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HEARINGS BEFORE THE COMMITTEE ON COMMERCE UNITED STATES SENATE NINETY-FIRST CONGRESS

FIRST SESSION

ON
NOMINATIONS OF

NOVEMBER 13, 1969

ROBERT C. GRESHAM TO BE A MEMBER OF THE INTERSTATE
COMMERCE COMMISSION

NOVEMBER 18, 1969

CASPAR W. WEINBERGER TO BE CHAIRMAN OF THE FEDERAL
TRADE COMMISSION

DECEMBER 18, 1969

DOUGLAS W. TOMS TO BE DIRECTOR OF THE NATIONAL HIGH-
WAY SAFETY BUREAU

Serial 91-38

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HEARINGS
COMMITTEE ON COMMERCE
UNITED STATES SENATE
NINETY-FIRST CONGRESS
FIRST SESSION

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(II)



CONTENTS

	Page
Gresham, Robert C., statement.....	1
Biography.....	2
May, Hon. Catherine, U.S. Representative from Washington.....	36
Toms, Douglas W., statement.....	35
Biography.....	37
Weinberger, Caspar W., statement.....	5
Biography.....	11

ADDITIONAL INFORMATION

Dingell, Hon. John D., U.S. Representative from Michigan, letter of November 7, 1969.....	27
Dixon, Hon. Paul Rand, Chairman, Federal Trade Commission, letter of August 29, 1969.....	28
Holifield, Hon. Chet, U.S. Representative from California, letter of No- vember 17, 1969.....	9
Lipscomb, Hon. Glenard P., U.S. Representative from California, letter of November 17, 1969.....	9
Mailliard, Hon. William S., U.S. Representative from California, letter of November 17, 1969.....	10
Pelly, Hon. Thomas M., U.S. Representative from Washington, letter of December 15, 1969.....	37
Reagan, Hon. Ronald, Governor, State of California, letter of November 17, 1969.....	8
Spitz, Louis P., executive director, American Association of Motor Vehicle Administrators, letter of December 8, 1969.....	37
Waters, Laughlin E., Nossaman, Waters, Scott, Krueger & Riordan, letter of November 19, 1969.....	33

NOMINATION OF ROBERT C. GRESHAM, OF MARYLAND, AS A MEMBER OF THE INTERSTATE COMMERCE COMMISSION

THURSDAY, NOVEMBER 13, 1969

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

The committee met, pursuant to notice, at 9:35 a.m., in room 5110, New Senate Office Building, Hon. John O. Pastore, presiding.

Present: Senators Pastore and Cotton.

Also present: Representatives Bow of Ohio and Mahon of Texas.

Senator PASTORE. This hearing will please come to order.

The business before this committee today is the nomination of Robert Coleman Gresham. The meeting was to have been chaired by Mr. Hartke, but he has been delayed, and rather than hold up some of the busy people who have come here to testify, I have called it to order.

Mr. Gresham, would you please come forward?

Mr. GRESHAM. May I bring my supporters up here?

Senator PASTORE. Yes. We are honored today to have two distinguished Members of the House of Representatives, both close and dear friends of mine. The Chair will recognize first Congressman George H. Mahon, of Texas.

Mr. MAHON. Mr. Chairman, I come without credentials, without portfolio—

Senator PASTORE. But with a lot of prestige in the Congress.

Mr. MAHON. I thank you very much.

I have no prepared statement. I know Bob Gresham, I have known him for years. I have worked with him closely for about 4 years as the assistant to the minority. You would not know whether he was assistant to the majority or the minority, because he has worked with the whole staff in a cooperative way. He has worked with me, and he has worked with all of us on the many difficult problems confronting us in the Committee on Appropriations. I have found him to be utterly reliable, I have found him to be sound; I found that he doesn't panic, I found that he knows how to deal with people. I have found that he is the kind of man that will do credit to the Government in a position of responsibility.

I am glad to vouch for him and I bespeak your favorable consideration of him as a member of the Commission.

I will be glad to respond to any questions if there are any questions that might be desired. As I say, Mr. Gresham is with us daily, and you evaluate people when you are with them daily. Of course, you know about his background. No doubt the committee has information

about his work with the FBI and in other capacities. By me and by my associates on the Committee on Appropriations, and there are 51 of us, he is held in the highest esteem and respect.

Senator PASTORE. The committee appreciates that tribute. I do not have any questions. Do you have any questions, Mr. Cotton?

Senator COTTON. No, indeed, except to welcome Mr. Mahon here to this committee and simply say to him that I have the highest respect for the nominee. Certainly, Mr. Mahon's words would give me that respect if I did not have it before.

It is, however, with some reluctance that I call the attention of my distinguished friend from Texas to the fact that a southerner is taking a seat formerly occupied by a New England Commissioner. We are out of the picture at least for the time being, but it is about the first time we have not had everyone on it from Texas, so I guess I am reconciled.

Senator PASTORE. We are also honored to have Congressman Bow of Ohio, who I repeat is a very close and dear friend, and highly esteemed by the Congress of the United States. We will hear from him.

Mr. Bow. Mr. Chairman, I am delighted to have the opportunity to testify before this committee on behalf of Robert Gresham. He has been my staff director as minority in the Appropriations Committee for 4 years. Prior to his coming to the committee, he was with the State chambers of commerce for some years and 15 years with the FBI. He came to me with very high recommendations from both the FBI and the State chambers of commerce, and since being on the staff has been of great help to me. I have found him to be industrious in preparing the material which we need and most of all quite loyal, and I am very delighted to have the opportunity, Mr. Chairman, to recommend without qualification Mr. Gresham for appointment on this Commission. I am sure he will serve the Government well. He has a legal mind, some legal background, and I am sure will make an excellent Commissioner.

Senator PASTORE. Let the record show that Senator Tydings, of Maryland, has no objection to this nomination.

We have your biographical background here, Mr. Gresham. Would you like to add anything to it?

Mr. GRESHAM. I do not think so, Senator.

Senator PASTORE. It is rather complete.

(The biographical statement follows:)

BIOGRAPHICAL DATA ON COMMISSIONER-DESIGNATE ROBERT COLEMAN GRESHAM

Born November 12, 1917, at Booneville, Mississippi. Educated at Grenada High School, Grenada, Mississippi; Sunflower Junior College, Moorhead, Mississippi, A.A. degree with honors 1938; Southeastern University, Washington, D.C., B.C.S. degree with honors, also Accounting Major, 1942; attended George Washington University, Washington, D.C., School of Government, taking courses in accounting, money and banking and commercial law.

From June 1938 to January 1953, worked in several different capacities in the Federal Bureau of Investigation. From 1938 to 1942 clerical and supervisory personnel duties in the Administrative Division of the F.B.I.; 1942-46 investigative and liaison duties at Philadelphia, New York City and Washington, D.C.; 1946-51 Special Agent Supervisor in both the Domestic Intelligence Division and the Administrative Division; 1951-January 1953 an executive assistant to the Associate Director F.B.I., administered personnel and general management functions of the Bureau.

From February 1953–December 1965 employed as Assistant Director of Research, Washington Research Office, Council of State Chambers of Commerce, 1028 Connecticut Ave., NW., Washington, D.C. 20036. Duties included research and preparation of studies for interested business members on a variety of federal fiscal programs, e.g. taxes and spending, social security, unemployment compensation and labor-management relations.

From December 15, 1965 to present employed as Minority Staff Director, House Appropriations Committee, Washington, D.C. His duties include the conduct of research and preparation of analyses of the Federal Budget and matters relating to appropriations and expenditures; maintenance of liaison with Members of the Appropriations Committee and its staff and provides assistance as needed; maintains liaison with the Executive branch of Government on matters relating to appropriations.

Mr. Gresham is married and his wife's maiden name was Katherine Wootten. They have two children, a son, D. Jackson Gresham and a daughter, Robin Gresham Groseclose. Both children are married and there are three grandchildren. Mr. and Mrs. Gresham currently reside at 14712 Claude Lane, Silver Spring, Maryland.

Senator PASTORE. Have you any interest, financial or otherwise, that would be inimical to your serving with impartiality?

Mr. GRESHAM. No, sir; I have some small stock investments, and I am a member of the Hill Investment Club but none of those are stocks of transportation companies; surface transportation companies.

Senator PASTORE. Have you submitted that data to the committee?

Mr. GRESHAM. I have, sir; yes, sir.

Senator PASTORE. I merely want to say that the Chair has known this nominee for a long time. I have met you time and time again in our conferences. I have always found you to be a fine gentleman, talented, respectable, and imbued with the public interest.

Now you are coming on the Commission as a Republican?

Mr. GRESHAM. Yes.

Senator PASTORE. The law requires a certain amount of split?

Mr. GRESHAM. That is right.

Senator PASTORE. Any questions, Mr. Cotton?

Senator COTTON. Yes.

I note that you have a financial interest in a concern that owns stock in 10 corporations. None of those corporations are common carriers?

Mr. GRESHAM. No sir.

Senator COTTON. This question I want in the record, and I obviously am beating somebody else over your head. Have you satisfied yourself that none of those corporations own a single share of stock in some common carrier?

Mr. GRESHAM. No, Senator, I have not checked that, but that investment is so small, I will be happy to dispose of it if there is one.

Senator COTTON. You are fortunate to be here today, because it may be that the Senate is going to lay down a new test as soon as we vote on Judge Haynsworth. Future nominees may have to know everything about every corporation in which they own one single share of stock. Therefore, I believe you are fortunate to be here now before there is any possibility of that kind of a rule being laid down.

Mr. GRESHAM. I shall be pleased to dispose of the stocks if any one of those companies owns transportation stock.

Senator COTTON. I assure you that I have the highest confidence in your integrity. I also note your biographical sketch. I would say it is rather good indeed.

I just want the record to show—and here again I am complaining—if there is someone here who has access to the White House, and I see a couple of people in the audience who do, I would call attention to the fact that, subject to your confirmation, the makeup of the Interstate Commerce Commission will be as follows: the nominee is technically from Maryland, born, raised and educated in Mississippi—one from West Virginia, one from Maryland, one from Florida, one from Georgia, one from Ohio, one from Texas, one from Illinois, one from Kansas, one from Kentucky, and one from California. New England always has had representation on the Interstate Commerce Commission, and with the vicarious state of our transportation, I hope that when the next vacancy occurs that we will have another New Englander appointed.

Does the chairman join me in that hope?

Senator PASTORE. I do. But I also would sincerely hope that this nominee will have the sense of fairness and justice that regardless of whatever area of the country is involved, that he will mete out justice with equality to all sections of the country, whether it be the North, the South, the East, or the West. I think sometimes we are apt to overdo where an individual comes from. I think the character and the integrity and the sense of fairness of the individual is ultimately the thing that counts. Knowing this nominee, and I think my colleague from New Hampshire will share this sentiment with me, I know he will act with fairness to every section of America.

Mr. GRESHAM. You can be assured that I will do so.

Senator COTTON. I say to the chairman I certainly do share everything he has said. I think not only this nominee but all the present members of the Commission, as far as I know, would be scrupulously fair to every section of this country. However, I think it can be added that a person from a certain section is more familiar with the problems of that section because of his residence there and his years of knowledge of its problems than he would be with the particular problems in the rest of the country. To that extent I always feel that some geographic distribution on these Commissions is desirable. This does not reflect on the fairness of any member. I agree with the chairman that you will be fair and sympathetic with the needs and claims of every section of the country.

I thank you, Mr. Chairman.

Senator PASTORE. Is there anyone in this room who desires to speak for or against this nomination?

Mr. Mathias from Maryland had hoped to be here to introduce this nominee as well as our two distinguished Congressmen. He has been delayed in Philadelphia. He is on his way in but cannot make it in time.

There being no further witnesses, this hearing comes to a close.

We thank all who have come here to testify.

(Whereupon, at 9:50 a.m., the committee was adjourned.)

CASPAR W. WEINBERGER, OF CALIFORNIA, TO BE CHAIRMAN OF THE FEDERAL TRADE COMMISSION

TUESDAY, NOVEMBER 18, 1969

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

The committee met at 9:40 a.m. in room 5110, New Senate Office Building, Hon. Warren G. Magnuson (chairman of the committee) presiding.

Present: Senators Magnuson, Moss, Hartke, and Scott.

Also present: Senators Cranston and Murphy; Representative McCloskey, 11th District, California.

The CHAIRMAN. The committee will come to order.

We have before us this morning the nomination of Caspar W. Weinberger to be Chairman of the Federal Trade Commission. The Chair has a short opening statement that he would like to read.

There will be some other Senators here when questioning occurs, but we have a pretty busy day ahead of us in the Commerce Committee.

Mr. Weinberger, would you please come forward?

We also have Senator Murphy, Senator Cranston, and Congressman McCloskey. We would be glad to have you all up here.

May the chairman say that the Commerce Committee is looking forward to the opportunity of considering your nomination to the Federal Trade Commission. This Commission is very important to this committee. I am sure that you realize the task that confronts the new Chairman in light of so many recent criticisms of the operation of the Federal Trade Commission which could damage a great deal of the morale down there and interfere with the important mission of the Federal Trade Commission.

So I am hopeful that you will help maintain the right kind of morale by recruiting strongly and expanding the existing Trade Commission programs in order to perform the job well. This will require a great deal of executive ability.

The Trade Commission is an arm of Congress, and we have entrusted to that agency numerous tasks that require a great deal of attention and a great deal of fortitude not to respond to any pressures that come from any place. No matter what kind of a case you have before the Federal Trade Commission, there is somebody for it and somebody against it and they exert all kinds of pressures, one way or another, maybe rightfully so, but you have to just hold fast and take a look at the thing as objectively as you can.

I suspect that anyone who has been director of finance of the State of California is quite experienced in that field, I would think, wouldn't you, George?

Senator MURPHY. I would think so. He had better be, under the conditions that he took the job.

The CHAIRMAN. So the committee's responsibility is to ascertain whether or not you are the person capable of moving the Federal Trade Commission forward, and I think I speak for the full committee that Chairman Dixon has done a very good job under very trying circumstances but there is a new leadership that is needed and I hope that you can furnish that.

You come to the committee with some impressive credentials, and I am sure you are prepared to do the job required.

One thing, at the outset, I want to say: If you have any proposals, whether they be legislative or otherwise, that you feel this committee can help you carry out, feel free to come up and tell us about it. We don't always have to have formal meetings or a piece of legislation. We can work many of these problems out together, and you will find this committee will work with you when you have some of these very serious problems that are becoming more and more complex because of the complexity of the marketplace today.

As the two Senators know, we have taken the lead here in this committee on scores of what we call consumer legislation, and we are hopeful that we can see that the American public gets their dollar's worth out of a dollar spent in the marketplace.

There is an epidemic of mergers, which you well know, a rash of mergers. There is the problem of advertising, the problem of the use of drugs and the Food and Drug Administration. You have got to work with all those people, and the FCC, too, on all these things.

So, it is a tremendous job and one fraught with a lot of disappointments and frustrations, but it can be done. But you are an arm of Congress. The Executive appoints you, but that is where we cut the tendon, right then and there.

We feel free to call on you, not to advise you or suggest that you should rule on a case one way or another, but surely to call upon you on the status of a case, and if Senator Cotton were here, he always says when a constituent comes to him and wants to know the status of his case in front of an independent agency, he is going to call up and find out or contact you.

We do that, because we are trying to get at regulatory lag. That is the main problem. You are going to have that down there, too. I don't know the full answer to it, but probably it is administrative reorganization that is needed in some cases. But there is a great deal of regulatory lag, and I honestly believe, and I am sure my fellow Members of Congress would agree with me, that sometimes a fellow would rather hear a "No" than drag it on for months and months before a decision is reached.

With that, we would be glad to hear from you, Senator Murphy, regarding the nominee.

Senator MURPHY. Thank you, Mr. Chairman, and members of the distinguished Senate Commerce Committee.

I have had many occasions to discuss with many of you the great diversities to be found in the great State of California with its wide-ranging multiplicity of activities and people. I, of course, as a Californian take great pride in the abundance of diversity that my State has to offer, just as today I take great pride in presenting to you a

fellow Californian who in so many ways personifies the abundance and diversities of our great State.

"Cap" Weinberger, whose career in public service has been as abundant, varied, and diverse as the many wonders of California, if confirmed as Chairman of the Federal Trade Commission, I assure you will be a welcome asset to the Federal Government.

I know of few men in California State government, or throughout the Nation for that matter, who have had such a diverse successful career in public life.

Mr. Weinberger has served as a law clerk to the U.S. circuit judge. He has been one of the ablest and hardest working members of the California State Assembly, where I am pleased to say he was selected as the most able member of the legislature in a poll taken of all the newspaper correspondents who covered the legislative session in the year 1955.

He was both newspaper columnist and TV moderator for the California media. He was the chairman of the Commission on California State Government Organization and Economy in the years 1967 and 1968.

For the past year and a half he has served with distinction as director of finance in California—the most important appointive position in the State government.

This varied background has prepared Mr. Weinberger well for he has brought to public service an understanding of many facets of government and business that few men obtain.

Mr. Chairman, as a lifelong Californian, "Cap" Weinberger was born and attended public schools in San Francisco. He received his A.B. from Harvard University magna cum laude and his L.L.B. from Harvard Law School, where he was a member of the Phi Beta Kappa Society.

He served in the U.S. Army for 4 years during World War II and for more than 3 years was a member of General MacArthur's intelligence staff in the 41st Infantry Division in the Pacific.

Mr. Weinberger has been in the private practice of law since 1947. He was a member of the California Assembly for the 21st Assembly District in San Francisco from 1952 to 1958. During these years he served ably and was regarded by many as the hardest working legislator, being reelected twice without opposition.

In the legislature he served as chairman of the assembly committee on government organization and chairman of the joint assembly-senate subcommittee on alcoholic beverage control.

His recommendations of this latter led to the passage by the legislature and adoption by the people of the constitutional amendment reorganizing California's alcoholic beverage control system.

He was also instrumental while in the assembly in securing passage of legislation creating the unified responsible department of water resources.

For 9 years, from 1959 to 1968, Mr. Weinberger was author of the semiweekly column on California State government running in numerous California newspapers, and was moderator of "Profile: Bay Area," KQED's channel 9, San Francisco, regular weekly local affairs-public affairs program.

He was previously staff book reviewer for the San Francisco Chronicle and San Francisco magazine.

Mr. Chairman, it is my special privilege to present to my esteemed colleagues a man that I know is an especially able Californian, to recommend him for your most favorable consideration.

I would only add one last thought, that we are very fortunate in having a man of "Cap" Weinberger's caliber and ability in Government today, and I think he will be a great addition in an area, as the chairman has so eloquently pointed out, that needs a man of great talent, a man of great determination, and great skill and experience.

Thank you very much, Mr. Chairman.

The CHAIRMAN. We appreciate your statement.

Senator Cranston?

Senator CRANSTON. I am delighted to join with my senior colleague George Murphy in speaking to you about Caspar Weinberger, who is one of the most outstanding men, both in private and public life in the State of California.

I have known "Cap" for many years, admired him through many years. We have been adversaries a good part of this time in politics in California, but every now and then we have found ourselves working together on some issue. I do not know his views on the specific responsibilities he will have in the position for which he has been nominated and which you are considering, but I do want to say that he will bring to bear upon those responsibilities great intelligence and great integrity and great ability that he has demonstrated both in the legislative arena in California, where, as George Murphy said, he was immediately an outstanding leader upon entry into the assembly, great administrative skills that he has demonstrated in his capacity as director of finance for California and in heading many commissions that have had important duties assigned to them from time to time in California, a great knowledge of the law that he brings from his outstanding career with a great firm in San Francisco.

I couldn't speak more highly of any member of the opposite party in California than I can of Caspar Weinberger.

The CHAIRMAN. We appreciate that statement. I was reminded of the fact that when I kept referring once or twice or three times to this being an arm of Congress, with service in the State legislature, I think he is quite conscious of that relationship with the agencies.

He should have with that experience an awareness of our problems vis-a-vis the agency.

Congressman, do you want to add something to this?

Mr. McCLOSKEY. Just a few words, Mr. Chairman.

The CHAIRMAN. I might say, Congressman McCloskey, that we have letters from Governor Reagan, Congressmen Holifield, Lipscomb, and Mailliard, which we will put in the record, all these letters favoring the nomination.

(The letters follow:)

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, November 17, 1969.

HON. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: It is my understanding that your Committee is currently conducting hearings concerning the confirmation of Caspar W. Wein-

berger as Chairman of the Federal Trade Commission. I am writing to provide some background information on Mr. Weinberger that I hope will be of assistance to you in the Senate.

Cap Weinberger has served for the past two years as Director of Finance of the State of California. During this time he has gained recognition by legislative, civic and governmental leaders, of all political persuasions, as one of the most outstanding executives participating in the government of our State. He has demonstrated a dedication and ability in his work that is matched only by the highest personal qualities of character and integrity.

Particularly relevant to the inquiry of your Committee, Cap Weinberger has displayed sound judgement, excellent managerial and great organizational ability in directing the fiscal affairs of California. These attributes, and his thorough understanding of governmental processes, were also displayed during his previous service as Chairman of the Commission on California State Government Organization and Economy (known as California's "Little Hoover Commission").

In his many contributions to the formulation of state policy, both as a legislator and as a key member of the Executive Branch, Cap has also shown a keen interest in consumer affairs and in proper and effective business regulation for the protection of the general public.

On the basis of his outstanding record of distinguished public service in California, on the basis of his accomplishments as a key member of this State's management team, and on his excellent qualifications for his proposed appointment, I enthusiastically recommend Caspar Weinberger to you and the members of your Committee and encourage your favorable action on his nomination.

Sincerely,

RONALD REAGAN, *Governor.*

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 17, 1969.

Senator FRANK MOSS,
*Chairman, Consumer Subcommittee, Senate Commerce Committee,
Old Senate Office Building, Washington, D.C.*

DEAR SENATOR MOSS: I am pleased to recommend the appointment of my fellow Californian, Caspar Weinberger for membership on the Federal Trade Commission.

Mr. Weinberger is a highly competent person, having served with distinction in various elective and appointive positions in the State Government of California. His most recent responsibility was serving as Director of Finance, where he did a fine job.

Mr. Weinberger has an excellent reputation, and in my opinion will perform his duties in an honorable and efficient manner.

Sincerely yours,

CHET HOLIFIELD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 17, 1969.

Hon. WARREN G. MAGNUSON,
*Chairman, Senate Commerce Committee,
New Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: I am enclosing herewith a statement in support of the nomination of Mr. Caspar Weinberger for the position of Chairman of the Federal Trade Commission.

It is my understanding that the Committee has scheduled a hearing on Mr. Weinberger's nomination November 18 and I would greatly appreciate any consideration the Committee may give to the statement.

Sincerely yours,

GLENARD P. LIPSCOMB,
Member of Congress.

STATEMENT OF REPRESENTATIVE GLENARD P. LIPSCOMB

Mr. Chairman, I appreciate very much the opportunity to present this statement to the Senate Commerce Committee on behalf of Mr. Caspar Weinberger of San Francisco, California, who has been nominated for the position of Chairman of the Federal Trade Commission.

President Nixon in my opinion has made an excellent choice in nominating Mr. Weinberger for this important post. He is by training and experience highly qualified to serve in this position. I am sure he would do so with complete dedication.

I have had the pleasure of knowing Mr. Weinberger for a number of years and can attest to his high qualifications. We served together in the California Assembly prior to my coming to Congress. He has been a practicing attorney for a number of years and has a rich background of experience in a variety of community and public services. Since March 1968 Mr. Weinberger has been Director of Finance for the State of California.

Cap Weinberger would bring to the Federal Trade Commission a wealth of ability and quiet zeal and determination to perform his very best for the public good. He is the type of person who gets results and I am sure would do a very fine job as Chairman of the Federal Trade Commission.

I would respectfully urge the Committee to give Mr. Caspar Weinberger every consideration for the position of Chairman of the Federal Trade Commission.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 17, 1969.

HON. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
New Senate Office Building, Washington, D.C.

DEAR MAGGIE: I am pleased to have this opportunity to express my strong endorsement of Mr. Caspar W. Weinberger's nomination as the new Chairman of the Federal Trade Commission, and I respectfully request that my statement be made a part of the permanent record in this regard.

I have known Cap both as a close personal friend and colleague in public service for over 20 years, and can assure you that a man of his calibre will indeed be an asset in what I feel has become one of the toughest positions in the higher echelons of Federal government.

During the past decade the Commission's scope, mandate, and responsibilities have rapidly expanded and broadened, pushing it into a position of rising importance, power, and influence, especially felt in our current, sprawling consumer-oriented American scene. I firmly believe Cap Weinberger is a man eminently well qualified to administer such an Agency.

Although my home State of California will be losing a fine State Director of Finance, I urge your swift favorable consideration of this nomination.

With best wishes,
Sincerely,

WILLIAM S. MAILLIARD,
Member of Congress.

Mr. McCLOSKEY. Mr. Weinberger and I live in the same congressional district just south of San Francisco.

The CHAIRMAN. That is the low-rent district down there?

Mr. McCLOSKEY. Sometimes.

Before I was elected to the Congress, I practiced law in the community for some 15 years, and, as the chairman knows, there are no more critical colleagues than one's fellow members of the bar.

I think I can speak to you for the San Francisco and the bay area bar that this man has ability, integrity, and judgment. We don't think we could send a better man to take on this challenging job of restoring faith in the Federal Government than "Cap" Weinberger.

We know he is going to do an excellent job. I think I can speak for his most critical colleagues, his fellow members of the bar.

Senator MURPHY. Mr. Chairman, I would like to add, as you can see, Caspar Weinberger has very strong bipartisan support. All of us in the Congress from California have the greatest respect and regard for him.

There hasn't been anything important that has happened in California to my knowledge in the last 15 years that we have not been told to talk it over with "Cap" Weinberger first to get his mature judgment.

I can truthfully say I can think of nobody in the State that gives me a greater honor to suggest for a position of this importance than my good friend Caspar Weinberger.

I leave him in your hands. I thank you for your courtesy.

The CHAIRMAN. George, I don't know particularly about you, but these bay area people have a great faculty of arguing with each other, but once they get out of that area they close ranks, regardless of party or affiliation, religion or differences of view.

They are all for one and one for all once they get out of that area.

Mr. Weinberger, we will put your biography in the record in full. (The biography follows:)

CASPAR WILLIARD WEINBERGER—BIOGRAPHICAL NOTES

Born in San Francisco, 1917. Attended public schools in San Francisco.

Graduated from Harvard College, A.B. 1938 magna cum laude; LL.B. Harvard Law School 1941. Phi Beta Kappa.

Served in Army four years, entering as private in Infantry in 1941 and being discharged as Captain in 1945. Served over three years with the Forty-first Infantry Division in the Pacific and on General MacArthur's Intelligence Staff.

Law Clerk to United States Circuit Judge William E. Orr, Court of Appeals for the Ninth Circuit, 1945-47. In the private practice of law since 1947. Partner in law firm of Heller, Ehrman, White & McAuliffe.

Chairman of Republican State Central Committee of California 1962-64; Vice Chairman of Republican State Central Committee of California 1960-62.

Served six years in the Assembly of the California State Legislature (1952-58). Elected November 1952 from Twenty-first Assembly District in San Francisco; re-elected both in 1954 and 1956 without opposition. Chairman of Assembly Committee on Government Organization and Chairman of Joint Assembly-Senate Subcommittee on Alcoholic Beverage Control. Recommendations of this latter committee led to passage by Legislature, and adoption by the people, of the constitutional amendment reorganizing California's alcoholic beverage control. Weinberger's committee also secured passage of the bill creating the unified, responsible Department of Water Resources in the 1956 special session.

He was elected as the most able member of the State Legislature at the end of the 1955 session in a poll taken of all the newspaper correspondents who covered the legislative session in California.

For 9 years, from 1959 to 1968, he was author of a semi-weekly column on California State Government running in numerous California newspapers, and moderator of "Profile: Bay Area", KQED's (Channel 9, San Francisco) regular weekly local public affairs television program.

Formerly staff book reviewer for San Francisco Chronicle and San Francisco Magazine.

Served as Chairman of Commission on California State Government Organization and Economy ("Little Hoover Commission") 1967-68.

Appointed Director of Finance of California by Governor Reagan on February 1, 1968, effective March 1, 1968.

Member of: Bay Area Educational Television Association Board of Trustees; Boy Scouts of America San Francisco Council Executive Board; League of Women Voters of California, Inc. Advisory Committee; Mechanics' Institute Board of Trustees; St. Luke's Episcopal Church, San Francisco Vestryman; San Francisco Health Facilities Planning Committee; San Francisco Heart Association Board of Governors; San Francisco Planning & Urban Renewal Association Board of Directors; Young Men's Christian Association of San Francisco Governing Member; American Legion; Veterans of Foreign Wars.

Office: Partner in law firm of: Heller, Ehrman, White & McAuliffe, 44 Montgomery Street, San Francisco, California 94104.

Home: 2260 Forest View Avenue, Hillsborough, California 94010.

He is married and has a daughter and a son.

The CHAIRMAN. You have submitted to the committee a financial statement. This committee has a practice of not putting the financial statements in the record, but it is in the file for anyone to look at at, if he wishes.

By law we have to ask you your political affiliation, but I needn't ask you that because you have been chairman of the Republican State Central Committee.

Mr. WEINBERGER. That is correct.

The CHAIRMAN. I notice you have been a book reviewer of the San Francisco Chronicle and the San Francisco magazine. Consistent with your duties at the Commission and your previous experience, I am going to send you a book that the chairman wrote which you can review. It's called "The Dark Side of the Marketplace." I think it will be quite appropriate for you to review before you take your job.

Mr. WEINBERGER. I will be very interested in seeing it.

Senator Moss, do you have any questions?

Senator Moss. Thank you, Mr. Chairman.

I welcome Mr. Weinberger before the committee. I have had the opportunity to visit briefly with him in my office here and I know of him by reputation. He certainly has a most impressive list of experiences in the work he has done in California, which as the chairman has indicated is really two States, the bay area and the southern part, and I suppose nothing could be more complex than working for the government of California, unless it is to get into the Federal sphere where you have now been appointed to chair this most important administrative agency.

The Federal Trade Commission has come under criticism of all kinds, and particularly, as the chairman emphasized, with this great activity there is in consumer matters now, it will indeed be one of the most active and demanding administrative positions to be held in the Federal Government.

Mr. Weinberger comes with credentials that would indicate that he could do the job very well. I do have a number of questions I want to ask of Mr. Weinberger in order to get them on the record.

These first questions have been suggested to me by various people who have come to see me since the nomination was first announced. These people were concerned about the attitude that might be taken toward these problems.

As you are aware, Mr. Weinberger, the American Bar Association issued a report on the functions of the Federal Trade Commission. Have you read that report?

Mr. WEINBERGER. Yes, sir; I have.

The CHAIRMAN. May I say to the Senator from Utah, at this point or whatever point he wants, we have a very pertinent letter from the chairman of the Select Committee on Small Business of the House, John Dingell, relating to that matter. You may want to put it in the record someplace.

Senator Moss (presiding). Thank you very much, Mr. Chairman. We will put it in the record.

I will proceed with these questions. I am glad to have Senator Hartke with us now. Could you give me your general reaction first to the report of the American Bar Association? Do you agree with that generally?

Mr. WEINBERGER. Senator Moss, there were very strong criticisms the American Bar Association made. They reached very definite and almost unanimous conclusions.

The thing that struck me about the report was that it was parallel to a remarkable degree to the conclusions reached by the group of younger attorneys under Mr. Nader who had also examined the Federal Trade Commission.

I don't think that it is proper for me to say all those criticisms are correct or that they are all incorrect, because I have not had any opportunity to be associated with the Commission or to get behind, just the opportunity to chat with some of the people generally.

I was struck, however, by the fact that two very diverse groups, starting from presumably differing premises, reached the same conclusions, and that it would seem to me would be an indication that there must be some substance to at least some of those criticisms.

Senator Moss. Some of the industries that are concerned with acts that are administered by the Federal Trade Commission have raised problems with me. There was a recent article by Mrs. Margaret Dana, a syndicated columnist, who is a well-known consumer consultant, with respect to the labeling acts administered by the Federal Trade Commission, and her article concludes, and I will quote the last paragraph of it:

The laws that concern fabrics, garments, furs, and truthful and accurate labeling of these things are administered by the Federal Trade Commission as required by Congress.

I have steadily watched the serious and concerned way in which this agency looked after the consumer interest in this field of honest claims. Millions of women know very well how important to them and their family fabrics are.

I suspect all these women will resent vigorously the recent report of the American Bar Association which downgrades this FTC work as trivial and chides the FTC for bothering about all this textile labeling. Any intelligent woman knows that fabric honesty is not trivial.

I wonder if you agree with these conclusions of Mrs. Dana?

Mr. WEINBERGER. No, not entirely, sir. The impression I gathered from the American Bar report and from the other report was that they felt that this work had been well done. The criticism that I gathered was there had been perhaps too much emphasis, too great a proportion of the resources of the Federal Trade Commission devoted to this side of the work to the neglect of some other equally important aspect of this work.

I didn't gather that they thought this was all trivial or that it was being badly done. I gathered quite the reverse. I gathered that they had been very well done but too much time and resources of the agency had been devoted to this.

As acts of Congress that the Commission must enforce, there would seem to me to be not only no option within the Commission but there is a clear mandate to enforce them. The criticism that I gathered was they spent too much time on this and too little on some other matters.

Senator Moss. The ABA report recommended that the budget of the Bureau for Textiles and for Furs be reduced by one-half to two-thirds. It seems to me a reduction of that amount would affect the result—almost causing the abandoning of enforcement of the labeling laws.

Did you get that from the report, and would you agree with that?

Mr. WEINBERGER. I didn't get that from the report, Senator, no. I gathered that they felt that this was more of a routine nature and that it would be possible to do almost an equal amount of enforcement with a somewhat lower budget for that particular area of the work, and that if the total budget were to remain the same and the total resources of the Commission were to remain the same, then there should be some realignment of existing resources.

But if there were to be an increase in resources, those new and added assets should be allocated to other purposes than these. But I certainly did not gather that they were recommending any neglect of this function.

Senator Moss. Enforcement of these various acts, such as the Wool Products Labeling Act and the Fur Products Labeling Act and the Textile Products Labeling Act, and in fact the Flammable Fabrics Act, are all acts of the Congress, and enforcement is delegated to the Federal Trade Commission.

Now, do you believe that the Commission has authority to disregard the requirements of these acts if it doesn't agree with what Congress has set forth in the act?

Mr. WEINBERGER. By no means, sir. It would seem to me that any act of Congress or any duty assigned to the Commission would have to be carried out to the very best ability of the five Commissioners and the staff.

Senator Moss. But then we come back to the element of enforcement. If the ABA thinks that they are overenforced and wants to cut back on that particular activity of the Commission, isn't that, in effect, a partial nullification, at least, of the terms of the law if we cut back on the enforcement?

Mr. WEINBERGER. Not if the enforcement could be carried out at a lower cost and in perhaps a more efficient manner, a better organized manner, with more routine procedural methods of handling it.

As I gather, these particular cases ordinarily present fewer difficulties than many other rather complex assignments of the Commission. There either has been a mislabeling or a violation of the act. As I understood the criticism, it was somewhat easier to establish, and once established the enforcement procedure could be put on a more routine basis and it could move along considerably more easily than some other of the assignments.

This was the thrust of the criticism that I gathered. But I certainly wouldn't feel that these acts should be disregarded or ignored unless or until Congress repealed them.

Senator Moss. I think the American Bar report actually used the term that the work on these acts was trivial, dismissed the acts really as trivial, and that the Federal Trade Commission is bothering to give too much attention to a very trivial and unnecessary thing.

That gives me great concern. I want to know if you adopt that part of the American Bar report, that the purposes of the act are trivial.

Mr. WEINBERGER. No; I certainly wouldn't regard any duty assigned to the Commission by the Congress as trivial or unimportant. As I have mentioned, I don't think I am in a position to adopt or reject any of the recommendations of the American Bar or Mr. Nader's group or any other group that has been examining the Federal Trade Commission until I have had an opportunity to measure those criticisms against the actual facts which could obviously only come after I have had an opportunity to work within the Commission.

Senator Moss. There are, of course, quite a large number of misbranded wool and textiles that are flowing into the country now, and unless there is some regular enforcement this will continue to go on, and we have to look to the Federal Trade Commission for this purpose.

What is your feeling about enforcement of the Flammable Fabrics Act which has more to do with safety than misbranding?

Mr. WEINBERGER. I would think that was very clearly and obviously an extremely important act to which the full amount of time necessary to secure its rigid enforcement should be devoted.

Senator Moss. As you indicated, of course you are coming new to the Commission, and assuming the chairmanship, is it your intention to make a detailed study of the FTC operations during these first few months in office, and, if so, how do you expect to go about it?

Mr. WEINBERGER. I certainly do want to familiarize myself to the greatest extent possible and as soon as possible with the operation and workings of the Commission, and I would hope to do this both in this interim period, before I am able to assume the duties and immediately thereafter.

I think it is essential that any of the Commissioners do this. I am sure that all the Commissioners as they have been appointed have done the same thing. I would hope that it could be as detailed and intensive a study as possible.

I have already had some very valuable and helpful assistance from the present Commissioners, from Mr. Nicholson whom I will be succeeding, particularly, and this has been most useful, and I intend to continue my education along these lines just as rapidly and quickly as I can.

Senator Moss. Do you have any fixed program or policy yet on the recruitment of personnel that you have decided upon?

Mr. WEINBERGER. What I would like to do is to try to recruit the very best possible. I am sure this is an obvious desire. When I say these are plans of mine, I have no way of knowing whether or not they aren't plans that have been adopted by other members of the Commission from time to time in the past, but I would like to canvas the graduating class from the various law schools as thoroughly as possible to try to induce as many young lawyers to come down on perhaps an interim intern-type basis akin to the law clerkship.

I would like very much to do the same thing with some other Government agencies, to see if they might like to transfer from State government to the Federal Government where records in this field have been compiled and that give promise.

I would like to do it with some of the larger and smaller law firms and some of the public groups throughout the country who have

employed attorneys, because the lawyers obviously play a very large part in the work of the Commission.

I would like to do the same thing with the colleges and with the foundations with respect to economists, because there are a number of economists employed in extremely important positions, as you know, with the Commission, and again it seems to me that recruitment is perhaps the most important initial function that would have or that anyone in this position would have.

I think there are obviously some very capable, experienced able people on the staff of the Federal Trade Commission, and I would certainly hope to discover and locate those and have them moved into key positions if they are not already there.

Senator Moss. The FTC has been criticized in both the ABA report and the Nader report for being toothless, not having a sanctions policy for effective deterrent, and the reports also recommend that Congress give the FTC additional enforcement powers ranging from preliminary injunctions to criminal penalties.

What is your enforcement philosophy toward the FTC? Do you think that an effective sanction policy for deterrence can make more effective use of the FTC resources?

Mr. WEINBERGER. I think the Federal Trade Commission has very broad powers at the present time. They have the power under section V of the Federal Trade Commission Act which under the broadest possible terms authorize them to proceed against deceptive practices.

I think some followup after the reaching of decrees or judgments concerning individual cases or the acceptance of assurances of voluntary compliance would be very desirable. I think there may very well be some situations in which once an agreement is reached or a judgment is entered on a complaint that there may well not have been the desirable followup to insure that enforcement is taking place.

I think the injunctive power as proposed in the President's message or something similar to that would be a useful addition to the Federal Trade Commission power, but I do think they have very broad powers right now, and it would be primarily a matter of securing a proper enforcement and use of those tools that they possess.

Criminal sanctions I think are somewhat inappropriate for an administrative agency of this type with the Department of Justice equipped, as it is, with these criminal sanctions. But I think that the use the powers of the Commission has, accompanied by suitable followup to make sure that actual compliance is being obtained, would be a very desirable way to go about the enforcement of these laws.

Senator Moss. Do you intend, then, to have a regular followup to see that the voluntary compliance is in fact compliance?

Mr. WEINBERGER. Very definitely. I think that is an extremely important part of it. I can see where it is easy to lose track and lose control of these matters once the assurance is given to the Commission, but I think it essential that this be done for many reasons, not the least which is to be sure that the company or the person involved who has given the assurance is put on notice that his future conduct is going to be examined.

Senator Moss. This is one of the criticisms that has been leveled

against the Commission, that it didn't have any followup. It gets a followup compliance agreement and— then it promptly forgets about it and of course unless there is some followup we have no way of knowing that there has been compliance.

It has also been alleged that some of the FTC Commissioners complain they can't find out what their own staff is doing and thinking or not thinking. Do you have any idea of how you can keep closely in touch with the staff and know what is going on at the staff level?

Mr. WEINBERGER. I recognize the size of the problem and I am familiar with it on a much smaller scale in some of the work I have done in California.

I think here the primary thing is to have frequent liaison between not only the principal staff members and the Commission, but to have some of the staff people whose principal assignment is to carry Commission policy back to the staff so that there can be no misunderstanding as to what has been decided and carry staff recommendations and staff activity back to the Commission so that there will be full knowledge on both sides of what each is doing.

It is very easy to lose contact when you have organizations of that size.

Senator Moss. Mr. Weinberger, it is my understanding that the Federal Trade Commission has decided in a sense to go public about some of its activities. In the first place, the Commission has decided the complaints against firms will be made public as soon as they are issued, regardless of whether a firm signs a consent order.

Do you subscribe to this practice?

Mr. WEINBERGER. Generally; yes, sir. It has been my feeling that the public is usually very well served by a full knowledge of what public officials are doing, and I have never really found any situation in which the public interest was harmed by the fullest possible disclosure except for a certain number of situations such as one where there isn't any factual evidence and where an accusation that is unfounded can be potentially very damaging. But it seems to me if there is the evidence assembled which justifies the proceeding against a particular individual or company, why, the public is entitled to know that.

If the evidence is very tenuous and sketchy and it is in entirely preliminary form, I would have a different view. But if it is a serious enough situation to warrant the filing of a complaint on proper study, then, it seems to me proper that this be part of the record.

I understand this is substantially the Commission's policy at the moment. I think one of the advantages of this would be that there might be a diminishing number of situations which require the issuance of a complaint if it was known generally throughout the country that this would be accompanied by some publicity which couldn't help but be unfavorable.

I would hope that this would have a deterrent effect. I certainly don't believe in making public a lot of half supported accusations, because I think, as I say, these can be very damaging if the later facts come out and show that absolutely no violation has occurred.

I think a judicious application of this policy is very important. Generally speaking, I think the public has a right to know about these things, and I have never seen any harm that has come from the fullest possible disclosure within those limits of fairness.

Senator Moss. Will you also identify in your press releases companies involved in voluntary assurance of compliance?

Mr. WEINBERGER. I am not familiar with the present Commission policy on this subject. I would want to see what that is and what were the reasons that led to its adoption before I recommended any change in it.

Again, generally speaking, if there has been some violation but there is reason to suppose that this has been cured and will not occur again, it would seem to me that consistent with the Commission's policy, this is a fair matter for public disclosure and public comment.

If there has been a marginal case where there has been no real proof that any violation of the law has occurred but in order to remove any further consideration of the problem, of course, obviously subject to further audit, then, it might well be in the public interest that no particular mention of that situation be made.

But if there has been a violation of assurances that it is not going to occur in the future, it seems to me that one of the ways of assuring that assurance will be carried out would be an announcement of it.

Senator Moss. Would you also disclose the names of companies involved in advisory opinion rulings?

Mr. WEINBERGER. Well, again depending on the subject matter and the situation. If a company applies for an advisory opinion and the Commission after due consideration feels that the advice should be given along a particular direction, it would seem to me that the action of a public agency has been requested and the public agency has taken that action, and in the absence of some compelling circumstances it would seem to me there is no reason not to disclose what that action was.

An advisory opinion is an official action. I think you should start with the basic assumption it ought to be disclosed. There may be circumstances that would suggest otherwise. But normally in the absence of some compelling reason I think it should be disclosed.

Senator Moss. There have been instances where companies have been shielded by the refusal to disclose the advisory opinion proceedings. They go to the Trade Commission with some proposition and get an advisory opinion, and then they are able to continue in a function that may be marginal or questionable. Disclosure would bring it to light, and those who felt it was bordering on illegality at least could have their say about it.

Mr. WEINBERGER. There may well be situations where a public hearing on the request for an advisory opinion would be extremely useful in every way. I can conceive of some situations in which the desire to maintain competition might dictate otherwise. But generally speaking, as I have said, it would seem to me if you come to a Federal public body and ask for an advisory opinion, as is the case with those courts which issue advisory opinions, this is normally a completely public process and official action of the agency is involved and official action should normally be disclosed it seems to me.

Senator Moss. If I summarize, would I be accurate in saying that you come down generally on the side of disclosure? You believe that there ought to be open disclosure of the acts of the Commission and that it is only in certain instances that you have told me about where you think the allegations are unproved and, therefore, might be unfair that you would tolerate anything but full disclosure?

Mr. WEINBERGER. Or in certain other very narrow circumstances, such as I have mentioned. Yes, sir; that would be a very good description of what I feel about it.

Senator Moss. In the reports that we have had recently on the Federal Trade Commission there has been criticism leveled at the quality of managerial and policymaking personnel of the Commission. The Commission has been accused of making its personnel choices in response to the political whims from Capitol Hill.

I have heard it said that many of the severely criticized employees have boasted that no Commission Chairman would dare to fire them. How are you going to meet this dilemma?

Mr. WEINBERGER. It seems to me you meet it by the basic test that you want the most competent, able people that you can possibly get in all of the positions at the Commission, and some of them have very definite duties of a specialized nature that require expertise and some of them have a very definite requirement of managerial talent and there are other requirements.

It seems to me that if you use the basic test of trying to get the most able people for the particular specialty required, that this would be the best route to follow. I think it is fair to say in applying that test that I or anyone in this position would welcome the suggestions from anyone, and certainly there is no reason to suppose that Congressmen or Senators wouldn't have some very good suggestions to make, but in the final analysis the final responsibility would rest with the Commission, or in some cases with the Chairman, and under those circumstances I would want to fulfill that responsibility by trying to assure myself and the other Commissioners that we had obtained the most competent qualified person we could get and that would be the policy I would want to follow.

Senator Moss. One Commissioner has leveled criticism at Congress for its toleration or even instigation of a political spoils system in the appointment and advancement at higher staff levels of the Commission.

I want to assure you that you have my full support, and I am sure the full support of my fellow Senators, in eliminating any spoils system which may exist.

The American consumer deserves a Commission staff with the highest degree of professionalism and dedication to the public interest.

Mr. WEINBERGER. That is my feeling, and I am very glad to hear you say it, sir.

Senator Moss. I want you to know it is my feeling and I am sure it is the feeling of the other members of the committee. We have too serious a problem on our hands to tolerate anything that is even suspicious of being a spoils system.

Mr. WEINBERGER. I think, as Chairman Magnuson said, it is a very difficult job with complex duties assigned to it, and I think under those circumstances you would need and have to have assurance to the public that you have the most qualified people available, and this is the role I have in mind in response to this recruiting question that you asked me a few moments ago, about our plans for trying to recruit under these circumstances.

Senator Moss. Mr. Weinberger, I have a particular interest in the bill that is before us now having to do with the advertising of cigarettes, and I wonder if you would state that as Chairman of the

Commission you would strive diligently to protect the American people against hazards of cigarette smoking?

Mr. WEINBERGER. Yes, Senator, it seems to me the touchstone here and the rule to follow is the basic one that motivated the truth-in-advertising and the truth-in-labeling bills all the way through.

Once it is established that there are, for example, health hazards involved in cigarette smoking or in any other particular product or various ways in which the product can be used that may be dangerous or inimical to the public health, it seems to me entirely appropriate that a label that states that be included, as it is at the present time, on many of these products, including cigarettes.

It seems to me that this is again a simple matter of basically truth in labeling and truth in advertising. This is the way I feel about it.

Senator Moss. Would you be willing if the situation warrants it, for instance, to require the printing of the tar and nicotine content on the outside of the package or in advertising by order of the Federal Trade Commission?

Mr. WEINBERGER. Yes, if the scientific proof and facts are there that different levels in nicotine and tar content have an immediate effect on the public health and that products with a higher level than that fixed by Congress, or whatever the appropriate agency to fix it—once that determination is made, it would seem to me appropriate enough to include that information on the label as is done in the case of other products.

This is again back to the basic idea that this is part of the truth and the whole truth that the public is entitled to with respect to various products. If the tar and nicotine content are shown to have absolutely nothing whatever to do with public health and safety, then, it would seem to me to be an unnecessary requirement.

If the contrary is shown, then it would seem to me to be appropriate to include it on the labeling.

Senator Moss. If Congress bans the advertising of cigarettes in electronic media, would you ask the Commission staff to study the divergence of advertising to print or other media and report to Congress on its findings?

Mr. WEINBERGER. I would think a study of that kind would be appropriate. I think different considerations are appropriate to the print media as opposed to the air because of the freedom-of-press provisions in the Constitution and so on.

Certainly a study by the most competent personnel available would be entirely appropriate.

Senator Moss. The Commission has been giving consideration to requiring a warning of the dangers of cigarette smoking in all advertising. Would you be prepared to support that order of the Commission?

Mr. WEINBERGER. Does the Commission have an order to this effect?

Senator Moss. No; they had a preliminary rulemaking matter, and the Commission, of course, was preempted by the Congress prior to the first of July, but indicated that it would issue such an order when the preemption had run out.

I just wanted your attitude on it.

Mr. WEINBERGER. It would seem to me this is tied into your

previous question, Senator, about having a study made of the appropriateness of such an order with respect to media involving print.

It would seem to me that the study you spoke of should properly include this as one of its goals. Whether or not that should be the result now, I am not prepared to say because I haven't seen the results of such a study.

Senator Moss. The order, of course, is suspended now because of the additional congressional consideration that has been going on. I am trying to look ahead to the time when the Congress has completed its work that it is now contemplating on the advertising of cigarettes in order to ascertain what your attitude would be as a member and Chairman of the Federal Trade Commission on this question of requiring warning in all advertising.

Mr. WEINBERGER. I haven't seen the staff work which preceded the proposed staff recommendation with respect to an order at a time when the preemption of the power of the Commission may be lifted, but I would certainly want to examine that carefully and I would want to have the kind of study that you have suggested made to determine the legality and the effect of such a prohibition.

Senator Moss. Mr. Weinberger, the Federal Trade Commission seems to be facing one particular dilemma. Commissions studying the Federal Trade Commission and certain Commissioners themselves have argued that the FTC must deal with broad policy questions, must examine fundamental issues of economic policy, and set priorities in its consumer activities.

At the same time, students of the FTC argue that retail marketing fraud is a cancerous growth on society. One Commissioner has said that the Commission should give up the notion that it can root out fraud in every marketplace in the Nation. But at the same time and almost in the same breath, that Commissioner chastised the Commission for its tardiness in undertaking to develop a consumer protection program for the ghetto consumer, the one most plagued by retail marketing fraud.

How will you adjust the needs for broad policy question review, and the need to attack hard-core retail fraud?

The resolution of this dilemma seems to me to be basic to the protection of the consumer interest, and orientation of the Commission. Would coordinated and effective local consumer programs capable of rooting out retail marketing frauds facilitate the Commission in its work?

Mr. WEINBERGER. I think in this field, Senator, certainly you have mentioned an area that is of extreme importance, and certainly I think studies have shown that the bulk of the frauds have been practiced on the people less able to protect themselves than other parts of the community.

I think there are serious disadvantages, both legal and from a policy point of view, in the Federal Trade Commission embarking on any program in which they enter each supermarket and try to determine whether each box of soap is filled to the brim, and that sort of thing. I think there is a certain amount of assistance that the Federal agency can give to active State and local efforts in the encouragement of the adoption by State and local communities of consumer protection programs.

I think the Federal Trade Commission might very well constitute task forces to look into the activities in particular areas, to see how well the State activity, if any, was working, whether there could be any Federal guidelines or assistance in the establishment of guidelines given.

I think there could very well be some pilot studies or some task forces constituted out of Federal Trade Commission personnel to find out exactly what the facts were, and whether or not there were frauds practiced to the extent that has been previously noted, and how these can be brought to the attention of people, how the assistance that the Federal Trade Commission, with its present very broad powers can be—what assistance the Commission can be to people in these areas.

I think there might well be various media used to bring to the attention of people the kinds of frauds that have been practiced in the past, and to alert them and this sort of thing.

I think the Federal Government, by instruction and example and guidance, and setting up specific test programs, can be of very substantial assistance.

Ideally, to my mind, the best direct enforcement in these disadvantaged areas would come from city and county and State agencies that were alerted and well manned, and had the local authority to deal with the local situation, which I am sure differs from section to section of the country.

I don't think the Federal Government can get right on the main street, nor do I think it should, but I think there is a very substantial amount of assistance that the Federal agency can furnish to States and cities and counties that either do not have consumer protection programs at all or have ones that are not as effective as they could be.

Senator Moss. I think perhaps every State has a weights and measures division. Could they be used in this area of enforcement and surveillance that we have been talking about?

Mr. WEINBERGER. I think they could certainly form a start. One of the most basic protections would be to insure that when you bought a pound of something you got a pound of what you bought, and this is the origin, as I understand it, of these original weights and measures agencies—to be sure that scales were accurate and honest. And this again is a part of my feeling of the basic honesty of the representation that is made every time a person purchases anything or any service.

I think these were the agencies that were formed with that as their original goal. It would seem to me they could be expanded, and their expertise enlarged, and their assistance to people increased perhaps, if they need it, with some assistance, some pilot programs, and the results of some test made available by the Federal Government to them.

Senator Moss. The notion of independent consumer councils is being talked about in the Congress and hearings have been held already. Could they be of assistance in this individual enforcement area? What would be your attitude toward independent consumer councils?

Mr. WEINBERGER. I think to the extent they proceed on the basis of factually developed evidence, and that they have procedures established which can safeguard everyone, including the public,

from unfounded accusations or from simply passing on rumors, as opposed to facts, that they can be very helpful.

I think that in this field at the present time there is a tremendous amount of interest, there is a tremendous number of new administrative and executive procedures being tried out.

I think there is a lot of experimentation going on.

The simplest solution, of course, would be if all people simply told the truth on their labels and at the time they made their recommendations that accompany any sale or the manufacture of any product. Until we reach that millennium, it seems to me there are a variety of different techniques and methods that can be used to bring the facts to the public; and that portion of the public which is most easily imposed upon is that portion which has had the greatest difficulty ascertaining the facts for themselves.

It is, therefore, in this area, these disadvantaged areas, that it would seem to me the most effort should be directed initially. I think this is quite a small proportion of the total number of sales that occur daily; sales in the billions, both in numbers of transactions and dollars involved. But the ones that are tainted by this kind of fraud necessarily taint the entire marketplace.

I think it is to everybody's advantage, certainly to business, to eliminate this at the earliest possible opportunity, and I think that honest business welcomes the support and the assistance of all manners of different methods of doing this.

There are some dangers that people will act on rumor and act without the establishment of factual evidence, and there must be protections here as there are protections that we are trying to propose in support of those.

With these cautions and warnings, I think of a number of different techniques we would be warranted in trying.

Senator Moss. In 1966 the Congress authorized the FTC to pass regulations such as the one to require or to prohibit the "cents off" labeling on packages of goods, and so far the Commission hasn't acted.

Would you favor regulation that would ban that technique of labeling goods in the supermarket; the cents off labeling, say, 6 cents off?

Mr. WEINBERGER. It would depend entirely on whether it was a violation of truthful labeling. I think the specific answer to your question is yes, I would favor regulation. It would seem to me those regulations should provide that if, in fact, the product is being sold, as you say, 6 cents below its normal average established price, that this is entirely proper to call to the public's attention. If, however, it is not, if the price label is the initial price, then 6 cents off would be a false label and should not be authorized.

SENATOR MOSS. The problem is that label is put on at the packaging-manufacturing level some place, which may be on the east coast; and when it gets to California on the shelf, 6 cents off is not necessarily accurate, as against the price on the market shelf, say, in Philadelphia.

Mr. WEINBERGER. We have found that everything is slightly higher west of the Rockies, as they say in the ads, and there again, if this label were a false reduction from an average established price,

it would seem to me it should not be authorized, and the regulation should so provide.

Senator Moss. Will you seek to coordinate the efforts of the Food and Drug Administration, the Commerce Department and the FTC in further implementing and enforcing the Fair Packaging and Labeling Act?

Mr. WEINBERGER. Yes, sir. I think there is an area of overlap in several fields, and I think it is extremely important that there be the closest possible coordination at both the staff level and the executive level of all the agencies that have something to do with these problems.

I would want to get as close a coordinated policy established as possible.

Senator Moss. For a long time it has been the custom of the Commissioners and the staff to have informal meetings with industry groups. Do you intend to make it a practice to meet also regularly on an informal basis with consumer groups?

Mr. WEINBERGER. Yes. I think there would be considerable assistance to the Commission from the practice of gaining the views and recommendations of as many groups as possible. I think this should be continued, and should be established to the extent that it is not now taking place.

Senator Moss. The Commission has recently been criticized for its mailbag approach to consumer problems, rather than setting priorities and allocating resources on the basis of need.

Students of the Commission argue that it stutters and starts in one area, and then another, on the basis of correspondence from the Hill and elsewhere.

Do you have any plans for correcting this alleged deficiency?

Mr. WEINBERGER. Yes. I would like to establish, as early as possible, a program and policy planning office. There is a so-called program review office now at the Commission. I understand the position is vacant.

But I would think that this should be done because I am sympathetic with and understand the fact that you do inevitably start to devote a large part of your time to responding to the daily paperwork, and the daily mail. I think in doing this there is a danger that you overlook some extremely important activities that should be launched on the Commission's own initiative.

I would hope very much that the policy planning and the allocation of resources that I mentioned a little while ago could be made in such a way that you would reach the most important problems, or problems that may be becoming more important in recent years.

The mail certainly has to be answered, but a lot of other things have to be done, too, at the same time.

Senator Moss. The ABA study group recommends that individuals be allowed to file for personal damages against firms that have been convicted of violating the FTC regulatory act. Have you any view on this proposal?

Mr. WEINBERGER. The private suit has been one of the enforcement methods used with respect to the antitrust laws, the treble damage suit by private litigants, and it has to a considerable extent relieved the Federal Government of some enforcement duties in this connection.

I think the actual suit of this sort has to be safeguarded so it doesn't become simply a nuisance suit, and so that you don't have

companies devoting a very large percent of their resources defending suits of this kind if they are improvidently brought when such resources could be used to reduce prices.

Senator Moss. Should the FTC bring suits on behalf of consumers?

Mr. WEINBERGER. Again, there is a provision for procedures of this kind very similar to this in other phases of the law, and the FTC action in stopping a challenged procedure or a challenged activity may well be enough.

On the other hand, there may well be situations in which very substantial personal damages may have been done to individuals as a result of an illegal activity or a dangerous product, and again, a deterrence against marketing a product of that kind, or making fraudulent representations might well be the possibility of recovering some form of deterrent damages.

This, again, would require very substantial study, and the assurance of safeguards, because it is a procedure which can be abused very easily.

Senator Scott. Would the chairman yield on that?

Senator Moss. Certainly.

Senator Scott. May I ask, Mr. Weinberger, it is my recollection that the President's consumer message proposed extension by statute of authority to the FTC to proceed for injunctive relief under certain circumstances. Do you have any reactions to that?

Mr. WEINBERGER. I'm aware of that portion of the message, and it seems to me this might be a valuable additional tool to the Federal Trade Commission's authority.

I think it has to be exercised with some care, and certainly the showing of necessity to secure an injunction has to be made, and normally this is a substantial showing, of a violation or a threatened violation, and I think these safeguards have to be built into it.

Once the injunctions have been obtained as a preliminary to class suits on behalf of consumers, that might be all the protection needed. I haven't seen the actual bill that is supposed to have been sent up, implementing this message, but this type of approach, I think, is basically a very good one.

Senator Scott. If the chairman would indulge me, may I say before I leave that I have known Mr. Weinberger for a number of years, and I know of his work as chairman of the so-called Little Hoover Commission in California, on government reorganization and economy, and his service on the committee on government organization in the California State Legislature. He is a man very highly regarded in his own State, and among those interested in more efficient government organization, and he has demonstrated in his civic activities as well as government, his interest in consumer problems.

I think the administration is to be congratulated on having been able to bring Mr. Weinberger to accept this public service. I personally am very much pleased with the appointment and very glad to see you here.

Mr. WEINBERGER. That is very nice of you, Senator. Thank you.

Senator Moss. Thank you, Senator. Mr. Weinberger, a Federal Trade Commission staff study recently contended that more stringent antitrust enforcement and new legislation were necessary in order to slow down merger activity, and shape the future structure of the U.S. private economy. That staff study has not been endorsed by the

Commissioners. Some contended that it rested on hypothesis and theorization, rather than real conclusive evidence, and others determined it a useful background.

The main author of the report, however, warned that Government inaction in curbing the merger movement would be both wrong and dangerous. What do you plan to do as Chairman of the Federal Trade Commission to examine and make recommendations on this pattern of growing centralization of economic power?

Mr. WEINBERGER. Senator, I will have to confess, the first thing I am going to do is to read that report. I have seen it. It has been sent to me. It is about 900 pages in length, I think, and I just got it last week. But I am going to go through it with great care, because I think it is in a very, very important field.

The whole conglomerate movement is obviously a fact of life at the present time, a very important one, and it can have very far-reaching effects on prices of products, and on the ability of businessmen to enter fields of their choice, and so on.

These are all matters that I think have to be examined with great care before any definitive policy is reached. But certainly this can't be a protracted study, because the movement is going on at a great pace, and it may have certain beneficial aspects. It may have certain dangerous aspects.

I am not in a position at this point to say what my policy would be with respect to conglomerates, but certainly the basic purpose of the antitrust laws has been on the books for many years, and I am entirely understanding and sympathetic with those basic objectives.

Senator Moss. How much do you think the public is entitled to know about the major corporations in this country and how they make their money; in other words, do you favor divisional or line-of-business reporting, and, if so, do you favor this for the top 200 companies or 400 companies, or any other number?

Mr. WEINBERGER. By the divisional line, do you mean where a conglomerate—

Senator Moss. A large conglomerate, that is true.

Mr. WEINBERGER. Yes. Again, I think where a company is a public company, and under the rules of the Securities and Exchange Commission, there are very complete rules for disclosing the source of income and the actual earning capacity and the financial standing of the various divisions that make up a particular corporation, I think if these rules are not strong enough to make a full disclosure of this, obviously they should then be strengthened.

I am not familiar with any particular situation in which any relevant information may have been hidden from the people or the SEC rules violated. I know the Federal Trade Commission has very broad reporting authority to require and discover the financial facts concerning corporations, and I think that this should be used in the pursuance of authorized studies with respect to determining conglomerate policy and that kind of thing.

Senator Moss. I have here a letter from Congressman John Dingell, chairman of the Subcommittee on Small Business, on the Robinson-Patman Act. I will ask that the letter be printed in the record.

(The letter follows:)

SELECT COMMITTEE ON SMALL BUSINESS,
HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Washington, D.C., November 7, 1969.

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

DEAR MR. CHAIRMAN: Your Committee soon will be holding the confirmation hearing concerning the designation of Caspar W. Weinberger as a member of the Federal Trade Commission. While the House does not share the prerogatives of your body in confirming Presidential appointments, it seems appropriate to call attention to certain disturbing questions that have arisen during the course of hearings being held by the Subcommittee on Small Business and the Robinson-Patman Act. I refer to the attacks on the Robinson-Patman Act that have been made recently by certain members of the Antitrust Bar, their clients, and a handful of academic economists.

The White House Task Force on Antitrust Policy, appointed by President Johnson, recommended "a thorough revision" of the Act. The specific language suggested for the purpose provided, as a point of departure, for a return to the Clayton Act (1914) and, in some respects, retreated even further.

The Task Force on Productivity and Competition, appointed more recently by President Nixon, criticized the Federal Trade Commission for enforcing Section 2(a) of the Robinson-Patman Act. The Task Force Report also recommended that the Act be substantially softened by repealing Sections 2(c), (d) and (e). Moreover, the report asserts that, generally speaking, price discrimination, in small to medium sized doses, is good for the economy.

The American Bar Association Commission to Study the Federal Trade Commission, more recently appointed by President Nixon, declined to take the extreme position of the two earlier study groups. It nevertheless manifested hostility towards this vital piece of legislation. These panelists questioned the compatibility of the Robinson-Patman Act to the attainment of antitrust objectives.

The ABA Report further recommended that the FTC should direct its enforcement proceedings under Section 2(c), (d) or (e) of the Act to cases in which injury to competition exists.

Since Sections (c), (d) and (e) of the Robinson-Patman Act were enacted by the Congress as per se statutes, it is clear that the ABA Commission is in effect urging administrative amendment of the Act—an administrative veto, if you please, of Congressional intent.

Certainly, Mr. Chairman, none of us in the Congress agrees with each provision of every statute in the books. Yet, I am sure that there is not a member of any committee in either body who would urge a Commissioner, charged with enforcing a statute with which he disagreed, to abandon his rightful duty and decline to enforce that provision of the law. The ABA Commission, nonetheless, has apparently chosen to do precisely this.

It is my hope that you and your colleagues on the Committee will interrogate Mr. Weinberger fully as to whether it is his intent to enforce all of the laws falling within the jurisdiction of the Federal Trade Commission, specifically including the Robinson-Patman Act.

I am sure you can appreciate that the concern of the Subcommittee has become somewhat intensified because of the fact that many observers of the Commission's work have informed this Subcommittee that at least one of the incumbent members of the Commission has seen fit, both publicly and privately, to discourage enforcement of the Act.

It will be appreciated if this letter is made a part of the public record of Mr. Weinberger's confirmation hearing.

With kindest regards and best wishes, I am
Sincerely,

JOHN D. DINGELL,

Chairman, Subcommittee on Small Business and the Robinson-Patman Act.

In part, Congressman Dingell says:

It is my hope that you and your colleagues on the committee will interrogate Mr. Weinberger fully as to whether it is his intent to enforce all of the laws falling within the jurisdiction of the Federal Trade Commission, specifically including the Robinson-Patman Act.

Mr. WEINBERGER. I think there would be obviously no choice, Senator. I don't think there is any opportunity to pick and choose between laws that one enforces or one doesn't enforce when the responsibility is assigned to the Commission. If I thought there were some change that was warranted in a particular law and the Commission members agreed with me, that fact I think should be reported to the Congress.

Senator Moss. I have also a letter here that was sent to Senator Phil Hart, who is chairman of the Antitrust and Monopoly Subcommittee of the Judiciary Committee of the Senate, signed by Paul Rand Dixon, as Chairman of the Federal Trade Commission.

As part of this, Chairman Dixon says:

You ask for a brief outline of the Commission's position on injunctive relief. As early as the 86th Congress, the Commission has supported legislation which would give to the Commission the authority to protect the public from unfair methods of competition and deceptive acts or practices during the pendency of adjudicative proceedings. Under existing law the Commission is practically powerless to protect the public from continuing violations of law during the period from the commencement of an adjudicative proceeding until the challenged practices are ultimately enjoined under a final cease-and-desist order. As you are aware, a substantial period of time may be involved.

I would like for the record your reaction to that, as to whether you think the Commission ought to be given the power to impose injunctive relief.

Mr. WEINBERGER. Yes, I think, Senator, the reasons mentioned in that letter are the reasons that compelled the President to include this in his recommendations in his message on consumer problems, and I would agree with that recommendation.

Senator Moss. The entire letter will be placed in the record at this point.

(The letter follows:)

FEDERAL TRADE COMMISSION,
Washington, D.C., August 29, 1969.

Hon. PHILIP A. HART,
Chairman, Antitrust and Monopoly Subcommittee, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR HART: This is in answer to your letter of August 25, 1969. As you requested we are pleased to enclose two copies of our current rules of practice and procedures, and a copy of the most recent edition of our attorney's manual. The latter, which is now in the process of another revision, contains a variety of information for the guidance of staff attorneys, particularly newly employed attorneys. It has been treated by us as a confidential document in the past, and is made available to you with the request that it be handled as confidential material by your staff and returned to the Commission when your staff has completed using it.

You ask for a brief outline of the Commission's position on injunctive relief. As early as the 86th Congress, the Commission has supported legislation which would give to the Commission the authority to protect the public from unfair methods of competition and deceptive acts or practices during the pendency of adjudicative proceedings. Under existing law the Commission is practically powerless to protect the public from continuing violations of law during the period from the commencement of an adjudicative proceeding until the challenged practices are ultimately enjoined under a final cease and desist order. As you are aware, a substantial period of time may be involved.

The limited authority presently available to the Commission to enjoin violations of law under the provisions of Sections 12 and 13 of the Federal Trade Commission Act (15 U.S.C. §§ 52, 53), and under the cumbersome procedure available to the Commission under the All Writs Act (28 U.S.C. § 1651(a)) in a court of appeals, does not enable the Commission to take effective action in a substantial number of matters where the public interest requires immediate attention. A broad

injunctive power would enable the Commission to proceed immediately and effectively to protect the public interest in those matters where such action is warranted, i.e., in circumstances comparable to those where, under traditional legal principles, temporary injunctions *pendente lite* have been issued in judicial proceedings.

S. 2246 and H.R. 4213, proposed bills presently pending before Congressional committees, would authorize the Commission to seek a Federal court injunction or restraining order with reference to business practices which are unfair or deceptive to the consumer. The Commission supports this proposed legislation as an effective means of protecting the rights of the consumer while not impinging upon the procedural rights of the defendants. Attached are Commissioner Elman's statements on these two bills.

H.R. 2150, presently pending before the House Interstate and Foreign Commerce Committee, would extend injunctive powers to the Commission in restraint of trade matters, as well as in unfair or deceptive matters. The injury to the consumer from anticompetitive activities, while not as readily apparent to the layman, may be as great during the interim of a Commission proceeding as that caused by an unfair or deceptive act or practice. The Commission is, therefore, of the opinion that broad injunctive powers, such as would be authorized by H.R. 2150, would provide the most comprehensive tool for the protection of the public interest.

By direction of the Commission.

PAUL RAND DIXON,
Chairman.

Senator Moss. I do appreciate your taking time to answer these questions because of the concern that we feel in this field of protection of the consumer, and in fact, the whole range of powers that are exercised by the Federal Trade Commission, I think they are of paramount importance.

I want to assure you, Mr. Weinberger, that this committee does hope to work very closely with you. As Chairman Magnuson indicated, we would expect you to confer with us informally from time to time, to come up here and discuss problems that you see, so that we can consult with you and express to you our points of view.

Many things can be worked out that way, rather than waiting until something is open, and then your trying to have an enforcement proceeding or something else that complicates the communication problem.

If we can keep that channel open and consult regularly with you, I am sure you can assist the committee, and perhaps we can give you some assistance in your many problems of functioning down there as Chairman of the Commission.

Mr. WEINBERGER. I would certainly be delighted to do it, and I would be very honored at the opportunity, Senator.

Senator Moss. Senator Hartke is right in the midst of presenting an amendment in there in that executive session. I do want to give him an opportunity to question you. Perhaps we could take just a 10-minute recess, give you time to stretch your legs a minute or two, and Senator Hartke will be back in here at that time.

We will be in recess for 10 minutes.

(Recess.)

Senator HARTKE (presiding). The committee will come to order.

Mr. Weinberger, I want to say first that Mr. Nicholson, who is your predecessor, is from the greatest State in the Union, Indiana, and remarkable in these situations is the fact that he has come to me with the highest of recommendations as far as you are concerned. I just want you to know that. He says you are an exceptionally well

qualified individual, and he thinks you will make a very fine Chairman of the Commission.

Mr. WEINBERGER. That is very nice. All the Commissioners have been extremely helpful.

Mr. Nicholson has been particularly nice in making available the facilities of his office and presenting me with memorandums as to some of the matters that are involved, and some of the problems he had when he first came. And it has been extremely heartening to me and extraordinarily helpful. So I am very grateful to him.

Senator HARTKE. On the Federal Trade Commission, in regard to staffing, is there at the present time a full staff, basically, in accordance with the limitations which have been imposed by Congress?

Mr. WEINBERGER. No, sir. There are a substantial number of vacancies. I am advised by some people that more vacancies exist in the top level positions than have existed at one time in the history of the Commission.

Senator HARTKE. Are they vacancies that can be filled under congressional limitations?

Mr. WEINBERGER. Yes, they are authorized positions, as I understand it, sir. They are vacancies which have occurred by resignations or by transfers or one thing and another, and at the present time I think in two of the bureaus, the bureau chief positions are open. There are at least one or two of the field offices where the attorney-in-charge positions are vacant, and some major positions on the Commission's staff itself, here in Washington, that are vacant.

Senator HARTKE. Your background indicates that you were on the Little Hoover Commission dealing with reorganization in California. Is it your intention to reorganize the Federal Trade Commission?

Mr. WEINBERGER. The first thing I would want to do is to study it to see if there is any requirement of reorganization. We didn't do any reorganization out there without feeling that the changes proposed would be an improvement, and I would certainly want to make as careful a study as possible of the existing organization to see. Sometimes with new duties and new direction, reorganization of either a limited or a general nature is very helpful.

Senator HARTKE. How long would that take?

Mr. WEINBERGER. I would want to do it in as soon a period of time as I felt consistent with the importance of the task, because I think the duties assigned to the Federal Trade Commission are of major importance.

I think they have major powers and authority. I'm sure that everybody concerned, particularly the staff and members of the Commission, would want to move as rapidly as possible in these directions.

So I would not want any protracted study of organization, but I would want to make this as one of the first orders of business after recruitment.

Sometimes even recruitment has to wait until you find the direction that the Commission should be taking, and then you recruit for that specific purpose. Certainly I would want to move as rapidly as I could, consistent with sound foundations of knowledge, that you ought to have of this sort of thing.

Senator HARTKE. You know the Supreme Court overruled this deliberate-speed business.

Mr. WEINBERGER. Yes.

Senator HARTKE. Are we talking about 8 months, 3 months?

Mr. WEINBERGER. I would hope we would be talking about somewhere between the time I am able to begin in January and a 3- to 6-month period for final organization. Organization is not a task which is in a sense ever really completed, because as you go along you might find some totally new direction which might warrant the appointment of a new bureau or a consolidation of existing bureaus.

But initially I would like to try to form a recommendation to the Commission of the organization I felt most desirable within a period certainly as close to 3 to 6 months as I could.

Senator HARTKE. Do you look upon this position in the Federal Trade Commission as primarily responsible to the Congress or primarily responsible to the President, or to both?

Mr. WEINBERGER. I was advised by the chairman of this committee just a few moments ago that this was an arm of Congress, the Federal Trade Commission; and I intend, as I mentioned to Senator Moss, to consult frequently with the Senate Commerce Committee and with the appropriate committees of the House on matters that occur or in which it would appear there is some new direction desirable to take.

I gather from the statutes that the Commission is usually referred to as an independent regulatory agency, and I would certainly think from an examination of their duties they have duties that appear to be both quasi-judicial and administrative, and to some extent a delegation of legislative duties.

I would certainly want to move consistent with all of these assignments and direction that now exist. Certainly any new acts that are passed or any acts that are already on the books I would regard as absolute directives to be followed.

Senator HARTKE. I find it a nice answer. I would like to come back to the question.

Mr. WEINBERGER. It is difficult for me to say at this time whether the Federal Trade Commission should be regarded as a creature of Congress or a creature of the President, or both. I have difficulty in answering that.

I do feel that it was created by the Congress with the President's approval in 1914, and that this should certainly be in the background of anybody's mind administering it. The Congress has passed certain acts directing the Commission to do certain things, and the President has signed those. And those obviously should be followed.

Senator HARTKE. Let me make it perfectly clear to you, that under the Constitution and under the law which created it, the responsibility is only to the Congress, and not to the President, in any regard whatsoever.

Mr. WEINBERGER. The reporting responsibilities?

Senator HARTKE. No; the direct authority. This is not in regard to the President, but in regard to the Presidency—that this is an arm of the Congress, and it is not an arm of the administrative branch of the Government.

It doesn't mean that you cannot take recommendations from the President, but they really, in the totality of the scene, can only have the same weight that any other individual, probably, in the Government, can render.

Mr. WEINBERGER. I certainly don't regard the Commission as an arm of the Presidency, and when I mentioned that Senator Magnuson had said a few moments ago that the Commission was an arm of the Congress, I had no reason whatsoever to question the correctness of his statement.

Senator HARTKE. We have seen the erosion of congressional power in other areas, especially in the constitutional power to declare war, and I just think we ought to have an understanding of your ultimate responsibility and to whom you are going to report.

I would not expect you to have any difficulty with the President, personally; I would imagine your relationship would be one of mutual admiration. But I want it understood in regard to the Presidency, as distinguished from the President, which may not always be the same person, even during your tenure, that your responsibility is to the Congress.

Mr. WEINBERGER. I think that is perfectly clear to me, Senator. The reporting responsibility is certainly fixed in the statute.

Senator HARTKE. I would like to go back to something else that disturbed me considerably about some of the independent agencies which are responsible to the Congress. Do you look upon the staff as having any independent authority other than that of the Commission itself?

Mr. WEINBERGER. Only in those situations in which the Administrative Procedure Act would require the Commission to divorce itself from any active presentation of a case. As I understand it, once there is a determination that a complaint should be filed, under the Administrative Procedure Act there is then a completely separate set of procedures begun under which the staff, with hearing examiners and trial examiners, presents the case to the Commission, sitting as a quasi-judicial body; and under those circumstances I think the staff presentations are separate from the Commission's activities.

Aside from that, however, it would appear to me to be the proper relationship, that the staff makes its recommendations and reports and carries them to the Commission, and carries out its assignments from the Commission and the Commission itself has to reach the final conclusions and make the required reports to Congress and so on.

Senator HARTKE. That is frequently not followed any more.

Mr. WEINBERGER. Yes; I know.

Senator HARTKE. It was not followed in the presentation of material to Senator Hart's Subcommittee where the staff committee report was submitted at that time, including policy and legislative recommendations, without the endorsement of the Commission itself.

Mr. WEINBERGER. I find this a very difficult and basically unworkable relationship.

Senator HARTKE. That's right. I think that is a proper responsibility. I quite agree with you—of the Commission.

So we can properly understand, there are two things, that the Commissioners are appointed and are directly responsible to the Congress, and that in the case of any type of legislative acts or policy decisions that they would be made in accordance with the understanding that full responsibility lies with the Commission, and not with the staff.

Mr. WEINBERGER. I would have no hesitancy on that at all.

Senator HARTKE. That would apply in any type of recommendation, not alone to the Congress, but any other policy decisions made—right?

Mr. WEINBERGER. Yes, I think a policy decision of the Federal Trade Commission by definition has to be made by the Commission.

Senator HARTKE. Those are all the questions I have. I want to thank you for waiting for me.

The committee stands adjourned.

(Whereupon, at 11:25 a.m., the committee was adjourned.)

(The following communication was subsequently received by the committee:)

NOSSAMAN, WATERS, SCOTT, KRUEGER & RIORDAN,
Los Angeles, Calif., November 19, 1969.

Re Caspar W. Weinberger, Federal Trade Commission.

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

DEAR SENATOR MAGNUSON: I do not know whether letters of endorsement may be appropriately sent to the Committee which has before it the nomination of an individual for high federal position. Assuming that you will forgive me in the event that I am in error, I did not wish the opportunity to pass without saying a word concerning Mr. Weinberger.

I had the pleasure of first meeting him when he was elected to the California Legislature of which body I was already a member. He immediately established himself as one of the brightest, conscientious and most dedicated of the public servants in the Assembly and, partisan differences aside, he was respected and admired by all who came in contact with him.

His record of public service following his voluntary departure from the Legislature is certain to be before the Committee and I shall not attempt to burden you with further detail concerning same. I would address my remarks merely to the fact that in this nomination by President Nixon he has chosen an individual who is exceptionally well qualified for the position of Chairman of the Federal Trade Commission and, in addition, he is sincerely concerned with the role that this most important Commission performs in its protection of the public interest. I believe these comments to be particularly true in light of the rather critical report issued by the American Bar Association concerning the weaknesses of the Commission and I am certain that Cap Weinberger will bring to his role that kind of imagination and creativity which will effectively answer many of the questions raised in that critical report.

There are few individuals better qualified for this position and I am most gratified to have the opportunity to express these words in his behalf.

Should you have any questions concerning Mr. Weinberger I will be most pleased and happy to attempt to answer them.

Sincerely yours,

LAUGHLIN E. WATERS.

Mr. Wainwright: I would have no business in that at all. Senator Barker. That would apply in any type of recognition not done to the Congress but any other policy decision made.

Mr. Wainwright: Yes, I think a policy decision of the Federal Reserve Commission by definition has to be made by the Commission. I think I have all the questions I have, I would

thank you for waiting for me. The Commission was established by the Executive Order of 1933 and the Commission was established by the Executive Order of 1933.

Senator Wainwright: I have a question.

Mr. Wainwright: I would like to ask a question.

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Mr. Wainwright: I would like to ask a question.

STATEMENT OF HON. CATHERINE MAY, U.S. REPRESENTATIVE
FROM THE FOURTH DISTRICT OF THE STATE OF WASHINGTON

DOUGLAS W. TOMS, TO BE DIRECTOR, NATIONAL
HIGHWAY SAFETY BUREAU

THURSDAY, DECEMBER 18, 1969

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

The committee met at 10:10 a.m.; in room 5110, New Senate Office Building, the Honorable Vance Hartke, presiding.

Present: Senators Magnuson (chairman of the committee), Hartke, Cannon, Cotton, and Prouty.

Senator HARTKE. The hearing this morning concerns the nomination of Mr. Douglas W. Toms of Washington to be the Director of the National Highway Safety Bureau.

Mr. Toms, it is with pleasure that I welcome you here this morning on behalf of myself and Senator Magnuson.

This position for which you have been nominated is a pretty important one. Each and every citizen in this country will benefit directly from a vigorous and fair Director of the National Highway Safety Bureau. I am most pleased that the President has finally sent your nomination to us.

But your appearance here today is welcome for another reason. You have been a citizen and public servant of the State of Washington for several years. As director of the State motor vehicle department, you did an excellent job. In fact, you did such a good job that your colleagues in other States in 1969 elected you to serve as the president of the American Association of Motor Vehicle Administrators. It is, indeed, an added pleasure to welcome to this committee a well-qualified nominee from the chairman's home State of Washington.

We have invited the Senate Public Works Committee to participate in joint hearings with us today. Chairman Randolph and his colleagues, as you well know, have had a longstanding, dedicated interest in highway safety. I am sure they will want to question you about your new role within the Department of Transportation and find out how you plan to carry out the highway safety program.

Mr. Toms, the position for which you have been nominated carries with it a great responsibility. I need not remind you that each year we kill over 55,000 people on our Nation's highways—that automobile accidents cost this country \$11 billion a year. So, we cannot sit back and do nothing about this daily slaughter on the roads and highways of our land.

On behalf of the State of Washington we have the distinguished Congresswoman Catherine May.

**STATEMENT OF HON. CATHERINE MAY, U.S. REPRESENTATIVE
FROM THE FOURTH DISTRICT OF THE STATE OF WASHINGTON**

Mrs. MAY. Mr. Chairman and distinguished members of the committee, perhaps I should say committees.

This is a very proud moment for me, to have this honor of introducing a fellow resident of the State of Washington as a Presidential appointee.

I would like to say that my Washington State colleague, Congressman Tom Pelly, would also be here this morning except for the fact that it was necessary for him to be out of the city on this date. I am, therefore, taking the liberty of speaking for both of us in introducing the President's appointee and commending him to your favorable consideration and recommendation to the Senate.

Gentlemen, there is no question that the position of Director of the National Highway Safety Bureau is an extremely important one to the well-being of the people of this Nation. I am certain that the need for such a post was well justified when it was first created in 1966, and that now, as then, it is considered essential that this post be filled by an individual who is eminently well qualified and who is determined to make substantial progress, as the Senator has indicated, in the war against the horrible death and injury toll on our Nation's roads and highways.

Until his appointment by the President, Douglas Toms was serving as special consultant for highway safety, a post designated by the Secretary of Transportation. As such, he was on leave from his position as director of the department of motor vehicles for the State of Washington, a position he has filled exceptionally well since March of 1965.

I will not recite Mr. Toms' background any further than I have already, Mr. Chairman, because I am sure the members are aware of his biographical background data and are anxious to get to know Mr. Toms through his own testimony.

Gentlemen, it is an honor and a pleasure to introduce Mr. Douglas Toms, the President's nominee as Director of the National Highway Safety Bureau.

Senator HARTKE. Thank you, Congresswoman May.

Mr. Toms, you may take your place.

It is an honor to have such a distinguished lady introduce you, I want you to know that.

At this time, without objection, the letter from Mr. Thomas M. Pelly, Member of Congress, endorsing the nominee and Mr. Louis P. Spitz, executive director of the American Association of Motor Vehicle Administrators, and your biography will be included as part of the record.

(The letters and biography follow :)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 15, 1969.

HON. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: This is an introduction of Mr. Douglas Toms and a request for swift action in confirming Mr. Toms as Director of the National Highway Safety Bureau.

I closely followed Mr. Toms' abilities while he worked in the Administration in the State of Washington, and I found him to be effective, intelligent, and one of the most capable men in his field in the country.

His decision to accept the post in the Federal Government was welcomed by the Secretary of Transportation who was seeking talent of the highest caliber. I followed the weeks of consideration given the offer of the post by Mr. Toms, and I was pleased when he announced that he could accept the Directorship.

Mr. Chairman, I appreciate the opportunity to present my views on Mr. Toms' nomination to you and the Committee, and I sincerely hope you will quickly confirm Mr. Toms to this position within the Department of Transportation.

Kindest personal regards.

Sincerely,

THOMAS M. PELLY,
Representative in Congress.

AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS,
Washington, D.C., December 8, 1969.

HON. WARREN G. MAGNUSON,
Senator From Washington,
Chairman, Senate Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: On behalf of the American Association of Motor Vehicle Administrators, I would like to endorse President Nixon's nomination of Mr. Douglas W. Toms as Director of the National Highway Safety Bureau of the Department of Transportation.

I have had the privilege of working closely with Mr. Toms both as a fellow motor vehicle administrator when I was Director of the Nevada Department of Motor Vehicles, and as an officer of the AAMVA since I became Executive Director nearly three years ago.

Mr. Toms is, without question, one of the most highly motivated and innovative highway safety administrators that I have encountered in more than a quarter of a century in this profession.

His capability coupled with his dedicated sense of purpose make him an ideal choice for this position. I feel that he will implement a program which will make inroads toward solving the complex problems related to safe vehicular travel on our highways.

I urge his expeditious confirmation.

Yours very truly,

LOUIS P. SPITZ,
Executive Director.

BIOGRAPHICAL DATA ON DOUGLAS W. TOMS, DIRECTOR-DESIGNATE, NATIONAL
HIGHWAY SAFETY BUREAU

Mr. Toms has served in the field of traffic management since 1960 having been successively an educator, consultant, and administrator in that field. At the time of his appointment by President Nixon, Mr. Toms was serving as Special

Consultant to Secretary of Transportation John A. Volpe for Highway Safety and was on leave of absence from his position as Director of the Department of Motor Vehicles for the State of Washington.

Born : September 17, 1930, Michigan.

Legal Residence : State of Washington.

Home Address : 1907 Lakehurst Drive, Olympia, Washington 98502.

Marital Status : Wife : Geraldine ; Children : Gregory.

Education : Central Michigan University, BS, Accounting, Michigan State University, MA, Traffic Administration, and he has completed all work except the dissertation towards a PhD with the emphasis in Traffic Administration at Michigan State University.

Experience : Since March, 1965, Director, Department of Motor Vehicles of the State of Washington and for two months prior was Acting Director. In 1964, he served as consultant to the Department of Licenses and the Legislature of the State of Washington. From 1960 through 1964, Mr. Toms was an Assistant Professor at California State College at Los Angeles.

Professional Memberships : President of the American Association of Motor Vehicle Administrators ; Former National Chairman of the Registration and Title Commission ; Past Chairman of the Driver Licensing Committee of Region IV ; Former member of the U.S. Air Force Traffic Safety Advisory Committee ; In 1963-1964, he was Conference Chairman of the California Driver Education Association.

Senator HARTKE. Good morning, sir. We are delighted to have you here, and whatever comments you care to make we would be glad to hear.

Mr. TOMS. Thank you, Mr. Chairman. Thank you, Congresswoman May. That was a delightful introduction. I am very pleased.

Mr. Chairman, I am proud and honored to be nominated to the position. I look to the challenge ahead and assume that I will do my very best.

I am Douglas W. Toms. I live at 1907 Lakehurst Drive, Olympia, Wash.

Senator HARTKE. Since Senator Cotton has been for a long time the No. 1 minority member of this committee, I think it would be appropriate to call on him.

Senator COTTON. I would like to welcome you here, Mr. Toms. You come under good auspices with the Congresswoman's introduction.

In view of the fact that you come from the State of Washington and the chairman of this committee is from the State of Washington, I cannot imagine if all the rest of the committee were united in opposing you there would be any chance of stopping you. [Laughter.]

I have checked over your financial statement. I should say you were either fortunately or unfortunately very free from any possible conflict of interest. For the record, concerning your ownership of stock, I cannot see any possible conflict, since you state you intend to dispose of it. However, do you have any business connections or other relationships that so far as you know could possibly be interpreted by anybody at any time as constituting conflict of interest in the performance of your duties?

Mr. TOMS. Senator, none whatsoever.

Senator COTTON. I was sure that would be the case.

Now, my second question may be unfair because you probably would rather come back after you have served a while and have familiarized yourself more with your future duties. However, one thing that troubles me is that almost every time we get a needed, vital, and beneficial program started in the Government, it begins to get diffused all through the various departments.

The chairman of the committee, Senator Magnuson and I also serve as chairman and senior Republican member, respectively, of the Subcommittee on HEW of the Appropriations Committee. We have just gone through the long task of going through that bill which passed the Senate yesterday. We discovered in that bill some money set aside for traffic and highway safety in HEW. I also am aware of the fact that the Public Works Committee and perhaps the Department of the Interior are giving some attention to that.

It disturbs me, because I have the feeling that the work of highway, traffic, and motor vehicle safety should be concentrated somewhere.

Have you observed the tendency to develop parallel programs in departments other than the Department of Transportation, and, if so, what is your attitude or suggestions about that problem?

Mr. TOMS. Unfortunately, Senator, I have not had an opportunity to observe parallel programs in the departments. I am aware that in HEW some years ago there were traffic safety programs, but it was my understanding that the bulk of these activities were transferred when the new Department of Transportation was created.

If there are such parallel programs, as soon as I become familiar with them, I would be pleased to try to take a position on them and reflect my views to you.

Senator COTTON. I would appreciate that. I hope you will look into it.

Do you agree with me that this program ought to be concentrated all in one place in the Government?

Mr. TOMS. I think that programs dealing with transportation as much as possible should be concentrated in the Department of Transportation; yes.

Senator COTTON. There is one other thing, of course. I notice that whenever there is a consolidation of any program, they may consolidate everything except their appropriation. The other departments come right back for money just the same. That was why I was rather surprised and a little bit distressed when I found HEW was still asking for so many positions and so much money, although not a large sum. Nevertheless, they seemed to have their finger in the pie, and I just could not quite understand why.

Now, on December 5 at a press conference of Secretary of Transportation Volpe and yourself, the Secretary indicated a change in the status of the National Highway Safety Bureau of which you have been nominated to become the Director. For the record, can you advise the committee of what change this will make with respect to the present status of the Bureau, your future duties as Director of that Bureau, if confirmed, and the possible effect upon funding of the activities of the Bureau?

Mr. TOMS. Well, in the immediate change, it places the Bureau directly under the jurisdiction of the Secretary and would make the Director-designate, and Director if he is confirmed, answerable directly to the Secretary.

It was my feeling in working with him as a consultant that this would allow a greater emphasis to be placed directly on traffic safety, and it was our hope that this would allow us to accelerate the program and develop the program as much as possible.

In terms of funding, of course, one of the advantages when the Director answers directly to the Secretary, he obviously is closer to

him, has his ear better, and hopefully would allow us to pursue traffic safety programs more vigorously.

It is for all these reasons that we were hopeful that the NHSB would be separated out and would answer directly to the Secretary.

Senator COTTON. Just one more question. I am gratified to observe that you have been engaged in this same kind of work in your capacity in your own State. The place of the States in this program always seemed to me to be vitally important. I am rather proud of the fact that my own State for years now has been rigid not only in its law but in the enforcement of it in the matter of inspecting motor vehicles twice a year. In my State, unless he has his tag, the driver is taken right off the road. He cannot even go to his destination if it is only 5 miles away. Our people do not object.

We also very carefully supervise facilities for State licensing at various qualified garages and in some cases qualified filling stations. If they find any instance where they have been lax or careless or put a tag on the windshield without complete and thorough investigation, why, they immediately lose their license.

The people pay, I think, a matter of a couple of dollars. Also, they pay for any work that has to be done such as taking care of brakes and any other thing. Our people have not objected to it, since it is in their own interest.

However, I find some States feel that they have got to finance all these inspections and expect a Federal contribution. After all, it would seem to me that a very important part of this program that the Federal Government has to do is the research and development of safety devices. It also has a role to play in trying to coordinate State activities.

It would seem to me exceedingly important that the States are encouraged—I will not say forced—but certainly encouraged and given incentive to promote motor vehicle and highway safety.

What is your general approach to that problem, and have you formulated in your mind means of securing such coordination between the Federal Government and the States?

Mr. TOMS. I am a firm believer in good coordination between the Federal Government and the States. In dealing with vehicle inspection, I have long felt this was an important part of a balanced program, and that it is important to have a fully balanced program if you are going to make real headway in traffic safety.

It would be my hope that as the years unfold, with periodic motor vehicle inspection, that not only can this be a useful device in attempting to keep the older cars on the road in safer condition but this could be a useful device in the future to help consumers in the reparability of their automobiles, and that we can develop ways of reducing the expense of operating these kinds of programs and yet do a more comprehensive job in determining what is wrong with the vehicles and assisting the vehicle owner to seek expedient and reasonable repairs to his automobile.

Senator COTTON. Thank you. I will not take any more time.

Thank you, Mr. Chairman.

Senator HARTKE. Thank you, Senator Cotton.

I want you to know that Senator Cotton is deeply interested in this subject, and he will constantly be with you when he thinks you are right and he will let you know when he thinks you are wrong.

Mr. TOMS. I would not want it any other way.

Senator HARTKE. Senator Cannon.

Senator CANNON. You certainly come to us very highly recommended. As a matter of fact, I note one of the recommendations happens to be from one of my former constituents. I understand why he might recommend you highly because he is the executive director of the organization that you are the president of.

Mr. TOMS. Unfortunately, he may not have enough choice in this matter.

Senator CANNON. I agree with Senator Cotton that the Federal Government does have to step in and take a very affirmative role and lead the way in this area of highway safety.

Yesterday the Senate adopted an amendment by Senator Ribicoff to add \$7 million to the appropriation bill for the development and testing of a prototype safe car.

Do you think this is an area that your Bureau should get into and that this is a proper area of approach?

Mr. TOMS. Yes, I think the development of an experimental vehicle could lead us to some real breakthroughs in how to better design an automobile around the occupants and the driver. Surely, we need as many new solutions to problems that we can find. I have long felt that the car should be designed from the driver outward and that we have to move into a second generation of packaging of the occupants and that we need to provide a shell or a package around the occupants of the automobile as impenetrable as possible so that, if collisions do occur, the occupants will stand the maximum chance of survival. I think an experimental vehicle may provide some real new solutions as to how to proceed in this direction.

Senator CANNON. In the debate the suggestion was made that this should be an area for private industry to solve, for the automobile manufacturers rather than for the Federal Government to get into it. What is your feeling on that?

Mr. TOMS. Well, my feeling is we have not made the kind of progress in this area that we would like to make. Automobile manufacturers, for many reasons, cannot have the same interest in traffic safety that the Government has. Because it is hard for them to assume the public's interest and the State government's interest, we are still experiencing increasing death rates and numbers of deaths. Because these things have not happened it appears that the Federal Government is going to have to get into it. We are going to have to step in and push toward new solutions.

Senator CANNON. You feel that this is a proper area, then, for the Bureau that you head and for the Federal Government to get into.

Mr. TOMS. Yes, I do.

Senator CANNON. I must say I am very happy to hear you say that, particularly when the President appointed you to the job, because it happened that the people on the other side of the aisle did not support that view yesterday. There were only eight of them that supported that view, and those of us on my side of the aisle believe in that same philosophy that you have enunciated. I hope you will carry it out very forcefully, because we do feel that there has to be some action taken at the Federal level in this area.

Mr. TOMS. We are all very anxious to try to find better ways of saving lives, and I am sure this one way that could be very helpful.

Senator CANNON. Thank you, Mr. Chairman.

Senator HARTKE. I might say in regard to that Public Law 89-593 does mandate the development of such an experimental vehicle for the purpose of research and testing, and it is one item in which many of us felt that the Bureau has moved much too slowly. The fact of the matter is, we feel they have done very little in that field, and I am hopeful they will do more.

With regard to that, do you consider—and I hope you do consider—that pollution, that is, the effects of pollution should be considered in development of such an experimental vehicle in addition to the question of the physical safety as a result of any collision or impact; do you consider pollution to be an item which should be developed along with the development of such an experimental vehicle?

Mr. TOMS. Well, as you know, Senator, the pollution caused by internal combustion engines has been a responsibility of HEW, and I am not familiar intimately with the details and negotiations that have gone on within the Government as to who should have this responsibility in the long range.

If an experimental vehicle is developed, I guess it could be developed along those lines dealing strictly with the structure of the automobile and its handling qualities, and engines and their characteristics left out of it. But on the other hand, I could see a possibility of also working with different kinds of propulsion units. So, this is one that I just have not had enough experience with in Government that I feel that I would be in a position that I should say where it should be located.

Senator HARTKE. Let me say I agree with Senator Cotton in his assessment of this proliferation of agencies handling what appears to be a somewhat overlapping or sometimes coordinating features in the field not only of automotive safety but so many other parts of our Government.

In this field, of course, there is the National Air Pollution Control Administration. You would cooperate with them, I am sure?

Mr. TOMS. Absolutely.

Senator HARTKE. There is no question about that. You and I have discussed this. But in this field I would think the totality of responsibility of providing for a safe vehicle ought to consider all aspects of safety. Not only do you have to make a car safe by compartmentalizing the individual and providing for operational safety, but you also have to consider the matter of pollution.

Mr. TOMS. Due to my experience in motor vehicle administration, I can assure you of my deep interest in air pollution and its controls, and my interest in the automobile and its total structure, its total being, and if Congress and this administration in its wisdom should decide that this would be a program of the DOT, I can assure you that I will do everything I can to move such programs forward.

Senator COTTON. Mr. Chairman, if you will yield to me.

Senator HARTKE. I will be glad to yield.

Senator COTTON. My suggestion and expression of opinion about keeping the activities consolidated somewhere perhaps should be clarified and qualified. I think air pollution also should be concentrated

somewhere. For example, although the program to produce new, safer-type vehicles for the public I think ought to be clearly in your department, in the same way the problems of air pollution should be concentrated somewhere, it would seem to me that it would be illogical to expect you to assume the responsibility other than to cooperate with the agency designated to handle air pollution. Do you agree with that?

Mr. TOMS. Yes, I do.

Senator HARTKE. I might point out the problem here, as I see it, in this field is you may have two different departments of the Government developing prototypes and experimental vehicles, and I do believe that some place there ought to be not only the highest type of coordination but we should avoid as much as possible duplication and departmental feuds. Yet, I can see the potential for coming in with a vehicle which is pollution free but not very safe and one which is safe but not pollution free.

Mr. TOMS. A very good point. Obviously, if you were to pursue one vehicle to do all jobs, there are economies that could be affected, and it would be hopeful that we could effect as many economies as possible.

Senator HARTKE. Senator Cannon has referred to the fact that we did take the action last night on a rollcall vote, which was not anticipated, but which turned out to endorse the position which you have taken, to provide for \$7 million additional for this prototype.

Now, will you encourage Secretary Volpe to communicate to the Senate and House conferees their desire to retain this \$7 million in the conference?

Mr. TOMS. I will certainly talk with him at my first opportunity.

Senator HARTKE. Let me say, do not make that opportunity too long from now. We are hopeful we will be able to get out of here before Santa Claus comes around.

Mr. TOMS. If at all possible, I will seek that opportunity today.

Senator HARTKE. Another matter which has concerned me a great deal, in fact when I did the oversight hearings on automobile safety this matter was brought rather forcibly to our attention, is the lack of personnel, staffing, and funding for this whole program which is so vital to the Nation.

As you know, as a result of an amendment I introduced last night, which was adopted last night on the floor of the Senate, we did make it possible for you to have an additional 25 employees in your Bureau.

Mr. TOMS. I did not know that. I am pleased to hear that.

Senator HARTKE. You remember I told you yesterday that I was going to do everything I could.

Mr. TOMS. I am very pleased.

Senator HARTKE. I had hoped to get 50, but the persuasiveness of the Senator from Mississippi that I had better be content with 25 made me agree with that. The chairman of the Senate Appropriations Subcommittee agreed to the 25.

I would hope that you would also make your need in this field known to the Secretary and hopefully then the Secretary would communicate to the conferees his desire to keep this in the budget.

I have some questions here which have been requested to be asked, three questions by the chairman of the Public Works Committee, Mr. Randolph.

The first one is: What is the one area of research which you feel may provide the fastest payoff in reducing the death toll on the Nation's highways?

Mr. TOMS. I feel the second generation of packaging, in other words the design of the automobile, should be a high priority. I would like to see a restraint system that would not require the fastening of a belt. This could be the air bag or some other similar type of device as long as we can be assured that it is failsafe.

I would like to see us get to the point where the automobile is designed and does utilize those devices which provide the maximum assurance of survivability in a crash. I think if we can do this rapidly, this could provide us with the quickest payoff.

Senator HARTKE. The second question of Senator Randolph: "Once all the necessary data are acquired, where do you feel the Nation's Highway Safety Bureau's research efforts should be concentrated?"

Mr. TOMS. In other words, once we have a fairly good feel for what the total nature of the problem is, where should we concentrate our research efforts? I am a firm believer in a balanced program, Mr. Chairman, and, as a result, I would also pursue the area of driver alcoholism and better driver control. In terms of the vehicle, I would, as I indicated earlier, pursue better packaging of the occupant.

Senator HARTKE. The third question of Senator Randolph: "How long, would you say, will it take before the present research program can produce results sufficiently concrete for recommendations to the States and the communities?"

Mr. TOMS. I think from what I already know in the development of the existing standards there are already some results being portrayed back to the States, there are already some recommendations, and I think this is going to be an ongoing sort of thing. As soon as information is available we are going to try to disseminate it to the public and to the States as rapidly as possible.

I would foresee the pursuit of a balanced program of research on all fronts dealing with the automobile and the driver. We will do as much as we can as fast as we can to try to accomplish the most as soon as we possibly can.

Senator HARTKE. My personal feeling is there has not been that type of real acceleration of interest which is necessary, and yet, at the same time, there are some indications that the actual death toll per passenger-mile is being reduced with some of the safety devices which have been developed since the program has been on the books. So, it is not all wasted effort.

I do feel that much more needs to be done. But we have taken some steps and are making some progress.

But one of the problems that I see does not concern the actual setting of standards and the information that comes as a result of those hearings. Do you envision your position as one in which you are sort of a public information bureau, too, to give us the information as soon as you have it?

Mr. TOMS. Absolutely.

Senator HARTKE. In other words, by making statements which would be helpful to the people who are driving, helpful to the automobile manufacturers, as you move along?

Mr. TOMS. I am a firm believer in the operation of a very public agency where as soon as we learn something that is helpful to the public or to the manufacturing industry we will let them know. I am also a very firm believer of full cooperation. I really look forward to the Bureau working well with the many national associations, dealing with the chiefs of police, motor vehicle administrators and highway officials, and trying to get all these various forces working together toward our common goal.

Senator HARTKE. I do not want to make a statement in advance of actual determination, but in our discussion we were talking about the effect of seat belts with pregnant women. Do you have any comment on that today?

Mr. TOMS. I was commenting about a recent research report. Unfortunately, a great many pregnant women who had been wearing seat belts have lost their unborn child. As a result, I think this is an undesirable thing and we have got to find better ways of packaging pregnant women when they are operating an automobile or riding in an automobile.

I hope as we evaluate this research and find it is true, that we will move as rapidly as we can with better techniques.

Senator HARTKE. That study was made by whom?

Mr. TOMS. I believe it was two professors at Wayne State University.

Senator HARTKE. I hope you would make the information you have along this line, available to us as soon as it is reasonably accurate and reasonably reliable. Will you do that?

Mr. TOMS. Yes.

Senator CANNON. On that point I was real glad to hear you say that one of the areas that you thought ought to be pursued further is some type of a safety device that did not require the fastening of seat belts. I think one of the biggest hazards in the front seat of the car now is the hazard, if you have a collision, of being hit on the head from that buckle from that shoulder harness that is not worn. I think that is a big hazard, and it is absolutely absurd in my judgment to have that kind of a hazard in a car for people who do not wear it and force it on people who do not want it.

Senator CORRON. If I may, I would like to add a comment. I do not know what you are going to do about these barber chair headrests, but I have got a car that is so equipped I cannot look through the rear window. I can look out the side through an outside mirror. Now, I have a car in my own garage at home and there are small children next door. I have a constant fear that I will back out of that garage and run over a child because of this visibility problem. This is particularly so since there is a tendency for small children to run over and bid you goodby when you start a car. Also, the rear window is so high that you cannot see anything that is within 15 feet directly behind your car, and this only aggravates the problem.

These huge headrests, I find, do obscure your view. I suppose that we have to shake down these new ideas with experience, but sometimes I think in the very dedicated endeavor to make cars safe that some of the things mitigate to just to opposite.

Mr. TOMS. Senator, one of the things I have a personal feeling about, as you do, is that we need to determine minimums for visibility, and it would be my hope that this is something we would begin to take a hard

look at and determine what range of visibility and the degree of vision, vertically and laterally, that is required to safely operate an automobile.

In my personal view it is bad when you are backing a car if you cannot see where you are going. We need to make sure that future automobiles are so designed that you can see where you are going and there is not the likelihood that you would run over a small child.

Senator HARTKE. While we are on the subject of legislation which is still pending, there is now pending, and the House just named their conferees yesterday, some improvements in the Highway Safety Act. Eight amendments, strengthening amendments, which I introduced are in the Senate package but not in the House bill.

I would hope that you would do all you can to encourage the Secretary of Transportation to make sure that those measures are adopted so that we can have a real enforceable highway safety act.

Mr. TOMS. I can assure you at my earliest chance I will confer with the Secretary, I will study them, and attempt to encourage as much support for traffic safety in every quarter as I possibly can.

Senator HARTKE. These amendments just make it possible for you to do an enforceable job in regard to that. In the setting of the standards I would hope that you would also write the standards so they can be enforced. In my opinion, some of the standards which have been written lack enforcement capability.

Mr. TOMS. I think in some cases when they were written the people involved were not aware they would encounter difficulties in enforcement. I think as we get better at doing these things, we are going to avoid these problems and I hope that we could avoid them.

Senator HARTKE. How do you view the problem of alcohol in relation to highway safety? Can you tell us if you have any ideas how you are going to deal with this tremendously important problem?

Mr. TOMS. I think recent research has shown that alcohol plays a very heavy role in people involved in collision. There is no question that we have got to find ways to control this problem.

My background and my personal orientation in the problem is such that we need to sophisticate our driver control measures, we need to find better ways of identifying who is the alcoholic and whether or not he is on the road; further, we need to find ways, to rehabilitate him, or if he proves to be absolutely incorrigible we can find effective ways of keeping him off the road.

One of the things that we have to realize in dealing with the alcoholic is that these people are living out in the States and your enforcement bodies are State agencies and city and local agencies, and we have got to develop programs where the Federal Government can assist the State and local agencies into doing a better job dealing with these people. I would hope through enforcement, through improved procedures with the judiciary, and through better driving licensing measures, we can really get a grip on this problem and find better ways to help these alcoholics, and hopefully as these programs get under way we will see a reduction in this area.

Senator HARTKE. In my opinion this is one of the real problems in highway safety.

Mr. TOMS. No question.

Senator HARTKE. And it deserves high priority.

Mr. TOMS. As you are well aware, there are some research studies that show in some areas that alcohol is involved in over 50 percent of the fatalities in this area, this is very high, so we really have to concentrate on it.

Senator HARTKE. Now, with regard to the industry and the Bureau relations, I think that one of the healthiest developments in the operation of agencies in the last few years has been a trend toward greater and greater openness of procedures. Too often in this country, in the past at least, you have seen the energy and vitality of a regulatory agency which has been completely sapped or even subverted by a close off-the-record relationship between the regulated industry and the agency.

What would your policy be with respect to these off-the-record private meetings with industry representatives and with respect to the openness of your files and records be?

Mr. TOMS. My style as a State official has always been to be completely open. I will continue to exercise that style, and I would expect to provide information as rapidly as it becomes available.

Senator HARTKE. One statement I made a moment ago was the fact that we had had some results. But at the same time, in the field of setting standards, only one significant standard is going into effect in 1970 and one went into effect in 1969, one significant one. This is not what you call really making progress.

Do you believe other safety standards should be issued more rapidly, and do you have any at this moment to which you would give high priority?

Mr. TOMS. First, we should determine areas of concentration, and if standards are applicable we would immediately issue them. I do not know all the reasons why there was only one last year and one this year. There may be very justifiable reasons. I am not aware of them. I would pledge to you as we uncover areas for concentration and if standards are applicable we would pursue them, that we are going to vigorously try to develop as many ideas and programs and opportunities as possible so that we can reduce deaths.

Senator HARTKE. Can you give us any comments at all on the so-called air bag restraints? Do you have any information which would be helpful at this time?

Mr. TOMS. I have not yet had the opportunity or the privilege to be briefed on the subject by the technicians and the scientists in the Bureau, but what I know concerning it as a State official, I think it holds real promise.

My chief concern is whether or not the device is failsafe. I am real concerned that the triggering device be absolutely reliable.

I do believe that we ought to try to pursue passive restraint mechanisms so that people do not have to actually fasten a seatbelt. At this point I think we want to go in this direction.

I think that the real question is whether they are failsafe, and whether they will really work. We have to assure ourselves of these things before we really begin to endorse them for use.

Senator HARTKE. What about an improved safety standard for brakes?

Mr. TOMS. I have long had a personal view that the public ought to expect the car to be able to stop under certain conditions within certain limits. I have always been bothered that tests of automobiles have shown massive differences in the capability of an automobile to stop. My own personal use has shown that disk brakes have been much better. I would hope that the Bureau will be able to take a look at handling characteristics and braking characteristics and could encourage the industry to improve these things, and hopefully when we get to a point where we can apply a fair standard that we would do so.

Senator HARTKE. You know as well as I do that one of the real causes for accidents and why we have so many injuries in relatively slow traffic is the question of side impact intersection accidents. Frankly, I do not understand why they do not put in some kind of cushion for bumpers. That is something you could do tomorrow, could you not?

Mr. TOMS. I do not think there is any question that it could be done.

Senator HARTKE. That is absolutely one of the areas that I would hope you would move in very rapidly, is to provide for a real bumper which has some cushioning effect instead of merely ornamental effects.

Mr. TOMS. I think when we talk about packaging the occupant we want to make the area as impenetrable as possible and this means, too, prevention of intrusion from the side.

Senator HARTKE. Can something be done on that very rapidly?

Mr. TOMS. As you know now, many cars have strong girders and extra sheet metal to protect the occupants from intrusion on the side and I have not yet been able to observe any information that would indicate how many lives this has saved, but if it has and if it does prove worthwhile we certainly should pursue.

Senator HARTKE. What about improved rear lighting?

Mr. TOMS. I have long had a personal interest in making sure that rear lights are easily seen, and I have observed, as I am sure many other people have, small taillights where the intensity differences between the running light and the stoplight is not enough so that in twilight hours or traffic you can tell when he puts the stoplights on.

I have been intrigued by the use of different color lights and a different location of lights, and one of the things I expect is to ask the scientists in the Bureau to take a look at this and to suggest to me and the industry better ways of lighting an automobile. I would like to say in my personal interest that I would like to see better ways of lighting automobiles in the front also.

Senator HARTKE. What about a better rollover protection?

Mr. TOMS. You are starting to see a lot more use of roll bars in sportcars and in convertibles. It seems to me that we do need rollover protection, and I think it would be amiss if we tried to completely package the occupant and then we permit soft tops or convertibles or other types of cars without any rollover protection whatsoever. I am pretty confident as we get into this it is going to become clearer that if we are going to talk about complete protection, we are going to have to offer just that, complete protection.

I know that stylists and the public are real concerned about the cosmetics of an automobile, it has to be nice looking, and I think we can accomplish both of these objectives.

Senator HARTKE. What about rear window defrosters?

Mr. TOMS. It is interesting you asked that. When the President nominated me for this job, my mother got me in the corner and this is one of her pet peeves. Boy, did she give it to me.

Senator HARTKE. We do not have to worry about that one then. I know one thing, wives and mothers effect more decisions probably than the country ever realizes. Is that right?

Mr. TOMS. I think that is absolutely right.

Senator HARTKE. What about antiskid braking devices?

Mr. TOMS. I have been encouraged by what I have read about this. I again have not had a chance to be briefed by the fellows in the Bureau, but I would hope that we could find a way to develop low-cost antiskid devices, and there are certainly hundreds of thousands of people in the United States who have not really become skillful at learning how to drive out of a skid, and maybe it would be a lot better for an antiskid device to be developed than to try to go through the really tough task of trying to teach people how to drive out of skids.

Senator HARTKE. I might say Andy Granatelli was here with me one day, and he said: "I will take you and put you in your car and I will show you how to drive down the highway at 75 miles an hour and I will spin that car completely around and have it head in the opposite direction without turning it over."

I told him he might do it with my car, but not with me in it. This is part of it, to know how to handle that car.

Mr. TOMS. That is right.

Senator HARTKE. Very few people really know how to get on to a superhighway.

Mr. TOMS. I think this is again a part of the balanced program. I do not think you can ignore it. I think that you want to help all you can. I think if you could develop programs to provide people with hints and help teach them to be better drivers and how to avoid those kinds of circumstances that cause collisions, that this is very necessary, but at the same time if we are going to make the care more handable and if we could provide antiskid devices we ought to do these things.

Senator HARTKE. I think one of the greatest invitations to death that I know of is the stalled automobile on the highway, especially in cold weather, when the driver leaves the wife and children sitting in the car with the lights out right in the line of traffic, and goes off to get help and along comes a car from the rear and smashes into the stalled car and kills or injures the occupants.

Mr. TOMS. certainly it is not done as much as is needed, to advise people about these kinds of hazards. After our discussion yesterday one of my colleagues indicated he came upon a car stopped in a blind location, two ladies just sitting in it, and he barely averted them. When he stopped and asked them to move their car—he ended up helping them push it off the road—it had not occurred to these two ladies that they were a hazard and that their lives were in danger.

Clearly there are dozens and dozens of cases like this where we need to get information to these people.

Senator HARTKE. This can be done on a public information basis.

Mr. TOMS. I would hope that it can. One of the things I hope the Bureau can do is to work with the various forms of the media to get this message to the motoring public.

Senator HARTKE. I will be glad to work with you on that.

One other field that has been neglected; that is used car safety standards. Public Law 89-563 required a submission to Congress by September 1968 on used motor vehicle safety, and they said that should be submitted within 1 year. It has not been issued. Do you want to give us any answer for the delay?

Mr. TOMS. I do not know the answer. I do not know what the reasons for the delay are. I would assure you that once I am on the job this is probably something that is going to come to my attention rather fast. At that point I would be interested in telling you what those reasons were, but it would be my hope that in dealing with used cars that even though this is a tough job, it revolves heavily around periodic motor vehicle inspection, that we will try to develop a good program that will try to make use of cars safely.

Senator HARTKE. If you will communicate that need for those 25 additional employees to the Secretary of Transportation and have him contact the necessary people in the conference, that might help you some.

Mr. TOMS. We will communicate to them.

Senator HARTKE. How about tire quality grading? In Public Law 89-563 the Department of Transportation was required to issue standards for a uniform quality grading system for motor vehicle tires by September 1968. That proposal has yet to come. Will you pursue that?

Mr. TOMS. You bet. I know that tires involve a very difficult problem. I cannot recite from memory how many tire manufacturers there are in the country and how many plants there are, but I do know with the way tires are produced and by the batches that this is a very difficult task, especially when you consider retreading and recapping and all the activities in the tire industry. Certainly tires are a critical part of a safe car, and I will pursue it.

Senator HARTKE. In the whole field of compliance, do you know why the Bureau has not taken more aggressive action to enforce safety standards?

Mr. TOMS. No, I do not. I do feel that they have done many, many excellent things, and that within their resources that they have pursued enforcement of many standards. I do know that enforcement of a lot of things depends upon the activities in the field by police agencies and the feedback as to what is in compliance and what is not.

This is one of the reasons why I feel that good cooperation with State officials and city officials is absolutely essential.

Senator HARTKE. That is why I mentioned earlier the fact that the standards basically the way they are written are not enforceable, and I would hope that when you write these standards you are sure they are enforceable.

Mr. TOMS. I think when you talk in terms of vehicle safety equipment compliance, there are many organizations of top State and city officials that the Bureau will want to work with so we can get good compliance.

Senator HARTKE. Of course, here again there is no use denying the fact that some of the testing facilities are not completed and they have been under funded. In other words, we give this appearance of being interested in safety but we do not really give the necessary material and resources to do the job.

Mr. TOMS. It is very helpful to have all the tools.

Senator HARTKE. That is right. I will assure you that I will do everything I can to help you get those.

Last month the Department began releasing the results of its test to determine compliance with motor vehicle safety standards. Sometimes they have been carried as sort of headline news. Do you think that is the way it should be done?

Mr. TOMS. Again, I come back to the earlier statement, I would like to see this information released as soon as it becomes available, and, of course, if it is headline news at that point, then so be it.

I would hope that in the future that we provide people with where we are going and what we are thinking about and how we expect to proceed as soon as we know it and get this information out as rapidly as possible.

Senator HARTKE. In line with that, with regard to especially consumer information, in December of 1968 the Department proposed seven consumer information regulations but only three were issued in January of 1969. Do you believe that additional regulations should be issued and do you see any special value in this type of information to the public?

Mr. TOMS. I see real value in providing consumers with information. I think everybody is aware of this trend toward helping the consumer, and I fully subscribe to it. Certainly an automobile is a very large investment for the average householder; so, I fully agree with providing as much information as possible.

I have not yet had a chance to really get into some of this consumer information that the auto industry puts out in terms of stopping their automobiles and things of this sort. It is something I do want to get into and become very familiar with.

Senator HARTKE. The Department is supposed to come out with a booklet in January, so it is possible for consumers to compare the various makes and types of automobiles. I would hope you will do all you can to make sure it comes out in January this next year, 1970.

Mr. TOMS. I really do not know whether the Bureau will be able to make that, but I sure hope they can.

Senator HARTKE. I hope so too.

About research and testing facilities, do you believe that research and testing facilities are essential to the operation of the motor vehicle and highway safety programs?

Mr. TOMS. I think you have to conduct research and I think you have to have testing facilities. I have not yet had an opportunity to determine what the full measure of these testing facilities are and how much they are available within the private sector.

I am aware that many people in the Bureau have been interested in being able to attack this problem more vigorously in the hope that some of these facilities would become available in the Bureau. That is another area I have not yet had a briefing on, and I would hope in the near future to determine what the plans are in this area.

Senator HARTKE. With regard to vehicle crash testing—we have had some reports—do you plan to continue the vehicles crash testing program?

Mr. TOMS. Well, I have always been very interested in the kind of information that this provides. The one thing I do not know yet is

what we are talking about in terms of costs and what kind of facilities are needed to do a really controllable job and to provide the kind of information that does not mislead the public. As soon as I have this kind of information, then, I think I would be in a better position to indicate whether or not we ought to be crash testing cars and what kinds of cars that need to be crash tested. One of the things that I would be concerned about, I would not want to just go out and crash every model of every make. It seems to me there have got to be some similarities and there has got to be some things that can be applied from one car to another.

This is an area I think you have got to be careful about; otherwise, you would be overlapping or having duplication.

Senator HARTKE. What about having industry cooperation in such a program?

Mr. TOMS. I know that industry does do a lot of this on their own. Whether it can be effectively monitored by government and whether this information is usable by government or even available to them, or whether it is proprietary, I am not aware yet.

Senator HARTKE. Last spring when I was holding these oversight hearings we ran into the problem that the 1969 program was being postponed, and I do not really see any concrete evidence that it is going to be reinstated.

One of the questions raised at that time was whether or not there were sufficient vehicles available. Do you think that industry should volunteer their vehicles?

Mr. TOMS. Well, you know, of course, an automobile is a very, very expensive item, but my work with the American Association of Motor Vehicle Administrators in their equipment safety program, we require all manufacturers to submit various items of their product so that it can be tested. For example, crash helmets, you have got to test a crash helmet by hitting it with some object to find out if it is going to cave in or not.

It seems to me if you are going to do a really good job to determine whether or not they are meeting the standards and compliance is being fully implemented, you are going to have to test these things.

Now, it would seem to me in an automobile that if you have a comprehensive set of standards toward a safe car, you have just got to test it.

Senator HARTKE. Could you not undertake such a program? Really, this would be of benefit to all the consumers, all the users of the automobiles, and you could spread that cost over them in some such fashion.

Mr. TOMS. It would seem to me there would be effective ways that you could set this up. I think one of the important things in dealing with the consumer, and a very real problem, is that consumers want this information when these new models hit the market. So, there is a problem in terms of timing, as to whether these can be obtained and tested by the time they hit the market. So, I know there are many problems involved, and I would just have to wait until the employees of the Bureau could brief me on what these problems are.

Senator HARTKE. One thing in this field, I would hope that you would continue this program; I think it is very worthwhile, and I would hope you would work out with industry some way in which it can be done more rapidly and more effectively, and I would also hope

you would make a determination in that field which I think is of great concern to a lot of people, and that is the survivability in an automobile crash between the so-called small car and the large car, because I think there is some evidence there that might be very revealing.

Mr. TOMS. Obviously the inertia and the different sizes and weights make this an interesting situation.

Senator HARTKE. With regard to quality controls, the manufacturers have recalled some 14 million vehicles, which is more than they sell in any one year, by the way. Do you feel this is a reflection of inadequate quality control? Do you feel Federal inspectors could relieve this problem? How would you attack that?

Mr. TOMS. The problem of Federal inspectors, I am not sure of the magnitude of the program we are getting into or whether or not this would actually do the job. I think when you are talking about 14 million cars being recalled, you are talking about an awful lot of cars. Surely, this suggests something to us, as to what we ought to be trying to accomplish, but this is another area that I would want to take a look at.

We sure do want to make sure that cars are safe and we would sure like to get to the point where they are safe without having to have so many recall campaigns, and we will be doing everything we can to reach that goal.

Senator HARTKE. In regard to automobile repair, do you believe with the present safety legislation that the Bureau can take action to lessen the problems facing the consumer in keeping their cars in a good condition and being repaired? Especially, do you have the authority to put standards for damageability and repairability of automobiles?

Mr. TOMS. I do not know at this point, I would have to review the statutes and the law, but it seems to me within a periodic motor vehicle inspection we do have an opportunity to assist people in this area. At least in the replacement of certain component parts of the automobile, you are probably well aware of some of the proposed plans where a complete electronic computer operated inspection station would provide estimates of repairs and the costs of the various components.

Senator HARTKE. I want to thank you for being so patient with us this morning.

Mr. TOMS. It has been my honor.

Senator HARTKE. I look forward to a great program and an effective one, and one that will reduce not only the death toll but one which makes it a joy to be back on the highways again.

Good luck to you and Merry Christmas.

Mr. TOMS. Thank you. Merry Christmas.

The CHAIRMAN. I would like to ask the chairman how my friend from Washington got along here.

Senator HARTKE. All I can say is if he is as effective in the job as he was in the hearing, we will have a great Administrator.

Mr. TOMS. Thank you, Senator.

The CHAIRMAN. On that happy note, we will adjourn.

(Whereupon, at 11:10 a.m., the committee was adjourned.)

You would make a determination in that field which I think is of great concern to a lot of people, and that is the safety of an automobile. I think that even the so-called small cars are the target, because I think there is some evidence that might be very revealing.

Mr. Tamm: Obviously the inertia and the different sizes and weights make this an interesting situation.

Senator Harkin: With regard to quality control, the manufacturers have recalled some 14 million cars, which is more than they sell in any one year in the U.S. Do you feel this is a reflection of inadequate quality control? Do you feel Federal inspectors could detect this problem? How would you attack that?

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Mr. Tamm: Thank you, Merry Christmas.

Mr. Tamm: I would like to ask the chairman how my friend from Washington got along here.

Senator Harkin: Well I can say it is an effort in the job as he was in the hearing, we will have a great Administrator.

Mr. Tamm: Thank you, Senator.

Mr. Tamm: On that happy note, we will adjourn.

Mr. Tamm: The committee was adjourned.



