Office. This bill has the full support of the administration to provide whatever help is required to get at the problem. I don't think that the Commission will have to depend just on its staff, but will depend on people appearing and helping.

I am sure that the industry itself, and the States themselves, will stand ready to help this Commission carry on its activities.

May I make one comment, sir. I think that one of the difficulties in the traffic safety problem is that because there are such tremendous problems, and because there have been so many accidents and so on, the matter was dealt with as it should have been, promptly and effectively. Here we are trying to anticipate the problem and get a lot of the facts, figures, and background, so we know how best it can be handled.

I think that this Commission can do that and do it well.

Senator COTTON. Just one more observation I would like a comment on.

There are two ways of approaching this problem, thinking rather superficially, looking at the forest and not the trees. If the Commission saw fit to recommend legislation that was perhaps a piecemeal approach, but began with a more obvious and very necessary provision, such are fireworks for example. I notice Dr. Goddard is taking care of it pretty well through the States. From the time of my membership in the New Hampshire legislature when we fought that thing through, I still felt it has someway to go; such as these substances which children get ahold of in dangerous toys.

If the Commission first recommends that sort of thing, then you are likely to get from this committee, and from the Congress some prompt and immediate action.

Mr. HOLLOMON. I agree.

Senator COTTON. If the Commission on the other hand goes into all these fields and comes up with a very comprehensive recommendation dealing with the laws of liability and the standards set for manufacturers of all kinds of tools and everything else, what is likely to happen as a practical matter is that you get into so many fields that you have got something that goes into the archives and it will be several sessions of Congress before anything comes out of it as a practical matter. What is your feeling about that?

Mr. HOLLOMON. I think that though the Commission should examine the various ways in which the general problem can be handled, you have called for an interim report for action where action is immediately required.

It is perfectly clear that there are priorities which should be set. An examination of the figures of damage and injury would cause the Commission I feel, to set certain priorities. It would be my belief that the Commission should be charged, as it is, to make interim reports of specific actions that are required. I would not think the activities of this Commission should be so general that we should have another report that sits on the shelf and gathers dust. However it has to be broad enough so we know we are not making a mistake in the general principles involved.

There are several ways of attacking the problem. One way is to set minimum mandatory standards. Another way is to increase liabilities. Another way is to put labels on products, if they are unsafe.

Each of these kinds of approaches may be different. I am only suggesting that the Commission have in mind the various ways of attacking the problem before they make the specific recommendation. But it would be hoped that the Commission would come forward with specific recommendations in priority areas. And those priority areas shouldn't be based on some tragic events that happened yesterday morning but should be based on the fact that in this particular area there were a substantial number of people hurt. We want to deal with that problem even though it wasn't in the newspaper yesterday morning.

I think, with you, that this Commission has got to make specific recommendations.

Senator COTTON. That is an excellent statement, Doctor, and exactly an answer to my question. I am very much impressed by it. I thank you for it.

That leads me to ask you a question which is perhaps a little unfair. But for my own information, if you had the task of appointing seven people to serve on this Commission [laughter]——

The CHAIRMAN. He has lost that job. [Laughter].

Mr. HOLLOMON. I just got relegated.

Senator COTTON. Suppose you did—I am not suggesting whom you would appoint—I am asking you this: What sort of people, from what fields, would you look to name on that Commission? Would they be all scientists, would they have a manufacturer on it and a scientist, or would they be nontechnical? Perhaps I don't make myself clear.

Mr. HOLLOMON. You do.

Senator COTTON. I am asking that question. Perhaps it is unfair. I would like your idea about that.

Mr. HOLLOMON. I certainly would have someone on the Commission, one, perhaps, who had a broad technical background in technology, science, and engineering. A person who understands the problems of standards and hazards and what have you. I don't think you need more than one.

I would certainly have someone on the Commission who was imaginative and well versed in State and Federal laws, liability laws, general board legal background. A man of stature.

I certainly would have someone on the Commission who knew manufacturing procedures and industrial practices.

I certainly would have someone on the Commission who is considered a man of broad-scale public interest and posture—a statesman, if you will. A person who is clearly objective.

I certainly would have someone on the Commission that clearly was a vocal representative—not representative, a spokesman—for the protection of the consumer.

There are five or six people that I would think might be on the Commission.

Senator COTTON. How many of the Commission, if any, would you take from the Government?

Mr. HOLLOMON. I would think no more than one or two. I hadn't thought about that problem. But I would think it should be balanced. I would also think you might want someone who knew about State governments, too.

Senator COTTON. You have given us very good answers to the questions. You think seven is a good number?

Mr. HOLLOMON. I think it is good. We have had a recent experience with a commission in legislation on reform of the patent system. We had the same kind of problem, advising the President what kind of commission we would have. One group said we are going to reform the patent system, you ought to have all patent lawyers. This is like saying where you talk about hazardous products and technical things, you ought to have all scientists and engineers. I don't think this makes any sense. I think you ought to have people whose points of view are vastly different, who represent different points of view and have different kinds of skills and backgrounds. I think it would be unfortunate if any group, Federal Government or otherwise, should dominate this Commission.

Senator COTTON. Thank you, Mr. Chairman.

The CHAIRMAN. You left out one group that ought to be somewhere around, at least in the periphery: the advertisers.

Mr. HOLLOMON. It might be worthwhile. I thought somebody who knew industry could take care of the problem.

The CHAIRMAN. Let me ask this general question. The Commission can also be a conduit for the results of a great number of voluntary efforts in research that is going on in industry itself.

Mr. HOLLOMON. Absolutely.

The CHAIRMAN. Could it not?

Mr. HOLLOMON. Yes, sir.

The CHAIRMAN. To make known to the public that they do feel that they would like to have a safer product. For instance, in lawn mowers, since we spoke out 18 months ago or so on lawnmowers, I don't know how much work has gone on actually, but it seems to me they are all working on a safer lawnmower. I think Birch Bayh's toe did more for the country than anything else, the loss of his toe. It got wide publicity, the Senator from Indiana.

Senator SCOTT. He said he regrets that he had but two toes to give to his country.

The CHAIRMAN. Senator Scott?

Senator SCOTT. Mr. Chairman, I think it would be very desirable—and I will ask the witness if he agrees—to consider naming a housewife to this Commission, as she is the ultimate consumer. She has many pragmatic tests of the safety of the accessories around the home.

Mr. HOLLOMON. I have only one reply, if I may be a little facetious as well this morning. I hope to heaven it is not my wife. [Laughter.]

Senator SCOTT. If you want that on the record—— [Laughter.]

Mr. HOLLOMON. I don't mind.

The CHAIRMAN. Leave it in the record. That is your protection.

Senator SCOTT. I would like to make one observation, Mr. Chairman. We often hear it said that legislation nowadays comes only from the executive to the legislative. I think this is a very salutary illustration of the fact that the legislature itself originates and innovates legislative proposals. I think this a very good illustration of

a proposal where Congress is assuming the responsibility for exploring an area where legislation may be indicated.

Mr. HOLLOMON. Yes, sir.

Senator COTTON. I would add that much of the credit, the lion's share, should go to the chairman of this committee.

Senator SCOTT. Oh, yes.

Senator COTTON. I think he is doing a marked public service. I also hope we can restrain it to the proper fields, and I am sure we want to do it. It shouldn't become an harassment of manufacturers and dealers and advertisers and all the rest.

Mr. HOLLOMON. No, sir.

Senator COTTON. It should be confined, wouldn't you agree, to cases where there are hazards present beyond a reasonable doubt, that ought to have the immediate attention of the Government?

Mr. HOLLOMON. I think that the Commission should give preference to those areas where this is obviously a large and potential hazard.

The CHAIRMAN. I thank the Senator from New Hampshire.

Do your associates want to make any statements?

Mr. HOLLOMON. No, sir. They are here to protect me.

The CHAIRMAN. Thank you very much.

Mr. HOLLOMON. Thank you very much, Senator and gentlemen.

Mr. CHAIRMAN. Dr. Marland is here.

Dr. Marland is Chief of injury control program, Bureau of Disease Prevention and Environmental Control, Public Health Service, Department of Health, Education, and Welfare.

We will be glad to hear from you.

STATEMENT OF RICHARD E. MARLAND, PH. D., CHIEF, INJURY CONTROL PROGRAM, BUREAU OF DISEASE PREVENTION AND ENVIRONMENTAL CONTROL, U.S. PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dr. MARLAND. Thank you, Mr. Chairman.

I would like to introduce to you, on my right, Mr. Walter Johnson, public health adviser in injury control within the Public Health Service.

Mr. Chairman and members of the committee, I welcome this opportunity to appear before you on behalf of the Department of Health, Education, and Welfare in support of Senate Joint Resolution 33. As Chief of the injury control program of the Public Health Service, I am responsible for the programs concerned with the prevention of accidental injuries. This includes injuries associated with the use of a wide variety of consumer products.

We estimate that this year, 1 million Americans will suffer injuries from the use of ordinary household products such as heating, cooking, and electrical appliances and machinery.

In his message to the Congress, recommending measures for consumer protection, President Johnson pointed out that "the march of technology that has brought unparalleled abundance and opportunity to the consumer has also exposed him to new complexities and hazards." Most of the consumer products on the market today are items which have come into use only within the past three decades.

Many of these items were developed within the past 10 years. Today we live in an era of rapidly expanding technology with new products being introduced on the consumer market almost every day.

If anything, the tempo at which new products and wider choices among existing products will become available to the American consumer is accelerating. In all probability the next 5 years will see the introduction of a greater number of variety of consumer items than was the case during the last 5 years.

Increasing numbers of consumer products involve both heat and power. The American home of today is more highly mechanized than were many factories of a generation or so ago. The application of electric energy to lighten household tasks is almost endless. The availability of portable heating devices for use on the move and in recreation is a typical phenomenon of our rising prosperity and increasing leisure time. Today, we can brush our teeth, shine our shoes, carve our meat, and even scratch our backs with power equipment designed for these purposes. Many such household products can be hazardous if improperly designed, or not carefully used.

As a case in point, consider the power lawnmower. This labor saving equipment certainly is a great boon to millions of Americans. Nevertheless, we estimate that this year, 100,000 persons will be injured while using power mowers.

Another manifestation of the high standard of living enjoyed by Americans is the popularity of the home workshops. Not infrequently, these now feature power equipment of types which, until very recently, were found only in commercial establishments. We estimate that 125,000 persons a year are injured by home machinery in their basement workshops. Without the kind of safety supervision associated with the use of such equipment in commercial establishments, it may well be that machinery sold for use in the home should meet different kinds of performance standards designed to increase protection of the amateur.

One type of the major sources of household injuries is the washing machine equipped with a wringer. This commonplace and useful device exacts an estimated injury toll of 100,000 per year, most of the victims being children.

Heating devices are involved in an estimated 125,000 injuries a year, including 30,000 associated with furnaces, 35,000 with space heaters, and 60,000 with floor furnace grates. Heating devices are potentially hazardous not only because they can inflict burns, but also because they often are involved in carbon monoxide poisonings. Let me give a specific example.

Last month, the Public Health Service's National Communicable Disease Center was invited by a State health department in the South to participate in the investigation of three cases of suspected botulism, a type of food poisoning. Involved were a married couple in their fifties and a mother-in-law in her seventies. They lived in a four-room concrete block house, typical of the dwellings housing families with low or modest incomes. The three residents of this home all became seriously ill following breakfast on an unusually cold day. All three were rushed to a hospital by ambulance, and received oxygen therapy en route. A physician treated them for botulism. The family had eaten venison 16 hours before illness and this was viewed as a possible

source of the suspected disease. Further tests indicated that the illness of these three persons resulted from carbon monoxide poisoning rather than botulism.

The source of the poisoning was a propane burning heater, designed to be used without vents. Health department engineers later investigated the heating system and found that it produced dangerous concentrations of carbon monoxide within four and a half hours.

We believe that the vast majority of the approximately 600 estimated cases of fatal carbon monoxide poisoning involving home cooking and heating which occur annually in homes of Americans could be avoided. Many cases, including the near tragedy just described, involve the use of heating equipment intended for use without venting.

Floor furnace grates, involving an estimated 60,000 injuries a year, are the source of painful burns, particularly among young children and the aged. Injuries commonly occur when individuals unintentionally step or fall on the furnace grates on the floor. In many cases, burns involve portions of the body other than the feet.

Cookstoves involve about 100,000 burn injuries a year, and skillets involve approximately 80,000 more. Incinerators in the home account for an estimated 50,000 burns. The need for additional protection is underscored by these figures.

We estimate that 35,000 individuals—nearly all children—suffer burns each year as a result of pulling cords of appliances. In many cases, these appliances are vessels filled with hot substances, and most of them are designed in such a way as to be topheavy or unstable. These appliances can be very readily upset with only slight pressure on the cord.

Burns involving electric wall sockets and extension cords total 30,000 a year. This figure, incidentally, does not include injuries involving electric shock. We believe many of these injuries might be prevented by redesign of the equipment.

The CHAIRMAN. This is what my friend was talking about.

Dr. MARLAND. Yes, sir. I have photographs of certain of these. One is a particularly appropriate one, indicating the hazardous nature of a blind with cords. Another, demonstrating design features of electric appliances which we believe speak for themselves as to dangerous and nondangerous types of design.

The CHAIRMAN. We will be glad to have them.

Dr. MARLAND. A type of injury more likely to involve older people and young children is scalding by hot water in bathrooms. We estimate 25,000 casualties a year in this category. Most of these injuries could be prevented by equipment with built-in safety features.

Although tempered glass, which is less likely to shatter, is being used increasingly in glass doors and panels which are popular in contemporary home and building construction, there still are about 40,000 injuries a year involving glass doors or panels. The photograph being distributed describes the effect of a 30-pound child walking at a rate so as to provide an impact of 100 foot pounds. The glass being fractured is typical in characteristic of this situation.

There is no Federal requirements that glass doors or panels be resistant to shattering. Most of the victims of this type of injury are children. Major nerve or tendon damage may result, requiring long periods of restrictive surgery and rehabilitation.

Let me illustrate with a few examples: A 9-year-old boy in a Western State walked through a sliding glass door and was permanently disfigured by laceration over his entire body. Two cases involving death occurred when a 27-year-old mother of two small children bled to death after tripping and falling through a glass door, and a 6-year-old boy died when his abdomen was punctured by shattering glass of a plate glass door.

We could provide many other examples of accidental injury and death associated with various types of consumer products, but I believe that those mentioned will serve to point up the problem. By no means are all products associated with such injuries necessarily faulty in design. In fact, our investigations indicate that a majority of such injuries result from the improper use of the products involved. However, in the course of our surveillance over accidental injury, we find many products incorporating design or manufacturing characteristics which do tend to cause injuries. There are also some products which by their very nature are needlessly hazardous to the user. We find products which, while not particularly dangerous insofar as design is concerned, could and certainly should be improved from the standpoint of injury prevention. New products frequently are used by many individuals in a manner not intended, and the results often indicate need for reconsideration of their design characteristics.

Generally speaking, the Public Health Service has found the business community to be cooperative and responsive to the public interest. However, we believe that there is an urgent need to review and reshape the laws dealing with hazardous household products. What the President refers to as a patchwork of frequently uncoordinated laws, incomplete and uneven coverage, do not adequately protect either the interests of the consumer or those of the producer, and supplier.

On the basis of extensive cooperation efforts with private enterprise and expanded liaison with the manufacturers and distributors of many household products, we are convinced that a thorough review of the legislation in this vital field is needed to safeguard the interests both of the public and of business, and to enable the Government more effectively to meet its responsibilities.

We do not believe that the Department of Health, Education, and Welfare or any other one agency of the Government now is in possession of all of the information needed as a basis for formulating specific legislative proposals in the field of consumer protection. There is a need to review and assess relevant research findings and information accumulated by the Public Health Service and other agencies. If meaningful, effective, and equitable legislation is to be developed in this complex field, an impartial and comprehensive study must be carried out by a panel of outstanding experts. We believe that the best means for achieving this vital purpose is through the establishment of the National Commission on Product Safety recommended by the President.

Mr. Chairman, we urge the adoption of Senate Joint Resolution 33, and we pledge the full support of our Department to the Commission in carrying out its mandate in the interest of consumer protection as this relates to the health of the Nation.

The CHAIRMAN. Thank you, Dr. Marland. Your statement is a very fine statement.

As you suggest, there are many examples. We would go on for months with examples.

Dr. MARLAND. I have many examples with me.

The CHAIRMAN. We could pinpoint some that are typical of these things.

What you also say is that the Department of Health, Education, and Welfare, if such a Commission is established, is eager to cooperate with this Commission, with what information you have, with what ideas you have, to meet the problem.

Dr. MARLAND. You are correct.

We would be very happy to cooperate with the Commission.

Mr. CHAIRMAN. Thank you very much.

Mr. CHAIRMAN. Mr. Baumgart, president, Association of Home Appliance Manufacturers. We would be glad to hear from you.

STATEMENT BY GUENTHER BAUMGART, PRESIDENT, ASSOCIATION OF HOME APPLIANCE MANUFACTURERS, CHICAGO, ILL.

Mr. BAUMGART. Mr. Chairman, members of the committee, I am Guenther Baumgart, president of the Association of Home Appliance Manufacturers—sometimes called AHAM. AHAM's 78 members manufacture all types of household appliances—from automatic washers and refrigerators to toasters and blenders.

This association, although modified by name changes and mergers, dates back over 50 years to the time home appliance manufacturing moved from machine shop to assembly line production. AHAM represents the preponderance of the industry, from some of the country's largest companies to small, highly specialized producers. A list of AHAM members is appended to my written remarks for your information.

Today, more than 500 million appliances are serving users in American homes, reducing drudgery, saving time and energy, providing food and drug preservation, cleanliness, and generally making life easier and more meaningful for homemakers and their families than ever before in history. It is an accepted fact that our health and our living standards today are the highest in the world. Moreover, it is estimated that AHAM's members contribute to this by manufacturing these home appliances at a current rate of about 80 million units annually.

The association has come here to assist the committee in its deliberations on the bill to establish a National Commission on Product Safety. We do this because the industry has constantly conducted a broad research program to develop safe products. Individually and collectively, through associations, appliance manufacturers have developed some of the most exhaustive testing and certification programs on record. The combined activity of the industry involves literally hundreds of research and design facilities and testing laboratories, together with the efforts of thousands of scientists, engineers and technicians, who are dedicated to an unending search for better, safer, more reliable and improved products. The appliance industry has amassed a great fund of technical knowledge in the field of safety.

Moreover, our industry members are cooperating with local, State and Federal Government agencies in developing product standards

that are practical and safe for use by the customer. Standards have been developed through cooperation with underwriters laboratories, the American Standards Association, which has recently been reorganized as the United States of America Standards Institute, the American Gas Association, and similar organizations. These self-imposed standards affect virtually every product we make, and the good record of 500 million appliances in American homes today testifies to their safety.

Coincidental to this concern for safety, the industry has established a record as an outstanding economic citizen. In the past two decades it has offered continually improved products, products of greater reliability and safety and products of continually lower costs. Refrigerators, ranges, automatic washers, and other appliances produced 15 years ago offer little comparison in consumer benefit and utility to those made today. While appliances have increased in size and have offered new features and safety, their cost to the consumer has been steadily declining. According to Bureau of Labor statistics, the cost of all household appliances has decreased over 30 percent since 1952, while almost all other product and service classifications have increased significantly. At the same time, reliability has been greatly improved. For example, automatic washers require 70 percent less service today than they did just 6 years ago.

Efforts have also been made by the manufacturers individually and collectively through their trade associations to educate the consumer on proper product use. These private efforts have continued and will continue into the future. The success of the industry depends upon the manufacture and sale of safe products, and the industry welcomes any opportunity to cooperate with governmental agencies, other groups, and individuals in the interest of more safety.

We should like to direct your attention to specific provisions of the resolution pending before this committee. We believe the membership qualifications of the proposed Commission should be stated more concretely. The resolution states that the members should be "specially qualified to serve * * * by virtue of their education, training, or experience." We believe the members of the Commission, if it is established, should be broadly representative of the groups that have a direct interest in the subject, and should include persons who have worked directly with the products. At least three members of the Commission should be selected from persons who have had research, engineering, and quality control experience in industry. One other person should be an outstandingly qualified individual who has had experience in formulating and administering industrywide safety codes. We further believe that the resolution should state expressly that the applicable principles of the Administrative Procedure Act should be followed by the Commission. When an industry or a particular product is to be investigated, notice of hearing or other means of investigation should be published in the Federal Register, and all interested parties should be given an opportunity to present oral testimony or written statements. We thank you for your courtesy and for the priviledge of being here.

The CHAIRMAN. Thank you, Mr. Baumgart. I am sure that you reflect the general feeling of the industry in this matter.

Mr. BAUMGART. I am sure I do.

The CHAIRMAN. I still insist that the manufacturer is trying to make as safe a product as he can, consistent with the economies and utility involved.

Mr. BAUMGART. I know indeed that he is.

The CHAIRMAN. We hope we can be helpful, all of us, in achieving those goals.

On the Administrative Procedure Act, the procedures would automatically apply where they are pertinent. But, to make that clear—I am glad you called this again to our attention—we should point out in the report that we intended this to happen.

Mr. BAUMGART. That is fine.

The CHAIRMAN. The other matter, of course, you heard Senator Cotton explore that with Dr. Holloman. I thoroughly agree with you that we ought to have—I don't know just how many, but some people on this Commission that would have some practical experience in this whole matter. They can be very helpful.

Mr. BAUMGART. We can help out in the selection, if it is desired.

The CHAIRMAN. Thank you very much.

Mr. BAUMGART. Thank you.

The CHAIRMAN. We will put in the record page 5 of your statement, the members of the association.

Mr. BAUMGART. I would appreciate that.

MEMBERS OF ASSOCIATION OF HOME APPLIANCE MANUFACTURERS

APPLIANCE MANUFACTURERS

Admiral
Airtemp
Albion
Amana
Blackstone
Carrier
Design & Manufacturing
Dormeyer
Ebco
Fedders
Franklin
Friedrich
Frigidaire
Gaffers & Sattler
General Electric
Gibson-Easy
Hamilton
Hobart
In-Sink-Erator
Iona
Ironrite
Keller Electric
Kelvinator
Merit
Mirra Cote
Norge
One Minute
Philco-Ford
Proctor-Silex
Richmond Cedar
Salton
Schick Electric
Speed Queen
Sunbeam
Superior
Tappan
Udico Electric
Waring
West Bend
Westinghouse
Whirlpool

MANUFACTURERS OF RELATED PRODUCTS

Aircraft & Electronic
American Standard
AMP
Armco
Bethlehem
Calgon
Chicago Threaded Fasteners
Chicago Vitreous
Colgate-Palmolive
Controls Company
Corn Products
Dole Valve
Emerson Electric
Faultless Starch
Ferro
General Electric
O. Hommel
Inland Steel
Kingston Products
Kool Aid
Lever Brothers
Lovell
Mallory-Timers
McQuay-Norris
Metals & Controls
Midwest Timer
Monsanto
Nagel-Chase
Packard Electric
Paramount Die
Proctor & Gamble
Ranco
Robertshaw
H. W. Tuttle
U. S. Borax
U. S. Steel
Westinghouse
White-Rodgers

HOME APPLIANCE PRODUCTS INCLUDED IN AHAM

Air Conditioners	Home Laundry—	Portable Appliances:
Dehumidifiers	Continued	Toasters,
Dishwashers	Dryers	Flat irons,
Food Waste	Combinations	Blenders,
Disposers	Ironers	Food Mixers,
Home Laundry:	Ranges	Waffle irons,
Washers	Refrigerators-Freezers	etc.

The CHAIRMAN. Mr. Stark was to testify today for the American Insurance Association. They have submitted a letter which we will put in the record in full. I will read the last paragraph:

We offer our technical assitance and expertise to the National Commission on Product Safety and its staff when it is constituted in accordance with your suggested resolution.

AMERICAN INSURANCE ASSOCIATION,
Washington, D.C., March 1, 1967.

Re S.J. Res. 33—To Establish a National Commission on Product Safety.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Our organization represents the casualty and property insurance interests of 160 member companies licensed to issue policies throughout the United States. We have noted with interest the text of the captioned measure since a number of the proposals suggested by you and your cosponsors are closely related to our general activities on behalf of policyholders and the public alike.

Our member companies have a long history of participation in the field of safety and inspection services in addition to our obvious interest in the subject of product legal liability.

We offer our technical assistance and experience to the National Commission on Product Safety and its staff when it is constituted in accordance with your suggested resolution.

Very truly yours,

MELVIN L. STARK, *Manager.*

The CHAIRMAN. Mr. Massey, the managing director of the Gas Appliance Manufacturers Association. We will be glad to hear from you.

STATEMENT OF HAROLD MASSEY, MANAGING DIRECTOR, GAS APPLIANCE MANUFACTURERS ASSOCIATION, NEW YORK, N.Y.

Mr. MASSEY. Thank you, Senator.

My name is Harold Massey. I am managing director of Gas Appliance Manufacturers Association, and I appreciate the opportunity to appear before you on behalf of manufacturers of gas-fired household appliances.

Gas Appliance Manufacturers Association is, as its name implies, the trade association of the Nation's manufacturers of gas appliances and equipment. Our membership includes not only manufacturers of household-type appliances, but also manufacturers of components of those appliances, such as controls, valves, thermostats, burners, and many other parts which go into the finished products and thus have a part in their ultimate efficiency and safety. In addition, many of our members manufacture household heating equipment, gas-fired air-conditioning equipment, and industrial equipment.

We are an association of 642 manufacturers. We comprise 23 separate product divisions or groups, including a domestic gas range division, a gas water heater division, a gas clothes dryer division, a gas incinerator division, a gas furnace division, a hotel, restaurant and commercial gas equipment division, and an outdoor living gas appliance group. I would estimate that some 360 of our members engage in the manufacture of gas appliances and equipment normally used by the consumer in the American home and another 125 of our members manufacture components which become part of such appliances and equipment. We estimate that our membership represents some 95 percent of the Nation's production of gas-fired appliances and equipment. Thus we speak from a very broad base, and I know of no other association or group which represents even half this segment of our industry.

Because of the nature of the fuel involved, the gas industry—not only our manufacturers but also the producers of gas, the pipeline companies conveying it over the Nation and the utilities bringing it to the user—are deeply occupied with safety. Unless gas could be safely delivered to the consumer and safely utilized by him, the gas industry could not in its 151 years of existence have grown to what it is today. The assets of the gas utility and pipeline industry totaled almost $33 billion at the end of 1965.

The leader in this field on behalf of the producers and utilities is the American Gas Association, which comprises some 444 company members. A principal activity of the American Gas Association has for 42 years been the testing of gas appliances and equipment for safety. To this end it maintains two large laboratories—one in Cleveland and one in Los Angeles—where such appliances and equipment are subjected to relentless and exhaustive tests for compliance with United States of America standards promulgated by United States of America Standards Institute (formerly American Standards Association). In the development of these standards our manufacturers, representatives of utilities, and representatives of public interest bodies have applied their knowledge and experience. Annually, the laboratories of the American Gas Association prepare from test data approximately 3,800 reports applicable to the gas appliances and accessories voluntarily submitted for evaluation. One appliance—say, a gas range—may be subjected to as many as 175 individual tests in the course of its evaluation, and each manufacturer who wishes his product to bear the certification mark of these laboratories must submit a prototype which can meet these stringent requirements. Nor is this the end, for even after acquiring the certification mark on his product, the manufacturer is subjected to periodic unannounced inspection in his plant by laboratory personnel to make sure that his day-to-day output is faithful to its tested prototype.

Thus, in the field of safety we are, and for many years have had to be, a self-regulated industry. We are proud of our record, and we believe that it was not without recognition of this record, in his message to Congress on February 16, 1967, President Johnson said: "The natural gas industry is among the most safety conscious in the Nation."

This does not mean that we can rest on our oars. To do so would be to invite our own disaster. We fully recognize that the protection of the consumer, not only in the area of safety but in many other areas

also, has rightly become a matter of public attention today to an extent perhaps not previously attained.

We are concerned here today with the question of whether there should be a National Commission on Product Safety. The purpose of such a body, as set forth in Senate Joint Resolution 33, would be to investigate the adequacy of existing safety protection, both public and private, for the consumer and to make findings and recommendations. Speaking for my own industry, I can say at once that we do not oppose any sincere and intelligent governmental activity in the furtherance of consumer safety, because it is, after all, what the gas industry has been doing privately for many years.

I must, however, add a qualification. We have had long experience with attempts by State and city governments to legislate safety. Though doubtless well intentioned, many of these have been prepared in an absence of adequate technical advice and information or otherwise been poorly designed, with the result that they have failed—or, if placed in effect as originally drawn, would have failed—to accomplish their purposes. In a number of instances these efforts by local legislative bodies would have had only the effect of creating throughout the country a variety of inconsistent requirements to be met by manufacturers who sell in the national market. Satisfying these varying local laws or ordinances—one requirement in this State or city and a different requirement in another—would have the result of increasing the cost to the consumer without increasing safety. For reasons sometimes hard to understand, many of the legislative bodies which undertake this type of law or ordinance often seem unaware that there is at their disposal a large body of existing safety standards and an accumulation of many years of intense technical study and experience in the field of safety. We have consistently tried to help these legislators with technical advice toward more meaningful and effective consumer protection, and I am pleased to state that on many occasions they have found our assistance useful.

If it is the judgment of the Congress that the establishment of a National Commission on Product Safety will serve a genuine need and a useful purpose for consumer safety in the Nation, we welcome that decision, and in doing so we emphasize that if such a body is to accomplish its mission, it will do so only with adequate expert advice in the many fields which must engage its attention. These fields will be numerous and varied, and its studies must be intensive and its eventual findings carefully developed. Our association can speak only for the many hundreds of manufacturers who make gas-fired appliances and the components which go into them, but to whatever extent we may be of service toward consumer safety, we place ourselves at the disposal of this committee and of the National Commission on Product Safety.

I am authorized to say that the American Gas Association concurs in the foregoing statement.

The CHAIRMAN. We appreciate your statement, Mr. Massey, and your offer of help. Of course, it is true that the gas industry has been highly conscious of safety, because of the very nature of the product you deal with. In many cases, you become subject to a great number of city regulations, local government regulations, building codes. And of course, we hope that this Commission will be able to throw some light on this vast morass of all kinds of different regulations.

I can see the problems of a gas manufacturer trying to make a good gas range, and finding he couldn't sell it in one city but could in another.

You have done a great deal of work. I hope that you can be very helpful to this Commission if it is established. From what you say in your testimony, they might use you as a prime exhibit A of what you can do by voluntary effort.

Mr. MASSEY. We have often been referred to as just that.

The CHAIRMAN. If there is nothing further, we will stand adjourned at this time.

We appreciate all the witnesses coming here.

I don't know whether we will have any more testimony on this Commission proposal because we did go into it at the last session in great detail. Unless somebody else has something to offer that might be in addition to what the committee examined at the last session, the hearing will be closed. We will keep the record open for a few days. We will then proceed to have committee action on the bill.

Thank you all very much.

(Whereupon, at 11:50 a.m., the subcommittee was adjourned.)

STATEMENT OF THE UNITED STATES OF AMERICA STANDARDS INSTITUTE, 10 EAST 40TH STREET, NEW YORK, N.Y., ON S. J. RES. 33, TO ESTABLISH A NATIONAL COMMISSION ON PRODUCT SAFETY, MARCH 1, 1967

The USA Standards Institute is a non-profit national standardization body whose principal purpose is to coordinate the development and approval of nationa (USA) Standards. The Standards Institute is the reconstituted American Standards Association, which has been in existence since 1918 when it was founded as the American Engineering Standards Committee.

During its 48-year history the ASA did a commendable job in many areas of standardization, such as industrial, engineering and safety standards. ASA represented the United States in recognized international standardization bodies such as the Internationl Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), and the Pan American Standards Commission (COPANT). This representation will be continued by the USA Standards Institute.

Realizing full well the necessity of improved standardization activity, both domestically and internationally, the Officers and Directors of ASA took steps to strengthen the organization; the procedures through which voluntary national standards are developed; and the American representation in international standards activities. As a result of this activity, the Standards Institute was formed and received its new Charter under the laws of New York State in August, 1966.

The purposes of the Institute (as stated in the Constitution) are as follows:

(1) To act as the national coordinating institution for voluntary standardization in the United States of America through which organizations concerned with standardization may cooperate in recognizing, establishing, and improving standards of the United States of America based on a consensus of parties at interest, to the end that such standards remain dynamic; that duplication of work is minimized; the promulgation of conflicting standards may be avoided; and that individual enterprise and initiative is encouraged;

(2) To further the voluntary standards movement as a means of—

(a) Advancing the national economy;

(b) Benefiting public health, safety, and welfare;

(c) Facilitating domestic and international trade and communications and understanding;

(3) To assure that the interests of the public, including consumers, labor, industry, and government, may have appropriate protection and representation in standardization activity;

(4) To provide the means for determining the need for new standards; to assure activity by existing organizations competent to resolve the need; and to

work toward establishment of suitable groups for this purpose where such do not already exist, but not itself to formulate standards;

(5) To promote knowledge and voluntary use of approved standards;

(6) To stimulate the work of existing committees and organizations competent to formulate standards according to suitable criteria for recognition as standards of the United States of America;

(7) To cooperate with departments and agencies of Federal, state, and local governments in achieving (a) optimum compatibility between government codes and standards and the voluntary standards of industry and commerce and (b) maximum common usage of standards of the United States of America.

The procedures of the Institute provide a variety of methods for developing standards, and their subsequent approval as USA Standards. Primary among these are:

1. Development of standards by existing technical societies or other suitable groups and their submittal to the Institute through the "Existing Standards Method."

2. Assignment of a particular standards project to an existing organization for development and subsequent submittal.

3. Formation of a USA Standards Committee, under the sponsorship of a technical society or other suitable group.

4. *If* no organization is willing or competent to organize and carry out the project, the Institute may establish a committee under the sponsorship of one of its standards boards. In this case the results of committees action and board approval are reviewed by an independent board to assure that the requirements for designation as a USA Standard are met.

Two critical considerations underlie the foregoing procedures: First, the principal requirement in approving a national standard is that it represents a *consensus* of those substantially concerned with its scope and provisions. In standardization practice consensus is achieved when substantial agreement is reached by concerned interests according to the judgment of a duly appointed authority. Consensus implies more than the concept of a simple majority but not necessarily unanimity.

Second, the development and approval of national standards, groups or committees undertaking the work must be representative of all parties having a substantial interest—must be balanced between producers, distributors, consumers, general interests and the public interest which, in many instances, includes governmental bodies having regulatory power or influence over the field in question.

USA Standards Institute is vitally concerned with S.J. Res. 33 because the proposed Commission's study and evaluation of household product safety will necessarily involve consideration of safety standards—standards already in being and standards yet to be developed. To ask the question of how hazardous household products can be made safer is to ask what standards shall govern the manufacture, installation, inspection and use of these products. The standardization process will be central to the Commission's study, findings and recommendations.

USASI believes that the voluntary standardization process, as it has been broadened and improved in recent years, provides the most effective procedure for developing safety standards for household products. Some of these standards already exist, having been developed by competent technical organizations. Many have been approved as USA Standards. Others undoubtedly will be developed. But the important thing is that all safety standards should reflect the very best judgment, experience and technical competence of the parties in interest.

We recognize, as does S.J. Res. 33, that the matter of standardization of household, or consumer products presents special considerations. The householder usually does not have the technical knowledge that permits comprehensive evaluation of safety hazards which may be involved in his purchase and installation of the product. Nor does he have an organization that speaks for him. He is, therefore, entitled to look to someone else to protect his interests.

This problem was expressly recognized in the Report of the Panel on Engineering and Commodity Standards of the U.S. Department of Commerce's Technical Advisory Board (the LaQue Report of April 1965). The LaQue Report specifically recommended a "national coordinating institution for voluntary standardization in the United States—and the standards promulgated by the Institution shall be designated as 'USA Standards'." The report thereafter

devoted an entire section to "Standardization of Consumer Products" and recommended as follows:

1. The Institute, recommended in earlier sections of this report, should have a Division of Consumer Affairs in which membership shall be balanced among consumer, producer, governmental and general interests.

2. This Division should provide stimulation, direction, and coordination of the development of consumer standards as needed. This would include the pertinent aspects of testing, labeling, classifying, and publicizing which inhere in the field of consumer standardization.

3. The Institute should continuously and effectively carry on educational activities among consumers and consumer organizations to keep them aware of the standardization services available through the Institute and other national organizations.

4. The Division should make strong continuing efforts to enlist the participation of affected industries in its work."

Since completion of the LaQue Report many significant steps have been taken to assure a strong voice for the consumer in the development and approval of USA Standards, including safety standards. Actions taken by the USA Standards Institute to strengthen the role of consumers in standardization programs are detailed in the attached letter to Mrs. Esther Peterson, former Chairman of the President's Committee on Consumer Interests.

The Standards Institute strongly recommends that the proposed national Commission on Product Safety conduct a study in depth of existing voluntary standardization programs to determine their ability to meet the future needs for safety standards. It is also recommended that the Commission include at least one member knowledgeable in the technical, economic and practical aspects of standardization as well as the procedures for the development and approval of nationally recognized standards relating to the safety performance requirement of household products.

Finally, the USA Standards Institute will cooperate fully with the National Commission on Product Safety. It will be appreciated if you will include this statement in the record of hearings on S.J. Resolution 33.

UNITED STATES OF AMERICA STANDARDS INSTITUTE,
New York, N.Y., January 30, 1967.

Mrs. ESTHER PETERSON,
Chairman, President's Committee on Consumer Interests,
Executive Office Building,
Washington, D.C.

DEAR MRS. PETERSON: The United States of America Standards Institute has studied with great interest the report of the Consumer Advisory Council entitled, "Consumer Issues '66." We wish to commend the Advisory Council, and all who participated in the preparation of the report, for calling to the attention of the President and the public areas in which consumer interests require greater attention and action.

A substantial portion of the Advisory Committee's comments on "standards" were directed to the proposed federal charter for the USA Standards Institute, recommended by the Panel on Engineering and Commodity Standards of the U.S. Department of Commerce. Specifically, the Advisory Panel suggested that the President's Committee on Consumer Interests and the Special Assistant to the President for Consumer Affairs be guided by certain principles—designed to strengthen the role of the USA Standards Institute in assuring that consumer interests were adequately represented in standardization—in negotiating an Administration position on the proposed federal charter.

The purpose of this letter is to present to you, and to the other members of the President's Committee on Consumer Interests, a detailed report of actions which have been taken by the USA Standards Institute to strengthen the role of the consumer in standardization programs. Many of these steps were subsequent to preparation and release of the Report of the Panel on Engineering and Commodity Standards (LaQue Report) and the report of the Consumer Advisory Council.

Of paramount importance is the fact that the officers, directors and membership of the Standards Institute recognize and accept the responsibility to provide for a dynamic and participating role for consumer interests in the programs of the Institute.

The Institute's President, Mr. Francis K. McCune stated the case succinctly in his address to the Annual Meeting in December when he told the membership that one of the greatest challenges facing the organization in the years ahead was "meeting the needs of the individual consumer for meaningful standards."

In constituting the USA Standards Institute the planning committee, officers and directors assured consumer input in standardization by changing the basic structure of the organization to provide for the interface of three operating councils in the approval of national (USA) standards. The organizational chart (*Attachment A*) of the Institute illustrates the inter-relationship of the operating councils—Member Body Council, Consumer Council and Company Member Council.

The Consumer Council, which has the primary responsibility of representation and protection of the interests of the consuming public, will provide the mechanism for initiation, review and coordination of consumer standards. Specific responsibilities of the Consumer Council are detailed in *Attachment B* to this report.

Composition of the Consumer Council is of critical importance. Again, the Constitution and Bylaws of the Institute assure balanced participation by all interested and affected segments of society, including the Federal Government which has the right to appoint five members to the Council. The complete composition of 21 basic memberships on the Council is shown in *Attachment C*. Additional representation will come from Company Members and Member Bodies who elect membership on the Council.

Government representation at the policy-making level of the Institute was one of the recommendations of the Consumer Advisory Council. Provision has been made in the Constitution and Bylaws for government representation on the Board of Directors, which is the governing body of the Institute. The Director of the National Bureau of Standards, if willing to serve, becomes a Director of the Institute. Dr. Allen V. Astin, Director of NBS is now a member of the Board. In addition, of the sixteen "Member Body" representatives on the Board, normally four directors shall be representatives of Member Bodies which are departments or agencies of the United States Government.

Additional government representation on the Board is possible through the Consumer Council, which is entitled to five directorships. It is significant that the 1967 Board of Directors includes Mrs. Aryness Joy Wickens, Consumer Program Advisor of the U.S. Department of Labor, who was recommended by consumer interests.

The present Board includes four Consumer Council representatives and will have an additional consumer representative upon selection of a Chairman for the Consumer Council.

Assurance of adequate consumer interest in the development of standards, through participation of technical experts from government, was an additional recommendation of the Advisory Council's report. The Council was apparently unaware that throughout the almost fifty years of voluntary standardization activity by the former American Standards Association and now the USA Standards Institute, participation by government personnel has not only been welcomed but encouraged and actively solicited. At last count some 400 individuals from government departments and agencies were represented on 100 technical committees and three standards boards.

The final recommendation of the Advisory Council on which the Institute wishes to comment is the general topic of Certification and Labeling—to assure consumers that standards, once developed, are promulgated and utilized.

Every effort is made to inform manufacturers, distributors, consumers, government agencies and others of the availability of approved USA Standards. Self certification is now conducted by many industries. The Institute's Bylaws specifically provide for certification programs, if needed. As you know, this is a most complex and often controversial topic and one which requires thorough study and discussion.

Under the Institute's Bylaws the Member Body Council will establish procedures for such activities, if authorized by the Board of Directors. The Consumer Council is charged with the responsibility not only to identify areas in which certification programs are needed, but also, to obtain appropriate action and acceptance of such programs. Further, the President of the Institute has now appointed a Board Committee on Certification and Labeling to review the problem and make recommendations on the Institute's role.

While important and significant improvements have been made to assure that consumer interests are fully represented in the programs of the USA Standards

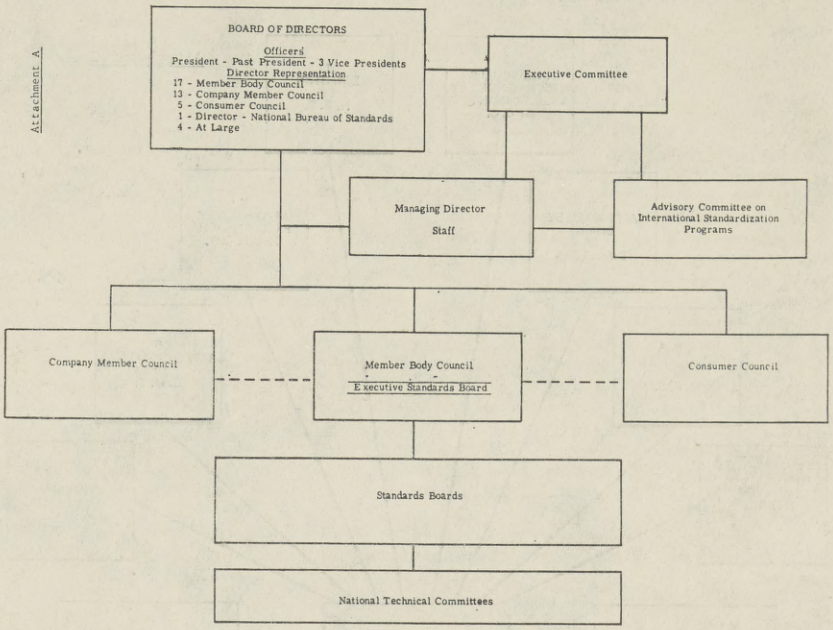
Institute everyone involved recognizes that this is not a static situation. The key to success of any program is participation and support by all segments of society. We welcome the advice and full participation of the Consumer Advisory Council as well as the President's Committee on Consumer Interests.

Sincerely,

DONALD L. PEYTON,
Managing Director.

Attachment A

Organization Chart - United States of America Standards Institute



EXCERPT FROM BYLAWS—UNITED STATES OF AMERICA STANDARDS INSTITUTE

B6.4 *Consumer Council.* The Consumer Council shall serve in educational, advisory, and coordinating capacities in order to maintain effective representation of consumers and to protect the interests of consumers in the activities of the Institute.

The Consumer Council shall promote consumer standards and understanding by consumers of the proper function of standards and standardization.

For purposes of this Council a "Consumer" is defined as a person who uses goods or services to satisfy his personal needs and desires rather than to resell them or to produce other goods or services with them.

The Consumer Council responsibilities shall include, but not be limited to, the following:

Provide the Board of Directors with guidance in behalf of consumers on matters of policy, procedure, and planning in support of and advancement of Institute objectives as expressed in the constitution.

Conduct studies and surveys of consumer needs for standardization of consumer goods and services.

Make recommendations for development of standards or standards programs important to the advancement of consumer interests.

Serve the Institute as a contact between the general public, government, and industry in the area of standards for consumer goods, services, and environment.

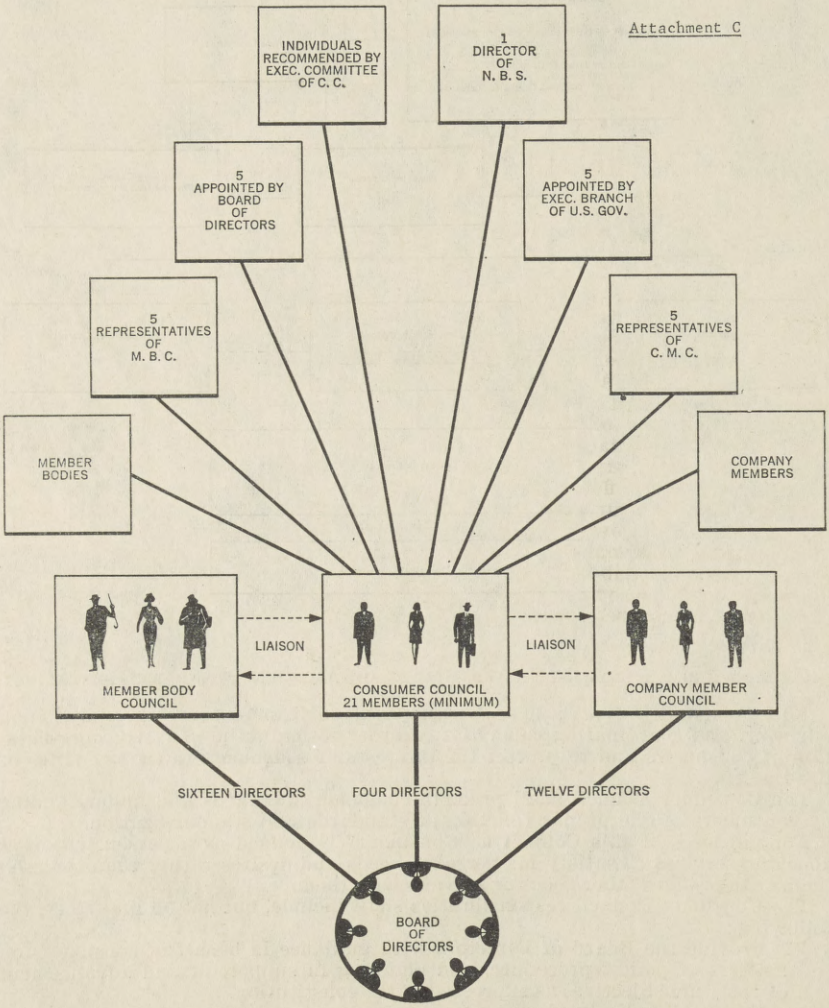
Promote the education of consumers to the end that an awareness may be developed of the objectives, programs, and standards development activities of the Institute which are directed toward the interests of consumers and require their support and encouragement for maximum effectiveness.

Assist the Member Body Council to achieve effective and adequate consumer interest representation in standards development activities.

Provide a channel through which a member of the Institute may petition the Board of Directors or the Member Body Council for a review of any proposed or existing USA Standard.

Identify areas in which certification programs are needed and work to obtain appropriate action. Promote acceptance of the certification programs of the Institute.

Attachment C



CONSUMER COUNCIL

NEW YORK, N.Y., *February 27, 1967.*

Hon. WARREN MAGNUSON,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR MAGNUSON: I learned today that your Committee is conducting hearings on the President's request for legislation establishing a National Commission on Products Safety, and that the hearing is scheduled to be held on March 1, 1967.

I would have liked to have testified in support of this proposed legislation, but find I am unable to rearrange my schedule so as to facilitate that testimony.

I would appreciate it if you would bring the contents of the enclosed statement which I have prepared to the attention of the members of the Committee.

Respectfully yours,

ARNOLD B. ELKIND.

STATEMENT OF ARNOLD B. ELKIND

My name in Arnold B. Elkind. I have been practicing law since 1939. A substantial part of my practice involves the representation of people who have sustained personal injuries.

I have been designated by the American Trial Lawyers Association to serve as a liaison officer between the Federal Government and that Association in connection with its activities in the field of consumer protection. The American Trial Lawyers Association is the second largest Bar Association in the United States, and the membership is comprised of lawyers who have a community of interest in that they represent injured people in their efforts to obtain recompense for the damages which they sustained as the result of misconduct by their fellow citizens.

I am also a member of the American Bar Association, the New York State Bar Association, and the Association of the Bar of the City of New York. I am also a Legal Counsel for the Brotherhood of Railroad Trainmen, which is the largest union representing operating employees in the railroad industry.

Since the President's message was only published on February 17, 1967, I must state of necessity that the views I express are my own. However, since I have served as Chairman of the Consumer Protection Committee of the American Trial Lawyers Association from 1963 to 1966, I am reasonably confident that the American Trial Lawyers Association would officially endorse my conclusions.

My interest in this field dates back to 1951, when I represented a plumber who sustained terrible injuries as the result of a carelessly manufactured drain pipe solvent. In the discovery phase of that case I was shocked to learn of the incredibly haphazard manner in which potentially dangerous products could be manufactured, and labeled. The Court of Appeals in the Third Circuit in 1952 described the evidence of negligence as overpowering and characterized the manufacturer as having been guilty of "wanton and reckless misconduct" (196 F. 2d 614, 615).

Because of certain legal principles which by now are largely archaic, the Bar had generally lacked interest and enthusiasm for the representation of injured consumers against remote manufacturers with whom there was no privity of contract. However, following my experience with the drain pipe solvent case, I began to accept cases of this kind from other attorneys and have had personal experience over the intervening years in a vast variety of what we lawyers call products liability cases, covering a wide range of manufactured products which included local anesthesias which caused permanent paralysis, defectively manufactured tires which are capable of killing the repair man, colored pencils capable of causing lead poisoning and permanent brain damage to infants, magnesium ladders with a propensity for collapse, snowblowers, agricultural equipment, flammable textiles and, of course, automobiles and drugs.

Since 1954 I have spoken at innumerable Bar Association meetings, Law School sponsored seminars, and seminars conducted under the auspices of the Practicing Law Institute, in an effort to encourage lawyers to represent injured consumers in actions against manufacturers of defective products. In these messages I have emphasized the public service aspect of this kind of legal activity.

Coincidentally, lawyers, Judges and legal scholars have manifested a tremendous interest in this field and there has been a quiet revolution in the area of consumer law and this revolution, without any fanfare, has potential meaning for more people than the revolutionary changes in the field of civil rights.

The growing interest of an organized Bar in the area of consumer protection has brought into sharp focus the need for objective safety standards. These can be as important and useful to industry as they are to the consumer. The Flammable Fabrics Act, through which certain regulatory standards have been established, has in practice turned out to be a virtual shield for manufacturers. Upon discovery that a particular textile has met the standards of the Act most lawyers with whom I have conversed over the years have rejected cases of serious burn injuries even though the standard, by law, does not pre-empt the field of common law duty. Lawyers for plaintiffs feel that it is difficult to persuade a jury that a manufacturer has been negligent if the manufacturer can show that he complied with an applicable standard established by a Federal agency. The establishment of an appropriate standard is therefore an infinitely delicate task which, to be meaningful, can best be performed and evaluated by an independent commission whose recommendations to Congress will be respected.

Many industries, such as the power lawnmower industry, have instituted meaningful programs of self-regulation which such a Commission can encourage as an example to all industries. There are many products which are not sufficiently identified in the minds of the public as having the potentiality of danger, and the Commission can render valuable service in recommending methods and formulas for bringing home to the consumer all of the risks inherent in their use.

There are still a number of States which adhere to archaic and artificial legal principles. In these few States manufacturers are still unreasonably insulated from responsibility to the ultimate consumer for their fault, and Federal legislation can be recommended by such a Commission which would give uniformity to consumers' rights on all goods and products which are involved in interstate commerce.

Finally, there are laboratories and testing agencies, whose techniques and facilities are wholly unregulated, that perform an important function in this entire area. They are not licensed and are not responsible except to the dictates of their conscience. The dictates of their conscience are occasionally overwhelmed, and this too can wreak havoc in the area of consumer protection.

Most responsible manufacturers carry "products liability" insurance. Occasionally, however, a fly-by-night manufacturer will come along and introduce goods into interstate commerce, such as a cheap toy. In an effort to cut costs he will not carry products liability insurance but will gamble that his product will not cause a serious injury. If the injury occurs there is always bankruptcy. Compulsory products liability insurance on products sold in interstate commerce will afford some monetary safeguards for the general public and will, in my opinion, merely serve to formalize an insurance activity which is in fact utilized by most manufacturers. This too is an area for investigation and recommendation by the Commission.

The words "Made in the U.S.A." can become the hallmark of quality throughout the world. The area of consumer safety is one in which the United States can and should at this time assume a leadership position. It is one of the important areas in which we can demonstrate to the world that we are concerned for the welfare of the ordinary people. That leadership can be supplied without unduly hampering our free enterprise economy and without any significant budgetary pressures. The Commission proposed by President Johnson provides the machinery for a magnificent step forward.

Statement of General Electric Co., on Senate Joint Resolution 33, To Establish a National Commission on Product Safety

General Electric Company supports the proposal to establish a National Commission on Product Safety for the "calm and reasoned study of the problem" which Senator Magnuson referred to in his remarks introducing S. J. Res. 33 on February 8, 1967.

The Company believes that the record of United States industry in eliminating hazards associated with electrical household products is impressive, historically and in total. However, Congress and the public are entitled to a review of the quality of industrial performance in this area and to assurance that adequate measures are being taken to safeguard consumers. Moreover, the very existence of the Commission should accelerate existing broad based efforts to develop standards and codes designed to further enhance safety. General Electric looks forward to cooperating with the proposed Commission.

We believe that certain amendments of S.J. Res. 33 would provide additional assurance of achieving desired objectives.

Composition of the Commission Section 1(b) of S.J. Res. 33 contemplates that members of the Commission will be "specially qualified . . . by virtue of their education, training and experience." Given the nature of the Commission's responsibilities, it seems desirable to spell out more explicitly the character of the experience and training desired. Accordingly, it is suggested that section 1(b) be amended to provide specifically that the Commission shall include individuals with production experience in the engineering and manufacturing of household products as well as individuals who have had practical experience in developing codes and standards applicable to such products.

This would permit the Commission to give Congress the benefit of the best thinking of industry and the engineering and manufacturing professions while adequately providing for representation of the public and government. It would also enable the Commission to work in a balanced and objective manner and so increase the likelihood of widespread acceptance of the Commission's basic recommendations.

PROCEDURES OF THE COMMISSION

Again, the effectiveness of the Commission will be promoted by incorporating in S.J. Res. 33, provisions designed to assure fair procedures as well as full cooperation by industry with the Commission's inquiries. Specifically, it is submitted that whenever the Commission's inquiries are directed to a particular product or line of products, affected elements of industry should be given notice of the inquiry and of its scope, and should be given an opportunity to submit testimony and supporting data, orally or in writing, including rebuttal testimony and data.

FINDINGS OF AND REPORTS BY THE COMMISSION

The responsibilities of the Commission should be redefined in Subsection 1 of Section 2(a) to exclude the possibility of findings as to whether particular products constitute "an unreasonable hazard." Rather, the Commission's role should be to identify the types of hazards in categories of household products. This identification should be for the purpose of recommending measures to improve safety, whether by means of voluntary standardization activities or by way of Federal, state, or local regulation. The Commission's role is to assist the Congress in performing its legislative and investigatory responsibilities. It is not, therefore, an adjudicatory body providing opportunity to private parties for cross-examination, submission of proposed findings, briefs and oral arguments or the right to subpoena witnesses and documents.

A related point is the possible use of Commission reports in private litigation and the consequent desirability of limiting such use along the lines of Section 701(e) of the Federal Aviation Act of 1958. Section 701(e) reads as follows:

"No part of any report or reports of the Board relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports."

The rationale for this provision was to prevent the use in evidence, in suits brought to determine the rights of parties in private civil actions for damages, of the opinions and conclusions of the C.A.B. which were primarily intended for use by the Government in regulating the operation of aircraft. Such a rationale would appear equally appropriate here and be supported by two other considerations. As pointed out above, the Commission's findings will be based on informal investigatory procedures which will not provide the safeguards of an adjudicatory process. Also, the effectiveness of the Commission in securing voluntary cooperation could be impaired if the subsequent reports of the Commission could become the basis for a series of product liability claims.

USE OF STATEMENTS TO THE COMMISSION

Section 3(a) of S.J. Res. 33 properly confers on the Commission broad powers to call on industry for production of information pertinent to the Commission's responsibilities. There should be assurance that full disclosure of relevant data can be made to the Commission without fear that they would be used in private litigation. Accordingly, it is suggested that S.J. Res. 33 include a provision to the effect that no data, reports, answers, testimony, or evidence submitted to the Commission pursuant to Section 3(a) shall be admitted as evidence in any suit

or action for damages. Such a proviso, of course, would not preclude individual claimants from invoking applicable discovery and inspection procedures in private lawsuits but only preclude the use of data in the form supplied to the Commission during the course of its investigation.

There is precedent for such a proviso in section 190 of the Atomic Energy Act of 1954, as amended. Section 190 reads as follows:

"Licensee Incident Reports.—No report by any licensee of any incident arising out of or in connection with a licensed activity made pursuant to any requirement of the Commission shall be admitted as evidence in any suit or action for damages growing out of any matter mentioned in such report."

In recommending enactment of section 190, the Joint Committee on Atomic Energy stated:

". . . The purpose of this amendment is to encourage the free and uninhibited disclosure of facts surrounding accidents . . ." (S. Rep't 746, Aug. 16, 1961, 87th Cong. 1st Sess.)

An analogous provision in S.J. Res. 33 with respect to material submitted to the Commission would actively encourage full and candid cooperation with the Commission's investigations.

STATEMENT ON BEHALF OF THE CONSUMER PRODUCTS DIVISION OF THE ELECTRONIC INDUSTRIES ASSOCIATION TO THE SENATE COMMERCE COMMITTEE ON SENATE JOINT RESOLUTION 33

This statement is being made on behalf of the Consumer Products Division of the Electronic Industries Association (EIA), the national organization of electronic manufacturers. EIA members account for approximately 80% of the $20 billion electronics industry. The Association represents the producers of both electronic products and their varied components.

The specific consumer electronic products manufactured and marketed by the members of the Consumer Products Division are television sets, radios, phonographs and tape recorders and players and combinations thereof.

The purpose of this testimony is to pledge the backing and support of the consumer electronics industry for objectives of the National Commission on Product Safety Act should Congress adopt it and to review the industry and the Association's own efforts in safeguarding the users of our products for the past five decades.

The problem of protecting the consumers of our products, to be fully understood, must be viewed against the background of the phenomenal growth of the consumer electronics industry, especially in the two decades since World War II.

In 1946 only 6000 television sets were produced. In 1966 factory sales approached 13 million units and 90 million units are now in use. As the main source of entertainment and information and one of the sources of culture and instruction in the American home, this completely new industry has achieved a per-household saturation in its first twenty years unparalleled in the field of consumer durable goods.

The history of radio sales is equally impressive. In 1926 sales were at the rate of slightly over a million units a year. In 1966 sales reached 47 million units in the home and auto categories. Today, there are 240 million radios in use.

Phonographs, the pioneer product of the industry, are now selling at the average rate of 7 million units a year and the total units in use approximate 50 million.

The fourth major product of our industry—the tape recorder—emerging from its infancy, is destined to become one of the greatest sources of enjoyment and perhaps to alter the historic basis of communications. Ten years ago sales were about 200,000 units. Today sales are estimated at 5 million units annually, with about 15 million machines in use in home and office.

Another new product—the "walkie-talkie" transceiver—is blooming in a market that hardly existed three years ago. Over seven million hand-held transceivers were sold in 1966.

Just in these five major products of consumer electronics, over 400 million units are serving to entertain, to link individuals, to record family histories, to open the world, to enrich the life of the individual citizen in myriad ways.

Despite such truly outstanding growth, when statistically there might be reason to expect an upswing in injuries connected with the use of a complicated electronic instrument, such as a television set, radio, phonograph or tape recorder, there has been no such rise. This has not occurred because consumer electronics

manufacturers—individually and collectively—have for the last four decades been diligent in developing and maintaining product safety.

In addition, while consumer electronics have maintained their traditional role as household products, consumer demand has necessitated the development of a whole new family of personal and portable televisions, radios, phonographs and tape recorders. This has brought about a much higher degree of set-user contact, and consequently a much greater statistical likelihood of injury. The significant fact is that there has not been such an increase.

Although specific product safety developments are summarized below, perhaps the most significant development to assure protection from electrical shock in consumer electronic products has been the rapid advance of the transistor and the resultant increase in battery-operated products, which have already and will increasingly in the future eliminate many potential causes of bodily injury.

The continued activity of scientists, technicians and engineers of individual companies, in addition to Association efforts, has resulted in constantly improved, more reliable consumer electronic products.

Within the industry's trade association, product safety activities are centered in the EIA Safety Committee. The Committee was formed more than twenty-five years ago to formulate, recommend and establish suitable requirements for safety in consumer electronic products such as radios, television receivers, phonographs, high fidelity component systems, magnetic tape recorders and players, and other similar devices intended for household use.

Its membership consists of qualified electronic experts, product engineers, and other technically oriented individuals closely associated and acquainted with the design and production of electronic consumer products and specifically knowledgeable in matters of safety and its implementation in the design, manufacture and usage of such products. The membership of the committee on safety represents both EIA member companies and non-member companies, and includes members from large and small manufacturers.

The function of the Committee is to adopt such practices and measures as are necessary to assure that consumer products are free of shock, fire or health hazard and recommend them to all manufacturers. In this connections, the Committee endeavors to work closely with any recognized local, national, or international safety group (such as Underwriters' Laboratories, Inc., and United States of America Standards Institute).

The Safety Committee meets on a regular basis, scheduling three or four meetings per year with the subjects for discussion derived from a variety of sources, including recommendations from individual committee members, known proposals or actions undertaken by various national and international organizations. In addition, pertinent activities of manufacturers of parts and materials used in consumer products and by other manufacturers of electrical appliances are reviewed regularly by the Committee. In general, the Committee activities are related to the investigation and recommendation of such practices by the industry as to advance the degree of safety in its products. To achieve this goal, its total effort is directed toward elimination of shock, fire, and casualty hazards in consumer products.

Through its contacts with, and the activities of, its members in international standards work, the Committee, also, participates in the formulation of international safety standards which ensure that consumer products in foreign commerce maintain the same level of safety.

In one specific aspect of its activities, some members of the EIA Safety Committee are, also, invited to participate in Underwriters' Laboratories Industry Advisory Conference on the Safety Standards for Radio and Television Receiving Appliances. .Through their efforts, the recommendations and advice of the industry are presented to the Underwriters' Laboratoies and thus serve to implement and expedite the formulation of the UL Safety requirements for electronic household appliances. Such requirements to which the industry complies are reflected in the UL Safety Standards for Radio and Television Receiving Appliances—UL Subject 492.

During the years of its existence the Committee, through its own deliberations and studies plus consultations with other similarly interested organizations, has recommended, and the industry has voluntarily adopted, many practices which have resulted in a safer product for the consumer.

Specific examples of EIA and joint EIA/UL efforts which have resulted in a safer product include:

(1) Reduction of shock hazard thru the reduction of leakage current from 15 milliamperes in 1946 to the present level of 2.5 milliamperes. This work is continuing and a further reduction is on the horizon.

(2) Interlock switches which automatically remove dangerous voltage have become a standard safety device where appropriate to protect service personnel and consumers who may do their own servicing.

(3) The use of protective enclosures around high voltage areas has become a standard practice.

(4) The use of special fuses designed to eliminate fire hazard and prevent improper replacement.

(5) The fail-safe picture tube to protect the viewer from the implosion hazard.

(6) The formulation of minimum standards for mechanical strength and thermal stability of plastic materials used as enclosures for hazardous equipment areas and for the complete equipment.

(7) The use of circuit breakers to prevent fire and shock hazard.

(8) The use of informative marking and instructions to guide the customer in the safe and proper use of the product.

(9) The promotion of factory production practices to conduct tests to ensure that all safety devices are functional prior to packing for shipment.

(10) The promotion of more restrictive requirements for higher powered devices such as color television receivers.

Recognizing the need for continual improvement in the safety of consumer products, the industry, through its Safety Committee, is currently working toward additional safety features. These efforts will continue because the success of the industry and of individual companies within the industry will not be possible unless the consumer's safety remains the constant preoccupation it has been in the past.

This industry is proud of its record of voluntary self-regulation in product safety in the past half century.

We recommend that membership on the National Commission on Public Safety include representation from the electrical-electronic industry whose products are to be studied, and these representatives should be familiar with both the manufacturing and merchandising aspects of safety problems.

We further recommend that the Commission in its inquiry should adhere to the principles of the Administrative Proceedures Act and thereby assure every industry of adequate notice and an opportunity to be heard with respect to its own products.

The Consumer Products Division of the Electronic Industries Association welcomes the proposed inquiry into the area of safety of consumer electronic products and pledges its full cooperation.

SCHROETER, TALBOT & SMITH,
Seattle, Wash., January 23, 1967.

Senator WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: The members of this firm have had the occasion to note your keen interest in consumer safety. We were particularly pleased to note recently that you intend to introduce legislation to help protect consumers against fatally defective appliances and fabrics. Since this office deals primarily with the field of negligence law, particularly plaintiffs, we have had occasion to see the sad results brought about through the use of purportedly reputable products.

You may be aware, for example, that the doctors in this locality have coined a new term for the injuries sustained through the use of power mowers. These very serious injuries begin flooding into the doctors' office in Seattle approximately the middle of May of each year. A particularly hazardous condition is to be found in the use of electric lawn mowers. Because of the lack of fail safe features and other safety devices it is almost certain that a person using one of these mowers will eventually find himself in peril. Power tools present another source of hazard. From our experience, it would seem that despite the great technological advances that have been made, the manufacturers have failed to incorporate into their products adequate safeguards. Many examples come to mind here; perhaps one of the most striking that I have seen recently involved a man who was literally hauled through a large piece of agricultural binding equipment to emerge at the other end. Small electric drills, small electric saws, and other home shop devices are also inadequately provided with safeguards.

I am also informed that in some instances small table radios actually have screws which conduct substantial amounts of electricity.

We wish to commend you for your interest in this area and to wish you success in your legislative efforts. Please be assured that if there is anything at all that we can do to forward this project, we will be more than happy to cooperate. If you contemplate holding hearings in regard to this subject, we would be most grateful if we could be placed upon your mailing list so that we can receive copies of the committee proceedings.

Yours very truly,

FLOYD V. SMITH.

STATEMENT OF KARL GEIGES ON BEHALF OF UNDERWRITER'S LABORATORIES, INC.

My name is Karl Geiges. I am a resident of the State of Illinois and a registered professional engineer in that State. I am here today to offer some comments on the subject of household product safety based on my 39 years' experience with Underwriters' Laboratories, Inc., and 18 years' experience as a member of the National Electrical Code Committee. I have served as a vice president of the laboratories since 1957.

Underwriters' Laboratories, Inc., is a self-supporting not-for-profit corporation whose sole business since 1894 has been the testing of products, materials, and systems to determine that these items meet minimum requirements for safety. In addition, a system of classifications, publications, and markings have been established to inform the public of those products which meet the Laboratories' safety requirements. The Laboratories' service includes a factory followup program to determine that the products as manufactured and sold do in fact meet the established requirements.

Manufacturers voluntarily submit their products to Underwriters' Laboratories for investigation. If the laboratories finds the product meets its safety requirements it publishes the name of the manufacturer of the product designation in one of its lists of products and, under suitable safeguards, authorizes the use of its label or marker on the product as evidence of compliance with its safety requirements.

These laboratories' requirements are developed by its engineering staff in consultation with manufacturers of the products, governmental officials having legal responsibility for public safety in the product area, insurance representatives, and the public at large.

The laboratories' services provide an impartial check on the manufacturer's product engineering and production control as they relate to safety features. They help the public official discharge his legal responsibilities by helping in the establishment of safety requirements and in identifying those products which meet those requirements. The public is served by being able to identify and purchase products which meet minimum safety requirements. At the present time approximately 12,500 manufacturers have an estimated 800,000 different catalog numbers of products, materials, and systems listed as meeting the laboratories' requirements for safety.

Safety is often thought of as some rather simple set of "go" or "no go" gages with which any product or installation can be readily measured with a readily describable "safe" or "unsafe" indication. Safety is not quite so simple a phenomenon.

Suppose you want to purchase an electric fan. At the local appliance store you will find quite a variety of types, sizes, and prices. Since you are concerned with safety, you would undoubtedly pay close attention to the guard which surrounds the rotating blades. You will note that fans which are designed for sitting on floors where children might be will generally be well guarded. You will also note that they do not deliver as much air as desk and table fans which have more open guards, and these in turn deliver less than wall or ceiling mounted fans which have no guards. Each of these types, however, when used for the purpose for which designed affords an adequate degree of safety.

Product safety is not something that can be achieved solely by the product manufacturers. Installers must also contribute by seeing that the product is installed in accordance with the manufacturer's installation instructions and in accordance with applicable safety codes. Users also must accept some responsibility for use of the product within reasonable limits of its intended use and for maintaining the product as to assure a normal useful life—not foreshortened in such a manner as to create a hazardous condition. It is the acceptance by each of

these elements of his full share of responsibility that reasonable safety can be achieved at total minimum cost to the user.

Quite frequently mechanical safeguards restrict the operational utility of the product. To what extent should the guard on the fan protect against small children crawling on the floor? Obviously, the guard should prevent insertion of small hands and fingers as could touch the whirling blade—but how small—and what about slender pencils and rods that might be poked into the openings? If the openings are so closed as to absolutely preclude any such possibility, it is likely that there will be such small air delivery as to invite the removal of the guard. Would this be in the best interest of safety?

Or to take the consideration of safety one step further. Some do-it-yourself persons repair their own electrical appliances, particularly in the matter of replacing the flexible supply cord. Knowing that some people do this, should all products be so designed that this can be readily accomplished without creating any subsequent hazard to the user? How can we be sure that the proper type and size of cord will be used—even if the point of connection is made reasonably foolproof?

Another aspect of safety, particularly for electrical appliances, is the end of life evaluation. The safest form of electrical appliance would be one which failed mechanically before it failed electrically. Electrical insulation deteriorates with temperature and age, electrical contacts tend to burn off with repeated use. The age of both these items can be considerably prolonged by use of more expensive materials. How does one determine what the customer should get in the way of service life from a TV set, or a can opener, or an oil burner. Safety and normal life are intertwined in a very complex manner that involves economics, product obsolescence, considerations of the various failure forms.

The preceding comments are made to indicate that there is probably no such thing as absolute product safety. It must be weighed and measured by some rather indirect means that involve use of sound engineering judgments, considerations of field experience, recognition of the current state of the art, and appreciation of the restrictions placed on the utility of the product.

While zero products defect and zero misuse applications are laudable goals, a realistic approach would certainly question whether either could be achieved within our present framework of mass production and mass utilization.

The degree to which a product must be safeguarded against hazardous conditions will vary with the degree of severity associated with the product failure. For example, a motor that is to be used in the presence of explosive gas or dust will require a whole array of safeguards against all kinds of conditions to assure that it does not become a source of ignition for an explosive mixture. A motor that is used in a can opener, on the other hand, will require only that it operate within temperature limits as to assure a reasonable life.

Safety to a degree is dependent upon the state of the art. Some 25 years ago the most common insulation employed on building wire was known as a 49° C. rubber, and the most common flexible cord which utilized this insulation was known as Type C lamp cord. By today's standards, neither of these materials would be considered adequate from the standpoint of safety, yet at one time they were the best that was available. The minimum temperature rated insulation today are 60° C. and some are available at 200° C.

How does one determine if an adequate level of product safety exists? We think that one method is to evaluate the number of accidents resulting from use of the product in light of the exposure which the public has to that product.

For several years now the Bureau of Vital Statistics here in Washington has kept records of number of fatalities resulting from use of electricity, and from the period 1949 to 1964 the annual death rate has fallen from 7 per 1 million persons to 5. During this same period the annual use of electrical energy has increased by 650 percent. If these same figures are further analyzed, a reasonable estimate of 60 to 80 deaths per year can be attributed to household electric appliances. This figure must be viewed against the millions of such devices in use in this country each day—and against the full realization that enough electrical energy is present each time the device is energized to create a lethal condition.

In a newspaper clipping service of electrical accidents to which Underwriters' Laboratories has subscribed for the past 30 months, 13 cases of electrocution from radios reveal that they were the result of the person pulling the set into the bathtub with him.

I am sure that the electronics industry could readily design a radio that would present no hazard when puled into the bathtub or swimming pool. Such a set could not, however, be produced within the cost limits of today's portable sets and undoubtedly a number of families would not be able to afford the completely submersible designs.

Before any significant further reduction in accidents from household electrical products can be expected there must be a breakthrough in materials technology that will provide better performance without any substantial increase in today's prices, or there must be some mechanism established which will provide a factual feedback to the manufacturers as to the cause of failure in those products involved in accidents. The Committee on Safety of the IEEE tried for many years to create such a mechanism but was invariably stymied because of litigations of the cases in the courts. By the time the sample was made available for study by the manufacturer the model was no longer in production.

If there is to be a significant decrease in accidents resulting from misuse of products, users must have a better appreciation of the potential hazards resulting from misuse. Such introduces another philosophic discussion as to whether a customer will be more likely to read a short and concise set of instructions on the product, or whether he will read three or four pages of fine print to learn all the restrictions placed on the use of the product.

In my opening remarks I referred to the National Electrical Code. This code, which is sponsored by the National Fire Protection Association and approved as a U.S.A. Standard, is probably one of the most widely adopted safety standards in use in this country today. It is formulated under procedures that assure balanced representation of all segments of the industry. It serves as the major electrical installation code for almost all the homes and buildings in this country. Some extent of the use of the code can be gained by knowing that to date over 500,000 copies of the 1965 code, which was published just 18 months ago, have been distributed.

The code is revised every 3 years so that it reflects advances in the art just as soon as these have been shown to be commensurate with the general level of safety provided. The enforcement of the code is left with local and State jurisdictions for adoption and subsequent enforcement. It is the discharge of the inspector's duties as guardian of the public safety that he frequently turns to the listings of Underwriters' Laboratories for help in judging the suitability of electrical materials, devices, and systems. The ordinances under which these inspectors work quite frequently refer to safety standards of several nationally recognized testing laboratories or other standards-writing agencies.

This arrangement of a National Electrical Code—a system of State and local adoption and enforcement backed up by a group of nationally recognized testing laboratories in evaluating the safety aspects of electrical materials, devices, and systems, has resulted in a highly coordinated industry that has thereby been able to pass the benefits of mass production on to the public, while at the same time the public has received a high degree of protection against hazardous electrical products.

There have been numerous references in the past to a wide variety of electrical products having dangerous leakage currents. The subject is a most controversial one—for the current that is actually measured will depend upon the environmental conditions to which the sample is subjected as well as the type of instrumentation used. Despite these highly publicized statements we are unaware of a single death or a single injury caused by currents of the magnitude cited as so great as to be considered dangerous. We feel that such statements tend to create a completely erroneous picture as to the extent of actual hazard that exists from this cause.

If the Congress sees fit to create a National Commission on Product Safety we would hope that those chosen to serve would include representation from authorities having public safety responsibilities, electrical shock experts, electrical fire experts, casualty experts, and electrical manufacturers. Underwriters' Laboratories would be pleased to offer to the Commission any assistance within our area of capability.

NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION,
New York, N.Y., March 3, 1967.

Subject: Senate Joint Resolution No. 33, National Commission on Product Safety.

Senator WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: The National Electrical Manufacturers Association (NEMA), America's largest trade organization for manufacturers of electrical products, was organized in 1926 as a result of a merger of predecessors established as early as 1908.

Safety is one of NEMA's primary interests. NEMA believes that the widest use of electric service which is reasonably safe results in the greatest benefit to the public. As a result a major part of the association's activity is the development and distribution of its 236 product standards covering such characteristics as safety, construction and performance. For example, NEMA has promulgated a safety standard for configurations for plugs and receptacles. In addition to this continuing activity NEMA participates in the preparation of the standards for the protection of life and property sponsored by the United States of America Standards Institute, the National Fire Protection Association, and the Underwriters' Laboratories, Inc., The electrical product safety standards of the Underwriters' Laboratories, Inc., and the National Electrical Code, which applies to electrical installations and is sponsored by the National Fire Protection Association, have been adopted very widely by State and municipal governments as their safety criteria. In the belief that NEMA's experience and an awareness of what has already transpired in this area will be of benefit to the National Commission on Product Safety, NEMA offers its assistance in the establishment and work of the Commission.

The effectiveness of the proposed joint resolution will hinge largely on the competence of the Commission. Therefore, NEMA believes that the membership of the Commission should be well balanced and should include an expert in the development of safety standards and an individual with broad electrical manufacturing and marketing experience.

Very truly yours,

JOSEPH F. MILLER,
Executive Vice President.

COMMONWEALTH OF PENNSYLVANIA,
HOUSE OF REPRESENTATIVES,
Harrisburg, February 10, 1967.

Hon. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Recently a constitutent of mine, Hans W. Hamm, of 336 Maryland Avenue, York, Pa., called to my attention a very severe safety hazard involving an imported TV set of Japanese origin. He has prepared a folder detailing the problems involved with this set and as you can see has not received much satisfaction from either the Federal Communications Commission or from the Japan Light Machinery Information Center.

I read with interest newspaper accounts of your recent investigation of safety hazards and thought perhaps the enclosed material prepared by Mr. Hamm would be of interest to you and to your staff.

Most sincerely yours,

JOHN R. GAILEY, Jr.

YORK, PA., *December 18, 1966.*

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C.

GENTLEMEN: I wish to describe the following experience with a purchased television set of Japanese origin which had the following tag pasted to the back: "Commodore Model PTV–12. This receiver complies as of date of manufacture with FCC rules and regulations Part 15, Subpart C (Ref. Certification No. IMI–14–64T)."

I bought this portable TV set with separate metal base from Field's Department Store, 351 Loucks Road, York, Pa., in 1965. This set proved to be a death trap which caused my wife and myself to have several electric shocks by touching the casing or the base inadvertantly when opening or closing the hot air

vent on the wall near the TV set. As it was we only suffered an electric shock with minor discomfort. If our hands had been damp from perspiration or otherwise, as can easily happen, we would certainly have been electrocuted because the shock was serious as it was, and as the resistance of the body would have decreased from between 100,000 to 600,000 ohms for dry skin to approximately 1,000 ohms for damp skin, and the current going through the body would have increased accordingly.

I therefore consider the equipment defective and life-endangering, and the company manufacturing the TV set and the one selling it should be called to account.

On the included sketch the setup is shown. There is a 120-volt indication on a voltmeter. After consulting with electricians I could eliminate that, but people totally ignorant of the danger, like we ourselves had been, could easily be killed.

I do not know if yours is the agency to submit this problem too. Can you tell me if it is legal to sell TV sets as described, and if it is not, what steps I can take to help prevent danger to others from similar sets, such as complaining to the district attorney or to State or government departments concerned with safety?

Very truly yours,

HANS W. HAMM.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., December 29, 1966.

HANS W. HAMM,
York, Pa.

DEAR SIR: This is in reply to your letter of December 18, 1966, which refers to a Japan-made receiver from which you received several electrical shocks. We are forwarding a copy of your letter to the electronics division of the Japan Light Machinery Information Center, 437 Fifth Avenue, New York, N.Y. 10016, for their information.

The certification seal on this receiver relates only to the FCC requirement for interference suppression. See the enclosed public notice describing this requirement.

The requirements for operational safety of electrical devices vary through the United States and can be determined from municipal or local government codes, and would be under the immediate jurisdiction of a specific city or county government.

Very truly yours,

BEN F. WAPLE, *Secretary.*

(Enclosure: Japan Light Machinery Information Center, 437 Fifth Avenue, New York, N.Y. 10016.)

JAPAN LIGHT MACHINERY INFORMATION CENTER,
New York, N.Y., January 6, 1967.

Mr. HANS W. HAMM,
York, Pa.

DEAR MR. HAMM: Your letter of December 18 was forwarded to this office by the Federal Communications Commission in Washington, D.C.

We in turn have sent it on to the distributor and importer of the set, the Commodore Import Corp., 507 Flushing Avenue, Brooklyn.

They informed us that yours is the first time a problem of this type has been brought to their attention, and that they will run some tests to see how the problem arose. They did point out to us that the PTV–12 has a nonconducting plastic cabinet fastened with recessed screws. Your diagram indicates the set has a coated metal cabinet. Being unfamiliar with that particular model we do not know of what the cabinet is made. However, no one doubts your findings.

We have also forwarded copies of your letter to appropriate agencies in Japan, with our recommendations that inspection standards for Japanese products be modified to eliminate this problem.

The question of electrical safety is as important to us as it is to domestic manufacturers, and we have always supported community efforts to have electrical safety codes in local ordinances, such as several States and cities have. We do not believe your State or community has such an ordinance.

Perhaps the most well known is the code of the city of Los Angeles, which requires a safety seal on any electrical product sold in the city limits.

Very truly yours,

ROBERT E. GERSON,
Electronics Division.

[From: Architect's and Engineer's Third Party Negligence Liability, Western Reserve Law Review, 1959. Author: George M. White]

General Tort Law

Modern tort law concerning liability to third persons not parties to a contract finds its roots in *Winterbottom* v. *Wright*. The rule of that case was held for many years to mean that there was no liability of a contracting party to one with whom he was not in privity. A gradual erosion of that rule began to take place shortly after its inception. Exceptions where liability was found included the seller of chattels who knew that the chattel was dangerous for its intended use, and also instances where the chattel was of a type inherently dangerous to human safety. The famous *MacPherson v. Buick Motor Co.* case put the quietus on the *Winterbottom* rule, at least insofar as chattels were concerned. It was held, in effect, that there was a responsibility on the part of the manufacturer of chattels to the ultimate consumer which rested not upon the contract, but upon the relation arising from the purchase and the foreseeability of harm if proper care in the manufacture were not used.

Protect Your Men—Ground Electrical Tools

(By M. W. Hamm, consulting engineer, York, Pa.)

Metal parts of any tool, machine, or structure can become conductors for a current because of damage to electric wiring and insulation. Protection for the human body is provided by a low-resistance path from metal to ground, which bypasses most of the current. Such a path never bypasses all of the current if the human body is not insulated from the ground, but, correctly designed, will make the remaining current harmless.

To receive an electric shock, a person must become part of an electrical circuit and the current must flow through his body. The relationship of current to resistance, as expressed by Ohm's Law, is the basis for protection of persons by the grounding of tools and machines.

Ohm's Law is expressed as:

$$\text{I (amperes)} = \frac{\text{E (volts)}}{\text{R (ohms)}}$$

It is the amount of current (I) passing through the human body that spells danger. According to Ohm's Law (I=E/R), current increases with voltage (E) and decreases with the resistance (R). The amount of current which is dangerous is surprisingly small. See table.

The amount of current flowing through a metal ground connection or the person is inversely proportional to their respective resistance.

Resistance of a circuit for the small amount of current which constitutes danger and may spell death is usually insufficient for protection. However, the skin of a human does furnish some resistance provided that it is dry. Clothing also affords protection. Dry skin may have a resistance of 100,000 to 600,000 ohms but even the smallest amount of moisture, including perspiration, will reduce this to 1,000 ohms or less.

So-called low voltages are dangerous as can easily be calculated from Ohm's Law and the table. A voltage of 50 or less gives no assurance that electric shock cannot occur.

Stationary equipment can be permanently grounded and thus made safe. A low resistance path to ground is created by connecting all metal parts through a heavy wire to a water pipe, or to a metal grid buried eight feet below the ground surface. Both connection and grid should be noncorrosive and should be frequently checked for low resistance. If plastic fittings are used and the line is dry, select a connection where the metallic path to ground is uninterrupted.

Electrically powered handtools and similar portable equipment require a more involved procedure to make them safe. Some products come equipped with three-wire conductors and plugs. For these it is merely necessary to provide three-wire receptacles and to wire the third terminals to a water pipe or other reliable ground. A properly connected green wire of a three-wire system serves as the ground connection.

Where a three-wire connection is not provided, it is still possible to use a three-wire cord. Connect one end of the green wire to the metal housing of the

tool or instrument and the other end to a water pipe or other ground. It is also possible to use a three-wire plug at the far end with three-wire receptacles which are properly grounded.

Effects of electric shock[1]

Current flow in milliamperes:

Less than ½	No reaction.
½ to 2	Threshold of perception.
2 to 10	Muscular contraction (mild to strong).
5 to 25	Painful shock, inability to let go.
Over 25	Violent muscular contraction.
50 to 200	Ventricular fibrillation.
Over 100	Paralysis of breathing.

[1] Small current flows can result in a variety of physical reactions.

ELECTRICAL SAFETY RULES

1. Electric fixtures and equipment must be placed so that a person will not be able to touch them and a grounded pipe (e.g., gas or water) at the same time. This also pertains to other grounded objects like radiators, railings, floors, and stairways of metal or any other metal parts not insulated.
2. Insulation must be inspected regularly for wear.
3. Exposed conductors at rear of switchboards and open switches should be covered.
4. Open wiring and other unsafe wiring practices must be avoided.
5. Accidental energizing of metal parts by faulty insulation is possible; minimize danger by grounding.
6. Work should not be done on "hot" low-voltage circuits, or on "hot" circuits thought to be "cold."
7. Fuses must not be replaced by hand on live circuits.
8. For boiler work and similar jobs inside metal housings, 6 volts should be used for lighting and not more than 30 volts for power.
9. Any equipment giving the slightest shock must be removed from service and reconditioned by a qualified electrician.
10. Extension lights must not be used without guards. A broken light bulb can cause electric shock.
11. All repairs must be done by qualified electricians.
12. Tested rubber gloves, boots, and mats must be used when working in damp locations.

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