the Committee on Merchant Marine and Fisheries.

By Mr. THOMPSON of New Jersey (for himself, and Mr. GROSS):

H.R. 6190. A bill to amend the Criminal Code to prohibit former Members of Congress from using seals, flags, license tags, or other insignia or devices which imply they are currently Members of Congress; to the Committee on the Judiciary.

By Mr. ULLMAN (for himself, Mr. CAMP, Mr. CLARK, Mr. FLOOD, Mr. FOLEY, Mr. ICHORD, Mr. JOHNSON of California, Mr. MCSPADDEN, Mr. QUILLEN, Mr. ROONEY of Pennsylvania, Mr. RUNNELS, Mr. SAYLOR, Mr. SHOUP, Mr. SKUBITZ, Mr. STUBBLEFIELD, Mr. SYMMS, and Mr. UDALL):

H.R. 6191. A bill to amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty; to the Committee on Ways and Means.

By Mr. VANDER JAGT (for himself, Mr. DE LUGO, Mr. BINGHAM, Mr. RIEGLE, Mr. MELCHER, Mr. ROSENTHAL, Mr. DIGGS, Mrs. HECKLER of Massachusetts, Mr. YOUNG of Illinois, Mr. FORSYTHE, Mr. WOLFF, Mr. WON PAT, Mr. PIKE, Mr. RANGEL, Mr. DRINAN, Mr. WIDNALL, Mr. MAZZOLI, Mr. MOAKLEY, Mr. CLEVELAND, Mr. DAVIS of South Carolina, Mr. TIERNAN, Mr. BUCHANAN, Mr. ROYBAL, Mr. FREY, and Mr. DANIELSON):

H.R. 6192. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. VANDER JAGT (for himself, Mr. JONES of Tennessee, Mr. MCDADE, Mr. MONTGOMERY, Mr. LEGGETT, Mr. PEPPER, Mr. MATHIS of Georgia, Mr. HARRINGTON, Mr. LEHMAN, Mr. CAMP, Mr. BRASCO, Mr. BRINKLEY, Mr. HELSTOSKI, Mr. STUDDS, Mr. ROE, Mr. PODELL, Mr. YATRON, Mrs. GRASSO, Mr. HUDNUT, Mr. EILBERG, Mr. CHAMBERLAIN, Mr. HARVEY, Mr. LOTT, Mrs. CHISHOLM, and Mr. SARBANES):

H.R. 6193. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. VANIK:

H.R. 6194. A bill to amend the Internal Revenue Code of 1954 to provide for an energy conservation tax, to establish the Energy Development and Supply Trust Funds, and for other purposes; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON of California:

H.R. 6195. A bill relating to the authority of the Administrator of Veterans' Affairs to readjust the schedule of ratings for the disabilities of veterans; to the construction, alteration, and acquisition of hospitals and domiciliary facilities; to the closing of hospital and domiciliary facilities and regional offices; and to the transfer of real property under the jurisdiction or control of the Administrator of Veterans' Affairs; to the Committee on Veterans' Affairs.

By Mr. WINN:

H.R. 6196. A bill to prohibit assaults on State law enforcement officers, firemen, and judicial officers; to the Committee on the Judiciary.

H.R. 6197. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal minimum death and dismemberment benefit to public safety officers or their surviving dependents; to the Committee on the Judiciary.

By Mr. WOLFF (for himself and Mr. ROYBAL):

H.R. 6198. A bill to amend the Internal Revenue Code of 1954 to provide an additional itemized deduction for individuals who rent their principal residences; to the Committee on Ways and Means.

By Mr. BYRON:

H.J. Res. 463. Joint resolution designating November 11 of each year as "Armistice Day"; to the Committee on the Judiciary.

By Mr. DENT:

H.J. Res. 464. Joint resolution to authorize the President to proclaim the 22d day of April of each year as Queen Isabella Day; to the Committee on the Judiciary.

By Miss JORDAN:

H.J. Res. 465. Joint resolution prescribing model regulations governing implementation of the provisions of the Social Security Act relating to the administration of social service programs; to the Committee on Ways and Means.

By Mr. SPENCE:

H.J. Res. 466. Joint resolution authorizing the President to proclaim the second full week in October each year as "National Legal Secretaries' Court Observance Week"; to the Committee on the Judiciary.

By Mr. STUCKEY:

H.J. Res. 467. Joint resolution proposing an amendment to the Constitution to permit the imposition and carrying out of the death penalty; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

112. By the SPEAKER: Memorial of the Legislature of the Commonwealth of Massachusetts, relative to Federal assumption of welfare costs of the States; to the Committee on Ways and Means.

113. Also, memorial of the Legislature of the Commonwealth of Massachusetts, relative to the National Health Care Expansion and Improvement Act; to the Committee on Ways and Means.

114. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to most favored nation status for the Soviet Union; to the Committee on Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENITEZ:

H.R. 6199. A bill for the relief of Guillermo Rivera Rivera; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 6200. A bill to grant a Federal charter to the Crime Stoppers Club, Inc.; to the Committee on the District of Columbia.

By Mr. RIEGLE:

H.R. 6201. A bill for the relief of Claudia Montgomerie-Neilson; to the Committee on the Judiciary.

By Mr. STUDDS:

H.R. 6202. A bill for the relief of Thomas C. Johnson; to the Committee on the Judiciary.

By Mr. TEAGUE of California:

H.R. 6203. A bill for the relief of Albertina C. Dias; to the Committee on the Judiciary.

By Mr. ROBISON of New York:

H.R. 6204. A bill for the relief of Helen Lampo; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

79. By the SPEAKER: Petititon of the Board of Supervisors, Los Angeles County, Calif., relative to automobile emission standards; to the Committee on Interstate and Foreign Commerce.

80. Also, petition of Paul A. Leipo, Jr., and other members of the International Brotherhood of Police Officers, Local 332, Bridgeport, Conn., relative to protection for law enforcement officers against nuisance suits; to the Committee on the Judiciary.

81. Also, petition of Lt. Bob Bostic and other members of the Greensburg, Ind., Police Department, relative to protection for law enforcement officers against nuisance suits; to the Committee on the Judiciary.

82. Also, petition of O. S. McCaw and other members of the Fraternal Order of Police, Blue Grass Lodge No. 4, Lexington, Ky., relative to protection for law enforcement officers against nuisance suits; to the Committee on the Judiciary.

83. Also, petition of Joseph R. Ray and others, Sanford, Maine, relative to protection for law enforcement officers against nuisance suits; to the Committee on the Judiciary.

84. Also, petition of William Pavia, Bellingham, Mass., relative to protection for law enforcement officers against nuisance suits; to the Committee on the Judiciary.

85. Also, petition of Joseph A. Clabaugh and other members of the Fraternal Order of Police, Lodge No. 69, Hanover, Pa., relative to protection of law enforcement officers against nuisance suits; to the Committee on the Judiciary.

86. Also, petition of the Legislature of Rockland County, N.Y., relative to the "Fort Worth Five"; to the Committee on the Judiciary.

87. Also, petition of the city council, Euclid, Ohio, relative to controlling the level of Lake Erie; to the Committee on Public Works.

SENATE—*Tuesday, March 27, 1973*

The Senate met at 10 a.m. and was called to order by Hon. JAMES ABOUREZK, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord of our lives, in this quiet morning interlude help us to put aside all other thoughts and duties that for a moment we may know Thy nearness. Fill our lives with new meaning and purpose. Help us to grasp the truth that we labor not alone, for Thou art with us; we work not in our own strength, for Thou dost support us. Rekindle the fire of faith our fathers gave us. Make our hours radiant with truth and our daily work resplendent with the faith which believes in the ultimate triumph of righteousness.

Through Jesus Christ, our Lord. Amen.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 27, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES ABOUREZK, a Senator from the State of South Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ABOUREZK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 26, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

U.S. FOREST SERVICE REORGANIZATION—RUMORS

Mr. MANSFIELD. Mr. President, during the weekend, news reports appeared in Montana indicating possible changes and consolidations in the regional setup of the U.S. Forest Service. Senator METCALF and I do not like what we hear. We have not had verification, but we understand that consideration is being given to moving the regional offices from Missoula, Mont., Ogden, Utah, and Albuquerque, N. Mex., to the Denver, Colo., Federal region, including the closing of many national forest headquarters.

While we do not disagree with the effort to unify the regional setup for many national Federal programs, it is important to point out that there are exceptions. National forest activity is limited to certain areas of the Nation. Any plan to make the Forest Service conform to the Federal regional system is ridiculous. Missoula is the headquarters of region I, one of the most active of the Forest Service regions. It is centrally located and is within easy access of all the national forest headquarters. Missoula is the center of considerable administrative and research activity.

Region I is made up of the State of Montana, northern Idaho, eastern Washington, and the grasslands in North Dakota and northern South Dakota. Region I headquarters in Missoula administers 26,126,940 acres of National Forest lands. There are 16 national forests within its jurisdiction, 10 in my State, five in Idaho, and one in Washington. The vast majority of the national forests in Montana are in western Montana and if we look at a map we can see that Missoula is the logical, central location. If region I is absorbed into region II in Denver, it will be some 800 to 1,000 miles away. Region II administers 20,000,000 acres of national forest. There are 186,000,000 acres in the entire national system of forest lands. The United States is a very large landholder and it does not seem unreasonable to ask that they continue to be administered from nine regional headquarters. Building up an even larger administrative monster in Denver, in addition to the one in Washington, D.C., is not going to simplify matters. Such action takes away more responsibility and action from local authority.

We also understand that this proposed reorganization involves a number of national forest headquarters consolidations and closures. If this is accurate, then it seems very inconsistent with what the administration would like us to believe on another front. We all know that national forest timber sales are way down, in fact below the annual allowable cut. This is due in part to an OMB enforced personnel cut. There is no way in which the Forest Service can efficiently offer timber sales without adequate personnel. To do otherwise would open up vast acreages to a rape of the timber resources.

All of this is being done at a time when the Nixon administration's Cost of Living Council indicates that they will increase temporarily the Nation's lumber supply in an effort to combat rising housing costs. The Council's recommendations reportedly will include increasing the Federal timber available for commercial harvest. How can this be done when they are reducing personnel?

The report indicates that the Council also wants to attack the railroad boxcar shortage as a contributor to high lumber prices. This is a very real problem and the Interstate Commerce Commission has through its regulatory authority, attempted to expedite the movement of railroad boxcars with new car orders and stiff penalities. However, the administration has severely limited the ICC personnel ceiling so that they cannot hire personnel to enforce and inspect the movement of cars.

In conclusion, Mr. President, Senator METCALF and I are very disturbed by these recurring reports. We thought we laid them to rest about a year ago. We wish to take this public opportunity to remind the current administration of the Miles City Veterans' Administration Hospital. Senator METCALF and I will not stand by and watch a viable and effective arm of the U.S. Forest Service in Missoula, Mont., dissipated and cut up. Region I should remain in Missoula and it should remain with its present activities and jurisdiction.

Mr. President, I ask unanimous consent to have printed in the RECORD, a series of communications my colleague, Senator METCALF, and I have received and initiated with the appropriate Federal agencies.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MISSOULA, MONT., *March 26, 1973.*

Senator MIKE MANSFIELD,
Capitol Hill,
Washington, D.C.:

Alarmed by article in today's Missoulian indicating U.S. Forest Service will close regional headquarters in Missoula, Ogden, and Albuquerque within the next 1 to 3 months and consolidate them in Denver. Plan includes consolidating offices from Great Falls and Butte to Helena as well as other involved changes. News article referred to a high-ranking Forest Service official in region 4 making the announcement at Twin Falls to the Idaho Wildlife Federation Convention. This would be a major blow to Missoula and the already disrupted Montana economy. Please refer to my letter of September 3, 1971, in regard to economic and social impacts: 1. Would you please inform me to the accuracy of this news information and any details regarding this proposal. 2. Since this is a vital matter, your assistance and cooperation to strongly oppose the closing of the Missoula regional headquarters before the proposal becomes official would be greatly appreciated.

Sincerely yours,

GEORGE LAMBROS.

MARCH 26, 1973.

Hon. EARL L. BUTZ,
Secretary, Department of Agriculture:
Hon. JOHN MCGUIRE,
Chief, U.S. Forest Service:

Rumors have come to my attention that U.S. Forest Service region 1 headquarters now at Missoula, Mont., will be transferred to Denver. I object strongly to any such plan. Missoula is strategically located in the heart of timber resources in region. Regional concept as now established does not necessarily apply to several of our natural resources. Denver is remote on the fringe of the most active forest regions. I would like your reassurance that nothing will be done to dissipate Forest Service activity at Missoula. Any plan to move the Missoula headquarters will be met with strong opposition here in the Senate.

Regards,

Senator MIKE MANSFIELD.

Hon. EARL BUTZ,
Secretary, Department of Agriculture,
Washington, D.C.:
Mr. JOHN MCGUIRE,
Chief, Forest Service, Department of Agriculture, Washington, D.C.:

Constituents have asked me to check a rumor that the Forest Service is considering moving its Missoula regional headquarters to Denver. Will appreciate your reassurance that this is not the case. The transfer of management from near the center of the resource to an area more than 800 miles away and on the fringe of the resource would be neither efficient nor economical and would work a very real hardship on Montanans sincerely concerned with the management of national forest resources.

LEE METCALF,
U.S. Senator.

Mr. MOSS. Mr. President, I rise to associate myself with the distinguished majority leader (Mr. MANSFIELD) in protesting the move now apparently under way in the Forest Service to reorganize its regional setup into the 10 standard offices of the standard regional concept of the Federal Government. This would mean splitting up the Intermountain regional office in Ogden, Utah, and scattering its work elsewhere in regional offices far removed from the scene of its action. Such a move would be unwise,

shortsighted, and environmentally indefensible.

The Forest Service admits that it is examining all regional boundary arrangements to see if it cannot pass its regional boundary arrangements into the Federal pattern. It has not yet admitted that such action will take place, but few of us are fooled that this is not what the Nixon administration wants the Forest Service to do, and will force it to do if it can get away with it.

Mr. President, it makes little environmental or administrative sense to force the Forest Service into the regional concept straightjacket. The philosophy underlying that concept is based upon centralizing regional offices of all Federal programs into 10 urban locations. Perhaps for those Federal programs whose objective is to raise the welfare of urban residents, this concept is sound.

But it is not sound for those agencies whose objective is to manage natural resources in an environmentally sound manner. The regional office should be maintained where the resources are. Ogden is in the middle of the resource area which serves Utah, southern Idaho, western Wyoming and Nevada. It is in the heart of the Intermountain national forests.

To try to administer the work in these forests from Denver, or from the Pacific coast, is unsound and reasonless.

If we want efficiency and effectiveness in the management of our forest lands, we must administer the work close to where it is being undertaken. Effective resource management is on-the-ground management—not management a thousand miles away.

I realize that this action is being proposed because of current budget restraints, but I predict it will be proved pennywise and pound foolish so far as the future of our forests is concerned.

I strongly oppose it and will do everything in my power to prevent it.

PROCLAMATION DESIGNATING THE WEEK OF APRIL 23, 1973, AS NICOLAUS COPERNICUS WEEK

Mr. SCOTT of Pennsylvania. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 5.

The ACTING PRESIDENT pro tempore laid before the Senate House Joint Resolution 5, which was read twice by its title, as follows:

H.J. Res. 5. Joint resolution requesting the President to issue a proclamation designating the week of April 23, 1973, as "Nicolaus Copernicus Week" marking the quinquecentennial of his birth.

Mr. SCOTT of Pennsylvania. Mr. President, I ask unanimous consent for the immediate consideration of the joint resolution.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. SCOTT of Pennsylvania. Mr. President, before moving for passage, I should like to note that the joint resolution is in celebration of this great scientist's 500th anniversary. It also reminds me of the story of Galileo, a devoted student of Copernicus' theory of the universe, who was tried for heresy, under a charge from the illiterati of the day that he recant his belief that the Earth and the planets moved in relation to the Sun.

As they forced Galileo to his knees for the recantation, the story goes that he was heard to say, in the ancient Italian of the time, "E pur si muove"—that is, "Nevertheless, it moves."

Now that is something that history should forever remember, that this man, the follower of Nicolaus Copernicus' theory which changed the course of scientific study and scientific thought for all the world thereafter, nevertheless was not changed by the rigidity of the illiterati.

At the end he said, "Nevertheless, it moves."

That is the spirit that I think should inform science today, and inform statesmen, as well. "If you believe it, say it; if you have it, flaunt it."

The ACTING PRESIDENT pro tempore. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 5) was ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona (Mr. FANNIN) is recognized for not to exceed 15 minutes.

THE DOLLAR DEVALUATION

Mr. FANNIN. Mr. President, twice within 14 months we have had a formal devaluation of the U.S. dollar. Now the dollar is floating in the international money market. Despite these considerable adjustments, the dollar remains under attack.

Dr. James J. O'Leary, vice chairman of New York's U.S. Trust Co., was quoted in a recent Forbes magazine as saying:

I'm not a prophet of doom, but the way things are going, this devaluation is just the second in a long series of devaluations.

I hope that Dr. O'Leary is wrong, but I believe that he is correct unless we can, using some of his words, change "the way things are going."

What we must do is to restore discipline and use some economic common sense if we are to stop the downward spiral of the dollar.

We cannot expect other nations to protect our dollar while we refuse to discipline wild Federal spending and while we take other congressional actions that skyrocket manufacturing costs and restrict our ability to compete in world markets.

Our balance of payments deficit sends more and more weakening dollars overseas each month, adding to the $80 billion in American currency inundating the money markets of the world.

Mr. President, if we are to bring inflation under control at home, restore confidence in the American economy, and protect the dollar abroad, there are four steps that we must take:

First. We must bring Federal spending under control immediately and also take other actions to stop inflation.

Second. We must stop the erosion of our position in world trade, not through protectionism, but through a rebirth of the competitive spirit within America and the renegotiation of trade agreements so that American goods can be offered on an equal footing in all world markets.

Third. We must have a new spirit of cooperation between management and labor to keep wages from further outstripping productivity.

Fourth. We must provide the economic climate within the United States to encourage the expansion of our industries.

Unfortunately, Mr. President, we have only scratched the surface in our attempts to deal with some of these problems.

Almost every move in Congress the past decade has been in the wrong direction.

We lowered taxes in 1969 and 1971 at a time when Congress was expanding Federal spending, thus increasing our already staggering national debt.

We added on to the more than 1,000 domestic assistance programs, many of which are extravagant, wasteful, and clearly ineffective.

An article, "A Clear Call to Congress—Control Spending Now," in the February 1973 Reader's Digest elaborates on this subject. I ask unanimous consent that this excellent article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A CLEAR CALL TO CONGRESS—CONTROL SPENDING NOW!

(By Caspar Willard Weinberger)

At the rate we're going, says the newly designated head of the government's biggest civilian agency, the tax bite will soon be so huge that the economy will stagnate.

It is time to say No—loud and clear—to the demands for ever greater federal spending. Failure by Congress to do so has produced a ballooning federal budget of more than a quarter trillion dollars, fueled inflation and weakened the dollar. Our national debt is now so staggering that interest on it alone costs taxpayers nearly $24 billion a year. "The tax burden of the American people," says President Nixon, "has reached the breaking point."

When the President brought me to the Office of Management and Budget 2½ years ago, he gave me one assignment—to keep under control a federal budget that was threatening to get out of hand. He asked me to direct a sweeping examination of the entire federal government, to recommend those programs that can be eliminated and those that can be cut, to identify those agencies that are—in his words—"too bloated."

The more I probed, the more apparent it became that throwing the taxpayers' money at one problem after another does not guarantee solutions. From 1965 to 1972, per capita federal spending for education, manpower, health and income-security programs shot up from $180 to $445. The budget of the Department of Health, Education and Welfare soared to $76 billion in 1972, will outstrip even the Defense Department in this fiscal year and go far ahead in fiscal 1974, largely because of huge increases in Social Security payments.

The 940-page Catalogue of Federal Domestic Assistance lists more than 1000 differ-

ent programs. Examine these programs and you often find little or no correlation at all between money spent and results achieved. Multimillion-dollar urban-renewal projects have left thousands homeless. Giant public-works projects have too often wreaked environmental havoc. Ever-rising payments under the existing welfare system have encouraged second and third generations to stay on the dole.

As *Fortune* magazine recently observed, "There is too much government money pouring into outmoded, unsuccessful or ill-conceived activities." Yet attempts to cut off these programs rarely succeed. Consider what happened two years ago when President Nixon asked Congress to restructure, reduce or eliminate 57 different federal activities and save the taxpayers nearly $3 billion a year.

There was no longer a need, said the President, for the government to own a railroad in Alaska or a steamship line in Panama. Sell them to private industry. End the $84-million-a-year program that pumps subsidized milk into some of the nation's wealthiest school districts. Let private yacht owners maintain their own marinas instead of using government largesse. Cut off "disability" payments to veterans with *arrested* tuberculosis, he recommended.

Reaction was fierce. Special-interest groups—from the Veterans of Foreign Wars to the National Education Association—bombarded Capitol Hill with letters, telegrams and petitions. Lobbyists roamed Congressional corridors rounding up opposition to the economy proposals. The President has been able to put into effect only $675 million in savings out of the nearly $3 billion he sought.

Time after time in recent years, Congress nas failed to pay sufficient attention to the total effect of its individual program decisions. For example, the President asked Congress for $6 billion to combat water pollution. Congress hiked this to $18 billion, and when the President vetoed the bill as inflationary, it easily passed over his veto.

No one is in favor of polluted rivers. But, as Sen. John McClellan noted, "The time has come when we must act to conserve our fiscal resources just as we have moved to conserve our natural resources." If we do not, the implications are ominous. The highly respected Conference Board, a nonpartisan research group, warned recently that "massive and almost continuous jumps in federal spending are posing a serious threat to the country's economic stability."

In the period 1969–1972—when military spending actually declined $3 billion, or four percent—"income security programs," from welfare to Social Security, rose 71 percent, to $65 billion. Outlays for pollution control increased 188 percent, for housing and community development 115 percent, for manpower training 94 percent.

Government—federal, state and local—now eats up about one third of the Gross National Product in taxes. We are moving toward the 40-percent mark—a point where the experts say it will be impossible to maintain a free-enterprise, incentive-oriented economy.

The Congress and the Executive, Working together, can halt this head-long plunge toward greater government control of the economy. At this point, however, it seems that Congress is lagging behind. In its closing hours last fall, the Senate rejected the President's plea for a rigid ceiling of $250 billion for fiscal 1973—an increase of $18 billion over 1972, and $143 billion over 1962.

If the people are ever to get responsible fiscal policy, three things must be done:

Abandon the unworkable. Traditionally, federal programs increase in scope year after year. Economist Peter Drucker puts it this way: "The moment government undertakes anything, it becomes permanent. Government really cannot abandon anything." But this Administration disagrees.

For months, the economists and technicians in the Office of Management and Budget have been conducting an intensive investigation of government programs. Armed with facts and figures, they will propose to Congress the termination of those programs that have not worked, the restructuring of those of marginal value. This will not be easy. Every President since Dwight Eisenhower has called for major revisions in the aid to impacted-areas school program, a boondoggle that funnels hundreds of millions of dollars into the wrong areas (Montgomery County, Md., the nation's wealthiest county, receives twice as much money under this program as the nation's hundred poorest counties).

The Administration will suggest cutbacks or revisions in program of federal housing subsidies that can only be called a multibillion-dollar failure. We want reform in the "compensatory education" program where money supposedly aimed at helping the underprivileged has gone for high-paid consultants and parking-lot paving. We will ask an end to certain anti-poverty programs whose "cost effectiveness" cannot be proved—programs that appear to benefit only those employes administering them.

In short, we will ask Congress to abandon those projects that have not worked. There will be anguished cries from special-interest groups. But only by slashing away at the dead wood can the money be found for new, workable approaches to our problems.

Consider long-range implications. Often programs with low first- and second-year costs are entered into with scant recognition that the country has been committed to massive funding before any benefits are realized. Thus in 1965 Congress voted to let the government sign rent supplement contracts stretching up to 40 years. Few legislators who approved $72 million for the first four years of the program realized that they were obligating future Congresses to spend nearly $3 billion by the year 2009.

Frequently, ill-conceived—and open-ended—matching programs enable states and localities to stage outright raids on the federal treasury. In 1967, Congress approved an amendment to the Social Security Act, requiring Washington to put up $3 for every $1 spent by state and local governments on undefined "social services." The amendment was a veritable bonanza and states were free to use the money for everything from paving roads to making movies. Outlays by Washington leaped 460 percent in four years. Twice, Administration officials pleaded with Congress to curb the runaway program. And twice Congress refused. Only last year, when Congress passed the $6-billion-a-year revenue sharing bill, did it agree to place a $2.5-billion-a-year lid on social services. But supporters have made clear they will try this year to remove the ceiling so that once again the program can grow like Topsy.

Overhaul the archaic budget process. The manner in which Congress handles the budget has become fragmented and fumblesome. At the root of the problem is that at no time does Congress adopt a comprehensive budget for the federal government. Never does it consider programs in light of what resources are available. Never does it set priorities through a systematic process.

When the President's budget reaches Capitol Hill in January, it is immediately parceled out among the various appropriation and authorization subcommittees. The subcommittees, concentrating on their own interests and concerns, give little consideration to the relationship that their actions might have on the overall budget. This manner of considering appropriation bills virtually forbids the development of sound fiscal policy.

There is also the matter of delay. Although the fiscal year begins more than five months after the budget is submitted, Congress rarely gets around to enacting more than a few of the 14 major appropriation bills by that time. Instead, "continuing resolutions" are passed, enabling government agencies to continue the same old programs at the same old rate. Opportunities for economy, for reform, for restructuring inadequate programs, are lost.

Congress can learn several vital lessons from the way the states handle their budgets. Many adopt a fixed budget at the beginning of each legislative session. Only then do they determine what each program deserves in the way of funding. Many set absolute deadlines for budgetary enactment. Other legislative business is out of order until approval of the budget.

Rep. Paul Findley, Illinois Republican, has incorporated many of these ideas into a budget-reform package. Co-sponsored by distinguished members of both parties, the Findley proposal would enable Congress for the first time to approach the budget question sensibly.

It would require the House to adopt a comprehensive federal budget before it could begin appropriating funds. This budget would include an estimate of tax revenues, expenditure ceilings for each main appropriation bill, and a recommendation for making up any deficit—by raising taxes, increasing the debt limit, or both. Only then could Congress begin doling out the money.

This proposal provides a good starting point for Congressional review of the budget process. Such a review must be given high priority in the 93rd Congress. For only reform of the entire process will permit Congress once again to act as the guardian of the U.S. Treasury. It is not only the budget of the U.S. government that is broken by irresponsible Congressional actions—it is the budget of every American family.

EVERYBODY'S SPENDING SPREE

Until 1930, aside from periods of active war, residents of the United States never spent more than about 15 percent of their income on the expenses of government. Now, on the average, that fraction stands at about 40 percent. And the plain fact is that governments are spending that amount not because of war or fear of war, but of the role that we, as citizens, have assigned to government. The federal government was until 40 years ago viewed primarily as a keeper of the peace, an umpire. Today, we view it as responsible for treating every social and personal ill, as the source from which all blessings flow.

There is hardly one among us who believes that he is getting his money's worth. Yet so long as we simply blame waste and bureaucracy, but continue to believe in the omnipotence and beneficence of government, the trend toward ever bigger government will continue.

That trend will stop only when and if we recognize that government is the problem, not the solution; that the general welfare requires that we dethrone the federal government from its role of Big Brother and restore it to its historic role as keeper of the peace and umpire.—Economist MILTON FRIEDMAN in Newsweek.

Mr. FANNIN. Mr. President, Secretary Weinberger makes some very good points in this article. Congress has made a start toward budget control and I believe we should accelerate this effort.

We must put an end to the irresponsibility which has forced President Nixon to take the extreme action of impounding funds. We are fortunate have a President with the courage to step in and restrain spending when Congress has acted irresponsibly.

Now I would like to take up my second point—our foreign trade situation. We are just now coming to realize how closely related our domestic and foreign trade problems can be. Let us examine just how our foreign trade deteriorated, and how our dollar crisis came about.

In the 1950's, when the Marshall plan and other postwar reconstruction plans were being implemented, Europe and Japan were still busily rebuilding their war-torn economies. In contrast, the U.S. economy was the strongest in the world. But today our competitive strength is challenged by Japan and the enlarged European economic community in particular.

By 1970, our share of the world's Gross National Product had declined to 30 percent from almost 40 percent in 1950. Meanwhile, the European community's share had grown from 11 to 15 percent, and Japan's share had increased from 1.5 to 6.2 percent.

World trade in 1970 had increased to 5 times its 1950 level, but the increase primarily benefited the Common Market countries and Japan. The Common Market's share of the vastly expanded postwar trade volume just about doubled—from 15 percent in 1950 to 28 percent in 1970. The new expanded Common Market will account for half of world trade in industrial products. Japan's share rose from 1 to 6 percent. Japan's record of export growth has been unparalleled—an annual growth of 19 percent over the 20-year period 1950–70. In sharp contrast, the U.S. share of world exports declined slightly—from 16 to 14 percent.

Another important trade trend in this same time period has been the rising proportion of U.S. output in the form of services. Goods are becoming less important in our economy and employment is shifting to service occupations, such as transportation, communications, trade, education, medical services, and other professions and Government. This trend raises key questions about our future international trade position since most services are difficult to export and raising productivity in services is more difficult than in manufacturing.

During the 1960's, our exports and imports both grew faster than the economy, but because our imports outpaced our exports, our trade balance has swung from a favorable $6.8 billion in 1964 to an unfavorable $6.4 billion in 1972.

Mr. President, the trade statistics are even more disturbing when they are further distilled. The figures show a steady decline in our ability to compete internationally in high technology and manufacturing industries where America once reigned supreme.

U.S. Department of Commerce figures released in December showed that the United States had a $7.1 billion deficit in the balance of trade for manufactured goods while Germany was producing a $16.4 billion surplus and Japan had a favorable balance of $19 billion. These particular exports are job sustaining.

The statistics show a steady plunge of the U.S. balance of trade in manufactures from 1960 onward, while Germany and Japan have soared.

This sharp shift in our trade balance has generated increasing and understandable concern about the economic effects of our trade in general and imports in particular. It has been estimated that between 600,000 and 750,000 jobs were lost between 1964 and 1971 as our trade balance shifted from surplus to deficit. However, Department of Labor job impact studies show that trade has had a net favorable effect on our overall employment. The effect on incomes has been similarly favorable, since in general export-oriented jobs are better paying than import-competing jobs.

Of course, our balance of payments covers more than our merchandise trade. The United States has run a basic balance-of-payments deficit in almost every year since 1950, but our favorable trade balance kept the deficit rather small until 1971. If the international monetary mechanism had been responsive, our continuing payments deficits would have resulted in an effective devaluation of the dollar long before the formal devaluation in 1971. But this did not happen, because of the rather inflexible official exchange rate system inherited from the Bretton Woods agreements in 1944. In fact, due to devaluations of some other currencies, the official dollar value of the dollar, perversely, was slightly higher in 1970 than in 1960. The Smithsonian Agreement of December 1971 finally officially recognized the inadequacies of the current fixed foreign exchange rate system and provided some measure of relief to the United States through a 7.9-percent dollar devaluation. Further relief has been provided by our additional 10-percent devaluation on February 12 of this year. But the hoped-for favorable impact on our trade balance may be slow in coming and meager in amount. This is because of trade barriers imposed against our exports particularly in the European Common Market and Japan.

On September 25, 1972, President Nixon in speaking to the governors of the World Bank and the International Monetary Fund said:

> We shall meet competition rather than run away from it. We shall be a stimulating trading partner, a straight forward bargainer.

He went on to say:

> I want to see new jobs created all over the world, but I cannot condone the export of jobs out of the United States caused by any unfairness built into the world's trading system.

Our trade with the European Common Market—the world's most important trading area—has been substantial and rising, but our favorable trade balance has been shrinking. In part, this may be due to the EC's variable import levy system for agricultural products under which U.S. grain exports to the EC have declined 30 to 35 percent from their peak.

Another problem in our trade with the Common Market is the preferential tariff treatment granted imports from less developed countries thereby discriminating against similar imports from the United States such as citrus fruits.

We have had an adverse trade balance with Japan since 1965 and the deficit has been growing. In part, this is because much of the Japanese export effort is aimed at the United States, since the Common Market has erected formidable barriers against imports from Japan. The bulk of our exports to Japan—exclusive of aircraft and a few high technology items—is agricultural products and industrial raw materials. In turn, Japan sells us increasing amounts of sophisticated products, such as cameras, tape recorders, calculating machines, radios, television sets, and sewing machines, as well as steel, textiles, and motor vehicles.

Here again, as in the case of the Common Market, there is a lack of equity in Japanese-American commercial relationships. For example, except for a modest tariff, Japanese autos enter the U.S. market unhindered. On the other hand, our auto manufacturers face a variety of restrictions in Japan. Commodity and road taxes are aimed at the larger cars from the United States. The result is that a $9,000 Cadillac sells for $30,000 in Japan, and even the Pinto sells for nearly $5,500 there. When our auto firms seek to invest directly in Japan, they are faced with other restrictions, such as the stipulation that they may own only a minority share of a Japanese company and must conform to restrictions on the composition of a subsidiary's management.

It is unrealistic to believe the Japanese can expect to continue selling $9.1 billion in the United States when they buy only $4.9 billion. Americans are absorbing more than 41 percent of the Japanese exports.

The General Agreement on Tariffs and Trade was drawn up in the immediate postwar era of the 1940's and is unsuited to the realities of the 1970's. Trade negotiations in the early and mid-1960's did nothing to correct the imbalances. These negotiations, in fact, made our situation worse rather than better. It is time to correct the inequities in GATT.

Now I would like to consider the matter of productivity.

Our economy makes real gains when productivity measured by output per man hour, rises faster than hourly labor costs. This favorable relationship held true in the years 1961 through 1967. But when labor costs rise faster than productivity, as in the period 1969–71, "cost-push" forces prices up and makes our exports less competitive in world markets. It is not the absolute level of wage rates that matters, therefore, but the labor cost per unit of output. In her fastest growing export industries Japan experienced annual wage increases of 14 percent in the 1965–70 period, but her annual productivity gains of 15 percent or more outpaced wage gains. In steel the annual productivity gain was 18 percent. In the United States, on the other hand, wage gains exceeded productivity increases over the same period, widening the unit labor cost gap to our disadvantage.

What is happening in the United States that differs so much from Japan? Perhaps a letter-to-the-editor of the Arizona Republic has some food for thought. I ask unanimous consent that

the letter, which appeared March 9, 1973, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

"CANCEROUS GROWTH" ANALYZED

Editor, The Arizona Republic:

A diagnosis made by Arthur F. Burns, chairman of the Federal Reserve Bank, stated: that the United States is suffering from a "cancerous growth" causing a steadily increasing balance of payment deficit.

Both the cause of the "cancer" is known and its cure available.

A few dismal statistics should jar some of us out of chronic lethargy: 30 per cent of our population work for all governments; 10 per cent are on public welfare: 15 per cent are retired: 10 per cent are engaged in the production of military supplies; and another 10 per cent are employed in rendering services.

This 75 per cent of our people are consequently not employed in the production of consumer products. Then it follows that such products must be supplied by the 25 per cent actually at work producing goods for the consumption of all. Since this seems to be an impossible task, we must resort to the importation of additional products to sustain our present high living standards.

If the 25 per cent producing force operated efficiently, they plus our technology might be able to fulfill our product needs. But the fact is that their performance is not only expensive but never up to par either qualitatively or quantitatively. The group is dominated by its "labor leaders" who in turn terrorize the politicians, and who in turn effectively stifle and kill any legislation aimed at even slight amelioration.

All one need do is to contrast the foregoing with the situation in West Germany and Japan to conclude that unless some extreme changes occur here, we cannot compete with these countries which also possess equal technical know-how.

In the past 14 months it was not the dollar that was devalued 18.5 per cent; it was rather the United States itself.

ABRAHAM ENGELMAN.

Mr. FANNIN. Mr. President, we also should consider the fact that there are several unique aspects of the Japanese industrial worker.

First, the worker enjoys lifetime job security with his company. This makes him ready to accept technological change, since he knows his employer will retrain him if his old job is automated out of existence.

Second, although unions are relatively as important in Japan as in the United States, the unions are organized by company, not by trade. As a result, the union identifies its interests with the company and is less likely to strike than is its American counterpart.

Third, labor is treated as a fixed cost, so that in an effort to reduce its fixed costs per unit, the typical Japanese company operates at high capacity, resulting in extremely low export prices.

We also must consider the fact that not only the unions, but the Government works hand-in-hand with industry in Japan to promote exports and discourage imports. The Japanese Government fosters trade practices which are illegal under U.S. law and of doubtful legality under international trade agreements.

It is imperative that union strategy change in America. The dictatorial power of union leaders over the years, along with the support of a majority of Members of Congress and without the objections of the administrations in power, resulted in devastating increases in wages without corresponding increases in productivity.

Generally speaking, productivity per dollar of wages continue falling more and more below other industrial countries, particularly Japan.

American workers must produce better to justify the high wages they receive in comparison with other workers in other countries of the world.

Even though foreign wages have been rising rapidly, they still are well below U.S. levels. The average hourly wage rate paid to U.S. workers, exclusive of fringe benefits, was $3.80 per hour in 1972 according to the latest figures I have seen.

In West Germany, workers earned $2.55 per hour last year.

In Japan, the rate was $1.90 per hour.

And in Taiwan, workers in 1971 were being paid on the average of about 21 cents per hour for their work in manufacturing industries.

Our labor leaders must give some very serious thought as to what happens each time they demand extravagant wage increases, or when they interfere with the use of our technology, or when they oppose an end to outdated work rules and featherbedding.

Our industries can pay more than Germany only if our workers produce more than German workers. Our industries can pay two times the Japanese rate only if our workers outproduce the Japanese 2 to 1.

President Nixon's phase II brought some relief from the spiraling labor costs, but in October 1972, Price Commission Chairman C. Jackson Grayson, Jr., cited productivity as his biggest concern and brightest hope."

This certainly is a time of great concern in the United States in view of the fact that labor contracts for some 4.7 million workers are being negotiated this year. Productivity must be taken into consideration in determining any wage increases to be granted.

It is unlikely that we in America will emulate the Japanese in their highly successful efforts to become the world champions of trade. But we do know that as a nation we must raise our productivity faster than money wage, including wage supplements, if we are to improve our badly deteriorated balance of trade.

And it is obvious that we must have new trade agreements which will give American-made merchandise a fair shot at the Japanese and the European markets.

Mr. President, so far I have covered three of the four points I made at the outset. Now I will talk about the fourth point. The need to provide the economic climate within the United States to encourage the expansion of our industries.

The cost of production continues to rise. Raw materials are getting costlier as a result of extreme environmental controls. Almost unworkable and costly regulations have been imposed for manufacturing and other business operations.

If we continue to ignore our precarious position in world trade—not recognizing our inability to continue one unrealistic decision after another that detrimentally affects our productivity—we will experience periodic devaluations perhaps of even greater magnitude than the 8 and 10 percent recently forced upon us. Some economists believe that unless Congress reverses the course it has traveled the last decade, eventually devaluations of an additional 30 to 40 percent in relation to gold will occur.

We cannot continue year after year passing legislation which ties the hands of our industry and reduces its ability to compete against the other great manufacturing nations.

We could end up with an ecological paradise that is an economic desert. We could have the safest plants in the world, because there is no demand for the overpriced goods they were designed to produce. We could have the highest paid workers in the world, without any work for them to do.

We should have stringent safety laws, we should have environmental protection, we should have good paying employment for everyone willing to work—but we must consider the impact that our every regulation can have on our economic future and then decide whether we can pay the price.

This is also true with taxation. It has been fashionable in the past few years to propose punitive taxes for business and industry. Currently we are faced with a great number of these proposals which could choke off the capital needed to create jobs and kill off the corporations which are the lifeblood of our economic system.

Congress already has erected huge barriers of redtape for our business and industry. There is no incentive for business expansion unless there are justifiable profits to be made. If we impose new tax schemes which discourage the investment of capital, we will be choking off the jobs needed by the millions of new workers entering our labor market each year.

A critical factor in the faster economic growth of our leading industrial competitors has been their higher rate of investment in new productive facilities and equipment. The rate of machinery and equipment investment in Japan—as well as in West Germany—was double ours in the 1968–70 period measured as a share of GNP—20 percent in those countries as against 10 percent here.

Profits are an important determinant of business investment. When profits decline as a percentage of GNP, U.S. investment in new plant and equipment suffers. Between 1950 and 1970, pretax corporate profits slumped from 15 to 7.6 percent of GNP. Even after last year's strong recovery, this relationship only rose to 8.1 percent. True, public investment may raise our national productivity through improved roads, education, or health, but our public investment has concentrated on defense, welfare and old-age medical benefits.

Retained profits help create jobs. In manufacturing, the average investment required per job is $20,000. The amount varies according to industry. In the oil industry, it takes more than $100,000 of capital to create one job; in the chemical industry the comparable figure is $40,000.

Wages and profits go together: High-profit industries pay high wages; low-profit industries pay low wages.

We must have profitable industries during the coming decade and the remainder of this century if we are to meet the economic and social goals that have traditionally been a part of the American dream. Consider, for example, the need we will have in the immediate future for oil imports to relieve the energy crisis. Some experts have calculated a cost of $36 billion per year for imported fuel by 1985, and this is based at the present price of fuel. The cost could be much higher. Even if we move strongly to develop our own fuel resources, we still will need a considerable amount of imported fuels in the coming decade. No one is going to give us this oil; we will have to pay for it; and the only way we can pay for it is to have a healthy economy with strong manufacturing industries competing in the world markets.

Mr. President, I do not want to leave the impression that nothing is being done to seek the answers to our dollar dilemma.

President Nixon sought a limit on Federal spending in the last Congress, and we in Congress now have a joint committee trying to come up with a budgeting system which will give us some control of Federal spending.

International trade and monetary agreements are being renegotiated and I am encouraged by the Nixon administration's determination to get a fair break for America. We can no longer afford to make economics subordinate to politics in international diplomacy.

The administration has struggled mightily to hold down pay increases so that they are somewhat in line with productivity increases.

But I am concerned as to whether we here in Congress are working with appropriate urgency concerning urgent issues.

And I am disturbed about what appears to be a lack of understanding among the American people as to the significance and the extent of our current economic problems both at home and abroad. It is the American people who are the victims of the economic miscalculations which have been made in the past and which could be made should Congress fail to act or should Congress move in the wrong direction.

Our people have been lulled into believing that a nation can enjoy the fruits of plenty without making the sacrifice of nurturing the trees.

We must restore discipline—in our work and in our Government.

If Congress is to be the leading force that most of us want it to be, then we should begin right here to impose the discipline necessary to rescue the Nation from our dollar crisis.

President Nixon in his message to Congress on February 22, spelled out our goals:

We must be restrained in Federal spending.

We must show reasonableness in labor-management relations.

We must comply fully with the new Phase III requirements of our economic stabilization program.

We must continue our battle to hold down the price of food.

And we must vigorously meet the challenge of foreign trading competition.

It is clear to me that the American people stand firmly together in support of these policies. Their President stands with them. And as Members of the 93rd Congress consider the alternatives before us this year, I am confident that they, too, will join in this great endeavor.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged against the time allotted to the Senator from Michigan.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session.

There being no objection, the Senate proceeded to consider executive business.

CONSULAR CONVENTION WITH POLAND (EX. U, 92D CONG, 2D SESS.); CONSULAR CONVENTION WITH RUMANIA (EX. V, 92D CONG., 2D SESS.); CONSULAR CONVENTION WITH HUNGARY (EX. W. 92D CONG., 2D SESS.); EXCHANGE OF NOTES WITH ETHIOPIA CONCERNING THE ADMINISTRATION OF JUSTICE (EX. B, 93D CONG., 1ST SESS.); AND CONVENTION WITH JAPAN FOR THE PROTECTION OF BIRDS AND THEIR ENVIRONMENT (EX. R, 92D CONG., 2D SESS.)

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to consider and vote on the five treaties.

The Senate, as in Committee of the Whole, proceeded to consider Executive U, 92d Congress, second session, the Consular Convention with Poland, which was read the second time, as follows:

CONSULAR CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC

The Government of the United States of America and the Government of the Polish People's Republic,

Desiring to regulate and develop consular relations between the two States,

Have decided to conclude a Consular Convention, and for that purpose the following Plenipotentiaries have been designated:

For the Government of the United States of America:

WILLIAM P. ROGERS, Secretary of State,

For the Government of the Polish People's Republic:

STEFAN OLSZOWSKI, Minister of Foreign Affairs,

who have agreed as follows:

PART I—DEFINITIONS

ARTICLE 1

For the purposes of the present Convention, the following terms shall have the meanings hereunder assigned to them:

(a) "Consular establishment" means a consulate general, consulate, vice consulate, or consular agency;

(b) "Consular district" means the area assigned to a consular establishment for the exercise of consular functions;

(c) "Head of a consular establishment" means a person directing a consular establishment with the rank of consul general, consul, vice consul, or consular agent;

(d) "Consular officer" means any person, including the head of a consular establishment, to whom the exercise of consular functions has been entrusted;

(e) "Employee of a consular establishment" means any person performing administrative, technical or service duties at a consular establishment;

(f) "Member of a consular establishment" means any consular officer or employee of a consular establishment;

(g) "Premises of a consular establishment" means buildings or part of buildings, as well as the grounds ancillary thereto, used exclusively for the purposes of a consular establishment;

(h) "Archives of a consular establishment" means official correspondence, documents, records, codes, and ciphers, as well as the office equipment assigned exclusively for their protection or safekeeping.

PART II—OPENING OF CONSULAR ESTABLISHMENTS AND APPOINTMENT OF OFFICERS AND EMPLOYEES OF THESE ESTABLISHMENTS

ARTICLE 2

1. A consular establishment may be opened on the territory of the receiving State only with the consent of that State.

2. The sending and receiving States shall determine by agreement the seat of the consular establishment as well as the limits of its consular district.

ARTICLE 3

1. The head of a consular establishment appointed by the sending State may exercise consular functions after presentation of letters of commission or similar instrument and after the issuance to him of an exequatur or other appropriate document of recognition by the receiving State.

2. The receiving State may grant to the head of a consular establishment provisional recognition permitting him to exercise consular functions until such time as the exequatur or other document of recognition has been issued to him.

3. Immediately after the issuance to the head of a consular establishment of an exequatur or one of the documents described in paragraphs 1 and 2, the competent authorities of the receiving State shall take the necessary measures to enable him to exercise his consular functions and to enjoy the rights, privileges, and immunities to which he is entitled.

ARTICLE 4

1. The sending State may, subject to the procedures established by Articles 3, 6 and 7 assign one or more members of its diplomatic mission in the receiving State to the per-

formance of consular functions. Except as provided in paragraph 5 of Article 31, a member of a diplomatic mission who has been so assigned shall continue to enjoy the privileges and immunities to which he is entitled as a member of the diplomatic mission.

2. The sending State may establish within its diplomatic mission a consular section, which may have a consular district in accordance with subparagraph (b) of Article 1 and paragraph 2 of Article 2.

ARTICLE 5

1. If the head of a consular establishment cannot carry out his functions or if the position of head of a consular establishment is vacant, and officer of the same consular establishment or another consular establishment, or a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State, may exercise his functions temporarily. In this case the fact he has been entrusted with the functions of head of the consular establishment shall be communicated in advance in writing to the foreign affairs ministry of the receiving State.

2. The person designated in paragraph 1 shall enjoy during the period of temporary exercise of the functions of head of the consular establishment the rights, privileges, and immunities of head of the consular establishment. In the event that this person is a member of the diplomatic staff of the diplomatic mission, he shall also enjoy the additional privileges and immunities to which he is entitled as a member of the diplomatic mission, in accordance with paragraph 1 of Article 4.

ARTICLE 6

1. Only nationals of the sending State may be consular officers.

2. Consular officers may be appointed from among the nationals of the sending State admitted to permanent residence in the receiving State only with the consent of the latter.

ARTICLE 7

1. The receiving State shall issue to each consular officer an appropriate document certifying his right to perform consular functions in the territory of the receiving State. For this purpose the sending State shall notify the receiving State in advance of the full name, functions, and class of all consular officers.

2. The sending State shall also notify the receiving State of the full name and duties of the employees of a consular establishment.

3. A consular officer notified to the receiving State in accordance with paragraph 1 shall be entitled to perform his consular functions after the receiving State has issued to him an appropriate document certifying his right to perform his functions.

ARTICLE 8

1. The receiving State may at any time, and without having to explain its decision, notify the sending State through diplomatic channels that a consular officer is persona non grata or that an employee of a consular establishment is unacceptable. In such a case the sending State shall accordingly recall such officer or employee.

2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1, the receiving State may refuse to recognize the officer or employee concerned as a member of the consular establishment.

ARTICLE 9

1. The sending State, acting either in its own name or through one or more natural or jurisdictional persons acting on its behalf, shall have the right to acquire under such tenure as may be authorized by the law of the receiving State, whether by purchase, lease, or otherwise, lands, buildings, parts of buildings, and appurtenances which the sending State considers necessary and appropriate for consular purposes, including residences for members of the consular establishment.

2. The sending State shall have the right:

(a) to construct, reconstruct, or alter buildings and other appurtenances on land held in accordance with the provisions of paragraph 1, subject to compliance with the conditions prescribed by the regulations of the receiving State concerning construction, or concerning space, zoning, or town planning;

(b) to employ, by contract or otherwise, its nationals, or entities organized under its laws, to design, construct, reconstruct, or alter such buildings. The employment of nationals of the receiving State by such entities shall be subject to the law of the receiving State.

PART III—RIGHTS, PRIVILEGES AND IMMUNITIES

ARTICLE 10

1. A shield with the coat-of-arms of the sending State, the name of the consular establishment in the English and Polish languages, and signs explaining the designation of the offices may be placed on buildings in which the offices of the consular establishment are located.

2. The flag of the sending State may be flown at the building in which a consular establishment is located. This flag may also be flown at the residence of the head of a consular establishment and on his means of transportation while being used by him for official purposes.

ARTICLE 11

1. The premises as well as the archives of a consular establishment are inviolable.

2. Authorities of the receiving State shall not enter the premises of a consular establishment or the residences of consular officers without the consent of the head of the consular establishment, the chief of the diplomatic mission of the sending State, or a person duly authorized by one of them to give such consent. Such consent is presumed in the event of a fire or other disaster requiring immediate protective measures. In no case, however, are these authorities permitted to violate the principle of the inviolability of the archives of a consular establishment, and especially to examine or seize them.

3. The premises of a consular establishment and residences of members of the consular establishment located in the same building shall be appropriately set apart from each other.

ARTICLE 12

1. A consular establishment shall have the right to free communication with the authorities of its State, including diplomatic missions or other consular establishments of the sending State, regardless of their location, making use of all public means of communication.

2. A consular establishment may use diplomatic or consular couriers, diplomatic or consular pouches, and may use codes and ciphers.

3. The correspondence of a consular establishment, courier mail and sealed diplomatic or consular pouches bearing visible external marks of their official character, whether sent by the establishment or destined for it, shall be inviolable, and the authorities of the receiving State shall not examine or detain them. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that a pouch has contents other than correspondence, documents, or articles of an official character designated exclusively for official use, they may request that such pouch be opened in their presence by an authorized representative of the sending State. If this request is refused, the pouch shall be returned to its place of origin.

ARTICLE 13

1. Consular officers and members of their families forming part of their households shall enjoy immunity from the jurisdiction of the judicial and administrative authorities of the receiving State.

2. Employees of a consular establishment shall enjoy immunity from the jurisdiction of the judicial and administrative authorities of the receiving State in respect of acts performed by them within the scope of their official duties.

3. The provisions of paragraphs 1 and 2 shall not, however, apply in respect of civil action:

(a) arising out of a contract concluded by a consular officer or an employee of a consular establishment in which he did not contract expressly or impliedly as an agent of the sending State;

(b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft;

(c) arising out of acts performed under Article 31 as provided in paragraph 5 of that Article.

4. Persons mentioned in paragraphs 1 and 2 shall not, however, abuse the immunities enjoyed by them, and are expected to respect the laws and regulations prevailing in the receiving State, including traffic regulations.

5. The sending State may waive the immunities described in this Article. Such waiver shall always be expressed and transmitted in writing to the receiving State.

6. Waiver of immunity from jurisdiction in respect of civil and administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

ARTICLE 14

1. Members of a consular establishment may be called upon to attend as witnesses in the course of judicial or administrative proceedings. In the event of the refusal of a consular officer to give evidence at such proceedings, no coercive measure or penalty may be applied to him. An employee of a consular establishment shall not, however, decline to give evidence, except in the cases mentioned in paragraph 3.

2. The respective provisions of paragraph 1 concerning consular officers and employees of a consular establishment shall apply also to members of their families forming part of their households.

3. Members of a consular establishment are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce offical correspondence or documents related thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State. These rights shall not be invoked if the interest of justice so requires and the interests of the sending State are not affected.

4. The authorities of the receiving State, in taking the testimony of a member of a consular establishment, shall take all appropriate measures to avoid hindering his performance of official duties. Upon the request of the head of a consular establishment such testimony may, when possible, be given orally or in writing at the consular establishment or at the residence of the person concerned.

ARTICLE 15

1. Members of a consular establishment and members of their families forming part of their households shall not be subject in the receiving State to military service, to the duty of appearing as a member of a jury or lay judge, or in any other capacity of a compulsory nature, including the obligation to pay any equivalent fees for the nonperformance of such duties.

2. Members of a consular establishment, as well as members of their families forming

part of their households shall not be subject to the regulations of the receiving State regarding registration, reports, permits for alien residence, or any such regulations normally relating to aliens.

ARTICLE 16

1. The sending State shall have the right to import into the receiving State materials or equipment for the construction, reconstruction, alteration, repair, maintenance, and operation of the premises, buildings, and appurtenances referred to in Article 9.

2. All articles, including means of transportation, which are imported by the sending State for the use of a consular establishment or are necessary for the construction, reconstruction, alteration, repair, maintenance and operation of buildings or other structures held or occupied by a consular establishment in accordance with Article 9, shall be exempt on the territory of the receiving State from all customs duties and taxes or other taxes imposed by reason of importation.

ARTICLE 17

1. The baggage, effects, and other articles including means of transportation, imported exclusively for the personal use of a member of a consular establishment and members of his family forming part of his household, shall be exempt from all customs duties and taxes, or other taxes resulting from importation.

2. The exemptions defined in paragraph 1 shall be recognized with regard to property imported by a person authorized thereunder at his first entry and subsequent entries into the receiving State, as well as with regard to that property consigned to a member of a consular establishment while he is performing his consular functions or other defined duties at said establishment. However, this shall not apply to articles the importation of which is expressly forbidden by law. The receiving State may limit the number of automobiles imported free of duty by members of a consular establishment for their and their families' personal use.

3. It is understood, however, that

(a) This Article shall, except with respect to accompanying baggage at first entry, apply as to members of a consular establishment only when their names have been communicated to the foreign affairs ministry of the receiving State and they have been duly recognized in their official capacity; and

(b) in the case of consignments, the receiving State may, as a condition to the granting of exemption, require that a notification of any such consignment be given in a prescribed manner.

ARTICLE 18

1. The sending State shall be exempt from all taxes, assessments, or similar charges levied for public purposes, for the payment of which it would otherwise be legally liable in the territory of the receiving State, with respect to:

(a) the acquisition, sale, construction, and maintenance of immovable property of which the sending State is the legal owner or which is owned by one or more natural or juridical persons acting on its behalf when such property is used for the consular purposes specified in paragraph 1 of Article 9, or when such property has been acquired for such purposes and is not being used for other purposes;

(b) the occupation of immovable property of which the sending State is the lessee;

(c) the acquisition, sale and maintenance of movable property by the sending State which is used for consular purposes;

(d) the performance of consular functions, including the collection of consular fees and charges in accordance with the provisions of Article 37.

2. If the law of the receiving State does not authorize the sending State to acquire immovable property for consular purposes, including residences, as the legal owners in its own name or in the name of one or more natural or juridical persons acting on its behalf, the exemption provided in subparagraph (a) of paragraph 1 shall apply to immovable property transferred to the sending State for perpetual use, or leased or rented for a stated period of at least ten years.

3. The exemptions specified in subparagraph (a) of paragraph 1 and in paragraph 2 shall not apply to taxes, assessments, or similar charges levied for specific services or for local public improvements by which the property is specially benefited.

ARTICLE 19

Movable property left upon the death of a member of a consular establishment or member of his family forming part of his household shall be exempt from taxes of any kind, such as state, inheritance, succession, or similar taxes, if the property was located in the receiving State, exclusively in connection with the sojourn in that State of the deceased as a member of a consular establishment or member of his family forming part of his household. Any part of such movable property which does not exceed in value twice the total of all official income received from the sending State in the year immediately preceding the death shall be deemed conclusively to constitute property located in the receiving State exclusively in connection with the decedent's sojourn there as a member of the consular establishment or a member of his family forming part of his household.

ARTICLE 20

1. The members of a consular establishment, as well as members of their families forming part of their households, shall, except as provided in paragraph 2, be exempt from the payment of all taxes or similar charges of any kind imposed by the receiving State or any local authorities thereof for the payment of which the officer or employee would otherwise be legally liable.

2. Exemption from taxes or similar charges may not be applied to taxes and charges imposed:

(a) by reason of or incident to the acquisition as the result of death of rights to property located in the receiving State, such as estate, inheritance, or succession taxes, with the exception specified in Article 19;

(b) by reason of or incident to the transfer in the form of a gift of property located in the receiving State;

(c) incident to the ownership or acquisition by purchase by members of a consular establishment or members of their families forming part of their households of real property situated in the receiving State, if they are acting in their own name and not in that of a consular establishment;

(d) for specific services rendered;

(e) on income derived in the receiving State from sources other than emoluments, salaries, wages, or allowances received from the sending State in connection with the discharge of official functions or duties.

ARTICLE 21

The privileges and immunities recognized by paragraphs 1 and 2 of Article 13, paragraphs 1, 2, and 4 of Article 14, Articles 15, 17, 19 and paragraph 1 of Article 20 shall not be enjoyed by members of a consular establishment and members of their families forming part of their households if they are nationals of the receiving State or have the status in the receiving State of an alien admitted to permanent residence. However, all members of a consular establishment shall enjoy the rights described by the provisions of paragraph 3 of Article 14.

ARTICLE 22

1. All means of transportation belonging to the sending State, to members of a consular establishment, or to members of their families forming part of their households, and used for the needs of a consular establishment or of the persons mentioned above, shall be properly insured against civil claims by third parties.

2. The provisions of paragraph 1 shall not apply to members of a consular establishment and members of their families forming part of their households who are nationals of the receiving State or have the status in the receiving State of an alien admitted to permanent residence, who will be subject to the obligation of insuring their private means of transportation in accordance with the regulations of that State.

PART IV—CONSULAR FUNCTIONS

ARTICLE 23

1. To the extent that it is permitted by international law, a consular officer shall be entitled within his consular district, in accordance with the laws and regulations of the receiving State, to protect the rights and interests of the sending State, and of its nationals, both individuals and bodies corporate. To this end, he may address himself to the courts and other authorities of the receiving State in the consular district, and, if the receiving State does not object, to its central authorities.

2. A consular officer may, subject to the practice and procedures obtaining in the receiving State, represent or arrange appropriate representation for nationals of the sending State before the courts and other authorities or official persons of the receiving State for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, the protection of the rights and interests of these nationals, if because of absence or any other reason they are not in a position at the proper time to assume the defense of their rights and interests.

ARTICLE 24

A consular officer shall be permitted to cooperate in the development of economic, commercial, cultural, and scientific relations between both States as well as in furthering by other means friendly relations between them.

ARTICLE 25

A consular officer shall have the right to carry out the following functions within his consular district in accordance with the laws of the sending State:

(a) to register nationals of the sending State, to issue or amend their passports and other travel documents, and also to issue visas to persons desiring to travel to the sending State;

(b) to receive declarations from nationals of the sending State and to issue them appropriate certificates and documents based thereon;

(c) to prepare documents of vital statistics pertaining to births and deaths of nationals of the sending State, as well as receive statements concerning marriages in cases where both persons to marry are nationals of the sending State; however, this does not relieve the nationals of the sending State of the obligation to observe the laws and regulations of the receiving State concerning reporting or registering of births and deaths, and the performance of marriage;

(d) to authenticate the official signature and seal which appear on any legal act or other official documents drawn up before a notary or other officer of the receiving State or which appear on a copy or extract taken from any vital records books or other official records of the receiving State, with a view to making the document, when presented for any purpose, acceptable in administrative or judicial proceedings in the sending State;

(e) to prepare acts or documents of a legal nature, including commercial documents, wills and contracts, as well as to certify and

authenticate signatures on them, to receive acknowledgements, and in general to take such action as may be necessary to render them valid, when a national of the sending State requests the performance of these activities and when these acts and documents are to be used outside of the territory of the receiving State, or when requested by any other person when these documents are to be used in the territory of the sending State, provided that these activities are not contrary to the law of the receiving State;

(f) to issue certified copies of documents and extracts thereof from the archives and registers of the consular establishments;

(g) to translate any acts and documents and to certify to the accuracy of such translation;

(h) to receive from national of the sending State on a voluntary basis testimony or statements requested by courts and other authorities of that State, as well as receive from such nationals oaths or affirmations in accordance with the applicable law of the sending State;

(i) to deliver to nationals of the sending State any official documents from authorities of the sending State.

ARTICLE 26

1. Copies of the acts and documents mentioned under subparagraphs (d) and (e) of Article 25, duly authenticated or certified by the consular officer under official seal, shall be admitted in judicial and administrative proceedings in both the sending and receiving State, equally with the originals, and shall have the same force and effect as though they had been prepared or issued by or executed before a notary public or other public official of the receiving State.

2. All acts and documents prepared by courts and other authorities or officials of the receiving State properly authenticated in the territory of that State by a consular officer of the sending State shall have, in judicial and administrative proceedings in the sending State, the same force and effect as acts and documents prepared by the courts and other authorities or officials of the sending State provided such acts and documents have been drawn and executed in a manner not inconsistent with the laws and regulations of the sending State.

ARTICLE 27

1. A consular officer is authorized to transmit, upon request by a court of the sending State, letters rogatory to the authorities of the receiving State competent to act thereon.

2. A consular officer is authorized to receive voluntary testimony of citizens of the sending State, for use in that State.

ARTICLE 28

A consular officer, acting ex officio or on behalf of persons having a legitimate interest in the matter, may propose to the courts or other competent authorities of the receiving State appropriate persons to act as guardians or trustees for nationals of the sending State or to act as custodians of the property of such nationals when it is left without supervision.

ARTICLE 29

1. A consular officer shall have the right within his consular district to confer with any national of the sending State, to give him assistance or advice, and where necessary to arrange for legal assistance for him. If a national of the sending State desires to visit or communicate with his consular officer, the receiving State shall in no way restrict the access of the national to the consular establishments of the sending State or object to visits to such national by a consular officer of the sending State.

2. The appropriate authorities of the receiving State shall immediately inform a consular officer of the sending State of the detention or arrest of any national of the sending State who has not yet been admitted to permanent residence in the receiving State. In the case of the detention or arrest of a national of the sending State who has been admitted to permanent residence in the receiving State, the appropriate authorities of the receiving State, on the request of such national, shall immediately inform a consular officer of the sending State of such detention or arrest.

3. The receiving State shall forward without delay any correspondence from a national of the sending State detained or arrested in the receiving State addressed to a consular officer of the sending State. A consular officer shall upon his request be informed of the reasons for the detention or arrest of any national of the sending State. A consular officer may visit such national at any time and may communicate in writing with him in the language of the sending State or of the receiving State for the purpose of safeguarding his interests, with the observance, however, of the laws and regulations of the receiving State.

4. In case of a trial of a national of the sending State in the receiving State, the appropriate authorities of the receiving State shall, at the request of the consular officer, inform such officer of the charges against such national, and shall permit the consular officer to be present during the trial of such national, wtih the observance, however, of the laws and regulations of the receiving State.

5. A consular officer of the sending State shall have the right, subject to local prison regulations, to visit and communicate with a national of the sending State who is serving a sentence of imprisonment in the receiving State.

6. The rights of visiting and communicating provided in paragraphs 2, 3 and 5 shall be exercised in conformity with the laws and regulations of the receiving State, including prison regulations; provided, however, that the application of those laws and regulations shall not prevent a consular officer from visiting his national without delay, communicating freely with him, and obtaining information of the charges against him.

7. The provisions of paragraphs 1, 2 and 3 have appropriate application also to any person employed on a vessel or aircraft of the sending State who is not a national of, or who has not been admitted to permanent residence in, the receiving State.

ARTICLE 30

Whenever the appropriate local authorities of the receiving State learn of the death in the receiving State of a national of the sending State, they shall without delay so inform a consular officer of the sending State. The consular officer shall be entitled, upon his request and for consular purposes, to receive from the appropriate authorities of the receiving State a copy of the certificate of death of such national.

ARTICLE 31

1. Whenever the appropriate local authorities of the receiving State learn of the opening of an estate resulting from death in the receiving State of a national of the sending State who leaves in the receiving State no known heir or testamentary executor, they shall as promptly as possible so inform a consular officer of the sending State.

2. Whenever the appropriate local authorities of the receiving State learn of the death of a person, regardless of nationality, who has left in the receiving State an estate in which a national of the sending State residing outside the receiving State may have an interest under the will of the decedent or otherwise in accordance with the laws of the receiving State, they shall as promptly as possible so inform a consular officer of the sending State.

3. A consular officer of the sending State shall have the right, directly or through his representative, to protect the interests of a national of the sending State who is not a resident of the receiving State and who is not otherwise represented. In such circumstances the consular officer shall be permitted, in accordance with applicable laws and regulations, to request local authorities to supply information concerning holdings or interests of any such national especially shares in estates, pension rights, insurance or employees' compensation benefits.

4. A consular officer of the sending State shall be entitled to receive for transmission to a national of the sending State who is not a resident of the receiving State any money or other property to which such national is entitled as a consequence of the death of another person, including shares in an estate, payments made pursuant to employees' compensation laws, pension and social benefits systems in general, and proceeds of insurance policies, unless the court, agency, or person making distribution directs that transmission be effected in a different manner. The court, agency, or person making distribution may require that a consular officer comply with conditions laid down with regard to:

(a) presenting a power of attorney or other authorization from such national residing outside the receiving State;

(b) furnishing reasonable evidence of the receipt of such money or other property by such national; and

(c) returning the money or other property in the event he is unable to furnish such evidence.

5. Whenever a consular officer receives any money or other property for transmission to a national of the sending State pursuant to paragraph 4, he shall be subject, with respect to such function, to the laws and to the civil jurisdiction of the authorities of the receiving State in the same manner and the same extent as a national of the receiving State.

ARTICLE 32

1. A consular officer shall be entitled to give assistance to vessels under the flag of the sending State, as well as to their crews, and he may address himself for this purpose to the authorities of the receiving State. A consular officer may, where stipulated by the laws of the sending State, enjoy the right of supervision and inspection of vessels under the flag of that State and their crews, and he may take all measures to assure observance of the laws of the sending State with regard to navigation. For this purpose he may visit vessels and be visited by the masters and crews of vessels of the sending State.

2. Without prejudice to the right of the courts or other authorities of the receiving State to assume jurisdiction over crimes or offenses which disturb the peace or security of the port and to enforce the laws of the receiving State, all measures taken by a consular officer in accordance with the laws of the sending State concerning vessels under the flag of that State and their crews, including the signing on and discharge of the master and members of the crew, as well as the settlement of disputes of all kinds between the master and members of the crew, shall be respected by the authorities of the receiving State. For the execution of such functions, the consular officer may request assistance from competent authorities of the receiving State.

ARTICLE 33

1. If it is the intention of the authorities of the receiving State to arrest or otherwise detain in custody any person on board a vessel under the flag of the sending State who is not a national of the receiving State, including the master or crew member thereof, or to seize any property aboard such a vessel, these authorities, except in cases where it is impossible in practice because of ur-

gency, shall inform a consular officer in time to accord him an opportunity to visit the vessel before these measures are carried out. If it shall be impossible in practice to inform a consular officer in advance, the authorities of the receiving State shall inform him as soon as possible, according him full opportunity to visit and communicate with the arrested or detained person and to take appropriate steps to safeguard the interests of such person or vessel.

2. The provisions of paragraph 1 shall not apply to passport, customs, and health inspection, nor to measures taken by the authorities of the receiving State at the request of the master or with his permission.

ARTICLE 34

1. If a vessel under the flag of the sending State is wrecked or damaged in the territory of the receiving State, or if the continuation of its voyage shall in any way be rendered impossible, the authorities of the receiving State shall inform a consular officer immediately and shall take all practical measures for the preservation and protection of the vessel as well as the persons, cargo and property on board.

2. If the person who represents the interests of a vessel described in paragraph 1 is unable to make necessary arrangements in connection with the vessel or its cargo, a consular officer may make arrangements on his behalf. A consular officer may under similar circumstances take appropriate steps with regard to cargo and other property owned by the sending State or the nationals thereof, which belongs to a wrecked or damaged vessel of other registry, except when the vessel is under the flag of the receiving State.

3. No customs duties shall be levied against a damaged vessel under the flag of the sending State or its cargo or stores unless they are delivered for use in the receiving State.

ARTICLE 35

1. The term "vessel" as used in Articles 32, 33, and 34, means all types of vessels authorized to fly the flag of the sending State, with the exception of warships.

2. The provisions of Articles 32, 33, and 34 shall also apply in relation to civil aircraft and civil aviation to the extent that they are capable of such application.

ARTICLE 36

A consular officer shall be permitted to perform all other consular functions entrusted to him by the sending State, as long as their performance is not contrary to the laws of the receiving State.

ARTICLE 37

A consular establishment may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

PART V—FINAL PROVISIONS

ARTICLE 38

1. The present Convention shall be ratified and shall enter into force on the thirtieth day following the date of the exchange of instruments of ratification, which shall take place at Washington as soon as possible.

2. The present Convention shall remain in force until six months from the date on which one of the Contracting Parties gives notice of termination of the Convention in writing to the other Contracting Party.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

DONE in Warsaw on May 31, 1972, in two copies, each in the English and Polish languages, both texts having the same force.

For the Government of the United States of America:

WILLIAM P. ROGERS

For the Government of the Polish People's Republic:

STEFAN OLSZOWSKI

FIRST PROTOCOL TO THE CONSULAR CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC

At the time of signing of the Consular Convention of this day between the Government of the United States of America and the Government of the Polish People's Republic, the undersigned Plenipotentiaries, duly authorized, have further agreed on the following provisions:

Without derogation of such additional rights and benefits as the sending State may be entitled with respect to its diplomatic and other official property on the territory of the receiving State, the provisions of Articles 9, 16, and 18 of the Consular Convention shall apply likewise with respect to movable and immovable property, including residences, owned or likewise held by the sending State and used for:

(a) diplomatic purposes, including those of permanent missions to international organizations; and

(b) for information and cultural activities not conducted within diplomatic missions or consular establishments.

The present Protocol constitutes an integral part of the aforesaid Consular Convention between the Government of the United States of America and the Government of the Polish People's Republic.

DONE in Warsaw on May 31, 1972, in two copies, each in the English and Polish languages, both texts being equally authentic.

For the Government of the United States of America:

WILLIAM P. ROGERS

For the Government of the Polish People's Republic:

STEFAN OLSZOWSKI

SECOND PROTOCOL TO THE CONSULAR CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC

At the time of signing of the Consular Convention of this day between the Government of the United States of America and the Government of the Polish People's Republic, the undersigned Plenipotentiaries, duly authorized, have further agreed on the following provisions:

1. It is agreed between the Contracting Parties that the notification to a consular officer of the detention or arrest of a national of the sending State not admitted to permanent residence in the receiving State, specified in Paragraph 2 of Article 29 of the Consular Convention, shall take place within three days from the time of detention or arrest.

2. It is agreed between the Contracting Parties that the notification to a consular officer of the detention or arrest of a national of the sending State admitted to permanent residence in the receiving State, specified in Paragraph 2 of Article 29 of the Consular Convention, shall take place within three days from the time of the request of such national that the consular officer be notified.

3. It is agreed between the Contracting Parties that the right to visit, specified in Paragraph 3 of Article 29 of the Consular Convention, shall be accorded to the consular officer within four days from the time of detention or arrest of any national of the sending State.

The present Protocol constitutes an integral part of the aforesaid Consular Convention between the Government of the United States of America and the Government of the Polish People's Republic.

DONE in Warsaw on May 31, 1972, in two copies, each in the English and Polish language, both texts equally authentic.

For the Government of the United States of America:

WILLIAM P. ROGERS

For the Government of the Polish People's Republic:

STEFAN OLSZOWSKI

EXCHANGE OF NOTES CONCERNING POLISH CITIZENSHIP LAW AND PROCEDURAL PRACTICE

No. 37.

The Embassy of the United States of America refers to the talks held between representatives of the Embassy and representatives of the Ministry of Foreign Affairs of the Polish People's Republic on the subject of reducing the possibilities of misunderstanding in the application of the citizenship laws of both countries, and has the honor to request that factual data related to the basic provisions of the citizenship law be conveyed and that points of procedural practice be explained.

1. In particular, the Embassy requests information concerning the formalities related to obtaining Polish recognition of loss of the citizenship of the Polish People's Republic by persons who have been naturalized abroad. The basic elements of this explanation of the Polish practice should contain information on the procedure to be followed by naturalized United States citizens to renounce nationality of the Polish People's Republic or obtain recognition of United States citizenship at Polish consular posts abroad, on the period normally required to complete these procedures, and the time at which loss of citizenship of the Polish People's Republic or recognition of the United States citizenship takes legal effect in Poland.

2 The Embassy also requests information concerning Polish interpretation of citizenship status during the temporary or permanent residence in Poland of persons mentioned in paragraph 1. It would also be helpful to have information about the types of identification documents issued to aliens residing in Poland who possess foreign passports and to aliens residing in Poland who do not possess foreign documentation, as distinguished from the documentation issued to citizens of the Polish People's Republic.

The Embassy also requests confirmation of its understanding that naturalized United States citizens whose United States citizenship has been legally recognized by the Polish authorities may reacquire the citizenship of the Polish People's Republic only through application for citizenship and official acceptance of this application by the appropriate Polish authorities.

The Embassy avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its high consideration.

WARSAW, *May 31, 1972.*

(Translation)

Nr D.Kons.II.213/16/72.

The Ministry of Foreign Affairs of the Polish People's Republic presents its compliments to the Embassy of the United States of America and in reply to note No. 37, of May 31, 1972, has the honor to convey the following information:

1. According to Article 13 of the Law of February 15, 1962 concerning Polish citizenship/Dziennik Ustaw No. 10, poz. 49/ a Polish citizen may acquire foreign citizenship only by obtaining permission to change citizenship, issued by the appropriate Polish authorities. According to paragraph 1 Article 16 of that Law the appropriate authority is the Council of State. However, in regard to persons who reside abroad, the Council of State, on the basis of paragraph 3 of the cited Article, authorized the Minister of For-

eign Affairs to grant permission to change citizenship, and also concurred in the transfer of this authorization by the Minister of Foreign Affairs to some Heads of Consular Posts, including the Head of the Consular Division of the Embassy of the Polish People's Republic in Washington, D.C., as well as the Consul General of the Polish People's Republic in Chicago, in regard to persons who already acquired foreign citizenship.

In these circumstances, the Polish citizen residing in the United States and holding citizenship of that State acquired through naturalization, may apply for permission to change Polish citizenship to United States citizenship by submitting appropriate application to the Head of the territorially proper Consular Post of the Polish People's Republic in the United States of America. Such application should be personally signed by the person in question, should contain the main elements of his curriculum vitae, and should give reasons for changing citizenship.

Practically, in a substantial majority of the cases involving persons who besides their Polish citizenship hold also United States citizenship, this procedure is simplified and the decision is taken by the Head of a Consular Post within the period of two to three weeks. In the remaining cases, which are not numerous, this procedure may last longer due to the necessity to submit the matter to the Minister of Foreign Affairs. In any case the loss of citizenship of the Polish People's Republic in regard to the above mentioned persons takes place on the day of issuance of the decision on permission to change citizenship of the Polish People's Republic to citizenship of the United States of America. From that date the Polish authorities consider the person in question as a foreign citizen only.

Polish citizens who acquired a foreign citizenship during the period of validity of the Law on citizenship of the Polish State of January 20, 1920, that is to say, until January 18, 1951, automatically lost Polish citizenship upon acquisition of the foreign citizenship except in the circumstances described in that law and other provisions related to it.

2. Persons who were permitted to change the citizenship of the Polish People's Republic to the citizenship of the United States of America, in accordance with the procedure described in paragraph 1, are considered as aliens holding exclusively the citizenship of the United States of America during their temporary or permanent residence in Poland. The Polish authorities issue to such persons having permanent residence in Poland special documents called "cards of permanent residence". Naturalized United States citizens who were permitted to change the citizenship of the Polish People's Republic to the citizenship of the United States of America may reacquire the citizenship of the Polish People's Republic only and exclusively by submitting to the Council of State of the Polish People's Republic individual applications for granting citizenship of the Polish People's Republic as provided by Article 8 of the Law of February 15, 1962 concerning Polish citizenship/Dziennik Ustaw No. 10, poz. 49/. Such applications should be sent through the intermediary of the praesidia of people's councils on the county (powiat) level.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its high consideration.

WARSAW, *May 31, 1972.*

CXIX——604—Part 8

EXCHANGE OF NOTES CONCERNING PERSONS ENTERING THE POLISH PEOPLE'S REPUBLIC OR THE UNITED STATES OF AMERICA FOR TEMPORARY VISITS

EMBASSY OF THE UNITED STATES OF AMERICA,

Warsaw, May 31, 1972.

Note No. 38.

His Excellency ROMUALD SPASOWSKI,
Vice Minister of Foreign Affairs,
Warsaw.

EXCELLENCY: With reference to the signature today of the Consular Convention between the Government of the United States of America and the Government of the Polish People's Republic, I have the honor to confirm that both Parties have agreed to the following provisions:

1. Persons entering the Polish People's Republic for temporary visits on the basis of United States passports containing Polish entry visas will, in the period for which temporary visitor status has been accorded (in conformity with the visa's validity), be considered United States citizens by the appropriate Polish authorities for the purpose of ensuring the consular protection provided for in Article 29 of the Convention and the right of departure without further documentation, regardless of whether they may possess the citizenship of the Polish People's Republic.

2. Persons entering the United States of America for temporary visits on the passports of the Polish People's Republic containing United States entry visas will, in the period for which temporary visitor status has been accorded, be considered Polish citizens by the appropriate authorities of the United States of America for the purpose of ensuring the consular protection provided for in Article 29 of the Convention and the right of departure without further documentation, regardless of whether they may possess the citizenship of the United States of America.

3. Persons mentioned in paragraphs 1 and 2 do not lose the right to consular protection and the right of departure without further documentation if the period for which temporary visitor status has been accorded to these persons expired during judicial or administrative proceedings which prevented their voluntary departure.

I avail myself of this opportunity to renew to Your Excellency the assurances of my high consideration.

WALTER J. STOESSEL, Jr.

(Translation)

Warsaw, May 31, 1972.

Mr. D. KONS. II/213/15/7.

His Excellency WALTER J. STOESSEL, Jr., *Ambassador Extraordinary and Plenipotentiary of the United States of America, Warsaw.*

EXCELLENCY: With reference to the signature today of the Consular Convention between the Government of the Polish People's Republic and the Government of the United States of America, I have the honor to confirm that both Parties have agreed to the following provisions:

1. Persons entering the Polish People's Republic for temporary visits on the basis of United States passports containing Polish entry visas will, in the period for which temporary visitor status has been accorded (in conformity with the visa's validity), be considered United States citizens by the appropriate Polish authorites for the purpose of ensuring the consular protection provided for in Article 29 of the Convention and the right of departure without further documentation, regardless of whether they may possess the citizenship of the Polish People's Republic.

2. Persons entering the United States of America for temporary visits on the passports of the Polish People's Republic containing United States entry visas will, in the period for which temporary visitor status has been accorded be considered Polish citizens by the appropriate authorities of the United States of America for the purpose of ensuring the consular protection provided for in Article 29 of the Convention and the right of departure without further documentation, regardless of whether they may possess the citizenship of the United States of America.

3. Persons mentioned in paragraphs 1 and 2 do not lose the right to consular protection and the right of departure without further documentation if the period for which temporary visitor status has been accorded to these persons expired during judicial or administrative proceedings which prevented their voluntary departure.

I avail myself of this opportunity to renew to Your Excellency the assurances of my high consideration.

(Signed) R. SPASOWSKI.

The Senate, as in Committee of the Whole, proceeded to consider Executive V, 92d Congress, 2d session, the Consular Convention with Romania, which was read the second time, as follows:

CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE SOCIALIST REPUBLIC OF ROMANIA

The United States of America and the Socialist Republic of Romania, desirous of regulating consular relations between the two countries and of thus contributing to the development of their relations of friendship on the basis of respect for the principles of sovereignty and national independence, non-interference in internal affairs, equality in rights, and reciprocal advantage, have decided to conclude a consular convention and for that purpose have appointed their plenipotentiaries:

The President of the United States of America;

Mr. William P. Rogers, Secretary of State

The President of the Council of State of the Socialist Republic of Romania:

Mr. Corneliu Manescu, Minister of Foreign Affairs who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

ARTICLE 1. DEFINITIONS

For the purpose of this Convention, the terms introduced hereunder shall have the following meaning:

(a) "consular establishment" means any consulate general, consulate, vice consulate or consular agency;

(b) "consular district" means the territory assigned to a consular establishment for the exercise of consular functions;

(c) "the head of the consular establishment" means the consul general, consul, vice consul, or consular agent directing the consular establishment;

(d) "consular officer" means any person authorized to perform consular functions, including the head of the consular establishment;

(e) "consular employee" means any person employed in administrative, technical, or service functions of the consular establishment;

(f) "consular premises" means the buildings or parts of buildings and the land ancillary thereto which are used exclusively for the purposes of the consular establishment;

(g) "members of the family" means the spouse, minor children and other relatives of a consular officer or consular employee, who form part of his household;

(h) "vessel" means any ship flying the flag of the sending state except warships;

(i) "law" means the laws, decrees, regulations, ordinances and similar provisions having the force of law.

ARTICLE 2. ESTABLISHMENT OF CONSULAR POSTS

1. Either High Contracting Party may, under the present Convention, establish consular establishments in the territory of the other High Contracting Party; the establishment of a consular establishment shall, in each case, be subject to the consent of the receiving state.

2. The location in which a consular establishment will be established, its classification, and the area of the consular district, as well as any subsequent change thereof, shall be fixed by agreement between the sending state and the receiving state.

ARTICLE 3. HEADS OF CONSULAR ESTABLISHMENTS

1. Before the head of a consular establishment is appointed, the sending state shall, through diplomatic channels, obtain the consent of the receiving state for that person.

2. The sending state shall, through diplomatic channels, transmit the consular commission of the head of the consular establishment to the receiving state.

3. The consular commission shall include the full name of the head of the consular establishment, his class, the consular district, and the location and classification of the consular establishment concerned.

4. The head of a consular establishment shall enter upon the exercise of his consular functions only after receipt of an exequatur or other authorization of the receiving state.

5. The receiving state may grant the head of the consular establishment provisional recognition to exercise his consular functions pending the receipt of his exequatur or other authorization.

ARTICLE 4. ACTING CHIEFS

1. In the event the head of a consular establishment is unable to exercise his functions or if the position is vacant, the consular establishment may be placed under the temporary charge of a consular officer of the consular establishment concerned, of another consular establishment of the sending state located in the territory of the receiving state, or of a member of the diplomatic staff of the diplomatic mission of the sending state to the receiving state. The receiving state shall be notified in advance of the full name of the person appointed as acting head.

2. While the acting head is in charge of the consular establishment, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular establishment concerned.

ARTICLE 5. CONSULAR OFFICERS AND CONSULAR EMPLOYEES

1. The sending state may staff its consular establishments with the number of consular officers and consular employees it considers necessary. The receiving state, however, may request that the number of such officers and employees be kept within limits considered by it to be reasonable and normal, having regard to existing circumstances and conditions in the consular district and to the needs of the particular consular establishment.

2. The sending state shall communicate in advance to the receiving state the full name and class of each consular officer other than the head of the consular establishment, as well as the full names and the duties of the consular employees.

3. Consular officers must be nationals of the sending state and must not have been admitted for permanent residence in the receiving state. However, nationals of the sending state, who, in accordance with the law of the receiving state, are also nationals of the latter, may be appointed as consular officers only with the consent of the receiving state.

4. Consular officers and consular employees who are nationals of the sending state may not carry on any other profession or undertake any activity for personal profit on the territory of the receiving state.

5. The receiving state shall, upon request, issue for each consular officer a document attesting to his consular capacity.

ARTICLE 6. PROCEDURES FOR TERMINATING THE ACTIVITIES OF CONSULAR OFFICERS AND CONSULAR EMPLOYEES

1. The receiving state may at any time, and without having to explain its decision, notify the sending state through diplomatic channels that a consular officer in *persona non grata* or that a consular employee is unacceptable. In such case, the sending state shall recall the consular officer or terminate the activities of the consular employee.

2. If the sending state refuses to fulfill this obligation within a reasonable period of time, the receiving state may, in the case of the head of the consular establishment, withdraw his exequatur or other authorization, or, in the case of another consular officer or of a consular employee, pursuant to notification to the sending state through diplomatic channels of the decision taken, cease to recognize that person in such a capacity.

ARTICLE 7. THE EXERCISE OF CONSULAR FUNCTIONS

1. Consular functions are exercised for the protection of the rights and interests of the sending state and of its nationals in relations with the receiving state, for the development of commercial, economic, cultural and scientific relations, and for furthering any other type of friendly relations between the two states.

2. Consular functions shall be exercised by consular officers of the sending state; they may also be exercised by members of the diplomatic staff of the diplomatic mission of the sending state in the receiving state. The full names of the members of the diplomatic staff who will perform consular functions shall be notified in advance to the receiving state. Except as otherwise provided in this Convention, members of the diplomatic staff of the sending state who have been notified to the receiving state as performing consular functions shall continue to enjoy their diplomatic privileges and immunities.

3. Consular functions are exercised within the limits of the consular district. The exercise of consular functions outside the consular district will be done only with the prior consent of the receiving state.

ARTICLE 8. FUNCTIONS RELATING TO RECORDS, REPRESENTATION OF NATIONALS, AND THE ISSUANCE OF VISAS

Consular officers have the right to:

(a) keep a register of nationals of the sending state who are domiciled in or are residents of their consular district;

(b) issue and amend passports and other travel documents to nationals of the sending state and visas to persons who wish to travel in the sending state;

(c) assure representation for nationals of the sending state before the judicial and other authorities of the receiving state, for the purpose of obtaining provisional measures for the preservation of the rights and interests of such nationals, to the extent that this is consistent with the law of the receiving state;

(d) request and receive copies of or extracts from documents of public registry;

(e) inquire of local authorities on behalf of a national of the sending state concerning his welfare, property, or other interests.

ARTICLE 9. TRANSMITTAL AND RECEIPT OF DOCUMENTS

1. Consular officers have the right to serve, in a manner not inconsistent with the law of the receiving state, upon nationals of the sending state who are on the territory of the receiving state, official documents which are from authorities of the sending state.

2. Consular officers shall have the right to receive on a voluntary basis from nationals of the sending state declaration intended for judicial or administrative procedure in the sending state in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the law of the receiving state.

ARTICLE 10. NOTABLE FUNCTIONS

1. Consular officers shall be entitled, upon request, to act as notary and in capacities of a similar kind, and to perform certain functions of an administrative nature, provided that there is nothing contrary thereto in the law of the receiving state.

2. The acts and documents resulting from the exercise of the functions described in paragraph 1 of this Article shall have in the receiving state the same force and effect as though they were done, authenticated, or certified by the competent authorities of the receiving state, provided that there is nothing contrary thereto in the law of the receiving state.

ARTICLE 11. FUNCTIONS RELATING TO VITAL STATISTICS

Consular officers are entitled to keep a register of births and deaths of nationals of the sending state and to issue certificates relating thereto. However, the provisions of this Article do not exempt any person from the obligations he may have under the law of the receiving state to notify the authorities of that state concerning births and deaths.

ARTICLE 12. FUNCTIONS RELATING TO ESTATES

1. Consular officers may perform in estates matters the following functions:

(a) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending state in cases of succession *mortis causa* in the territory of the receiving State;

(b) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for national of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the law of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defense of their rights and interests.

2. The competent authorities of the receiving State, if they have knowledge, shall without delay inform the consular establishment of the sending State, regarding:

(a) the existence of an estate left by a national of the sending State who died in the receiving State;

(b) the existence of an estate to which a national of the sending State who is not permanently resident in or represented in the receiving State has or claims an interest as legal inheritor, executor, or testamentary beneficiary, or with any other title.

3. In case a national of the sending State dies while located temporarily in or in transit through the territory of the receiving State, his personal effects, other than those acquired in the receiving State the export of which is prohibited at the time of his death, as well as sums of money left by him, shall be turned over to the consular establishment

of the sending State with provisional title and without any formality.

ARTICLE 13. FUNCTIONS RELATING TO MARITIME AND RIVER NAVIGATION

1. Consular officers are entitled to extend aid and assistance to vessels of the sending State which enter a port within their consular district.

2. Consular officers are entitled to communicate with the crews of vessels of the sending State, visit the vessels, verify and confirm the vessel's papers and the documents relating to the cargo and, in general, see that the shipping law of the sending State is complied with. To the extent it does not violate the law of the receiving State, consular officers may likewise take the necessary measures to ensure order and discipline on such vessels.

3. In case of damage, stranding or shipwreck in the national or territorial waters of the receiving State of a vessel of the sending State, the competent authorities of the receiving State shall promptly notify the consular establishment and inform it of measures taken for the rescue and protection of the vessel, its crew, passengers, cargo and stores. To the extent authorized by the law of the receiving State, these authorities shall facilitate the cooperation of consular officers of the sending State in these measures and the attendance of consular officers at any proceedings which are convened as a result of the damage, stranding, or shipwreck. Consular officers may request the authorities of the receiving State to take additional measures for the rescue and protection of the vessel, its crew, passengers, cargo and stores.

4. If the owner of the vessel or any other person authorized to act for him is not in a position to make the necessary arrangements in connection with the damaged, stranded or shipwrecked vessel, or its cargo or stores, the consular officers may make the necessary arrangements on the owner's behalf. The consular officers may under similar circumstances make appropriate arrangements in connection with the cargo or stores owned by the sending State or by nationals of the sending State which are found or brought into port from any stranded or shipwrecked vessel. No customs duties of any kind shall be levied against a shipwrecked vessel of the sending State or for its cargo or stores, provided that these are removed from the receiving State.

5. In case the competent authorities of the receiving state intent to take measures of attachment, forced sale, or detention against vessels of the sending state, they shall inform the consular establishment in advance so that a consular officer may be present when such measures are taken. If, because of the urgency of the matter, it has not been possible to inform the consular establishment, and the consular officer was not present when the measures were taken, the authorities of the receiving state shall promptly inform the consular establishment of measures taken. The consular establishment shall also be informed of the interrogation of any members of a vessel's crew by the authorities of the receiving state.

6. The provisions of paragraph 5 of this Article do not apply to customs, passport, or sanitary inspections.

ARTICLE 14. FUNCTIONS RELATING TO CIVIL AVIATION

The provisions of Article 13 shall also apply, to the extent that they are capable of such application, to civil aircraft and civil aviation, provided that this is not contrary to the provisions of any agreements in force between the High Contracting Parties.

ARTICLE 15. OTHER CONSULAR FUNCTIONS

Consular officers may exercise any other consular function, of the nature of those provided for in Articles 8–14 of the present Convention or of any other nature, entrusted to the consular establishment by the sending state, which are not prohibited by the law of the receiving state or to which no objection is taken by the receiving state or which are provided for in international agreements in force between the sending state and the receiving state.

ARTICLE 16. USE OF THE COAT OF ARMS AND FLAG OF THE SENDING STATE AND OF THE INSCRIPTION DESIGNATING THE CONSULAR POST

1. The coat of arms of the sending state, with the inscription designating the consular establishment, may be affixed at the consular premises.

2. The flag of the sending state may be flown at the consular premises, at the residence of the head of the consular establishment, as well as on his means of transportation used in the performance of his official activity.

ARTICLE 17. ASSISTANCE IN PROCURING PREMISES AND RESIDENCES

1. The receiving state shall either facilitate the acquisition on its territory, in accordance with its law, by the sending state, of the premises necessary for the consular establishment, or shall assist the sending state in obtaining accommodation in some other way.

2. The receiving state shall also, where necessary, assist the consular establishment in obtaining suitable residences for its consular officers and consular employees.

ARTICLE 18. INVIOLABILITY OF CONSULAR PREMISES AND OF THE RESIDENCE OF THE HEAD OF THE CONSULAR ESTABLISHMENT

1. The consular premises and the residence of the head of the consular establishment shall be inviolable. The authorities of the receiving state may not enter the consular premises or the residence of the head of the consular establishment, except with the consent of the head of the consular establishment, or the chief of the diplomatic mission of the sending state, or of another person empowered by them.

2. The receiving state has a special obligation to take all appropriate measures to protect the consular premises against willful damage or intrusion, as well as against disturbance of the peace of the premises or impairment of its dignity.

3. The consular premises, their furnishings, the property of the consular establishment and its means of transport shall be immune from any form of requisition for purposes of national defense or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending state.

ARTICLE 19. FISCAL EXEMPTIONS RELATING TO PREMISES AND RESIDENCES

1. Lands and buildings situated in the territory of the receiving state which are owned by the sending state or are leased by it for the requirements of a consular establishment, or as residences for the consular officers or consular employees, shall be exempt from all taxes and charges in the receiving state, with the exception of charges for special services rendered.

2. The exemptions referred to in paragraph 1 of this Article shall not apply if, under the law of the receiving state, such taxes and charges are payable by the person who contracted with the sending state or with the person acting on its behalf.

ARTICLE 20. INVIOLABILITY OF CONSULAR ARCHIVES

Consular archives and documents are inviolable at all times and wherever they may be.

ARTICLE 21. FREEDOM OF COMMUNICATION

1. The receiving state shall permit and protect freedom of communication for official purposes between the consular establishment and the sending state, as well as with the diplomatic missions and other consular establishments of that state wherever situated.

2. In the course of its consular communications, the consular establishment has the right to use diplomatic or consular couriers, the diplomatic or consular pouch, all public means of communication, and messages in clear language or in code or cipher.

3. The official correspondence of the consular establishment, regardless of the means of communication used, and the consular pouch are inviolable. The consular pouch shall not be opened or detained. Nevertheless, if the competent authorities of the receiving state have serious reason to believe that the pouch contains something other than official correspondence, documents and the items described in paragraph 4 of this Article, they may request that the pouch be opened in their presence by an authorized representative of the sending state. If this request is refused by the authorities of the sending state, the pouch shall be returned to its place of origin.

4. The consular pouch or its packages, if it is composed of several packages, must be sealed, must have visible external marks of their official character, and must contain only official correspondence or documents and objects destined for the exclusive use of the consular establishment.

5. The consular courier may not be a national of the receiving state or an alien admitted for permanent residence in that state. He must possess an official document which indicates his capacity and the number of packages of which the consular pouch is composed. In the exercise of his functions, the consular courier is protected by the receiving state. He enjoys personal inviolability.

ARTICLE 22. PROTECTION OF NATIONALS OF THE SENDING STATE

1. In all instances when a national of the sending state is placed under any form of deprivation or limitation of personal freedom, the competent authorities of the receiving state shall inform the consular establishment of the sending state without delay and, in any event, not later than after two days.

2. The consular officer has the right to receive correspondence or other communications from a national who is under any form of deprivation or limitation of personal freedom and to take appropriate measures to assure him legal assistance and representation. Likewise, the consular officer has the right to visit him, to hold discussions, and to communicate with him. These visits shall take place as soon as possible, but in any event they shall not be refused after the lapse of a four-day period from the date when he was placed under any form of deprivation or limitation of personal freedom

3. The competent authorities of the receiving state shall, without delay, inform the national of the sending state about the right accorded him by this Article to communicate with a consular officer.

4. The rights referred to in paragraph 2 of this Article shall be exercised in conformity with the law of the receiving state, subject to the proviso, however, that the said law must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

ARTICLE 23. COMMUNICATION WITH THE AUTHORITIES OF THE RECEIVING STATE

In the exercise of the functions provided for in the present Convention, consular officers may communicate with:

(a) the competent state or local authorities of their consular district;

(b) the federal authorities of the receiving state, to the extent this is permissible under the law and custom of the receiving state.

ARTICLE 24. FREEDOM OF MOVEMENT

Subject to its law regarding zones in which access is prohibited or regulated for reasons of national security, the receiving state shall assure members of the consular establishment freedom of travel and movement in its territory.

ARTICLE 25. CONSULAR CHARGES AND FEES

1. The consular establishment may levy, in the territory of the receiving state, charges and fees prescribed for consular services by the law of the sending state.

2. The sums collected in accordance with paragraph 1 of this Article are exempt from any taxes and dues in the receiving state.

ARTICLE 26. FACILITIES ACCORDED CONSULAR OFFICERS AND CONSULAR EMPLOYEES

The receiving state shall take the necessary measures to ensure that consular officers and consular employees will be able to carry out their functions and duties, respectively, and enjoy the immunities and privileges accorded by the present Convention and by the law of the receiving state.

ARTICLE 27. PROTECTION ACCORDED CONSULAR OFFICERS

The receiving state shall treat consular officers with the respect due their office and shall take all appropriate steps to prevent any injury to their person, freedom or dignity.

ARTICLE 28. JURISDICTIONAL IMMUNITY AND PERSONAL INVIOLABILITY OF THE HEAD OF THE CONSULAR ESTABLISHMENT AND OR MEMBERS OF HIS FAMILY

1. The head of the consular establishment shall not be subject to the criminal, civil or administrative jurisdiction of the receiving state, except in respect of a civil action:

(a) arising out of a contract concluded by the head of the consular establishment in which he did not contract expressly or impliedly on behalf of the sending state;

(b) brought by a third party for damage resulting from an accident in the receiving state, caused by a vehicle, vessel or aircraft.

(c) The person of the head of the consular establishment shall be inviolable. No measure of execution may be taken against him, except where the provisions of sub-paragraph (a) or (b) of paragraph 1 of this Article apply and then only when the execution can be carried out without prejudice to the inviolability of his person or residence.

3. The members of the family of the head of the consular establishment shall be accorded personal inviolability and immunity from criminal jurisdiction in the receiving state, provided that they are not nationals of or permanently resident in the receiving state, and are not engaged in private occupation for gain in that state.

ARTICLE 29. JURISDICTIONAL IMMUNITY AND PERSONAL INVIOLABILITY OF THE MEMBERS OF THE CONSULAR ESTABLISHMENT

1. Consular officers and consular employees shall enjoy immunity from the criminal, civil and administrative jurisdiction of the receiving state in respect of acts performed by them within the scope of their official duties.

2. The provisions of pargraph 1 of this Article shall not, however, apply in respect of a civil action:

(a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending state;

(b) by a third party for damage arising from an accident in the receiving state caused by a vehicle, vessel or aircraft.

3. With respect to activities carried on apart from the functions of their office, consular officers shall not be subject to:

(a) measures of preventive restraint or detention, unless they commit a crime in the territory of the receiving state for which the law of that state provides a maximum penalty of five years or more deprivation of freedom and then only on the basis of a warrant issued by the competent judicial authorities of the state;

(b) any other measures of deprivation of freedom, except in the execution of a final judicial judgment.

4. When criminal proceedings are instituted against a consular officer, he must appear before the competent authorities of the receiving state. In such case, the proceedings shall be instituted in the shortest period of time possible and shall be conducted with the respect due him by reason of his official position and, except in the case specified in paragraph 3 of this Article, in a manner which will hamper as little as possible the exercise of consular functions.

5. In case any measures of deprivation of freedom are taken against a consular officer or a member of his family or against a consular employee, the competent authorities of the receiving state shall, without delay, inform the head of the consular establishment of the sending state of this.

ARTICLE 30. GIVING OF EVIDENCE AND EXPERT OPINIONS

1. Consular officers, other than the head of the consular establishment, and consular employees may be called upon by the competent authorities of the receiving state to give evidence in the course of judicial or administrative proceedings. If a consular officer refuses to appear or to give evidence, no coercive measures or other penalty shall be applied to him. Consular employees may not refuse to testify as witnesses except in the cases mentioned in paragraph 3 of this Article.

2. The authority requiring the evidence shall avoid interference with the consular officer in the performance of his functions. It may take such evidence at the consular establishment or at the residence of the consular officer or accept a statement from him in writing, whenever this is possible and permitted. In the case of a consular employee, the authority requiring the evidence shall take all appropriate measures to avoid interfering with his activities.

3. Consular officers and consular employees are not obliged to give evidence concerning matters connected with the exercise of their functions and are not obliged to produce official documents and material from the consular archives. They are also entitled to refuse to give evidence as expert witnesses with regard to the law of the sending state.

4. Consular officers called upon to give evidence may make a declaration without taking an oath.

ARTICLE 31. EXEMPTION FROM PERSONAL SERVICES AND OTHER OBLIGATIONS

Consular officers and consular employees, and members of their families who are not nationals of the receiving state and who are not aliens lawfully admitted for permanent residence in the receiving state, shall be exempt in the receiving state from obligations and services of a military nature, from any kind of compulsory services, and from any contributions that may be due in lieu thereof. They shall likewise be exempt from obligations relating to the registration of aliens, from obtaining permission to reside, and from compliance with other similar obligations applicable to aliens.

ARTICLE 32. EXEMPTION FROM CUSTOMS DUTIES AND INSPECTION

1. The receiving state shall permit the importation or exportation into or from its territory of articles intended for:

(a) the official use of the consular establishment;

(b) the personal use of consular officers and consular employees, and members of their families who are not nationals of the receiving state and who are not aliens lawfully admitted for permanent residence in the receiving state, including goods intended for furnishing their residences. Consumer goods shall not exceed the quantities reasonably necessary for the personal use of those concerned.

2. The receiving state shall exempt the consular establishment and consular officers and consular employees of the sending state from the payment of all customs duties or similar taxes and charges imposed on the articles referred to in paragraph 1 of this Article, or imposed upon the importation or exportation of such articles. The exemption provided by this paragraph does not apply to charges levied for storage, cartage, and other similar services.

3. The personal baggage of consular officers shall be exempted from customs inspection. Such baggage may be inspected only if there are serious reasons to believe that it might contain articles other than those indicated in paragraph 1 of this Article or articles the importation or exportation of which is prohibited by the law of the receiving state. Such an inspection must be carried out in the presence of the consular officer concerned, or of a member of his family, or of another consular officer from the nearest consular establishment of the sending state.

ARTICLE 33. FISCAL EXEMPTIONS

1. Consular officers and consular employees, and members of their families who are not nationals of the receiving state and who are not aliens lawfully admitted for permanent residence in the receiving state, shall be exempt from all dues and taxes, personal or real, national, regional or municipal.

2. The exemptions provided for in paragraph 1 of this Article shall not apply in case of indirect taxes of a kind normally incorporated in the price of goods or services, or in case of estate, inheritance, or gift taxes. Similarly, the exemptions provided for in paragraph 1 of this Article shall not apply in the case of taxes and similar charges relating to:

(a) the acquisition or ownership of private immovable property located in the territory of the receiving state;

(b) income received from sources in the receiving state;

(c) the rendering of specific services.

3. In the event of the death of a consular officer or consular employee, the receiving state shall:

(a) permit the export of the movable property of the deceased and exempt such property from all export taxes and similar charges, with the exception of any such property acquired in the receiving state the export of which is prohibited;

(b) exempt the movable property of the deceased from all estate or inheritance taxes and similar charges if this property is located in the receiving state exclusively in connection with the presence in that state of the deceased as a consular officer or consular employee.

ARTICLE 34. THE BEGINNING AND END OF IMMUNITIES AND PRIVILEGES

1. Consular officers and consular employees shall benefit from the immunities and privileges provided by the present Convention from the moment they cross the border of the receiving state to take up their posts or from the moment they enter on their duties if they are already in its territory.

2. Family members of the persons mentioned in paragraph 1 of this Article shall benefit from the immunities and privileges of this Convention in the following manner:

(a) from the moment the consular officers and consular employees begin to benefit from the immunities and privileges in conformity with paragraph 1 of this Article;

(b) from the moment of crossing the border of the receiving state, if they entered in its territory after the date foreseen by sub-paragraph a of this paragraph;

(c) from the moment they become family members of a member of the consular establishment.

3. When the activities of a consular officer or consular employee have come to an end, his immunities and privileges and also the immunities and privileges of his family shall cease at the moment he leaves the territory of the receiving state or upon the expiration of a reasonable period of time after the termination of his employment.

4. The immunities and privileges of consular employees who are nationals of the receiving state shall come to an end at the state who are permanently resident in the receiving state shall come to an end at the same time they lose their official capacities.

5. The immunities and privileges of family members shall also come to an end from the moment they no longer form part of the family of a consular officer or consular employee. However, if such persons make known that they intend to leave the territory of the receiving state within a reasonable period of time, their immunities and privileges shall remain in force until such time.

6. In the event of the death of a consular officer or consular employee, the members of his family shall continue to enjoy the immunities and privileges which are recognized by this Convention until they leave the territory of the receiving state or until the expiration of a reasonable period of time for this purpose.

ARTICLE 35. RESPECT FOR THE LAW OF THE RECEIVING STATE

Without prejudice to the immunities and privileges of the present Convention the persons enjoying these immunities and privileges must respect the law of the receiving state.

ARTICLE 36. THIRD-PARTY LIABILITY INSURANCE

All vehicles owned by the sending state and used by the consular establishment, and all vehicles belonging to consular officers, consular employees, or members of their families, must be adequately insured against third party risks. In the case of such persons who are nationals of the receiving state or persons admitted to permanent residence in the receiving state, insurance shall be obtained to the extent that insurance is required by the law of that state.

ARTICLE 37. PROVISIONS APPLICABLE TO JURIDICAL ENTITIES

The provisions of this Convention relating to nationals of the sending state shall apply, in like manner, to juridical entities which have the nationality of that state conferred according to its law.

ARTICLE 38. WAIVER OF IMMUNITIES AND PRIVILEGES

1. The sending state may, by a notification through diplomatic channels to the receiving state, waive the immunities and privileges enjoyed by a consular officer or consular employee pursuant to Articles 28, 29 and 30 of the present Convention.

2. Waiver of jurisdictional immunity in a civil or administrative proceeding shall not be regarded as implying a waiver of immunity with respect to the execution of the judgment, for which a separate renunciation is required.

ARTICLE 39. TERMINATION OF 1881 CONVENTION

The present Convention replaces the Consular Convention signed at Bucharest on June 5/17, 1881.

ARTICLE 40. RATIFICATION, ENTRY INTO FORCE, DENUNCIATION

1. The present Convention shall be subject to ratification and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. The present Convention shall enter into force on the thirtieth day following the date of the exchange of the instruments of ratification. It shall remain in force for a term of ten years, and thereafter, unless terminated in accordance with the provisions of paragraph 3 of this Article.

3. Either High Contracting Party may terminate the present Convention at the end of the initial period of ten years or any time thereafter, by notifying the other High Contracting Party in writing, one year in advance.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed this Convention and affixed thereto their seals.

DONE at Bucharest on July 5, 1972, in two original copies in the English and Romanian languages, both texts being equally authentic.

For the United States of America:
WILLIAM P. ROGERS
For the Socialist Republic of Romania:
CORNELIU MANESCU

PROTOCOL TO THE CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE SOCIALIST REPUBLIC OF ROMANIA

At the time of the signing this day, July 5, 1972, of the Consular Convention between the United States of America and the Socialist Republic of Romania, the undersigned Plenipotentiaries, duly authorized, give the following assurances of their Governments in connection with the performance of consular functions in inheritance matters provided for in Article 12 of the Convention, and in connection with the exercise of inheritance rights by nationals of either High Contracting Party in the territory of the other High Contracting Party:

The Government of the United States of America assures the Government of the Socialist Republic of Romania that:

1. there is no Federal law or other legislation barring or restricting the rights of Romanian nationals to receive inheritances in the United States of America and have the sums derived therefrom transferred to them;

2. the courts or other authorities competent in inheritance matters are aware that the Socialist Republic of Romania is not included among the countries enumerated in 31 Code of Federal Regulations 211 to which United States Government checks are not sent, under authority of the Secretary of the Treasury. United States Government checks and warrants issued for any purpose whatsoever are being sent to payees in the Socialist Republic of Romania;

3. it will, should there be occasion for it, inform the courts or other authorities competent in inheritance matters of the assurances given by the Government of the Socialist Republic of Romania through this Protocol.

The Government of the Socialist Republic of Romania assures the Government of the United States of America that:

1. United States nationals may exercise their inheritance rights in the Socialist Republic of Romania on the same conditions as Romanian nationals and may transfer, in dollars or other foreign currency, the sums obtained from such inheritances, at the official rate of exchange with the most favorable premium established in this matter in accordance with Romanian law;

2. Romanian nationals will receive, in full, in dollars or other foreign currency, the sums resulting from estates probated and settled in the territory of the United States of America and transferred to the Socialist Republic of Romania. Insofar as they are not permitted to retain the sums in foreign currency, such sums shall be converted into lei at the official rate of exchange with the most favorable premium established in this matter in accordance with Romanian law;

3. For sums representing inheritance shares received in the United States of America by Romanian heirs, no fees or taxes shall be charged, with the exception of consular fees.

The present Protocol forms an integral part of the Consular Convention between the United States of America and the Socialist Republic of Romania, signed at Bucharest on July 5, 1972.

For the United States of America:
WILLIAM P. ROGERS
For the Socialist Republic of Romania:
CORNELIU MANESCU

The Senate, as in Committee of the Whole, proceeded to consider Executive W, 92d Congress, 2d session, the Consular Convention with Hungary, which was read the second time, as follows:

CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE HUNGARIAN PEOPLE'S REPUBLIC

The President of the United States of America and the Presidential Council of the Hungarian People's Republic;

Motivated by the desire to regulate consular relations and thereby contribute to the development of the relations between the two countries as well as the facilitation of the protection of the rights and interests of their nationals;

Have agreed to conclude a Consular Convention and for this purpose have appointed their Plenipotentiaries:

The President of the United States of America:
WILLIAM P. ROGERS, Secretary of State
The Presidential Council of Hungarian People's Republic:
JANOS PETER, Foreign Minister
Who have agreed on the following:

PART I. DEFINITIONS

ARTICLE 1

For the purposes of this Convention:

(1) the term "consulate" shall mean any consulate-general, consulate, vice-consulate or consulate agency;

(2) the term "consular officer" shall mean any person, including the head of a consulate, who has been appointed as such in accordance with the provisions of the Convention, and charged with the performance of consular duties;

(3) the term "consular employee" shall mean any person employed in the administrative, technical or domestic service of a consulate and notified as such to the receiving State in conformity with Article 5(1);

(4) the term "vessel of the sending State" shall mean any vessel registered in the sending State.

PART II. ESTABLISHMENT OF CONSULATES AND CONSULAR APPOINTMENTS

ARTICLE 2

(1) The establishment of a consulate by the sending State in the territory of the receiving State shall be subject to the consent of the latter State.

(2) The sending and receiving States shall determine by agreement the seat of the consulate, its classification and the consular district.

ARTICLE 3

(1) Prior to the appointment of the head of the consulate of the sending State it shall, through diplomatic channels, request the approval of the receiving State.

(2) The head of a consulate may enter upon the performance of his duties as soon as he receives an exequatur or other authorization from the receiving State after the

presentation of his consular commission or other document of appointment.

(3) The consular commission or other document of appointment shall specify the full name of the head of the consulate, his rank, the consular district and the seat of the consulate.

(4) After the presentation of the consular commission or other document of appointment, the receiving State shall issue to the head of the consulate the exequatur or other authorization as soon as possible and free of charge. A State which refuses to grant an exequatur or other authorization shall not be obliged to give the sending State reasons for such refusal.

(5) Pending delivery of the exequatur or other authorization, the head of a consulate may be admitted on a provisional basis to the performance of his duties.

(6) The authorities of the receiving State when granting the exequatur or other authorization or when granting their provisional approval, shall undertake the measures necessary in order that the head of the consulate may perform his tasks.

ARTICLE 4

(1) If the head of a consulate is unable for any reason to act as such or if the post is temporarily vacant, the sending State may appoint a consular officer belonging to the same consulate or to another consulate in the receiving State or a member of the diplomatic staff of its diplomatic mission in that State to act temporarily in his place. The name of the person concerned shall be notified as soon as possible to the ministry of foreign affairs of the receiving State.

(2) Such acting officer shall be accorded the same rights, privileges and immunities and shall be subject to the same obligations as if he had been appointed under Article 3.

(3) If, in accordance with the provisions of paragraph (1) of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State is charged temporarily with heading the consulate, this assignment shall not affect his diplomatic privileges and immunities.

ARTICLE 5

(1) In the case of a consular officer to whom Article 3 does not apply, as well as in the case of a consular employee, the sending State shall notify in advance through the diplomatic channel the ministry of foreign affairs of the receiving State of the name, nationality, rank and function of the officer or employee.

(2) The receiving State shall, upon the request of the sending State, issue for each consular officer included in the provisions of paragraph (1) a document recognizing his right to exercise consular functions.

ARTICLE 6

(1) (a) A consular officer shall be a national of the sending State and not a national or a permanent resident of the receiving State.

(b) A consular employee may be a national of the sending State, a national of the receiving State or a National of a third State.

(2) The prior consent of the receiving State shall be required in the following cases:

(a) any appointment of a national of the sending State if the person concerned has already been authorized to enter, or reside in, the receiving State for other purposes. This limitation shall not apply, however, in the case of a person who is already a member of the staff of a consulate, or of the diplomatic mission, of the sending State in the receiving State;

(b) the appointment as a consular employee of a national or a permanent resident of the receiving State or a national of a third State.

ARTICLE 7

The receiving State may at any time and without having to explain the reason for its decision, notify the sending State through the diplomatic channel that a consular officer or consular employee is unacceptable. The sending State shall thereupon cancel the appointment of the person concerned, or recall him, or terminate his duties at the consulate. If the sending State fails to carry out this obligation within a reasonable period, the receiving State may, in the case of the head of a consulate, withdraw the exequatur or other authorization or, in the case of a consular officer or consular employee, decline to continue to recognize him in such capacity.

PART III. FACILITIES, PRIVILEGES AND IMMUNITIES

ARTICLE 8

(1) The receiving State shall treat a consular officer with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity, or that of any member of his family residing with him.

(2) The receiving State is under a special duty to take all appropriate steps to protect the consular premises and the residence of a consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consulate or impairment of its dignity.

ARTICLE 9

(1) The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending State of premises necessary for its consulate or assist the sending State in obtaining accommodations in some other way.

(2) It shall also, where necessary, assist the sending State in obtaining suitable accommodations for consular officers and for consular employees who are neither citizens nor permanent residents of the receiving State.

(3) The sending State shall have the right, in the territory of the receiving State and in accordance with its laws and regulations, to acquire, own, lease for any period of time, or otherwise hold and occupy such lands, buildings, and appurtenances as may be necessary and appropriate for consular purposes, including residences for officers and employees of the consulate who are not nationals of the receiving State.

(4) The sending State shall have the right, in accordance with the laws and regulations of the receiving State, to erect buildings, and appurtenances on land which it owns or leases in accordance with paragraph (3) of this Article.

ARTICLE 10

Land, buildings and parts of buildings, used exclusively for the purposes of a consulate, shall be inviolable. The authorities of the receiving State shall not enter the said land, buildings or parts of buildings except with the consent of the head of the consulate or of the head of the diplomatic mission of the sending State or of a person nominated by one of them. The provisions of this paragraph shall apply also to the residence of the head of a consulate.

ARTICLE 11

The consular premises, their furnishings, the property of the consulate and its means of transport shall be immune from any form of requisition for purposes of national defense or public utility.

ARTICLE 12

(1) The flag of the sending State and its consular flag may be flown and its coat-of-arms displayed on the building in which the consulate is installed and at the entrance door thereof, on the residence of the head of the consulate and on the means of transport used by him in the performance of his official duties.

(2) In the exercise of the rights accorded under this Article regard shall be paid to the laws, regulations and usages of the receiving State.

ARTICLE 13

(1) The consular archives and documents shall be inviolable at all times and wherever they may be.

(2) Documents and objects of an unofficial character shall not be kept in the archives.

ARTICLE 14

(1) A consulate shall be entitled to exchange communications with the Government of the sending State and with the diplomatic mission, or other consulates, of that State in the receiving State or in a third State. The consulate may for this purpose employ all public means of communication as well as couriers, sealed pouches, bags and other containers, and may use codes or ciphers. However, the installation and use of a wireless transmitter by the consulate shall be subject to the consent of the receiving State.

(2) In respect of public means of communication, the same tariffs shall be applied in the case of a consulate as are applied in the case of the diplomatic mission.

(3) The official correspondence of a consulate (whatever the means of the communication employed) as well as the sealed pouches, bags and other containers deferred to in paragraph (1) of this Article shall, provided that they bear visible external marks of their official character, be inviolable and the authorities of the receiving State shall not examine or detain them. They shall contain only official correspondence and objects intended exclusively for official use.

(4) Persons charged with the conveyance of consular pouches, bags and other containers shall be accorded the same rights, privileges and immunities as are accorded by the receiving State to the diplomatic couriers of the sending State. Any such person shall be provided with an official document indicating his status and the number of packages constituting the consular pouch, bag or other container.

ARTICLE 15

(1) A consular offcer shall be immune from the jurisdiction of the receiving State except in the cases referred to in Article 48 of this Convention and in paragraph (2) of this Article.

(2) The immunity provided in paragraph (1) of this Article shall not, however, apply in respect of civil actions:

(a) relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the consulate;

(b) relating to succession in which the consular officer is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) relating to any professional or commercial activity exercised by the consular officer in the receiving State outside his official functions;

(d) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

(3) The provisions of paragraphs (1) and (2) of this Article shall apply as well as members of the family of the consular officer, residing with him, provided in each case that the person concerned is not a national or permanent resident of the receiving State.

(4) (a) A consular employee, who is a national of the sending State and not a permanent resident of the receiving State and who has been notified under Article 5(1) as having administrative or technical functions, shall be immune from the criminal jurisdiction of the receiving State. He shall also be immune from the civil and administrative jurisdiction of that State in respect of any act performed in his official capacity, subject

to the exception described in paragraph (2)(d) of this Article.

(b) The provisions of the first sentence of subparagraph (a) of this paragraph shall apply as well to members of the family of such a consular employee who has been notified under Article 5(1), residing with him, provided in each case that the person concerned is not a national or permanent resident of the receiving State.

(5) A consular employee other than one described in paragraph (4) of this Article, provided that he is not a national or permanent resident of the receiving State, shall be immune from the jurisdiction of that State in respect of any act performed in his official capacity, subject to the exception described in paragraph (2)(d) of this Article.

ARTICLE 16

(1) In the event of the arrest or detention of, or the institution of criminal proceedings against, a consular employee described in Article 15(5), the receiving State shall immediately inform the head of the consulate accordingly.

(2) The provisions of paragraph (1) of this Article shall apply as well to those members of the family of a consular officer to whom the benefits of Article 15(3) do not apply and to members of the families of a consular employee to whom the benefits to Article 15(4)(b) do not apply.

ARTICLE 17

(1)(a) A consular officer or consular employee may be called upon to attend as a witness in the course of judicial or administrative proceedings.

(b) In the event of the refusal of a consular officer or a consular employee described in Article 15(4) to give evidence at such proceedings, no coercive measure or penalty may be applied to him.

(c) A consular employee shall not, however, decline to give evidence, except in the cases mentioned in parargaph (3) of this Article.

(2) The respective provisions of paragraph (1) of this Article concerning consular officers and consular employees shall apply also to members of their families, residing with them, who are not nationals or permanent residents of the receiving State.

(3) Consular employees are under no obligation to give evidence concerning matters falling within the official work of the consulate. They are entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

(4) The authorities of the receiving State shall not require the production of any official document or object.

(5) The authorities of the receiving State, in taking the testimony of a consular officer or a consular employee, shall take all appropriate measures to avoid hindering his performance of official duties. Upon the request of the head of a consulate, such testimony may, when possible, be given orally or in writing at the consular establishment or at the residence of the person concerned.

ARTICLE 18

(1) The sending State may waive any of the privileges and immunities provided for in Articles 15 and 17.

(2) Without prejudice to the provisions of paragraph (3) of this Article, the waiver shall in all cases be express and shall be communicated in writing to the receiving State.

(3) the initiation of proceedings by a person entitled to immunity from jurisdiction under Article 15 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

(4) Waiver of immunity for jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of execution of the judgment for which a separate waiver shall be required.

ARTICLE 19

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all officers and employees of the consulate.

ARTICLE 20

(1) A consular officer, as well as, provided that he is not a national or a permanent resident of the receiving State, a consular employee, shall be exempt in the receiving State from service in the armed forces and from other compulsory public service of any kind, e.g., jury duty, and military obligations connected with requisitioning, military contributions and billeting.

(2) The provisions of paragraph (1) of this Article shall apply also to members of the family of the consular officer or consular employee, residing with him, provided in each case that the person concerned is not a national or a permanent resident of the receiving State.

ARTICLE 21

(1) A consular officer, as well as, provided that he is not a permanent resident of the receiving State, a consular employee, shall be exempt from all requirements under the laws and regulations of the receiving State relative to the registration of aliens and permission to reside and from compliance with any other similar requirements applicable to aliens.

(2) The provisions of paragraph (1) of this Article shall apply also to members of the family of a consular officer or consular employee, residing with him, provided in each case that the person concerned is not a permanent resident of the receiving State.

ARTICLE 22

(1) No tax or other similar charge of any kind shall be imposed or collected by the receiving State or any state or municipal subdivision thereof in respect of—

(a) land, buildings or parts of buildings owned or leased by the sending State or by a natural or juridical person acting on behalf of that State and used exclusively for any of the purposes specified in Article 9;

(b) transactions or instruments relative to the acquisition of such premises.

(2) The provisions of sub-paragraph (1)(a) of this Article shall not apply with regard to payments due in respect of specific services rendered.

(3) The exemption accorded under paragraph (1) of this Article shall not apply to taxes or other similar charges payable under the law of the receiving State by a person contracting with the sending State or with a person acting on its behalf.

ARTICLE 23

No tax or other similar charge of any kind for the payment of which the sending State would otherwise be legally liable shall be imposed or collected by the receiving State or any state or municipal subdivision thereof, in respect of the acquisition (with the exception of indirect taxes of a kind which are normally incorporated in the price of goods or services), ownership, possession or use of movable property by the sending State for consular purposes.

ARTICLE 24

No tax or other similar charge of any kind shall be imposed or collected in the receiving State or any state or municipal subdivision thereof in respect of fees received on behalf of the sending State as compensation for consular services or in respect of any receipt given in connection with such a fee.

ARTICLE 25

(1) A consular officer or consular employee or a member of his family forming part of his household shall, provided in either case that he is not a national or permanent resident of the receiving State, be exempt in the receiving State from all taxes, or similar charges of any kind imposed or collected by the receiving State or any state or municipal subdivision thereof, except—

(a) on the acquisition, ownership, occupation or disposal of immovable property situated within the receiving State;

(b) without prejudice to the provisions of paragraph (2) of this Article, on income derived from private occupation for gain or from other sources, or on the appreciation of assets, within the receiving State;

(c) on transactions, or instruments affecting transactions, including stamp duties;

(d) without prejudice to the provision of Article 27, on the passing of property at death;

(e) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(f) charges levied for specific services rendered.

(2) A consular officer or, provided that he is not a national or permanent resident of the receiving State, a consular employee, shall be exempt in that State from all taxes or other similar charges of any kind imposed or collected by the receiving State or any state or municipal subdivision thereof in respect of the official emoluments, salary, wages or allowances received by him as compensation for his official duties.

ARTICLE 26

(1) The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on:

(a) articles including motor vehicles for the official use of the consulate;

(b) articles including motor vehicles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment.

(2) Consular employees and members of their families shall enjoy the privileges and exemptions specified in paragraph (1)(b) of this Article in respect to articles imported at the time of first installation.

(3) The personal baggage accompanying a consular officer, or a member of his family forming part of his household, shall be exempt from customs inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph (1)(b) of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the consular officer, the member of his family concerned, or of the authorized representative.

(4) The provisions of paragraphs (1)(b), (2) and (3) of this Article shall not apply in the case of consular employees, or members of their families, or members of the families of consular officers when the person concerned is either a national or permanent resident of the receiving State or is engaged in the receiving State in private occupation for gain.

ARTICLE 27

If a consular officer, a consular employee or a member of his family, residing with him, dies and leaves movable property in the receiving State, no tax or other similar charge of any kind shall be imposed or collected by the receiving State or any State or municipal subdivision thereof in respect of that property and no limitation upon export shall be applied, provided,

(a) that the deceased person was not a national or a permanent resident of the receiving State;

(b) that the person entitled to receive the

property as a consequence of the death is not a national or a permanent resident of the receiving State;

(c) that the presence of the property in that State was due solely to the presence of the deceased in the capacity of a consular officer or consular employee or as a member of the family of a consular officer or consular employee.

ARTICLE 28

(1) Without prejudice to the provisions of paragraph (4) of this Article, a consular officer, as well as, provided that he is not a national or a permanent resident of the receiving State, a consular employee, shall, with respect to services rendered by him for the sending State, be exempt from the social security provisions of the receiving State.

(2) The exemption provided for in paragraph (1) of this Article shall apply also to members of the family of the consular officer or consular employee, residing with him, provided in each case that the person concerned is not a national or a permanent resident of the receiving State.

(3) In addition, the exemption provided for in paragraph (1) of this Article shall apply to a person in the private service of the consular officer or consular employee, provided in each case that the person concerned

(a) is not a national or a permanent resident of the receiving State; and

(b) is covered by the social security provisions of the sending State or of a third State.

(4) Any such consular officer or consular employee who employs a person to whom the provisions of paragraph (3) of this Article do not apply shall observe any obligations imposed upon employees under the social security provisions of the receiving State.

(5) The exemption provided for in paragraphs (1), (2) and (3) of this Article shall not preclude voluntary participation, insofar as such participation may be permissible, in the social security system of the receiving State.

ARTICLE 29

(1) A consular officer or consular employee shall receive the immunities and privileges due to him under this Convention as from the moment of crossing the frontier of the receiving State to take up his post or, if he is already present in that State, as from the moment of entering upon his duties.

(2) Members of the family of a person to whom paragraph (1) of this Article applies, residing with him, shall receive the immunities and privileges accorded to them under this Convention.

(a) as from the moment that the consular officer or consular employee become entitled to receive immunities and privileges in accordance with paragraph (1) of this Article;

(b) if they entered the receiving State after that date, as from the moment of crossing the frontier; or

(c) as from the moment of becoming members of the family of the person concerned, as the case may be.

(3) When the appointment of a consular officer or consular employee comes to an end, his immunities and privileges, as well as the immunities and privileges of members of his family, residing with him, shall cease as from the moment of his departure from the receiving State or upon the expiry of a reasonable period after termination of his appointment.

(4) In the case of a consular employee who is a national or a permanent resident of the receiving State immunities and privileges shall cease upon the termination of his appointment.

(5) Insofar as concerns any act performed in his official capacity by a consular officer or consular employee, immunity from jurisdiction shall continue to subsist without limitation of time.

(6) The immunities and privileges of members of the family shall likewise cease as from the moment when they cease to be members of the family of the consular officer or consular employee in question. However, if the person concerned undertakes to depart from the territory of the receiving State within a reasonable period thereafter the immunities and privileges shall continue to be accorded until that date.

(7) In the event of the death of a consular officer or consular employee, members of his family shall continue to receive the immunities and privileges accorded to them under the Convention until the moment of their departure from the receiving State or until the expiry of a reasonable period granted for this purpose.

PART IV. CONSULAR FUNCTIONS

ARTICLE 30

The receiving State shall accord full facilities for the performance of the functions of the consulate.

ARTICLE 31

(1) In addition to the functions otherwise specified in this Convention, a consular officer may perform any other functions with which he is entrusted by the sending State, provided they are not prohibited by the laws and regulations of the receiving State.

(2) A consular officer shall be entitled to perform consular duties only within his own consular district. The performance by him of consular duties outside that district shall be subject to the consent of the receiving State.

(3) Upon notification to the receiving State, a consular officer shall be entitled to perform duties on behalf of a third State, provided that the receiving State does not raise objection.

(4) A consular officer may, on notification to the receiving State, act as representative of the sending State to an international organization. In this capacity he shall be entitled to receive any facilities, privileges and immunities accorded to such a representative by international law; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

ARTICLE 32

A consular officer shall be entitled,

(a) to protect and promote the rights and interests of the sending State and those of its nationals including juridical persons;

(b) to advance the interests of the sending State with regard to commercial, economic, scientific and cultural matters and tourism and to further the expansion of contacts and the development of friendly relations between the sending State and the receiving State in these and other fields;

(c) to ascertain by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, to report thereon to the Government of the sending State and give information to persons interested.

ARTICLE 33

In connection with the performance of his duties, a consular officer shall be entitled to address

(a) the competent local authorities within his consular district; and

(b) the central authorities of the receiving State to such extent as the laws and usages of that State permit.

ARTICLE 34

A consulate shall be entitled to levy in the receiving State the fees and charges prescribed under the laws and regulations of the sending State for the performance of consular services.

ARTICLE 35

Subject to the practices and procedures obtaining in the receiving State, a consular officer shall be entitled to represent or arrange appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of requesting, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals where, because of absence or any other reason, such nationals are unable at the proper time to assume the defense of their rights and interests.

ARTICLE 36

A consular officer shall be entitled to serve judicial documents and execute letters rogatory in accordance with international agreements in force or otherwise not inconsistent with the laws and regulations of the receiving State.

ARTICLE 37

(1) A consular officer shall be entitled,

(a) to keep a register of nationals of the sending State;

(b) to register or receive notification of the birth or death of a national of the sending State;

(c) to record a marriage solemnized under the law of the receiving State, or a divorce granted under the law, provided that at least one of the parties to such marriage or divorce is a national of the sending State;

(d) to solemnize a marriage, provided that both parties thereto are nationals of the sending State and provided also that the solemnization of such marriage is not prohibited under the law of the receiving State.

(2) Nothing in the provision of paragraph (1) of this Article shall exempt any private person from any obligation imposed by the law of the receiving State with regard to the notification to, or registration with, the competent authorities of any matter dealt with in those provisions.

ARTICLE 38

A consular officer shall be entitled to issue, revoke, renew, amend, and extend the validity of passports, entry, exit and transit visas and other similar documents.

ARTICLE 39

(1) A consular officer shall be entitled, provided that there is nothing contrary therto in the laws and regulations of the receiving State,

(a) to draw up, attest, certify, authenticate, legalize or otherwise validate documents of a juridical character or copies thereof, whenever such services are requested.

(i) by a person of any nationality for use in the sending State or under the law of that State; or

(ii) by a national of the sending State or of the receiving State for use in a third State;

(b) to translate documents and to certify the accuracy of the translation.

(2) In any case where a document referred to in paragraph (1) of this Article is required for use in the receiving State, the authorities of that State shall be obliged to give it the same force and effect as though it had been drawn up or certified or translated by the competent authorities or officials of the receiving State; provided that such documents shall have been drawn and executed in conformity with the laws and regulations of the receiving State.

ARTICLE 40

(1) A consular officer shall be entitled to safeguard, within the limits imposed by the laws and regulations of the receiving State, the interests of minors, other persons lacking full capacity, and persons absent from the receiving State, who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons. He may propose to the competent authorities of the receiving State the names of appropriate persons to act as guardians or trustees.

(2) If it comes to the knowledge of the

competent authorities of the receiving State that measures are required to be taken for the appointment of a guardian or trustee of a national of the sending State, they shall promptly so inform the consular officer.

ARTICLE 41

(1) In any case where a national of the sending State has been placed under detention pending trial or subjected to any other deprivation of personal liberty, the competent authorities of the receiving State shall notify the appropriate consulate of the sending State accordingly. Notification shall be made without delay and in any event within three days.

(2) The consular officer shall be entitled to receive correspondence or other communications from a national who has been so placed under detention pending trial or subjected to any other form of deprivation of personal liberty and to take the necessary steps to provide him with legal assistance and representation.

(3) The consular officer shall likewise be entitled to visit, to converse with and to communicate with the national. Visits shall be permitted at latest after the expiry of four days from the date on which the national was placed under detention pending trial or subjected to any other deprivation of liberty.

(4) In any case where a national of the sending State has been subjected to detention pending trial, or any other deprivation of personal liberty, or has been convicted and is serving a sentence of imprisonment, the consular officer shall have the right to visit, to converse with and to communicate with him. Visits may be made on a recurrent basis and at intervals of not more than one month.

(5) The rights referred to in paragraphs (2), (3) and (4) of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must not nullify these rights.

(6) A national to whom the provisions of this Article apply may receive from the consular officer parcels containing food, clothes, medicament and reading and writing materials to the extent that the applicable regulations of the institution in which he is detained so permit.

(7) The competent authorities of the receiving State shall, without delay, inform the national concerned of the rights of visit and communication granted under this Article.

ARTICLE 42

Where it comes to the knowledge of the competent authorities of the receiving State that a national of the sending State has died in the former State they shall, without delay, inform the appropriate consular officer accordingly and shall transmit to him a copy of the death certificate or other document recording the death.

ARTICLE 43

(1) Where it is brought to the knowledge of the competent authorities of the receiving State that there is in that State an estate,

(a) of a national of the sending State; or

(b) of a deceased person of any nationality in respect of which a national of the sending State has an interest,

the said authorities shall, without delay, inform the appropriate consular officer accordingly.

(2) The provisions of this Article shall apply whatever the place of the death of the deceased person.

ARTICLE 44

(1) In all those cases in which an estate is left in the receiving State by a national of the sending State, or by any person when a national of the sending State has an interest in the estate, the consular officer shall be entitled to take steps, in accordance with the laws and regulations obtaining in the receiving State, personally or through his authorized representative,

(a) for the protection and preservation of the estate;

(b) for the administration (including the distribution) of the estate.

(2) In all those cases in which an estate is left in the receiving State by a national of the sending State or by any person when a national of the sending State has an interest in the estate, the consular officer within whose consular district the estate is being administered, or if no administration is instituted, within whose consular district the property included in the estate is situated, shall be entitled to represent the interests of the national of the sending State concerned.

(3) The provisions of paragraphs (1)(b) and (2) of this Article shall not entitle the consular officer to act as an attorney at law, but he is entitled in such cases to give a power of attorney to an attorney at law.

(4) The provisions of this Article shall apply whatever the place of the death of the deceased person.

ARTICLE 45

The right of the consular officer described in Article 44 shall cease as from the time when a person who has received a power of attorney from the national concerned appears before the competent authority.

ARTICLE 46

(1) The consular officer shall be entitled, in accordance with the provisions of the laws and regulations obtaining in the receiving State, and in behalf of a national of the sending State:

(a) to take provisional custody of the personal property left by a deceased national of the sending State;

(b) to administer the property of a deceased national of the sending State who at the time of his death was not present in the receiving State, or has not appointed an executor of the estate in the receiving State, provided that the consular officer shall relinquish such administration upon the appointment of another administrator by the component court;

(c) to receive such money and property to which the national of the sending State is entitled upon the death of a person of any nationality, including shares in an estate, payments made pursuant to pensions and social benefits systems in general, and proceeds of insurance policies;

(d) to deliver the monies and properties mentioned in paragraph (1)(c) of this Article. The receiving State may require that the liabilities of the estate, declared within the period prescribed by law, shall first be paid or guaranteed.

(2) In the cases included in paragraphs (1) (c) and (d) the court, or other component authority or the person distributing the estate, may require that the consular officer comply with the following conditions:

(a) present a power of attorney from the national mentioned in paragraph (1)(c) of this Article; or

(b) present within a reasonable time appropriate evidence which verifies the receipt of the money and property by the national concerned; or

(c) return the money and property if he is unable to present such evidence.

ARTICLE 47

(1) In any case where a national of the sending State who is not domiciled in the receiving State dies while temporarily present in that State, money and personal effects in his possession, provided that they are not claimed by a person who is present and entitled to claim them shall be turned over without delay on a provisional basis and for conservatory purposes, to the appropriate consular officer of the sending State. This provision shall be without prejudice to the right of the competent authorities of the receiving State, to take charge of them in the interests of justice.

(2) If an authority of the receiving State is charged with the administration of the estate of the deceased person the consulate shall hand over the money and personal effects to the said authority.

(3) The exportation of the money and personal effects shall be subject to the laws and regulations of the receiving State.

(4) The provisions of this Article shall be without prejudice to the provisions of Articles 43 to 46.

ARTICLE 48

The consular officer in exercising the rights described in Articles 44 to 47, notwithstanding the provisions of Article 15 (1), is subject to the laws of the receiving State and to the jurisdiction of the judicial and administrative authorities of the receiving State in the same manner and to the same extent as a national of the receiving State.

ARTICLE 49

(1) A consular officer shall be entitled to render every assistance and aid to a vessel of the sending State which has come to a port or other place of anchorage within the consular district.

(2) A consular officer may communicate with the vessel and proceed on board, accompanied, if he desires, by other consular officers or by consular employees, as soon as she has been given permission to establish contact with the shore.

(3) The master aind members of the crew shall be permitted to communicate with the consular officer and for this purpose they may also, subject to the laws and regulations of the receiving State with regard to the port area and the admission of foreigners, proceed to the consulate or to some other appropriate place designated by the consular officer.

(4) A consular officer may invoke the aid of the competent authorities of the receiving State in any matter relating to the performance of his duties with respect to a vessel of the sending State or to the master and members of the crew of such a vessel.

ARTICLE 50

(1) A consular officer shall be entitled,

(a) to investigate any incident occurring on board a vessel of the sending State during her voyage, question the master and any member of the crew, examine and confirm the vessel's papers, take statements with regard to her voyage and destination and generally facilitate the entry into, stay in and departure from, a port of the vessel.

(b) to arrange, provided this is not contrary to the law of the receiving State, for the engagement and discharge of the master or any member of the crew or for his return to the vessel;

(c) without prejudice to the powers of the receiving State, to settle disputes of any kind between the master and any member of the crew, including disputes as to wages and contracts of service, to the extent that this is permitted under the law of the sending State;

(d) to make arrangements for the medical treatment and for the repatriation of the master or any member of the crew of the vessel;

(e) to receive, draw up, notarize, and deliver any declaration or other document prescribed by the law of the sending State in connection with vessels.

(2) A consular officer may, to the extent that the law of the receiving State permits him to do so, appear with the master or any member of the crew of the vessel before the courts and authorities of the receiving State, render them every assistance (including the making of arrangements for legal aid) and act as or arrange for an interpreter in matters between them and these courts and authorities.

ARTICLE 51

(1) Where it is the intention of the courts or other competent authorities of the receiving State to take any coercive action or to institute any formal enquiry on board a vessel of the sending State, they shall so inform the appropriate consular officer. Except where this is impossible on account of the urgency of the matter, such notification shall be made in time to enable the consular officer or his representative to be present. If the consular officer has not been present or represented he shall, upon request, be provided by the authorities concerned with full information with regard to what has taken place.

(2) The provisions of paragraph (1) of this Article shall apply also in any case where it is the intention of the competent authorities of the port area to question the master or any member of the crew ashore.

(3) The provisions of this Article shall not, however, apply to any routine examination by the authorities in regard to customs, immigration, public health, the safety of life at sea, oil pollution, wireless telegraphy or any similar matter, or with the consent of the master of the vessel.

ARTICLE 52

In any case where a vessel of the sending State is wrecked, runs aground or otherwise sustains damage in the national or territorial waters of the receiving State, the competent authorities of that State shall, without delay, so notify the appropriate consulate of the sending State. The said authorities shall, likewise, notify the consulate of measures taken, or intended to be taken, for the purpose of safeguarding and preserving the lives of persons on board the vessel and her cargo.

ARTICLE 53

The provisions of Articles 49 to 52 shall apply also in relation to civil aircraft to the extent that such an application is feasible.

PART V. GENERAL PROVISIONS

ARTICLE 54

(1) All persons to whom privileges and immunities are accorded under this Convention shall, without prejudice to the said privileges and immunities, be under an obligation to respect the laws and regulations of the receiving State, including those relative to the control of traffic.

(2) Vehicles owned by the sending State and used by the consulate, and those of consular officers, consular employees, or members of their families, must be covered by insurance against third party risks.

ARTICLE 55

(1) Members of the diplomatic staff of the diplomatic mission of the sending State in the receiving State may be appointed to perform consular, in addition to diplomatic, duties. The name of any person so appointed shall be notified to the ministry of foreign affairs of the receiving State.

(2) A member of the diplomatic mission to whom paragraph (1) of this Article applies shall be accorded the same rights as a consular officer under this Convention. Without prejudice to the provisions of Article 48, he shall continue to receive the privileges and immunities accorded to him by virtue of his diplomatic status.

ARTICLE 56

(1) This Convention shall be ratified and shall enter into force thirty days after the exchange of instruments of ratification, which shall take place at Washington as soon as possible.

(2) The Convention shall remain in force for a period of five years. In case neither High Contracting Party shall have given to the other, twelve months before the expiry of the said period of five years, notice of intention to terminate the Convention, it shall continue to remain in force until the expiry of twelve months from the date on which notice of such intention is given by one High Contracting Party to the other.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed this Convention and affixed thereto their seals.

DONE in duplicate at Budapest this seventh day of July, 1972, in the English and Hungarian languages, both texts being equally authoritative.

For the President of the United States of America:

WILLIAM P. ROGERS

For the Presidential Council of the Hungarian People's Republic:

JANOS PETER

The Chairman of the United States Delegation, in connection with the negotiation of what became Article 41 of the Consular Convention between the United States and Hungary, asked the Chairman of the Hungarian Delegation what the Hungarian practice was with respect to those persons whose detention pending trial or subjection to any other deprivation of personal liberty in Hungary would be notified to the United States Counsul in Hungary and whom United States consular officer would be authorized to visit during the period of detention in Hungary.

The Chairman of the Hungarian Delegation referred the Chairman of the United States Delegation to American Legation Notes numbers 84 of September 11, 1963, and 178 of January 2, 1964, and to Hungarian Notes numbers S2/12/x/15-1/1963, dated November 30, 1963 and S2/12/x/1-1/1964 of February 7, 1964 in reply. The Chairman of the Hungarian Delegation stated that these notes reflected current Hungarian practice and that, out of the same humanitarian considerations, persons travelling to Hungary with valid American passports and Hungarian visas valid for a temporary stay in Hungary would be given in the benefits of Article 41 of the Consular Convention.

The Chairman of the United States Delegation stated that the Hungarian practice as thus explained by the Chairman of the Hungarian Delegation would constitute a sufficient basis for consular notification and access in accordance with the terms of Article 41 of the Consular Convention and that he was prepared to accept Article 41 on the basis of that understanding of the Hungarian practice.

The Chairman of the Hungarian Delegation then asked the Chairman of the United States Delegation what the American practice would be with respect to the application of Article 41 of the Consular Convention to persons travelling to the United States with valid Hungarian passports and American visas valid for a temporary stay in the United States. The Chairman of the United States Delegation replied that the American practice would be to give such persons the benefits of Article 41 of the Consular Convention.

The Chairman of the Hungarian Delegation stated that this American practice with respect to the persons mentioned in his inquiry would also constitute a sufficient basis for notification and access of the Consular officer in accordance with terms of Article 41 of the Consular Convention.

The Senate, as in Committee of the Whole, proceeded to consider Executive B, 93d Congress, 1st session, the exchange of notes with Ethiopia concerning the administration of justice, which was read the second time, as follows:

ADDIS ABABA, *October 20, 1972.*

His Excellency Dr. MENASSIE HAILE,
Minister of Foreign Affairs, Imperial Ethiopian Government, Addis Ababa.

EXCELLENCY: I have the honor to refer to the Note of September 16, 1965 from the Ministry of Foreign Affairs which refers to the Treaty of Amity and Economic Relations between the United States of America and Ethiopia, signed at Addis Ababa on September 7, 1951, and proposes that the Notes of the same date accompanying that Treaty and concerning the Administration of Justice be terminated.

Upon instruction of my government I have the honor to state that the United States agrees to the termination of the above-mentioned exchange, such termination to be effected on the date of a Note of Confirmation to be presented to the Imperial Ethiopian Government by the Government of the United States of America at the earliest possible time.

The Government of the United States of America for its part has the honor to inform the Imperial Ethiopian Government that pending transmission of its aforecited Note of Confirmation it would not expect these provisions to be invoked. The Government of the United States of America takes note of the Imperial Ethiopian Government's views thereon, agrees that these provisions do not accord with current international practice and would advise United States citizens wishing to invoke them accordingly, should the issue arise during the interim period.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

E. ROSS ADAIR,
American Ambassador.

IMPERIAL ETHIOPIAN GOVERNMENT,
MINISTRY OF FOREIGN AFFAIRS,
Addis Ababa, September 16, 1965.

His Excellency EDWARD M. KORRY,
Ambassador of the United States of America, Addis Ababa.

EXCELLENCY: I have the honour to refer to the Treaty of Amity and Economic Relations between Ethiopia and the United States of America, signed at Addis Ababa on September 7, 1951, and to propose that the notes concerning the administration of justice which were exchanged on the same date, and which are an integral part of that treaty, be terminated.

If the foregoing meets with the approval of the Government of the United States of America, it is proposed that this note and Your Excellency's reply agreeing thereto shall constitute an agreement between Ethiopia and the United States of America, which shall enter into force on the date of your reply.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

KETEMA YIFRU,
Minister of State For Foreign Affairs.

The Senate, as in Committee of the Whole, proceeded to consider Executive R, 92d Congress, 2d session, the Convention with Japan for the Protection of Birds and Their Environment, which was read the second time, as follows:

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN FOR THE PROTECTION OF MIGRATORY BIRDS AND BIRDS IN DANGER OF EXTINCTION, AND THEIR ENVIRONMENT

The Government of the United States of America and the Government of Japan,

Considering that birds constitute a natural resource of great value for recreational, aesthetic, scientific, and economic purposes, and that this value can be increased with proper management,

Considering that many species of birds migrate between areas of the United States of America and of Japan, where such birds live temporarily,

Considering that island environments are particularly susceptible to disturbance, that many species of birds of the Pacific Islands have been exterminated, and that some other

species of birds are in danger of extinction, and

Desiring to cooperate in taking measures for the management, protection, and prevention of the extinction of certain birds,

Therefore, have agreed as follows:

ARTICLE I

This Convention shall apply:

(a) For the United States of America, to all areas of the United States of America and its possessions including the Trust Territory of the Pacific Islands;

(b) For Japan, to all areas under the administration of Japan.

ARTICLE II

1. In this Convention, the term "migratory birds" means:

(a) The species of birds for which there is positive evidence of migration between the two countries from the recovery of bands or other markers; and

(b) The species of birds with subspecies common to both countries or, in the absence of subspecies, the species of birds common to both countries. The identification of these species and subspecies shall be based upon specimens, photographs or other reliable evidence.

2. (a) The list of the species defined as migratory birds in accordance with paragraph 1 of this Article is contained in the Annex to this Convention.

(b) The competent authorities of the Contracting Parties shall review from time to time the Annex and, if necessary, make recommendations to amend it.

(c) The Annex shall be considered amended 3 months after the date upon which the two Governments confirm, by an exchange of diplomatic notes, their respective acceptance of such recommendations.

ARTICLE III

1. The taking of the migratory birds or their eggs shall be prohibited. Any sale, purchase or exchange of these birds or their eggs, taken illegally, alive or dead, and any sale, purchase or exchange of the products thereof or their parts shall also be prohibited. Exceptions to the prohibition of taking may be permitted in accordance with the laws and regulations of the respective Contracting Parties in the following cases:

(a) For scientific, educational, propagative or other specific purposes not inconsistent with the objectives of this Convention;

(b) For the purpose of protecting persons and property;

(c) During open hunting seasons established in accordance with paragraph 2 of this Article;

(d) With respect to private game farms;

(e) Taking by Eskimos, Indians, and indigenous peoples of the Trust Territory of the Pacific Islands for their own food and clothing.

2. Open seasons for hunting migratory birds may be decided by each Contracting Party respectively. Such hunting seasons shall be set so as to avoid their principal nesting seasons and to maintain their populations in optimum numbers.

3. Each Contracting Party shall endeavor to establish sanctuaries and other facilities for the protection or management of migratory birds.

ARTICLE IV

1. Both Contracting Parties agree that special protection is desirable for the preservation of species or subspecies of birds which are in danger of extinction.

2. Whenever either Contracting Party has determined the species or subspecies of birds which are in danger of extinction and prohibited the taking thereof, the Contracting Party shall inform the other Contracting Party of such determination, and of any cancellation thereafter of such determination.

3. Each Contracting Party shall control the exportation or importation of such species or subspecies of birds as are determined in accordance with paragraph 2 of this Article, and of the products thereof.

ARTICLE V

1. The Contracting Parties shall exchange data and publications regarding research on migratory birds and birds in danger of extinction.

2. The Contracting Parties shall encourage the establishment of joint research programs on, and conservation of, migratory birds and birds in danger of extinction.

ARTICLE VI

Each Contracting Party shall endeavor to take appropriate measures to preserve and enhance the environment of birds protected under Articles III and IV. In particular, it shall:

(a) Seek means to prevent damage to such birds and their environment, including, especially, damage resulting from pollution of the seas;

(b) Endeavor to take such measures as may be necessary to control the importation of live animals and plants which it determines to be hazardous to the preservation of such birds; and

(c) Endeavor to take such measures as may be necessary to control the introduction of live animals and plants which could disturb the ecological balance of unique island environments.

ARTICLE VII

Each Contracting Party agrees to take measures necessary to carry out the purposes of this Convention.

ARTICLE VIII

Upon the request of either Government, the two Governments shall hold consultations regarding the operation of this Convention.

ARTICLE IX

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Convention shall enter into force on the date of the exchange of the instruments of ratification. It shall remain in force for 15 years and shall continue in force thereafter until terminated as provided herein.

3. A Contracting Party may, by giving one year's written notice, terminate this Convention at the end of the initial 15 year period or at any time thereafter.

IN WITNESS WHEREOF the representatives of the two Governments have signed this Convention.

DONE in duplicate, in the English and Japanese languages, both equally authentic, at Tokyo, this fourth day of March, 1972.

For the Government of the United States of America:

ARMIN H. MEYER

For the Government of Japan:

TAKEO FUKUDA

ANNEX

1 White-billed or Yellow-billed loon (*Gavia admsii*)
2 Arctic loon (*Gavia arctica*)
3 Red-throated loon (*Gavia stellata*)
4 Red-necked grebe (*Podiceps grisegena*)
5 Horned grebe (*Podiceps auritus*)
6 Short-tailed albatross (*Diomedea albatrus*)
7 Black-footed albatross (*Diomedea nigripes*)
8 Laysan albatross (*Diomedea immutabilis*)
9 Northern fulmar (*Fulmarus glacialis*)
10 Pink-footed shearwater (*Puffinus carneipes*)
11 Wedge-tailed shearwater (*Puffinus pacificus*)
12 Sooty shearwear (*Puffinus griseus*)
13 Slender-billed shearwater (*Puffinus tenuirostris*)
14 Christmas shearwater (*Puffinus nativitatis*)
15 Bonin Island petrel (*Pterodroma hypoleuca*)
16 Bulwer's petrel (*Bulweria bulwerii*)
17 Fork-tailed storm petrel (*Oceanodroma furcata*)
18 Leach's storm petrel (*Oceanodroma leucorhoa*)
19 Harcourt's or Madeiran storm petral (*Oceanodroma castro*)
20 Tristram's storm petrel (*Oceanodroma tristrami*)
21 Wilson's storm petrel (*Oceanites oceanicus*)
22 Red-tailed tropicbird (*Phaethon rubricauda*)
23 White-tailed tropicbird (*Phaethon lepturus*)
24 Masked or Blue-faced booby (*Sula dactylatra*)
25 Red-footed booby (*Sula sula*)
26 Brown booby (*Sula leucogaster*)
27 Pelagic cormorant (*Phalacrocorax pelagicus*)
28 Red-faced cormorant (*Phalacrocorax urile*)
29 Greater frigatebird (*Fregata minor*)
30 Lesser frigatebird (*Fregata ariel*)
31 Cattle egret (*Bubulcus ibis*)
32 Plumed egret (*Egretta intermedia*)
33 Reef heron (*Demigretta sacra*)
34 Japanese night heron (*Gorsachius goisagi*)
35 Chinese little bittern (*Ixobrychus sinensis*)
36 Schrenck's little bittern (*Ixobrychus eurhythmus*)
37 Whooper swan (*Cygnus cygnus*)
38 Canada goose (*Branta canadensis*)
39 Brant (*Branta bernicla*)
40 Emperor goose (*Anser canagicus*)
41 White-fronted goose (*Anser albifrons*)
42 Bean goose (*Anser fabalis*)
43 Snow goose (*Anser caerulescens*)
44 Mallard (*Anas platyrhynchos*)
45 Gadwall (*Anas strepera*)
46 Pintail (*Anas acuta*)
47 Teal (including Green-winged teal) (*Anas crecca*)
48 Falcated teal (*Anas falcata*)
49 Garganey (*Anas querquedula*)
50 Baikal teal (*Anas formosa*)
51 European widgeon (*Mareca penelope*)
52 American widgeon (*Mareca americana*)
53 Shoveler (*Spatula clypeata*)
54 Common pochard (*Aythya ferina*)
55 Canvasback (*Aythya valisineria*)
56 Tufted duck (*Aythya fuligula*)
57 Baer's pochard (*Aythya baeri*)
58 Common goldeneye (*Bucephala clangula*)
59 Bufflehead (*Bucephala albeola*)
60 Oldsquaw (*Clangula hyemalis*)
61 Harlequin duck (*Histrionicus histrionicus*)
62 Steller's eider (*Polysticta stelleri*)
63 Common scoter (*Melanitta nigra*)
64 Common merganser (*Mergus merganser*)
65 Red-breasted merganser (*Mergus serrator*)
66 Smew (*Mergus albellus*)
67 Rough-legged hawk (*Bueto Lagopus*)
68 Gray sea-eagle (*Haliaeetus albicilla*)
69 Steller's sea-eagle (*Haliaeetus pelagicus*)
70 Japanese sparrow hawk (*Accipiter virgatus*)
71 Black kite (*Milvus migrans*)
72 Osprey (*Pandion haliaetus*)
73 Gyrfalcon (*Falco rusticolus*)
74 Peregrine falcon (*Falco peregrinus*)
75 Sandhill crane (*Grus canadensis*)
76 Common gallinule or Moorhen (*Gallinula chloropus*)
77 Eurasian coot (*Fulica atra*)
78 Snowy or Kentish plover (*Charadrius alexandrinus*)
79 Little ringed plover (*Charadrius dubius*)

80 Ringed plover (*Charadrius hiaticula*)
81 Greater sand plover (*Charadrius leschenaultii*)
82 Mongolian plover (*Charadrius mongolus*)
83 Dotterel (*Eudromias morinellus*)
84 American golden plover (*Pluvialis dominica*)
85 Black-bellied plover (*Pluvialis squatarola*)
86 Ruddy turnstone (*Arenaria interpres*)
87 Common snipe (*Gallinago gallinago*)
88 Swinhoe's snipe (*Gallinago megala*)
89 Jacksnipe (*Lymnocryptes minimus*)
90 Long-billed dowitcher (*Limnodromus scolopaceus*)
91 Bar-tailed godwit (*Limosa lapponica*)
92 Wood sandpiper (*Tringa glareola*)
93 Wandering or Polynesian tattler (*Tringa incana* including *T. brevipes*)
94 Common sandpiper (*Tringa hypoleucos*)
95 Spotted redshank (*Tringa erythropus*)
96 Greenshank (*Tringa nebularia*)
97 Greater yellowlegs (*Tringa melanoleuca*)
98 Whimbrel (*Numenius phaeopus*)
99 Bristle-thighed curlew (*Numenius tahitiensis*)
100 Least whimbrel or Eskimo curlew (*Numenius minutus* including *Numenius borealis*)
101 Australian curlew (*Numenius madagascariensis*)
102 Knot (*Calidris eanutus*)
103 Great knot (*Calidris tenuirostris*)
104 Curlew sandpiper (*Calidris ferruginea*)
105 Dunlin (*Calidris alpina*)
106 Rufous-necked sandpiper (*Calidris ruficollis*)
107 Long-toed stint or Least sandpiper (*Calidris minutilla* including *Calidris subminuta*)
108 Temminck's stint (*Calidris temminckii*)
109 Baird's sandpiper (*Calidris bairdii*)
110 Sharp-tailed sandpiper (*Calidris acuminata*)
111 Pectoral sandpiper (*Calidris melanotos*)
112 Spoon-billed sandpiper (*Eurynorhynchus pygmeus*)
113 Buff-breasted sandpiper (*Tryngites subruficollis*)
114 Ruff (*Philomachus pugnax*)
115 Broad-billed sandpiper (*Limicola falcinellus*)
116 Sanderling (*Crocethia alba*)
117 Northern phalarope (*Lobipes lobatus*)
118 Red phalarope (*Phalaropus fulicarius*)
119 Skua (*Catharacia skua*)
120 Pomarine jaeger (*Stercorarius pomarinus*)
121 Parasitic jaeger (*Stercorarius parasiticus*)
122 Long-tailed jaeger (*Stercorarius longicaudus*)
123 Glaucous gull (*Larus hyperboreus*)
124 Glaucous-winged gull (*Larus glaucescens*)
125 Slaty-backed gull (*Larus schistisagus*)
126 Herring gull (*Larus argentatus*)
127 Black-tailed gull (*Larus crassirostris*)
128 Black-headed gull (*Larus ridibundus*)
129 Black-legged kittiwake (*Rissa tridactyla*)
130 Sabine's gull (*Xema sabini*)
131 Ivory gull (*Pdgophila eburnea*)
132 White-winged black tern (*Chlidonias leucopterus*)
133 Aleutian tern (*Sterna aleutica*)
134 Common tern (*Sterna hirundo*)
135 Gray-backed tern (*Sterna lunata*)
136 Bridled tern (*Sterna anaethetus*)
137 Black-naped tern (*Sterna sumatrana*)
138 Least or Little tern (*Sterna albifrons*)
139 Sooty tern (*Sterna fuscata*)
140 Brown noddy (*Anous stolidus*)
141 Lesser or Black noddy (*Anous tenuirostris*)
142 Gray ternlet or Blue-gray noddy (*Procelsterna cerulea*)
143 White tern or Fairy tern (*Gygis alba*)
144 Common murre (*Uria aalge*)
145 Thick-billed murre (*Uria lomvia*)
146 Pigeon guillemot (*Cepphus columba*)
147 Ancient murrelet (*Symhliboramphus antiquus*)
148 Parakeet auklet (*Aethia psittacula*)
149 Crested auklet (*Aethia cristatella*)
150 Whiskered auklet (*Aethia pygmaea*)
151 Least auklet (*Aethia pusilla*)
152 Rhinoceros auklet (*Cerorhinca monocerata*)
153 Tufted puffin (*Lunda cirrhata*)
154 Horned puffin (*Fratercula corniculata*)
155 Snowy owl (*Nyctea scandiaca*)
156 Short-eared owl (*Asio flammeus*)
157 Common cuckoo (*Cuculus canorus*)
158 Oriental or Himalayan cuckoo (*Cuculus saturatus*)
159 Hawk cuckoo (*Cuculus fugax*)
160 Jungle nightjar (*Caprimulgus indicus*)
161 White-rumped swift (*Apus pacificus*)
162 Wryneck (*Jynx torquilla*)
163 Barn swallow (*Hirundo rustica*)
164 Bank swallow (*Riparia riparia*)
165 Hawfinch (*Coccothraustes coccothraustes*)
166 Redpoll (including common and hoary redpoll) (*Carduelis flammea* including *C. hornemanni*)
167 Bullfinch (*Pyrrhula pyrrhula*)
168 Pine grosbeak (*Pinicola enucleator*)
169 Brambling (*Fringilla montifringilla*)
170 Rustic bunting (*Emberiza rustica*)
171 Golden-crowned sparrow (*Zonotrichia atricapilla*)
172 White-crowned sparrow (*Zonotrichia leucophrys*)
173 Fox sparrow (*Passerella iliaca*)
174 Skylark (*Alauda arvensis*)
175 Water pipit (*Anthus spinoletta*)
176 Indian tree pipit (*Anthus hodgsoni*)
177 Red-throated pipit (*Anthus cervinus*)
178 White or Pied wagtail (*Motacilla alba*)
179 Gray wagtail (*Motacilla cinerea*)
180 Yellow wagtail (*Motacilla flava*)
181 Narcissus flycatcher (*Muscicapa narcissina*)
182 Chinese gray-spotted flycatcher (*Muscicapa griseisticta*)
183 Middenforff's grasshopper warbler (*Locustella ochotensis*)
184 Arctic warbler (*Phylloscopus borealis*)
185 Eye-browed thrush (*Turdus obscurus*)
186 Siberian rubythroat (*Erithacus calliope*)
187 Mountain hedge-sparrow or accentor (*Prunella montanella*)
188 Violet-backed starling (*Sturnus philippensis*)
189 Ashy starling (*Sturnus cineraceus*)

The ACTING PRESIDENT pro tempore. Without objection, the following five treaties will be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification:

The Consular Convention with Poland, Ex. U (92d Cong., 2d sess.);

The Consular Convention with Romania, Ex. V (92d Cong., 2d sess.);

The Consular Convention with Hungary, Ex. W (92d Cong., 2d sess.);

The Exchange of Notes with Ethiopia Concerning the Administration of Justice, Ex. B (93d Cong., 1st sess.);

A Convention with Japan for the Protection of Birds and Their Environment, Ex. R (92d Cong., 2d sess.).

The clerk will read the five resolutions of ratification.

The assistant legislative clerk read as follows:

Resolved, (*Two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the Consular Convention between the Government of the United States of America and the Government of the Polish People's Republic, with Protocols, signed at Warsaw on May 31, 1972 (Ex. U, 92–2).

Resolved, (*Two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the Consular Convention between the United States of America and the Socialist Republic of Romania, with Protocol, signed at Bucharest on July 5, 1972 (Ex. V, 92–2).

Resolved, (*Two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the Consular Convention between the United States of America and the Hungarian People's Republic, signed at Budapest on July 7, 1972 (Ex. W, 92–2).

Resolved, (*Two-thirds of the Senators present concurring therein*), That the Senate advise and consent to ratification of a note of September 16, 1965, from the Government of Ethiopia and a reply note of October 20, 1972, from the Government of the United States which would terminate notes exchanged on September 7, 1951, concerning the administration of justice and constituting an integral part of the treaty of amity and economic relations between the United States and Ethiopia (Ex. B, 93–1).

Resolved, (*Two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment, signed at Tokyo on March 4, 1972 (Ex. R, Ninety-second Congress, Second Session).

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the five treaties.

The yeas and nays were ordered.

CONSULAR CONVENTION WITH POLAND (EX. U, 92D CONG., 2D SESS.)

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the resolution of ratification of Executive U, 92d Congress, 2d session, a Consular Convention with Poland?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Arkansas (Mr. FULBRIGHT), are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Louisiana (Mr. JOHNSTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Idaho (Mr.

McCLURE) are detained on official business.

If present and voting, the Senator from Wyoming (Mr. HANSEN), the Senator from Idaho (Mr. McCLURE) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 90, nays 0, as follows:

[No. 59 Ex.]

YEAS—90

Abourezk	Eagleton	Metcalf
Aiken	Eastland	Mondale
Allen	Ervin	Montoya
Baker	Fannin	Moss
Bartlett	Fong	Nelson
Bayh	Goldwater	Nunn
Beall	Gravel	Packwood
Bellmon	Griffin	Pastore
Bennett	Gurney	Pearson
Bentsen	Hart	Pell
Bible	Hartke	Percy
Biden	Haskell	Proxmire
Brock	Hatfield	Randolph
Brooke	Hathaway	Ribicoff
Buckley	Helms	Roth
Burdick	Hollings	Saxbe
Byrd, Harry F., Jr.	Hruska	Schweiker
Byrd, Robert C.	Huddleston	Scott, Pa.
Cannon	Hughes	Scott, Va.
Case	Humphrey	Sparkman
Chiles	Inouye	Stafford
Church	Jackson	Stevens
Clark	Javits	Stevenson
Cook	Kennedy	Symington
Cotton	Long	Taft
Cranston	Magnuson	Talmadge
Curtis	Mansfield	Thurmond
Dole	McClellan	Weicker
Domenici	McGee	Young
Dominick	McGovern	
	McIntyre	

NAYS—0

NOT VOTING—10

Fulbright	McClure	Tunney
Hansen	Muskie	Williams
Johnston	Stennis	
Mathias	Tower	

The ACTING PRESIDENT pro tempore. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

CONSULAR CONVENTION WITH ROMANIA (EX. V, 92D CONG., 2D SESS.)

The ACTING PRESIDENT pro tempore. The Senate will now proceed to vote on Executive V, 92d Congress, 2d session, the Consular Convention with Romania. The question is, Will the Senate advise and consent to the resolution of ratification? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

I further announce that, if present and voting, the Senator from Louisiana (Mr. JOHNSTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Wyoming (Mr. HANSEN) is detained on official business.

If present and voting, the Senator from Wyoming (Mr. HANSEN) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 92, nays 0, as follows:

[No. 60 Ex.]

YEAS—92

Abourezk	Eagleton	McGovern
Aiken	Eastland	McIntyre
Allen	Ervin	Metcalf
Baker	Fannin	Mondale
Bartlett	Fong	Montoya
Bayh	Fulbright	Moss
Beall	Goldwater	Nelson
Bellmon	Gravel	Nunn
Bennett	Griffin	Packwood
Bentsen	Gurney	Pastore
Bible	Hart	Pearson
Biden	Hartke	Pell
Brock	Haskell	Percy
Brooke	Hatfield	Proxmire
Buckley	Hathaway	Randolph
Burdick	Helms	Ribicoff
Byrd, Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Hruska	Saxbe
Cannon	Huddleston	Schweiker
Case	Hughes	Scott, Pa.
Chiles	Humphrey	Scott, Va.
Church	Inouye	Sparkman
Clark	Jackson	Stafford
Cook	Javits	Stevens
Cotton	Kennedy	Stevenson
Cranston	Long	Symington
Curtis	Magnuson	Taft
Dole	Mansfield	Talmadge
Domenici	McClellan	Thurmond
Dominick	McClure	Weicker
	McGee	Young

NAYS—0

NOT VOTING—8

Hansen	Muskie	Tunney
Johnston	Stennis	Williams
Mathias	Tower	

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 92, and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

CONSULAR CONVENTION WITH HUNGARY (EX. W. 92D CONG., 2D SESS.)

The PRESIDING OFFICER (Mr. HATHAWAY). The question is, Will the Senate advise and consent to the resolution of ratification of Executive W, 92d Congress, 2d session, the Consular Convention with Hungary?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS). is absent because of illness.

I further announce that, if present and voting, the Senator from Louisiana (Mr. JOHNSTON, the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Wyoming (Mr. HANSEN) is detained on official business.

If present and voting, the Senator from Wyoming (Mr. HANSEN) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 92, nays 0, as follows:

[No. 61 Ex.]

YEAS—92

Abourezk	Eagleton	McGovern
Aiken	Eastland	McIntyre
Allen	Ervin	Metcalf
Baker	Fannin	Mondale
Bartlett	Fong	Montoya
Bayh	Fulbright	Moss
Beall	Goldwater	Nelson
Bellmon	Gravel	Nunn
Bennett	Griffin	Packwood
Bentsen	Gurney	Pastore
Bible	Hart	Pearson
Biden	Hartke	Pell
Brock	Haskell	Percy
Brooke	Hatfield	Proxmire
Buckley	Hathaway	Randolph
Burdick	Helms	Ribicoff
Byrd, Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Hruska	Saxbe
Cannon	Huddleston	Schweiker
Case	Hughes	Scott, Pa.
Chiles	Humphrey	Scott, Va.
Church	Inouye	Sparkman
Clark	Jackson	Stafford
Cook	Javits	Stevens
Cotton	Kennedy	Stevenson
Cranston	Long	Symington
Curtis	Magnuson	Taft
Dole	Mansfield	Talmadge
Domenici	McClellan	Thurmond
Dominick	McClure	Weicker
	McGee	Young

NAYS—0

NOT VOTING—8

Hansen	Muskie	Tunney
Johnston	Stennis	Williams
Mathias	Tower	

The PRESIDING OFFICER (Mr. HATHAWAY). Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

AN EXCHANGE OF NOTES WITH ETHIOPIA CONCERNING THE ADMINISTRATION OF JUSTICE (EX. B, 93D CONG., 1ST SESS.)

The PRESIDING OFFICER. The Senate will proceed to vote on Executive B, 2d session, 92d Congress, an Exchange of Notes with Ethopia Concerning the Administration of Justice.

The question is, Will the Senate advise and consent to the resolution of ratification? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Wyoming (Mr. HANSEN) is detained on official business.

If present and voting, the Senator from Wyoming (Mr. HANSEN) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 92, nays 0, as follows:

[No. 62 Ex.]

YEAS—92

Abourezk	Eagleton	McGovern
Aiken	Eastland	McIntyre
Allen	Ervin	Metcalf
Baker	Fannin	Mondale
Bartlett	Fong	Montoya
Bayh	Fulbright	Moss
Beall	Goldwater	Nelson
Bellmon	Gravel	Nunn
Bennett	Griffin	Packwood
Bentsen	Gurney	Pastore
Bible	Hart	Pearson
Biden	Hartke	Pell
Brock	Haskell	Percy
Brooke	Hatfield	Proxmire
Buckley	Hathaway	Randolph
Burdick	Helms	Ribicoff
Byrd, Harry F., Jr.	Hollings	Roth
	Hruska	Saxbe
Byrd, Robert C.	Huddleston	Schweiker
Cannon	Hughes	Scott, Pa.
Case	Humphrey	Scott, Va.
Chiles	Inouye	Sparkman
Church	Jackson	Stafford
Clark	Javits	Stevens
Cook	Kennedy	Stevenson
Cotton	Long	Symington
Cranston	Magnuson	Taft
Curtis	Mansfield	Talmadge
Dole	McClellan	Thurmond
Domenici	McClure	Weicker
Dominick	McGee	Young

NAYS—0

NOT VOTING—8

Hansen	Muskie	Tunney
Johnston	Stennis	Williams
Mathias	Tower	

The PRESIDING OFFICER. On this vote, the yeas are 92, and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

A CONVENTION WITH JAPAN FOR THE PROTECTION OF BIRDS AND THEIR ENVIRONMENT (EX. R, 92D CONG., 2D SESS.)

The PRESIDING OFFICER. The Senate will proceed to vote on Executive R, 2d session, 92d Congress, a Convention with Japan for the Protection of Birds and Their Environment.

Mr. MAGNUSON. Mr. President, it is a distinct pleasure for me to join my colleague from Arkansas (Mr. FULBRIGHT) on the matter of this important international convention to conserve endangered species. The Committee on Commerce, which I am privileged to chair, has recently conducted extensive hearings into the matter of endangered species as well as legislation to grant special protection to worldwide species of marine mammals.

I am convinced that the U.S. Government is providing international leadership in this area of wildlife conservation. As a delegate to the United Nations Conference on the Human Environment in Stockholm last summer, it was my pleasure to hear a speech by Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration—NOAA—of the Department of Commerce. In my opinion, that speech—aimed at providing worldwide protection of our dwindling stocks of great whales—was the finest made at the entire conference. Dr. White received a standing ovation, one which was richly deserved. Dr. White is to be commended for his leadership at NOAA, not only in protecting and conserving the fish and marine mammals under his jurisdiction, but in creating a worldwide spirit of respect for NOAA's reputation for scientific expertise in the oceans resources.

President Nixon has just appointed Dr. White as the U.S. Commissioner to the International Whaling Commission. In this role, I am convinced that Dr. White will continue to bring pressure on those nations which continue their whaling operations to begin phasing them out as soon as possible. I am informed that even the Japanese, who were the ones responsible for blocking a 10-year whaling moratorium at the Stockholm conference, are beginning to have second thoughts about the impact of their actions.

For the information of my colleagues, the International Whaling Commission last year in London—because of American pressure—finally adopted some meaningful quotas on the fin whale. These quotas are in addition to the complete protection allegedly afforded to the white whales, the bowheads, the humpbacks, the grey, and the blue whales. The Japanese and Soviet whaling commissioners are attempting to resist this pressure. But I believe that the weight of world opinion eventually will force even these nations to cease their wasteful whaling practices.

The Marine Mammal Protection Act of 1972 was the result of many months of work by the Commerce Committee last year. This act, signed by President Nixon in October, is the most far-reaching animal protection legislation in the world. It establishes the most rigid standards of protection of all marine mammals, and it requires the Department of the Interior and the National Oceanic and Atmospheric Administration to prevent the killing, capturing, harassing, or importing of these animals except under certain provisions which will benefit the health and stability of the stocks.

On another matter, Mr. President, two existing international organizations involved in fishery management and conservation face difficult problems in the years ahead. They are the International Commission on North Atlantic Fisheries, ICNAF, and the International North Pacific Fisheries Commission. We have all heard with dismay of the dwindling stocks of finfish off the New England coast because of overfishing by fleets of vessels from East and West Europe and some from the Far East, notably Japan. But I would warn my colleagues today that a day of reckoning is ahead, not only for the fisheries of the North Atlantic, but in the North Pacific and Bering Sea as well. As a result of overfishing, our Nation's sadly depressed fishing industry faces darker days ahead. Many fishermen are beginning to wonder if any fish will be left by the time a satisfactory law of the sea treaty is agreed upon in the United Nations. It will require all of the talent of our State Department negotiators to protect our Nation's fisheries resources.

We have a long way to go. I commend my distinguished friend, the chairman of the Foreign Relations Committee, for the work he has done in this area, too. In my opinion, the Congress has been far out front in recognizing this issue and in recommending and pushing legislation to solve these problems.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Louisiana (Mr. JOHNSTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Wyoming (Mr. HANSEN) is detained on official business.

If present and voting, the Senator from Wyoming (Mr. HANSEN) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 92, nays 0, as follows:

[No. 63 Ex.]

YEAS—92

Abourezk	Eagleton	McGovern
Aiken	Eastland	McIntyre
Allen	Ervin	Metcalf
Baker	Fannin	Mondale
Bartlett	Fong	Montoya
Bayh	Fulbright	Moss
Beall	Goldwater	Nelson
Bellmon	Gravel	Nunn
Bennett	Griffin	Packwood
Bentsen	Gurney	Pastore
Bible	Hart	Pearson
Biden	Hartke	Pell
Brock	Haskell	Percy
Brooke	Hatfield	Proxmire
Buckley	Hathaway	Randolph
Burdick	Helms	Ribicoff
Byrd, Harry F., Jr.	Hollings	Roth
	Hruska	Saxbe
Byrd, Robert C.	Huddleston	Schweiker
Cannon	Hughes	Scott, Pa.
Case	Humphrey	Scott, Va.
Chiles	Inouye	Sparkman
Church	Jackson	Stafford
Clark	Javits	Stevens
Cook	Kennedy	Stevenson
Cotton	Long	Symington
Cranston	Magnuson	Taft
Curtis	Mansfield	Talmadge
Dole	McClellan	Thurmond
Domenici	McClure	Weicker
Dominick	McGee	Young

NAYS—0

NOT VOTING—8

Hansen	Muskie	Tunney
Johnston	Stennis	Williams
Mathias	Tower	

The PRESIDING OFFICER. On this vote, the yeas are 92 and the nays are 0. Two-thirds of the Senators present and

voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate return to legislative session.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

EXTENSION OF CLEAN AIR ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a massage from the House of Representatives on H.R. 5445.

The PRESIDING OFFICER laid before the Senate H.R. 5445, an act to extend the Clean Air Act, as amended, for 1 year, which was read twice by title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5445.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

EXTENSION OF SOLID WASTE DISPOSAL ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 5446.

The PRESIDING OFFICER laid before the Senate H.R. 5446, an act to extend the Solid Waste Disposal Act, as amended, for 1 year, which was read twice by title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

LEAVE OF ABSENCE

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the Senator from Massachusetts (Mr. BROOKE) be permitted leave from the Senate on official business for a visit to Indochina from Tuesday, March 27, to Monday, April 30, 1973.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ENTITLED "WATER RESOURCES OF THE DELMARVA PENINSULA, A SUMMARY REPORT TO THE CONGRESS"—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Interior and Insular Affairs. The message is as follows:

To the Congress of the United States:

I am pleased to submit the enclosed report, "Water Resources of the Delmarva Peninsula, a Summary Report to the Congress," by E. M. Cushing, I. H. Kantrowitz, and K. R. Taylor, which was prepared in compliance with Public Law 89–618 (S. 2287), October 4, 1966.

The Delmarva study was made in response to the specific act cited above, which was sponsored by Senator J. Caleb Boggs of Delaware (S. 2287) and Secretary of the Interior Rogers C. B. Morton (H.R. 9922) who was a Representative from Maryland in 1966. Public Law 89–618 authorized and directed the Secretary of the Interior to make a comprehensive investigation of the water resources of the Delmarva Peninsula. The principal objective of the study was to determine the availability of freshwater supplies to meet future needs of the peninsula area. The summary report indicates that the amount of fresh water that can be developed perennially on the peninsula is about 1,500 million gallons per day. This amount is more than 10 times the use in 1970 and about six times the estimated use of water on the peninsula by the year 2010.

In addition to this summary report to the Congress, required by Public Law 89–618, the Geological Survey plans to compile and publish in 1973 a more detailed report on the study for use by public and private agencies and individuals. That report will provide information for use in long-range planning, development, and management of water supplies.

RICHARD NIXON.

THE WHITE HOUSE, *March 27, 1973.*

REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

I am pleased to transmit the Seventh Annual Report of the National Endowment for the Humanities, for fiscal year 1972.

It is essential that the disciplines of the humanities—languages, history, philosophy, literature and ethics among others—be brought to bear on problems of contemporary concern, both national and international. The Federal Government recognizes this need—and has been responsive to it.

I particularly commend to your attention the program of "Youthgrants in the Humanities," begun in fiscal year 1972, which provides needed support for young people doing scholarly work in the humanities. Another impressive effort is the Endowment's State-Based Program, which, in less than two years, has established committees in 38 States to encourage public education. The "Jefferson Lecture in the Humanities," aimed at bridging the gap between humanistic learning and public affairs, is also successfully underway.

The public's response to the work of the National Endowment for the Humanities may be measured in part by the fact that public contributions to the Endowment have exceeded federally appropriated funds for the third year in a row. This is clear evidence of broad public support for the objectives of the National Endowment and, I believe, gives added justification to the steadily increasing funding which I have requested and which the Congress has provided for its very worthwhile endeavors.

RICHARD NIXON.

THE WHITE HOUSE, *March 27, 1937.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HATHAWAY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Rule VII provides that morning business be now in order.

PUBLIC HEALTH SERVICE ACT EXTENSION OF 1973

Mr. MANSFIELD. Mr. President, I move that the Senate return to the con-

sideration of Calendar No. 91, S. 1136; that it be laid before the Senate and made the pending business without benefit of a morning hour.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 1136) to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act.

The Senate proceeded to consider the bill.

Mr. KENNEDY. I thank the Chair. I ask unanimous consent that Dr. Larry Horowitz have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I rise to urge the enactment of S. 1136, a bill to extend those provisions of the Public Health Service Act and the Community Health Centers Act which expire June 30, 1973. Twelve of the most significant authorities of the act, including health services research and development, health statistics, public health training, migrant health, comprehensive health planning, medical libraries, Hill-Burton hospital construction, allied health training, regional medical program, family planning and population research, community mental health centers, and developmental disabilities are involved in this legislation.

This bill has broad bipartisan sponsorship in both Houses of Congress, including 15 of the 16 members of the Labor and Public Welfare Committee in the Senate and all of the members of the Subcommittee on Public Health and Environment in the House.

Mr. President, the Labor and Public Welfare Committee has tried repeatedly, since last May, to avert the monumental legislative logjam which this legislation responds to.

Last year, the committee included in S. 3327, the Health Maintenance Organization and Resources Development Act of 1972, a separate title which proposed to extend and improve several expiring Public Health Service authorities. The committee invited the administration to testify in respect to that title of S. 3327 on May 11, 1972.

Former Department of Health, Education, and Welfare Secretary Richardson stated at the time:

All these authorities are major components of the Department's health program and it is our preference to be able to address them all comprehensively on the basis of information we are currently analyzing in our planning, budget, and legislative review process. At the present time, our planning process is not sufficiently advanced to a point which would permit us to testify on May 17 on these expiring authorities.

Subsequently, the committee conducted a hearing on S. 3327 and heard the following organizations testify vigorously in support of the bill:

American Nursing Home Association;
American Dental Association;
American Public Health Association;
Association of Schools of Allied Health Professions;
American Hospital Association;
Association of State and Territorial Health Officers;
Comprehensive Health Planning Agency of Missouri;
American Nurses Association;
American Dental Assistant Association;
Association of Dental Hygienist;
American Association of Dental Schools;
California School of Denistry, University of Southern California;
American Psychiatric Association;
National Association for Mental Health;
Committee Against Mental Illness; and
National Council of Community Mental Health Centers.

At the time the committee met in executive session to mark up S. 3327, it decided to separate the provisions contained within title V of that bill from the HMO bill, and to order those provisions favorably reported to the Senate as a separate bill. The new bill, S. 3716, the Health Facilities, Manpower, and Community Mental Health Centers Act of 1972 was favorably reported to the Senate by the committee by a vote of 16–0 on August 16, 1972.

In addition, in 1972 the committee acted on a number of other of the expiring Public Health Service authorities separately. For example, on July 27, 1972, the committee held a hearing on S. 3441, public health training and on S. 3752, medical libraries. All of the witnesses—except the administration—who testified on those bills supported prompt enactment of the legislation. The committee received testimony in support of those bills from the dean of the University of Michigan School of Public Health, the Association of American Medical Colleges, the American Academy of Family Physicians, the American Medical Association, the Student American Medical Association, the librarian of the Medical Library of the Washington Hospital Center, the Association of Research Libraries, and the Association for Hospital Medical Education.

For the administration, the Assistant Secretary of the Department of Health, Education, and Welfare for Health and Scientific Affairs, Dr. Merlin K. DuVal, testified:

Generally, Mr. Chairman, we are currently reviewing all public health service authorities that expire at the end of fiscal year 1973 with a view to identifying necessary and desirable amendments. This review, however, is not complete. We anticipate submitting our *detailed legislative recommendations in connection with the 1974 budget*. We request your cooperation in not extending any of these authorities until we have completed our review. Accordingly, we recommend against enactment of S. 3441, S. 3764, and S. 3752 at this time.

The Senate proceeded to the consideration of S. 3716 as well as S. 3441, S. 3752, and S. 3762, an extension of the expiring provisions of the Public Health Service Act in respect to migrant health, on September 20, 1972. After incorporating the provisions of S. 3441, S. 3752, and S. 3762 into S. 3716, the Senate passed S. 3716 by a vote of 78–0.

Unfortunately, companion legislation never emerged from the House of Representatives.

Mr. President, on January 29 of this year, President Nixon's budget was submitted to Congress. But contrary to our expectations, no HEW legislative proposals accompanied the budget.

That budget did make clear, however, the President's intention to allow several important health authorities to expire—including regional medical programs, Hill-Burton, community mental health Centers, Public Health Training and Allied Health.

Thus, the budget asked the Congress to accept the phasing out of several health programs without providing an overall indication of administration intentions for the entire Public Health Service Act.

On January 17, then Secretary-designate Weinberger testified at his confirmation hearings that detailed legislative proposals would be forthcoming in the February–March area.

By March 8 there was still no indication of any forthcoming legislative proposals. Thus, given the absence of any specific legislative proposals, the short time to the expiration of the health authorities, and the President's intention to let several of those authorities lapse, the Labor and Public Welfare Committee introduced S. 1136. Its intention was and is to give the Congress the time it requires to play its constitutionally guaranteed role in determining the substantive shape of legislation.

Mr. President, at the time S. 1136 was introduced it was placed directly on the Senate Calendar. Subsequently, the Senate unanimously agreed to the motion of the assistant minority leader, Senator GRIFFIN, to commit the bill to the Labor and Public Welfare Committee in order for Secretary Weinberger to have an opportunity to comment upon it. Further, the Senate directed the committee to report the bill within 2 weeks.

Secretary Weinberger testified in opposition to the bill on March 22. Once again the Secretary could produce no specific constructive legislative proposals. Once again, he said they would be forthcoming but refused to give a date. And in the course of the hearing, it became very clear that the dismantling of those programs currently out of favor with the administration had begun in earnest. The director of the regional medical programs had issued phaseout instructions to all the RMP's. Several of those phaseout plans were available to the committee at the time of the hearing. Each made it clear that orders to dismantle the program had been given.

In addition, the committee obtained a copy of a detailed personnel list which indicated when each of the central office RMP positions was to be abolished.

Under questioning, Secretary Weinberger conceded that no Hill-Burton grant money had yet been allocated to the States for this current fiscal year.

Mr. President, the Secretary's appearance before our committee confirmed our fears. The process of phasing out health programs has begun in earnest; and yet the Congress has had no opportunity to work its will.

Our committee is on record to take a fundamental look at the entire Public Health Service Act. I reiterate that commitment now. We will strive to consolidate, recodify and rationalize the legislative authorities in a manner which defines the most appropriate Federal role in meeting the health needs of the American people.

Mr. President, the administration is truly isolated in its position on S. 1136. Our committee has received supportive, written testimony from the following groups:

American Academy of Pediatrics;
American Association of Colleges of Pharmacy;
American Association of Dental Schools;
American Clinical Laboratory Association;
American Dental Association;
American Dental Hygienists' Association;
American Dietetic Association;
American Federation of Labor and Congress of Industrial Organizations;
American Federation of State, County, and Municipal Employees—AFL–CIO;
American Heart Association, Inc.;
American Hospital Association;
American Nurses' Association, Inc;
American Public Health Association;
American Speech and Hearing Association;
Association of American Medical Colleges;
Association of Schools of Public Health, Inc.;
Association of State and Territorial Health Officers;
Association of University Programs in Hospital Administration;
Boston University School of Nursing;
Columbia Montour Mental Health Association;
Federation of Associations of Schools of the Health Professions;
Sandra R. Gill;
Harvard University;
International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America—UAW;
Joint Health Venture;
Michigan Dental Association;
National Association of Counties;
National Council of Community Mental Health Centers, Inc.;
The Network Staff;
New York City Health and Hospitals Corp.
New York State Association for Mental Health, Inc.;
United Mine Workers of America;
United States Catholic Conference; and
The University of Michigan.

I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks all the written testimony from these groups.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, in addition, evaluation studies done by HEW cast doubt on the basic premises of their position. The National Institutes of Health has developed an in-house rebuttal to the severe reduction in research training grants. Secretary Weinberger dismisses all of this opposition and blames it on the "growing education—health—poverty complex." Yet, under questioning he was unable to name one scientist or one health group supportive of his position.

Mr. President, Wilbur Cohen, one of Mr. Weinberger's distinguished predecessors sums up the differences this way:

> It is a simple task to repeal and eliminate health programs. It is a hard and long task to create programs of excellence. Programs should not be wiped out without a careful examination by the Congress of alternatives, options, and the risks and benefits.

It is just such a careful examination that S. 1136 will enable us to make. I urge its enactment.

Mr. President, this statement, I think, indicates the position of the Senate Health Committee and myself as its chairman. We have been attempting for just about a year to draw from the administration its positions on the respective health bills, and have been unable to do so.

As my opening statement suggests to the Senate, Secretary Richardson indicated that the administration would make its legislative proposals available to the committee the latter part of this last year, but they were never forthcoming. Then, during the latter part of last year, when the Assistant Secretary for Health appeared before the committee, Dr. DuVal, he indicated that the recommendations would be made available at the time of the submission of the budget in January of this year, but they were still not forthcoming.

Then, at the time of the confirmation hearing of Secretary Weinberger, he indicated that legislative proposals would be available in February or March; then, when he appeared before the committee again only a week ago, he indicated that he was still unable to provide for the committee any legislative proposals. In contrast, he was able only to indicate which pieces of legislation the administration wants terminated. There was no submission of any alternative, really, for the committee to consider on any of the programs marked for termination.

Now we are at the end of March—and it is time for this committee to act. We have, over the period of the past year, met our responsibilities in the consideration of these pieces of legislation. We have passed a number of them, and the record will indicate such. Last year, the House of Representatives failed to act.

Now I think that it is appropriate that we give the kind of careful attention required to improve these various extensions. We have to determine what part of the act should be continued, where there is duplication, overlap inefficiency, and wastage; and we have to deal with the various difficulties. We are pledged to do just that. While we consider the best course of action we must continue the various health programs which today, in a wide variety of different parts of the country, benefit millions of Americans from all walks of life.

So we are pledged to accept the challenge of the administration to make these various health programs more efficient, equitable, and to eliminate waste and duplication.

We would have welcomed statements and comments by the administration as to ways in which they think the existing programs could have been made more efficient; but we never received that information. The only information we did receive was that the administration intended to get several parts of this legislation; like the regional medical programs, Hill-Burton, community mental health centers and allied health.

Our health subcommittee is committed to use the period afforded by S. 1136 to examine in considerable detail, these various pieces of important legislation and to make them more efficient; we will make the act compatible with a future health insurance program, regardless of the final form that health insurance takes.

It is because of that understanding on the part of 15 of the 16 members of the Labor and Public Welfare Committee that we have received such strong bipartisan support for S. 1136. Senator SCHWEIKER, who is the ranking minority member of the Health Subcommittee, and Senator JAVITS, who is the ranking minority member of the full committee, have been enormously helpful.

That is our proposal, Mr. President. Our report goes into considerable detail as to the various provisions of the legislation itself and what each one of these pieces of legislation actually provides.

I can think, even at the outset, of a number of different changes that I myself would like to make in these various programs; others would make additional changes; but I think it was the feeling of the committee to propose a straight extension and then to do the kind of exhaustive work that should be done in consideration of these programs to make sure that they really are benefiting the American people and providing the best health care that they possibly can provide.

EXHIBIT 1

AMERICAN ACADEMY OF PEDIATRICS,
Evanston, Ill., March 22, 1973.

Hon. EDWARD KENNEDY,
Chairman, Subcommittee on Health,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: On behalf of the American Academy of Pediatrics, I wish to record endorsement of S. 1136 designed to extend the expiring authorities within the Public Health Service Act for one year. It is understood that this one year will be utilized by the Congress to extensively review our federal effort in the area of health planning, service, research and training so that a master plan for federal responsibility might be further developed.

The phase out of many existing programs

without adequate preparation for transition and alternative methods for innovation and basic support would cause many significant problems in pediatrics, particularly where these authorities are now being utilized as a cutting edge to find new solutions to existing problems. Among current authorities are programs which might be modified to enhance their effectiveness, such as the Regional Medical Program which has stimulated development of newborn intensive care units in many areas and have demonstrated dramatic reductions in infant mortality, Hill-Burton which might be directed toward modernizing outpatient facilities for primary care delivery, public health training support which is particularly important as states continue to assume a greater responsibility for planning and delivery of services. We hope to provide further commentary and suggestions in the coming months.

The American Academy of Pediatrics, in supporting S. 1136, would urge prompt action.

Sincerely yours,

ROBERT G. FRAZIER, M.D.,
Executive Director.

AMERICAN DENTAL ASSOCIATION,
Washington, D.C., March 21, 1973.

The Honorable EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The American Dental Association shares the concern of the sponsors of S. 1136 over the possibility that several health program authorities may be permitted to expire without appropriate review by Congress.

As previously noted in testimony before your Committee, the Association has a particular interest in the allied health training program which provides support for the education of dental hygienists and dental assistants who are essential in the efforts to deliver high quality dental care to our population.

The Association also has a special interest in the support of schools of public health which are relied upon to provide professional personnel to staff state and local departments of health throughout the nation.

Additionally, of course, the Association has a direct and vital interest in the medical library and comprehensive health program.

In view of the current demands upon the time of both the legislative and appropriations committees having jurisdiction over these programs, the Association concurs with and supports the one-year extension as provided in S. 1136.

We would appreciate the inclusion of this letter in the record of the hearings.

Sincerely yours,

PAUL W. KUNKEL, Jr., D.M.D.,
Chairman, Council on Legislation.

AMERICAN ASSOCIATION OF COLLEGES OF PHARMACY,
Silver Springs, Md., March 22, 1973.

Hon. EDWARD M. KENNEDY
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: This letter is to inform you that the American Association of Colleges of Pharmacy has recently acted to endorse S. 1136 which will extend for one year the various expiring health program authorities named therein.

Your comments on S. 1136 at the time of introduction have dramatically highlighted the need for this temporary extension of these important health programs. Your decision to extend these authorities to allow adequate consideration of possible changes is the only practical solution in view of the short time before the programs expire and the time needed to establish adequate funding levels.

Pharmacy schools have been assisted by several of the expiring programs. For example, the regional medical program has provided funds which permitted several pharmacy schools to begin the development of drug information systems to aid pharmacies and physicians to quickly research complicated drug problems. The medical library assistance program also permitted acquisition of drug and medical journals and research data used in these drug information programs. Also the program has permitted fuller utilization of the National Library of Medicine resources.

Recent studies have identified drug misadventures, particularly adverse drug reactions, which may cost the American public between 1 and 6 billion dollars annually, pharmacy school faculty are vitally interested in pursuing health service delivery research to improve prescribing by interaction between pharmacists and prescribers. Health service research and development programs must be continued to permit this important research.

As you and the co-sponsors of S. 1136 give consideration to the revision of the included authorities over the next year, we hope you will call on the AACP for assistance, particularly on those programs which may bear on improved drug therapy and related needs of the public.

Sincerely yours,

CHARLES W. BLIVEN,
Executive Secretary-Treasurer.

ASSOCIATION OF DENTAL SCHOOLS,
Washington, D.C., March 15, 1973.

Hon. EDWARD M. KENNEDY,
Old Senate Office Building,
U.S. Senate
Washington, D.C.

DEAR SENATOR KENNEDY: On behalf of the membership of the American Association of Dental Schools. I would like to offer the Association's support of Senate Bill 1136 and its companion bill in the House, which propose a one-year extension of the Public Health Training Act, Regional Medical Programs, the Allied Health Personnel Act, and other legislation.

The Association was pleased to learn that all members of the Senate Labor Committee, but one, are supporting the Bill and that the Senate is expected to pass it.

The AADS believes that the Public Health Training Act, Regional Medical Programs, and the Allied Health Personnel Act, should not be allowed to expire since they support programs which are an integral part of the national effort to provide better health care services for the people.

Further, the Association firmly believes that Congress should retain its Constitutional prerogatives to sustain legislative programs which it has created and which it believes are effective.

The Association would be pleased to assist you and your Health Subcommittee in any way it can.

Sincerely,

BEN F. MILLER, III,
Secretary-Treasurer.

AMERICAN CLINICAL LABORATORY ASSOCIATION,
March 21, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: I am writing as counsel to the American Clinical Laboratory Association, and on its behalf, to urge the passage of S. 1136. The Association endorses this bill's underlying objective, to extend the expiring authorities in the Public Health Service Act for a one year period. ACLA believes it appropriate that the Congress have the opportunity for careful consideration of the various programs covered by these acts, so that those programs worthy of continuation, whether with modification or not, be carried forth for the benefit of the public.

The Association further believes that the Clinical Laboratories Improvement Act of 1967 (CLIA), which is part of the Public Health Services Act, should also be the subject of Congressional attention during the next year. To the extent that the CLIA needs revision in order to afford even greater protection to the citizens of the United States than has resulted from the Act's passage, ACLA offers its assistance.

Sincerely yours,

H. ROBERT HALPER.

AMERICAN DENTAL HYGIENISTS' ASSOCIATION,
Chicago, Ill., March 21, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the American Dental Hygienists' Association I am pleased to present the Association's views on S. 1136, a bill to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act.

The Dental Hygiene Profession has a vital interest in that section which extends the existing allied health professional law, providing federal support to dental schools of dental hygiene and assisting.

There are not now nor has there ever been sufficient numbers of dental auxiliaries. In fact, present manpower indicate that there is only one practicing dental hygienist for each 10,000 population in the United States. In contrast, adequate manpower needs were described to this Committee last year in terms of one dental hygienist per 4,250 population—more than twice the number presently available.

Should the related Allied Health Programs be allowed to expire, the negative effect would be compounded. Not only will our educational system (the source of manpower fulfillment) cease to expand, it will begin to regress.

Developing programs that were assured federal assistance cannot assume full financial responsibility and inevitably some will close their doors to students. This failure results in loss of manpower and wasted tax dollars which were invested in recent years.

As a direct consequence, we are in full support of the one-year extension as provided in S. 1136. We would appreciate the inclusion of this letter in the record of the hearing.

Sincerely yours,

MARY COSABOOM, R.H.D.,
Chairman, Committee on Legislation.

THE AMERICAN DIETETIC ASSOCIATION,
Chicago, Ill., March 19, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing on behalf of the 24,000 members of The American Dietetic Association to express our full support for the enactment of S. 1136 that would extend for one year several expiring authorities under the PHS Act, including provisions for the training of allied health professions manpower at the undergraduate and graduate degree levels.

In recent years, the awareness of the general public of the importance of nutrition to health has expanded significantly. This pub-

lic interest is reflected in legislation approved by the Congress to expand and improve the school lunch program and the food stamp program as well as meal service for the elderly. These enactments have increased the demand for dietitians and nutritionists as will the proposed regulations of FDA pertaining to food labeling and the proposed HMO legislation that stresses preventive health services.

If Federal support for the training of dietitians and nutritionists is curtailed as of June 30, 1973, as proposed by the Administration, the training resources of colleges, universities, and schools of public health will necessarily be reduced. Such a reduction would sharply diminish the number of graduates in dietetics and nutrition. In time, the shortages of these health workers would become more severe, thereby giving an added dimension to the "health care crisis" that has been acknowledged on a bipartisan basis.

In our view it would be more efficient and economical to modify existing authorities for the Federal support of allied health manpower training programs as an alternative to the proposal of the Administration. It would take many years to overcome even a temporary curtailment of Federal support for the training of allied health personnel.

With best wishes, I am

Sincerely,

ISABELLE A. HALLAHAN, R.D.,
President.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., March 19, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Over the years Congress has enacted many vital programs to fulfill the health needs of the people of our nation. Fifteen of these programs expire in 3½ months.

These health programs include among others the Hill-Burton Hospital Construction Act, the Community Health Centers Act, and the Allied Health Professions Education Act. We recognize that over the years priorities among health programs change and that Congress and the Executive must review such programs to see that the health needs of the nation are being adequately met. We fear, however, that there is insufficient time between now and June 30 to review and make desirable changes in these many programs to meet our changing health needs.

The AFL–CIO therefore supports the purpose of S. 1136 to extend the many categorical health programs for an additional year in order that they may be tailored to best serve the health needs of our nation.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL–CIO,
Washington, D.C., March 15, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The American Federation of State, County, and Municipal Employees is a labor union representing over 600,000 employees of state and local governments across the country. Over 120,000 of our members are professional and paraprofessional health personnel. We congratulate you and the fourteen other senators on the Labor and Public Welfare Committee, Republicans and Democrats, for your introduction of S–1136, The Public Health Act of 1973. We urge its speedy adoption.

This Act gives Congress adequate time systematically to consider practical and necessary revisions in existing federal health programs. It provides a workable alternative to the ill-considered approach recommended by the Department of Health, Education and Welfare, of simply eliminating many of these programs and making no provision for continuing the services they furnish.

We are by no means slavishly devoted to continuation of every single categorical health program now being funded by the federal government. Indeed, we see many areas in which programs can be combined or made more efficient. We think, however, that Congress, not the Executive, is the proper branch of government to undertake a revision of these federal efforts—hearing testimony from the Executive, of course, but also hearing the views of people directly affected by these programs. Clearly, the best way to achieve this end is to give Congress sufficient time to examine all these programs. Therefore, we recommend passage of S–1136.

Sincerely yours,

JERRY WURF, *International President.*

AMERICAN HEART ASSOCIATION, INC.,
New York, N.Y., March 14, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The present rapid dismantling of health research and delivery programs and facilities may be a major loss to the health of Americans. Senate Bill 1136 would provide opportunity for study during a period of one year so that the programs covered under that bill could each be adequately studied and, if necessary, revamped in a fashion best designed to provide the maximum cost-effectiveness for the future.

I would like to support the speedy passage of S–1136. The impact of announced changes in some programs has been such that delay imperils the functioning of agencies vital to the health of each of us. Simply discarding the programs, or dismantling them hurriedly, will mean that many groupings of skills will be dispersed. The one-year extension in S–1136 provides time for careful reappraisal of each program and such a reappraisal will serve the nation's health needs.

Very truly yours,

CAMPBELL MOSES, M.D.,
Medical Director.

AMERICAN HOSPITAL ASSOCIATION,
WASHINGTON SERVICE BUREAU,
March 21, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the American Hospital Association which represents some 7000 hospitals and other health care institutions throughout the country, is vitally concerned with the health programs of the federal government. This is to inform you that the American Hospital Association fully supports your bill, S. 1136, to extend for one year the following health programs: Health Services Research and Development, Health Statistics, Public Health Training, Migrant Health, Comprehensive Health Planning, Hill-Burton, Allied Health Training, Regional Medical Programs, Medical Libraries and Community Mental Health Centers.

At the Annual Meeting of the American Hospital Association here in Washington last month, the Association's Board of Trustees and House of Delegates approved a resolution expressing grave concern about the drastically reduced commitment to health programs in the Administration's FY 1974 budget. This resolution recognized the crucial need for improved and coordinated comprehensive health planning. At the same time, it stressed the fundamental necessity of continuing federal assistance through such programs as Comprehensive Health Planning, Hill-Burton, Regional Medical Programs and Community Mental Health Centers Program. Further, we believe that some aspects of these programs need improvement and redirection.

We believe it is essential that these programs which provide federal assistance in priority areas of health activity be continued. On the other hand, it is evident that adequate legislative consideration of the issues involved in the numerous programs requiring extension and the efforts of your Senate Health Subcommittee aimed at recodifying and restructuring the Public Health Service Act cannot be completed within the short time remaining before June 30, 1973.

The American Hospital Association supports S. 1136 to provide a one year extension of the expiring legislative authorities without substantive changes in these programs in order to provide time for the full legislative review of each of the programs.

We are convinced that continuity of these important programs is essential and a detailed evaluation and review of them is necessary so that their continuation, and where indicated, restructuring, will more effectively and efficiently serve the health needs of the people of our country. The bipartisan support of S. 1136 is most encouraging to the health field and we urge its prompt enactment.

Sincerely

LEO J. GEHRIG, M.D.,
Vice President, Federal Relations.

AMERICAN NURSES' ASSOCIATION, INC.,
Kansas City, Mo., March 20, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Senate Committee on Labor and Public Welfare, Washington, D.C.

DEAR SENATOR KENNEDY: The American Nurses' Association would like to express its support for S. 1136 "Public Health Service Act Extension of 1973."

The Chairman and members of the Health Subcommittee, who sponsored S. 1136 are to be commended for sponsoring this legislation which will continue support to various important health programs while allowing Congress ample time to review, in an orderly fashion, each of the programs involved. If federal support for ongoing activities is to be discontinued, at the very least a reasonable transition period is essential in order to arrange for continued services through other mechanisms if at all possible.

Of particular concern to the A.N.A. are extensions of health services for domestic agricultural migrant workers, regional medical programs, community mental health centers, traineeships for public health and support for allied health personnel.

The recent outbreak of typhoid in Florida provides an excellent example of the need for improving health and other services to migrant workers and their families. The cost of providing preventive health care, including immunizations to children and adults, proves to be very small indeed when compared with the cost of treating the more than ninety persons who have been confirmed to be suffering from typhoid fever and of tracing carriers across the state of Florida as well as into other states.

However, the major focus of migrant health programs should be the well-being of the migrant families themselves.

Living, out of economic necessity, in housing which is often unsanitary and crowded, the migrants and their children are subject to frequent ailments, which, because they are often untreated, may become chronic or acutely critical. Lacking money

to pay a doctor or hospital, they seldom see either. Embarrassed by their situation, they tend to wait until medical emergency forces them to seek such services. Malnutrition and hunger also predispose migrant workers to disabilities which hobble their hopes for the future. Health services for domestic agricultural migrants must be continued and improved.

A program of the complexity of Regional Medical Programs, which crosses the usual institutional and geographic boundaries for cooperative efforts, takes several years to become fully operational. In recent years there has been solid achievement evident in many RMP's. Their continuing education programs have met the needs of thousands of health practitioners. The American Nurses' Association has heard from nurses in many parts of the United States expressing their high opinion for the educational benefits of RMP's. Nurses feel strongly that most RMP's are achieving their goals and that patient care is being directly improved through these efforts. Notable change in critical cardiac care is evident as a result of educational programs which helped nurses and physicians to develop new skills. Other significant achievements have been improvement in care of patients with cancer, stroke, and severe kidney problems. The effect of research is significant only when the time gap between the acquisition of new knowledge or technology and its application in daily patient care is short, and in this shortening of the knowledge gap, RMP's have been successful. We do not mean to imply for the long term future there should be no changes in the legislation but we are disturbed by the present rapid dismantling. A one year extension very soon seems imperative.

Among the most important recent advances in mental health care has been the creation of Community Mental Health Centers to provide diagnosis, treatment, and rehabilitation of mentally ill and emotionally disturbed persons in their own communities. The American Nurses' Association supported the Community Mental Health Centers Act of 1963 and subsequent legislation amending the Act. Nurses believe that the availability of service in localities where people live helps in early recognition of illness and intervention at a time when treatment is likely to be most successful (and, incidentally less costly). Amendments providing support for mentally ill children and for the retarded have been viewed by nursing as particularly important. Because of lack of community and often, family understanding about mental illness and mental retardation, the mentally ill and retarded are all too frequently rejected.

The success of programs to combat both mental and physical illness depends in large measure on the availability of well-qualified professional manpower. Therefore, we are particularly concerned that there be extension of staffing grants for Community Mental Health Centers.

We strongly support the extension of public health traineeships. Public health is one of the few areas of health care which is truly interdisciplinary. There is tremendous rhetoric about the need for interdisciplinary education and the health team approach to solving problems but little financial support is available. It would be a tragic loss to have school support and traineeships terminated. Termination of support for training of health care professionals, particularly physicians, nurses, social workers, administrators and others concerned with public health, would perhaps be valid if evidence existed showing an adequate and continuous supply of such providers of care. Of course that is not the case.

We support the extension of aid for the training of allied health professionals. It is obvious, given the complexity of health care today, that many disciplines in the health field with special knowledge and skills must be involved, if comprehensive care of high quality is to be provided. We believe that federal funds should be available for well-established educational programs for the preparation of health professionls and in carefully controlled demonstration projects to evaluate the effectiveness of new types of health workers.

Again, we emphasize our strong support for the immediate extension of these authorities.

We urge favorable consideration of S. 1136 and request that this communication be made a part of your Committee's record of hearings.

Respectfully,

EILEEN M. JACOBI, Ed.D., R.N.,
Executive Director.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, D.C., March 19, 1973.

Hon. EDWARD KENNEDY,
Chairman, Subcommittee on Health, Senate Committee on Labor and Public Welfare, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to express the appreciation of the American Public Health Association to you and the other cosponsors of S. 1136 for your leadership and concern for providing continuity for the several programs authorized by the Public Health Service Act that would expire on June 30, 1973 in the absence of affirmative action by the Congress.

In our view, the abrupt termination of these programs would be clearly inimical to the public interest if not an abdication of leadership in the field of health at the Federal level.

Several of the PHS programs that the Administration proposes to terminate are essential to the orderly development of the health manpower and facility resources that are needed now. The shortages will be accentuated to the extent that financial barriers to health care are reduced or eliminated in the years ahead.

We realize, of course, that S. 1136 is intended as an interim measure to provide continuity pending final consideration of modifications in existing authorities under the PHS Act. I want to take this opportunity to offer the assistance of this Association to the extent that it would be helpful to your Subcommittee in its important work.

With best wishes, I am

Sincerely,

MARGARET B. DOLAN, R.N.,
President.

AMERICAN SPEECH AND HEARING ASSOCIATION,
Washington, D.C., March 14, 1973.

Senator EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: The American Speech and Hearing Association (ASHA), on behalf of its more than 15,000 graduate-trained speech pathology and audiology members, enthusiastically endorses your bill (S. 1136) to extend funding authorities contained in the Public Health Service and Community Mental Health Services Acts for a one-year period beyond their scheduled June 30, 1973 expiration.

Our concern over the prospective phasing out of the vital health programs authorized by these statutes is perhaps best expressed by the following excerpt from one of the many membership letters we've received on the subject:

Here in Savannah our Georgia Regional Medical Program is responsible for the development of an important stroke facility. Our speech and hearing center is contracted for services with that facility. Georgia Regional Medical Program has also approved, but not funded, a project of ours involving the training and supervision of volunteer helpers in an asphasia program. They have invited another of our project applications concerning the development of an itinerant speech pathology service program for outlying areas within our region. With the exception of our program here in Savannah, and a small program in Brunswick, speech therapy services for stroke patients are not available anywhere in our region. This fact has more meaning when one realizes that our region apparently has the highest incidence of stroke in the country. Our projected service programs will suffer a significant setback if the Regional Medical Program is phased out.

The speech pathology and audiology profession is grateful to you, Senator, and to the fourteen other members of the Labor and Public Welfare Committee for the insight and incentive which S. 1136 evinces. We at ASHA intend to contribute in every way possible to the bill's early passage by both Houses of Congress.

Sincerely,

RICHARD J. DOWLING,
Director of Governmental Affairs.

ASSOCIATION OF AMERICAN MEDICAL COLLEGES,
Washington, D.C., March 21, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Senate Labor and Public Welfare Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The Association of American Medical Colleges notes with interest that your Subcommittee will hold a hearing March 22 on S. 1136, the Public Health Service Act Extension of 1973. We hope that this letter in support of the bill will be accepted as part of the hearing record and will be helpful to the Senate in its consideration of S. 1136.

The bill provides a direct one-year extension of 33 provisions of the Public Health Service Act and 9 provisions of the Community Mental Health Centers Act, from June 30, 1973 to June 30, 1974. It makes no substantive changes in the law. It extends the following programs: health services research and development, health statistics, public health training, migrant health, comprehensive health planning, Hill-Burton, allied health training, regional medical programs, medical libraries, and community mental health centers.

Many of these legislative authorities are critical to the responsible advance of medical education. The Association has testified on these measures separately many times in the past. The Subcommittee's records will reveal that occasionally we have recommended reform and revision of some programs. We regret that the Congress, notwithstanding the best efforts of the Senate Health Subcommittee in the past year, has not agreed upon a way to carry out such reform before the basic authorities expire on June 30.

The Association agrees with your statement to the Senate on March 8 that "it is not possible for the Congress to do an adequate job of restructuring and updating and consolidating these legislative authorities" in the coming three months. We applaud your promise to do everything you can "to assure that legislation in this regard is favorably reported from the Committee to the Senate by next winter." The Association consequently supports S. 1136 as an interim measure and urges its passage by the full Congress as quickly as possible.

In expressing this support, we must emphasize that it is the responsibility of the Association of American Medical Colleges to cooperate with both the legislative and executive branches of the federal government in offering our suggestions for improving health programs. Should S. 1136 become law, the Association will continue to make its views known to the Congress and the Administration on the component parts of the leg-

islation and on our evaluation of the many programs it contains.

These programs, which directly affect the health of millions of Americans, were written into law originally because Congress determined that they were needed. We commend Senator Javits' remarks to the Senate on March 8 that through passage of S. 1136 "Congress will determine that the health programs included in this bill will remain on the statute books until Congress has the opportunity to work its will on the substantive nature of expiring law, including congressional determination of their viability."

The Association fully agrees that these programs must be evaluated separately, that the nation's changing health needs must be considered, and that revision and even redirection may be required. This necessary evaluation cannot be accomplished in the next three months. It can be accomplished most thoroughly following a simple one-year extension.

We offer our assistance to the Subcommittee in the days immediately ahead as the Senate considers S. 1136, and in the coming months when the programs it contains are considered for reform. The Association can draw upon the valuable experience of 114 medical schools, 400 teaching hospitals and 51 academic societies to provide information useful to the Congress. We hope that you will call upon us.

Sincerely,

JOHN A. D. COOPER, M.D.
President.

ASSOCIATION OF SCHOOLS OF PUBLIC HEALTH, INC.,
March 19, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing on behalf of the eighteen schools of public health in the United States in support of S. 1136 that would provide continuity in the Federal program of financial assistance for public health training while Congress determines the extent to which the authorities of sections 306 and 309 of the Public Health Service Act require modification.

In our opinion, the Federal government has a responsibility to provide financial assistance for public health training because the 18 schools of public health are a national resource. All 50 States depend on schools of public health for professional public health manpower to staff State, city and county health departments and environmental protection agencies.

Since President Eisenhower signed the Hill- Rhodes legislation into law in 1958, the schools of public health have more than doubled enrollment and graduates. Despite this expansion, there is a severe shortage of trained public health personnel. It would be extremely shortsighted, therefore, to force a severe reduction in the educational resources that have been mobilized by schools of public health. Such a reduction would be mandated unless the authorities of sections 306 and 309 of the PHS Act can be continued.

Let me take this opportunity to pledge the full cooperation of this Association to your Subcommittee in considering the future scope and levels of support for public health training.

With deep appreciation, I am

Sincerely,

HERSCHEL E. GRIFFIN, M.D.,
President.

THE ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICERS,
Washington, D.C., March 19, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Association of State and Territorial Health Officers is deeply concerned over the recommendation of the Administration to eliminate the Hill-Burton Program of Federal financial assistance for the construction and modernization of health care facilities as of June 30, 1973.

Arguments that the Hill-Burton Program should be eliminated because some communities have more hospital beds than are needed do not stand up in face of the fact that the States report a backlog of $13 billion in modernization needs and $7 billion in new facility needs. (See attached table.)

Consequently, this Association strongly urges approval of S. 1136 so that the Hill-Burton Program can be continued and its contribution to health facility construction activities at the State level can be maintained. The elimination of this program would severely handicap the States in meeting the health facility needs of their citizens.

Be assured that this Association will be pleased to offer its assistance to your Subcommittee in developing amendments to improve and expand the Hill-Burton Program.

With best wishes, I am

Sincerely,

JOHN S. ANDERSON, M.D., *President.*

ESTIMATED HEALTH FACILITY CAPITAL NEEDS

[In millions of dollars]

Category	Total	Modernization	Additional capacity
All	$19,675	$12,725	$6,950
General	12,465	8,805	3,660
Long-term care	4,010	2,500	1,510
Public health centers	910	490	420
Outpatient facilities	1,695	750	945
Rehabilitation facilities	595	180	415

Note: Facility and bed count from fiscal year 1971 Hill-Burton State plans.

Senator EDWARD KENNEDY,
Capitol Hill,
Washington, D.C.:

Passage of S1136 to extend the only source of support for the development of health administration education is critical to providing management capacity for health programs. The health services of this country are undermanaged now and new developments such as HMOS add to the demand for trained managers. Administration plans will reduce management training capacity and waste previous public investment in development of health administration programs. One year minimum assessment makes good sense.

GARY L. FILERMAN,
Executive Director, Association of University Programs in Hospital Administration.

BOSTON UNIVERSITY,
Boston, Mass., March 16, 1973.

Senator EDWARD M. KENNEDY,
Chairman, Senate Subcommittee on Health, Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: It is with great interest and a moderate measure of relief that I have learned of the introduction of Senate Bill S. 1136 which would provide a one year extension of several health laws.

The continuation of these laws for this period would provide vital time necessary for planning adjustments in programs provided for in these laws.

The significance of maintaining continuity in services for people can best be seen through the ways in which these programs have assisted this School of Nursing, helped hospitals and other health care agencies and their clients. Some of these are:

1. Through the Regional Medical Program we have been able to initiate, conduct and otherwise participate in workshops keeping staff nurses in participating hospitals updated in their skills in neurological nursing with emphasis on the stroke patient.

2. Additional workshops on speech and hearing disabilities occuring as a sequelae of stroke were given whereby nursing staffs of at least five large health care centers were trained.

In addition,

3. Nurses trained in the above mentioned workshops were given educational skills which would help them set up sessions for staff nurses in their own hospitals and settings, thereby increasing and extending the number of nurses already taught. Ongoing programs attest to the value of this approach.

4. Community health centers have been able to provide training opportunities for our students, baccalaureate and graduate, demonstrating how persons with a wide variety of health needs not requiring medical regimens or interventions can be managed by professional nurses: such as drug surveillance, nutrition management, health screening of the elderly, well baby clinics, etc.

5. Another vital aspect of the necessity of community health centers is the sharing and colleague relationships developed among all health professions is the less bureaucratic, hierarchial hospital structure. Community health centers provide a more flexible atmosphere for the implementation of intraprofessional training and education as well as offering invaluable opportunities for nurses to serve as primary care givers in implementing assessment skills of history taking and physical examination, follow-up of previously initiated medicine and health regimens to assure that the patient is maintaining the regimen successfully.

Knowing of your deep commitment to creating positive influences on American health, I am urging your continued maintenance of this position, and appreciate your efforts on behalf of our nation's citizens.

Sincerely yours,

IRENE S. PALMER,
Dean and Professor.

COLUMBIA MONTOUR,
MENTAL HEALTH ASSOCIATION,
Bloomsburg, Pa., March 15, 1973.

Senator EDWARD KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: Our local Mental Health Association would like to express our sincere appreciation to you for your hard work and efforts particularly regarding S.B. 1136. We honestly feel that this piece of legislation is of paramount importance in continuing to maintain the effective functioning of community mental health centers.

We have devoted considerable effort and time in establishing this type of program in our community and are now able to see its positive benefits and the results that can be accomplished as opposed to utilization of massive state hospitals presently overcrowded and understaffed.

Your efforts on behalf of the mentally ill and the mentally retarded are not going unrecognized by local mental health associations such as ours. Please keep up the good work.

Sincerely,

LEONARD P. MAJIKAS, ACSW.
Secretary.

FEDERATION OF ASSOCIATIONS OF SCHOOLS OF THE HEALTH PROFESSIONS,
March 21, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing on behalf of the Federation of Associations of Schools of the Health Professions to urge prompt approval of S. 1136 that would extend ten authorities of the Public Health

Service Act that otherwise would expire June 30, 1973.

Of most direct concern to this Association are the authorities for the training of allied health professions manpower and public health training. To provide continuity in terms of expanded enrollments and educational resources it is essential that there be no interruption in Federal support during the year ahead as Congress deliberates the scope and extent of financial assistance that is required to meet health manpower needs in the years ahead.

Let me take this opportunity to commend you and the other cosponsors of S. 1136 for your leadership in the field of health.

With best wishes, I am

Sincerely,

JOHN A. D. COOPER, M.D., *Chairman.*

ASBURY PARK, N.J., *March 16, 1973.*

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing this letter to urge passage of bill *S1136*, to extend the Community Mental Health Services Act for one year.

The need for this type of service is paramount, if one realizes how preventive measures taken in the Community, can eliminate possible commitment to State Institutions, which is more costly to the taxpayer eventually.

I am proud that New Jersey has taken such steps thus far. It is progressive thinking.

Sincerely,

SANDRA R. GILL.

HARVARD UNIVERSITY,
Cambridge, Mass., March 19, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I endorse wholeheartedly S. 1136 to extend authorizations under Secs. 306 and 309 for graduate public health traineeships and for grants to offset, in part, the cost of training public health professionals in the graduate schools of public health.

The Harvard School of Public Health contributes nationally to far greater extent than locally or regionally. At least 75 percent of its students come from outside Massachusetts to prepare for public service in the several states and in the federal government. Federal participation in financing their training is therefore appropriate, indeed essential, if such training is to be continued at anywhere near present levels.

Without such support, the training programs of our School will be drastically curtailed. For lack of traineeships, student enrollment certainly will decline at a time when the demand for our graduates is greater than ever. Less than 10 percent of present students are able to pay their own way here. Most are advanced professionals already in debt for their basic education. Discontinuance of the formula grants would hit hardest at those departments in which the highest proportion of students concentrate for training in the delivery of health care and the operation of public and private health agencies. Without formula funds the departmental budgets, personnel and operations will be cut by 40–50 percent. Schoolwide, the formula funds cover 20 percent of the salaries of the entire teaching faculty.

This threat is all the more distressing because it comes just after the appointment of a new Dean, Dr. Howard H. Hiatt, who is moving vigorously to ascertain the most pressing health manpower needs in the country and to meet them by establishing new training programs. For example, he plans to launch a program to prepare college graduates for careers as health planners, analysts and managers. This is in direct response to federal, state and local expressions of need for a new kind of health professional who would be sophisticated in medicine and health on the one hand and skilled in the analytical and managerial sciences on the other. Loss of federal support would seriously compromise the future of this program, which is related to the delivery of health services, and others in environmental health and safety, child development and other areas of national concern.

Ironically, the School of Public Health is just now completing construction of an educational building which was financed largely by federal funds in order to permit a doubling of student enrollment and expansion of training programs. These purposes surely will be defeated if the Congress does not restore in large measure the cutbacks which the Administration proposes to make in funds for health training.

I urge passage of S. 1136.

With best wishes,

Sincerely yours,

DEREK C. BOK.

SOLIDARITY HOUSE,
Detroit, Mich., March 16, 1973.

Senator EDWARD M. KENNEDY,
Chairman, Health Subcommittee, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to express to you the support of our Union for the passage of S. 1136, the bill to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act, which was introduced under your sponsorship and that of 14 of your Senatorial colleagues.

I recognize that virtually all of the authority to continue these programs expires on June 30, 1973. While I thoroughly support the view that you have expressed, as well as that outlined by a number of your colleagues, that these programs need careful review and possible restructuring, I support your view that this cannot be done in the short time available to the Congress and that one year's extension would provide orderly and meaningful study, analysis and decision on these programs.

Real hardship would result, I believe, if these programs were permitted to die without careful consideration and evaluation. For example, the Community Mental Health Centers provide resources where many of our members are able to secure services under the mental health benefits of our collective bargaining agreements. These services are paid for under our negotiated health insurance. That insurance would be much less meaningful if means were available to pay for services but there were reduced opportunities to obtain them.

The UAW is deeply interested in the expansion of prepaid group practice programs throughout the country, for we see in them opportunities to provide improved health services to large numbers of people. To a considerable extent these programs depend upon personnel from the allied health professions. The sudden cutting off of aid to these professions has serious import for the future of health delivery in this country.

There has been a great deal reported on the so-called adequacy of the number of hospital beds and extended care facilities available in this country. The figures may well be accurate in terms of national averages. There are, however, special areas of need in many parts of the country whose residents cannot be helped by national averages when in fact there are no or very few facilities available to them. Accordingly, precipitous termination of the Hill-Burton Act without careful review of its implications would be unfortunate.

I refer to these three specifics as illustrative of the need to give the Senate more time to study, review and make decisions on the whole situation.

I hope, therefore, that your Committee and the Congress will see fit promptly to act to pass S. 1136.

Sincerely,

LEONARD WOODCOCK,
President, International Union UAW.

JOINT HEALTH VENTURE,
Los Angeles, Calif., March 16, 1973.

Senator EDWARD KENNEDY,
Senate Office Buidling,
Washington, D.C.

DEAR SENATOR: Pending the formulation of a national policy of health resource development, so badly needed by this country, we urge you to support a one-year extension of *all* existing health program authorizations. This extension should be provided to allow time for the development of a reformed health care policy within the next year. Meanwhile, we can not afford the cost in human lives and well-being the expiration of the current health care programs would mean for the American people.

We urge you to effectively exert pressure, as a member of the Senate Health Subcommittee, for the passage of *Senate Bill 1136*. We urge you to oppose what will no doubt be a strong opposition campaign by the White House. Health is not an economic luxury, but a right of every American.

Thank you for your concern. We hope to hear from you soon concerning the results of your efforts.

Sincerely,

The staff and members of Joint Health Venture.

KAREN COE, *Secretary.*

P.S.—Please include this letter in the record on the hearings of Senate bill 1136. Staff and members of the Senate Health Subcommittee.

MICHIGAN DENTAL ASSOCIATION,
Lansing, Mich., March 16, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The 4,100 members of the Michigan Dental Association strongly urge the passage of S. 1136 which restores funding for the next fiscal year to several projects including schools of public health.

The dental division of the School of Public Health at the University of Michigan will virtually cease to exist if the President's recommendation for funding cutbacks is implemented. Students now in the program will be cut off and the faculty will be reduced so severely that the school probably will not be able to operate.

This school is a national asset and has produced much of the dental public health personnel for the entire nation for many years. A sizable share of the personnel of the Dental Division of the U.S. Public Health Service has come from the University of Michigan School of Public Health.

The dentists in Michigan strongly urge the Subcommittee on Health to report favorably on S. 1136.

Your favorable consideration will be very much appreciated.

Sincerely,

JOHN G. NOLEN, D.D.S.,
Executive Director.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., March 16, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The National Association of Counties supports your bill S. 1136 which is cosponsored by 14 other mem-

bers of the Labor and Public Welfare Committee.

We agree that a simple one year extension of the expiring sections of the Public Health Act is the proper approach at this time. There is not enough time in the three and half months left before this legislation expires for Congress to complete the kind of review necessary to write and pass new legislation.

We look forward to working with you on redrafting this legislation.

Sincerely,

BERNARD F. HILLENBRAND,
Executive Director.

NATIONAL COUNCIL OF COMMUNITY MENTAL HEALTH CENTERS, INC.,
Washington, D.C., March 21, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We wish to express our strong support for S. 1136, extending the authorization for the Community Mental Health Centers and other expiring health programs for one year, through fiscal 1974, and ask that this letter be made a part of the record of your hearings on the measure.

The National Council of Community Mental Health Centers is a non-profit organization representing 219 community mental health centers, most of whom have received federal funding.

It is essential that the Congress be given adequate time to thoroughly study the Administration's health proposals, as contained in its fiscal 1974 budget, and then to make sound judgments as to which, if any, should be adopted and which countermanded. Such a task cannot be completed before these programs expire on June 30, and the extension of the legislation through prompt enactment of S1136 is therefore needed.

We are totally opposed to the President's recommendation eliminating the Community Mental Health Centers Program, and thus accept S1136 as a stop-gap measure, and not a substitute renewal of the CMHC Act.

The Community Mental Health Centers program is one that has worked well by all account—seven by the Administration's own admission. It has caused the creation of effective, viable, community oriented programs for treating the mentally ill. It is a program that has helped to reduce the population of state mental hospitals, kept people in jobs and family and served to strengthen the fabric of the communities served. The Congressional ambition for the CHMC program, as reflected in the 1963 Act, envisioned a network of centers covering the nation's entire population—somewhere between 1500 and 2,000 programs. Today we have reached about the one-third mark—493 centers having received federal funds, of which 389 are operating.

The President should not be allowed to make a unilateral decision to abrogate a Congressional mandate; and yet that is what will happen if S1136 is not enacted soon. The President is calling for the dismantling of the program and thrusting the burden of financing and execution on the states, although it is clear that the resources are not yet available in the states to carry on existing programs and develop new ones.

We estimate that there are upwards of 200 community mental health programs, which would serve an estimated 25 million people, ready to be funded or in the developmental stage: none of these will become operational unless S1136 is enacted, and the Congress then passes a substantive renewal of the Community Mental Health Centers Act.

Sincerely,

JONAS V. MORRIS,
Executive Director.

THE NETWORK STAFF,
Washington, D.C., March 20, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health.

SENATOR KENNEDY: Network supports and encourages the passage of S. 1136, Public Health Service Act Extension of 1973. Many of the more than 1600 sisters of our task force, deeply concerned and struggling against the injustice in the present health care system, would speak to you themselves of this concern if time permitted; but since time is limited, I have been asked to represent them.

Many of these members are working in the present programs which S. 1136 will extend. They recognize that the time for reform of the health care system is now and realize that Congress needs time to legislate adequately in regard to these health resource development programs if there is going to be a national commitment to human justice in health. Therefore, we support a one-year extension of all existing authorization so that Congress can have the time it needs to legislate on these programs so vital to the American people.

I ask the committee to record this support for S. 1136 in the record of the hearings.

Respectfully,

Sister MARY RAE WALLER,
Network National Staff.

NEW YORK CITY,
HEALTH AND HOSPITALS CORP.,
New York, N.Y., March 19, 1973.

Senator EDWARD KENNEDY,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: As the Chief Executive Officer of the largest non-federal health system in the United States, I am writing in support of your bill to extend the Public Health Service Act and the Community Mental Health Centers Act.

The New York City Health and Hospitals Corporation was created in 1970 to improve the municipal hospital system and to work toward the development of comprehensive health services for the citizens of New York City. This system includes among its facilities some nineteen hospitals in addition to neighborhood family care centers and community mental health centers. The Corporation employs 45,000 people who care for some two million patients annually.

As typical of many municipal health systems throughout the country, the Corporation is continuously faced with the need to improve the quality of care being delivered through expanding both its ambulatory facilities and replacing and modernizing its antiquated physical plants. The Health and Hospitals Corporation has moved to better serve its outpatients by the establishment of community mental health centers and neighborhood family care centers located in the communities in which their patients reside. They represent a commitment to reach out into the community to improve the quality and increase the accessibility of its ambulatory care services.

In addition to building new facilities where needed, the Corporation has completed a $50 million crash renovation program designed to make improvements to twelve of its existing institutions, while a $21 million program is currently underway and will benefit the remaining hospitals. Many of these efforts would not have proceeded without the Public Health Service and Community Mental Health Centers Acts. That work is now in grave jeopardy for it is conservatively estimated, without a definite compilation of proposed cutbacks, that some $15–20 million will be lost by the Corporation.

This is not to deny that experience has demonstrated certain legislative revisions are necessary. But, these are complicated issues and time is needed to make substantive changes. This is the reason why an extension of the Public Health Service Act is so crucial in order that a more rational approach for change can be formulated and implemented.

These legislative proposals have introduced health care into the community not as an experiment, but as an integral part of the health care delivery system. The thrust of these programs has been community-based health services and we have realized the expansion of ambulatory and neighborhood-based facilities which have enabled us to begin to provide a first line of comprehensive health care for all people.

Withdrawal of this support now, without an opportunity to resolve the problems inherent in these programs is not the answer, and will leave individuals to bear an increasingly significant portion of their health care expenses. This is an expense and burden few can afford.

Again, on behalf of the New York City Health and Hospitals Corporation and the people it serves, I offer our bipartisan support to extend the Public Health Service Act.

Sincerely,

JOSEPH T. ENGLISH, M.D.,
President.

THE NEW YORK STATE ASSOCIATION FOR MENTAL HEALTH, INC.,
Albany, N.Y., March 13, 1973.

Hon. JACOB J. JAVITS,
Albany, N.Y.

DEAR SENATOR JAVITS: The New York State Association for Mental Health and its 38 Chapters throughout the State of New York strongly urge the support of Senate Bill 1136—Public Health Service Act of 1973.

This bill provides for the renewal of funding for Community Mental Health Centers throughout the country.

We sincerely believe that the entire concept of community board mental health services would be seriously affected if this bill is not passed.

Sincerely,

Mrs. GORDON W. HATHAWAY, Sr.,
President.

UNITED MINE WORKERS OF AMERICA,
Washington, D.C., March 16, 1973.

Senator EDWARD KENNEDY,
Chairman, Health Subcommittee, Labor and Public Welfare Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: There are compelling reasons for passage of S. 1136. All of the authorities expire in just over three months and some constitute the means where federal support is provided for greatly needed health services. It would border upon the unconscionable, for instance, to interrupt health services for domestic migrant agricultural workers and their families. The current tragic typhoid fever episode at the Homestead, Florida, Migrant Camp is clear evidence of the need for increased assistance, not for discontinuance of this program. It would also be inappropriate to terminate a program just recently beginning to provide physicians in the rural coal mining communities of Appalachia. Some of these communities are now for the first time receiving benefits of modern medicine provided by young well-trained physicians.

Thorough study and review of the efficacy of these programs is indicated. Such study will unquestionably reveal the need for change in many, if not all, of these authorities. Health programs probably suffer a similar degree of inefficiency as do other governmentally-sponsored programs. Other programs such as cost overruns in the military establishment and mismanagement in the private sector, Lockheed and the Penn Central Railroad to cite just two, however, do

not appear to be subjected to the punitive approach as that indicated for health programs in the proposed 1974 budget for HEW. The Hill-Burton programs need new direction, not abandonment, because our nation must replace antiquated and obsolete hospitals and to develop the kinds of facilities necessary to an enlightened health care system. There are striking examples of innovations resulting from Regional Medical Programs and to scrap, rather than revise, the Program because of instances of less than to be desired results would be extremely shortsighted. These are among the several clear reasons for the passage of S. 1136.

Sincerely,

LORIN E. KERR, M.D.

U.S. CATHOLIC CONFERENCE,
DIVISION OF HEALTH AFFAIRS,
Washington, D.C., March 16, 1973.

Hon. EDWARD KENNEDY,
Chairman, Subcommittee on Health, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: Your proposal S. 1136, introduced in the Senate on March 8, 1973, represents a judicious approach to the subject of reassessing current programs operating under the Public Health Service and Community Mental Health Centers Acts.

Because of the magnitude and significance of these health programs, it is clear that a mere three months is too brief a period in which Congress can adequately update, restructure or consolidate the pertinent legislative authorities. It would seem that serious consideration of questions raised as to the effectiveness of existing health programs cannot possibly take place before the June deadline. Indeed, your subcommittee is already taxed by its commendable efforts in the field of health maintenance organizations human experimentation and emergency medical services.

Accordingly, it is only fair that Congress promptly enact a remedial measure such as S. 1136 to allow its members sufficient time to render a more tempered judgment on these crucial health issues.

We applaud your efforts on behalf of S. 1136 and look forward to its timely enactment.

Sincerely yours,
Sister VIRGINIA SCHWAGER, S.P.,
Director.

THE UNIVERSITY OF MICHIGAN,
SCHOOL OF EDUCATION,
Ann Arbor, Mich., March 16, 1973.

Senator EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Senate Committee on Labor and Public Welfare, Washington, D.C.

DEAR SENATOR KENNEDY: I am wholeheartedly in support of S. 1136 to extend expiring authorities in the Public Health Service Act which you introduced with fourteen other Senators.

I strongly believe it would be very unwise to precipitately act upon termination or major modification of the several expiring health program authorities.

There is a pressing need for some important changes in some of these health programs, but their complexity and far-reaching significance requires careful and deliberate consideration.

Many of the expiring programs have a vital bearing on the implementation of any national health insurance program. Since the President has not yet forwarded his specific legislative proposal for national health insurance to the Congress, it will not be possible for Congress to complete action on legislative proposals in this area this year. These health insurance proposals should be considered carefully in relation to the various public health legislation and their interrelationship.

From my past experience as Secretary and Under Secretary of Health, Education, and Welfare, I believe that there should be a period of sufficient advance notice to States, localities, medical schools, etc. of any major changes in financing or program emphasis. This is necessary to assure proper and efficient administration. A one-year extension of expiring legislation is a more considerate, efficient, and intelligent way of going about making basic program changes than making changes solely in relation to budgetary considerations.

It is a simple task to repeal and eliminate health programs. It is a hard and long task to create programs of excellence. Programs should not be wiped out without a careful examination by the Congress of alternatives, options, and the risks and benefits.

Sincerely,

WILBUR J. COHEN,
Dean.

REGIONAL MEDICAL PROGRAM
FOR TENNESSEE MID-SOUTH,
Nashville, Tenn., March 20, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: In response to your request for this information, I would like to inform you of the support of the Regional Medical Program Coordinators, with the support of more than 2,000 policy-making RMP Regional Advisory Group members, for the extension of the Regional Medical Program authorization for one year.

During the one-year extension period the Coordinators hope to contribute their extensive experience and expertise to the further consideration of the future of the Regional Medical Program.

While we do not specifically propose an indefinite extension of RMP as known in the past, we are concerned that the various reasons given for discontinuing the Regional Medical Program are at sharp variance with the facts of our experience. Our analysis follows and is forwarded for your consideration in reaching a judgment in this matter.

There are three sources of statements giving reasons for discontinuing the RMP:

1. DHEW memo to Regional Offices transmitted on or about January 30, 1973
2. Appendix to the Budget for FY '74
3. DHEW Budget Analysis by Program (FY '74)

You will note that the reasons given in these sources are all different, a fact which leads us to question how carefully they have been thought out.

Source 1: DHEW memo to Regional Offices on or about January 30, 1973 (attached).

The key item is ". . . inappropriate use of Federal funds for professionals' continuing education."

Please note that Section 900 (a) of PL 91–515 (our current legislation, attached) specifically uses the words *continuing education* as a mandated mission of RMP. Please note also that in the very next paragraph, Source 1 cites Professional Standards Review Organizations to assume that role in the future. However, not only is the PSRO role limited to a small part of all health care, but it is also true that when the PSROs identify deficiencies in health professionals' health care performance, corrective continuing education will be a vital element in remedying such deficiencies.

Source 2: Appendix to the Budget for FY '74 (attached).

Two key statements cited are as follows:

". . . originally established to upgrade health care for persons threatened by heart disease, cancer, stroke, kidney and related diseases, the RMPs in recent years sought more to improve access to and generally strengthen the health care delivery system."

Please note that this suggests a deviation from assigned mission. However, your attention is invited to Section 900(d) of PL 91–515 and to the budget narratives of FY '72 and '73 (attached) to indicate that such a broadened scope for RMP was specifically directed by the Administration itself. Moreover, it is quite clear that when the health care delivery system itself is strengthened, patients with heart disease, cancer, stroke and other diseases will also be benefited. As a matter of fact, our experience is that if patients have only very limited access to primary health care, the specialized treatment facilities for the categorical diseases are not really available to them either because the normal referral pattern does not exist.

Next, ". . . despite expenditures over $500 million for these activities, there is little evidence that on a nationwide basis the RMPs have materially affected the health care delivery system."

I would bring to your attention Sections 900(a) and (d) of PL 91–515 which specify that RMPs shall work non-coercively through voluntary regional cooperative arrangements, and moreover that the program will not interfere with established patterns. We consider it remarkable that voluntary and cooperative changes have been brought about throughout the nation despite these constraints. Secondly, the reference to $500 million is the total for all RMPs since 1966. The amounts spent by the RMPs nationally in the area of strengthening the health care delivery system have occurred mainly after January 1971 when the FY '72 budget narrative appeared; and that total more nearly approximates $80 million. Hence the total of $500 million is not applicable to the argument.

Source 3: DHEW Budget Analysis by Program (FY '74, attached).

The relevant statements are as follows:

". . . regionalized systems of health care as originally envisioned in legislation have not been realized. The regions are almost identical with state boundaries."

Please note that "originally" RMP was for regionalized information and specialized services, *not* for health care *systems*. More importantly, however, the statement ignores the fact that most RMPs are *sub*-regionalized according to catchment or service areas within the region, so that functionally the state boundaries do not interfere with the regionalized systems which have been developed. A number of the regions do extend across state boundaries.

The Statement, ". . . projects supported have not been carried out according to any consistent theme or set of priorities," is a criticism which ignores the directions of the FY '72 & '73 budget narratives in which a "shift in emphasis" is specifically directed (see attached, underlined).

Finally, the statement is made: ". . . dismantling the superstructure of the RMPs will also reduce the competition for the limited staff available with the skills needed to make a contribution to improving the health service system in the United States."

Please note that this statement clearly admits that the RMPs' staffs *do* have the skills to contribute toward improving the health service system in the United States as we and the Administration both desire. What is incomprehensible to us is that the Administration should recommend dismantling the RMPs in order to accomplish what we are already doing.

This is furnished to you in response to your request for information, and I hope it may be useful to you in the course of your

further analysis of the merits for continuation of the Regional Medical Programs.

Sincerely yours,

PAUL E. TESCHAN, M.D.,
Chairman, RMP Coordinators.

SOURCE 1

(NOTE.—This Memo was transmitted from HEW to all DHEW Regional Offices about Jan. 30, 1973.)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, "REGIONAL MEDICAL PROGRAMS"

[In millions of dollars]

	1972 actual	1973 President's budget	1973 Current estimate	1974 estimate
Budget outlays	99	145	141	25
Budget authority	103	130	60	0

PROGRAM DESCRIPTION

Regional Medical Programs began in 1965 as a mechanism to link the expertise of medical centers with practicing physicians and community hospitals, with special emphasis on heart, cancer, stroke, and, later, kidney diseases. This linkage was mainly in the form of education and training programs for health care practitioners, on the one hand, and development of specialized resources, such as intensive care units. The purpose of these activities was to improve the quality of care available for heart, cancer, stroke, kidney and related diseases. There are currently 56 RMP's which vary in size from single cities to combinations of several States.

REASONS FOR TERMINATION

The greatest expenditure of RMP funds has been in the area of continuing education and upgrading training of health personnel. It is not an appropriate use of Federal funds to finance continuing education for professionals generally capable of financing his own education to improve professional competence. Training programs supported by RMP's have been short-term in nature. In FY 1971, 60 percent of the people receiving training by RMP attended a project lasting one day or less. Another 27 percent attended one lasting no more than 5 days, and only 13 percent attended projects lasting more than 5 days.

As a result of various legislative and administrative decisions in recent years, several activities for improving the quality of care previously assigned to RMP are now being supported by other HEW organizations, such as the special NIH cancer and heart initiatives, and the system of Professional Standards Review Organizations being set up under the Medicare authorities.

[Public Law 91-515 91st Congress, H.R. 17570
October 30, 1970]

An act to amend titles III and IX of the Public Health Service Act so as to revise, extend, and improve the programs of research, investigation, education, training, and demonstrations authorized thereunder, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO TITLE IX OF THE PUBLIC HEALTH SERVICE ACT

SEC. 101. This title may be cited as the "Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970".

SEC. 102. Section 900 of the Public Health Service Act is amended to read as follows:

"PURPOSES

"SEC. 900. The purposes of this title are—

"(a) through grants and contracts, to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals for research and training (including continuing education), for medical data exchange, and for demonstrations of patient care in the fields of heart disease, cancer, stroke, and kidney disease, and other related diseases;

"(b) to afford to the medical profession and the medical institutions of the Nation, through such cooperative arrangements, the opportunity of making available to their patients the latest advances in the prevention, diagnosis, and treatment and rehabilitation of persons suffering from these diseases;

"(c) to promote and foster regional linkages among health care institutions and providers so as to strengthen and improve primary care and the relationship between specialized and primary care; and

"(d) by these means, to improve generally the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services, and to accomplish these ends without interfering with the patterns, or the methods of financing, of patient care or professional practice, or with the administration of hospitals, and in cooperation with practicing physicians, medical center officials, hospital administrators, and representatives from appropriate voluntary health agencies."

REGIONAL MEDICAL PROGRAMS

No extension beyond June 30, 1973, of the regional medical program authorities is being requested.

Over a period of 8 years, the Federal Government, by means of grant awards and direct staff activities, promoted and developed 56 RMP's, regional cooperative arrangements among the Nation's health care providers and institutions. Originally established to upgrade the health care of persons threatened by heart disease, cancer, stroke, kidney disease and related diseases, the RMP's in recent years sought more to improve access to and generally strengthen the health care delivery system. Despite Federal expenditures in excess of $500 million for these activities, however, there is little evidence that on a nationwide basis the RMP's have materially affected the health care delivery system. Further expenditure of scarce Federal health resources on this program, therefore, cannot be justified on the basis of available evidence.

BUDGET NARRATIVES FOR REGIONAL MEDICAL PROGRAMS (1972-74)

FY1972.—Through grants, the development of regional cooperative arrangements among the Nation's health professions and institutions for: (1) improvement of regional health resources and services, and (2) enhancement of the capabilities of providers of care at the community level; and specifically to improve personal health care for persons threatened by heart disease, cancer, stroke, kidney disease, and related diseases. These activities are aimed at improving the quality of health care and strengthening the health care system generally throughout the Nation.

To date, 55 regions encompassing the entire Nation have received planning grants; of these, 54 have been awarded operational grants. The one remaining region is scheduled to become operational in 1971.

The 1972 budget introduces a stronger discriminatory policy which will be applied in awarding grants to individual Regional medical programs. As a result; a sharp retrenchment in grant awards will be made for those Regional medical programs which have been the least productive in order to support selected increases for those Regional medical programs which have shown the greatest innovative potential for moving the local health care system toward improved accessibility and quality of care. The new policy will also require a shifting emphasis in the use of current funds by the remaining programs.

The major shift in emphasis by the Regional medical programs will be directed toward improved and expanded service by existing physicians, nurses, and other allied health personnel; increased utilization of new types of allied health personnel; new and specific mechanisms that provide quality control and improved standards and decreased costs of care in hospitals; early detection of disease; implementation of the most efficient use of all phases of health care technology; and supporting the necessary catalytic role to help initiate necessary consolidation or reorganization of health care activities to achieve maximum efficiency.

FY 1973—(a) Grants and contracts.—Through grant awards and direct staff activities, the 56 regional medical programs promote and sustain the development of regional cooperative arrangements among the Nation's health professions and institutions for: (1) Improvement of regionalization of health resources and services, and (2) enhancement of the capabilities of providers of care at the community level. These activities are aimed at improving the quality of health care and strengthening the health care system generally throughout the Nation and specifically to improve personal health care for persons threatened by heart disease, cancer, stroke, kidney disease, and related disease.

In 1973, emphasis will be placed on: First, Manpower development and utilization programs.—Training aimed at enabling existing health manpower to provide more and better care and training of new kinds of health manpower. A significant portion of the 1973 request would be used for these activities including a major new initiative in support of area health education centers; second, new techniques and innovative delivery patterns.—Activities aimed at improving the accessibility, efficiency, and quality of health care. Through their provider linkages, the RMP's will act as catalytic agents for the planning and development of health maintenance organizations, ambulatory and emergency medical care services, particularly for rural areas, and for the application of new technologies, including automated systems and centralization of laboratory facilities. Third, regionalization activities.—Provider initiated activities leading to greater sharing of health facilities, manpower, and other resources. These activities will include support for comprehensive interregional kidney disease projects. Fourth, development and implementation of quality of care guidelines and performance review mechanisms.—Such guidelines and mechanisms are necessary to the development of the new and more effective comprehensive systems of health services such as health maintenance organizations, rural health delivery systems, and emergency health care systems. Fifth, development, demonstration and application of biomedical and management techniques.—Activities aimed at increasing productivity of providers and extending specialized services to areas not currently covered.

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

COMPREHENSIVE HEALTH PLANNING

An increase is recommended for health planning to strengthen the capacity of the 56 State and 208 areawide health agencies to influence the orderly and efficient development of local health services and to design

their health systems more effectively. Unplanned growth can bring about misdirected priorities, such as excessive reliance on inpatient care when ambulatory service might be more appropriate. Renewal of the legislation for comprehensive health planning will provide for strengthening the effectiveness of both State and areawide health planning bodies. Funds in 1974 will support an estimated 258 areawide agencies.

REGIONAL MEDICAL PROGRAM

The legislative authority for the Regional Medical Program expires at the end of FY 1973. The Administration will not seek its extension, and plans to award no grants after June 30, 1973. This action is being taken because the regionalized systems of health care as originally envisioned in the legislation have not in fact been realized during the seven years of this program's existence. The Regions are almost exclusively identical with State boundaries and the projects supported have not been carried out according to any consistent theme or set of priorities. Nearly all of the RMP projects overlap other project grant programs supported by the Department; most particularly, comprehensive health planning, health services research and development, and heart and cancer research. Dismantling the superstructure of the RMPs will also reduce the competition for the limited staff available with the skills needed to make a contribution to improving the health service system in the United States.

HEALTH MAINTENANCE ORGANIZATIONS

Legislation will be re-introduced to foster the development of Health Maintenance Organizations. These locally organized direct service plans provide preventive and treatment services on a prepaid voluntary basis. They hold promise of controlling rising health care costs and improving access to high quality health care services compared to other patterns of delivery.

Federal assistance will be provided through an integrated program of grants, contracts, loans and loan guarantees to plan, develop and facilitate initial operations of HMO's. It is estimated that 1974 funding will support 93 planning projects, 67 development projects, and 30 operational programs. Legislation will encourage participation in the HMO as an alternate to present indemnity plans. States will be assisted in amending laws that now restrict HMO development, and technical assistance will be offered in HMO development.

MEDICAL FACILITIES CONSTRUCTION

A major contribution to building the needed national supply of hospital and clinic facilities is credited to the 26 year old Hill-Burton program.

Mr. DOMINICK. Mr. President, I am a cosponsor of S. 1136, which would extend for 1 year without change—at fiscal year 1973 authorization levels—those health programs authorized under the Public Health Service Act, and the Community Mental Health Centers Act, which are due to expire June 30 this year.

The administration's position on this bill was stated forthrightly and succinctly by Secretary Weinberger in his testimony before the Labor and Public Welfare Committee.

The thrust of his testimony was that a simple extension will perpetuate the existing welter of overlapping, duplicative categorical health programs, many of which should be reduced, consolidated, or eliminated. He feels there is nothing to be gained by postponing the hard decisions that must be made when these programs are reviewed.

I support S. 1136, not because I feel the status quo is entirely satisfactory, or because I want to procrastinate, but because I feel there simply is not enough time for our committee to carefully review these programs and make intelligent recommendations to the Senate before they expire on June 30. I think there is considerable merit in the criticisms expressed by the administration. I think we should examine each program closely to determine whether it should be extended, changed, or combined with other programs. But there is no way we can do this with 12 separate programs and come up with rational proposals before June 30.

By providing a simple 1-year extension, S. 1136 will give us the time we need. I hope such an extension will not encourage the committee to procrastinate until we find ourselves in the same mess a year from now. Hearings should be scheduled soon, so that the administration and other interested parties can give us their recommendations. Hopefully, the end result will be legislation which through consolidation, and elimination where necessary, will reduce and rationalize the existing tangle of categorical health programs.

It should be noted in this regard that the administration has provided us with no concrete alternatives. The fiscal year 1974 budget recommendations are not the proper mechanism for rationalizing our health programs. I feel strongly that under the Constitution it is the executive branch's duty to recommend, rather than dictate with regard to legislative authority. To the extent that the fiscal year 1974 budget requests no money for programs the administration feels should not be continued, it is an attempt to do the latter.

An even more direct attempt to do this is the administration's unilateral action to terminate the regional medical programs before Congress has had the opportunity to review it. This is a clear intrusion by the executive branch into the jurisdiction of Congress. The regional medical programs were established pursuant to a law made by Congress. So long as that law remains on the books, it is the Executive's duty to execute it. Beyond that, all the Executive can properly do is recommend to the Congress that the program be changed or terminated. The decision must be made by Congress. If that is not true, in the words of a constituent, "What are we here for?"

Already in this session, I have introduced S. 1006, an extension of the Hill-Burton Act with some modifications to take into account the surplus of hospital beds in large urban areas while providing necessary support for construction and modernization of facilities in rural areas and smaller communities where the need is critical. Other legislation being considered would provide alternative to some of the programs contained in this omnibus bill, but again, I would emphasize that these alternatives are being developed by the Congress, not the executive branch.

In conclusion, Mr. President, the Constitution is explicit that legislative power resides solely wth the Congress. I feel we should guard that power jealously, and exercise it responsibly, keeping in mind always that the proper Federal role is not all-inclusive, that the mere spending of Federal dollars frequently does not solve problems, and that Federal revenues are indeed limited. For that reason alone—in order to preserve the status quo while Congress exercises responsibly its decisionmaking powers with respect to programs it has created—S. 1136 should be passed.

Mr. PELL. Mr. President, I urge my colleagues to support S. 1136, the "Public Health Service Act Extension of 1973." This legislation extends for 1 year, in basically unaltered form, and at the present fiscal year levels of authorization, the soon to expire authorities of the Public Health Service Act and the Community Mental Health Centers Act.

I hope that the Senate Labor and Public Welfare Committee, of which I am a member, and the Congress as a whole will always give this administration's legislative proposals a full and fair hearing. It is clear that we have asked the administration for thorough evaluation of those expiring authorities, and have encouraged it to submit constructive proposals to help us recodify this vital piece of legislation.

In response we have received the administration's fiscal year 1974 budget proposal, which raises serious questions as to the desirability and effectiveness of some of these important authorizations. It proposes to terminate, phase out or substantially change several programs whose aims and objectives I consider to be worthy, and which should, on the balance of information presently available to us, continue to be implemented. I speak specifically of the administration's proposals to terminate the Hill-Burton hospital and ambulatory care facilities construction and modernization program, the community mental health centers programs, and the regional medical programs for heart, cancer, and stroke, and to substantially change and redirect such programs as comprehensive health planning, and maternal and child health services.

The administration's able representatives who testify before us give several main reasons for these proposed terminations and cutbacks—these programs do not deserve priority in the competition for Federal funds, they are ineffective, duplicative, or wasteful, and Congress intended them to be of only a temporary or demonstration nature, and that there is private funding readily available for them. Recognizing and respecting the right and the obligation of the administration to put forth its viewpoints and legislative recommendations in their most favorable light, I am also aware of the constitutional duty of Congress to thoroughly evaluate and scrutinize these proposals. Out of this kind of dialog, sound legislation will hopefully emerge.

In my opinion, the administration has not, in its recommendations to terminate and change these authorities, made a persuasive case. I suggest that its proposals are insufficiently substantiated by the weight of the data and evidence it has presented to us; they do not present to us; they do not present us with a vi-

able legislative alternative to the extension of the existing authorities.

In my own State of Rhode Island implementation of the administration's budgetary proposals for health would eliminate or imperil $262,000 in Federal funds for services at the child development center for handicapped children at Rhode Island Hospital, $83,000 for immunization protection against polio and other diseases for youngsters in poor and near-poor families, $254,000 for maternity and infant care for high-risk mothers in inner city areas, $63,500 in dental care for retarded children, and $530,000 for food protection and sanitation.

My State will in this fiscal year receive approximately $2,600,000 in grant and loan funds under the Hill-Burton program. In the last 2 years primary emphasis has been placed on modernization and development of much needed ambulatory and long-term care facilities. Although the administration contends that a general overabundance of unoccupied hospital beds indicates that Hill-Burton aid should be terminated, its budget makes no provision to provide Federal funding for these ambulatory care facilities. Furthermore, hospital administrators in my own State tell me that although there may be a high rate of unoccupied beds in some geographical areas, this applies primarily to obstetrical and gynecological beds—not to medical-surgical wards.

If the community mental health centers program is phased out, Rhode Island would lose its opportunity for obtaining millions of dollars in Federal funds for the construction and staffing of such centers.

Rhode Island is a small State. We pride ourselves, and I think justifiably so, on the strides we have made in making innovative and efficient preventive health care available to increasing numbers of our citizens. I am personally familiar with many of the federally funded programs, and the persons administering them in my State. I have seen little or no evidence that these programs do not deserve priority or that they are wasteful, and inefficient. To the contrary, these programs seem to be working well, and are just beginning to realize their potential. Among the members of the communities which they serve there is almost universal agreement that Federal funding is still needed.

The regional medical programs have been the subject of administration criticism. In Rhode Island they provide grants and contracts for ambulatory health service planning in Newport County, the creation of an area library at Brown University, inservice education for nurses in the management of patients with diabetes mellitus at Miriam and St. Joseph's Hospital in Providence, and screening, first-aid, and referral to physicians and hospitals in the Pawtucket Model Cities program. I think that these programs are accomplishing valid objectives.

I reiterate my readiness and willingness to be receptive to viable administration alternatives, to modernize, coordinate, and improve existing public health service legislation. Where there is inconclusive evidence or honest differences of opinion as to the priorities of various programs, on their efficiency or effectiveness, I will do all that I can to be flexible. Nevertheless, I will oppose this administration in what I believe to be an improper use of the budget as a legislative mechanism. To ask for a reduced level of funding for certain programs where moneys have been appropriated by Congress raises a serious constitutional issue. Over its implications, reasonable men may differ; but to order, either directly or indirectly the dismantling of functioning programs, under presently existing authorities, without the consent of Congress is to me clearly violative of constitutional prerogatives. Congress, not the President, is the duly delegated lawmaking representative of the people.

For these reasons I support the "Public Health Service Act Extension of 1973".

CONGRESS MUST RETAIN THE RIGHT TO DETERMINE FEDERAL AID TO HEALTH

Mr. HUMPHREY. Mr. President, I urge the Senate to take favorable action today on the Public Health Service Act Extension of 1973, S. 1136. Immediate enactment of this legislation, to extend various authorities under the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Act, now scheduled to expire in less than 4 months, is essential if Congress is to exercise effectively its power to determine the response of the Federal Government to the critical health care needs in our Nation today.

Nowhere is the administration's retreat from domestic problems better illustrated than in its proposals for cutbacks and terminations of funding for vital health research, training, and services, under the fiscal 1974 budget. And these budget decisions fly in the face of the mandates and lawmaking powers of Congress.

I had the honor to serve in this Chamber with Senator Lister Hill of Alabama, the father of Federal involvement in health programs. His contribution on the Senate side of Capitol Hill was matched by a lifetime of dedication to the same cause by Representative John Fogarty of Rhode Island. Between them, these two exceptional, honest and concerned public servants led in the erection of a structure of Federal commitment to the health of America which has avoided partisanship in the interests of alleviating human suffering.

The National Institutes of Health have served as ever-growing, enduring monuments to their vision and compassion. No better investment was ever made by a government on behalf of all its people.

Over the years the Federal commitment to health research has wrought significant results. Scientific researchers in federally supported laboratories brought into being cumulative miracles; the conquests of rubella and polio alone justify our total expenditures.

Now all this is in danger.

The President has submitted a budget spelling out sheer disaster for much of the carefully reared structure of Federal aid to health. The overwhelming majority of the National Institutes of Health are to be starved for funds, while only two major programs receive new funding.

How such a policy can be followed by a modern government in this day and age totally escapes me. It defies logic. Virtually every person in the Nation has in some direct or indirect manner benefited from this ongoing massive research effort. Nobel laureates even now are to be found working on the NIH campus.

The philosophy of those in the White House and the Office of Management and Budget seems to be to cut mercilessly at every program until some vital element of our health commitment is ruined.

The Hill-Burton program for construction of various health facilities is slated to be completely phased out. In operation for 26 years, Hill-Burton has provided Federal funds to more than 3,800 communities for construction of 6,265 public and nonprofit hospitals and nursing homes. Now it is to be wiped out, totally ignoring the desperate need for such facilities in thousands of places across the Nation. In rural America facilities are needed, as well as on Indian reservations and in inner cities. Thousands of existing facilities are desperately in need of extensive updating and remodeling.

If Federal funds are cut off and Hill-Burton comes to an end, our Nation's physical plant in the health area will shortly be in as disastrous a shape as it was when we began these programs.

The administration has also callously advocated total withdrawal of Federal support from the community mental health centers program.

Mr. President, here is a successful venture which has reduced by 50 percent the number of patients admitted to State mental institutions, and has grown in effectiveness since its inception in 1963.

Federal grants have been provided under the act for construction of facilities offering comprehensive mental health services. Later amendments authorized grants for staffing specialized services for alcoholics, drug addicts and children.

By mid 1972, 423 centers had been funded. Each served populations of between 75,000 and 200,000 people. Yet under the President's proposed budget, no funds are requested for new construction or staffing grants. Many such centers have been located in high poverty areas, where they have yielded significant results.

The Federal contribution has been 25 percent. Once that contribution is removed, all too many local jurisdictions will be left with no alternative funding sources. We can, therefore, predict with reasonable certainty that most of these centers will have to close.

A similar fate awaits the regional medical program under the President's fiscal year 1974 budget. This vital Federal undertaking consists of contracts and grants under the heart disease, cancer, and stroke amendments of 1965. Its main purpose is to establish regional cooperative arrangements between medical schools, research institutes and hospitals. Once such linkups were made, strides would be made in research, training, medical data exchange, and demonstra-

tion of patient care in fields of heart disease, cancer, stroke, and related ailments.

Today there are 56 regional medical programs across the country. In the process, many Americans have been able to receive up-to-date care.

A fourth major Federal health program scheduled for elimination is the National Institutes of Health research training grants and fellowships, which have provided support for educating scientists for 20 years. Training grants include stipends awarded students to support research training mainly in biological and medical sciences. There is also some support for related fields such as psychology, social sciences, and engineering.

Fellowships, although awarded to institutions, are for support of specific individuals. In 1971 alone, NIH fellowship and training grant programs provided assistance for approximately 37.5 percent of all graduate students in basic medical sciences and 21 percent of those in all biosciences.

This broad support for research has yielded remarkable dividends to all of us, lifting the shadow of several ancient scourges from our land. People have been saved from tragic death or permanent mutilation. Such a cumulative endeavor is worth further broad support rather than, of all things, heartless elimination.

Another prime example of incredible steps backward by the Nixon administration that can seriously undermine our Nation's health resources is the proposed slicing of funds for health manpower training. The President's budget would decrease the amount which the Bureau of Health Manpower could obligate for grants and contracts in fiscal year 1974 by $347 million.

We do not have such a perfect system of health care that we can afford any loss of support in such an essential area. Health care in the United States is a paradox. In no nation can more complex and more sophisticated methods of health care delivery be found. But the dividends of advanced medical research, technology, and treatment have not been translated into the best or even adequate health care for everyone in the United States. In 1967, the United States ranked 14th in the rate of infant mortality among industrial nations. Life expectancy at birth for a U.S. male—68.8 years—is nearly 5 years shorter than that of a Swedish male. In 10 nations, the expectancy for females exceeds the 73.7 year average for the United States.

Much of the discrepancy between knowledge available in health care and actual health of the average citizen is due to both short supply and poor distribution of our health manpower. Some estimate that America currently needs about 50,000 more physicians. Latest American Medical Association statistics show 133 counties across the United States are without a single private practicing physician. We are in particular need of primary care physicians—this proportion of family practitioners in relation to population declined by more than 20 percent between 1963 and 1970.

Doctors are not the only health personnel needed. Nurses are in great demand in all parts of the United States. In 1970, approximately 700,000 R.N.'s were practicing and an additional 150,000 were needed. By 1980, there is expected to be a shortage of 200,000 nurses. Severe shortages of allied health personnel also exist. New educational programs are preparing members of the allied health professions to offer more and more of these services which, in the past, only a doctor was authorized to provide.

Few will argue with the contention that we need more health personnel. Many are curious as to exactly what and how programs of assistance for training would be affected by the proposed budget cuts for fiscal year 1974.

First, the level of funding proposed for health professions assistance programs—programs for educational support of physicians, osteopaths, dentists, pharmacists, optometrists, pediatricians, veterinarians and professional public health personnel—is $232 million less than in fiscal year 1973.

This reduction of funding in the broad category of "health professions" mangles several programs. For example, Congress authorized a total of $299 million for construction grants in fiscal year 1974 for research and teaching facilities, yet no money is requested by the President for construction grants.

Institutional support has been provided through capitation grants and special project grants. Capitation grants are awarded on a formula basis and are to be used to support education programs. The budget estimates indicate support of 125 schools of medicine and osteopathy in fiscal year 1974, only 2 more than in fiscal year 1973. The number of schools of dentistry receiving capitation grants, 58, would remain constant. Capitation grant support of 109 schools of veterinary medicine, optometry, pharmacy, and podiatry would be terminated.

In addition, Congress has authorized special project grants and contracts for a broad range of assistance including curriculum improvement, training new kinds of personnel, innovative educational programs, improving supply and distribution of health personnel, and so forth. The President is suggesting funding of less than half as many special project awards in fiscal year 1974 as in fiscal year 1973—a drop from 234 to 108.

The program of scholarship grants for health professions students as it is now set up is scheduled to be phased out. No new scholarship grants would be made in fiscal year 1974. Regardless of financial need, scholarships would be awarded only to students committing themselves to serve in a Federal program to meet national needs.

Similar reductions are proposed for support of nurse training programs. Whereas a total of $115 million was originally requested for obligation for fiscal year 1973, only $47 million has been requested for fiscal year 1974. Cuts totaling $28 million are requested for the remaining months of fiscal year 1973.

As in the case of the health professions construction grant program, no funds are requested for grants for construction of nurse training facilities. Institutional support in the form of capitation grants is scheduled to be terminated in fiscal year 1974. The program of scholarship grants for nursing students is also scheduled to be phased out.

The picture is even more bleak for Federal support of public and allied health programs. Last year's level of requested funds for obligation to programs of public health training was $18 million, and $34 million for allied health. No funds have been requested for support of such programs in fiscal year 1974. On top of this, cuts have been requested in available funds for obligation in the remainder of fiscal year 1973—$6 million from public health and $11 million from allied health.

Perhaps no other Federal programs contribute so much to our health care complex as programs of health manpower training. Their benefits are not limited to a select few, but are shared by persons of all income, social, age, and racial groups. Congress cannot sit by and watch the administration render these programs ineffective by lack of funding.

Mr. President, these unilateral health budget reduction decisions by the administration must not be allowed to stand. Congress must not allow the executive branch to usurp its legislative power to continue or revise basic authorities under statutory law for Federal assistance for hospital construction or modernization, regional medical programs of vital importance to rural America, community mental health centers and programs to address developmental disabilities, and for medical libraries, allied health training, health services research and development, health statistics, public health training, migrant health programs, family planning and population research, and comprehensive health planning. The 1-year extension of these authorities provided for in the legislation before the Senate is essential to enable Congress to give thorough consideration to major legislation addressed to the future of these programs.

It is unconscionable that the Nixon administration should now oppose this extension after frustrating the legislative process by steadfastly refusing, for months on end, to provide any specific legislative recommendations for these programs. Last year, in the face of repeated declinations by the Department of Health, Education, and Welfare to testify, the Senate acted upon several measures designed to assure continued Federal support for vital programs to advance health care across the Nation. In January of this year, the Secretary-designate of HEW promised to provide legislative recommendations, but these failed to materialize.

Instead, the President's budget for fiscal 1974 simply recommends the termination of a number of these authorities. As late as March 22, Secretary Weinberger could only state once again that legislative proposals would be forthcoming from HEW.

This constitutes a record of total irresponsibility on the part of the executive branch with respect to planning and action to meet the critical health care needs of America.

I find no sense of obligation to the American people in an administration policy of cutting back and terminating health programs. If this policy is allowed to stand, incalculable losses will be suffered—some never to be restored—in health research, health training, and the conquest of sickness and disability.

Therefore, Congress must act, and act decisively. I urge the immediate enactment of the Public Health Service Act Extension of 1973 to enable America to get on with these absolutely essential tasks.

AMENDMENT NO. 56

Mr. CHURCH. Mr. President, I call up my amendment No. 56.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, insert the following new sections:

SEC. 6. It is hereby declared to be the policy of the Federal Government, in the administration of all Federal programs, that religious beliefs which proscribe the performance of abortions or sterilization procedures (or limit the circumstances under which abortions or sterilizations may be performed) shall be respected.

SEC. 7. Any provision of law, regulation, contract, or other agreement to the contrary notwithstanding, on and after the enactment of the Act, there shall not be imposed, applied, or enforced, in or in connection with the administration of any program established or financed totally or in part by the Federal Government which provides or assists in paying for health care services for individuals or assists hospitals or other health care institutions, any requirement, condition, or limitation, which would result in causing or attempting to cause, or obligate, any physician, other health care personnel, or any hospital or other health care institution, to perform, assist in the performance of, or make facilities or personnel available for or to assist in the performance of, any abortion or sterilization procedure on any individual, if the performance of such abortion or sterilization procedure on such individual would be contrary to the religious beliefs of such physician or other health care personnel, or of the person or group sponsoring or administering such hospital or other institution.

Mr. CHURCH. Mr. President, recently the Supreme Court of the United States ruled in *Roe, et al.* v. *Wade, District Attorney of Dallas County* (41 U.S.L.W. 4213), that State laws which prohibit an abortion during the first 3 months of a woman's pregnancy are contrary to the due process clause of the 14th amendmend to the Constitution and, therefore, invalid. The decision, in effect, prevents any interference in the relationship between a doctor and an expectant mother during early pregnancy, with regard to her legal right to obtain an abortion.

Of course, this decision can neither be altered nor repealed by statute, since it rests upon the court's interpretation of the Constitution, the supreme law of the land. Nevertheless, the decision does raise a serious question as to its possible impact upon the Federal Government's extensive involvement in medicine and medical care.

For example, thousands of hospitals throughout the United States have been built, remodeled, enlarged, modernized or equipped under the provisions of the Hill-Burton Act. Federal money made available for this purpose, has been extended on the condition that the hospitals shall comply with certain Federal regulations. These regulations need not be prescribed prior to the acceptance of the Federal grant or loan, but may be stipulated afterward.

Thus the requirement that hospitals, furnished Hill-Burton funds, must prove that charity patients account for not less than 3 percent of their yearly operating costs, represents a relatively recent condition laid upon most hospitals after they had obtained the Federal money. Once having accepted the money, the hospitals are subject thereafter to comply with such regulations as the Federal administrative agency may choose to impose.

Physicians who participate in the medicare and medicaid programs could find themselves in the same predicament. Their eligibility might come to be conditioned upon their willingness to perform all those services prescribed by Federal regulations.

Given this state of the law, I can well understand the deep concern being expressed by hospital administrators, clergymen, and physicians whose religious beliefs prohibit abortions and/or sterilization in most cases. Catholic hospitals, for example, do not permit their facilities to be used for the performance of an abortion under ordinary circumstances. It is simply contrary to the Catholic faith, regardless of what the civil law may say.

Nothing is more fundamental to our national birthright than freedom of religion. Religious belief must remain above the reach of secular authority. It is the duty of Congress to fashion the law in such a manner that no Federal funding of hospitals, medical research, or medical care may be conditioned upon the violation of religious precepts.

Now is the time to erect the appropriate safeguards against such transgressions. Even though the Supreme Court's decision does not impose the obligation upon a hospital, there is nothing in existing law to prevent zealous administrators from requiring the performance of abortions, within the limits of the Court's decision, as a part of their regulations pertaining to federally funded programs.

This apprehension is anything but whimsy. Already a case has arisen which should furnish us with ample grounds for legislative action. A Federal district court in Montana, in the case of Mike and Gloria Taylor against St. Vincent Hospital, has issued a temporary injunction, compelling a Catholic hospital, contrary to Catholic beliefs, to allow its facilities to be used for a sterilization operation. The district court based its jurisdiction upon the fact that the hospital had received Hill-Burton funds.

Given the injunction issued by the court against St. Vincent's Hospital in Billings, together with the possible administrative ramifications of the recent Supreme Court decision on abortions, it should be evident that a provision needs to be written into the law to fortify freedom of religion as it relates to the implementation of any and all Federal programs affecting medicine and medical care.

For this purpose, I have called up the amendment that is now pending, and I hope that the manager of the bill will accept it. The amendment would simply clarify the intent of Congress with respect to the significance of accepting Federal funding as it might apply to the question of performing abortions or sterilizations in religious affiliated hospitals where such operations are contrary to religious belief.

Mr. President, if Congress fails to clarify its intention, then we face a plethora of lawsuits. The effect will be so debilitating in many communities that Congress ought to take timely action to avoid it.

Already in my own State, where the people have been made aware of the Montana decision to which I have referred, there has been a striking outcry. The Catholic bishop in Spokane has spoken of civil disobedience. There is open conjecture in the press that obstetrics divisions of Catholic hospitals might be closed to perform operations contrary to their religious beliefs.

Nothing in the decision of the Supreme Court requires Congress to lay down such a rule, but the present law is not explicit on this point. Either we are going to have a uniform rule laid down by Congress, which has the power to impose such conditions as it may choose upon the acceptance of Federal money, or we are going to leave this to many different courts to decide, without the benefit of any explicit expression of congressional intent. That will cause chaos. Now it is time to speak. Now when we are faced with the extension of these programs. That is the purpose of the amendment and I hope it is possible for the manager of the bill to accept it.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield to the distinguished Senator from Illinois.

Mr. STEVENSON. Mr. President, first of all I commend the Senator from Idaho for bringing this matter to the attention of the Senate. I ask the Senator a question.

One need not be of the Catholic faith or any other religious faith to feel deeply about the worth of human life. The protections afforded by this amendment run only to those whose religious beliefs would be offended by the necessity of performing or participating in the performance of certain medical procedures; others, for moral reasons, not necessarily for any religious belief, can feel equally as strong about human life. They too can revere human life.

As mortals, we cannot with confidence say, when life begins. But whether it is life, or the potentiality of life, our moral convictions as well as our religious beliefs, warrant protection from this in-

trusion by the Government. Would, therefore, the Senator include moral convictions?

Would the Senator consider an amendment on page 2, line 18 which would add to religious beliefs, the words "or moral"?

Mr. CHURCH. I would suggest to the Senator that perhaps his objective could be more clearly stated if the words "or moral conviction" were added after "religious belief." I think that the Supreme Court in considering the protection we give religious beliefs has given comparable treatment to deeply held moral convictions.

I would not be averse to amending the language of the amendment in such a manner. It is consistent with the general purpose. I see no reason why a deeply held moral conviction ought not be given the same treatment as a religious belief.

Mr. STEVENSON. The Senator's suggestion is well taken. I thank him.

Mr. CHURCH. Mr. President, I ask unanimous consent that my amendment may be modified by adding, on line 18, page 2, after the words "religious belief", the three words—"or moral conviction".

The PRESIDING OFFICER. The Senator has a right to so modify his amendment. The amendment will be so modified.

Mr. CHURCH. I thank the Senator from Illinois very much for the suggestion he has made. I think it improves the amendment.

Mr. STEVENSON. Mr. President, the U.S. Supreme Court in its abortion decision has found for women a new right of privacy in the 14th amendment and virtually no rights under that amendment for the unborn. I would have thought that such moral questions as when life begins and may be terminated in the womb would best be left to the elected representatives of the people in their legislatures.

Being mortals, we cannot with confidence say when life begins. I believe the Government in all its branches should move with the greatest reluctance to diminish the value of human life on all questions—whether it be the termination of life, or its potentiality in the womb, or the imposition of capital punishment.

I sense a growing acceptance of human life as but another commodity in a world which knows too much of violence and too little of the human spirit. Human life is in danger of becoming but a fragment of an increasingly anonymous, depersonalized collective existence. The Government ought, it seems to me, in its actions sanctify human life, never cheapen it. And when governmental decisions are taken which defy the competence of mortals and risk a diminution of human life, such as the legalization of abortion, they should be taken by elected bodies representing a public consensus.

The Court has effectively prevented States from prohibiting abortion during the first 6 months of pregnancy. That might be a proper decision for a State legislature, though I personally would be most reluctant to permit abortion on demand after the first quickening in the womb, that is, after the first trimester. The Court has not said that the Federal Government must affirmatively require or encourage abortion or sterilization in federally supported medical facilities. To go that far would give individuals an intolerable choice of either rejecting Federal assistance necessary to the welfare of the sick—or of aiding in the performance of acts they deem immoral. The Constitution poses no such dilemma for American citizens. It does not dictate our moral beliefs. And I do not believe Congress ever intended to do so. Yet, a Federal court has already required a hospital to allow its facilities to be used for the performance of sterilization. It based its decision upon the fact that the hospital received Hill-Burton funds from the Federal Government.

One need not be of one religious faith or another to be offended by such a governmental intrusion into the religious beliefs of citizens. This could be but the first blow in a more general assault upon the religious and moral beliefs of individuals whose only offense is a reverence for human life and a professional commitment to serve it. A further concern is the possibility that medical facilities may be forced to reject Federal support or to close obstetrical operations. It is difficult for me to see the gains in such a policy no matter how one looks at it. Doctors would not be denied the chance to perform these medical procedures by the Church amendment. They can be performed often in doctors' offices and often in other facilities. No individuals will be denied an abortion or sterilization consistent with their own religious or moral convictions, if at the same time the moral and religious convictions of others are respected by the amendment. Some medical facilities will be closed to the performance of such medical procedures, but the religious and moral beliefs of those who serve in such facilities will be protected from intrusion by the Government.

I must side with the protection of deepfelt religious and moral convictions, even if it causes some inconvenience to doctors and patients. I therefore commend the Senator from Idaho for offering his amendment and accepting the modification I proposed. That modification merely extends the protection of the amendment to those who for moral, as opposed to religious, reasons cannot in good conscience participate in medical procedures which terminate life, or its potentiality. The amendment, as modified, makes it clear that no law of the Congress requires a doctor, or hospital, or other health care personnel, to perform or allow to be performed in its facilities, an abortion or sterilization procedure.

Mr. GRIFFIN. Mr. President, I wish to indicate that I support this amendment. However, it will be necessary to have a rollcall vote on it. I suggest the absence of a quorum.

Mr. CHURCH. Mr. President, will the Senator withhold his request for a quorum call

Mr. GRIFFIN. I withhold my request.

Mr. CHURCH. Mr. President, I ask unanimous consent that the distinguished senior Senator from Delaware (Mr. ROTH) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I renew my request.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on the pending Church amendment.

The yeas and nays were ordered.

QUORUM CALL

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished manager of the bill (Mr. KENNEDY), the distinguished assistant Republican leader (Mr. GRIFFIN), the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Idaho (Mr. CHURCH), and the distinguished Senator from Florida (Mr. GURNEY) to propose the following unanimous-consent request:

I ask unanimous consent that time on the bill presently before the Senate be limited to 1 hour, to be equally divided between the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from New York (Mr. JAVITS); that time on the pending amendment by the distinguished Senator from Idaho (Mr. CHURCH) be limited to 1 hour, to be equally divided between the distinguished author of the amendment (Mr. CHURCH) and the distinguished Senator from New York (Mr. JAVITS); that time on the amendment by the distinguished Senator from Florida (Mr. GURNEY) be limited to 1 hour, to be equally divided between the distinguished author of the amendment (Mr. GURNEY) and the distinguished manager of the bill (Mr. KENNEDY); that time on any other amendment, debatable motion, or appeal be limited to 30 minutes, to be equally divided and controlled in the usual form; that Senators in control of the time on the bill may yield therefrom to any Senator on any amendment, debatable motion or appeal; that no amendments not germane be in order with the exception of the aforementioned amendments in the event they may not be considered germane; and that the time begin running on the bill or the Church amendment at 2 p.m. today.

Mr. JAVITS. Mr. President, will the Senator from West Virginia yield?

Mr. LONG. Mr. President, I object. I object.

The PRESIDING OFFICER (Mr. NUNN). Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, was it not the understanding of the Chair on the agreement which I proposed just a moment ago, if accepted, that the time thereon would begin running only at 2 p.m. today?

The PRESIDING OFFICER. That was the statement made, yes.

Mr. ROBERT C. BYRD. I thank the Chair and I renew my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia?

Mr. JAVITS. May I ask the Senator if he would now propose that we recess until 2 o'clock?

Mr. ROBERT C. BYRD. I think there will be some legislative history to be made first, after which the distinguished manager of the bill, at his discretion, will recess the Senate until 2 p.m. today.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, I should like to ask the distinguished Senator from Idaho (Mr. CHURCH) if he would respond to one or two questions that I have. What was intended by the words on page 2, line 19 "* * * of such physician or other health care personnel * * * "?

The thought occurs to me that it would seem reasonable to say that where one seeks a sterilization procedure or an abortion, it could not be performed because there might be a nurse or an attendant somewhere in the hospital who objected to it. If it was not a matter of concern to that individual, it seems to me that that is getting to be a little farfetched, that is, that someone who had nothing to do with the matter and was not involved in it one way or the other, just someone who happened to be working in a hospital, and was not involved in an abortion or a sterilization procedure, could veto the rights of a physician and the rights of patients to have a procedure which the Supreme Court has upheld.

Mr. CHURCH. Let me make clear, Mr. President, that such is not my intention. I understand the basis for the expression of concern on the part of the Senator from Louisiana, but the words on line 19, "* * * of such physician or other health care personnel, * * *" relate back to the same words used on lines 12 and 13 and must be read in context with those words.

Mr. LONG. If I understand what the Senator is saying, he is saying that a nurse or an attendant who has religious feelings contrary to sterilization or abortion should not be required and would not be required by any Federal activity to participate in any such procedure to which they hold strong moral or religious convictions to the contrary.

Mr. CHURCH. That is correct.

Mr. LONG. So that this would not, in effect, say that one who sought such an operation would be denied it because someone working in the hospital objected who had no responsibility, directly or indirectly, with regard to the performance of that procedure. It would only be that one who was involved in performing the operation or in assisting to perform the operation could not be required to participate when he or she held convictions against that type of procedure.

Mr. CHURCH. The Senator is correct. The amendment is meant to give protection to the physicians, to the nurses, to the hospitals themselves, if they are religious affiliated institutions. So the fact Federal funds may have been extended will not be used as an excuse for requiring physicians, nurses, or institutions to perform abortions or sterilizations that are contrary to their religious precepts. That is the objective of the amendment. There is no intention here to permit a frivolous objection from someone unconnected with the procedure to be the basis for a refusal to perform what would otherwise be a legal operation.

Mr. LONG. I thank the Senator for that explanation.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescended.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. KENNEDY. Mr. President, I move that the Senate stand in recess until 2 p.m. today.

The motion was agreed to; and (at 1:12 p.m.) the Senate took a recess until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DOMENICI).

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

The message is as follows:

To the Senate of the United States:

I am returning today without my approval S. 7, the "Rehabilitation Act of 1972."

This bill is one of several now before the Congress which mask bad legislation beneath alluring labels.

Their supporters would have the American public believe that each of these bills would further an important social cause, but they neglect to warn the public that the cumulative effect of a Congressional spending spree would be a massive assault upon the pocketbooks of millions of men and women in this country. They also fail to warn us that simply throwing money at problems does not solve anything; it only creates poor legislation which frequently misses the target.

As President, it is my duty to sound the warning—and to defend the public interest by vetoing fiscally irresponsible, badly constructed bills that come to my desk from Capitol Hill. S. 7 is such a bill.

Over the past nineteen months, we have made significant headway toward a goal that has eluded America for nearly two decades: full prosperity without war.

But all of our economic progress—and all of our hopes—will be washed away if we open the floodgates on the Federal budget.

S. 7, if enacted, would result in an increase in Federal outlays of some $1 billion above my budget recommendations for fiscal years 1973–1975.

To some Members of the Congress, a $1 billion increase in Federal spending may seem only a small crack in the dam. But there are more than a dozen other bills already before the Congress which also carry extravagant price tags. And more seem likely to follow during the remainder of the year.

If we allow the big spenders to sweep aside budgetary restraints, we can expect an increase of more than $50 billion in Federal spending before the end of fiscal year 1975. This would force upon us the unacceptable choice of either raising taxes substantially—perhaps as much as 15% in personal income taxes—or inviting a hefty boost in consumer prices and interest rates.

The American people have repeatedly shown that they want to hold a firm line on both prices and taxes. I stand solidly with them. At a time when the world is watching to see if we can demonstrate our willingness to hold down inflation at home while we seek monetary stability abroad, this resolve is more important than ever. I shall therefore veto those big-spending bills which would jeopardize our economic hopes for the future.

I would emphasize that even if S. 7 were not fatally flawed by its large expense, I would have serious reservations about signing it, for it also contains a number of substantive defects. Among them:

—It would divert the Vocational Rehabilitation program from its original purposes by requiring that it provide new medical services. For instance, it would set up a new program for end-stage kidney disease—a worthy concern in itself, but one that can be approached more effectively within the Medicare program, as existing legislation already provides.

Vocational Rehabilitation has worked well for over half a century by focusing on a single objective: training people for meaningful jobs. We should not dilute the resources of that program or distort its objective by turning it toward welfare or medical goals.

—Secondly, S. 7 would create a hodgepodge of seven new categorical grant programs, many of which would overlap and duplicate existing services. Coordination of services would become considerably more difficult and would place the Federal Government back on the path to wasteful, overlapping program disasters.

—By rigidly cementing into law the organizational structures of the Rehabilitation Services Administration and by confusing the lines of management responsibility, S. 7 would also prevent the Secretary of Health, Education, and Welfare from carrying forward his efforts to manage vocational rehabilitation services more effectively.

—Finally, by promising increased Federal spending for this program in such a large amount, S. 7 would cruelly raise the hopes of the handicapped in a way that we could never responsibly hope to fulfill.

Through past increases in funding and by our efforts to find more effective means of providing services, this Administration has demonstrated its strong commitment to vocational rehabilitation. Funding for the Vocational Rehabilitation program will reach $650 million under my budget for the coming fiscal year, an increase of 75 percent over the level of support when I took office. Two other sources of funding for rehabilitation of the handicapped, the Disability Insurance Trust Fund and the new Supplemental Security Income program, will provide another $100 million. Altogether during the coming fiscal year, the Vocational Rehabilitation program should provide services for about 1.2 million people—an increase of more than 50 percent over the figure of four years ago.

This is a good record and one that provides promise for the future. I shall thus look forward to working with the Congress in developing a more responsible bill that would extend and strengthen the Vocational Rehabilitation program.

This Administration has submitted recommendations to both the 92nd and 93rd Congresses which would accomplish these purposes. The 92nd Congress passed a bill which contained some of my recommendations but was so inordinately expensive that I felt compelled to veto it. In returning S. 7 without my approval, I ask the 93rd Congress now to turn its attention to the substitute recently offered by Representative Earl Landgrebe.

My decision to disapprove S. 7 should be seen by the Congress as more than just an isolated rejection of a single piece of unwise legislation. It is part of my overall commitment to hold down taxes and prices. I remind the Congress of that determination, I ask the Congress to consider carefully the implications of spendthrift actions, and I urge the Congress to be more reasonable and responsible in the legislation it passes in the future.

RICHARD NIXON.

THE WHITE HOUSE, *March 27, 1973.*

PRESIDENT'S VETO MESSAGE ON REHABILITATION ACT OF 1972 (S. DOC. NO. 93-10)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President's veto message with respect to S. 7, the Rehabilitation Act of 1972, be printed as a Senate Document.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

ORDER TO HOLD MESSAGE AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President's veto message be temporarily held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC HEALTH SERVICE ACT EXTENSION OF 1973

The Senate continued with the consideration of the bill (S. 1136) to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the amendment by the Senator from Idaho (Mr. CHURCH) to S. 1136. Under the unanimous consent agreement, the 1 hour allotted for debate on the amendment will be divided between the Senator from New York (Mr. JAVITS) and the Senator from Idaho (Mr. CHURCH).

Who yields time?

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Are amendments to the Church amendment which are germane to the amendment in order?

The PRESIDING OFFICER. They are in order when the time has expired on the amendment.

Mr. JAVITS. I thank the Chair.

Now, Mr. President, in view of the fact that Senators may not know that the Senate is now in session, I hope, with the concurrence of the other side, that I may ask unanimous consent for a brief quorum call with the time to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I hope the attachés of the Senate will notify the Senator from Idaho (Mr. CHURCH) that his amendment is now under consideration.

The reason why I have urged the Senate to take a little time to consider this amendment is that it is a matter of very great social and political importance in the country, both within the States and within the Nation, as to what we shall do about abortion.

It will be noted that the Church amendment, as proposed to public health programs does two big things. First, it declares it a policy of the Federal Government, in the administration of all Federal programs—I emphasize that—that religious beliefs which proscribe the performance of an abortion shall be respected. Then it proceeds to implement that provision with simply the negative of the proposition: That is, where they are prohibited by religious beliefs rather than where religious beliefs may encourage their utilization.

Further, the amendment inhibits the exercise of this right granted, according to the Supreme Court, by the Constitution of the United States to an individual woman, where the institution—which is the thing that is troubling me here the institutional view—or the individual physician, or other health personnel has a religious objection to performing or assisting or making facilities available in respect to any abortion or sterilization procedure.

If this were confined to the moral and religious convictions of the individual—that is, the physician or the individual health personnel. I do not see how anybody can object. But I am very deeply disturbed about the fact that we may be adopting a completely unconstitutional amendment in this bill with respect to abortion, when one reads the case of Roe against Wade. This is the landmark case, which settled this issue, the opinion being delivered by the Supreme Court on January 22, 1973, Opinion No. 70–18 of the U.S. Supreme Court. There were both concurring and dissenting opinions in that matter, but the majority was very deeply convinced and apparently prevailed, and that is the law of the land.

So question No. 1, which is very important, is whether or not there is equal protection of the laws with respect to an institution, again leaving aside the individual but that I can understand, and there I think the Constitution operates affirmatively; that is, the individual has a right to follow his religious views when it guides his individual action.

The second half of it, however, is where it is an institution; and the question is whether that institution can have a religious view because of the religious view, as this proposed amendment says, of the person or group sponsoring or administering such hospital or other institution.

Can an institution or a group have a religious scruple without violating the establishment clause of the Constitution?

The other thing that troubles me about the all-inclusive character of this amend-

ment is that this relates to giving Federal help to such an institution. Question: Is it equal protection of the laws to give help to such an institution which proscribes or prohibits abortion or sterilization procedures, which is now a perfectly lawful hospital function, while such aid is given to other institutions which furnish such service? Question: Is that giving a particular benefit which is discriminatory and not equal protection of the laws?

The question which the Supreme Court faced did not arise in this way, because in the case of Roe against Wade, the issue was whether State laws which prohibited abortion except for medical reasons, in emergency cases, were constitutional. That, of course, involved the 14th amendment, and there the court held that they were not constitutional; and this opinion is very illuminating in addressing ourselves to this subject.

I refer to page 37 of the opinion, which gives the rationale. I read from that page as follows:

> The court has recognized that a right of personal privacy or a guarantee of certain areas or zones of privacy does exist under the Constitution.

Then it goes on to say, on the next page:

> The court's decisions recognizing the right of privacy also acknowledge that some state regulation in areas protected by that right is appropriate.

So that is not an unqualified right.

Then the court lays it off with two juridical concepts, at the bottom of page 37 of the opinion, by the following:

> This right of privacy—whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon State action, as we feel it is, or, as the District Court determined, in the Ninth Amendment's reservation of rights to the public, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy.

The Court held in the affirmative, that it was; and the Court—that is, the Supreme Court—based its decision upon the 14th amendment, the very same amendment which not only assures personal liberty but also assures equal protection of the laws.

This is the question we face, Mr. President: Suppose we have an area in which practically no services of this kind are available yet we have the amendment which Senator CHURCH has proposed. Quite apart from the equal protection of the laws as to individual hospitals and other institutions—whether that is discriminatory—but going only to the question of the woman's right, and that is the right of privacy the court was seeking to protect, if she cannot get that service practically, is she not being denied a right under the 14th amendment, especially where it is attributable to the Federal Government's action in giving support to that particular institution, notwithstanding the fact that it denies her the right of privacy which the Supreme Court has sustained?

Mr. President, the reasons why I raise these questions, which are profound questions, are these: If we should enact law which contains this amendment pretty much as we have it here, raising these issues will advise the Supreme Court of the United States that the question of constitutionality was raised; that the points which seemed at least one lawyer to be inherent in adopting this amendment were brought up; and that the Senate thereupon—because we will have a record vote—made its decision in the light of the questions raised regarding constitutionality. That is point one.

The other point which I think is very important is that the Supreme Court will hear—I am sure that other lawyers in the Chamber will wish to join issue—other views concerning constitutionality as it affects our vote; and therefore the Court will be enlightened and informed by actions which are, as we lawyers say, part of the res gestae—that is, happened at the time of the heat of the struggle—and be aided in making its decision. It must be realized, Mr. President, by those who vote, whichever way they vote, that this is a justiciable question and undoubtedly will be submitted for consideration by the courts. So much for the constitutional issue.

I would like to move now to the practicalities of the amendment itself, and if I may have Senator CHURCH's attention, I would appreciate it greatly. It has been suggested to me that two amendments are necessary if we would go this route.

One would be a provision that such a hospital or health care institution as is benefited by this amendment may, notwithstanding the fact that State laws may not proscribe such treatment, proscribe it itself because of the religious views of those who sponsor or administer it. Should we not provide that no such institution, however, may discriminate against a doctor or against health personnel who do not entertain those religious or philosophical beliefs, rather than to allow that view on the part of the institution itself to affect the individual liberty of the individuals who may not agree?

Question: Should there be a proper nondiscrimination clause in this amendment?

Second, should not the fact that the hospital or other institution entertains this policy be very open and public; so that, for example, a woman is not going to dash into such a hospital without notice that the hospital will not do what she may want done, and therefore she would be able to help herself by seeking assistance elsewhere?

So I would like to address those points to the Senator from Idaho. I have drafted amendments on that score, which may be desirable, assuming that the Senate may well adopt this amendment, to make these two provisions respecting its form.

Finally, I would be less than fair to my friend and colleague, for whom I have great respect, if I did not say that to me, without in any way anticipating how I shall vote on the matter, it would cause me much less pain on constitutional grounds if the institutional reference were eliminated. I could see it respecting philosophy or the religion of any other person engaged in giving care, and I would not want to punish a hospital or other institution because it employed or had on its staff such personnel. But I am deeply concerned on constitutional grounds when we make it institutional and provide that hospitals or other institutions may prescribe this form of treatment, with respect to the religious views or philosophical views—because we have added the words "or moral conviction," which broadened it considerably—"of the person or group sponsoring or administering such hospital or other institution."

It is not easy. I know people have shied away from this debate in all States of the Union, but nonetheless, the fact is that we have passed an effective law in the State of New York, and the Supreme Court, in what I consider to be one of its most historic and constructive adjudications, has laid down the rules regarding this matter in its own decision. I felt it necessary to speak rather than just let this amendment go by, which would have been easy to do because there seems to be a feeling that when you get into hot subjects like this that it is better to let them go by and not discuss them. I do not feel that way. The Supreme Court has spoken, and the Supreme Court has made a fair disposition of the case, with the greatest respect for the religious views of a large body of Americans. I would hope that settled the question. I believe it does. I certainly go with the Supreme Court's decision.

But here is yet another aspect of it which has been raised by the amendment of the Senator from Idaho (Mr. CHURCH) which is not covered directly on point by the decision. I felt it my duty as a Senator and as a lawyer, coming from a State that has legalized abortion, to raise these constitutional issues for the information of my colleagues and the ultimate utilization by the court of last resort.

I reserve the remainder of my time.

Mr. CHURCH. Mr. President, I yield myself such time on the amendment as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CHURCH. Mr. President, I have listened to the distinguished Senator from New York with the interest and consideration that any remarks he makes on this floor deserve. He is a constitutional lawyer and he has addressed himself to the constitutional aspects of this question.

I also have examined the decisions of the Supreme Court, the Rowe against Wade decision, and another decision, that of Doe against Bolton. I think we should be clear as to what the Court decided in the case of Rowe against Wade. It decided that State governments may not outlaw abortion during the first 3 months of pregnancy. It did not decide that religious affiliated hospitals had an affirmative duty to perform abortions, if contrary to the religious precepts of those institutions. It did not decide that the right of privacy to which the Senator from New York referred is a right re-

served only to the individual. On the contrary, the Court said in Rowe against Wade, making reference to the second case that I will speak to in a moment——

Mr. JAVITS. Where is the Senator reading?

Mr. CHURCH. I am reading from the decision of Rowe against Wade, page 49 of the court decision. The court said:

> In Doe v. Bolton procedural requirements contained in one of the modern abortion statutes are considered. That opinion and this one, of course, are to be read together.

Let us turn from the Rowe against Wade decision, where the court decided that no State law which prohibits abortion in the first 3 months of a woman's pregnancy is valid under the 14th amendment to the Constitution, to the case of Doe against Bolton. Doe against Bolton had to do with a Georgia statute relating to State control over abortion. That case addressed itself to the issue of whether hospitals themselves had rights apart from rights that may be enjoyed by individuals or rights of religious belief.

At page 16 of the decision the court said:

> . . . it is to be remembered that the hospital is an entity and that it, too, has legal rights and legal obligations.

But the court went on, citing section 26–1202(e) of the Georgia statutes:

> Under § 26–1202(e) the hospital is free not to admit a patient for an abortion. It is even free not to have an abortion committee. Further, a physician or any other employee has the right to refrain, for moral or religious reasons, from participating in the abortion procedure. These provisions obviously are in the statute in order to afford appropriate protection to the individual and to the denominational hospital. Section 26–1202(e) affords adequate protection to the hospital and little more is provided by the committee prescribed by § 26–1202(b)(5).

Although this is dicta, it is clear the Supreme Court itself suggested in these two decisions that it is laying no affirmative duty upon denominational hospitals to perform abortions and that hospitals, as well as individuals, have legal rights which the Court itself respects.

I think that raising the constitutional question here is not supported by the two relevant Supreme Court decisions. We are faced with an entirely different question which is not constitutional in character.

No, Mr. President, this amendment is addressed to an entirely different issue. It is addressed to the intent of Congress. As matters now stand, the Federal law simply does not make it clear what requirement Congress intends to impose upon religiously affiliated hospitals if they receive Federal money. The state of the law needs to be clarified.

I do not bring this amendment to the floor today for any whimsical reason. I am not conjuring up apparitions. Already we have had court decisions that raise this question and make it apparent that Congress must act promptly to resolve the question before this becomes an issue for disruption, dissent and hysteria in the land.

I cited a case previously in Montana where a court held that because a hospital had received Hill-Burton funds, the Federal court had jurisdiction to issue an injunction requiring the hospital to make its facilities available for a sterilization operation, which was contrary to the religious precepts of the church-supported hospital.

I have already cited the reaction to that decision. The Bishop in Spokane said he is prepared to practice civil disobedience before he permits Catholic hospitals to perform operations contrary to their religious beliefs.

I have already cited the real and present danger that many of these religious hospitals, if coerced into performing operations for abortions or sterilizations contrary to their religious precepts, will simply eliminate their obstetrics department.

Do we want this to happen? I do not think that the Congress intends that Federal money should be used as a lever to force religious hospitals or Catholic doctors to perform operations that are contrary to their moral convictions or religious beliefs. It was the last thing Congress had in mind when Hill-Burton funds were made available—that there was some hidden condition that would later attach to the acceptance of these funds that would force Catholic hospitals to perform abortions or sterilizations.

Can anyone say it would be fair that because a hospital had received Federal money 15 years ago—when no one had any thought that the abortion issue would become the issue it is today—to build a wing, to add a new surgical operating room or, to obtain certain modern equipment, that the Federal Government could come along 15 years later and say, "Owing to the fact that you accepted Federal funds for these purposes, you are now required to perform abortions?" Do you think it is fair to the hospital or to the people affiliated with it to impose such after-the-fact requirements upon them? Of course Congress did not intend it so, but not until today has it been necessary for Congress to explicitly state that it imposes no such requirement when it extends Federal moneys to assist these hospitals in the performance of their functions?

Mr. President, it is widely recognized that such a clear statement of congressional intent has become necessary. The Catholic Conference of Bishops has expressed its support for this amendment. They recognize the necessity to clarify the law. But this is not simply a Catholic question. There are many other religions that have strong feelings concerning abortions and sterilizations that are equally affected. In my own State, for example, there are hospitals affiliated with the Mormon Church, the Church of Jesus Christ of Latter-Day Saints. The position of that church on the question of abortion is similar to the position of the Catholic church. And throughout the land we have other church-affiliated hospitals that are equally concerned.

I think, for the benefit of giving us some perspective on this question, it would be appropriate to mention here that 19 percent of the Nation's hospitals are affiliated with one or another church. Of this 19 percent, 29 percent of the church-affiliated hospitals are protestant, 64 percent are Catholic, 2 percent are Jewish, and 5 percent are of other religious denominations.

So this amendment addresses itself to a distinct minority of our hospitals. One thousand one hundred and eighty-six is the total figure. Most of our hospitals are not church owned, and this amendment would not in any way affect sterilizations or abortions in publicly owned hospitals.

This amendment does not lay down any requirement on any hospital as to what it may or may not do. This amendment is directed at what the Federal Government may or may not do. It clears up an ambiguity in the present law by making it explicitly clear that it is not the intention of Congress to mandate religious hospitals to perform operations that are contrary to deeply held religious beliefs.

Now, we have to make a choice, and it would be difficult for me to believe that the Congress of the United States could make any other choice but to uphold freedom of religion, which is one of the most basic and sacred of those liberties for which this land stands.

Even if we were to make a different choice, even if we were here to decide, or at some later date to decide, that we would make it a condition for the acceptance of Federal funds to lay upon the religious hospitals an affirmative duty, that they perform abortions and sterilizations or other procedures that were contrary to their religious precepts, then surely we would want to do it in such a way that it would have a prospective effect. Surely we would not want to do it in such a form that hospitals would be required to perform such services because they had accepted Federal funds 10 and 15 years ago. That is preposterous.

No matter how you look at this question, the time has come for Congress to make clear what it intends.

The time is upon us because we have a bill pending that would extend Hill-Burton and other federally financed medical programs. So, we cannot dodge the issue. We have to face up to it now and set down a uniform standard for the courts and for those Federal administrators charged with the responsibility of carrying forward these Federal programs.

Mr. President, I have modified my amendment in one regard, at the request of the distinguished Senator from Illinois (Mr. STEVENSON), to include in addition to the religious beliefs, moral convictions, because the Supreme Court has given moral convictions a status comparable to religious beliefs in this field.

I see no reason why the amendment ought not also to cover doctors and nurses who have strong moral convictions against these particular operations. That is the only modification to the amendment. And I think it has improved the amendment.

I would hope that as we approach a vote the Senate would make it clear by an overwhelming vote that we do not intend that Federal money should be conditioned upon the violation of deeply held religious beliefs or moral convictions.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. CHURCH. I yield.

Mr. NELSON. Mr. President, does the amendment go on line 19?

Mr. CHURCH. The Senator is correct. The moral convictions go after "religious beliefs."

Mr. NELSON. Mr. President, due to my own dereliction, I did not get around to reading the amendment until just now. I did not realize that it was to be called up. However, I wish the Senator from Idaho would clarify something for me.

Is the Senator saying in section 7 only that a doctor or health personnel of some kind may as individuals refuse on their own to participate in any surgery involving sterilization or abortion? Is that what the Senator is saying?

Mr. CHURCH. That is one of the things I am saying.

Mr. NELSON. That is all right. I do not quarrel with that. However, I am wondering whether there is any way to compel them anyway. Has anyone suggested compelling a doctor to perform an abortion if it is against his religious belief or moral conviction?

Mr. CHURCH. I would say to the Senator that we are already faced with a situation in which a hospital that is church affiliated, a Catholic hospital in Montana, has been enjoined to permit the performance of a sterilization operation contrary to the Catholic belief. In that case the Federal Court based its jurisdiction upon the grounds that that hospital had heretofore accepted Federal money for construction under the Hill-Burton Act.

Obviously this could be the beginning of a whole plethora of court decisions based upon Federal funding and placing upon those who receive Federal funds a requirement that as a condition for eligibility they must perform certain operations that may be contrary to their moral conviction or religious belief.

I think that Congress should make it clear that we do not intend that Federal money be conditioned in this way.

Mr. NELSON. Mr. President, did the Senator place in the RECORD the rationale of the Federal judgment, that the judge based his injunctive relief upon the proposition that the Supreme Court decision therefore made it obligatory upon the hospital to perform this surgical procedure?

Mr. CHURCH. In this particular case, the judge based his jurisdiction on the fact that the hospital had previously received Hill-Burton funds, not in any way upon the recent decision of the Supreme Court relating to abortion procedures. This amendment makes it clear that Congress does not intend to compel the courts to construe the law as coercing religious affiliated hospitals, doctors, or nurses to perform surgical procedures against which they may have religious or moral objection.

Mr. NELSON. Is it the intent of section 7 that the refusal to permit the performance of the surgery involving sterilization or abortion in the hospital must be based upon a moral conviction or religious belief?

Mr. CHURCH. The Senator is correct.

Mr. NELSON. Mr. President, does that mean then that if a hospital board, or whatever the ruling agency for the hospital was, a governing agency or otherwise, just capriciously—and not upon the religious or moral questions at all—simply said, "We are not going to bother with this kind of procedure in this hospital," would the pending amendment permit that?

Mr. CHURCH. The amendment would not touch this operation based upon religious freedom and the prerogatives of church-affiliated hospitals.

Mr. NELSON. Mr. President, I thank the Senator.

Mr. CHURCH. Mr. President, I see that my time is rapidly expiring. In the time remaining I would like to briefly relate the situation in my own State.

Idaho has 47 generally approved hospitals, two of which are LDS and eight of which are Catholic affiliated.

The LDS affiliated hospitals are located in St. Anthony, Idaho Falls, and Cassia County, Idaho.

The Catholic affiliated hospitals are located in Idaho Falls, Pocatello, Arco, Jerome, Boise, Nampa, Cottonwood, and Lewiston.

These church-affiliated hospitals serve approximately 40 to 50 percent of the population. A majority of the hospitals are publicly owned. There is no great difficulty for those who wish to obtain a sterilization or an abortion operation to go to the publicly owned hospitals where such procedures are available.

The Senator from New York said that we should amend this so as to impose some of public notice. However, it has been commonly understood throughout our life that Catholic hospitals do not perform abortions except under extraordinary circumstances where life may require it. We do not have to put a pubic notice on the front door of a Catholic hospital to tell the people what they already know.

This amendment does not impose any requirements on the hospital. It merely says that the Government does not impose a new requirement conditioning the acceptance of Federal money upon the performing of certain operations that are contrary to religious beliefs, or deeply held moral conviction.

Let it be clear that Congress does not intend to impose such a requirement upon the acceptance of Federal funds.

I would like to make it clear in connection with my own State that Mr. John Hutchison, of the Idaho Hospital Association, has told me that no area of Idaho would be without a hospital within a reasonable commuting distance which would perform abortion or sterilization procedures. Moreover, in an emergency situation—life or death type—no hospital, religious or not, would deny such services.

There is no problem here. The people understand the situation.

The PRESIDING OFFICER. All time of the Senator from Idaho has expired.

Mr. CHURCH. So for this reason, I hope that the Senate will see fit to adopt the amendment.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from New York (Mr. JAVITS) has 10 minutes.

Mr. KENNEDY. I yield the junior Senator from New York (Mr. BUCKLEY) 3 minutes on the bill.

Mr. BUCKLEY. Mr. President, I compliment the Senator from Idaho for proposing this most important and timely amendment. It is timely in the first instance because the attempt has already been made to compel the performance of abortion and sterilization operations on the part of those who are fundamentally opposed to such procedures. And it is timely also because the recent Supreme Court decisions will likely unleash a series of court actions across the United States to try to impose the personal preferences of the majority of the Supreme Court on the totality of the Nation.

I believe it is ironic that we should have this debate at all. Who would have predicted a year or two ago that we would have to guard against even the possibility that someone might be free to participate in an abortion or sterilization against his will? Such an idea is repugnant to our political tradition. This is a Nation which has always been concerned with the right of conscience. It is the right of conscience which is protected in our draft laws. It is the right of conscience which the Supreme Court has quite properly expanded not only to embrace those young men who, because of the tenets of a particular faith, believe they cannot kill another man, but also those who because of their own deepest moral convictions are so persuaded.

I am delighted that the Senator from Idaho has amended his language to include the words "moral conviction," because, of course, we know that this is not a matter of concern to any one religious body to the exclusion of all others, or even to men who believe in a God to the exclusion of all others. It has been a traditional concept in our society from the earliest times that the right of conscience, like the paramount right to life from which it is derived, is sacred.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. KENNEDY. I yield the Senator 3 more minutes on the bill.

Mr. BUCKLEY. In this amendment, we seek to protect the right not only of institutions, but of individual doctors and individual nurses throughout this country, to live by their own consciences. Through the adoption of this amendment, we will try to insure that individuals and institutions will not be penalized because of the recent Supreme Court decisions.

I urge my colleagues to adopt the amendment overwhelmingly.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes on the bill.

During the course of the consideration of this legislation, we have heard the

senior Senator from New York enumerate some very interesting and challenging constitutional questions which are raised by this amendment. Let me say, as chairman of the Health Subcommittee, that we did not have an opportunity to examine the amendment in our committee in the hearings or in the markup. During the course of the hearings, we heard only from the Secretary of HEW, and solely on the question of the extension of the existing Federal health legislation that expires in June. Thus we did not have the opportunity to consider this amendment on its merits or in light of the various constitutional question it raises. It is understandable why the Senator from Idaho would raise this issue here. I think it is equally understandable why the senior Senator from New York and others are concerned about the constitutional implications of the question, particularly since we have not had a chance to give it the attention we might have liked.

Mr. President, there are really two potentially conflicting provisions of the first amendment relating to the constitutional issue here. There is the establishment clause of the first amendment, and there is the free exercise clause of the first amendment. I would agree with the interpretation presented by the senior Senator from New York (Mr. JAVITS), namely, that Congress has the authority under the Constitution to exempt individuals from any requirement that they perform medical procedures that are objectionable to their religious convictions. Indeed, in many cases, the Constitution itself is sufficient to grant an exemption to protect persons from official acts that infringe on their free exercise of religion. I think of the Selective Service cases in the Supreme Court, granting exemptions from the draft in circumstances broader than those granted by Congress. I think of *Sherbert* v. *Verner*, 374 U.S.C. 398 (1963), the landmark decision by the Warren court, protecting Seventh-day Adventists from State requirements that they be willing to work on Saturdays as a condition of qualification for unemployment compensation. I think of *Wisconsin* v. *Yoder*, 406 U.S.C. 205 (1972), the most recent authoritative ruling of the Supreme Court, in which the Court, in a unanimous decision on this issue by Chief Justice Burger, held that Amish children were not required to attend the public schools of Wisconsin. In both of these decisions, the Court, emphasizing its strong concern to protect the free exercise of religion of the individuals involved, held that the exemptions were not an unconstitutional establishment of religion.

The more difficult question is whether Congress can exempt the institution itself. The first amendment to the Constitution, which includes both the establishment clause and the free exercise clause, also includes clauses protecting freedom of speech and freedom of the press.

We know that in the recent Pentagon papers case, for example, the freedom-of-speech protection was applied not only to the individuals as members of the press, but also to institutions of the press, such as the New York Times and the Washington Post. Thus, there are strong precedents in the first amendment area for organizations and institutions to avail themselves of its protections in their own right.

In addition, however, whatever the ability of a hospital or other institution to invoke the free exercise of religion clause in its own right to sustain the exemption in the pending amendment. There is strong authority for the view that Congress has broad leeway to define what is necessary and proper for the protection of first amendment rights of individuals. Since the days of John Marshall and the decision in McCulloch against Maryland in the early 19th century, the Supreme Court has given Congress wide power in exercising its best judgment to protect individual rights and liberties. I believe that the Court will sustain the judgment of Congress that, in order to give full protection to the religious freedom of physicians and others, it is necessary to extend the exemption in the pending amendment to the facilities where they practice their profession and livelihood.

I think the case that has been made by the Senator from Idaho (Mr. CHURCH) in justification of this provision fully warrants favorable consideration by this body. Therefore, I intend to support the amendment.

I would indicate to the Senator from Idaho that while we will have to take this matter to conference, the discussion of constitutional issues and questions which have been raised this afternoon will continue. I would certainly hope that he will counsel with us and assist us as we prepare for the conference, so that we will be able to resolve these questions in as satisfactory manner and achieve the goal of his amendment.

I hope that Senators will support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 4 minutes.

The Senator from Masachusetts (Mr. KENNEDY) has expressed very well for himself and myself the purport of the amendment. However, I think we ought also to define our terms.

One or two of the points made by the Senator from Idaho (Mr. CHURCH) do need to be made clear for the RECORD. He spoke constantly of our mandating hospitals to engage in these operations. Obviously, we are not mandating hospitals to do anything. We are only deciding who shall get Federal help and who shall not, and they shall all offer the same range of services. Or shall one group of hospitals be excluded from that particular service which is in the range of the others' services.

But, as he said, we cannot undercut a decision on a constitutional matter, in fairness to the Court and ourselves, except to raise it, which I have done, and I think it is our duty to do it. The Court will decide that point, but will know, at least, that we have recognized the issue.

Furthermore, publicly owned hospitals are not independently owned hospitals; indeed, they are the minority of hospitals. In most cases, hospitals are privately owned. There are 4,838 nongovernmental hospitals and 2,159 governmental hospitals, which includes Federal, State, and local Government hospitals. I hope that we will be able to deal with that in conference. That gave me trouble, the words—

or of the person or group sponsoring or administering such hospital or other institution.

That is a very loose phrase. I do not know when a person sponsors or administers. Suppose the superintendent of a hospital was Catholic, but the hospital was not a Catholic hospital, and he had concerns, but the hospital did not; does that mean that if the superintendent asserted his beliefs, that would be the end of the matter for the hospital he is administering, but by no means dominating its policy? As happens in all amendments on the floor, we have to take into consideration the looseness of the language which may be employed and do our utmost with it in conference. Once the issue, such as the issue here, has been resolved, it will be by the way in which the Senate acts.

Finally, Mr. President, I should like to point out that there is nothing about this that corrects any errors of the past. What we are doing is having legislation which relates to the future, in the words—

there shall not be imposed, applied, or enforced—

Which obviously, again, I think in conference, if necessary, we could make clear. If this becomes a policy of law, we will not have one policy for the future and apply another one with forfeiture in the past.

There is only one real basic point that I hope the Senator from Idaho might reconsider his position on, and that is on the question of notice. That is important. I do not see why the institution would not be proud to post a notice, giving everyone notice that they cannot seek that kind of help in that particular hospital. Then they could, indeed, do what he said occurs in his own State of Idaho—which is a perfectly proper argument—go elsewhere, because, in my view, the courts may very well come down on the practical end of this, and that is, decide it on exactly that basis, that the Federal Government has a right to finance activities, even with this particular provision in it, as long as the service is obtainable, so that the individual is not cut off from the opportunity to obtain it somewhere within practicable range of the particular place the individual is located.

So, I would hope that when the time expires, the Senator from Idaho might consider, one, the nondiscrimination amendment, that is, against personnel in such an institution who might have other views and, two, the notice amendment which would simply construct a total policy for Congress and then, assuming that is passed, it would be our duty to give the utmost attention we could to the Senator's intent and try to lock it into the bill. That will make it effective and that will give us the best chance to have it stand up constitutionally.

I might say to the distinguished Senator from Idaho——

Mr. CHURCH. Mr. President, if I may interject there, is the Senator prepared to offer two amendments on this?

Mr. JAVITS. Yes. I have both of them and I will send them to the Senator right away.

I should like to say to the Senator that if he desires any more time for his discussion, we can yield it to him on the bill; but I would like to say this, that he has made a splendid argument, as the Senator from Massachusetts (Mr. KENNEDY) said, and I think his argument, his and mine, and that of Senators KENNEDY and BUCKLEY, will be extremely useful both in fashioning the legislation and in any adjudication—and we will undoubtedly have adjudication—by the courts.

The PRESIDING OFFICER (Mr. DOMENICI). The Senator's 4 minutes have expired.

Who yields time?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JAVITS. Mr. President, I send amendments to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The amendments are as follows:

On page 1, line 3, strike the words "religious beliefs which proscribe" and insert in lieu thereof "religious beliefs or moral convictions regarding".

On page 2, add after line 21 the following new sections:

"SEC. 8. In respect of a hospital or other health care institution referred to in Section 7 such hospital or other health care institution shall not discriminate in the employment, promotion, extension of staff or other privileges or termination of employment of any physicians or other health care personnel on the basis of their personal religious or moral convictions regarding abortion or sterilization or their participation in such procedures.

"SEC. 9. Any individual, hospital or other health care institution declining to participate in such procedures on the grounds of such religious or moral convictions shall post notice of such policy in a public place in such institution."

Mr. JAVITS. Mr. President, I ask unanimous consent that the amendments may be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have submitted this amendment not with any thought of doing anything other than what the Senate wishes to do in respect to this matter, but I do believe that it is appropriate to give the measure a proper balance as we pass it. I intend, if my amendments are adopted, to vote with Senator CHURCH.

The first amendment relates to the catechism on page 1, line 3, and substitutes as a declaration of policy the words "religious beliefs and moral conviction" instead of "religious beliefs which proscribe."

Mr. President, I ask that the amendment be revised accordingly—"religious beliefs and moral conviction regarding".

The PRESIDING OFFICER. The Senator has a right to so modify his amendment.

Mr. JAVITS. So that it reads, in lieu of the words "religious beliefs which proscribe" because that only relates to one kind of attitude—in order to give it balance, "religious beliefs and moral convictions regarding."

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. JAVITS. I yield

Mr. CHURCH. I suggest "religious beliefs or moral conviction."

Mr. JAVITS. Fine. It will read "religious beliefs or moral conviction regarding." I modify my amendment to read that way.

On page 2, section 8 would be an addition. Nothing is changed in Senator CHURCH's amendment, except that this addition is included:

In respect of a hospital or other health care institution referred to in section 7—

That is, Senator CHURCH's amendment—

such hospital or other health care institution shall not discriminate in the employment, promotion, extension of staff or other privileges or termination of employment of any physician or other health care personnel on the basis of their personal religious or moral convictions regarding abortion or sterilization or their participation in such procedures.

I wish to make it clear that that particular amendment simply will protect anybody who works for that hospital against being fired or losing his hospital privileges if he does not agree with the policy of the hospital and goes elsewhere and does what he wishes to do, but he cannot do it in that hospital, and Senator CHURCH is right about that. There, the hospital controls.

Mr. CHURCH. In other words, if a physician who was part of a staff of a Catholic hospital, let us say, who was not himself a Catholic and had no compunction about performing sterilization or abortion operations, were to perform them in some other hospital, a public hospital, where there is no feeling against it, then he would not be discriminated against by the Catholic hospital for having performed those operations elsewhere.

Mr. JAVITS. Exactly.

Mr. CHURCH. I am in full accord with that, and I think that helps to improve the amendment.

Mr. JAVITS. Section 9 would add the notice aspect we discussed, and it does not have to be some blatant, ridiculous nailing of x points on the door of the hospital. We do not expect that. It is just so that the people are informed of the policy of that hospital.

Mr. JACKSON. Mr. President, will the Senator yield, so that I might ask a question of the Senator from Idaho to clarify a matter contained in his amendment?

Mr. JAVITS. May I just finish this?

Mr. JACKSON. All right.

Mr. JAVITS. This is section 9:

Any individual, hospital or other health care institution declining to participate in such procedures on the grounds of such religious or moral convictions shall post notice of such policy in a public place in such institution.

I yield to the Senator.

Mr. JACKSON. I should like to ask the distinguished Senator from Idaho a question with respect to clarifying the intent of the amendment on the specific point as to whether or not his amendment in effect preempts State law.

I refer specifically to section 2, which was contained in the original Senate Joint Resolution 64, and which is now being offered in the form of an amendment. Section 2 starts out "Any provision of law."

As I understand the position of the Senator from Idaho, that refers to Federal law, and his amendment does not preempt State law in this particular field.

Mr. CHURCH. The Senator is correct. Nothing in this amendment undertakes to preempt or interfere with State law.

Mr. JACKSON. I thank the distinguished Senator from Idaho for clarifying that point. There was a question in my mind, based on the language in the amendment. I believe the Senator has now made it very clear. He is the author of the amendment, and I do not think there is any doubt about the meaning of the amendment.

Mr. JAVITS. That is a very good point.

Mr. CHURCH. I think the point is well taken.

Mr. President, although I have said to the able Senator from New York that I see no particular need to post notices in Catholic hospitals that abortions are not normally performed there, I have no particular quarrel with a notice provision if the Senator feels that one should be added to this amendment. It is possible that in some cases such a notice provision would help to advise the individuals in the public as to where they should go if they are looking for a sterilization or an abortion operation. Therefore, I have no objection to this amendment in either of its aspects, and I hope the Senate will adopt it.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BUCKLEY. I should like to get some clarification.

The effect of the proposed amendment of the Senator from New York would be to eliminate the words "which proscribe" and substitute the word "regarding." Is that correct?

Mr. JAVITS. That is correct.

Mr. BUCKLEY. I am not sure whether

this is a distinction with a difference or not.

Mr. JAVITS. There is no secret about my purpose. It only seeks to balance out a statement of policy. We are going to respect whatever the religious or moral convictions are on either side of the case, and our purpose is to respect them. That is the reason for the nondiscrimination portion.

Mr. BUCKLEY. Therefore, if a particular institution did in fact proscribe these medical procedures, the Federal Government would be without power to override that policy?

Mr. JAVITS. That is correct.

Mr. BUCKLEY. I thank the Senator.

Mr. JAVITS. Mr. President, I am ready to yield back the remainder of my time.

Mr. CHURCH. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time on the amendment to the amendment?

Mr. KENNEDY. May I withhold the time?

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I withhold my time.

Mr. PASTORE. Mr. President, will the Senator yield? I would like 3 minutes to ask a question.

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, is it on the amendment to the amendment?

Mr. KENNEDY. Yes.

Mr. PASTORE. As a matter of fact, it is on the whole thing. The amendment of the Senator is going to be accepted, so it is part of the package. I hope I am not being limited.

My question is this: What the Senator from Idaho is actually doing in his amendment is to say that Hill-Burton funds shall not be denied to any hospital that does not choose to allow abortions to be committed within that hospital.

Mr. CHURCH. If the refusal is based upon religious beliefs or moral convictions against such procedure.

Mr. PASTORE. Naturally, that is what the case would be.

The amendment of the Senator from New York goes on to say that in the event any doctor who does practice in this hospital does commit an abortion in another hospital that does permit abortions to be committed, he shall not be barred from practicing in the first hospital.

Where do we get that right to tell a hospital what to do or what not to do? Is that hospital not a private organization?

Mr. CHURCH. The Senator is correct but the Senator's amendment—and the Senator from New York can speak for it best—provides that any hospital accepting Federal funds will do so with the understanding.

Mr. PASTORE. In other words, what the Senator is actually saying is that if the first hospital bars that physician who committed an abortion in the other hospital, it shall be denied Hill-Burton funds.

Mr. CHURCH. No.

Mr. JACKSON. There is no penalty.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. KENNEDY. As I understand it, these hospitals are already receiving Federal funds. Therefore the requirement is that they shall not discriminate.

Mr. PASTORE. But if they do, what happens?

Mr. JACKSON. Nothing.

Mr. PASTORE. Then, what are we doing? We have wasted a whole morning doing nothing.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield to anyone who can clear it up.

Mr. JACKSON. I cannot clear it up, but I cannot see in the combination any penalty, unless I do not read it correctly.

Mr. PASTORE. My question is in two parts. First, how does the Congress of the United States impose on the discretion, judgment, and right of doctors of the private hospital, whether Catholic, Jewish, or Protestant; and, two, if it does and can do it, what is the penalty?

Mr. JAVITS. Mr. President, if the Senator will yield, I am the author of the amendment so perhaps I should answer. In the first place, it is not imposing a duty on any hospital except the hospital seeking to qualify for Federal funds. Then it says that notwithstanding that, the hospital may participate in the program. That is the affirmative benefit. But it qualifies the benefit by saying that if they do discriminate against the doctor who is in their hospital because he has done something they do not approve of in the other hospital, we have the authority to deprive them of that benefit.

Mr. PASTORE. What is the benefit?

Mr. JAVITS. The Federal money given for example under Hill-Burton.

Mr. PASTORE. Then there is the penalty. It sounds dictatorial.

Mr. JAVITS. These are Federal benefits under a Federal program which some may get and some may not get, depending on many forms of qualification. One form may be the range of hospital services. The Senator from Idaho provides, and I agree, that the particular hospital does have to give the same range of medical benefits as any other hospital. I say, very well, they still get the money if they do not. But suppose that hospital fires a doctor because they do not approve of what he did in another hospital. I say they do not have the right to fire him, and they may lose the benefits of Federal funds because they are discriminating against a doctor. So you have two conditions.

Mr. PASTORE. So there is a penalty.

Mr. JAVITS. I hope so. I do not know if it will be so adjudicated by the administrator, but it is there.

Mr. PASTORE. Let us assume it is a private hospital, be it Catholic or Jewish, and, as a rule, that any person who is on the staff of that hospital and commits an abortion in another hospital, when the first hospital does not permit an abortion to be committed, and that hospital does not receive one red cent from the Federal Government, then what is the penalty?

Mr. JAVITS. None whatever, and the law does not apply.

Mr. PASTORE. Can that physician be discharged from that hospital under the Senator's amendment?

Mr. JAVITS. Yes.

Mr. PASTORE. For having committed an abortion in another hospital?

Mr. JAVITS. Yes.

Mr. PASTORE. It all comes down to Federal funds.

Mr. JAVITS. Nothing else

Mr. CHURCH. The Senator is correct.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JAVITS. I yield back my time.

Mr. CHURCH. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York to the amendment of the Senator from Idaho (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Idaho as amended. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from California (Mr. TUNNEY), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Louisiana (Mr. JOHNSTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The result was announced—yeas 92, nays 1, as follows:

[No. 64 Leg.]

YEAS—92

Abourezk	Eastland	McIntyre
Aiken	Ervin	Metcalf
Allen	Fannin	Mondale
Baker	Fong	Montoya
Bartlett	Goldwater	Moss
Bayh	Gravel	Nelson
Beall	Griffin	Nunn
Bellmon	Gurney	Packwood
Bennett	Hart	Pastore
Bentsen	Hartke	Pearson
Bible	Haskell	Pell
Biden	Hatfield	Percy
Brock	Hathaway	Proxmire
Buckley	Helms	Randolph
Burdick	Hollings	Ribicoff
Byrd, Harry F., Jr.	Hruska	Roth
	Huddleston	Saxbe
Byrd, Robert C.	Hughes	Schweiker
Cannon	Humphrey	Scott, Pa.
Case	Inouye	Scott, Va.
Chiles	Jackson	Sparkman
Church	Javits	Stafford
Clark	Kennedy	Stevens
Cook	Long	Stevenson
Cotton	Magnuson	Symington
Cranston	Mansfield	Taft
Curtis	Mathias	Talmadge
Dole	McClellan	Thurmond
Domenici	McClure	Tower
Dominick	McGee	Weicker
Eagleton	McGovern	Young

NAYS—1

Fulbright

NOT VOTING—7

Brooke	Muskie	Williams
Hansen	Stennis	
Johnston	Tunney	

So Mr. CHURCH's amendment, as amended, was agreed to.

Mr. GURNEY. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. GURNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, lines 8 and 9, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $31,500,000 for the period ending October 31, 1973".

On page 9, line 12 and 13, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $8,330,000 for the period ending October 31, 1973".

On page 9, lines 16 and 17, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $6,000,000 for the period ending October 31, 1973".

On page 9, lines 20 and 21, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $5,330,000 for the period ending October 31, 1973".

On page 9, lines 24 and 25, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973 and $5,000,000 for the period ending October 31, 1973."

On page 10, lines 3 and 4, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $10,000,000 for the period ending October 31, 1973."

On page 10, line 7, strike "June 30, 1974" and insert in lieu thereof "October 31, 1974."

On page 10, lines 9 and 10, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $6,500,000 for the period ending October 31, 1973."

On page 10, lines 14 and 15, strike out "June 30, 1974" and insert in lieu thereof "October 31, 1973."

On page 10, lines 18 and 19, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $13,000,000 for the period ending October 31, 1973."

On page 10, line 22, strike out "June 30, 1974" and insert "October 31, 1973."

On page 11, lines 1 and 2, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $4,000,000 for the period ending October 31, 1973".

On page 11, lines 5 and 6, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $55,000,000 for the period ending October 31, 1973."

On page 11, lines 9 and 10, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $52,500,000 for the period ending October 31, 1973."

On page 11, lines 13 and 14, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $4,330,000 for the period ending October 31, 1973."

On page 11, lines 17 and 18, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $750,000 for the period ending October 31, 1973".

On page 11, lines 20 and 21, strike out "June 30, 1974" and insert in lieu thereof "October 31, 1973.

On page 11, lines 23 and 24, strike out "June 30, 1974" and insert in lieu thereof "October 31, 1973."

On page 12, lines 3 and 4, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $1,500,000 for the period ending October 31, 1973."

On page 12, lines 7 and 8, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973 and $1,250,000 for the period ending October 31, 1973."

On page 12, lines 10 and 11, strike "June 30, 1974" and insert in lieu thereof October 31, 1974."

On page 12, strike lines 13 and 14 and insert in lieu thereof "for the year ending October 31, 1965 and each of the next eight years—".

On page 12, lines 17 and 18, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $52,500,000 for the period ending October 31, 1973".

On page 12, lines 21 and 22, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $30,000,000 for the period ending October 31, 1973".

On page 12, line 25, strike "June 30, 1974" and insert in lieu thereof "October 31, 1974".

On page 13, lines 3 and 4, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $500,000,000 for the period ending October 31, 1973".

On page 13, strike lines 6 and 7, and insert in lieu thereof "fiscal year ending June 30, 1971 and the next two fiscal years" and insert in lieu thereof "year ending October 31, 1971 and each of the next two years".

On page 13, lines 10 and 11, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $14,500,000 for the period ending October 31, 1973".

On page 13, lines 14 and 15, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $5,000,000 for the period ending October 31, 1973".

On page 13, lines 17 and 18, strike out "June 30, 1974" and insert in lieu thereof "October 31, 1973".

On page 13, lines 21 and 22, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $10,000,000 for the period ending October 31, 1973".

On page 14, lines 1 and 2, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $10,000,000 for the period ending October 31, 1973".

On page 14, lines 5 and 6, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $4,000,000 for the period ending October 31, 1973".

On page 14, lines 9 and 10, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $425,000 for the period ending October 31, 1973".

On page 14, lines 13 and 14, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $2,000,000 for the period ending October 31, 1973".

On page 14, lines 17 and 18, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $2,000,000 for the period ending October 31, 1973".

On page 14, lines 21 and 22, strike the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $3,330,000 for the period ending October 31, 1973".

On page 15, line 2, strike "July 1, 1974" and insert in lieu thereof "November 1, 1973".

On page 15, strike lines 6, 7, and 8, and insert in lieu thereof the following:

"(3) Section 794D(f)(A) is amended by striking the word 'fiscal' wherever it appears and by striking 'June 30, 1971' and inserting in lieu thereof 'October 31, 1971'."

On page 15, lines 11 and 12, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $85,000,000 for the period ending October 31, 1973".

On page 15, lines 16 and 17, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $5,000,000 for the period ending October 31, 1973".

On page 15, lines 21 and 22, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $33,000,000 for the period ending October 31, 1973".

On page 15, strike lines 23 and 24 and insert in lieu thereof the following:

"(b) Section 207 of such Act is amended by striking out 'June 30, 1973' and inserting in lieu thereof 'October 31, 1973'."

On page 16, strike lines 1 and 2 and insert in lieu thereof the following:

"(c) Section 221(b) of such Act is amended by striking out 'June 30, 1973' and 'July 1, 1973' and inserting in lieu thereof 'October 31, 1973 and November 1, 1973, respectively'."

On page 16, lines 5 and 6, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $20,000,000 for the period ending October 31, 1973".

On page 16, strike out lines 7 and 8, and insert in lieu thereof "and (2) by striking fiscal year ending June 30, 1967 and inserting in lieu thereof 'year ending October 31, 1967'."

On page 16, lines 10 and 11, strike "June 30, 1974" and insert in lieu thereof "October 31, 1974".

On page 16, lines 14 and 15, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $17,500,000 for the period ending October 31, 1973".

On page 16, lines 17 and 18, strike "June 30, 1974" and insert in lieu thereof "October 31, 1974".

On page 16, lines 21 and 22, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert

in lieu thereof "for the fiscal year ending June 30, 1973, and $5,000,000 for the period ending October 31, 1973".

On page 17, lines 1 and 2, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $27,500,000 for the period ending October 31, 1973".

On page 17, strike out lines 3 through 6 and insert in lieu thereof the following:

"(j) Section 261(b) is amended by striking the word 'fiscal' everywhere it may appear and by striking 'June 30, 1971' and 'July 1, 1973' and inserting in lieu thereof 'October 31, 1971' and 'November 1, 1973', respectively."

On page 17, strike out lines 7 through 12 and insert in lieu thereof the following:

"(k) Section 264(c) of such Act is amended—

"(1) by striking the word 'fiscal' everywhere it may appear; and

"(2) by striking 'June 30' everywhere it may appear and inserting in lieu thereof 'October 31'; and

"(3) by striking 'July 1' and inserting in lieu thereof 'November 1'."

On page 17, lines 15 and 16, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $10,000,000 for the period ending October 31, 1973".

On page 17, strike out lines 17 through 20 and insert in lieu thereof the following:

"(m) Section 271(d)(2) is amended by striking the word 'fiscal' everywhere it appears and by striking 'June 30, 1972' and 'July 1, 1973' and inserting in lieu thereof 'October 31, 1972' and 'November 1, 1973', respectively."

On page 17, strike lines 21 and 22 and insert in lieu thereof the following:

"(n) Section 272 of such Act is amended by striking out 'June 30, 1973' and inserting in lieu thereof 'October 31, 1973'."

On page 18, line 2, strike out "July 1, 1974" and insert in lieu thereof "November 1, 1973".

On page 18, strike lines 3 through 8 and insert in lieu thereof the following: "Section 121(a) of the Developmental Disability Services and Facilities Construction Act (42 U.S.C. 2661) is amended by inserting immediately after the first sentence the following: 'There is authorized to be appropriated for the period July 1, 1973 through October 31, 1973, $7,000,000.'."

One page 18, lines 11 and 12, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $7,000,000 for the period ending October 31, 1973".

On page 18, lines 15 and 16, strike out the words "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "for the fiscal year ending June 30, 1973, and $45,000,000 for the period ending October 31, 1973".

On page 18, lines 19 and 20, strike out the words "each of the fiscal years ending June 30, 1973 and June 30, 1974" and insert in lieu thereof "the fiscal year ending June 30, 1973, and for the period ending October 31, 1973".

Mr. GURNEY. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. GURNEY. Mr. President, I do not intend to take very long.

Mr. KENNEDY. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. There will be order in the Chamber.

Mr. GURNEY. Mr. President, it is difficult to support the committee's proposal as it is currently written. It asks that we extend every one of some 44 health care programs for a full year at a total cost to the taxpayer of some $2.5 billion. It does this in the face of claims by the administration and by independent observers that a substantial number of these programs duplicate or overlap each other, or are outdated, inefficient ways by which to achieve particular health care goals. The committee arrived at its decision, initially, even before there were hearings on the bill. Now, a few weeks later, we see it on the floor again after just 1 day of hearings and one witness.

We simply cannot afford the luxury of delay which this legislation would allow. We fool ourselves if we think that Americans benefit from such a course of action. If money is wasted in inefficient or outdated health programs, then it is money lost that could have been used to meet society's more pressing health needs as well as other pressing needs. In effect, we face a double loss: First, a loss from what we fail to accomplish in meeting real health care needs. Second, we face a loss from what we are unable to accomplish in other areas—crime prevention, water or air pollution, and drug abuse for example.

I believe the committee's recommendation on this bill epitomizes one aspect of the conflict over the Federal budget now raging between Congress and the Executive. Who is going to assume responsibility for the efficient use of the people's money? Does the Congress have the discipline to marshall its decision-making powers in order to decide on the appropriate use of tax dollars? Must we continually have legislation through extension, with little or no review or change of existing programs?

The committee points out that these programs expire June 30, that they are important and vital and must be renewed, and that there is not time now to review them all in depth. In turn, the administration points out that they do not have all of their recommendations yet.

Thus it is said that we need time to evaluate these programs. That is a reasonable request, particularly in view of the myriad health care goals this legislation contains. But a full year? I do not think so.

I propose, and that is what my amendment does, that we extend the Public Health Service Act and Community Mental Health Centers Act for 4 months beyond the current expiration date, or until October 31, 1973. With the month of August lost to Congress because of the recess during that month, this amendment would still give us 6 full working months from now in which to evaluate these programs.

The issues for our deliberation have been clearly drawn in the administration's testimony. Do these programs work? Are there better ways to carry them out? Are there better sources of money or manpower than those provided by Federal resources?

Let me say, in addition to this—and then I shall be through—that I have had people come into my office in the last few weeks to talk to me about the bill. Some of them have told me that some of the programs we should pass. Some have also asked me not to make their names public, because they do not want to be "shot down" by their constituents. But they have actually told me they do not want these programs. Others have told me they need the programs vitally. Still others have said that we could probably cut back these programs and make them more efficient.

I would simply say that if there has not been time to prepare a specific bill and have it considered by the committee, why do we not, on this bill, take our time, until October 31, which will almost be the full working time that Congress may be in session this year, and come up with a bill that we can pass. That is what we ought to be doing with the public health programs. But let us do it with some real facts and real testimony to back our own position.

Otherwise we shall be going to the administration, saying, "No, we are not going to spend the money because we do not believe the programs are good." I say we have a chance for compromise. I am not asking anything more than to extend this program for 4 months or so, in which we can work out a bill.

Mr. DOMENICI. Mr. President, will the Senator from Florida yield?

Mr. GURNEY. I yield.

Mr. DOMENICI. I support the Gurney amendment. I think that yesterday, when I spoke before the Senate on whether we should engage ourselves in confrontation or accommodation, my remarks were squarely on the question that is before us today. I am certain that those who support this measure are aware of the fact that more time is needed to evaluate which programs should continue, which ones should be stopped, and what new ones should be started.

I concur wholeheartedly with the statement of the Senator from Florida with regard to how those involved in the programs are telling Senators that some of these programs are good, and some are not so good. I think as we go through this year—this transition year—when we are attempting to reenact old laws, old authorizations, and frequently even last year's appropriation measures, that, if we do accommodate them, some transition, not one which will indefinitely burden the beneficiaries of the laws, but one which will give the Senate time to pass better laws, America will be better.

I certainly think it is admitted, from the brief testimony before us, that there has not been enough time to evaluate the programs in the bill. If that is the case, perhaps there is justification to continue them rather than to terminate them.

I think the Senator from Florida offers an amendment that the Senate should subscribe to. Perhaps we should consider an amendment to give ourselves and the administration more time to decide what we should do.

I urge Senators to support the amendment of the Senator from Florida.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The Health Subcommittee in May of last year recognized that it would take them all winter to consider more than

50 pieces of legislation we are considering this afternoon which are included in the 12 extensions of the Public Health Act and the Mental Health Act. We invited Secretary Richardson of Health, Education, and Welfare to come before the Health Subcommittee in May of last year, so that we could take the whole of the period in the consideration of these particular proposals.

Secretary Richardson indicated that he was not prepared to come up, that the administration was in the process of formulating their programs. In September of last year, we asked Dr. DuVal, the Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs, to come up and appear before the Health Subcommittee and give us his best judgment about these 12 proposals.

Dr. Duval testified that the administration did not want the Health Subcommittee to act, because we are going to have proposals in January and February of next year in connection with the President's budget.

So what did we do? Because we felt that we had a responsibility to act, we nevertheless incorporated seven of those proposals in a bill and submitted it to the Senate. The Senate passed S. 3716 by a vote of 78 to 0. But the House of Representatives did not act on it.

So we waited until January and February of this year, and what happened? The President's budget was sent up, but it did not include any specific legislated proposals. Mr. Weinberger then came before the committee, and we asked him, "Where are the proposals? We are ready to act now."

Mr. Weinberger said:

They will be up some time in February." But only last week, Mr. Weinbeger came before the Committee on Labor and Public Welfare, and we said, "Now, Mr. Weinberger, we want your proposals on the extensions of these various Acts. Will you give us your answer?

He said:

We are not prepared to give you an answer now. I cannot give you a specific date.

Mr. President, this legislation expires in June. But we have had virtually no cooperation from the administration since last May in respect to this vital legislation.

All we have done in the bill now before the Senate is take the identical dollar figures for fiscal year 1973 and continue these programs for the year. I have a number of substantive changes I would like to see made in the legislation and other members of the committee, Democrats and Republicans alike, have other changes, I am sure. But 15 out of 16 members of the committee supported the idea of a simple extension in order to give the Congress time to act.

I as chairman and they as members of the Health Subcommittee, Democrats, and Republicans alike, decided that we would begin forthwith to consider the whole range of the legislation. Because it is a massive job, Mr. President, it will require a year for consideration and action. That was recognized by the committee itself. So 4 months will not be the answer.

The second question is: How can we support the proposal of the Senator from Florida when he is unable to give us any idea, this afternoon, of what the administration's position will be on any of these proposals? He is not saying, "If we only give them 4 months, I have all the different proposals here in my back pocket this afternoon, and the committee can consider them between the end of March and the end of the 4-month extension, and act responsibly."

He cannot do it, because of the 12 proposals we are considering, there is only one on which the administration has spoken, and that is on the extension of the Medical Libraries Act. There has been no indication that the administration would come up at any time and give us their views on the other extensions, except for those authorities they wish to terminate.

Finally, let me say this: We know that the appropriations are made by Congress on an annual basis. What is the Appropriations Committee going to do with a 4-month extension? It would be virtually impossible to consider it. A 4-month extension on these various proposals, with all that means in terms of the appropriations process, would obviously mean the strangulation of this legislation. And let me say quite frankly, I sincerely believe that that is the position of the administration on a number of these authorities.

On the regional medical program, the community mental health centers program, the Hill-Burton program, the public health training programs it is clear that the administration is interested in ending the authorities. They would do this even over the very wide-ranging, strongly objecting positions which have been stated by a wide variety of groups, including the National Institutes of Health, people involved in the mental health areas, and other distinguished researchers in health fields.

For all those reasons, Mr. President, I hope the amendment will be rejected by the Senate.

I have indicated to this body, on behalf of the members of the health subcommittee, that we are prepared to act. We are hopeful that in the consideration of this legislation, which will surely take a full year, that we will obtain early reports from the administration, so that we can work, to the extent that that is possible, in a constructive and positive manner.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. KENNEDY. Mr. President, I reserve the remainder of my time.

Mr. GURNEY. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado.

Mr. DOMINICK. Mr. President, I take the floor, I might say, with some reluctance, because I have supported the pending bill in committee on two occasions, and I believe, if I am not mistaken, that I am a cosponsor of it. I am not sure, but I think so.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMINICK. The thing which bothered both the Senator from Massachusetts and me during these hearings and indeed all the way through is that we had no alternative. We did not have time enough, we both felt, to be able to go over these programs one by one and decide for ourselves whether they ought to be extended, changed, or modified in any way.

Hearing about the fact that there was to be no more funding, for example, on the Hill-Burton Act, I put in a provision for a 3-year extension of it, but with some changes—changes providing that no new bed hospitals would be built unless they received the approval of comprehensive health planning which, in a given area, would determine where beds were needed and where they were not. I hope we can come to some kind of hearing on that proposal relatively soon. Other Members of Congress are arriving at other proposals on their own initiative.

It would strike me that some argument could be made for the positions the administration has taken on programs that have worn out their usefulness. The nonfunding of the Hill-Burton Act was largely based on the fact that we have more beds than we need now.

That is true only in certain areas. It is not true in other areas. There are many areas, even in my own State, in rural communities, where aid and assistance are needed for adequate hospital facilities.

We also still have need for updating, modernization, improvement, and the application of new technology in hospital systems. So there are a great number of needs in the health interests of the people of our country which I think we should go forward with, with a variety of changes in the existing programs, but making those changes congressionally, and not just cutting off the whole idea.

The question is: Do we need to continue the existing programs for a whole year? That is what this amendment is about.

It seems to me that between now and the end of October, which would be the period of time provided under the amendment of the Senator from Florida, giving us a total of not 4 months, but 7 months, the Health Subcommittee of this body and the health subcommittees in the other body could easily prepare and put together a number of proposals in a number of different areas, which would then be up for funding before the Appropriations Committees, without having to leave the whole thing hanging in limbo for a year. Therefore, I intend to and will support the Senator from Florida on his proposed extension.

Congress, whether it be the Senate or the House of Representatives, can act promptly. We have done it in the past, both in committee and on the floors. Seven months, after all, is quite a long period of time for review and for modernization of those programs when needed.

A typical example which I mentioned in my opening statement, when this funding was brought up today, is the regional medical planning programs. Those programs, although they have been of use in some areas of the country, have been of no use in other areas of the country. A great number of them have

been used in order to channel funds in, and in order to provide continuing education for the doctors. That is of help in some instances. In many areas it is not. Moreover, it can be done through other programs.

It would seem to me that we could, piece by piece, look these matters over as we go along and make the changes before the 7-month period has expired.

For that reason, I am happy to support the Senator from Florida and urge the adoption of his amendment.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I yield myself 5 minutes on the bill. I take this time on the bill because I think it is particularly appropriate to discuss the arguments which I would present on the bill on the Gurney amendment.

I would like to say at the outset that I strongly support the Gurney amendment, and I feel it is wholly consistent with the positions I have taken on the bill, which I set out in the minority views on page 95 of the committee report.

We had in the committee just 1 day of hearings on this bill, during which the only administration witness was the Secretary of HEW. The Secretary was pinned down in question on that day on two or three of the subjects pretty largely covered by the bill, and especially the community mental health centers programs. There really was little done getting into policy decisions which are behind the decisions reflected in the budget.

It is interesting to note that we hear much said about how the Executive is taking over the authority and prerogative of the legislative branch of the Government. Yet, so far, here, the committee is so helpless, apparently, to act on these programs itself, that after a couple of years of knowing that changes were anticipated—and I think, to be realistic, knowing that the changes would be made—the committee itself failed to come forth with one serious piece of legislation in this area.

The complaints now being made, that the administration has not come up with its legislative recommendations, it seems to me the committee itself has a responsibility for coming up with legislative recommendations, particularly under those circumstances.

It is perfectly all right to wait and ask for information from the department, and for suggestions from the department, but particularly with Congress in the unreceptive mood it is today, insofar as the recommendations of the Executive are concerned, and I do not think we should be sitting around waiting for the recommendations of the Executive on programs that we think should be changed. Of course, in the budget and in the recommendations of the administration, we know what the administration's position is on a number of programs, and the number they think should be discontinued, so why have we not been having hearings and listening to witnesses on those particular programs? We know they will recommend that they be discontinued.

If we take the Gurney amendment approach, and add on an additional 4 months, which is desirable, we can at least do that and then take a look at the programs we know the administration wants to discontinue and decide whether they should be continued or discontinued, which we can do by holding hearings and listening to witnesses and making our decision as to what the proper legislative process is. But to give a blanket extension at this time would be a great mistake. That is what the bill attempts to do.

But the accusation that because, somehow, the administration, by not coming up with recommendations as to continuing authorizations covered in one way or another substantively in the budget recommendations, is somehow trying to legislate by extension or by cutting off in the budget, I would reply to that by saying that that is what is being attempted to be done here, and what is surely being attempted to be done in other programs which, in effect, is legislation by simple extension of authority without looking into the substance of a particular measure.

We should take a look at the substance. The Secretary of HEW did do a good job of explaining the general position. We can develop from this numerous guidelines because there was no committee report available at an early date, at least until today. On March 22, I did insert into the RECORD, on page 9078, a statement by Secretary Weinberger before the committee last week, talking about these programs. He pointed out at that time, and I repeat here, some of the discussion with regard to the particular programs and with regard to the overall proposal of the bill to extend authorizations blindly in what I would call a log-jam or a pig-in-a-poke approach to the probem.

The authorizations come to about $2 billion more than $1 billion of the 1974 budget request. Some of these authorizations, including comprehensive health planning, health services, research and demonstration, and medical libraries support, would continue to be funded under the President's 1974 budget.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TAFT. Mr. President, I yield myself an additional 5 minutes under the bill.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 additional minutes.

Mr. TAFT. Mr. President, let us take a look at some of the programs in which there has been a phaseout, termination, or reduction, as suggested by the administration.

The first is the Hill-Burton program. It is admitted, as the Senator from Colorado (Mr. DOMINICK) very soundly pointed out, that the Hill-Burton program, in many respects, has outlived its usefulness, as in many areas there is a surplus of hospital beds, yet they are continuing the building of more hospital construction programs without relation to the needs of where they are. So that it seems to me very unfortunate to do that. Let us not kid ourselves. If we do not face up to the situation and put a deadline on ourselves other than the mere additional year on us, I doubt whether we will see in this Congress—never mind in this year—any major changes in the Hill-Burton program. Especially coming from a large State, which I think is getting unfavorable treatment under the Hill-Burton program, I particularly feel that we should be taking a hard look at this problem, examine it closely, and come up with a better hospital program, to put it on a fair basis where distribution of funds are concerned, and direct our efforts with regard to facilities in those areas where the facilities are most needed.

As to the regional medical programs, the position of the administration is perfectly clear. Its position is that the greatest percentage of the funds has gone to finance the continuing education of health professionals who, in many fields, could possibly provide for their own support, which they are building up for their own professional competence.

There are other funds under which, in various ways, they are funded. It seems to me that on the regional medical programs, we should be able to come to a pretty quick conclusion, that the committee, with a few days of hearings as to whether we think the regional medical programs should be funded or should not be continued, either way.

I do not see any reason to put this off for a year. Four months is ample time in which to make sensible recommendations on the part of the Senate.

As to the categorical allied health program, Federal support to institutions training subprofessional health personnel will be targeted on innovative projects under the flexible authorities of the existing Comprehensive Health Manpower Act. We should have hearings and the committee should be able to fund and authorize it under continuing legislation that would be authorized by this particular bill.

As to the community health centers program, the Secretary has been specific in his testimony in that regard, and the fact that the administration's position is that the community health centers programs concept, which is a demonstration project, has run through the demonstration phase, and that we will, because the commitments were made for 8 years, be funding existing health services, set up on a phasing-out basis as originally planned, but the demonstration is completed and we should make a decision whether further demonstration is needed or whether some general community health center plan financed by the Federal Government for all communities in the United States is the proper way to go. We should undertake the responsibility of looking into this.

These are some of the factors that should be considered when we take a look at this legislation today, although it seems to me that it is doubtful, or wise, blindly to extend the program for an additional year and say we cannot put off the decision another year and then come around and take a look at it again because the administration did not come up with some proposal and we agreed to it right away. The far more sound approach is to take that of the Senator from Florida and extend the proposal at least

for an additional 4 months to see whether we can attack it piecemeal. There is no need for all the items to be in one particular bill. They are separate programs and basically they can be handled and considered separately. The committee should take the responsibility to do just that. The proposal of the Senator from Florida is a sound proposal and one that deserves the support of the Senate. As to the support, I, for one, will maintain the position I took in committee, that I think the committee should measure up to its responsibilities. I am not going to vote for it merely as an extension program without looking at the merits, or taking the responsibility of taking care of the health programs of this country.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. KENNEDY. Mr. President, the arguments I have heard here this afternoon by the Senator from Ohio have an Alice in Wonderland quality. It was the Secretary of HEW who said in the spring of last year that, because the administration did not have its proposals sufficiently perfected, we should wait and delay. To accommodate the Republican Secretary of HEW, we did so. Then Mr. DuVal came up, and he said:

> We do not want to extend various proposals. We will have our own proposals in January or February.

So, out of consideration for the Assistant Secretary of HEW, we withheld any action on some of them. We acted on seven programs, which actually passed in the Senate. Mr. President, I can give assurance to my friend from Ohio that the administration did not give us any proposals at all on any of these programs. We will have a proposal before the Senate next year on every one of these proposals, either with or without the objection of the administration: But we cannot allow ourselves to be put in a position where the Secretary of HEW asks us to wait for their recommendations, where the Assistant Secretary of HEW asks us to wait until January or February of this year, where the new Secretary of HEW asks us to wait; and now we find ourselves at the end of March with no action yet on basic programs that are expiring.

Now we hear from the Senator from Ohio, "What has been wrong with the committee?" We have been trying to accommodate the position taken by two different Secretaries of HEW and the Assistant Secretary of HEW. We have done our best to accommodate them. But now we are going to act.

For that reason, I hope the Senate will give us the kind of time we need, in order to consider these matters the way they should be considered. I hope the Gurney proposal will be defeated.

Mr. President, I yield back the remainder of my time.

Mr. GURNEY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Florida. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The result was announced—yeas 37, nays 56, as follows:

[No. 65 Leg.]

YEAS—37

Baker	Domenici	Pearson
Bartlett	Dominick	Percy
Beall	Fannin	Proxmire
Bellmon	Fong	Roth
Bennett	Goldwater	Saxbe
Brock	Griffin	Scott, Pa.
Buckley	Gurney	Scott, Va.
Byrd, Harry F., Jr.	Helms	Stevens
	Hruska	Taft
Cook	Mathias	Thurmond
Cotton	McClure	Tower
Curtis	Nunn	Young
Dole	Packwood	

NAYS—56

Abourezk	Gravel	McGovern
Aiken	Hart	McIntyre
Allen	Hartke	Metcalf
Bayh	Haskell	Mondale
Bentsen	Hatfield	Montoya
Bible	Hathaway	Moss
Biden	Hollings	Nelson
Burdick	Huddleston	Pastore
Byrd, Robert C.	Hughes	Pell
Cannon	Humphrey	Randolph
Case	Inouye	Ribicoff
Chiles	Jackson	Schweiker
Church	Javits	Sparkman
Clark	Kennedy	Stafford
Cranston	Long	Stevenson
Eagleton	Magnuson	Symington
Eastland	Mansfield	Talmadge
Ervin	McClellan	Weicker
Fulbright	McGee	

NOT VOTING—7

Brooke	Muskie	Williams
Hansen	Stennis	
Johnston	Tunney	

So Mr. GURNEY's amendment was rejected.

PROGRAM

Mr. SCOTT of Pennsylvania. Mr. President, I rise to inquire of the distinguished majority leader the program for the remainder of the day, and beyond.

Mr. MANSFIELD. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. Mr. President, I yield 5 minutes on the bill to the majority leader.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, in response, may I say that it is anticipated that very shortly the vote on final passage of the pending business will occur.

The distinguished Senator from Louisiana (Mr. LONG), the chairman of the Committee on Finance, would like to have the Senate take up H.R. 3577, an act to provide an extension of the interest equalization tax, this evening. He does not think it will take too long. There is an expiration date of Saturday. If we do not finish that measure tonight—we will not stay in session too late—it will be carried over until tomorrow.

That measure will be followed, in turn, by H.R. 1975, an act to amend the disaster relief bill, and that, in turn, will be followed by the bill to amend the Par Value Modification Act, S. 929, and that, in turn, will be followed by the five bills on crime reported by the Committee on the Judiciary.

Mr. McCLELLAN. Mr. President, if the Senator will yield, what day will that be?

Mr. MANSFIELD. Later in the week, if we get to it. We will try to give the Senator at least 1 day's notice.

Mr. SCOTT of Pennsylvania. As to the vote on whether or not the veto of the President will be sustained or not on the Vocational Rehabilitation Act, what is the plan for calling up that measure?

Mr. MANSFIELD. Next Tuesday, at a reasonable hour.

Mr. SCOTT of Pennsylvania. This is notice, then, to Senators that it will be Tuesday afternoon and we are trying to accommodate as many Senators as possible by virtue of this early notice. Tonight, I believe, is the reception being given by poultry fanciers, but I take it we have an obligation to do our duty here.

Mr. MANSFIELD. It all depends on whether the egg or the chicken came first—well, that is it, anyway.

PUBLIC HEALTH SERVICE ACT EXTENSION OF 1973

The Senate continued with the consideration of the bill (S. 1136) to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act.

Mr. KENNEDY. Mr. President, does the Senator yield back the remainder of his time?

Mr. JAVITS. I yield myself 1 minute on the bill.

Mr. President, this is an essential bill. We will do our utmost to resolve each of these measures by proper consideration that the course of time and this bill allow.

Mr. President, the reason for my strong support for the Public Health Service Assistance Extension of 1973 (S. 1136), of which I am a cosponsor along with 15 of the 16 members of the Labor and Public Welfare Committee, was set forth in detail on March 8, 1973, in my remarks in support of its immediate consideration by the Senate.

The bill now under consideration has one purpose: To reaffirm the intention of Congress that the Congress will determine whether and which of the health programs extended for 1 year by the bill will continue. Executive budget action which has let certain health programs wither, vanish, or be effectively terminated by lack of adequate funding, is not the appropriate mechanism to determine

the fate of vital substantive health programs affecting millions of Americans.

It is entirely possible that, in the words of Secretary Weinberger when he testified before the Committee on Labor and Public Welfare:

> If the Congress and its responsible Committees were carefully to examine each such authority in light of its relative priority in the competition for scarce Federal dollars, it would agree with the Administration that many of these authorities should be allowed to terminate on June 30, 1973.

But the evidence regarding the need for the programs' fiscal life or death must be fully developed and documented for the Congress by the Executive. The Executive power of the purse—through zero budget appropriations requests or requesting funding support for expiring programs—should not determine what laws Congress shall pass, and how they shall be implemented. Congress is and must continue to be an equal partner in the process of determining the future for programs affecting the American people.

The Executive should be checked and balanced by the Congress, which is also of the people's elected officials. That is the genius of the American political system. I believe that is the way we should proceed, rather than upon action taken solely by the President.

The complexity of the task before the Congress in evaluating and making its will known in regard to the more than 50 separate sections of law affecting nearly every facet of current Federal support of the Nation's health care system is enormous. The committee's determination and commitment to move as rapidly as possibly to permit Congress to rationalize these legislative authorities in a manner consistent with the appropriate Federal role in respect to the health needs of the American people is, I believe, documented by its past performance, as detailed in the committee report on the pending bill.

Let us turn to just those health programs Secretary Weinberger has testified the administration is proposing to phase out or terminate—community mental health centers, Hill-Burton, and regional medical programs—and to those proposed for redirection such as comprehensive health planning and services.

In regard to the latter, there has been no legislative proposal submitted to the Congress. All that can be gleaned is Secretary Weinberger's generic testimony and what the administration has proposed in the 1974 budget. In essence, a determination to utilize expiring section 314(e) of the Public Health Service Act for funding programs the Executive chooses to support. I am concerned that the Executive has failed to recognize what Congress has made crystal clear in regard to such proposed action. Only last year the Congress passed and the President signed into law, Public Law 92-449. The legislative history of section 314(e) is enunciated in Senate Report 92-285, where in discussing this section of the law it cites the House Committee on Interstate and Foreign Commerce in its report on the Communicable Disease Control Amendments of 1970:

> In each of its budget presentations each year since the enactment of section 314(e), the Department of Health, Education, and Welfare has earmarked specific amounts of the 314(e) fund request for specific programs for the coming year. In other words, the categorical grant approach has continued since the enactment of Public Law 98-749, except that instead of the Congress setting the categories, the categories have been set by the Department of HEW.

One of the purposes of this bill is to restore some control to Congress of the categories of health programs for which project grant funds are to be made available.

The Senate Labor and Public Welfare in respect to this matter in its report on the Health Services Improvement Act of 1970 stated:

> The Committee notes with concern the fact that a large proportion of the programs funded under section 314(e) continue to be too narrowly focused rather than focused upon the broader area of the organization and delivery of health services.

In regard to the programs the Executive has recommended for termination:

First. Hill-Burton: I have long indicated my dissatisfaction with the grant allocation formula of the program and the need to redirect this program to meet the $12.7 billion needs of modernization and upgrading of outmoded and overburdened public hospitals—whose lives are in a fiscal crisis—and for emphasis to be put upon innovative outpatient treatment facilities that might keep many out of the expensive hospital treatment setting. Hospital new bed construction is but one facet of this program and in response to Secretary Weinberger's "a special Federal grant program for hospital construction is now unwarranted," I would suggest the Congress may wish to consider how the program could be modified by, for example, certificate of need legislation and strengthened with more effective comprehensive health planning and regional medical program overview.

Second. Community Mental Health Centers: I would agree with Secretary Weinberger that "this program has proven itself," but Congress has no evidence that without Federal assistance we can establish what to date Congress has strongly supported, "rationalize these legislative authorities in a manner consistent with the appropriate Federal role in respect to the health needs of the American people." In this regard, I would like to share with Senator SCHWEIKER his concern—which he expressed at the hearing on the pending bill—about Secretary Weinberger's interpretation of the community mental health centers program as "demonstration." I find nothing in any of either the House or Senate reports on this legislation, since its renewal in 1965, 1967, 1970—or Senate passage in 1972—which permits of an interpretation of CMHC's as a "demonstration" program. Until the Congress has sufficient evidence to prove that localities will undertake to bring CHMC services to their people, I believe Congress should provide appropriate Federal funding support.

Third. Regional Medical Programs: I am not convinced that the Executive's dissatisfaction about regional medical program's seemingly ill-defined or amorphous role and corollary searching for more specific missions—which in many instances I share—is sufficient reason for Congress to terminate the program. There are 56 functioning regional medical programs, nationwide coverage having been achieved by 1968, and their capabilities, missions, and achievements vary. But if, as alleged, all have not been programs of excellence, this does not mean—unless somewhere there is documentary evidence, which I have not as yet had made known to me, to the contrary—that the entire regional medical program should be terminated rather than have Congress work its will in determining how the program can most effectively be utilized in assuring that all our citizens have equal opportunity for quality medical care.

Mr. President, this brief overview of the complex issues which must be considered in any serious congressional fundamental review and evaluation of the programs encompassed in the pending measure makes it clear why Congress should pass this bill and preserve its prerogatives and priorities, rather than permit Executive action alone to be the determining factor.

In closing, Mr. President, I should like to assure concerned citizens that the 1-year extension of the Developmental Disabilities Services and Facilities Construction Act is in no way an indication of my support for the existing law's definition of "developmental disabilities." My commitment to broadening the definition—as I indicated during hearings on that measure—has not abated. Nor, does my support of this measure mean I will in any way diminish my efforts and work to establish a national commitment for a "bill of rights for the mentally retarded." I feel strongly that the "bill of rights for the mentally retarded" should be enacted into law this year.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the committee amendment, as amended.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Have the yeas and nays been ordered?

The PRESIDING OFFICER. No, they have not.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator ask for the yeas and nays on the amendment or on passage?

Mr. KENNEDY. On passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HELMS. Mr. President, I approach consideration of this bill with great con-

cern that we may be misleading the American people as to the future of the Federal Government's role in supplying tax funds for health services and medical facilities.

The false expectations which may be created by the passage of this bill are, I feel, accurately outlined in the minority views to the committee report, authored by the distinguished junior Senator from Ohio (Mr. TAFT).

I feel it is essential during this Congress that the Senate make a positive effort to consolidate and supply a reasonable perspective to the existing legislative authorities in this area. This is absolutely imperative, Mr. President, if we are to arrive at a more appropriate Federal role in the total effort to provide for the health needs of all the American people. This is why it is especially discouraging to note that the committee has reported out a blanket extension for all the existing programs. It is imperative that we discriminate between those programs with merit and those without merit, if we are to make positive changes in our health care delivery system.

Mr. President, the committee's own report recognizes the need to upgrade, improve, and, in some cases, eliminate provisions in the existing Federal programs relating to health care. How then can we, as responsible legislators, rationalize the authorization of more than $2 billion to continue for 1 year, programs which are admittedly deficient, if not in some cases totally unnecessary?

There is a tremendous inertia inherent in large-scale Federal programs which extensions, such as the one we are now considering, only tend to reenforce.

I earnestly look toward the committee for the legislative initiative to deal with these programs in a substantive way and report out to the Senate constructive alternatives to the present health care programs. In the meantime, I cannot justify a vote for the status quo in the face of such a pressing need for change.

Mr. President, I ask unanimous consent that the minority views of the distinguished junior Senator from Ohio (Mr. TAFT), be included at this point in the RECORD.

There being no objection, the minority views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF MR. TAFT

In a very short span of time—one day of hearings—during which the Administration was the only witness, the Committee reported S. 1136, a bill to extend umbrella protection for some forty-five health programs. This protection insures that all of these programs, due to expire June 30, 1973, will continue for another year regardless of whether or not they have proven to be worthwhile.

What this bill is attempting to do is to buy more time, at a $1.8 billion price tag, to study the desirability of further extensions. In reality, it is not buying time but is pointing out an agonizing fact that we as a Committee have not done our job. If we had, there would be no need for a blanket, automatic, one-year extension.

In the last Congress the Committee reported a similar bill on August 16, 1972. In the Committee report, several members stated in *Additional Views* that there was ample time to explore the question of a change in the Hill Burton formula prior to that program's expiration date, June 30, 1973. Yet here we are, seven months later, asking for more tomorrows, which brings me to the crux of my objection.

My objection to reporting this bill was not based on the difference with the Committee over the wisdom of extending one or another of these programs. Doubtless, some of them should be continued and others should not. However, the Committee has taken the course to legislate through extension rather than face the task of scrutinizing these programs and making judgments on the merits, even though we have three months in which we could do so. Such a course serves only to prolong the anxiety and confusion of those affected in the field.

I recognize that this scrutiny will be difficult, but I also recognize that when we entered this legislative body that all decisions facing us would not be easy or popular. Yet such decisions must be made, and in my judgment an automatic one-year extension of these programs to prevent a so-called "log jam" is poor justification for this type of legislating.

ROBERT TAFT, Jr.

Mr. DOLE. Mr. President, over the past two decades Congress has enacted a great number of health programs to improve health care in America. Many of these programs still operate efficiently and effectively and perform vital roles in the Nation's total health care system. Yet some health programs have proven less effective than originally expected or have accomplished their intended purpose.

I am sure my colleagues agree there is a need for a comprehensive review of the the Nation's various health programs. Yet the task of sifting through the ongoing health programs to determine which should be extended and which should be deleted is not simple or clear-cut. Many factors often cloud the issue in any individual program so its effectiveness or ineffectiveness might not be immediately apparent. For example, it is difficult to judge the effectiveness of a program on a national scale when some programs are naturally more effective in urban areas and others are more productive in a rural setting. In many cases, efficient administration and community participation in a health program will make it effective in one community or State while it is a complete failure somewhere else where leadership and community involvement are lacking. Thus, the value of a program cannot always be assessed by viewing limited examples of its operation.

TIME FOR EVALUATION

To properly evaluate the performance of our existing health programs and formulate constructive alternatives, Congress must study in depth the impact of existing programs in individual communities and their combined effect on the Nation as a whole. We must analyze alternative and better means of coordinating the existing facilities and programs, so a stronger basis is established for developing a more comprehensive system of health care.

This comprehensive analysis requires time—time to thoroughly analyze the ongoing programs and ample time for planning any change in Federal funding arrangements. By providing advance notice of the changes in these programs, those now dependent on Federal assistance which is to be terminated can seek alternative sources of funding from local and State sources. In many instances, an additional year of Federal aid will enable many of the programs currently dependent on Federal funds to become self-supporting.

Because present time requirements do not permit a thorough congressional analysis of the health programs which expire June 30, and because alterations in these programs at this late date would stifle the efforts and erode accomplishments of many individuals and communities who have been working successfully under existing programs, I, today, support S. 1136, the 1973 Public Health Service and Community Mental Health Centers Extension Act.

S. 1136 extends the 44 expiring program authorities under the Public Health Services and Community Mental Health Centers Acts in order that the existing health programs may be continued during a period in which Congress considers more comprehensive legislation and program reform. I support the floor amendment which grants a 4-month extension of the authorities since I feel this is adequate time for Congress to take appropriate action. However, should that amendment fail, rather than see the existing programs terminate June 30, I will support the 1-year blanket extension proposed in the committee bill. The 1-year blanket extension will provide more adequate time for a thorough analysis of existing programs, permit comprehensive new programs to be considered, and establish a transition period during which new avenues of Federal support can be studied and local and State support examined so that accomplishments under the existing programs will not be lost due to an abrupt cessation of funds.

KANSAS REGIONAL MEDICAL PROGRAM

Several programs valuable to Kansas would be seriously damaged if the existing authorities are not extended and Federal funds are not made available for their continuation beyond June 30 of this year. The regional medical program authorized under 901(a) of the Public Health Services Act is one program due to expire June 30, 1973, if action is not taken. The regional medical program—RMP— has been under fire in many sections of the country and in some instances the attack has been justified but the Kansas RMP has proven to be one of the most effective programs in existence for upgrading health care in the State and improving the delivery of health services, especially in rural areas.

During the past 6 years, the KRMP has invested nearly $8 million in efforts to improve health care of the people of Kansas. The University of Kansas Medical School, acting as the Federal grantee, has contracted with over 20 institutions and organizations across the State to assist them in carrying out specific project activities to improve the availability of quality health care in that community.

IMPROVING RURAL HEALTH CARE

One of these programs, the nurse clinician program, has helped meet some of the problems created by the rural doctor shortage which exists in many parts of the State. Under this program participating nurses undergo 8 weeks of inten-

sive classroom work and 10 months of internship. The nurse clinician is then placed in a community under the supervision of a physician and assists the physician by relieving him of some of the routine office procedures, assisting in emergency situations, making house calls, and administering to patients under the doctor's supervision. The nurse also helps take histories, assists in physical examinations and diagnostic tests, and helps manage chronic disease patients such as those suffering from arthritis and diabetes. Through the use of these paramedical skills, medical services are being expanded and extended into the home, and in some instances the nurse clinician is being utilized to expand medical services in a previously doctorless community.

The nurse clinician program is operated through Wichita State University and since its inception in 1972 has enrolled 29 nurses. By June of 1973, the nurse clinician program will be serving 23 counties in Kansas. The average cost per trainee is approximately $2,750 and each clinician is estimated to increase a single physician's capacity by 30 percent.

KRMP has also made substantial progress toward the goal of bringing advances in medical knowledge to the bedside of Kansas patients. Physicians and nurses have received special training and developed skills in the latest techniques for acute coronary care, pulmonary disease care, cancer care, and renal dialysis nursing. Other KRMP funds have been utilized to develop a cancer information center to handle data on cancer patients in the State, and a library system linked to field offices in Great Bend, Wichita, and Topeka, which is used to provide immediate medical access to library resources for health professionals across the State.

EMERGENCY MEDICAL CARE

KRMP has led the way in developing an emergency medical service system for Kansas. In cooperation with the department of family practices at the University of Kansas Medical School, KRMP assisted in training 1,360 emergency medical service personnel including 330 Kansas highway patrolmen and 1,030 firemen, law enforcement personnel, and ambulance attendants to improve their skills and assist their effort to reduce the mortality rate due to trauma and other medical emergencies. In conjunction with the State department of health and the Governor's Commission on EMS, KRMP has developed a comprehensive statewide emergency medical service plan to provide better emergency care to all residents of the State.

I am currently a cosponsor of a bill which would assist this State effort by making available military transportation and medical equipment for emergency services around the military bases in Kansas. This bill, S. 31, would authorize the Secretary of Defense to utilize Department of Defense resources for the purpose of providing medical emergency transportation service to meet the needs of civilians living in the community around existing military bases. This expanded utilization of the military medivac teams to meet civilian needs should be a matter of priority consideration now that the military demands for their services have diminished, and I would hope that the Armed Services Committee can give S. 31 prompt attention and favorable consideration.

LOCAL HEALTH MANPOWER TRAINING

Five health services/educational activities have also been established across the State by KRMP. They have the responsibility of identifying local health manpower needs and developing local training opportunities for local talent. Programs offered through Fort Hays State College, Colby Community College, Marymount College, Washburn University, and Wichita State University analyze the needs of health facilities and practitioneers in various communities and train local health personnel who are interested in serving in that particular community.

Other innovative programs sponsored by KRMP have established nurse clinics in seven small towns in Ottawa County in association with the resident physician in the county seat to improve health care delivery in the county. In Wichita, a program was established to help juvenile diabetics deal with the everyday problems of diabetes. In Great Bend, a comprehensive educational program retrained and reactivated 72 nurses.

I bring these programs to the attention of my colleagues for two reasons.

First, to illustrate the effectiveness of the RMP in Kansas and to show the severe impact on health services in Kansas which would result if an abrupt termination of Federal funding of the program occurs at this time. But in addition, I feel the KRMP programs reveal the potential for improvement in health care in Kansas which is possible with better utilization and organization of existing medical resources, KRMP programs have been inexpensive and at the same time have proven the efficiency and effectiveness of improving our existing medical care system. They appear to be a vastly preferable alternative to total replacement of our existing system with a $100 billion a year federally controlled program whose performance potential is unknown and whose cost in taxes to the American public is equally uncertain. I, therefore, ask my colleagues to join in support of the RMP as practical and efficient means of improving our national health care program by building on the solid base which already exists. The administration has expressed the belief that the Federal Government should assume a more limited role in the health care field with emphasis on special finances for structural changes in the health care system either by providing new facilities or demonstrating new types of delivery systems. I can think of no better example of a limited amount of Federal money having greater impact on the development of new techniques for improving health care delivery than has been recorded by the operation of the RMP in Kansas.

COMMUNITY MENTAL HEALTH CENTERS

S. 1136 also extends the authority of the Community Mental Health Centers Act whose programs are vital to quality health care in Kansas. As a nation, we are just beginning to recognize the importance of a total health care program—one which provides for the mental as well as physical well-being of our citizens. The community mental health centers play a vital role in the health care picture and in the lives of a great many Kansans. Before MHC's were established in Kansas, mental health care was available only in a few cities. This meant that those in rural Kansas had to seek services far from their homes and were often placed on waiting lists, because of overcrowded conditions in State facilities. Now with community mental health centers in nine communities across the State, Kansans are able to receive outpatient care and guidance before extremely serious problems evolve.

This ounce of prevention has proven to be worth a pound of medicine by providing clinical and consultative mental health services through the community health centers, costly and ineffective long-term and custodial care in State mental institutions has been reduced. Since community mental health centers have been established in Kansas, the number of people requiring services from State institutions has dropped considerably while the number of people receiving mental health assistance has steadily increased.

The mental health care centers in Kansas have provided care for those in need of the services at rates they can reasonably afford. However, if Federal staffing and consultative service funds are discontinued after June 30, 1973, the availability of these comprehensive services to a large portion of the population will be threatened. The High Plains center which serves the northwestern portion of the State will be forced to drastically reduce its services if the Mental Health Center Authority is not extended. This will mean that many northwest Kansas residents will be without mental health services since the closest institution assistance is in many places more than 200 miles away. The result all too often is that consultation is avoided until the problem becomes so critical that institutionalization is required.

The Prairie View center in south-central Kansas also stands in dire need of staffing funds and a new community health center in eastern Kansas will not receive the $215,000 needed to meet startup costs unless the program's authority is extended. The 1-year extension of the Community Mental Health Center Authority is important in Kansas, because the mental health activities in the State are now at a critical stage. Federal assistance at this time is needed to put the program on its feet, so it can stand alone in the future.

STUDENT ASSISTANCE

Other legislative authority extended 1 year by S. 1136 are the Allied Health Professions Personnel Act, which provides scholarships, grants, work-study programs, and loans for allied health students. These provisions are important to Kansas since approximately one-half of health professions students depend on some type of assistance.

S. 1136 will also extend the authorization for the Partnerships for Health Act which provides 314 (a), (b), and (d) funds for State and areawide health planning agencies and the formula grants for public health services programs. The Developmental Disability Services and Facilities Construction Act is extended for 1 year and will continue the demonstration and training grants for the university affiliated facility program operated at the UAF centers in Parsons, Lawrence, and Kansas City.

These public health service and mental health programs are of particular significance in Kansas, although their record nationwide may not be as strong as we might hope. Cessation of Federal support for these programs at this time and on such short notice would be a blow to the health care in Kansas and a waste of the funds already invested in many of these programs up to this time.

Mr. MONDALE. Mr. President, it is essential that the Congress act promptly to extend these important health authorities which would expire on June 30. This is important not only to the institutions and beneficiaries who depend on these programs, but it is a test of the role of the Congress itself. I do not overstate the case when I say that the issue of the constitutional separation of powers is at stake here.

The administration has proposed in its 1974 budget that four of the programs which would be extended by this bill be terminated in the next fiscal year. However, we have not had the benefit of any detailed analyses or recommendations on those or any other of the programs which expire. Instructions have already gone out to recipients of funds under some programs looking toward their termination, without any consideration by the Congress.

A very novel and radical theory of the power of the executive branch has been put forth by the administration this year. As we all know, the administration is attempting to phase out the Office of Economic Opportunity and some of its programs—notwithstanding the fact that only last year the President signed a bill extending the programs for 2 years. Termination actions are underway at this very moment, based simply on the President's proposal—and I underscore proposal—that funds be withdrawn from community action programs next year. Here is a case where the statutory authority for continuing the OEO programs is clear—and yet the administration asserts the right to terminate them merely because it has not proposed funds for them next year.

In light of this dangerous precedent, it is quite clear that the administration's intent is to prevent the Congress from expressing its will concerning such vital programs as the Hill-Burton hospital program, the regional medical program, the community mental health centers program, allied health training, and public health training. It simply proposes to end them—without waiting for concurrence of the Congress. I wonder what has happened to the time-honored tradition that "the President proposes and the Congress disposes." I wonder what has happened to the constitutional provision that legislative powers are vested in the Congress. I wonder what has happened to the Constitution's charge that the President "take care that the laws be faithfully executed."

We do not stubbornly insist on the simple continuation of programs about which the administration has serious objections. We have repeatedly asked the executive branch for its specific recommendations and for its detailed analyses. They have not been forthcoming. Indeed, last May, the Secretary of Health, Education, and Welfare declined our invitation to testify on these very matters. He promised that the recommendations of the administration would be developed in plenty of time for the Congress to consider them before the authorities expired in June 1973. They have never been received.

Assistant Secretary of Health, Education, and Welfare Duval testified in July 1972, that the detailed recommendations of the administration should be expected "in connection with the 1974 budget." That budget was received 2 months ago and the legislative recommendations still have not been received.

In January 1973, Mr. Caspar Weinberger told the committee that the administration's detailed legislative recommendations should be expected in February or March. However, just last week, Secretary Weinberger testified that the administration still was not prepared to submit its detailed legislative recommendations and urged that the committee not act on extension of these expiring authorities.

Although he told us that he believed "it would be in everyone's interest to face the issues now," he is still not prepared to tell us what the specific recommendations of the administration are. In these circumstances, I think it would be a serious abdication of the constitutional role of the Congress to permit the administration arbitrarily and unilaterally to terminate these programs which have long served so well to help in improving the health of our citizens.

We are entirely prepared to consider revisions and consolidations of these programs, where the case can be made. But it is incumbent upon the administration to present its proposals to us and let us consider how to deal with them. For example, many have pointed out that the regional medical program has in some cases not achieved its objectives and and it overlaps other programs. Perhaps some of these programs have not been successful. But we have in Minnesota the northlands regional medical program which is one of the most outstanding health programs in the Nation. It should not be abolished, because other programs have been unsuccessful. As far as duplication is concerned, my colleagues and I are fully prepared to consider how to relate this program better to others which the administration proposes to continue. Similarly, many criticisms have been leveled at the Hill-Burton hospital construction program—alleging that we now have a surplus of hospital beds and that we need no more new construction assistance. But the administration has failed to tell the Congress and the public how this argument relates to the proposed termination of authority for modernization of hospitals.

We have many hospitals throughout the country, especially in large cities, where the plants are so obsolete that costs are enormously high and care is not as good as it should be. In Minneapolis for example, we have begun to replace obsolete facilities of the Metropolitan Medical Center and Hennepin County General Hospital. This is a very innovative program which provides for joint use by a public and private hospital of certain facilities. It has been widely praised as an example of the best kind of planning which we should demand in our hospital programs. We do not propose to add any hospital beds at all through this project. In fact, it contemplates a reduction in the number of hospital beds.

No one wishes to build additional hospital beds where they are unnecessary and we have effective State planning mechanisms to assure that we do not. But it is absolutely vital that we continue to replace obsolete plants with the most modern facilities that we can design and build. This clearly cannot be done without continued Federal assistance.

The same thing applies to the other programs the administration wants to terminate. Where a case can be made for revision, we will be glad to consider it. But we cannot permit the executive branch to terminate these programs unilaterally—and without any assurance that an adequate substitute will be available.

Another example is the community mental health centers program. Here, the administration argues that the program has been successful—so it should be terminated. The rationale for terminating the community mental health centers program is nothing more than that, eventually, we will have a national health insurance program which will permit everyone to purchase needed mental health services. However, we have yet to receive the administration's health insurance proposals. Two years ago, the President made recommendations for national health insurance, but it was many months until the bills finally reached the Congress. When they did, and we examined them, we discovered that 38 million people were left completely outside of the coverage of its proposals. Certainly, with this kind of background, we cannot permit a valuable program to be terminated merely on the promise that someday we will have new legislative recommendations which will fill the gap.

Mr. President, I cannot believe that the Congress is ready to close its doors and turn over all of the powers of Government to the President of the United States. We were elected to legislate—and legislate we must. This bill is an essential step in carrying out our constitutional responsibilities. I hope that it will be approved by an overwhelming margin in the Senate and speedily acted on by the House.

Mr. PEARSON. Mr. President, I rise in support of legislation extending for 1 year at present funding levels 10 major health programs which would normally expire at the end of the current fiscal year. In my judgment, passage of this bill is needed to insure a continuing Federal commitment to the goal of helping provide quality health care to all Americans.

We now find ourselves in a pressing situation, both with regard to the continued vitality of Federal health programs and the proper relationship between the executive and legislative branches. Last year, the Senate approved with my support legislation extending the Public Health Service Act and the Community Mental Health Centers Act in a manner similar to the bill now before us. Although the lateness of Senate approval precluded House action prior to adjournment, there was a clear indication of congressional support for the programs covered by these two acts.

At that time, we were assured by the distinguished chairman of the Senate Health Subcommittee that a thorough review and recodification of existing health programs were underway, an effort which would include an extensive study of their goals, their accomplishments, and the feelings of the American people toward them. Although this review continues on a priority basis, the situation has been further complicated by the administration's abandonment of major health programs in the proposed fiscal year 1974 budget.

Mr. President, the duty of Congress in this instance is clear. In my judgment, decisions which the President has made regarding the Nation's health program are not his to make alone. Administration statements to the contrary, there are several programs which have achieved not only substantial results, but the solid support of the communities they serve as well.

Among these is the Kansas regional medical program which in 1967 became one of the first such programs in the country to receive Federal funding under an expanded Public Health Service Act. The KRMP represents a consortium of local medical providers designed to respond to the particular health needs of Kansas. Altogether this program coordinates the operations of 26 separate activities, ranging from emergency treatment programs to the upgrading of health care facilities in rural, sparsely populated regions of the State.

The efforts of KRMP to improve the health system in Kansas have yielded substantial results. In conjunction with the Kansas University Medical Center, KRMP has trained nearly 1,500 emergency medical services personnel, including the Kansas Highway Patrol. Together with numerous State officials, KRMP is now involved in the development of a statewide emergency medical services master plan.

In rural Ottawa County, heretofore lacking in primary health care facilities, the KRMP established a clinical health care system in cooperation with local physicians. This program was so well received that county citizens have voted to increase public expenditures for its continuation, no small achievement in light of growing public opposition to rising taxes.

Mr. President, these are but two of the many fine examples which amply demonstrate the efficacy of this program and its value to Kansas. But unless the legislation now before us is enacted, there will be no further Federal support after June of this year.

It would indeed be unfortunate if the Federal Government discontinued its funding of this worthy effort. For this is not just another bureaucracy operating by long distance from Washington. Rather, it is a federally financed, local effort which has received the endorsement and cooperation of State officers, local governments, and—most importantly—the people of Kansas.

As an example of how all levels of Government can meet the needs of the Nation, this and other health programs now scheduled for extinction deserve continued Federal support. As an indication of the continuing national effort to respond to health needs, the bill we now consider deserves congressional support.

Mr. President, I ask unanimous consent that three editorials from Kansas newspapers be inserted in the RECORD at this point. Those from the Kansas City Kansan and the Great Bend Daily Tribune describe further the activities of the KRMP. The editorial from the Phillipsburg Review outlines programs which the KRMP and the Kansas State Legislature have formulated.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Kansas City Kansan, July 28, 1971]

HEALTH CARE QUALITY GOOD

Quality of health care available to Kansans is higher today than at anytime in the past.

This continuous upgrading of care is due to efforts of many individuals, institutions and organizations. However, much credit is due to projects conducted during the past four years by the Kansas Regional Medical Program.

KRMP is a federally funded, locally controlled effort to upgrade health care thruout the state. Headquartered at the University of Kansas Medical Center, KRMP has sponsored a variety of training programs since its founding designed to familiarize health professionals in the state with latest techniques of treatment.

It has proved most useful in spreading new medical developments from the confines of the reesarch lab to the practicing physicians, nurses and other health professionals in small towns and hospitals thruout Kansas.

The regional medical program was founded here in 1966 as part of a national effort to more effectively combat heart disease, cancer and stroke. It began operations in 1967 under a federal grant of slightly more than $1 million.

Since then, KRMP has sponsored training courses for occupational and physical therapists, circuit courses to upgrade the training of practicing nurses, seminars for doctors in the use of drugs to treat cancer, coronary care programs for nurses and a host of other projects designed to help health professionals help their patients.

The program recently received a federal grant for about $1,762,000 to finance its fifth year in operation which will include three major new projects as well as continued operation of five existing projects.

One of the new projects will be to train 40 nurses for expanded roles as nurse clinicians who will perform many routine tasks that now take up much of physicians' time. These nurses will take an 8-week primary academic course at KUMC and then train for 10 months under the doctors for whom they will work. Such use of nurses is one answer to the doctor shortage. Ivan Anderson, KRMP associate director, said the program may improve the productivity of physicians by as much as 25 to 30 per cent.

Another program is designed to train kidney patients and their families to perform home dialysis, a process by which the patients' blood is "washed" of impurities by machine, a function normally performed by the kidneys.

This program will also train nurses thruout the state in the care of kidney patients.

The third new program will establish a tumor registry. It will contain a central file on cancer cases in the state, thereby helping identify the nature and prevalence of cancer in Kansas. The registry will also forward to individual doctors the recorded experiences of other physicians on the best methods of treating certain types of cancer.

KRMP's five continuing programs include a 6-week refresher course for inactive nurses in Kansas City, Kan., a cardiac care education course in Wichita, a year-round area educational program for doctors, nurses and other health professionals in Great Bend, training for medical records clerks and a network of medical libraries with call-in service available to physicians thruout the state.

Altho these programs are designed to train health professionals, the real beneficiaries will continue to be the people of Kansas.

[From the Great Bend Daily Tribune, Oct. 25, 1971]

BENEFIT TO ALL

The Kansas Regional Medical Program, in which the Central Kansas Medical Center is involved, has recently issued its fourth year report.

It has a set of goals which are designed to continually up-grade the health services which are provided by members of the medical profession. With the University of Kansas Medical Center as the base, the KRMP includes a number of hospitals in its program.

A glance at the report indicates some of the achievements of the regional program. A medical library network for Kansas with staff in Kansas City, Great Bend, Topeka and Wichita is established; courses have been held for dieticians; special programs have been held for nurses who deal with patients with kidney problems, strokes and heart disease; training programs have reactivated 65 inactive nurses from 14 counties. These are but a few of the wide range of the health spectrum in which the Kansas Regional Medical program has been operating during its past four years.

Obviously, its efforts have been of great benefit to everyone in this area of the state in particular through the association of the Central Kansas Medical Center with the program. It should be a matter of state pride that Kansas was one of the first states to receive federal support for such a program . . . and that this area's medical center should be the first to be included in the state program.

[From the Kansas Phillipsburg Review, Feb. 22, 1973]

HEALTH CARE DELIVERY

A year ago Kansas broke new ground in an effort to improve the delivery of general health care throughout the state when the

legislature made a minor and little noticed change in the statutes which permitted the K. U. Medical Center to support medical residences away from the walls of the University hospital.

Kansas thus became the first state to recognize the value of a broader medical experience for young doctors, who can now receive a portion of their medical education in general hospitals of high quality located in situations which deal with the health problems of the public on a day-to-day basis.

Yet quality control was not surrendered. This learning experience is still under the direction and control of the K. U. Medical Center, which must approve the hospitals, and the staff involved before setting up a residency program, and the work is under constant review.

The direct action taken here conforms to the new emphasis on the Family Practice specialty, which equips young doctors to meet general health care needs, contrasted to the more sophisticated specialties in which complete concentration on one single phase of medicine is given throughout the period of residency.

Medical authorities have been recognizing the need for far more emphasis on family practice than has been given by medical schools in the past 15 years.

Dr. David E. Rogers, Dean of the Medical School at Johns Hopkins University, summed up the change in thinking in a recent statement to the American Medical college:

"We must stop pretending that we are adequately fulfilling our educational mission by continuing to limit our faculty, our students and efforts almost exclusively to this one special institution (the University hospital) . . . Our obligation to the training of physicians that we must have multifaceted educational laboratories that will permit the student to become acquainted in health problems as they are encountered by members of a community . . . not just those which are important to a research-oriented faculty."

Kansas has now taken the first steps in this direction.

Dr. Wm. O. Rieke, vice chancellor for health affairs at the K. U. Medical Center, feels that the extension of the medical center program into well-equipped hospitals with competent personnel, is a desirable objective to give residents more exposure to general health needs at the community level; but at the same time, that this extension must be under the supervision and control of the medical center.

A program of this type is already under way. Dr. Jack Walker, at the same time, is heading up a new department of Family Practice Specialty at the Medical Center. Wesley Hospital, at Wichita, which started such a program under the direction of Dr. Stan Mosier and Dr. Vic Voarhees, already has 17 young graduate doctors taking a three-year family practice course.

In the past, fully 80 percent of all young doctors have entered the more sophisticated specialties, learning virtually everything about one phase of medicine and very little about others. General health care needs, however, comprise fully 80 percent of the work of the medical profession, and new emphasis is now being placed on this latter phase of public need in Kansas.

During this same period, new attention has been centered on paramedical assistance with special course work now offered under K. U. Medical Center auspices at Wichita University for nurse-clinicians under the direction of Dr. Cramer Reed.

Registered nurses may take this concentrated course of instruction, and then be certified to do such tasks as may be assigned to them by the primary physician. It is emphasized that no patient may be treated, however, without the instructions of the physician.

The Hansen Health Care program proposes to use these new skills with a central radioband network. The procedures have been checked at all levels of the medical profession.

Dr. Bob Brown, director of the Kansas Regional Medical Advisory Council, who is working on other innovative programs for the development of Rural Health Care, says the program is headed "in the right direction."

The Hansen Foundation, in establishing a grant to finance the "D. G. Hansen Rural Health Care Program" is putting all of these innovative steps together in a single "package." It is the hope of the Foundation that a pilot project which will be of assistance in developing better rural health care everywhere, has here been started.

We hope so, too, for better health care is the most vital and pressing need of countless communities across the land, and we hope that what helps us may help others.

THE EFFECTS OF PRESIDENT NIXON'S POLICY TO TERMINATE COMMUNITY MENTAL HEALTH CENTERS PROGRAM ON INDIANA

Mr. BAYH. Mr. President, I speak in support of the Public Health Services Assistance Extension Act of 1973, of which I am a cosponsor and urge its passage.

S. 1136 now under consideration has one purpose: to reaffirm the intention of Congress that Congress will determine whether and which of the health programs extended for 1 year by the bill will continue. Executive budget action which lets certain health programs wither, vanish, or be effectively terminated by lack of adequate funding, is not the appropriate mechanism to determine the fate of vital substantive health programs affecting millions of Americans.

We have known for some time that the expiration of the major portions of the Public Health Service Act would create a legislative logjam. We attempted to anticipate that last year, and in fact successfully passed S. 3716 by a 78 to 0 vote, to improve many of the expiring provisions. The administration testified in opposition to that and it died in the House. Despite repeated attempts to get constructive legislative proposals from the administration, and despite repeated assurance that such legislation would be forthcoming—first by January, then by February, then before spring—none has been forthcoming.

Many of the affected health programs were passed in some of the finest hours of the Congress, and with the full and active support of past Presidents. But now we are confronted with a President who would turn away from the good we have accomplished, who would withdraw the gains we have made, and who would say to the American people regarding these vital health programs: "You'll get no more assistance from the Federal Government. From now on you can work things out for yourself."

The President's budget for fiscal year 1974 proposes the total elimination on radical restructuring of the Hill-Burton hospital program, the allied health training program, the regional medical program for heart, cancer, and stroke, the public health training program, and the community mental health centers program.

Our bill makes no substantive changes in the law. It simply extends the life of the following health programs from June 30, 1973, to June 30, 1974: Health services research and development, health statistics, public health training, migrant health, comprehensive health planning, Hill-Burton, allied health training, regional medical programs, medical libraries, and community mental health centers.

The impact of the President's health budget proposals is graphically illustrated in the case of the community mental health centers programs.

A decade ago, the Congress passed the Community Mental Health Center Act, which was designed to establish 2,000 centers throughout the Nation. The goal of these centers has been to make high quality care available to all citizens who suffer from the many mental illnesses. In addition, they provide special programs for the mental health of children, for drug abuse, and for alcoholism.

Today, 515 community mental health centers have been established. That is scarcely one-fourth of the total required to reach all Americans in the local community setting. Already the centers have been proven successful, and have relieved the overcrowding and stress that exists in too many State mental hospitals.

Does President Nixon want to expand this humane legislation? He does not. His budget proposes that the legislation be allowed to expire this June 30—with nearly 1,500 centers remaining to be built and staffed.

The Office of Management and Budget has come up with an ingenious device for obscuring the administration's real intentions. At first glance, the fiscal 1974 request for mental health programs appears to be doubled.

But the total includes $636 million that would not be spent in 1974 at all. That amount, already authorized for the centers, would be portioned out annually through 1980. President Nixon would end Federal support in 1980, and the centers would have to rely entirely on State and local governments, private contributors, and third-party payment systems.

And not only Federal taxes are supporting these centers today. Federal funds currently amount to only about 30 percent of the centers' total budget. State and local governments already provide 40 percent of the funds needed to keep the centers at their important work. The Federal contribution is needed, and will be needed beyond 1980, to establish new centers and to assist those already in operation.

The effects of this action on community mental health in Indiana will be serious.

Currently there are 8 federally funded centers in Indiana, 4 of them serving areas designated as urban or rural poverty areas. These centers provide comprehensive mental health services to a total population of 1,398,242 people making these services readily available within their own community. Emphasis is placed on ambulatory care, to encourage the patient to continue living at home if possible or in small community residential centers.

A fully comprehensive range of services

is required of all federally funded centers to insure that every patient receives the form of care best suited to his needs. Federally funded centers provide a unique system of care for all persons in a designated area, including preventive services—provided through education and consultation programs for schools, probation and police departments, welfare agencies, church groups and other public agencies. Linkages with other caregivers in the community, required under the Federal program, insure continuity of care, as well as early detection of mental disorders or potentially handicapping conditions.

Care in a community mental health center is demonstrably more effective and less costly than institutional care. Yet, under the Nixon administration's policy it is highly probable that over the next several years many people in Indiana will be denied community care—and referred instead to State mental hospitals—because alternative care will just not be available.

To give some idea of the Federal contribution to Indiana through the CMHC program, grants totaling $2.728 million were awarded to Indiana centers in fiscal year 1972, and $3.038 million in fiscal year 1973. These grants break down as follows:

To meet part of the costs of staffing:	
Fiscal year 1972	$2,303,000
Fiscal year 1973	2,670,000
To meet part of the costs of staffing a specialized facility for children:	
Fiscal year 1972	425,000
Fiscal year 1973	368,000

Under current law each Federal grant is reduced gradually over an 8-year period. As these grants drop off—and under the administration's current policy, as they expire completely—local communities and the State of Indiana must pick up approximately $3 million per year. This is in addition to the contribution already made by the State and localities to meet the costs of the CMHC program which are not covered by the Federal grant. These include all operational costs, as well as the non-Federal share of staffing costs. The most immediate and direct effect on Indiana of Mr. Nixon's policy would, however, be the loss of $1,087,786 in Federal funds which were to have been awarded shortly.

There are a total of 33 catchment areas in Indiana, yet only eight of these areas have a community mental health center. The termination of the Federal program makes it highly unlikely that the remaining 25 catchment areas will be served by a CMHC at any time in the near future. The large reductions in Federal categorical grant programs, as well as the impact of the termination of the centers' program itself, will place a heavy burden on the State's resources. While existing centers may be able to recover lost Federal dollars from the State, it seems highly questionable whether new centers, which require a considerable investment, will be initiated.

In two of these catchment areas, planning for a comprehensive community mental health program has been completed, and applications for Federal grants approved by NIMH. As a direct result of the cutoff in new grants awarded—which the administration ordered in fiscal year 1973—these two centers will not receive more than $1 million which they had expected. In addition, the Mental Health Center of St. Joseph County, which received a Federal construction grant in 1968, will not receive its expected staffing grant. This center's grant application has also been aproved by NIMH and would have been awarded had funds been available. Whether the center can continue to offer services to its community under these circumstances is questionable.

Thus Indiana will not receive the following CMHC program funds, although the grants have been approved:

Mental Health Center of St. Joseph County, South Bend, Ind., $265,212.

Region Ten Community MHC, Columbus, Ind., $557,362.

Regional MHC, Kokomo, Ind., $265,212.

If these services—already expected in the communities—are to be provided, State and local tax money must meet the entire costs, including the $1.1-million share the Federal Government was expected to provide.

Perhaps the most tragic aspect of the administration's policy is that we are ending the Federal effort with less than one-quarter of the centers needed to service the entire country. Slow as our progress has been, there has until now been a growth in the number of centers operating every year since 1966. Unfortunately, that growth seems likely to end. Of the 33 catchment areas in Indiana nine are in poverty areas—areas where alternative sources of funds are extremely scarce. For those living in the 25 areas not serviced by a community mental health center and in need of care the outlook is now grim. Many will wind up in the State mental hospital, becoming an even greater burden to the taxpayer.

Others will continue to live in the community while their condition steadily worsens, requiring, eventually, more expensive treatment and having less chance of a complete recovery.

Ironically this administration has stressed its support for the concept of community mental health, and the question of whether the federally funded community mental health centers program has provided better and more readily accessible care is not at issue. For example, in the HEW budget the termination of the CMHC program is justified as follows:

> The workability of the community mental health center concept has been thoroughly demonstrated and a large portion of a national system will have been put into place when the eight year grants provided for in current law are concluded. The Administration proposes that the Community Mental Health Centers Act be allowed to expire on June 30, 1973 on the grounds that the current momentum behind the community mental health center concept should be adequate to maintain existing centers and stimulate the establishment of new centers.

On another occasion, an administration aide recently assessed the community mental health centers program success and concluded that the Federal program was "inequitable, because people served by the federally funded centers receive better care than the rest of the Nation."

Last week Mr. Caspar W. Weinberger, Secretary of Health, Education, and Welfare reiterated the administration's curious attitude toward the mental health centers program, in testimony before the Senate Subcommittee on Health. Mr. Weinberger said in part:

> We believe that continued preferential treatment by the Federal Government of a few communities is unwarranted.

This is indeed a curious position for an administration that is determined to see to it that less than one-fourth of the centers contemplated by Congress when it passed the act will even get off the ground. Of course the obvious way to guarantee that each community in need of such a center has the opportunity to develop one is to extend the program and fulfill the mandate of Congress.

Thus the question is not "Do we continue to fund community mental centers?" the question is "How do we provide the funding?"

The administration maintains that States and localities together with contributions by public and private health insurance plans can support community mental health centers. Yet, most insurance plans do not cover the services offered in mental health centers and a bare 12 percent of all centers' income is derived from public and private health insurance. Furthermore, the administration's own Health Insurance Partnership Act of 1972 did not even provide coverage of mental health services, and its 1973 proposal is not expected to remedy this. Should some form of Federal health insurance program be enacted which does provide full coverage for CMHC services, the administration has still failed to explain how centers are to survive in the meantime.

The States and localities it seems, under the administration's policy, must pick up the tab. As of this date, Indiana will have received a total of $4.92 million under this program.

The following chart indicates the population being served by federally funded community mental health centers in Indiana. P indicates a center serving a designated poverty area:

	Population served
The Community MHC (P)* Indianapolis, Ind	197,070
Southern Indiana-MH & Guidance Ctr., Inc. (P)* Jeffersonville, Ind.	200,000
Comp. CMHC (P)* Vincennes, Ind.	75,490
Southwestern Indiana MHC, Inc.,* Evansville, Inc	248,000
Katherin Hamilton MHC, Inc. (P)*, Terre Haute, Inc	216,637
Mental Health Center of St. Joseph Co., Inc., South Bend, Ind.	124,723
Memorial Hosp. of South Bend, South Bend, Ind	120,322
Community Hospital of Indianapolis, Inc., Indianapolis, Ind	216,000
Total	1,398,242

* Operational (other centers have received construction funds only).

It seems incredible that so worthy a program would be dropped. But most incredible of all is the administration's twisted reasoning for phasing out support of community mental health centers. People receive better care at these centers. That is why they were established. That is why they should be strengthened, not weakened, and that is why more centers are needed.

Mr. President, the importance of this particular measure is not any one or more of these health programs, but the total constitutional issue of how our laws are to be made.

It is entirely appropriate for the President to urge Congress to terminate any one or more of these existing health programs and provide the evidence to Congress to justify his recommendation. But the action of the executive must be checked and balanced by the Congress, that is the genius of the American political system.

I am not totally satisfied with each and every one of the programs that will be extended by S. 1136, but the passage of this bill will provide the necessary time frame for Congress to work its will regarding all of the provisions and to bar an executive budget recommendation from determining either what health programs are to live or die, or how these programs are to be modified, improved, and implemented.

YEAR EXTENSION OF HEALTH PROGRAMS ESSENTIAL, SAYS SENATOR RANDOLPH

Mr. RANDOLPH. Mr. President. I support the measure now being considered in the Senate to extend the expiring authorities of the Public Health Service Act, the Community Mental Health Centers Act, and the Developmental Disabilities Services and Facilities Construction Act. I commend the capable chairman of the Subcommittee on Health (Mr. KENNEDY) for his leadership in bringing S. 1136 to the Senate.

Some 12 major health programs will expire on June 30 of this year unless the pending measure, S. 1136, is enacted into law. The President's budget for fiscal year 1974 indicates the administration's intention to allow many of these to expire. With respect to others, no specific legislative recommendations have been forthcoming.

It is my strong belief that a 1-year extension of these expiring authorities is absolutely necessary. The administration only 2 months ago revealed some of its intentions with respect to expiring health programs. If we, in the Congress, are to legislate intelligently we must carefully review the administration's rationale for terminating or revising these programs. We, in the legislative branch, of the Federal Government must make our own assessment of what should be terminated or consolidated or revamped. The short period of time between now and June 30 will not permit the careful scrutiny of these complex health programs that will be required if Congress is to act responsibly.

The able Senator from Massachusetts has outlined the meaning of S. 1136. I wish to focus specific attention on just three of the programs proposed to be extended.

DEVELOPMENTAL DISABILITIES ACT

The Developmental Disabilities Services and Facilities Construction Act became law in 1970. Its authorizations expire this June, as do those of the other programs in S. 1136. Hearings have been held by the Subcommittee on the Handicapped, which I am privileged to chair, on S. 427, a bill to extend the act for 1 year.

Although the subcommittee intended to review carefully the operation of the Developmental Disabilities Act with the hope that whatever substantive changes were necessary could be made before the end of the fiscal year, it soon became apparent that a great number of concerns have arisen with respect to the operation of that act. These concerns have centered on the methods by which funds are being allocated, how funds are being spent, and how the law has been implemented and administered.

In order to fulfill our responsibility of legislative oversight, the Subcommittee on the Handicapped has initiated an in-depth study of the developmental disabilities program. We have asked the General Accounting Office to provide in detail answers to a rather lengthy list of questions. An adequate GAO response will take time, more time than is remaining in this fiscal year. When the General Accounting Office completes its report, it is my firm intention, and that of the members of the Subcommittee on the Handicapped, to review the report and develop substantive legislation without delay.

The Committee on Labor and Public Welfare, in order to prevent the expiration of the Developmental Disabilities Act, and to provide adequate time for a detailed study of that act, agreed to include a 1-year extension of the act under the aegis of S. 1136.

HILL-BURTON PROGRAM

The administration is seeking to end the very successful, 27-year-old Hill-Burton hospital construction program. The justification for the administration's position was provided by the Secretary of Health, Education, and Welfare in testimony before the Committee on Labor and Public Welfare on March 22, 1973. The Secretary stated:

> We have clearly passed the point where this kind of special Federal intervention is needed by our health service delivery system. . . . A special Federal grant program for hospital construction is now unwarranted.

I indicated to the Secretary my belief that although the total number of hospital beds in the United States may be adequate on paper, there is a maldistribution of such facilities. I also expressed the belief that the Hill-Burton program had a definite continuing function with respect to the renovation of old hospital facilities and providing new outpatient care facilities.

Certainly the Hill-Burton program is neither outmoded nor unnecessary in my own State of West Virginia. In fact, if there were no limitations on Federal matching grant funds, West Virginia could initiate worthwhile, necessary projects totaling $88.8 million over the next 2 years. In fiscal year 1974, my State also could utilize over $36.6 million in Hill-Burton funds. I am certain that other States are similarly situated. The administration's pronouncements notwithstanding, the Hill-Burton program is most definitely not passé.

REGIONAL MEDICAL PROGRAM

Another program that the administration seeks to terminate is the regional medical program. It appears that the principal argument for discontinuation is that RMP has mainly operated as a source of continuing education for professionals generally capable of financing their own education. This is not at all my understanding of the function or operation of the program in West Virginia. In my State, seven clinics are being built in remote rural areas where medical service has heretofore been virtually nonexistent. The State RMP has developed a pediatric nurse assocate program to expand the medical resources available to children. Valued assistance has been provided by the West Virginia RMP in obtaining grants for various health programs in the State.

The Secretary of HEW also stated in his testimony of March 22:

> We are proposing the termination of the Regional Medical Program because we believe that it has not achieved its promise when it was first enacted seven years ago, and shows no reasonable chance of doing so in the future.

During its short life the West Virginia regional medical program has undertaken no fewer than 38 projects, including a rural multicounty emergency medical service program, home health care, maternity care using nurse midwives, a biomedical computer information project, surveys of health needs, and many others. Without the RMP, I fear that many of these badly needed projects would not be carried forward in West Virginia.

Mr. President, I conclude by reaffirming my strong support for the enactment of S. 1136, and I urge my colleagues to favor the continuation of these vital health programs with their affirmative votes.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. COTTON. Mr. President, on this vote I have a pair with the distinguished Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS), the Senator from Louisiana

(Mr. JOHNSTON), the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The pair of the Senator from South Carolina (Mr. THURMOND) has been previously announced.

The result was announced—yeas 72, nays 19, as follows:

[No. 66 Leg.]

YEAS—72

Abourezk	Ervin	McIntyre
Aiken	Fong	Metcalf
Allen	Fulbright	Mondale
Baker	Gravel	Montoya
Bayh	Gurney	Moss
Beall	Hart	Nelson
Bellmon	Hartke	Nunn
Bentsen	Haskell	Packwood
Bible	Hatfield	Pastore
Biden	Hathaway	Pearson
Burdick	Hollings	Pell
Byrd, Harry F., Jr.	Huddleston	Percy
Byrd, Robert C.	Hughes	Randolph
Cannon	Humphrey	Ribicoff
Case	Inouye	Saxbe
Chiles	Jackson	Schweiker
Church	Javits	Sparkman
Clark	Kennedy	Stafford
Cook	Long	Stevenson
Cranston	Magnuson	Symington
Dole	Mansfield	Talmadge
Dominick	Mathias	Weicker
Eagleton	McClellan	Young
Eastland	McGee	
	McGovern	

NAYS—19

Bartlett	Goldwater	Scott, Pa.
Bennett	Griffin	Scott, Va.
Brock	Helms	Stevens
Buckley	Hruska	Taft
Curtis	McClure	Tower
Domenici	Proxmire	
Fannin	Roth	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cotton, against.

NOT VOTING—8

Brooke	Muskie	Tunney
Hansen	Stennis	Williams
Johnston	Thurmond	

So the bill (S. 1136) was passed, as follows:

S. 1136

An act to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled That this Act shall be known as the "Public Health Service Act Extension of 1973".

SEC. 2. (a) Section 304(c)(1) of the Public Health Service Act (42 U.S.C. 201) is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(b) Section 305(d) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(c) Section 306(a) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(d) Section 309(a) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(e) Section 309(c) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(f) Section 310 of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(g) Section 314(a)(1) of such Act is amended (1) by striking "June 30, 1973" the first time it appears and inserting in lieu thereof "June 30, 1974", and (2) by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(h) Section 314(b)(1)(A) of such Act is amended by—

(1) striking the term "June 30, 1973" in the first sentence and inserting in lieu thereof the term "June 30, 1974"; and

(2) striking the phrase "for the fiscal year ending June 30, 1973" in the second sentence and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(i) Section 314(c) of such Act is amended by—

(1) striking the term "June 30, 1973" in the first sentence and inserting in lieu thereof "June 30, 1974"; and

(2) striking the phrase "for the fiscal year ending June 30, 1973" in the second sentence and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(j) Section 314(d)(1) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(k) Section 314(e) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(l) Section 393(h) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(m) Section 394(a) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(n) Section 395(a) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

(o) Section 395(b) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

(p) Section 396(a) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(q) Section 397(a) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(r) Section 398(a) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

(s) Section 601(a) of such Act is amended by striking the word "eight" and inserting in lieu thereof the word "nine".

(t) Section 601(b) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(u) Section 601(c) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(v) Section 621(a) of such Act is amended by striking "June 30, 1973" wherever it appears and inserting in lieu thereof "June 30, 1974".

(w) Section 625(2) is amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973, and June 30, 1974".

(x) Section 631 of such Act is amended by striking the word "two" and inserting in lieu thereof the word "three".

(y) Section 791(a)(1) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(z)(1) Section 792(a)(1) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(2) Section 792(a)(2) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

(aa) Section 792(b) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(bb) Section 792(c)(1) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(cc) Section 793(a) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(dd) Section 794A(b) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(ee) Section 794B(f) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(ff) Section 794C(e) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(gg)(1) Section 794D(c) is amended (A) by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973 and June 30, 1974", (B) by striking out "each of the two succeeding fiscal years" and inserting in lieu thereof "each of the three succeeding fiscal years", and (C) by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1974".

(2) Section 794D(e) is amended by striking out "1977" each place it occurs and inserting in lieu thereof "1978".

(3) Section 794D(f)(1)(A) is amended by striking out "each of the next two fiscal years" and inserting in lieu thereof "each of the next three fiscal years".

(hh) Section 901(a) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(ii) Sections 1001(c), 1002(d), 1003(b), 1004(b), and 1005(b) of the Public Health Service Act are amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

SEC. 3. (a) Section 201 of the Community Mental Health Centers Act (42 U.S.C. 2681) is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(b) Section 207 is amended by striking out "1973" and inserting in lieu thereof "1974".

(c) Section 221(b) is amended by striking out "1973" each place it occurs and inserting in lieu thereof "1974".

(d) Section 224(a) of such Act is amended (1) by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974" and (2) by striking out "thirteen succeeding years" and inserting in lieu thereof "fourteen succeeding years."

(e) Section 246 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1974."

(f) Section 247(d) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974."

(g) Section 252 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

(h) Section 253(d) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(i) Section 261(a) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973 and June 30, 1974".

(j) Section 261(b) is amended (1) by striking out "nine fiscal years" and inserting in lieu thereof "ten fiscal years", and (2) by striking out "1973" and inserting in lieu thereof "1974."

(k) Section 264(c) of such Act is amended (1) by striking the words "June 30, 1973" and inserting in lieu thereof the words "June 30, 1973 and June 30, 1974" (2) by striking out "eight fiscal years" and inserting in lieu thereof "nine fiscal years", and (2) by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1974".

(l) Section 271(d) of such Act is amended by striking the phrase "for the fiscal year ending June 30, 1973" and inserting in lieu thereof the phrase "for each of the fiscal years ending June 30, 1973, and June 30, 1974".

(m) Section 271(d)(2) is amended (A) by striking out "eight fiscal years" and inserting in lieu thereof "nine fiscal years", and (B) by striking out "1973" and inserting in lieu thereof "1974".

(n) Section 272 is amended by striking out "1973" and inserting in lieu thereof "1974".

SEC. 4. Section 601 of the Act entitled "An Act to amend the Public Health Service Act to revise, extend, and improve the program established by title VI of such Act, and for other purposes" is, amended by striking "July 1, 1973" and inserting in lieu thereof "July 1, 1974".

SEC. 5. (a) Section 121(a) of the Developmental Disability Services and Facilities Construction Act is amended by striking out "for each of the next five fiscal years through the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the next six fiscal years through the fiscal year ending June 30, 1974".

(b) Section 122(b) of such Act is amended by striking out "for the fiscal year ending June 3, 1973" and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973, and June 30, 1974".

(c) Section 131 of such Act is amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973, and June 30, 1974".

(d) Section 137(b)(1) of such Act is amended by striking "the fiscal year ending June 30, 1973." and inserting in lieu thereof "the fiscal years ending June 30, 1973, and June 30, 1974.".

SEC. 6. It is hereby declared to be the policy of the Federal Government, in the administration of all Federal programs, that religious beliefs or moral conviction regarding the performance of abortions or sterilization procedures (or limit the circumstances under which abortions or sterilizations may be performed) shall be respected.

SEC. 7. Any provision of law, regulation, contract, or other agreement to the contrary notwithstanding, on and after the enactment of the Act, there shall not be imposed, applied, or enforced, in or in connection with the administration of any program established or financed totally or in part by the Federal Government which provides or assists in paying for health care services for individuals or assists hospitals or other health care institutions, any requirement, condition, or limitation, which would result in causing or attempting to cause, or obligate, any physician, other health care personnel, or any hospital or other health care institution, to perform, assist in the performance of, or make facilities or personnel available for or to assist in the performance of, any abortion or sterilization procedure on any individual, if the performance of such abortion or sterilization procedure on such individual would be contrary to the religious beliefs or moral convictions of such physician or other health care personnel, or of the person or group sponsoring or administering such hospital or other institution.

SEC. 8. In respect of a hospital or other health care institution referred to in section 7 such hospital or other health care institution shall not discriminate in the employment, promotion, extension of staff or other privileges or termination of employment of any physician or other health care personnel on the basis of their personal religious or moral conviction regarding abortion or sterilization or their participation in such procedures.

SEC. 9. Any individual, hospital or other health care institution declining to participate in such procedures on the grounds of such religious or moral convictions shall post notice of such policy in a public place in such institution.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I want to express very briefly my appreciation to the ranking minority member of the Health Subcommittee, the Senator from Pennsylvania (Mr. SCHWEIKER) for the work he did in developing this legislation. I also thank the ranking minority member of the full Committee on Labor and Public Welfare, the Senator from New York (Mr. JAVITS), for his direction, counsel, and guidance. I also thank the chairman of the full Committee on Labor and Public Welfare, the Senator from New Jersey (Mr. WILLIAMS), who was enormously cooperative and helpful in the scheduling of the meetings and executive sessions and was of extremely valuable help and support.

I also thank the Senator from Colorado (Mr. DOMINICK), who was the former ranking minority member of the Health Subcommittee, and who also has been extremely helpful in health and other measures. His assistance was extremely useful.

Mr. President, I also wish to thank the staff members of the committee—Larry Horowitz, who did great work in the development of this legislation under the leadership of LeRoy Goldman, the staff director of the subcommittee. I also wish to thank Jay Cutler, who represents the minority. I doubt if there are harder working members of the staff of the Health Subcommittee or the full Committee on Labor and Public Welfare.

It is very significant to point out the excellent efforts on the part of all of these people.

I want to stress at this time, after the passage of the bill, we all recognize that a heavy responsibility goes to the committee in the redrafting of the Health Services Act. This work has already been started. The staff members have already spent a great deal of time on the selection of material and witnesses. We will have a full program outlined for us in the very near future.

We look forward to reporting back to the Senate—hopefully with the administration's support—a measure to provide more effective health programs for the American people.

BOARD OF DIRECTORS OF GALLAUDET COLLEGE—APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. DOMENICI). The Chair on behalf of the Vice President, pursuant to Public Law 83–420, appoints the Senator from Iowa (Mr. CLARK) to be a member of the Board of Directors of Gallaudet College.

CANADA-UNITED STATES INTERPARLIAMENTARY MEETING—APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. DOMENICI). The Chair, on behalf of the Vice President, pursuant to Public Law 86–42, appoints the Senator from Minnesota (Mr. HUMPHREY) to the Canada-United States Interparliamentary Meeting to be held in Washington, D.C., April 4 to 8, 1973.

INTEREST EQUALIZATION TAX EXTENSION ACT OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 88, H.R. 3577.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 88, H.R. 3577, a bill to provide an extension of the Interest Equalization Tax, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance with amendments on page 2, in line 3, strike out "June 30, 1974" and insert in lieu thereof "March 31, 1975"; in line 15, strike out "on or after January 1, 1973" and insert in lieu thereof "after December 31, 1972, except that in the case of the assumption of a debt obligation of a foreign corporation which is treated as issued under section 4912(c)(2) after December 31, 1972, and before January 1, 1974, the amendment made by paragraph (1) shall apply with respect to estates of decedents dying after December 31, 1972."

On page 3, beginning with line 1, strike out—

"(e) ISSUES AFTER JANUARY 29, 1973, IN CASE OF SHIPPING COMPANIES IN LESS DEVELOPED COUNTRIES.—

"(1) REPEAL OF EXCLUSION.—Except as provided by paragraphs (2), (3), and (4), subsection (a)(2) shall not apply to acquisitions of stock or debt obligations of a corporation described in subsection (a)(1)(B) (relating to certain less developed country shipping companies) which were issued on or after January 30, 1973."

"(2) EXCEPTION FOR PREEXISTING COMMITMENTS.—Paragraph (1) of this subsection shall not apply to an acquisition—

"(A) made pursuant to an obligation to acquire which, on January 29, 1973—

"(i) was unconditional, or

"(ii) was subject only to conditions contained in a formal contract under which partial performance had occurred; or

"(B) as to which on or before January 29, 1973, the acquiring United States person (or, in a case where 2 or more United States persons are making acquisitions as part of a single transaction, a majority in interest of such persons) had taken every action to signify approval of the acquisition under the procedures ordinarily employed by such person (or persons) in similar transactions, subject only to the execution of formal documents evidencing the acquisition and to customary closing conditions, and the acquiring United States person (or persons)—

"(i) had sent or deposited for delivery to the foreign issuer or obligor from whom the acquisition was made written evidence of such approval in the form of a commitment letter, memorandum of terms, draft purchase contract, or other document setting forth, or referring to a document sent by the foreign issuer or obligor from whom the acquisition was made which set forth, the principal terms of such acquisition, or

"(ii) had received from the foreign issuer or obligor from whom the acquisition was made a memorandum of terms, draft purchase contract, or other document setting forth, or referring to a document sent by the acquiring United States person (or persons) which set forth, the principal terms of such acquisition.

"(3) EXCEPTION FOR PUBLIC OFFERING.—Paragraph (1) of this subsection shall not apply to an acquisition if—

"(A) a registration statement (within the meaning of the Securities Act of 1933) was in effect with respect to the stock or debt obligation acquired at the time of its acquisition;

"(B) the registration statement was first filed with the Securities and Exchange Commission on January 29, 1973, or within 90 days before that date; and

"(C) no amendment was filed with the Securities and Exchange Commission after January 29, 1973, and before the acquisition which had the effect of increasing the number of shares of stocks or the aggregate face amount of the debt obligations covered by the registration statement.

"(4) EXCEPTION FOR OPTIONS, FORECLOSURES, AND CONVERSIONS.—Paragraph (1) of this subsection shall not apply to an acquisition—

"(A) of stock pursuant to the exercise of an option or similar right (or a right to convert a debt obligation into stock), if such option or right was held on January 29, 1973, by the person making the acquisition or by a decedent from whom such person acquired the right to exercise such option or right by request or inheritance or by reason of such decedent's death, or

"(B) of stock or debt obligations as a result of a foreclosure by a creditor pursuant to the terms of an instrument held by such creditor on January 29, 1973."

And insert in lieu thereof:

"(e) REPEAL OF EXCLUSION FOR ISSUES AFTER JANUARY 29, 1973, IN THE CASE OF LESS DEVELOPED COUNTRY SHIPPING COMPANIES.—Subsection (a)(2) shall not apply to acquisitions of stock or debt obligations of a corporation described in subsection (c)(1)(B) (relating to certain less developed country shipping companies) which were issued after December 31, 1972."

(2) CONFORMING AMENDMENT.—Section 4916(a)(2) is amended by inserting "(except as provided in subsection (e))" after "less developed country corporation".

(c) EXCEPTIONS TO EXCLUSION RULES FOR CERTAIN PRE-EXISTING COMMITMENTS, ETC.—

(1) EXCEPTION FOR PRE-EXISTING COMMITMENTS.—Section 4916(e) of the Internal Revenue Code of 1954 (relating to repeal of exclusion for issues after January 29, 1973, in the case of less developed country shipping companies) shall not apply to an acquisition—

(A) made pursuant to an obligation to acquire which, on January 29, 1973—

(i) was unconditional, or

(ii) was subject only to conditions contained in a formal contract under which partial performance had occurred;

(B) as to which on or before January 29, 1973, the acquiring United States person (or, in a case where 2 or more United States persons are making acquisitions as part of a single transaction, a majority in interest of such persons) had taken every action to signify approval of the acquisition under the procedures ordinarily employed by such person (or persons) in similar transactions, subject only to the execution of formal documents evidencing the acquisition and to customary closing conditions, and the acquiring United States person (or persons)—

(i) had sent or deposited for delivery to the foreign issuer or obligor from whom the acquisition was made written evidence of such approval in the form of a commitment letter, memorandum of terms, draft purchase contract, or other documents setting forth, or referring to a document sent by the foreign issuer or obligor from whom the acquisition was made which set forth, the principal terms of such acquisition, or

(ii) had received from the foreign issuer or obligor from whom the acquisition was made a memorandum of terms, draft purchase contract, or other document setting forth, or referring to a document sent by the acquiring United States person (or persons) which set forth, the principal terms of such acquisitions;

(C) of stock or a debt obligation issued in connection with the purchase or lease of a ship the construction of which was begun before January 30, 1973, if—

(i) the acquisition meets the requirements of subparagraph (B) (except that for purposes of this clause, the term "January 29, 1973" appearing in such subparagraph shall be read as "April 30, 1973"), and

(ii) the contract for the construction of the ship was entered into by the United States person, or by a less developed country corporation described in section 4916(c)(1)(B) of the Internal Revenue Code of 1954 which is a member of the same controlled group (within the meaning of section 1563(a) of such Code) as that person, which purchased or leased such ship; or

(D) of stock or a debt obligation issued in connection with a purchase or lease of a vessel the construction of which was begun before January 30, 1973 if—

(i) a request for a ruling had been filed with the Internal Revenue Service within 60 days prior to January 30, 1973, with respect to the transaction.

(ii) before such date the United States person financing the transaction (or if two or more such persons are participating in financing the transaction, a majority in interest of such persons) had approved the transaction, or given a commitment to participate in the transaction (orally or in writing), subject to customary closing conditions, and

(iii) the vessel to be acquired in the transaction was delivered on or before March 1, 1973.

For the purposes of this paragraph—

(1) FOREIGN ISSUER OR OBLIGOR.—The term "foreign issuer or obligor" shall include any person which, on the date of such acquisition, owned at least 80 percent of each class of stock of the foreign issuer or obligor, as determined under section 958(a) of the Internal Revenue Code of 1954, or which is the agent or representative of such person.

(II) ACQUIRING UNITED STATES PERSON.—The term "acquiring United States person (or persons)" includes the immediate predecessor in interest to such person or persons.

(2) EXCEPTION FOR PUBLIC OFFERING.—Such section 4916(e) shall not apply to an acquisition if—

(A) a registration statement (within the meaning of the Securities Act of 1933) had been in effect, with respect to the stock or debt obligation acquired, at the time of its issuance;

(B) the registration statement was first filed with the Securities and Exchange Commission on January 29, 1973, or within 90 days before that date; and

(C) no amendment was filed with the Securities and Exchange Commission after January 29, 1973, and before the issuance of such stock or debt obligation which had the effect of increasing the number of shares of stock or the aggregate face amount of the debt obligations covered by the registration statement.

(3) EXCEPTION FOR OPTIONS, FORECLOSURES, AND CONVERSIONS.—Such section 4916(e) shall not apply to an acquisition—

(A) of stock pursuant to the exercise of an option or similiar right (or a right to convert a debt obligation into stock), if such option or right was held on January 29, 1973, by the person making the acquisition or by a decedent from whom such person acquired the right to exercise such option or right by bequest or inheritance or by reason of such decedent's death, or

(B) of stock or debt obligations as a re-

sult of a foreclosure by a creditor pursuant to the terms of an instrument held by such creditor on January 29, 1973.

(4) CONSTRUCTION.—The provisions of this subsection shall be construed and applied as if this subsection were part of chapter 41 of the Internal Revenue Code of 1954 (relating to interest equalization tax), and the terms used in this subsection shall have the same meaning as such terms have when used in such chapter.

On page 11, line 17, strike out "(c)" and insert in lieu thereof "(d)".

On page 12, beginning with line 4, strike out:

"(a) GENERAL RULE. The tax imposed by section 4911 shall not apply to the acquisition by a United States person of stock or a debt obligation constituting all or part of an original or new issue (as defined in section 4917(c)) which was issued for the purpose of financing new or additional direct investment (as defined by the Secretary or his delegate) in the United States by the foreign issuer or obligor and which qualifies under subsection (b).

And insert in lieu thereof:

"(a) GENERAL RULE.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of—

"(1) stock or a debt obligation constituting all or part of a new issue (as defined in section 4917(c)) which was issued for the purpose of financing new or additional direct investment (as defined by the Secretary or his delegate) in the United States by the foreign issuer or obligor and which qualifies under subsection (b),

"(2) stock pursuant to a right to convert a debt obligation into stock without the payment of any further consideration if such debt obligation qualified for exclusion from tax under this subsection when it was issued, or

"(3) a debt obligation issued for the purpose of refunding or refinancing a new or original issue which met the requirements of paragraph (1) when that new or original issue was issued.

On page 14, after line 8, insert:

For purposes of this subsection, a foreign issuer or obligor shall not be considered to have failed to meet the requirements of this subsection with respect to an issue of stock described in subsection (a)(2), or a debt obligation described in subsection (a)(3), if he complies with the requirements imposed on him by this subsection with respect to the debt obligation converted, refunded, or refinanced.

And on page 16, beginning with line 18, insert:

(e) CORPORATIONS FORMED TO ACQUIRE FOREIGN SECURITIES.—Section 4912(b)(3) (relating to acquisitions from domestic corporation or partnership formed or availed of to obtain funds for foreign issuer or obligor) is amended by adding at the end thereof the following: "The preceding sentence shall not apply to the acquisition of stock or a debt obligation of a domestic corporation all of whose acquisitions of stock or debt obligations of foreign issuers or obligors are either subject to the tax imposed by section 4911 or without liability for payment of such tax under section 4916, 4917, 4918, or 4920(b). An acquisition to which section 4914(c) applies shall not be taken into consideration in determining whether a domestic corporation or partnership is formed or availed of for the purpose of obtaining funds (directly or indirectly) for a foreign issuer or obligor."

(f) EXPORT FINANCING.—

(1) SALE OR LEASE OF UNITED STATES PROPERTY OR SERVICES.—Section 4914(c)(1) (relating to export credit, etc., transactions) is amended to read as follows:

"(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition of a debt obligation arising out of the sale or lease of tangible personal property or service, or both, if—

"(A) payment of such debt obligation (or of any related debt obligation arising out of such sale or lease) is guaranteed or insured, in whole or in part, by an agency or wholly owned instrumentality of the United States; or

"(B)(i) not less than 85 percent of the amount of the loan or the amount paid or other consideration given to acquire such debt obligation is attributable to the sale or lease of property manufactured, produced, grown, or extracted in the United States, or to the performance of services by United States persons, or to both, and

"(ii) the extension of credit and the acquisition of the debt obligation related thereto are reasonably necessary to accomplish the sale or lease of property or services out of which the debt obligation arises, and the terms of the debt obligation are not unreasonable in light of credit practices in the business in which the person selling or leasing such property or services is engaged.

The term 'services' as used in this paragraph and paragraph (2), shall not be construed to include functions performed as an underwriter."

(2) REFUNDING OR REFINANCING CERTAIN DEBT OBLIGATIONS.—Section 4914(c) is amended by redesignating paragraph (8) as (9), and by inserting after paragraph (7) the following new paragraph:

"(8) REFUNDING OR REFINANCING CERTAIN DEBT OBLIGATIONS.—The tax imposed by section 4911 shall not apply to the acquisition of a debt obligation issued for the purpose of refunding or refinancing a new or original debt obligation if—

"(A) the purpose for which and circumstances under which the new or original debt obligation was issued are such that, were such debt obligation issued on the date on which the refunding or refinancing debt obligation is issued, the acquisition of that new or original debt obligation would not be subject to tax under section 4911, and

"(B) the terms of the refunding or refinancing debt obligation are not unreasonable in light of credit practices in the business in which the person acquiring the debt obligation is engaged and the refunding or refinancing of the new or original debt obligation is customary in transactions of the type out of which it arose."

(g)(1) EXCLUSION FOR ACQUISITIONS BY QLFC'S TO FINANCE EXPORTS.—Section 4915(e)(1)(A) is amended to read as follows:

"(A)(i) the amounts received by the corporation as a result of the acquisition will not be used to acquire stock of foreign issuers or debt obligations of foreign obligors (other than stock or debt obligations the acquisition of which is not subject to the tax imposed by section 4911 on account of section 4914(c)), or utilized in any way outside of the United States other than for the acquisition of tangible personal property for leasing which is manufactured or produced in the United States, or (ii) the funds used for such acquisition were obtained from sources outside the United States; and".

(2) Section 4920(d)(2) is amended by striking out everything preceding subparagraph (A) and inserting in lieu thereof the following:

"(2) all debt obligations of foreign obligors (other than debt obligations the acquisition of which is not subject to the tax imposed by section 4911 on account of section 4914(c)) acquired by such corporation, and all tangible personal property not manufactured or produced in the United States acquired by such corporation for leasing, are acquired and carried solely out of—".

(h)(1) PARTICIPATING FIRMS TRADING FOR THEIR OWN ACCOUNTS.—Section 4918(e) (relating to sales effected by participating firms in connection with exempt acquisitions) is amended by—

(A) striking "or" at the end of paragraph (7),

(B) redesignating paragraph (8) as (9), and

(C) inserting after paragraph (7) the following new paragraph:

"(8) sells for its own account and pays the tax imposed under section 4911 on its acquisition of such stock or debt obligation not later than the time it would be required to pay over such tax to the Secretary or his delegate if such tax were withheld under paragraph (7); or".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to acquisitions of stock or debt obligations made on or after July 15, 1967.

(i)(1) INTEREST EQUALIZATION TAX REFUNDS.—Section 4919(a) (relating to credit or refund) is amended by striking out "credit or refund (without interest)" and inserting in lieu thereof "credit (without interest) or refund".

(2) Section 6611 (relating to interest on overpayments) is amended by redesignating subsection (h) as (i), and by inserting after subsection (g) the following new subsection:

"(h) REFUND WITHIN 45 DAYS AFTER FILING CLAIM FOR REFUND OF INTEREST EQUALIZATION TAX PAID ON SECURITIES SOLD TO FOREIGNERS.—No interest shall be allowed under subsection (a) on any overpayment of the tax imposed by section 4911, arising by reason of section 4919(a), if the overpayment is refunded within 45 days after the filing of a claim for refund for that overpayment of tax with respect to a prior quarter."

(j) CHANGES IN DEFINITIONS AND SPECIAL RULES.—

(1) FOREIGN LENDING OR FINANCE BUSINESSES.—Section 4920(a)(3A) is amended by—

(A) amending subparagraph (A) to read as follows:

"(A) the term 'lending or finance business' has the meaning given to it by section 542(d)(1), except that the portion of subparagraph (B)(i) of such section following '60 months' shall be disregarded;" and

(B) adding at the end of such section the following sentence: "For purposes of determining whether a domestic corporation is primarily engaged in the lending or finance business, ownership of stock of an affiliated corporation which satisfies the requirements of clause (i) and (ii) of paragraph (3)(C) shall be disregarded."

(2) FUNDING OF STOCK OPTIONS AND OTHER ISSUES OF STOCK.—Section 4920(b)(2) (relating to class of stock defined) is amended by—

(A) striking "or" at the end of subparagraph (C),

(B) redesignating subparagraph (D) as (E),

(C) inserting after subparagraph (C) the following new subparagraph:

"(D) issued after November 10, 1964, and prior to January 30, 1973, upon exercise of a stock option granted to an individual, in connection with his employment by the employer corporation, to purchase stock of such corporation if the tax imposed by section 4911 has been paid;",

(D) amending clause (ii) of subparagraph (E) (as redesignated by subparagraph (B) of this paragraph) by inserting before the semicolon the following: ", or on the latest record date before the issuance of such additional shares",

(E) amending clause (iv) of such subparagraph (E) by inserting after "4917," the following: "or are shares issued after January 29, 1973, upon exercise of an option described in section 4914(a)(8) (determined without regard to whether or not the optionee is a United States person) granted to an employee who immediately after such option is granted is an individual described in section 422(b)(7) (provided that the ag-

gregate number of shares of such class subject to all options described in section 4914(a)(8) (determined without regard to whether or not the optionee is a United States person) that are granted during one calendar year does not exceed one percent of the total number of outstanding shares of such class on the first day of such calendar year),".

(F) striking the period at the end of clause (v) of such subparagraph (E) and inserting a semicolon and "or",

(G) inserting after such subparagraph (E) the following new subparagraph:

"(F) issued after March 31, 1973, as consideration for, or upon conversion (or in connection with the prior conversion) of debt obligations which were the consideration for, the acquisition of stock of a foreign corporation, if immediately after such acquisition the acquiring corporation owns (directly or indirectly) more than 50 percent of the total combined voting power of all classes of stock of such foreign corporation, or the acquisition of more than 50 percent (in value) of the assets of a foreign corporation, if—

"(i) such corporation satisfied the requirements of sections 4920(b)(2)(E) (i), (ii), and (iii);

"(ii) shares of such class were held of record by more than 5,000 persons on such corporation's latest record date before January 1, 1973;

"(iii) during the period beginning on January 1, 1973, and running through the date of issuance of such shares, shares of such class were listed for trading on one or more national securities exchanges registered with the Securities and Exchange Commission;

"(iv) during the period beginning on January 1, 1973, and running through the date of the issuance of the additional shares such corporation has maintained its principal office in the United States;

"(v) during the period beginning on January 1, 1973, and running through the date of issuance of the additional shares such corporation has been engaged in trade or business in the United States;

"(vi) during the 5-year period immediately preceding the date of issuance, the aggregate number of additional shares (other than additional shares issued under subparagraph (B), (C), (D), or (E) of this subsection) does not exceed 5 percent of the total number of outstanding shares of such class on the first day of such 5-year period, and

"(vii) the acquired foreign corporation was engaged in the active conduct of a trade or business (other than as a dealer in securities) immediately before the date of such acquisition.", and

(H) striking "subparagraph (D)" wherever it appears in the text of such section 4920(b)(2) after subparagraph (F) (added by subparagraph (G) of this paragraph) and inserting in lieu thereof "subparagraph (E)".

(3) FOREIGN SOURCE BORROWING BY QLFC FROM RELATED CORPORATIONS.—Section 4920(d)(2)(A)(ii) is amended to read as follows:

"(iii) a foreign corporation (not including a qualified lending or financing corporation or a foreign corporation engaged in the commercial banking business which acquires such debt obligations in the ordinary course of such commercial banking business), if such corporation (or one or more includible corporations in an affiliated group, as defined in section 1504, of which such corporation is a member) owns directly or indirectly (within the meaning of section 4915(a)(1)) 10 percent or more of the total combined voting power of all classes of stock of such foreign corporation, except to the extent such foreign corporation has, after having given advance notice to the Secretary or his delegate, sold its debt obligations to persons other than persons described in clauses (i) and (ii) and this clause and is using the proceeds of the sales of such debt obligations to acquire the debt obligations of such corporation (or such other domestic corporation),".

(4) PERCENTAGE OF STOCK OWNED BY PARENT CORPORATION OF QLFC.—Section 4920(d)(2)(B) is amended by striking out "by one or more members of a controlled group (as defined in section 48(c)(3)(C)) of which such corporation is a member (or by a corporation which would be such a member if it were a domestic corporation)" and inserting "by a corporation owning directly or indirectly (within the meaning of section 4915(a)(1)) 10 percent or more of the total combined voting power of all classes of stock of such corporation".

(5) SOURCE OF FUNDS FOR QLFC'S.—Section 4920(d)(2) is amended by—

(A) striking "or" at the end of subparagraph (C),

(B) striking the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma and "or", and

(V) adding at the end thereof the following new subparagraph:

"(E) the proceeds of the sale of debt obligations (by a domestic corporation which has made an election under section 4912(c) with respect to such debt obligations) to a person other than a person described in clause (i), (ii), or (iii) of subparagraph (A) if the proceeds are transferred directly from the lender to such corporation;".

(6) EQUITY INVESTMENTS OF QLFC'S.—Section 4920(d)(3) is amended to read as follows:

"(3) which does not acquire or own any stock of foreign issuers or of domestic corporations or domestic partnerships other than—

"(A) stock of one or more members of a controlled group (as defined in section 48(c)(3)(C)) of which such corporation is a member (or of a corporation which would be a member if it were a domestic corporation) acquired as payment for stock, or as a contribution to capital, of such corporation,

"(B)(i) stock of a corporation described in section 4915(e)(2)(C) or section 4920(a)(3B), if 10 percent or more of the total combined voting power of all classes of such stock is owned (directly or indirectly) by the acquiring corporation, or

"(ii) stock of a partnership which meets the requirements of section 4920(d)(1) and (2) under regulations promulgated by the Secretary or his delegate, if immediately following the acquisition such corporation owns (directly or indirectly) 10 percent or more of the profits interest in such partnership,

"(C) stock acquired by such corporation through foreclosure, where such stock was held by such corporation as security for loans or leases described in paragraph (1) if such stock is disposed of within a 90-day period beginning on the day after the date of such foreclosure (including any additional 90-day periods reasonably necessary to dispose of such stock that the Secretary or his delegate may allow), or

"(D) stock of a foreign corporation acquired in connection with and incidental to an acquisition of a debt obligation in a transaction described in paragraph (1) if (i) at the time of the acquisition of the debt obligation the value of such stock does not exceed 10 per centum of the value of the debt obligation, and (ii) the terms of the debt obligation are not unreasonable in light of credit practices in the business in which the corporation acquiring such debt obligation is engaged; and".

(7) STOCK DIVIDENDS BY CERTAIN MUTUAL FUNDS.—Section 4920(e) (relating to certain mutual funds) is amended by inserting before the period ", except stock issued as a capital gain dividend, as defined in section 852(b)(3)(C)".

Sec. 4. Report by Secretary of Treasury.

The Secretary of the Treasury shall study the effect on international monetary stability of the exemption granted under the authority of section 4917 of the Internal Revenue Code of 1954 (relating to exclusion for original or new issues where required for international monetary stability) from the tax imposed by chapter 41 of such Code (relating to interest equalization tax) of new issues of Canadian stock or debt obligations. The Secretary shall report to the Congress, not later than September 30, 1973, the results of such study and his conclusions as to whether the termination of such exemption will have such consequences for Canada as to imperil or threaten to imperil the stability of the international monetary system, together with any recommendations, including recommendations for legislation, he may have.

Mr. LONG. Mr. President, I ask unanimous consent that Michael Stern, Robert Willan, William Morris, and Robert Best of the staff of the Committee on Finance, and Laurence Woodworth, Donald Evans, Howard Silverstone, and Michael Bird of the staff of the Joint Committee on Internal Revenue Taxation, be permitted to have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. The principal feature of H.R. 3577 is the provision extending the interest equalization tax for another 2 years, from March 31, 1973, until March 31, 1975. This 2-year extension is the major difference between the bill as reported by the committee and the House-passed bill, which would have extended the tax for 15 months until June 30, 1974.

The Treasury Department requested the committee to extend the tax until the end of December 1974, because it believed that the tax should at that time be permitted to expire. Because of this Treasury view, the committee did not believe that a June 30 expiration date was appropriate. That date would have required an additional 6-month extension if the tax were to terminate in December 1974. At the same time, the committee is by no means sure that Congress will want to permit capital flows out of the United States free of tax after 1974. The balance-of-payments problems we now face are of large proportion and it appears likely they will extend beyond 1974. As a result, we in Congress may well want to extend the tax beyond the 1974 termination date the administration now seeks.

The committee met this date problem by extending the tax until the end of March 1975. Had we extended the tax only until December 1974, since Congress is unlikely to be in session in December, we might at that time be powerless to act if an additional extension beyond the end of December were necessary. The March 1975 date will give us plenty of time to consider the future of this tax during a period we are likely to be in session.

Both the House and the committee have adopted several minor modifications and the committee has added a number of technical amendments; a description of these modifications and technical amendments is contained in the committee report and I ask unanimous consent that pertinent parts of the report relating to these amendments be printed in the RECORD at the end of my statement. The amendments are largely tech-

nical in nature and they have been cleared by the Committee on Finance as well as by the Treasury Department. So far as I know there is no objection to any of them.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LONG. Let me outline briefly the purpose of the interest equalization tax. Its purpose is to protect our balance-of-payments position by restraining capital outflow from the United States. This is accomplished by discouraging foreigners from borrowing in the United States by increasing the cost to foreigners of this borrowing. The tax achieves this result by providing the equivalent of an increase in the annual interest rate on funds borrowed from the United States by as much as 1½ percentage points. The President has discretion to vary the tax to an interest rate equivalent of anything up to this rate. Presently he has imposed a tax equivalent to an interest rate differential of three-fourths of 1 percent.

The extension of the interest equalization tax is necessary at the present time because the expiration of the tax would add significantly to our already excessive balance-of-payments deficit which reached $22 billion in 1971 and nearly $14 billion in 1972. In addition, extension of the tax is necessary even with the recent move away from fixed exchange rates by "floating" the dollar and other currencies. The tax is necessary at this time to avoid significant capital outflows before the currency revaluations and trade negotiations have had an opportunity to correct the underlying imbalances in our international accounts. Moreover, removal of the tax at this time could undermine the pending trade negotiations with our major trading partners who would regard removal as premature and indicative of insufficient concern about our balance-of-payments deficits and capital outflows.

An indication of the possible capital outflow effect if the tax were not extended is provided by the lower interest rates in the United States than abroad and the record of the tax in restraining borrowing in the United States by foreigners.

Our capital markets are much better organized than those of foreign countries and any time our interest rates are lower than those in foreign countries, there is a temptation to borrow here. This is particularly important now because our interest rates are below those in many foreign countries.

For example, in October 1972, the yield on long-term U.S. Government bonds was 5.69 percent; the average for Western European Government bonds was 7.19 percent, a differential of 1.5 percentage points. The differential on industrial issues is also significant. In December 1972, the rate on U.S. industrials was 7.33 percent, while the rate in West Germany was 8.58 percent, in France was 8.3 percent, and in the United Kingdom was 10.4 percent. These differentials between the foreign interest rates and the lower U.S. rates are clearly large enough to attract a significant amount of foreign borrowing in the absence of the tax.

In addition, during the period we have had this tax in effect, and also controlled to some degree direct investments abroad, U.S. companies have issued large amounts of foreign securities abroad to finance their direct investment in various countries. If the tax were not to continue, there would be a temptation to refinance some of these amounts in the United States. At the end of 1972, the volume of these securities outstanding amounted to $15.2 billion not counting bank loans. As a result, the tax is essential to prevent the refinancing of this large "overhang" of securities held by foreigners which are associated with U.S. companies.

Even apart from this special situation of U.S. companies with securities held by foreigners, the interest equalization tax has also been effective in preventing foreigners from financing both new securities here and also selling outstanding securities here. Based upon past trends, and experience in those areas where the tax is not operative, it appears that, even apart from the special situations that I have referred to, the tax, on the average, prevents foreigners from borrowing something like $2 billion a year in our markets.

The interest equalization tax is also important because it is a part of a larger program designed to reduce capital outflows. Not only do we have the interest equalization tax which applies to so-called portfolio investments—that is, where the investment is not so large as to be a factor in the control of the foreign company—but we also have the direct investment control program run by the Department of Commerce and also the program run by the Federal Reserve System to limit short-term bank credit abroad. If the interest equalization tax were not to be continued, therefore, not only would we have the increase in capital outflow arising from portfolio investments, but it seems unlikely that it would be possible to maintain our capital outflow controls in the direct investment area if this eventuality were to come to pass.

I think it is clear from these considerations that extension of the interest equalization tax is necessary to avoid capital outflows which could be destabilizing both for the recently floated dollar and for the upcoming trade negotiations. By this I do not mean to imply that a continuation of this tax will solve our balance-of-payments problems. Far from it. But one thing I think we can be sure of: our balance-of-payments problem will be much worse without this tax.

I urge the Senate to pass this bill and extend this tax for a 2-year period.

EXHIBIT 1

GENERAL EXPLANATION OF THE BILL AS AMENDED BY COMMITTEE

1. Extension of interest equalization tax (sec. 2 of the bill and sec. 4911(d) of the code).

Under present law, the interest equalization tax expires as of April 1, 1973. The House has extended the application of this tax for a period of 15-months, or until July 1, 1974. As explained more fully in the prior part of this report, "Reasons for the bill," this tax continues to be an essential part of the U.S. balance-of-payments program, and its extension for the additional period is believed to be necessary in view of our present balance-of-payments situation. However, for the reasons indicated above, the committee has amended the House bill to provide a 2-year extension.

2. Estate taxation of debt held by foreign persons where interest equalization tax applies (sec. 3(a) of the bill and sec. 2104(c) of the code).

Present law contains a procedure which is designed to enable domestic companies and partnerships to directly obtain foreign funds for their foreign affiliates in a manner which complies with the restrictions on foreign investment imposed by the Office of Foreign Direct Investment in the Commerce Department. This procedure allows a domestic company or partnership to elect (under sec. 4912(c)) to treat an issue of its debt which is issued to foreign persons as subject to the interest equalization tax if acquired by a U.S. person. This provides assurance that the obligations issued by the domestic company or partnership in connection with the foreign borrowing will not be acquired by U.S. persons and thus provides the necessary assurance for the foreign direct investment program that the funds obtained from the foreign borrowing will not be indirectly replaced by U.S. funds.

This procedure, which was adopted in the Interest Equalization Tax Extension Act of 1971, was in large part designed to allow domestic companies and partnerships to obtain these foreign funds directly rather than having to utilize foreign subsidiaries[1] for this purpose as had been done in the past. Since foreigners supplying funds to foreign corporations would not be subject to the flat 30-percent (or a lower rate imposed by treaty) U.S. tax on the interest income involved (generally imposed on interest paid by U.S. residents to foreign persons), Congress decided not to apply this tax to the interest paid on debt subject to the new interest equalization tax election (provided the debt has a maturity of not more than 15 years and was originally purchased by underwriters with a view to distribution through resale). In the absence of this exemption, the new procedure would not have provided a viable alternative to the past practice of using foreign subsidiaries to obtain the foreign funds, since the domestic debt issued under the new procedure would have been subject to the 30-percent withholding tax but the debt issue by the foreign subsidiaries would not have been. In the absence of this provision, therefore, it would have been substantially more attractive to foreign investors to purchase the debt obligations from foreign corporations.

At the time the new procedure was adopted in the Interest Equalization Tax Extension Act of 1971, another difference in the treatment of debt issued by a domestic company to a foreign person and debt issued by a foreign subsidiary—namely, the applicability of the U.S. estate tax to nonresident alien decedents for debt issued by the domestic company but not to debt issued by the foreign subsidiary—was not dealt with. It was then thought that this difference would not appreciably affect the marketability of debt issued by a domestic company under the new procedure. However, experience since that time has proved this was not the case. The potential applicability of the U.S. nonresident alien decedent estate tax to the debt of a domestic company apparently has made debt issued under the new procedure unattractive to many foreign investors and, this, in turn, has substantially impaired the workability and effectiveness of the new procedure.

To correct this shortcoming in the new procedure and attain the intended objectives

[1] Under present law, it is also possible to use for this purpose domestic financing corporations which have 80 percent or more of their gross income from sources without the United States. References hereafter to foreign subsidiaries are intended to include these domestic financing companies.

of the new procedure, the provisions of the House bill, with which the committee agrees (with one exception noted below), provide an exemption from the U.S. estate tax imposed on nonresident alien individuals for debt obligations issued by a domestic company or partnership under the new interest equalization tax election procedure (secs. 861(a)(1)(G) and 4912(c)). The bill achieves this result by providing (in sec. 2104(c)) that obligations are to be treated as situated outside the United States (and thus are not subject to U.S. estate tax) when they are held by a nonresident alien individual and the election referred to above has been made. This result is to remain unaffected regardless of the rate of the interest equalization tax. This will provide these debt obligations with the same U.S. income and estate tax attributes as bonds issued by a foreign subsidiary and should make them equally attractive to foreign investors from this standpoint. The U.S. estate tax base of U.S. citizens and residents remains unaffected by this provision. This amendment is generally to apply with respect to estates of decedents dying on or after January 1, 1973.

The House provision, in addition to applying to debt obligations issued from 1973 on, also would apply to debt obligations that were issued before 1973, including debt obligations of foreign financing subsidiaries which are assumed by its U.S. parent. This assumption rule would permit foreign financing subsidiaries to reincorporate in the United States in order to avoid existing foreign income taxes.

However, the committee concluded that if this provision were to be allowed to go into effect immediately, it might have an adverse impact on the budgets of small countries where U.S. corporations have organized foreign financing subsidiaries. Therefore, the committee postponed the effective date of this provision for one year, or until January 1, 1974, but only in the case of assumptions of debt obligations of foreign financing subsidiaries in the period from January 1, 1973 to January 1, 1974.

3. Shipping companies in less developed countries (sec. 3(b) and (c) of the bill and sec. 4916 of the code).

Under present law, the interest equalization tax does not apply to the acquisition by a U.S. person of stock or debt obligations of a less developed country corporation. Among the foreign corporations which qualify as less developed country corporations are corporations which derive substantially all of their income from the operation of ships or aircraft registered in a less developed country and whose stock is substanially owned by U.S. persons or residents of less developed countries.

The less developed country exclusion is designed to avoid cutting down the flow of private capital to those nations with chronic capital shortages, urgent development needs, and limited capability for foreign borrowing on normal commercial terms. The Congress has previously recognized that the United States has long had a responsibility for assisting these nations in their struggle to achieve improved standards of living, and therefore recognized that the application of the tax to issues of these countries would work against that objective.

The House concluded, and your committee agrees, that the less developed country exclusion which applies to shipping corporations which derive substantially all of their income from the operation of aircraft or ships registered in those countries and whose stock is substantailly owned by U.S. persons or residents of those countries does not result in significant capital investments in less developed countries.

Instead it appears to have merely resulted in the registration of ships in those countries. Furthermore, it appears that this exclusion has also had the effect of encouraging the use of U.S. funds for the construction of ships in other developed countries (not the United States). Therefore, the committee agreed with the provisions of the House bill which provide that this exclusion is no longer to apply to the acquisition of stock or a debt obligation of a less developed country shipping corporation which was issued on or after January 30, 1973. The committee wants to make it clear that the less developed country exemption will generally continue to be applicable to nonshipping corporations which have significant operations within those countries. For example, the acquisition of stock or a debt obligation of a foreign corporation which derives substantially all of its income from the active conduct of a ship building business in a less developed country will generally continue to be exempt from the interest equalization tax.

Preexisting commitments.—The House recognized that there may be preexisting commitments already outstanding on January 29, 1973, under which stock or debt obligations would subsequently be acquired. Therefore, the House bill provides that this exclusion continues to apply to an acquisition made pursuant to an obligation to acquire stock or debt obligations which, on January 29, 1973, was unconditional or was subject only to conditions contained in a formal contract under which partial performance had occurred. The committee concurs with the provision.

Under the House bill, the exclusion also continues to apply to acquisitions as to which on or before January 29, 1973, the acquiring U.S. person, (or, in a case where two or more U.S. persons are qualifying as part of a single transaction, a majority in interest of such persons) had taken every action to signify approval under the procedures ordinarily employed by such person (or persons) in similar transactions and satisfied one of two conditions. Under a committee amendment, a predecessor in interest may also be eligible for the exclusion where he took the actions referred to above.

Under both the House and committee versions of the bill, for this provision to apply the acquiring U.S. person must have satisfied the Treasury Department that he sent or deposited for delivery to the foreign issuer or obligor written evidence of such approval in the form of a commitment letter or other signed document setting forth the principal terms of the acquisition, subject only to the execution of formal documents evidencing the acquisition and to customary closing conditions.[2] (Under the committee version of the bill, the foreign issuer or obligor includes a person owning at least 80 percent of each class of stock of the foreign issuer or obligor on the date of the acquisition, or the agent or representative of that person.) In order for the House or committee provision to apply, however, the acquiring U.S. person must have both approved the acquisition and sent or deposited the requisite commitment letter or similar document on or before January 29, 1973. In lieu of the first condition described above (relating to the commitment letter), the acquiring U.S. person may establish that he had received from the foreign borrower, prior to January 30, 1973, a memorandum of terms, draft purchase contract, or other document setting forth the principal terms of the acquisition, subject only to the execution of formal documents evidencing the acquisition and to customary closing conditions.

For this exclusion to apply where two or more U.S. persons acquire stock or debt obligations in a single transaction, under both versions of the bill more than 50 percent of the actual value of the stock or debt must have been subject to the commitment letter or other document setting forth the principal terms of acquisition on or before January 29, 1973. A person who entered into a short sale contract on or before January 29, 1973, generally will be considered subject to a preexisting commitment because, in effect, such person is unconditionally obligated to make an acquisition to cover the short sale.

Another type of preexisting commitment brought to the attention of the committee involves the situation where it is a normal business practice of some businessmen to give oral rather than written commitments for financing the acquisition of ships (as discussed above, the House bill requires written commitments). As a result, the committee has provided in addition to the present preexisting commitment provisions contained in the House bill, that this exclusion is to continue to apply to an acquisition if it meets three conditions: (1) within 60 days prior to January 30, 1973, a request for a ruling under this exclusion had been filed with the Internal Revenue Service in connection with the transaction; (2) prior to January 30, 1973, the U.S. person financing the transaction (or a majority of the U.S. persons participating in financing the transaction) had approved (or given a commitment to participate in) the transaction, either orally or in writing, subject to customary conditions; and (3) the vessel to be acquired in the transaction is delivered on or before March 1, 1973.

Construction commenced by announcement date.—The committee further amended the bill to provide that the exclusion is to continue to apply to an acquisition of a debt obligation of a less developed country shipping corporation if it was issued in connection with the purchase or lease of a ship if three conditions are met: (1) the construction of the ship was begun on or before January 29, 1973; (2) the acquisition met the requirements of the preexisting commitment provisions of the House bill (described above) except that the acquiring U.S. person must have taken every action to signify approval of the acquisition prior to May 1, 1973 (instead of prior to January 30, 1973); and (3) the contract for the construction of the ship was entered into by the U.S. person, or its related less developed country shipping corporation, which purchases or leases the ship.

Public offering registered by announcement dates.—The House bill, in addition to the commitment letter approach, provides that the exclusion is to continue to apply to an acquisition of the stock or a debt obligation of a less developed country shipping corporation if three conditions are met: (1) a registration statement (within the meaning of the Securities Act of 1933) had been in effect, with respect to the stock or debt obligation acquired, at the time of its issuance; (2) the registration was first filed with the Securities and Exchange Commission on January 29, 1973, or within 90 days before that date; and (3) no amendment was filed with the Securities and Exchange Commission after January 29, 1973, and before the acquisition which had the effect of increasing the number of shares of stock or the aggregate face amount of the debt obligations covered by the registration statement. For purposes of this provision, the committee intends that securities which may be issued without liability for the in-

[2] Any transactions in which a U.S. person purchases from a foreign corporation a ship built outside the United States and leases it back on a bareboat charter to that corporation is subject to U.S. Maritime Administration approval. Maritime Administration approval of such a transaction is an example of a "customary closing condition." Similarly, a contingency of a favorable Internal Revenue Service ruling with respect to the nonapplicability of the interest equalization tax based upon the exclusion for less developed shipping corporations is an example of a "customary closing condition."

terest equalization tax because of the application of the public offering provision provided in the House bill and subsequently are resold under another registration statement may be acquired without liability for the tax.

Existing options and foreclosures of existing instruments.—Both the House and the committee versions of the bill also provide that the exemption is to continue to apply to an acquisition of stock of a less developed country shipping corporation pursuant to the exercise of an option or similar right or of a right to convert a debt obligation into stock of the same issuance if the option or right was held on January 29, 1973, by the person making the acquisition or by a decedent from whom the person acquired the right to exercise the option or right by bequest or inheritance or by reason of the decedent's death.

Both versions of the bill further provide that the exclusion is to continue to apply to an acquisition of stock or a debt obligation of a less developed country shipping corporation as a result of a foreclosure by a creditor under the terms of an instrument held by the creditor on January 29, 1973.

4. Exclusion for original or new issues to finance direct investment in the United States (sec. 3(d) of the bill and new secs. 4922 and 6689 of the code).

At the present time, foreign issuers or obligors wishing to make direct investments in the United States cannot raise funds from U.S. persons for such direct investment generally without the U.S. person being subject to the interest equalization tax on the direct investment. The House concluded, and the committee agrees, that this restriction limiting the amount of new capital which the foreign person may raise in the United States in order to make a direct investment here, has the effect of discouraging the foreigner from making the basic investment here.

In view of these circumstances, both versions of the bill provide a procedure under which a foreign person who wishes to make a direct investment in the United States may obtain some of the funds for the direct investment from U.S. persons without subjecting the acquisition (of the foreign person's securities) by the U.S. persons to the interest equalization tax. The House and the committee believes that this exclusion is appropriate, however, only in situations where the funds being raised in the United States will remain as investments in the United States. In addition, for such an exclusion to apply, the House and the committee believe that the foreign source funds to be invested here should be of a type which will result in the creation of new jobs in the United States.

For the reasons given above, the committee is in agreement with the provisions of the House bill which provide that the acquisition of stock or a debt obligation of a foreign issuer or obligor which is part of a new or original issue, issued for the purpose of financing new or additional direct investments in the United States, is not to be subject to the interest equalization tax. However, this exclusion is not to apply unless the foreign issuer or obligor demonstrates to the Treasury Department's satisfaction, prior to the date of the issuance of the stock or debt obligations involved, that certain conditions will be met. This exclusion is to apply only to the first acquisition of the stock or debt obligations. However, generally a subsequent acquisition of these stock or debt obligations would be exempt from the tax, since in most cases, the acquisitions would be eligible for the exemption for prior American ownership and compliance (under sec. 4918).

As explained above, this exclusion, under both versions of the bill, applies to the acquisition of a new issue of stock or debt obligations of a foreign issuer or obligor to finance new or additional investment in the United States. For this purpose, direct investment which is new or additional means an investment which is primarily for land, buildings, and equipment. However, it also includes sufficient capital to operate the business. For instance, direct investment which is new or additional includes the building of a new plant for the purpose of manufacturing in the United States, and, also, sufficient operating capital to run the plant. A new direct investment would also include the purchase of such stock which constitutes not less than 10-percent of the total combined voting power of all classes of stock of a corporation if that purchase was of the authorized but unissued stock or treasury stock of the corporation (for this purpose, purchases of stock from other stockholders is not to be considered a new or additional direct investment). Investments in service industries may qualify. However, not intended to be included is new direct investment for the acquisition and exploitation of natural resources. Furthermore, this term does not include the purchase of capital equipment for use directly or indirectly in a foreign country. Nor does it include any funds invested by, or for the operation of, a stock brokerage house, investment company, or a bank. It is contemplated that the Treasury Department will issue guidelines to more fully define the direct investment which will be considered acceptable under this exclusion. In doing so, it is expected that a major consideration to be taken into account by the Treasury Department is the likelihood that a proposed investment here by a foreigner will create new jobs in the United States. As a result, it is expected that the exclusion generally will be applicable only to new investments with respect to which new jobs are being created in the United States. This, of course, means that the purchase of existing facilities generally will not qualify.

The direct investment may be made directly by the foreign issuer or obligor in such assets as plants, machinery, equipment, and supporting production facilities in the United States, or indirectly by a U.S. corporation (controlled by the foreign issuer or obligor) which will make the capital investment in the above-described assets.

Both the House and committee versions of the bill provide that the foreign issuer or obligor must satisfy the Treasury Department that he will meet certain conditions before the exclusion applies to an acquisition of stock or debt obligations. First, generally, he must establish that at least 50-percent of the funds required for the direct investment in the United States will come from foreign sources. (The committee intends that the 50-percent foreign source funds requirement be applied on an issue-by-issue basis. The U.S. source funds are not applied ratably to all the issues of the foreigner in determining if the test is met.)

Second, he must establish that the investment will be for a minimum of a 10-year period.

Third, the foreign issuer or obligor must establish that during that 10-year period the aggregate amount of all of the foreign investments in the United States made by him will, at no time, be reduced below the aggregate amount of all his direct investment in this country, as determined immediately after the investment to which the exclusion applies. For example, if the foreign issuer or obligor had $1 million invested in the United States immediately before the investment to which the exclusion applies, and he makes an additional investment of $2 million in the United States (of which $500,000 came from U.S. sources under this exemption), that foreign issuer or obligor must maintain at least $2 million of investments at all times in the United States during the 10-year period (the $1 million previous investment, the $500,000 of U.S. source funds, and $500,000 of foreign source funds). Minor reductions in this required amount of aggregate investment may be allowed at the discretion of the Treasury Department if they are of a temporary nature.

Fourth, the foreign issuer or obligor must during the 10-year period comply with all other conditions and requirements the Treasury Department prescribes. For purposes of this requirement, it is contemplated that the Treasury Department may prescribe certain requirements for one foreign issuer or obligor which may not be prescribed with respect to another issuer or obligor. For example, if a foreign issuer or obligor has no significant investment in the United States, he may be required to enter into a bond, deposit funds in special bank accounts in the United States, or purchase special Treasury notes in the amount of the interest equalization tax which would be imposed but for this exclusion. However, it is contemplated that once he has established that he has made such a significant investment, such special requirements as these will no longer be imposed. However, other requirements may continue to be imposed where appropriate.

Fifth, the foreign issuer or obligor must establish that during the 10-year period he will submit to the Treasury Department any reports and information required in order to substantiate compliance by him with the preceding conditions. He must also keep sufficient records in the United States to substantiate compliance. After the foreign issuer or obligor satisfies the Treasury Department that he will meet the conditions described above, the stock or debt obligations may be issued. Any acquisition of these stock or debt obligations as part of a new or original issue is excluded from the interest equalization tax.

The committee, while agreeing with the House provision, has made certain minor technical modifications which are discussed below.

Stock issued without payment of additional consideration upon the conversion of a debt obligation (which itself was acquired without liability for the interest equalization tax by reason of the exclusion for original or new issues to finance direct investment in the United States) may also be acquired without liability for the tax. However, stock issued upon the exercise of a warrant is considered as an issue of new stock and must meet all of the requirements of this provision of the House bill.

A debt obligation issued for the purpose of refunding or refinancing a debt obligation which was eligible for this exclusion may be acquired without liability for the tax by reason of this exclusion if the amount of the debt is not increased.

Imposition of tax on failure to comply with conditions.—Both the House and the committee versions of the bill also contain rules providing for the loss of the exclusion in the case of subsequent noncompliance by the foreign issuer or obligor. If the foreign issuer or obligor subsequently fails to comply with any of the conditions applicable to him under this exclusion at any time during the 10-year period, liability for the interest equalization tax will be imposed upon that foreign issuer or obligor at the time his failure to comply occurs. The amount of tax due in the case of noncompliance will be equal to the amount of tax which would have been due (determined as if this exclusion had not applied to the acquisitions) at the time the stock or debt obligations entitled to the exclusion were acquired by U.S. persons as a new or original issue. However, in no case will liability for the interest equalization tax be imposed upon a foreign issuer or obligor under this provision if the tax itself has expired. The amount of tax is to be determined under the rates applicable at the time of the acquisition of the stock or debt obligations as a new or original issue and not at the time of the failure of the foreign issuer or obligor to

comply with the conditions. If the exclusion applied, a United States purchaser of the foreigner's stock or debt obligations will not become liable for the tax because of the failure of the foreign issuer or obligor to comply with the conditions applicable to him.

Penalty for failure to comply with conditions.—If a foreign issuer or obligor fails to comply with the conditions imposed upon him, as described above, both the House and the committee versions of the bill, in addition to any other penalties imposed by law and in addition to the tax imposed upon him by reason of the operation of these provisions, subjects him to a penalty equal to 25 percent of the amount of the tax which is imposed upon him by reason of his failure. This penalty is not to apply if the failure was due to reasonable cause and not due to willful neglect.

In any case in which the interest equalization tax (or any penalty in respect to it) is imposed on the foreign issuer or obligor by reasons of the provisions relating to the exclusion for direct investment in the United States, the usual filing, payment, and other requirements with respect to the interest equalization tax are to apply.

The exclusion for new or original issues of stock or debt obligations for new or additional direct investment in the United States, and the relating provisions, are effective upon the date of the enactment of this bill.

5. Corporations formed to acquire foreign securities (sec. 3(e) of the bill and sec. 4912 (b)(3) of the code).

Under present law, if a domestic corporation or partnership acquires foreign securities, generally, it is subject to the interest equalization tax on those acquisitions. In addition, if it is found that the corporation or partnership is formed or availed of for the principal purposes of acquiring foreign securities, the shareholders or partners are taxed on their stock or interest as if the corporation or partnership was foreign. In this case, a credit for their taxes is given to the corporation or partnership. If an investment company acquires more than a *de minimis* amount of foreign investment, the Internal Revenue Service has held that the entire issue of the shares of the investment company may be subject to the interest equalization tax at the full rate in the hands of the investment company shareholders.

The committee believes that taxation at the shareholder level does not serve a useful purpose, except in limited situations, and creates an unnecessary degree of complexity. Therefore, the committee has amended the House bill to provide that the interest equalization tax is to be imposed at the corporate level, rather than the shareholder level, where all the foreign investments of the domestic corporation were taxable or were exempt from taxation by reason of the exclusions relating to less developed countries, the Canadian exemption, the exemption for prior American ownership and compliance, or as foreign stock treated as domestic. Acquisitions which would be excluded from tax under other provisions, such as the direct investment exclusion, would be taxable under the present rules at the shareholder level with a credit to the corporation.

6. Extension of credit for export financing (secs. 3(f), (e), and (g)(1) of the bill and secs. 4914(c)(1), 4912(b)(3), and 4915(e)(1)(A) of the code).

Under present law, the interest equalization tax does not apply to the acquisition by a U.S. person of debt obligations in connection with certain export credit transactions. This exception is provided in present law in order not to impose an impediment upon the sale or lease of U.S. made goods. These rules vary in scope, however, depending upon the nature of the transaction and the U.S. person acquiring the foreign debt obligation. Thus, for example, a commercial bank may acquire a foreign debt obligation (without liability for the interest equalization tax) arising out of the sale or lease of personal property or services if not less than 85 percent of the amount of the loan is attributable to the sale or lease of U.S. made goods or the performance of services by U.S. persons, if the extension of credit and the acquisition of the debt obligation is reasonably necessary to accomplish the export transaction and the terms of the foreign debt obligations are not unreasonable. Further, any U.S. person may generally acquire a foreign debt obligation which is guaranteed or insured by an agency such as the Export-Import Bank of the United States. There are additional circumstances under which a U.S. person may acquire a foreign debt obligation (without liability for interest equalization tax) in connection with the sale or lease of U.S. made goods or the performance of services by a U.S. person. These additional rules, however, are limited to cases where the U.S. person acquiring the foreign debt obligation, manufactured the goods (or the goods were manufactured by an affiliate of the U.S. person) or the sale or lease was made in the ordinary course of the U.S. person's trade or business, or a debt obligation was first acquired by either the manufacturer or exporter and was later transferred to any other U.S. person.

It has come to the attention of the committee that the limitations in the above rules have prevented some U.S. persons from acquiring foreign debt obligations (without liability for interest equalization tax) in cases where the U.S. person has acquired foreign debt obligations in an export credit transaction which have a favorable balance of trade impact. Therefore, the committee has liberalized the restrictions in these types of situations previously applicable to the acquisition of a foreign debt obligation in connection with an export credit transaction.

Expansion of export credit exemption (sec. 3(f) of the bill and sec. 4914(c) of the code).—The committee's amendment provides that the interest equalization tax is not to apply to the acquisition of a debt obligation of a foreign issuer or obligor arising out of the sale or lease of tangible personal property or services (not including functions performed as an underwriter) if not less than 85 percent of the amount of the loan is attributable to the sale or lease of U.S. made goods (whether or not produced by a U.S. person) or to the performance of services by U.S. persons. In order for this exception to apply, the acquisition of the debt obligation must be reasonably necessary to effectuate the sale or lease of the property or services out of which the debt obligation arises, and the terms of the debt obligation must not be unreasonable in light of the credit practices in the business in which the person selling or leasing the property or services is engaged. In addition, the refunding or refinancing of a debt obligation may qualify for the export credit exemption. In order for the refunding or refinancing to qualify, the amount of the new debt obligation may not exceed the amount of the previous debt obligation. Further, the previous debt obligation must be one which, if it arose at the time of the refunding or refinancing, would qualify for an exemption from the interest equalization tax as an export credit transaction. Finally, the terms of the refunding or refinancing must not be unreasonable in light of credit practices in the business in which the person who is providing the refunding or refinancing is engaged and the refunding or refinancing must be in a transaction in which the refunding or refinancing is not unusual. Thus, for example, if the sale of a ship with a 20-year life was financed by debt obligations having a 5-year life to maturity, the refunding or refinancing of the original debt obligations for an additional 5-year period will qualify for an export credit exemption if the original debt obligation could qualify under the export credit exemption provided in the committee's version of the bill at the time of the refunding or refinancing.

Loans to U.S. persons to finance export transactions (sec. 3(e) of the bill and sec. 4912 (b)(3) of the code).—A domestic corporation or partnership which lends funds to a foreign person may be treated as being formed or availed of for the principal purpose of obtaining funds for a foreign issuer or obligor. However, this loan may be exempt from the interest equalization tax if it is an export credit transaction. It has come to the attention of the committee that if another corporation invests in the stock of, or makes a loan to, this corporation or partnership in order for it to enter into an exempt export credit transaction with a foreign borrower the other corporation may be subject to the tax (since it is treated as acquiring the debt obligation of the foreign borrower).

Accordingly, the committee has amended the House bill to provide that an acquisition which satisfies the requirements of being an export credit transaction and is, therefore, without liability for interest equalization tax is not to be taken into consideration in determining whether a domestic corporation or partnership is formed or availed of for the principal purpose of obtaining funds for a foreign issuer or obligor.

Exclusion for acquisitions by QLFCS to finance exports (sec. 3(g)(1) of the bill and sec. 4915(e)(1)(A) of the code).—Under present law, investments in a QLFC (qualified lending and finance corporation) or domestic lending and financing corporation may not be used to acquire stock or debt obligations of foreign issuers or obligors unless the U.S. person making the investment obtained the funds for his investment from sources outside the United States. The committee does not see why a QLFC or domestic lending and financing corporation should not use domestic funds to acquire a foreign debt obligation when the acquisition arises out of an export credit transaction which is exempt from the interest equalization tax. Accordingly, the committee has amended the House bill to provide that a QLFC or domestic lending or financing corporation may use domestic source funds to lend for qualified export credit transactions or to buy U.S. made goods for leasing outside of the United States.

7. Participating firms trading for their own accounts (sec. 3(h) of the bill and sec. 4918 (e) of the code).

Under present law, there are a number of circumstances under which a participating firm may issue a broker-dealer confirmation indicating that the securities it is selling are exempt from tax. However, present law does not specifically provide for the issuance of a confirmation where a participating firm sells securities it purchased for its own account and pays the tax itself. Regulations dealing with this problem have not been issued since these provisions were enacted in 1967. Despite this, the Treasury Department has indicated in a technical information release that in these situations a confirmation will be considered to be valid. The validity of a confirmation is important mainly because if a firm issues a false confirmation the law provides a penalty of 125 percent of the tax that otherwise would be payable.

The committee has amended the House bill to make it clear that a participating firm may issue a valid broker-dealer confirmation if it sells securities for its own account and pays the tax by the date it would have had to deposit the funds in a separate account if it had been acting for a customer instead of for itself. However, the 125 percent penalty will continue to apply to all tax avoidance cases. Additionally, the rules applicable to these transactions remain unchanged (in-

cluding the rules relating to the requirements of making returns, to the time for filing returns, and to interest and penalties).

Since it is the opinion of the committee that this rule relating to participating firms trading for their own account is declarative of existing law, this amendment to the House bill has been made retroactive to the date of the original adoption of the participating firm rules (i.e., it is to apply to acquisitions of foreign securities made after July 14, 1967).

8. Interest equalization tax refunds (sec. 3(i) of the bill and sec. 4919 and 6611(e) of the code).

Under present law, an underwriter or dealer in securities which acquires foreign securities generally is subject to the interest equalization tax upon that acquisition. However, the firm is generally allowed a credit or refund of the tax to the extent the foreign securities are resold to foreigners. An interest equalization tax return is required to be filed by the firm for each calendar quarter during which it incurs liability for the tax. If the firm does not resell the foreign securities until after the elapse of a 2-day period in the case of stock or a 90-day period in the case of debt obligations, it is required to pay the tax. If the due date for the quarterly return falls in this period, a tax must be paid even though subsequently if it resells the foreign securities to foreigners it may claim a credit or refund of the tax paid. However, under present law, the firm is not entitled to interest on a refund regardless of the length of time the Internal Revenue Service takes to process the claim for refund.

It has come to the attention of the committee that the processing of the types of refunds referred above may in some cases take the Internal Revenue Service up to two years. It is the opinion of the committee that such a delay is excessive. Therefore, the committee has amended the House bill to provide that a firm in this situation is to be entitled to interest on a refund which is not paid within 45 days after the date on which the claim for refund is filed for an overpayment in a prior quarter.

9. Foreign lending or finance businesses (sec. 3(j)(1) of the bill and sec. 4926(a)(3A) of the code).

Present law provides an election for a U.S. corporation which, in effect, exempts it from the interest equalization tax, if it (together with any subsidiaries) is primarily engaged in a lending or finance business (making loans for 48 months or less) through offices located outside the United States and holds itself out in the ordinary course for its foreign lending or finance business as lending money to the public generally. This result is accomplished by permitting the U.S. companies meeting these tests to elect to be treated as foreign corporations for purposes of this tax.

As stated above, in order for the tax not to apply, a U.S. corporation making this election must be "primarily" engaged in a lending or finance business. If a U.S. corporation borrows funds abroad and loans these funds to its foreign subsidiary which makes loans to foreigners, it may be considered "primarily" engaged in the finance business. However, if this procedure is followed, it may in certain circumstances, violate the thin capitalization rules of the Internal Revenue Service. If the thin capitalization rules would be violated by a loan, corporations generally would make an equity investment in the subsidiary in order to provide it new funds with which to operate. On the other hand, if the U.S. corporation makes an equity investment in its foreign lending and finance subsidiary, it may be subject to the interest equalization tax even though only foreign funds are used for this equity investment, since it may no longer be considered as being "primarily" in the lending or finance business.

It is the opinion of the committee that this restriction on the equity investments of electing U.S. corporations in their foreign lending or finance subsidiaries is unduly burdensome and serves no U.S. balance of payments purpose if foreign funds are used for the investment. Therefore, the committee has amended the House bill to provide that a U.S. corporation which would otherwise be treated as primarily engaged in the foreign lending or finance business is to be allowed to make equity contributions to foreign lending and finance corporations which are members of the same affiliated group without being considered not "primarily" engaged in a lending or finance business. Only foreign source funds may be used for this type of investment.

The committee has also amended the House bill to change the rule discussed above providing that in order for a corporation to be considered as primarily engaged in a lending or finance business, it may make only loans of 48 months or less. While this maturity was the trade practice when this provision was originally enacted, it is now the trade practice to regularly make loans for periods of up to 60 months. Therefore, the committee has provided that the 48-month rule be extended to 60 months.

10. Funding of stock options by foreign corporations treated as domestic (sec. 3(j)(2)(A)–(F) of the bill and sec. 4920(b)(2) of the code).

Under present law, certain of foreign corporations are considered as domestic issuers and, thus, the acquisition of their stock by a U.S. person is not subject to interest equalization tax. Generally, if at least 65 percent of the stock of a foreign corporation was held by U.S. persons at the time of the original enactment of the interest equalization tax, or if the stock was principally traded on a U.S. stock exchange and if at least 50 percent of the stock was held by U.S. persons, the foreign stock is treated as the stock of a domestic corporation for purposes of the interest equalization tax. The committee has noted that certain of these specially treated foreign corporations desire to grant their employees an option to buy their stock. If these employee stock options are granted with respect to a new class of stock issued after November 10, 1964, their exercise generally will result in the interest equalization tax being imposed on the acquisition of the stock.

The effect of this provision is to the exempt some option stock from the interest equalization tax while imposing the tax on others, solely on the basis of whether or not the stock was outstanding at the time of the original enactment of the interest equalization.

To remove this difference in treatment, the committee has amended the House bill to provide that stock acquired by U.S. employees upon the exercise of their stock options is to be exempt from the tax where certain conditions are met. These conditions are: (1) the stock must be held (as shown on the records of the corporation) by more than 250 shareholders on the corporation's last record date before either July 19, 1963, or the date of the issuance of the additional shares; (2) the stock must be issued pursuant to an option plan which is not transferable other than by will or similar means and which is exercisable only by the U.S. employee during his lifetime; (3) no stock may be issued to an employee who owns more than 5 percent of the stock of the corporation; and (4) the options granted in a year do not represent more than 1 percent of the outstanding stock of the corporation. This provision applies to stock issued after January 29, 1973, and it includes both stock issued under a qualified stock option plan (under section 422) and under a nonqualified plan. The number of shares of stock is to be adjusted to reflect recapitalizations and stock dividends during the year.

Another related problem presented to the committee involved situations where stock had already been issued to employees after November 10, 1964, under a stock option plan. This stock when acquired by employees who are U.S. persons was subject to interest equalization tax. In such cases the marketability of the stock issued after November 10, 1964, has been seriously restricted since it must bear a legend that it may be subject to the interest equalization tax if acquired by a U.S. person. The committee concluded that it was unfortunate to restrict the sale of the stock in this manner in the case of these U.S. employees. As a result, the committee amended the House bill to provide that stock acquired by an employee upon the exercise of an employee stock option which is issued to the employee by his employer after November 10, 1964, and prior to January 30, 1973, is to be exempt from the tax if the tax was paid in any prior acquisition of the stock in those cases where the stock was issued pursuant to the exercise of an employee stock option. This rule is not needed for stock issued after January 30, 1973, since it is expected that stock (issued pursuant to the exercise of employee stock options) after that date will generally come within the provisions of the stock option rules discussed above.

11. Foreign corporations treated as domestic in reorganizations (sec. 3(j)(2)(G) of the bill and new sec. 4920(b)(2)(F) of the code).

Under present law, a foreign corporation whose stock is treated as domestic stock (meeting the general tests set out in No. 9 above) can issue new stock after November 10, 1964, without payment of interest equalization tax if all of the additional stock is issued in exchange for shares of a domestic corporation which is engaged in the active conduct of a trade or business immediately before the exchange. However, this rule does not apply if the stock is issued for the stock of a foreign corporation. The committee concluded that this rule which distinguishes between stock acquisitions of corporations solely upon the basis of where the acquired corporation is organized, is overly restrictive and can unduly retard the growth of business predominantly owned by U.S. persons.

As a result, the committee has amended the House bill to permit the issuance of stock as consideration for the acquisition of stock of a foreign corporation if immediately after the acquisition the issuer owns more than 50 percent of the stock of the acquired corporation. Alternatively, stock may be issued as consideration for the acquisition of more than 50 percent of the assets of a foreign corporation. It is common for these acquisitions to be effected by using either stock or convertible debt obligations as consideration. Therefore, stock may be issued upon conversion of debt obligations, or in connection with the prior conversion of debt obligations (such as to repay a loan of exempt shares used to convert such debt obligations), which were the consideration for the acquisition of stock or assets.

However, for the tax not to apply if these corporations acquire other corporations in this manner, they must meet the following tests. The acquired corporation must be engaged in the active conduct of a trade or business other than as a dealer in securities, immediately before the acquisition. Further, the stock of the acquiring corporation must have been held by more than 5,000 persons on the corporation's last record date before January 1, 1973. During the period beginning January 1, 1973, and running through the date of the acquisition, the acquiring corporation's stock must have been traded on a U.S. stock exchange, it must have had its principal office in the United States, and it must have been engaged in business in the United States. Additionally, the acquiring corporation must have been actively engaged in a trade or business on July 19, 1963, shares of the class of stock must have been held by

more than 250 shareholders on the corporation's last record date prior to that date, and prior to the issuance of the additional shares the percentage requirement (65 percent or 50 percent) must have been met. Lastly, the corporation may not issue more than 5 percent of its stock for this purpose. In determining whether the 5 percent requirement has been met, the stock issued for the acquisition is added to other stock issued for this purpose during the preceding 5 years. The number of shares issued during the preceding 5 years is to be adjusted to reflect recapitalization and stock dividends during those years.

12. Qualified lending and financing corporation (QLFC) (sec. 3(g)(2) and (j)(3)–(6) of the bill and sec. 4920(d) of the code).

Present law contains a procedure whereby a U.S. person may make a direct investment in a foreign corporation (or in an electing domestic corporation) if certain conditions are met. Corporations which satisfy the conditions are referred to as qualified lending and financing corporations (QLFCs). The conditions which a corporation must meet are: First, the business activities of the corporation must be the making of loans, the acquiring of accounts receivable, the leasing of tangible personal property and the servicing of debt obligations. Second, loans made to foreign persons (and foreign made tangible personal property used in the leasing business) must be made with foreign funds from specified foreign sources. These foreign source funds include loans from unrelated foreign persons, earnings from the foreign lending or financing business, and contributions to capital or as payment for its stock where the funds are derived from the sale of debt obligations by a related company to the specified types of foreign persons. The committee has become aware of the fact that there are a number of limitations as to what a QLFC may do and still retain the exemption from the interest equalization tax. In order to permit a QLFC to finance the sale or lease of U.S. made goods and to compete more effectively with foreign competitors, the committee has made a number of minor modifications which do not adversely affect the U.S. balance of payments.

Exclusion for acquisitions by QLFCs to finance exports (sec. 3(g)(2) of the bill and sec. 4920(d)(2) of the code).—Under present law, a QLFC may use its own domestic earnings to acquire U.S. made goods for leasing outside the United States. However, a QLFC may not use domestic funds to finance the sale of property manufactured in the United States. The committee is of the opinion that the differing results in these transactions cannot be justified. Accordingly, the committee has amended the House bill to permit a QLFC to use domestic source funds to finance the sale of U.S. made goods.

Foreign source borrowing by QLFCs from related corporations (sec. 3(j)(3) of the bill and sec. 4920(d)(2)(A)(iii) of the code).—Under present law, if a QLFC borrows foreign source funds from a related foreign corporation, these funds are treated as being from qualified foreign sources only if the related foreign corporation has given prior notice of its intent to borrow from nonrelated foreign sources and to use these funds to lend to a related QLFC.

The committee believes that these prior notice and tracing requirements are unnecessary where a related commercial bank makes a loan to a QLFC. Furthermore, it is not practicable to trace the source of the funds to the bank's depositors. The committee also believes that these requirements are too restrictive in that they prevent a related commercial bank from lending to a related QLFC which relends the funds to a second related QLFC.

For these reasons, the committee has amended the House bill to permit a related commercial bank to make a loan to a related QLFC without having to comply with the prior notice and tracing requirements. In addition, the committee's bill permits a related QLFC to make a loan to a second related QLFC (currently the second QLFC is generally required to obtain the funds from unrelated sources).

Percentage of stock owned by parent corporations of QLFC (sec. 3(j)(4) of the bill and sec. 4920(d)(2)(B) of the code.—Under present law, a QLFC may only make loans to foreign persons out of the proceeds of the payment for its stock or contributions to its capital, if these proceeds were derived from the sale to unrelated foreign persons of securities by a more than 50 percent related corporation. Therefore, the funds obtained by a QLFC from a 10 percent direct investor in a QLFC may not be loaned to foreign persons. The committee is of the opinion that any investment which qualifies as a direct investment under the interest equalization tax provisions should be able to qualify as a source of funds which may be lent to foreign persons. Accordingly, the committee has amended the bill to reduce the more than 50 percent ownership requirement to a 10 percent or more ownership requirement in determining whether proceeds of the payment for stock or contributions to capital of a QLFC may be lent to foreign persons.

Source of funds for QLFCs (sec. 3(j)(5) of the bill and sec. 4920(d)(1) of the code).—Under present law, a QLFC may obtain foreign source funds by borrowing from related foreign corporations or certain related domestic corporations which are treated as foreign. It would appear that from the standpoint of the effect on our balance of payments an equally acceptable source of foreign funds are funds obtained from a related domestic corporation which obtains these funds from the proceeds of the sale of its debt obligations which the related domestic corporation has elected to be treated as subject to interest equalization tax (these debt obligations are in effect treated as the obligations of a foreign issuer). As a result, the committee has amended the bill to provide that the proceeds from the sale of debt obligations by a domestic corporation which has made an election to treat the debt obligations as foreign is to qualify as a source of funds to be loaned to foreign persons by a QLFC if the proceeds are directly transferred by the foreign lenders to the QLFC. In this case the debt obligations must be sold to unrelated foreign persons.

Equity investments of QLFCs (sec. 3(j)(6) of the bill and sec. 4920(d)(3) of the code).—Under present law, QLFSs generally are not permitted to own stock of other corporations. It has come to the attention of the committee, however, that there are a number of valid business reasons for a QLFC to make an equity investment in another corporation. For example, obtaining the stock of a borrower may be the most effective means a QLFC may have of foreclosing on a loan. Also, a QLFC may need to make an investment in a second QLFC in order to participate in an investment in certain foreign countries. Finally, a QLFC may, as part of a financing transaction, take back shares of a foreign issuer or obligor.

Since foreign funds are used for these acquisitions and they are customary transactions in the lending and financing business, the committee concluded that QLFCs should be able to make these types of investments. Accordingly, the committee amended the bill to provide that a QLFC may (1) make a 10 percent or more equity investment in another QLFC or in a partnership which would generally satisfy the requirements of being a QLFC; (2) acquire stock by foreclosure if the stock is disposed of within a ninety day period beginning on the day after the date of the foreclosure (or such additional 90 day periods as the Treasury Department determines are needed to dispose of the stock); or (3) acquire stock of a foreign corporation if it is in connection with, and incidental to, a financing transaction, but only if the stock does not have a value in excess of 10 percent of the value of the debt obligation and the terms of the debt obligation are not unreasonable in light of the credit practices in the business in which the person acquiring the debt obligation is engaged.

13. Stock dividends by certain mutual funds (sec. 3(j)(7) of the bill and sec. 4920(e) of the code).

Under present law, a qualifying domestic mutual fund which is investing in foreign securities may elect to be treated as a foreign issuer with respect to any acquisition of its stock.

A problem exists in this case where a domestic mutual fund which has elected to be treated as a foreign issuer for purposes of the interest equalization tax issues a stock dividend to shareholders who have the option to receive a cash dividend. In this case, the stock dividend is subject to the interest equalization tax in the hands of the shareholders, since the shareholders are treated as receiving interests in stock in foreign corporations.

Since the availability of such an option to the shareholders does not contribute to any adverse effect on the U.S. balance of payments, the committee amended the House bill to allow stock dividends to be distributed to the shareholders without the imposition of an interest equalization tax in the case of mutual funds which have made the election referred to above.

14. Report by Secretary of Treasury (sec. 4 of the bill).

Under present law, there is an exclusion for new or original issues where the President of the United States determines that the imposition of the interest equalization tax will have consequences for a foreign country which imperil or threaten to imperil the stability of the international monetary system. At the present time an Executive order is in effect determining that the imposition of the interest equalization tax would have such consequences in the case of Canada. Questions have arisen as to whether under this standard there continues to be a need for this exclusion for Canadian issues. As a result, the committee has added a provision to the House bill requiring the Secretary of the Treasury to study the effect of the Canadian exemption on international monetary stability and report to the Congress not later than September 30, 1973. The report is to contain the results of his study and his conclusions as to whether termination would imperil or threaten to imperil the international monetary system, together with any recommendations he may have, including those involving legislation.

Mr. LONG. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and regarded as original text for the purpose of further amendment.

Mr. JAVITS. Mr. President, I shall not object, but I reserve the right to object. The Senator has taken care of any possible amendments to the committee amendments.

I understand from my office that I may have a technical amendment, although I do not know. However, I would greatly appreciate it if the manager of the bill would give me an opportunity to check that out.

Mr. LONG. The Senator's right to offer an amendment to a committee amendment is not prejudiced.

Mr. JAVITS. I understand.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

Mr. LONG. Mr. President, unless we expect the present very bad balance-of-payments situation to get a great deal worse than it is, unless we want interest rates to rise drastically and immediately, then this bill must be passed by the end of March. Otherwise there would be a tendency for American funds to flow out after the end of this month for investment outside of the United States.

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. PASTORE. Mr. President, I object.

The PRESIDING OFFICER (Mr. BURDICK). Objection is heard. The clerk will continue the call of the quorum.

The legislative clerk continued to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

Mr. JAVITS. Mr. President, I sought the floor before, in order to make some brief remarks on the interest equalization tax and especially, as I have entertained the view for a long time and have expressed it time and time again, because the tax is a bad and ineffective way to approach our balance-of-payments difficulties. Those difficulties have already proliferated. They are worse now than ever. The balance of payments which we have today is in worse shape than it was on the occasion of the extension in 1969. The interest rate disparities between the United States and other countries, notably the United Kingdom, Germany, Italy, and others, is still so wide that we are caught in a box. There is very little we can do about it, even though this is a regressive tax.

The important point which I should like to make is that in view of our unhappy balance-of-payments situation, it is very desirable to support considerable investment in the United States. That is what our Government has generally pursued with a very constructive policy on that score.

As I am heavily involved in many of these matters, in a public policy sense, I should like to ask the chairman of the Finance Committee if he would be kind enough to give me his attention and reply to one or two questions.

There has been a great deal of feeling, especially in Europe, that if the United States withholding tax on dividends and interest for foreigners were repealed, there would be an enormous difference in terms of portfolio investment in the United States. At the present time, net foreign purchases of U.S. securities constitute one of the most favorable sectors in our international payments accounts. This suggests, however, that there is a substantial amount of investment which has been put off by the rather considerable "penalty" which the withholding provision represents.

I should therefore like to ask the distinguished Senator from Louisiana (Mr. LONG) whether the consideration of this matter has been or will be a subject of consideration by the Finance Committee. The issue is important at this time, because it is, perhaps, tailor-made to the question whether we would really get an affirmative portion of foreign investment here, which otherwise we would not get, due to a phrasing in the law that way.

Mr. LONG. This matter has been suggested by the chairman of the Ways and Means Committee, Mr. MILLS, and is presently under study by the House Ways and Means Committee. If it can be worked out without serious tax evasion possibilities there is much to be said for it.

Mr. JAVITS. I thank my colleague very much.

Mr. LONG. The problems involved, as the Senator knows, are many, but if they can be resolved, I think we should give it serious consideration.

Mr. JAVITS. Would the Senator from Louisiana agree with me that this be done with a scalpel, that is, with great care, to see that it will result in an improvement in the investment level?

Mr. LONG. If we do not do it carefully, it will provide a windfall to Americans who arrange to have their investment income sent to them abroad. The Senator does not want that, as I am sure I do not.

Mr. JAVITS. Another question I had for the Senator was this: We have tried in a variety of ways to bring about a proposal by the Treasury Department of its own concepts for comprehensive reform of the Internal Revenue System, the so-called tax loophole business. It may be recalled that last year an amendment which I had tried on that score was headed off, as it were, by a commitment from the Treasury Department that it would submit such a plan. Now, so far as I can see, notwithstanding a lot of followup, nothing like that has happened.

Does the Senator still believe that that is desirable? I certainly do think it is, that we should do something and try to get that out of the administration even though we failed the last time on a kind of gentlemen's agreement basis.

Mr. LONG. The administration is committed to making tax reform recommendations. Of course, that matter will be resolved first when these recommendations are sent to the Ways and Means Committee which presently is conducting hearings on the matter. So that I have no doubt we will see, in the next few months, the administration's recommendations in the tax reform area. They have been the subject of considerable discussion.

Mr. JAVITS. I thank my colleague very much. That is very reassuring. I gathered as a corollary to that that the Senator and the committee, at least a majority on the committee, join in the strong feeling that the concepts of a comprehensive tax reform proposal should, in the first instance, come from the administration itself.

Mr. LONG. I certainly would expect the administration to present its views. I am sure that we will be hearing from the administration relative to its recommendations during the next few months.

Mr. JAVITS. I thank my colleague very much, and ask unanimous consent that a copy of my correspondence with Secretary of the Treasury Shultz, on the subject of tax reform, together with other documents useful for developing a legislative history on the subject, be inserted in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., June 24, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: Thank you for your letter of June 8, with respect to the tax reform issue.

I hope your concern that the Administration has taken a negative attitude about this important issue has been dispelled by the President's remarks in his press conference of June 22, 1972. In that press conference, the President made a firm commitment to tax reform. He announced that an intensive Treasury study of tax reform has been under way for some time and that a tax reform proposal will be forwarded to the Congress by the first of next year.

The President has now made a meaningful commitment to over-all tax reform as you suggested. In light of the President's remarks, I do not feel that legislation establishing a one-year tax reform commission along the line of your draft bill would be necessary or desirable. The time of the Treasury tax staff is heavily committed to preparation of proposals in accordance with the President's timetable. It is the Treasury practice to consult with outside experts where consultation would be helpful. However, the appointment of a one-year commission would obviously be inconsistent with our half-year timetable, and would, in any event, be a serious diversion of Treasury energies from its present tax reform program.

I am enclosing a copy of a transcript of the President's press conference for your information.

Sincerely yours,

GEORGE P. SHULTZ.

[The President's News Conference of June 22, 1972]

SCHOOL FINANCING AND TAX REFORM

Q. Mr. President, would you tell us what progress you are making toward keeping your promise about finding a way to relieve property taxes and provide fair and adequate financing for public schools and save the private schools?

The PRESIDENT. First, with regard to the general problem of tax reform, I would like to commend Chairman Mills for the position that he has taken. I had breakfast with him and Congressman Byrnes and with Secretary Connally before I went off to the Soviet Union.

We discussed the problem of tax reform. He is very interested in tax reform. I am interested in tax reform and, of course, I have noticed several candidates that have expressed themselves on this point.

The problem is that tax reform, or tax legislation, in an election year, as Mr. Mills, as one of the most experienced men in this field, and Mr. Byrnes both agree, is simply not a wise course of action. It is hard enough to get a responsible tax law in a non-election year. In an election year it will be totally impossible.

Consequently, I think Chairman Mills' announcement that he will begin hearings on

tax reform legislation early in the next session of the Congress shows high statesmanship. Now we will be ready for those hearings.

Secretary Connally instituted, at my request, an intensive study within the Treasury Department of how we could reform the tax system to make it more equitable and to make it more simple and also to deal with problems like property tax which fall upon 65 million people and therefore are, in my view, unfair.

These studies have gone forward. Considerable progress has been made. Secretary Shultz is continuing these studies and I will make a decision on it prior to submitting the budget and will present recommendations to the next Congress dealing with these issues.

I will not at this time prejudge the various proposals that have been presented before me. Certainly included in that decision will be relief for nonpublic schools. I am committed to that, and the approach of tax credits in this area will be included in that proposal.

Just so that somebody won't say I was trying to duck a hard one here, I know the question of value-added will come up. There has been a lot of speculation about that. Value-added—I have instructed or directed the Secretary of the Treasury, along with my Council of Economic Advisers—can be considered as a possible approach but only if we can find a non-retrogressive formula.

Tax reform should not be used as a cover for a tax increase. Value-added has to be evaluated then under those circumstances.

On final point I will make is that as we move in this area we have to realize that we have had considerable tax reform over the past 3 years. Nine million poor people have been totally removed from the Federal tax rolls. The lower-income taxpayers have had reductions of 83 percent in their taxes since 1969 and middle-income taxpayers have had reductions of 13 percent.

But there are still inequities. One point I particularly emphasize: At a time that we have made some necessary reforms, some of which I have referred to, we have moved in the wrong direction in another way. The tax system, particularly the Federal income tax system, is hopelessly complex. I majored in law school in tax law. As a lawyer I used to do quite a bit of tax work. I naturally don't take the time to make up my own income tax returns now. But when Manolo came in recently and asked me to help him figure out the forms, I had to send him to a lawyer, and when that is the case with a man who is in basically not a high income bracket, then it is time to do something to make the system not only more equitable but make it more simple. It will put some lawyers and accountants out of business, but there are other things they can do.

Q. Are you saying all these proposals won't come until after the first of the year?

The PRESIDENT. We will make the proposals before the first of the year, but they will not be considered by the Congress until after the first of the year.

It would not be fair to the American people, it would not be fair to those, for example, interested in the nonpublic school relief, to suggest that the Congress, in this sort of sputtering, start-and-stop period—I mean, they are stopping next week and they come back for 6 weeks and maybe come back after the Republican Convention and the rest—that it could enact tax reform. It is not going to happen, and I am aware of that.

* * * * *

JAVITS URGES PRESIDENT TO MAKE TAX REFORM REPORT PUBLIC

Mr. JAVITS. Mr. President, on the eve of President Johnson's message on the state of the Union—a message that reportedly will deal directly with the fiscal policy of the United States—I rise to urge him to make public the staff report on tax reform.

Mr. President, an amendment to the tax surcharge bill last year—an amendment I sponsored—called for a report on tax reform by the President before December 31, 1968. When that time arrived, the White House announced that a report on this critical subject would not be made available to the general public and to Congress generally but would be delivered only to the appropriate committees.

Mr. President, once this report is circulated in Congress it must inevitably become public as members of the committees are not bound by a secrecy label on such a document. A vital aspect of the whole situation is the continuance of the 10-percent surcharge in whole or in part and this in turn is affected by what can be gained by tax reform.

I feel that this subject is so important a part of the entire fabric of our economic situation today, that I urge the President to take off the secrecy label and make it public now at the time when he is commenting on the state of our economy and proposing a budget for fiscal year 1970.

A budget without proposals for tax reform would be seriously deficient in one vital aspect—it would ignore the fact that the people who pay have a right to know that if they are to continue to pay more, it is at least equitable.

I ask unanimous consent that a New York Times editorial dated January 10 and a New York Post editorial of the same date, critical of the President's refusal to submit tax reform proposals to Congress, and a January 2, 1969, article from the Wall Street Journal on this subject be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial and the article were ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 10, 1969]

EVADING TAX REFORM

President Johnson has set a deplorable example in this farewell period by refusing to submit his recommendations on tax reform to Congress and the country. When Congress approved the surtax last year, it stipulated that the President send tax reform proposals to Capitol Hill by Dec. 31.

Instead of welcoming the opportunity to provide leadership on this vital issue, Mr. Johnson shied away from it. The Treasury experts prepared a tax message but the President has kept it secret. He did send private copies to the chairmen and ranking members of the State Finance and House Ways and Means Committees. This curious performance was justified as a courtesy to the incoming Nixon Administration which would have to administer any new tax law. But Mr. Johnson's highest obligation is not to the convenience of his successors but to the public which pays these inequitable taxes and which has the right to know in detail what is wrong with them.

Representative Wilbur Mills, chairman of the House Ways and Means Committee, and Senator Russell Long, chairman of the Finance Committee, and their senior Republican colleagues agreed with this under-the-table procedure. Naturally they would. They like to write the tax laws and they prefer as little interference as possible from the President, the Treasury experts, the rank-and-file members of Congress or the general public.

Mr. Mills is once again discussing reforms his committee may initiate, but this provides no grounds for optimism. In the past ten years, Mr. Mills has talked more and done less about tax reform than any man in the history of the Republic.

Taxes meanwhile are about as unfair as they were on April 20, 1961, when President Kennedy sent a tax reform message to Congress. What he said then about the subtle corruption of expense account deductions could well be said of the entire income tax law: "This is a matter of national concern, affecting not only our public revenues, our sense of fairness, and our respect for the tax system, but our moral and business practices as well."

The tax laws bear too heavily upon the poorest people and much too lightly upon many of the wealthy. President Johnson may have refused to submit any proposals publicly to Congress because of the embarrassment of the oil depletion allowance which is so important in his native Texas. The oil depletion allowance is excessive, but there are many other loopholes and inequities which are more important and more technical involving capital gains, estate taxes and depreciation.

Senator Javits of New York is right in insisting that if the White House will not commit itself on tax reform, the very least it should do is make the recommendations of the Treasury available to the ordinary public. The public is going to need all the information it can get if it is ever to win the battle for tax reforms over the opposition of the lobbyists and the Congressional insiders.

[From the New York Post, Jan. 10, 1969]

THOSE LOST "FINDINGS" ON TAX REFORM

It may be a Happy New Year for opponents of federal tax reform; in any event, they had special reason to celebrate on New Year's Eve.

That was the deadline date by which President Johnson was to have submitted his reform recommendations to Congress. There is no doubt that he was under formal, legal obligation to act. An amendment, sponsored by Sen. Javits (R-N.Y.), to last year's tax surcharge act specifically requiring him to send up proposals by Dec. 13.

What he sent instead to Congressional leaders was a sheaf of studies and proposals made by Treasury Dept. staff members. He said: "I have not made any judgment on these staff proposals. They are the technical product of the tax specialists in the department and have not been discussed or examined by me."

It may be that the technical findings are both illuminating and informative guides to legislation, but neither the public nor most Congressmen are in a position to judge. The staff reports and recommendations are still secret.

Sen. Javits has forcefully protested this furtive maneuver and has demanded full public disclosure. "I do not," he says, "see anything but benefit that can come from an open declaration and an open debate." The alternative to both may be indecent burial of important information bearing on tax reform. The President is not necessarily obliged to endorse the findings. But he has no right to "lose" them.

[From the Wall Street Journal, Jan. 2, 1969]

JOHNSON TO PASS MAJOR TAX REFORM PLANS TO NIXON, INSTEAD OF MAKING THEM PUBLIC

WASHINGTON.—President Johnson put a major tax reform effort deeper into limbo by refusing to submit a special message to Congress.

Within a few hours of the New Year's Eve deadline set in the 10% surtax bill enacted last summer, Mr. Johnson made clear in Texas that the reform proposals would be passed privately to key Congressmen and to the Nixon Administration instead of being made public as originally envisioned.

The proposals, according to earlier comments of Treasury officials, were to include a sizable amount of income-tax relief for low-income families offset by tighter tax treatment of corporations and of affluent personal taxpayers.

Among the key restrictive features, it's understood, was to be a minimum tax assuring that no one could entirely escape income

taxes because of receipts from tax-exempt sources such as interest on municipal bonds or because of specially large deductions for charitable donations and the like. Also, Treasury technicians had hoped for a more effective estate and gift tax system and for curbing the tax break some corporations get through having a large number of subsidiaries.

Because of the heavily liberal nature of the proposals and because of their complexity, Treasury strategists appeared doubtful that the Nixon Administration would be inclined to push most of the features very soon or very ardently, if at all.

Mr. Johnson had originally promised a tax-reform message in his economic report of early 1967, but it was withheld to avoid complicating the difficult-enough progress of his surtax proposal in Congress.

EARLIER ASSURANCES

Until quite recently, high officials had continued to give both public and private assurances that the message would be submitted well before the year-end deadline set by Congress.

But in New Year's Eve letters to the Speaker of the House and the President of the Senate, Mr. Johnson advised that tax-reform proposals developed by the Treasury will instead be passed on without recommendation to the Nixon Administration.

This decision was made, he said, with the concurrence of House Ways and Means Chairman Mills (D., Ark.) and Senate Finance Chairman Russell Long (D., La.), whose committees would handle such legislation.

"We believe," the President asserted in his letters, "that in justice to the Administration that will take office within the next month and who will have to live with and administer any legislation passed, it is only appropriate that they have the opportunity to examine carefully and make their judgment on these matters." President-elect Nixon's Treasury Secretary-designate, David Kennedy, also concurred in this decision, Mr. Johnson said, adding that "all data pertaining to this matter will be made available to the incoming Secretary of the Treasury promptly."

The President stressed that he wasn't taking any stand on the proposals, which he said are available to Congress. "These studies and proposals, although reviewed by Secretary Fowler (who resigned the top Treasury post last month), should be viewed primarily as the technical product of the Treasury staff," Mr. Johnson wrote. "I have not received, considered or made any judgments on these staff proposals."

AVAILABLE TO CONGRESS

Rep. Mills said he had been advised that the tax-reform material is available to the appropriate Congressional committees. The ways and means chairman said in a statement that he thought it "desirable for a new Administration to review this material and work out arrangements with the ways and means and finance committees for hearings on these tax proposals at a time convenient to both." He said Sen. Long concurred in this, adding that so did the ranking minority members of the two committees, Sen. John Williams (R., Del.) and Rep. Byrnes (R., Wis.).

The Administration's failure to make public the Treasury proposals drew criticism from Sen. Javits (R., N.Y.), sponsor of the amendment that called for a Presidential tax-reform message by Dec. 31. He noted that while "at least the thinking of the present Administration at the staff level will be available to the appropriate committees and to the new Administration," this "does not comply with the amendment in that it is not the President's report . . ."

Tax reform is so important in relation to fighting inflation and whether to extend the surtax, which is slated to expire June 30, Sen. Javits said, "that members of Congress, financial experts and the public generally ought to have a chance to consider" the Treasury staff proposals. He urged the President allow the report to be made public.

Mr. KENNEDY. Mr. President, I call up my amendment No. 57 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 30, after line 22, insert the following new section:

"SUBMISSION OF PROPOSALS FOR TAX REFORM

"SEC. 5. Not later than 120 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Congress proposals for a comprehensive reform of the Internal Revenue Code of 1954."

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that George Grumbar may have permission to remain on the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the amendment at the desk is submitted on behalf of myself and the Senator from Minnesota (Mr. HUMPHREY), and it is a very simple amendment. It covers a subject matter which has been considered a number of times on the floor of the Senate with respect to various tax measures.

The purpose of the amendment is to require the administration to submit a comprehensive program of tax reform for consideration by Congress at the earliest practicable opportunity. The amendment would require the Secretary of the Treasury to submit a tax reform plan to Congress no later than 120 days after the date of enactment of the pending bill to extend the interest equalization tax. Since the current tax expires on March 31, and since the pending bill to extend the tax has already passed the House, it is likely that the bill will be signed into law by the President within a few days. Therefore, under the 120-day provision of the amendment I am introducing, Congress will have the benefit of the administration's proposals for tax reform at the end of July or in early August.

It is long past time for the administration to inform Congress and the American people about its plans on the critical issue of tax reform. The rising popular demand for such reform was a major issue in the 1973 election campaign, and nothing that has happened in the intervening months has diminished the need. If anything, the outcry across the country has increased in the months since election day. Rarely has anyone described the existing feeling more effectively than Phil Stern in the title of his new best-seller, "The Rape of the Taxpayer." The feeling is especially intense today, as millions of taxpayers throughout the Nation enter the final throes of preparing their annual returns to meet the April 15 tax deadline of the Internal Revenue Service.

Responding to the rising tide of popular demand for tax reform, the Committee on Ways and Means of the House of Representatives began an extensive series of hearings on tax reform at the outset of the 93d Congress. So far, the committee has heard literally scores of hours of testimony, extending over many weeks, comprising thousands of pages of evidence by experts on tax reform. Thanks to the leadership and initiative of Chairman MILLS and his committee, a tax reform bill is already beginning to take shape on the horizon of the 93d Congress.

But throughout the preliminary stages of this major debate in Congress, we have not had the benefit of any formal position paper or proposals by the administration. To the extent that we have any indication at all of the administration's position, it is the ominous indication that they stand for no reform at all, but simply a perpetuation of the existing tax system—a system that flouts the basic principle of our progressive income tax, and turns it instead into a swiss cheese of loopholes, incentives, shelters, and safe harbors for the special interests and the few who have the wealth and expertise to profit from such provisions.

The amendment I am offering is an entirely appropriate addition to the pending legislation on the interest equalization tax. At a time when the Federal Government is about to embark on a major extension of a significant existing tax provision, it is especially important that we take the longer view and facilitate a major goal of the 93d Congress, the enactment of comprehensive tax reform.

To me, there could be no more outrageous or unfair distortion of the principle of tax justice than to maintain the many flagrant inequities that now exist in the way our tax laws operate. Congress ought to have the benefit of the administration's views on tax reform, and we ought to have them now, as the debate in Congress and across the country begins to move into high gear.

Often before, as in the surtax debates of 1968 and 1969, the cause of tax reform has been effectively enhanced by coupling it to major tax legislation. We can do no less today, at a time when the need for reform is now more urgent than ever before.

Indeed, in 1968, Congress enacted virtually the identical provision I am proposing today. In the Revenue Expenditure and Control Act passed in June that year, the Senate adopted a floor amendment by voice vote, proposed by the distinguished senior Senator from New York (Mr. JAVITS) requiring the then Democratic administration to submit a program for comprehensive tax reform by the end of the year.

The wisdom of that amendment was amply justified by subsequent events. The tax reform program proposed by the outgoing administration of President Lyn-

don Johnson was a landmark in the history of tax reform in the United States. It laid the groundwork for the omnibus Tax Reform Act of 1969, and was an immense contribution to the debate that year in Congress.

The amendment I propose today is designed to achieve the same result. Let the debate on tax reform go on, but let it go on in an informed and even-handed way, so that Congress can write laws that fairly reflect the mandate of our people for tax reform. Only then will we have a Revenue Code that represents the true interests of all the people, a code that brings real tax justice to every American citizen.

Mr. President, I had raised this issue at the time of the revenue-sharing bill in September of last year, and the floor manager of that bill, the distinguished chairman of the Committee on Finance, indicated to me that he did not feel that the Revenue-Sharing bill was a proper vehicle for such consideration, although he expressed the view at that time that the proposal itself had some merit. So now Senator HUMPHREY and I submit it again, and urge that such proposals be submitted by the administration.

Mr. President, I think all of us are aware that the American people are generally very concerned about the issue of tax equity, and appropriately so. The House of Representatives is already deeply involved in a very extensive review of the whole tax system in this country, and we know that sometime in the not too distant future, the Committee on Finance will also concern itself with this issue. It is only appropriate that we have the best judgment of the administration, too, so that Congress and the American people will understand the administration's position on these important measures. So this proposal follows a pattern that has been accepted in the past. I think it is a matter which is extremely important.

I feel that the administration should welcome this concern and initiative by Congress in trying to obtain its ideas and give its proposals the due consideration which they should appropriately receive. I hope that the committee will be able to take this amendment to conference.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. I think this really should be bipartisan, and I hope other Senators might join. It is a matter I have pursued for a long time, as the Senator has so gracously said, and I would like the Senator to add my name as a cosponsor of the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the name of the Senator from New York be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I am joining the Senator from Massachusetts (Mr. KENNEDY) in sponsoring this tax reform amendment. The amendment we are proposing today is simple. It directs the President of the United States to submit to Congress proposals for the comprehensive reform of the Tax system within 120 days.

That is all it does. It does not mention any specific loopholes.

It just says, plainly and simply, "Mr. President, give the Congress the benefit of your thinking on tax reform."

I note that the President is very willing to give us the benefit of his thinking on spending, and the reform of the congressional budgetary process. Mr. Nixon has proposed a spending ceiling. He has proposed modifications in the way Congress examines the budget.

That is his right.

All of us need to be concerned about fiscal responsibility. But may I suggest that there are two sides to fiscal responsibility.

The first begins with the President's own budget proposals: For 4 years now, the President has sent a budget to Congress filled with deficits—more than $100 billion of deficits in 4 years. I do not know how fiscally responsible that is. But I do know that Congress has cut those budgets by $20 billion in the last 4 years. I call that fiscal responsibility.

The other side to the fiscal coin is taxes and tax justice.

Mr. President, there is no doubt about it. The tax system of this country is out of joint. It tilts toward the big corporations and the special interest.

Last fall, the American people were treated to a parade of administration spokesmen saying that the administration would soon have a tax reform plan of its own.

Treasury Secretary Shultz on September 1 said that the "Administration was working on a tax reform plan of its own."

On October 10, 1972, John Ehrlichman said:

> We are going to propose to the next Congress a plan that will relieve, that will start down the road of reducing the burden of property taxes.

Consequently, in June of last year President Nixon said:

> We will make the proposals before the first of the year, but they will not be considered by the Congress until after the first of the year.

It is now March of 1973. The House Ways and Means Committee is presently holding hearings on tax reform. April 15, tax day, is quickly approaching, and still there is no plan, no proposal, no legislation from the Nixon administration.

In fact, there is just the opposite. The Nixon administration has begun a concerted drive to diminish support for tax reform.

About 2 weeks ago, Presidential Counselor John Ehrlichman stated on nationwide television that tax reform would mean working Americans would lose their personal deductions and deductions for home taxes and mortgage interest.

Mr. President, that may be the administration's view of tax reform. If it is, then the President should send Congress legislation that removes these types of deductions. I am certain the Congress would be very interested in such a proposal.

But the fact is that the administration has not made any proposals.

As every working man and woman knows, injustice runs throughout our tax system:

In 1969, corporate taxes amounted to 20 percent of the total revenue of the United States. By 1974, that percentage was reduced to 15 percent.

The Nixon Revenue Act of 1971 gave business a 9–to–1 advantage over individuals as far as tax relief was concerned.

In 1970, over 100 Americans with incomes of over $200,000 paid no income tax.

In 1970, the Nation's 20 largest oil companies paid an average tax of 8.7 percent; that is less of a rate than a workingman making $8,000 a year pays.

Payroll taxes have increased from 21 percent of the total governmental revenues in 1969 to 31 percent in 1970.

The profits for big business rose to over $50 billion last year, all at a time when corporate taxes were going down and down.

Some major U.S. corporations pay more in taxes to foreign countries than they do to the U.S. Treasury.

Mr. President, this is what the average workingman sees in our tax system: unfairness, injustices, unevenness.

That is what we must try to correct. We can do so in a responsible manner. We can do so in a way that preserves the driving engine of private enterprise while at the same time injecting an element of fairness into the Internal Revenue Code.

And, Congress and the President should work together in this endeavor.

That is why I am cosponsoring this amendment today. We need to know the President's thinking. We want his counsel. We want his advice. He should be willing to give it to us without any direction by Congress. That is surely the responsible way to legislate and run a government.

We need and ask some indication of support for tax reform by the President.

Mr. LONG. Mr. President, I have discussed this matter with the Senators sponsoring the amendment, and I am willing to take it to conference, and I hope the House will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. Mr. President, I call up a series of clerical amendments to this measure and ask unanimous consent that they be considered as one amendment. They are purely of a perfecting nature.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

On page 2, line 21, strike "1972" and insert "1973".

On page 6, line 9, strike "December 31, 1972" and insert "January 29, 1973".

On page 8, line 5, strike "ship" and insert "vessel".

On page 8, line 14, strike "ship" and insert "vessel".

On page 8, line 21, strike "ship" and insert "vessel".

On page 14, line 13, strike "complies" and insert "continues to comply".

On page 14, line 15, before the period insert a comma and the following: "for the full 10-year period".

On page 20, line 9, before "Section 4920 (d) (2)" insert "Definition of QLFC amended.—".

On page 21, line 14, before "Section 6611" insert "Grace period for prompt refunds.—".

On page 23, line 4, after the comma insert "or its parent or subsidiary corporation,".

On page 23, line 5, strike "such corporation" and insert "any such corporations".

On page 29, strike line 18, and insert "allow), or".

The PRESIDING OFFICER. Without objection the amendments are agreed to. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BUCKLEY. Mr. President, today the Senate has an opportunity to divest the statute books of one of the more futile exercises in capital controls ever invented; namely, the interest equalization tax. This measure was established as a temporary measure in the early 1960's to slow down the deterioration in the U.S. balance of payments without the painful process of altering the exchange rate. This program, the interest equalization tax, was a failure in its own right, and it led to more stringent controls; namely, the foreign direct investment and voluntary foreign credit restraint program.

I think it would be useful to quote from the "International Economic Report of the President" transmitted to the Congress last week. This report by the President emphasizes the utter ineffectiveness of the interest equalization tax and related capital controls to effect the desired change in the balance of payments.

The VFCR, the IET, and the FDIP were established as temporary measures in the early 1960s to assist our balance of payments by restricting financial outflows resulting from US direct investment abroad, portfolio investment in foreign stocks and bonds, and commercial bank lending abroad. In retrospect, the direct favorable influence of these capital control measures on the overall payments balance may have been only marginal. Moreover, to the extent that they did work, they may have had a longer term negative effect of delaying the more fundamental adjustments which were needed and finally undertaken in 1971. They have also imposed an administrative burden on both private business and the Federal Government.

One reason controls may not achieve their intended effect on the overall payments balance is that restrictions on financial flows can have off-setting effects on other components of the balance of payments. For example, a restriction of financial flows abroad may lower the investment component of the balance of payments, but it also may lower exports because foreigners cannot obtain dollar financing abroad. Thus, to some extent, the overall payments balance effect is neutralized.

The restrictions also had another effect which worked to neutralize their intended impact. Since foreign corporations desired to borrow dollars, they issued dollar-denominated debt in the Eurobond market, or borrowed in the Eurodollar markets. Foreigners who had dollars and wanted to invest in dollar-denominated securities then could invest in the Eurobond and Eurodollar market instead of in the US security markets. As a result, foreign investment in the United States was lower than it otherwise would have been because of the restriction, thus offsetting the balance of payments effect of the controls.

Now that the United States has demonstrated a willingness to change the exchange rate, this more straightforward method of controlling imbalances in the balance of payments should replace a jury rigged capital control system.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Louisiana (Mr. JOHNSTON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Maryland (Mr. MATHIAS). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Maryland would vote "nay."

The result was announced—yeas 83, nays 3, as follows:

[No. 67 Leg.]

YEAS—83

Abourezk	Cranston	Javits
Aiken	Curtis	Kennedy
Allen	Dole	Long
Baker	Domenici	Magnuson
Bartlett	Eagleton	Mansfield
Bayh	Eastland	McClellan
Beall	Ervin	McGee
Bellmon	Fannin	McGovern
Bennett	Fong	McIntyre
Bentsen	Gravel	Metcalf
Bible	Griffin	Mondale
Biden	Gurney	Montoya
Brock	Hart	Moss
Burdick	Hartke	Nelson
Byrd, Harry F., Jr.	Haskell	Nunn
Byrd, Robert C.	Hatfield	Packwood
Cannon	Hathaway	Pastore
Case	Helms	Pearson
Chiles	Hollings	Pell
Church	Hruska	Percy
Clark	Hughes	Proxmire
Cook	Humphrey	Randolph
Cotton	Inouye	Ribicoff
Saxbe	Jackson	Roth
Schweiker	Stafford	Talmadge
Scott, Pa.	Stevens	Tower
Scott, Va.	Stevenson	Weicker
	Symington	Young

NAYS—3

Buckley	Dominick	McClure

NOT VOTING—14

Brooke	Johnston	Taft
Fulbright	Mathias	Thurmond
Goldwater	Muskie	Tunney
Hansen	Sparkman	Williams
Huddleston	Stennis	

So the bill (H.R. 3577) was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BENNETT. Mr President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move that the Senate insist on its amendments and requests a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. BENNETT, and Mr. CURTIS conferees on the part of the Senate.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ABOUREZK):

A resolution adopted by the City Council of Holland, Michigan, expressing appreciation for the passage of the General Revenue Sharing bill. Ordered to lie on the table.

A resolution adopted by the City Council of Holland, Michigan, relating to revenue sharing. Referred to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

S. 352. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service (Rept. No. 93-91), together with separate views.

Mr. FONG. Mr. President, I am filing minority views on S. 352, however, those views are not ready to be filed yet.

I ask unanimous consent that I be allowed to file my minority views at a later date, probably tomorrow, and that those minority views be printed as part II of the report on S. 352.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I have been requested by the distinguished Senator from Wyoming (Mr. McGEE) to make the following unanimous-consent request: He has reported the bill S. 352, with an amendment, from the Committee on Post Office and Civil Service today. On his behalf, I ask unanimous consent that the views of Mr. FONG, which are not yet available, but are to be submitted with

the report, be printed as a part of the report on S. 352.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. 1235. A bill to amend Public Law 90–553 authorizing an additional appropriation for an International Center for Foreign Chanceries (Rept. No. 93–92).

REPORT ENTITLED "REPORT OF ACTIVITIES DURING THE 92D CONGRESS"—REPORT OF A COMMITTEE

(S. REPT. NO. 93–89)

Mr. MOSS. Mr. President, in accordance with the requirement established by section 136(b) of the Legislative Reorganization Act of 1946, as amended, I submit the attached report on the activities of the Senate Committee on Aeronautical and Space Sciences during the 92d Congress. The report was agreed to without objection by the Committee.

The PRESIDING OFFICER. The report will be received and printed.

REPORT ENTITLED "OPERATION OF ARTICLE VII, NATO STATUS OF FORCES TREATY"—REPORT OF A COMMITTEE

(S. REPT. NO. 93–90)

Mr. ERVIN, from the Committee on Armed Services, submitted a report entitled "Operation of Article VII, NATO Status of Forces Treaty," which was ordered to be printed.

REPORT ENTITLED "LEGISLATIVE REVIEW DURING THE 92D CONGRESS BY THE SENATE COMMITTEE ON RULES AND ADMINISTRATION"—REPORT OF A COMMITTEE

(S. REPT NO. 93–93)

Mr. CANNON, from the Committee on Rules and Administration, submitted a report entitled "Legislative Review During the 92d Congress by the Senate Committee on Rules and Administration," which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. FANNIN (for himself, Mr. HANSEN, and Mr. DOMINICK):

S. 1370. A bill to amend the Internal Revenue Code of 1954 to facilitate acquisition of ownership of private enterprises by the employees of such enterprises. Referred to the Committee on Finance.

By Mr. BELLMON:

S. 1371. A bill to require the Secretary of Agriculture to call a hearing in a milk market order area upon petition of producers. Referred to the Committee on Agriculture and Forestry.

By Mr. CHILES:

S. 1372. A bill to establish the Spessard L. Holland National Seashore in the State of Florida, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 1373. A bill for the relief of Mr. Conegundo A. Echivarre; and

S. 1374. A bill for the relief of Miss Such Shih Lo. Referred to the Committee on the Judiciary.

By Mr. HART:

S. 1375. A bill to provide adequate mental health care and psychiatric care to all Americans. Referred to the Committee on Labor and Public Welfare.

S. 1376. A bill to preserve the Office of Economic Opportunity. Referred to the Committee on Labor and Public Welfare.

By Mr. FULBRIGHT (by request):

S. 1377. A bill to amend the law authorizing the President to extend certain privileges to representatives of member states on the Council of the Organization of American States. Referred to the Committee on Foreign Relations.

By Mr. MOSS (for himself and Mr. HART):

S. 1378. A bill to encourage earlier retirement by permitting Federal employees to purchase into the civil service retirement system benefits unduplicated in any other retirement system based on employment in Federal programs operated by State and local governments under Federal funding and supervision. Referred to the Committee on Post Office and Civil Service.

By Mr. BAKER:

S. 1379. A bill to authorize further appropriations for the Office of Environmental Quality, and for other purposes. Referred to the Committee on Public Works.

By Mr. PERCY (for himself and Mr. STEVENSON):

S. 1380. A bill to change the name of the Indiana Dunes National Lakeshore to the Paul H. Douglas National Lakeshore. Referred to the Committee on Interior and Insular Affairs.

By Mr. BARTLETT (for himself, Mr. ABOUREZK, Mr. BELLMON, Mr. BENTSEN, Mr. COOK, Mr. DOLE, Mr. DOMINICI, Mr. EAGLETON, Mr. FANNIN, Mr. GURNEY, Mr. HANSEN, Mr. MANSFIELD, Mr. MCCLELLAN, Mr. MCCLURE, Mr. NUNN, Mr. PEARSON, Mr. SPARKMAN, Mr. TALMADGE, and Mr. HOLLINGS):

S. 1381. A bill to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS:

S. 1382. A bill for the relief of Maria Helena de Souza;

S. 1383. A bill for the relief of Magdalena Pisga Mulato. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1384. A bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Glen Canyon National Recreation Area, in the States of Arizona and Utah, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 1385. A bill to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands. Referred to the Committee on Interior and Insular Affairs.

S. 1386. A bill to authorize appropriations for the saline water program for fiscal year 1974, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. TALMADGE:

S. 1387. A bill to amend section 204 of the Agricultural Act of 1956. Referred to the Committee on Agriculture and Forestry.

By Mr. TALMADGE (for himself, Mr. EASTLAND, Mr. MCGOVERN, Mr. ALLEN, Mr. HUMPHREY, Mr. HUDDLESTON, Mr. CLARK, Mr. CURTIS, Mr. BELLMON, and Mr. DOLE):

S. 1388. A bill to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research. Referred to the Committee on Agriculture and Forestry.

By Mr. INOUYE:

S. 1389. A bill to amend the Service Contract Act of 1965 to extend its geographical coverage to contracts performed on Canton Island. Referred to the Committee on Labor and Public Welfare.

By Mr. NELSON:

S. 1390. A bill to authorize a national policy and program with respect to wild predatory mammals; to prohibit the poisoning of animals and birds on the public lands of the United States; and to regulate the manufacture, sale, and possession of certain chemical toxicants, for predator control purposes. Referred to the Committee on Commerce.

S. 1391. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Wisconsin River for potential addition to the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONDALE:

S. 1392. A bill to establish a ceiling on expenditures for the fiscal year 1974 and to provide procedures for Congressional approval of action taken by the President to keep expenditures within the ceiling. Referred to the Committee on Government Operations.

S. 1393. A bill for the relief of Gloria Borja Tan. Referred to the Committee on the Judiciary.

By Mr. MONTOYA (for himself and Mr. DOMENICI):

S. 1394. A bill to authorize the acquisition of lands within the Vermejo Ranch, N. Mex. and Colorado, for addition to the national forest system, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. RANDOLPH:

S. 1395. A bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails. Referred to the Committee on Post Office and Civil Service.

By Mr. HELMS:

S. 1396. A bill for the relief of Ricardo A. and Clina Kostner. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT (for himself and Mr. MCCLELLAN):

S. 1397. A bill authorizing the Secretary of Agriculture to carry out a program providing for the inspection of fish produced on fish farms in the United States. Referred to the Committee on Commerce.

By Mr. FULBRIGHT (by request):

S. 1398. A bill to authorize the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines funds for making payments on certain pre-1934 bonds of the Philippines, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself, Mr. HATHAWAY, and Mr. MUSKIE):

S. 1399. A bill to establish the Olson Home, Cushing, Maine, as a national historic site. Referred to the Committee on Interior and Insular Affairs.

By Mr. HRUSKA (for himself and Mr. MCCLELLAN):

S. 1400. A bill to reform, revise, and codify the substantive criminal law of the United States; to make conforming amendments to title 18 and other titles of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

S. 1401. A bill to establish rational criteria

for the mandatory imposition of the sentence of death, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. HARTKE:

S. 1402. A bill to establish a Federal program to encourage voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors. Referred to the Committee on Labor and Public Welfare.

By Mr. SCHWEIKER (for himself, Mr. BAKER, Mr. CANNON, Mr. EASTLAND, Mr. PASTORE, and Mr. SCOTT of Pennsylvania):

S.J. Res. 84. Joint resolution proposing an amendment to the Constitution of the United States with respect to prayer in public buildings. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FANNIN (for himself, Mr. HANSEN, and Mr. DOMINICK):

S. 1370. A bill to amend the Internal Revenue Code of 1954 to facilitate acquisition of ownership of private enterprises by the employees of such enterprises. Referred to the Committee on Finance.

Mr. FANNIN. Mr. President, on behalf of myself, Mr. HANSEN, and Mr. DOMINICK, I introduce a bill to amend the Internal Revenue Code and ask that it be appropriately referred.

This legislation is designed to facilitate the expanding of the capital ownership base of the U.S. economy, beginning with the employees of U.S. corporations which account for over 80 percent of the goods and services produced by the private sector.

Today there is vital need for revitalization of the free enterprise system. We need to create incentives that will rekindle the work ethic in America.

You may be familiar with some of the unhappy statistics:

The fact that more people draw money from the Government for not working today than during the depression;

The fact that General Motors estimates that absenteeism costs the company more than $50 million annually in fringe benefits alone;

The fact that some workers purposely sabotage the assembly lines they work on;

The fact that too many workers have no pride in the product they are turning out.

We obviously have a problem that threatens our national well-being and our ability to remain competitive in world trade.

We have been told that the alienation of youth and the general frustration of many Americans today is the inevitable result of the capitalist or free enterprise system. In the past, the solution to every problem is to create more bureaucracy, to provide more government control, to dilute the capitalist system.

This attitude has prevailed in the Congress now for the better part of four decades; and as a result we have found that we have inflation, unemployment, and an apparent lack of national determination or purpose.

Mr. President, the amendments to the Internal Revenue Code contained in this bill would allow for the expansion and development of corporate financing techniques called employee stock ownership plan—ESOP—which are successfuly being employed by a growing number of corporations.

One of the major problems in the current economic scheme is the manner in which corporations obtain new financing. In most cases a corporation will borrow money to buy new productive machinery. When the loan is paid off, it means usually that the book value of the outstanding stock has increased. This indirectly benefits the old stockholders, or the established capitalists, but does not in itself add any new stockholders.

Today when corporations issue new stock to finance their expansion, this stock is usually purchased by the already established capitalists. Lower and middle class Americans simply do not have the excess income to make large investments in stock.

Under this bill, corporations would have new incentives to obtain their new financing through employee trusts.

The existing ESOP plans incorporate the use of a deferred compensation trust—technically a stock bonus trust—into the financing process itself. Under one ESOP technique, the trust borrows funds to invest in the employer corporation. This instantly makes the employees beneficial owners of the corporation's stock, subject only to the trust's paying off the loan. The employer corporation obligates itself to make annual payments into the trust in amounts sufficient to amortize the debt out of tax-deductible dollars.

The tax deduction makes it possible for the corporation to build greater capital ownership into employees than it otherwise could, and the cost of financing its growth is about the same as if it conventionally borrowed and repaid—as to principal—in after-tax dollars After the employer's stock has been paid for in this manner, the trust can, if desired, be diversified by tax-free exchanges of stock for other securities, or by a public offering out of the trust

In order to facilitate the use of ESOP financing methods by business by linking the day-to-day performance of work by employees and the day-to-day growth and operation of business, the bill modifies the Internal Revenue Code as follows:

First. Provides that a qualified employee benefit trust shall have the tax characteristics of a charitable organization for purposes of income, estate, and gift taxes.

Second. Provides a tax deduction to corporations for the amount of dividends which they pay on stock held by qualified profit-sharing or stock bonus plan trusts, provided that the dividends are promptly paid over to the employees covered by the plan.

Third, Provides for an increase from 15 percent to 30 percent in the percentage limitation on the maximum annual tax-deductible contribution that can be made to a qualified employee benefit trust

Fourth. Provides an additional tax deduction for a corporation making a contribution to a qualified profit-sharing or stock bonus trust where the trust pays off indebtedness incurred to purchase stock of the corporation. The amount of the special deduction would be 50 percent of the principal amount of the indebtedness paid by the trust during the taxable year of the corporation.

Mr. President, the most important aspects of the ESOP financing technique are:

The loan is made not directly to the corporation, but to a specially designed ESOP that qualifies as a tax-exempt employee stock bonus trust under section 401(a) of the Internal Revenue Code. Such trusts normally cover all employees of the corporation and their relative interests are proportional to their relative annual compensation—however defined—over the period of years that the financing is being paid off. The trusts are normally under the control of a committee appointed by management and its membership may include labor representatives.

The committee invests the proceeds of the loan in the corporation by purchasing newly issued stock at its current market value.

The trust gives its note to the lender, which note may or may not be secured by a pledge of the stock. If it is so secured, the pledge is designed for release of proportionate amounts of the stock each year as installment payments are made on the trust's note to the lender and the released stock is allocated to participants' accounts.

The corporation issues its guarantee to the lender assuring that it will make annual payments into the trust in amounts sufficient to enable the trust to amortize its debt to the lender. Within the limits specified by the Internal Revenue Code, such payments are deductible by the corporation as payments to a qualified employee deferred compensation trust. Thus the lender has the general credit of the corporation to support repayment of the loan, plus the added security resulting from the fact that the loan is repayable in pretax dollars.

Each year as a payment is made by the corporation into the ESOP, there is allocated proportionately among the accounts of the participants in the trust a number of shares of stock proportionate to the partiicpant's allocated share of the payment. Special formulas have been designed to counteract the relatively high proportion of early amortization payments used to pay interest and the relatively high proportion of later amortization payments used to repay principal.

As the financing is completed and the loan paid off, the beneficial ownership of the stock accrues to the employees. Most trusts are designed to permit the withdrawal of the portfolio in kind, subject to vesting provisions, either at termination of employment, or at retirement. However, it is desirable to so design the ESOP that any dividend income on shares of stock that have been paid for by the financing process and are then allocated to the employees' accounts, be distributed currently to the employee-participants, thus giving them a second source of income.

Diversification of the trust can be

achieved after a particular block of stock has been paid for by exchanging the stock, at fair market value, for other shares of equal market value. Since the trust is a tax exempt entity, such diversification is without tax impact.

The ESOP financing technique properly uses the qualified deferred compensation trust to give the employee a means of legitimately buying and paying for capital as a function of enabling the corporation to finance its growth and the acquisition of assets, and motivating its employees, it can properly be said that what the employee receives is not compensation in the sense of pay for labor at all. He is being provided with a means of buying stock through the device of a deferred compensation trust, coupled with a commitment by the corporation—usually to a third person—to pay what amounts, in economic theory, to a pretax preferential dividend to employee buyers who are being so financed. The justification from the standpoint of the corporation, for making such an economic preferential dividend is that it wishes to take advantage of the acquisitive instinct of employees in order to motivate them, not only to work harder, but to insist upon their fellow workers also working harder and to use every effort to achieve cost savings. The employee, in short, is by the ESOP financing technique, put in a position where what he does, and what his fellow workers do, affects the value of his capital holding. No better motivational device can be conceived.

The concern about the problems of worker alienation that abound in our society today turn primarily on the fact that most work in America does not make a man rich. To be rich means to own income producing capital. A man who merely has high wages or a high salary, dissipated by the high cost of living and high taxes, an income that will terminate the instant he stops performing personal productive toil, is not rich, no matter what income he receives. The most important type of job enrichment is simply enrichment.

Through the use of ESOP financing, the corporation can obtain low cost capital, not on a short term basis, but on a long term basis, after the tax savings, and the yield of that savings retained in the corporation, has restored the temporary earnings dilution. Corporations need, but heretofore have never had, a way to raise the incomes of employees without raising their costs. Whether the yield of the capital represented by the stock acquired by the ESOP trust is accumulated in part in the corporation, or accumulated in the trust, or passed through the trust into the employees' pockets, such income is for the exclusive benefit of the employee participants in the trust. The employees either gain current income, or current capital appreciation, or capital accumulation, or any two or all three of these from the moment they acquire beneficial ownership of the stock. Absent this unique arrangement, so long as we have rising costs of living, rising taxes—which need no documentation—and reasonably rising expectations, employees have no possibility, if we are realistic, of avoiding frustration except to demand progressively more pay for the same, or very often for less work input.

By planning in advance to build a reasonable share of the ownership of the corporation's growth into the labor force, management puts the employees in a position where their economic security and future income growth can occur without their demanding more and more pay for the same, or for less work. Thus every reason that management has historically used to avoid the class conflict approach to labor relations justifies ESOP financing from the corporation's standpoint. ESOP financing attacks the causes of inflation by enabling the employee to build his economic security without demanding progressively more pay for progressively less work, the force that has powered the engine of inflation for 40 years or more.

Thus, Mr. President, the benefits of providing every worker a chance to participate in the ownership of capital are enormous:

It spreads the base of capitalism.

It motivates productivity.

It increases income and purchasing power.

It could minimize unemployment and welfare.

It raises the tax base.

It eliminates causes of inflation.

And it provides adequate retirement income.

Mr. President, I ask unanimous consent that the full text of the bill be placed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 170(b)(1)(A) of the Internal Revenue Code of 1954 (relating to percentage limitations on the deduction for charitable contributions by individuals) is amended—

(1) by striking out "or" at the end of clause (vii),

(2) by inserting "or" at the end of clause (viii), and

(3) by inserting after clause (viii) the following new clause:

"(ix) a trust described in section 401(a),".

(b) Section 170(c) of such Code (relating to definition of charitable contribution) is amended by inserting after paragraph (5) the following new paragraph:

"(6) A trust described in section 401(a) (other than a trust created by the taxpayer or by a corporation which, directly or indirectly, controls or is controlled by the taxpayer or the person or persons who control the taxpayer) if, pursuant to the terms of the trust or a condition of the contribution, no part of the contribution may be allocated to or held for the benefit of the taxpayer, or if the taxpayer is an individual, the taxpayer's spouse, children (including legally adopted children), grandchildren, or parents, or any person who owns 50 percent or more in value of the stock of the corporation that created the trust, or, if the taxpayer is a corporation, any shareholder who owns, directly or indirectly, 50 percent or more in value of the stock of the corporation, or, in the case of a partnership, estate, or trust, any partner or beneficiary thereof."

(c) Section 2055(a) of such Code (relating to the reduction for transfers for public, charitable, and religious uses in computing the taxable estate) is amended—

(1) by striking out "or" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) to a trust described in section 401(a) if, pursuant to the terms of the trust or a condition of the contribution, no part of the contribution may be allocated to or held for the benefit of the decedent's spouse, children (including legally adopted children), grandchildren, or parents, or any person who owns, directly or indirectly, 50 percent or more in value of the stock of the corporation that created the trust."

(d) Section 2522(a) of such Code (relating to the deduction for charitable and similar gifts in computing taxable gifts) is amended—

(1) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) a trust described in section 401(a) if, pursuant to the terms of the trust or a condition of the contribution, no part of the contribution may be allocated to or held for the benefit of the donor, his spouse, children (including legally adopted children), grandchildren, or parents, or any person who owns, directly or indirectly, 50 percent or more in value of the stock of the corporation that created the trust."

(e) The amendments made by subsections (a), (b), and (d) shall apply only with respect to contributions or gifts made after the date of the enactment of this Act. The amendment made by subsection (c) shall apply only with respect to estates of decedents dying after such date.

SEC. 2. (a) Part VIII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to special deductions for corporations) is amended by adding at the end thereof the following new section:

"SEC. 251. DIVIDENDS PAID ON STOCK HELD BY CERTAIN QUALIFIED EMPLOYEE TRUSTS.

"(a) GENERAL RULE.—In the case of a corporation, there shall be allowed as a deduction the amount of any qualified dividend paid during the taxable year by the corporation on its stock.

"(b) QUALIFIED DIVIDEND DEFINED.—For purposes of subsection (a), a dividend paid by a corporation shall be a qualified dividend if—

"(1) the stock with respect to which the dividend was paid was held on the record date for such dividend by a trust which forms part of a profit-sharing or stock bonus plan described in section 401(a), and

"(2) the dividend is paid by the trust to the employees who are covered by such plan during the year in which it is received by the trust in the proportion in which such dividend is to be allocated to the employees under the plan."

(b) The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 251. Dividends paid on stock held by certain qualified employee trusts."

(c) The amendments made by this section shall apply only with respect to dividends paid after the date of the enactment of this Act.

SEC. 3. (a) Section 404(a)(3)(A) of the Internal Revenue Code of 1954 (relating to the limitation on the deduction for contributions to profit-sharing and stock bonus trusts) is amended by striking out "15 percent" each place it appears and inserting in lieu thereof "30 percent".

(b) Section 404(a)(7) of such Code (relating to the limitation on the deduction for contributions to more than one trust) is amended by striking out "25 percent" and inserting in lieu thereof "50 percent", and by striking out "30 percent" and inserting in lieu thereof "50 percent".

(c) The amendment made by this section shall apply only to taxable years beginning after the date of the enactment of this Act.

SEC. 4. (a) Section 404 of the Internal Revenue Code of 1954 (relating to deduction for contributions of an employer to an employees' trust) is amended by adding at the end thereof the following new subsection:

"(g) Additional Deduction for Certain Contributions—

"(1) General rule.—If contributions are paid by an employer under a plan described in subsection (a)(3) under which such contributions are to be used for the purpose of paying stock acquisition indebtedness of the trust, there shall be allowed, in addition to the deduction allowed under subsection (a), a deduction equal to 50 percent of the amount of the stock acquisition indebtedness paid by the trust during the taxable year.

"(2) Stock acquisition indebtedness defined.—For purposes of paragraph (1), the term 'stock acquisition indebtedness' means the principal amount of any indebtedness of the trust incurred in connection with—

"(A) a qualified stock purchase by the trust of stock of the employer, and

"(B) any purchase from the employer by the trust of any stock (including treasury stock) of the employer.

"(3) Qualified stock purchase defined.—For purposes of paragraph (2)(A), the term 'qualified stock purchase' means the purchase by a trust of issued and outstanding stock of the employer if immediately after such purchase the trust is in control of the corporation. For purposes of the preceding sentence, the term 'control' means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of the corporation."

(b) The amendment made by subsection (a) shall apply only to taxable years beginning after the date of the enactment of this Act.

By Mr. BELLMON:

S. 1371. A bill to require the Secretary of Agriculture to call a hearing in a milk market order area upon petition of producers. Referred to the Committee on Agriculture and Forestry.

Mr. BELLMON. Mr. President, Federal milk market orders authorized by the Agricultural Marketing Agreement Act of 1937, as amended, provide the pricing structure for almost 65 percent of the milk sold by farmers in this country. As such these market orders heavily influence the level of income of dairy farmers all across the Nation.

In enacting the Agricultural Marketing Agreement Act Congress sought to provide a basis for the orderly development of the markets for a number of farm commodities, including milk. It was intended that the market orders developed would be responsive to the needs of the farmer. It is for this reason that full opportunity is given for public hearing during the development of a market order. As a means of maintaining the responsiveness of a market order to the needs of the market, provision is made in the act for the calling of hearings to consider amendments that may be needed from time to time.

Unfortunately dairy farmers operating under many of the milk market orders have found it imposible to get the Secretary of Agriculture to hold a hearing for the purpose of considering a needed amendment to an order. During the last winter, requests were made in 30 or more of the 62 Federal milk markets order areas for emergency hearing to consider the need for price increases to meet extraordinary increases in operating costs which was causing the liquidation of dairy herds and thus leading to a shortage of milk for consumers. The request for the hearing was denied out of hand without ever giving an opportunity to present the case.

Mr. President, it is one thing to base an adverse decision in the case of a market order on the record developed as a part of a public hearing. It is quite another, however, to arbitrarily deny even the hearing itself. The legislation I am introducing today will provide the means of preventing that from happening. It will assure that the market orders developed under the Agricultural Marketing Agreement Act are responsive to the needs of the markets they are designed to serve.

By Mr. HART:

S. 1375. A bill to provide adequate mental health care and psychiatric care to all Americans. Referred to the Committee on Labor and Public Welfare.

Mr. HART. Mr. President, it has been estimated that as many as 20 million Americans may suffer from mental illness.

If those projections applied to a physical disease, this country would declare a national emergency and would launch some sort of crash program to conquer mental illness.

Despite the absence of such a declaration, public awareness of mental illness is growing, and we are learning that it is a disease which afflicts many people in various ways and which often can be successfully treated.

Proof of this growth in public understanding is the fact that many health insurance programs now cover treatment and hospitalization costs resulting from mental illness.

However, I think it fair to say that mental health still does not receive the priority attention given other types of health care problems.

Of course, one might argue that, in the face of complaints about the rising cost of medical care, the distinction is not worth making.

However, as we look toward the day, not too distant, I hope, when we will have some type of national health insurance program to insure adequate medical treatment, regardless of an individual's income for physical disorders, we hear too little discussion of providing the same opportunities for adequate mental health care.

For that reason, I introduce today a bill, admittedly far from complete, to provide mental health care for all Americans in need of such care.

The bill does not address itself to cost or how the program will be financed. Hearings will provide better answers than I to these questions. I offer the legislation not as a solution, then, but as a vehicle for discussion.

The sooner such a discussion begins, the sooner the Nation will arrive at satisfactory answers as to how best insure that our system of health care provides adequate treatment for all types of illnesses.

Certainly I would be remiss if I did not give full credit to Congressman MICHAEL HARRINGTON of Massachusetts for taking the initiative in this matter. The bill I am introducing is taken from legislation prepared by Congressman HARRINGTON which he will introduce today in the House.

By Mr. HART:

S. 1376. A bill to preserve the Office of Economic Opportunity. Referred to the Committee on Labor and Public Welfare.

THE WAR ON POVERTY

Mr. HART. Mr. President, the administration is proceeding to abolish the Office of Economic Opportunity and to dismantle or to reduce the funding for many of the Office's programs.

This action means, in effect, that the administration is reorganizing a congressionally authorized office without the consent of Congress, is ignoring the intent of the enacted economic opportunity amendments to finance a war on poverty.

One does not have to contend that all of the antipoverty programs, or even a large majority of them have been successful to take exception to the administration's actions regarding OEO.

As the National Legislature acting under the authority of the Constitution, the Congress, since 1964, has approved a series of proposals designed to help eradicate poverty in this Nation of affluence.

If, indeed, this country is prepared to abandon this effort or redesign its plan of attack, so be it, but that is not a matter for the administration alone to decide.

Congress, which had a role in launching the war on poverty, also must have its say on changing strategies or withdrawing from the battlefield with the goal still not achieved.

For that reason, I introduce a bill to prohibit impoundment or diversion of EOE funds. It is my hope that this bill may provide an opportunity for the Senate to debate and vote on the future of the war on poverty.

Congressman JOHN CONYERS of Detroit, author of the legislation, introduced an identical bill last week in the House of Representatives. I am pleased to join with Congressman CONYERS in taking this action to encourage Congressional consideration on this issue.

I ask unanimous consent that a section by section synopsis of the Economic Opportunity Amendments of 1973 and the text of the bill be printed at this point in the RECORD.

There being no objection, the synopsis and bill were ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SYNOPSIS OF THE ECONOMIC OPPORTUNITY AMENDMENTS OF 1973

SEC. 1. Prohibits the impoundment of funds appropriated by Congress for economic opportunity programs and exempts the Of-

fice of Economic Opportunity from the provisions of the Federal Anti-deficiency Act;

Sec. 2. Provides for the continuation of Community Action Programs;

Sec. 3. Same as above;

Sec. 4. Provides that a vacancy occurring in the Office of the Director may be filled temporarily for not more than 30 days in conformity with title 5, United States Code, section 3348;

Sec. 5. This is the key provision. It suspends the President's authority to authorize the Director to delegate any of his powers or functions, or programs administered under this Act unless he complies with the terms of the Executive Reorganization Act. This will provide Congress with the opportunity to evaluate the effectiveness of the Office of Economic Opportunity;

Sec. 6. Prohibits the Director from disposing of property belonging to the Office of Economic Opportunity that would have the effect of reducing the Office's powers, functions or programs.

Sec. 7. Provides that the Director shall not transfer funds to other Federal agencies for the performance of Office of Economic Opportunity functions delegated after January 31, 1973, if the President has not complied with the requirements of the Executive Reorganization Act of 1949 as provided in section 5 above. This section also provides, that any unexpended funds so transferred prior to March 1, 1973 be returned to the Office of Economic Opportunity;

Sec. 8. Provides procedures for a full and fair hearing before financial assistance may be suspended under any title of this Act.

S. 1376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Economic Opportunity Amendments of 1973".

PROHIBITION OF IMPOUNDMENT OF APPORTIONMENTS AND DIVERSION OF FUNDS

SECTION 1. (a) The Congress directs that no part of any sums which have been apportioned pursuant to the provisions of the Economic Opportunity Act of 1964 shall be impounded or withheld from the purposes for which appropriated by any officer or employee in the executive branch of the Federal Government.

(b) No funds authorized to be appropriated for carrying out the Economic Opportunity Act of 1964 shall be expended by or on behalf of any Federal department, agency, or instrumentality other than the Office of Economic Opportunity, except (1) as may be provided by Reorganization Plan, or (2) for functions delegated to another Federal department, agency or instrumentality before January 31, 1973.

(c) Section 3679(c) of the Revised Statutes of the United States (31 U.S.C. 665(c) shall not apply with respect to appropriations made to carry out the Economic Opportunity Act of 1964.

GENERAL PROVISIONS FOR FINANCIAL ASSISTANCE

SEC. 2. (a) The first sentence of section 221(a) of the Economic Opportunity Act of 1964 is amended by striking out "the Director may provide financial assistance" and inserting in lieu thereof "The Director shall provide financial assistance," and by inserting before the period at the end thereof a comma and the following: "except that he may suspend financial assistance to recipients for failure to comply with applicable laws or regulations."

(b) Section 221(a) is further amended by striking out "also" in the last sentence.

(c) Section 221(b) of such Act is amended by striking out "he may extend financial assistance" and inserting in lieu thereof "he shall extend financial assistance".

SPECIAL PROGRAMS AND ASSISTANCE

SEC. 3 Section 222(a) of the Economic Opportunity Act of 1964 is amended by striking out "the Director may develop" and in lieu thereof "the Director shall develop".

OFFICE OF ECONOMIC OPPORTUNITY

SEC. 4. Section 601(a) of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following:

"A vacancy occurring in the Office of the Director shall be filled in conformity with Title 5, United States Code, section 3348."

AUTHORITY OF DIRECTOR

SEC. 5 Section 602(d) of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following:

"The Director's authority, under this subsection, to delegate any of his powers is hereby suspended for a period of one year from the date of enactment of this sentence. For the duration of such period, the Director shall not delegate or transfer any of his powers or functions, or programs administered under this Act unless the President complies with the requirements of Chapter 9 of Title 5, United States Code (relating to executive reorganizations). The provisions of section 905(b) of such title shall not apply to a reorganization under this provision. Any transfers or delegations effected after January 31, 1973, not in compliance with this provision, are hereby rescinded and such powers, functions and programs are returned to the Director. This provision shall not apply to delegations made prior to January 31, 1973, and shall not affect the Director's authority to reimburse the heads of other Federal agencies for the performance of such functions so delegated: *Provided,* That he complies with the requirements of this subsection to assure the maximum possible liaison between the Office of Economic Opportunity and the delegate agencies."

LIMITATIONS ON DISPOSAL OF PROPERTY

SEC. 6 Section 602(f) of the Economic Opportunity Act of 1964 is amended by striking the semicolon following the word "otherwise" and inserting in lieu thereof the following: ": *Provided,* That no authority exercised under this subsection shall have the effect of abolishing, or reducing the powers or functions of the Director of the Office of Economic Opportunity, any component thereof, or any program administered under this Act;".

LIMITATION ON TRANSFER OF FUNDS

SEC. 7 Section 602(h) of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following:

"The Director shall not transfer funds under this subsection for a period of one year from the date of enactment of this provision unless the President has complied with the requirements of Chapter 9 of Title 5, United States Code (relating to executive reorganizations). Any unexpended funds transferred to other Federal agencies after March 1, 1973, not in compliance with this provision, are directed to be returned to the Office of Economic Opportunity. This provision shall not apply to transfers of funds made to continue programs, or to exercise powers or functions transferred by the Director prior to January 31, 1973."

APPEALS, NOTICE AND HEARING

SEC. 8(a) Section 604 is amended by striking out clause (2) and in lieu thereof inserting the following:

"Financial assistance under any title of the Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, nor shall an application for re-funding under any title be denied unless the recipient agency has been afforded reasonable notice and opportunity for a full and fair hearing, and the Director solely on the basis of the record in that hearing has made a determination that the recipient agency cannot, in accordance with this Act and the rules, regulations, guidelines and other standards promulgated thereunder, satisfactorily administer the project or program for which financial assistance was extended: *Provided,* That the programs or projects instituted on a pilot, demonstration, or experimental basis pursuant to sections of the Act authorizing such programs or projects shall not be afforded the protections of this section."

(b) Section 604 is further amended by relettering 604(3) as "604(3)(A)" and striking the period at the end of 604(3) and adding the following: "and the Director solely on the basis of the record in that hearing has made a determination that the recipient agency cannot, in accordance with this Act and the rules, regulations, guidelines and other standards promulgated thereunder, satisfactorily administer the project or program for which financial assistance was extended. (B) For the purpose of this section, re-funding will be considered denied if the renewed funding will be reduced by more than 5 percent of Federal financial assistance available to the recipient agency under the immediately previous grant, contract or agreement, or if the period of operation authorized under the renewed grant, loan or agreement is less than 12 months. Only recipient agencies denied refunding subsequent to December 31, 1972, shall be entitled to a hearing on a denial of re-funding pursuant to this section."

By Mr. FULBRIGHT (by request):

S. 1377. A bill to amend the law authorizing the President to extend certain privileges to representatives of member states on the Council of the Organization of American States. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend the law to extend certain privileges to representatives of member states on the Council of the Organization of American States.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Acting Assistant Secretary of State to the Vice President dated March 2, 1973.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 1377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of the July 10, 1952. (66 Stat. 516, 22 U.S.C. 288g) is amended as follows:

(a) The title of the Act is amended to read as follows: "An Act to extend certain privileges to the representatives of member states and permanent observers to the Organization of American States."

(b) The body of the Act is amended to read as follows:

"That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives

of member states (other than the United States) to the Organization of American States and to permanent observers to the Organization of American States, and to members of the staffs of said representatives and permanent observers, the same privilege and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States."

DEPARTMENT OF STATE,
Washington, D.C., March 2, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
U.S. Senate.

DEAR MR. PRESIDENT: I have the honor to transmit herewith for the consideration of the Senate an amendment to Public Law 82–486 (66 Stat. 516, 22 U.S.C. 288g, July 10, 1952), An Act to Extend Certain Privileges to Representatives of Member States on the Council of the Organization of American States.

The purpose of the amendment is to provide the President with the authority to extend or enter into an agreement extending to the Permanent Observers to the Organization of American States and their staffs the privileges and immunities extended to the Permanent Representatives of the member states and their staffs under the provisions of PL 82–486.

The General Assembly of the Organization of American States, by resolution AG/RES 50 (I–O/71), adopted April 23, 1971, established the status of Permanent Observers to the Organization and authorized the Permanent Council to set the criteria for this status. By resolution CP/RES. 52 (61/72) adopted January 19, 1972, the Council provided that nonmember American states and those non-American states that participate in OAS programs were eligible to apply for this status. (At present there are two countries in the first category and some thirteen which might qualify under the second.) To date six countries—Canada, Guyana, Israel, Italy, the Netherlands, and Spain—have applied for and been granted Permanent Observer status. Canada and Spain have each indicated that their designated Permanent Observer will have Ambassadorial rank and their Permanent Observer mission in Washington will function separately from their diplomatic mission. Three of the other observer countries have designated their Ambassadors to the United States to serve as Permanent Observers to the OAS, and it is expected that most of the countries which apply for observer status in the future will also designate the Ambassador to the United States to serve additionally as Observer to the OAS.

Ambassadors and members of their staffs who are dually accredited to the United States and as Permanent Observers to the OAS are already accorded diplomatic privileges by virtue of their accreditation to the United States. However, the Permanent Observers who are *not* part of their country's diplomatic mission are not entitled to diplomatic privileges and immunities under existing legislation. The proposed amendment would authorize the President to extend privileges and immunities to this category of OAS participants, thus according to the members of the observer missions who are not part of their country's diplomatic mission the same diplomatic privileges enjoyed by the Permanent Observers who are accredited to the United States as well as being accredited as observers to the OAS.

The privileges and immunities extended by the proposed amendment would at this time add a relatively small number of persons to the list of those entitled to diplomatic privileges under existing legislation, as only Canada and Spain have indicated an intention of establishing separate observer missions, each having named a Permanent Observer and one Alternate of diplomatic rank. The Department believes that the active participation of the Permanent Observers in the activities of the OAS is very much in the national interest of the United States. This legislation is narrow in scope and will apply only to the Permanent Observers to the OAS, and to those members of their staffs entitled to privileges and immunities. It is not applicable to observers to any other international organization.

In addition to adding the members of the OAS Permanent Observer missions to the legislation authorizing the President to extend privileges and immunities to the representatives of the OAS member states and their staffs, the proposed amendment would revise the terminology of the Act to make it consistent with the Charter structure as revised by the OAS Charter amendments which entered into force on February 27, 1970. At that time the structure of the Organization was changed so that the old Council and its subordinate Councils were replaced by three co-equal Councils: the Permanent Council, the InterAmerican Economic and Social Council, and the InterAmerican Council for Education, Science and Culture. In conformity with this change, most member country representations have been converted to Missions (in most cases designated "Permanent Mission") to the OAS, headed by "Permanent Representatives (or simply Representatives) to the Organization of American States." The Chief of Protocol of the OAS has suggested that all member countries standardize their representation in this manner.

It is therefore proposed that the existing legislation be changed to refer to representatives of member states "to the Organization of American States" instead of representatives of member states "on the Council of the Organization of American States."

The Department has been advised by the Office of Management and Budget that from the standpoint of the Administration's program there is no objection to the submission of this proposed amendment to PL 82–486 to the Congress for its consideration.

Sincerely yours,

MARSHALL WRIGHT,
Acting Assistant Secretary for Congressional Relations.

By Mr. MOSS (for himself and Mr. HART):

S. 1378. A bill to encourage earlier retirement by permitting Federal employees to purchase into the Civil Service Retirement System benefits unduplicated in any other retirement system based on employment in Federal programs operated by State and local governments under Federal funding and supervision. Referred to the Committee on Post Office and Civil Service.

RETIREMENT BENEFITS FOR EMPLOYEES OF FEDERAL-STATE COOPERATIVE PROGRAMS

Mr. MOSS. Mr. President, I am today introducing a bill to bring employees of Federal-State cooperative programs under the civil service retirement system. Although hearings have been held on legislation of this type in the past, no action has been taken.

Let us hope that the 93d Congress will bring an end to this longstanding inequity.

As everyone knows, retirement privileges have been extended to State and county agricultural extension workers, but most of the other employees who are now working or have worked in the past on programs financed by the Federal Government and operated by State or local government are excluded. They are treated like second-class citizens when it comes time to retire.

Aside from the importance of establishing a uniform Federal retirement system, passage of this bill would be most helpful in assuring to the Federal Government the experience and expertise of many men and women who now hesitate to take positions offered to them. Recruiting of experienced employees would be enhanced if these employees could be sure that their years of service in cooperative programs would be credited toward retirement.

Mobility and interchange between the States and the Federal Government is vital if national agencies are to continue to act in an effective and innovative fashion. As cooperation among Federal, State, and local units grows—and I think this definitely is the pattern of the future—we must facilitate and encourage, not hinder, the exchange of personnel.

The argument has been offered that the proposed extension of benefits would constitute still another Government expense. At this point, we simply do not know how many people will be covered by the law. Even if we had an up-to-date and accurate estimate of the number eligible, we still have no means of determining how many employees would elect to take advantage of the provisions of the bill or for how long annuity payments would have to be made. Some employees who have already retired may have a short life expectancy and thus may decide that the advantages of entering the retirement fund are limited.

The key point in considering cost, however, is that none of these people is asking for a Federal handout. In order to participate, the employee would have to pay into the Federal civil service retirement an amount equal to the aggregate of what he would have paid into the fund during his period of service plus interest. This lump sum should more than offset the initial costs of the bill.

By Mr. BAKER:

S. 1379. A bill to authorize further appropriations for the Office of Environmental Quality, and for other purposes. Referred to the Committee on Public Works.

Mr. BAKER. Mr. President, the Environmental Quality Improvement Act of 1970—title II of Public Law 91–224—created the Office of Environmental Quality, which has operated as a part of the President's Council on Environmental Quality.

Because Public Law 91–224 authorized appropriations for the office through fiscal year 1973, there is a need before June 30 to extend the authorization for the office. The bill I am introducing today would authorize such an extension.

The following is a list of funds authorized and appropriated for the Council and the office since their establishment.

	Public Law 91-190	Public Law 91-224	Budget request	Appropriations	Obligations
Fiscal year:					
1970	$300,000	$500,000	$600,000	$350,000	$315,000
1971	700,000	750,000	1,450,000	1,450,000	1,409,000
1972	1,000,000	1,250,000	2,250,000	2,250,000	2,145,000
1973	1,000,000	1,500,000	2,500,000	2,500,000	[1] 2,500,000
1974	1,000,000		2,466,000		

[1] Estimate.

This bill, as drafted by the administration, does not impose a limit on authorizations. Personally, it is my hope that when the bill is considered in committee that a reasonable annual limitation will be included in any bill that is reported to the Senate floor.

The work of the Council and the Office, since their inception, has been of great value to our national effort to improve environmental quality. It is my hope that this legislation will receive prompt consideration. Mr. President, I ask unanimous consent that a copy of the bill, as well as a letter to the President of the Senate from Chairman Russell E. Train be included at this point in the CONGRESSIONAL RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 1379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended to read as follows:

"Section 205. There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality such sums as the President may request for fiscal year 1974 and for each fiscal year thereafter. This authorization is in addition to those contained in Public Law 91-190."

MARCH 16, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill, "To authorize further appropriations for the Office of Environmental Quality, and for other purposes."

One of the purposes of the Environmental Quality Improvement Act of 1970 (PL 91-224) is "to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91-190." Section 205 of the Act authorized appropriations on a sliding scale ending with fiscal year 1973. A new authorization beginning with fiscal year 1974, to supplement the standing authorization in PL 91-190, is necessary to enable the Council to continue performance of the functions and responsibilities contained in PL 91-224 and PL 91-190.

The proposed bill would authorize "such sums as the President may request for fiscal year 1974 and for each fiscal year thereafter."

The Council has been advised by the Office of Management and Budget that enactment of the proposed legislation would be in accord with the program of the President.

Sincerely,

RUSSELL E. TRAIN,
Chairman.

By Mr. PERCY (for himself and Mr. STEVENSON):

S. 1380. A bill to change the name of the Indiana Dunes National Lakeshore to the Paul H. Douglas National Lakeshore. Referred to the Committee on Interior and Insular Affairs.

TO CHANGE THE NAME OF THE INDIANA DUNES NATIONAL LAKESHORE TO THE PAUL H. DOUGLAS NATIONAL LAKESHORE

Mr. PERCY. Mr. President, yesterday a great gentlemen, my distinguished predecessor in the Senate, Paul H. Douglas, celebrated his 81st birthday.

At this time, I am reintroducing, with the cosponsorship of the distinguished junior Senator from Illinois (Mr. STEVENSON), a proposal which would change the name of the Indiana Dunes National Lakeshore to the Paul H. Douglas National Lakeshore. In 1958, Senator Douglas introduced the first bill to establish a national lakeshore along the dunes. Through the years, he fought for the preservation of the Indiana Dunes against formidable odds. In 1966, he achieved victory, when the dunes were established as a national lakeshore.

Since Illinois, with 11.1 million people, is one of the few States that does not have a national park within its borders, the dunes have become a favorite recreation area for northern Illinois residents. As Carl Sandburg once remarked.

The Indiana Dunes are to the Midwest what the Grand Canyon is to Arizona.

As the champion of saving the Indiana Dunes, Paul Douglas merits having the national lakeshore named after him. "Of all my legislative work," he said in his autobiography, In the Fullness of Time, "the dunes park was closest to my heart." On the occasion of his 81st birthday, let us pay proper tribute to the man who had the vision and the fighting spirit necessary to preserve this area.

Mr. President, I ask unanimous consent that the text of the bill renaming the Indiana Dunes National Lakeshore to the Paul H. Douglas National Lakeshore be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the national lakeshore established pursuant to the Act of November 5, 1966 (80 Stat. 1309), known as the Indiana Dunes National Lakeshore, shall hereafter be known as the "Paul H. Douglas National Lakeshore", and any law, regulation, map, document, or record of the United States in which such lakeshore is designated or referred to under the name Indiana Dunes National Lakeshore shall be held to refer to such lakeshore under and by the name of the Paul H. Douglas National Lakeshore.

Mr. BARTLETT (for himself, Mr. ABOUREZK, Mr. BELLMON, Mr. BENTSEN, Mr. COOK, Mr. DOLE, Mr. DOMENICI, Mr. EAGLETON, Mr. FANNIN, Mr. GURNEY, Mr. HANSEN, Mr. MCCLELLAN, Mr. MCCLURE, Mr. MANSFIELD, Mr. NUNN, Mr. PEARSON, Mr. SPARKMAN, Mr. TALMADGE, and Mr. HOLLINGS):

S. 1381. A bill to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes. Referred to the Committee on Interior and Insular Affairs.

LIMITATION ON RECREATION FEES

Mr. DOLE. Mr. President, I am, today, joining in the introduction of legislation to limit the assessment of recreation fees scheduled to be charged at Federal lakes administered by the Corps of Engineers.

This bill is necessary to clarify the intent of Congress with regard to these fees, and it is required to avoid a completely unnecessary and impractical burden on millions of American families.

MAJOR INTEREST

The proposal to begin charging a variety of fees for the use of recreational facilities at federally-constructed lakes in Kansas has generated some of the most intense feelings in recent memory. Citizens from every walk of life have voiced their strongest objections to these fees and the way in which they have been presented.

It may be surprising to some to hear that a proposal involving water recreation could be of major interest to Kansans, but the construction of more than a dozen multipurpose reservoirs in the State—plus others nearby in Missouri, Arkansas, Nebraska, and Oklahoma—has made water and its many recreational uses prominent in the lives of Kansas citizens. Millions of people every year come to enjoy the waters and surrounding areas of these Kansas lakes, and many Kansans go to the lakes in the neighboring States.

VALUABLE TO KANSANS

These lakes and the opportunities they represent for recreation and entertainment have provided a great source of enrichment for the lives of many Kansans. A wholesome, constructive, and economical new variety of recreational and leisuretime activities has been created. And whether you think in terms of

youngsters exploring the wonders of nature and engaging in healthful exercise; families getting together for picnics, weekend camping, and boating expeditions; or older citizens finding new pleasures in their retirement years—these lakes have become a major part of the lives of many Kansans. And I believe they are extremely valuable.

As one who was born and raised virtually in the center of the State at a time when a small pond was a major landmark, it is still surprising to see huge lakes with their boats, fishermen, and camping families in Kansas today. In my hometown, Russell, it is difficult to become accustomed to the sight of speedboats parked in the same driveways which, when I grew up, were 200 miles or more from any worthwhile body of water. Today, a resident of Russell can have his boat in Wilson Lake for a summer evening of fishing or waterskiing within a half hour of leaving work. Times have, indeed, changed.

TWO CONCERNS

So I understand the concern of the people in Kansas over the fees proposed by the Corps of Engineers.

Actually, I believe these concerns lie in two particular areas. First is a concern with their substance—the fees themselves. And second is a concern with the way in which the Corps of Engineers has gone about implementing them.

A QUESTION OF FAIR PLAY

The American people have a deep-seated sense of fair play and due process. They expect to be treated fairly by their fellow citizens in their business and personal dealings. And, when they do not receive fair treatment or if they feel someone is trying to pull a "fast one" on them, they have a well-deserved reputation for indignation and loud complaint. And if Americans are famous for these characteristics in their personal dealings, they are doubly known for their reaction against supposed abuses by their Government.

And I believe the people of Kansas—as reflected in the largest volume of mail to my office on any subject in more than a year—got the impression that the Corps of Engineers was less than totally candid and straightforward in the proposal and consideration of these fees.

SHORT TIMETABLE FOR CITIZEN COMMENTS

They saw that the law authorizing these fees was passed in July 1972. They saw that the Corps of Engineers did not make its fee proposals public until February 1973, in the Federal Register, a publication which is hardly everyday reading for most citizens. And they then saw the statement that it was "impractical and contrary to the public interest" to give more than 15 days for public comment and criticism of the proposals.

Well, I believe the people had a different view of the public interest and the practicalities involved here. After waiting some 6 months from passage of the enabling legislation, to see these fees put forward in an obscure notice in an equally obscure Federal publication with an unsubstantiated assertion that the people should only have 15 days to comment, they felt something unusual was happening.

And I think I can understand the feelings of a father with two children when he saw this fuzzy, unclear bureaucratic notice saying he might have to pay upwards of $30 per weekend to take his family camping at the local lake. And then he read further and saw that all this was going to happen without any opportunity for him to speak out and be heard because by the time he found out—the comment period had expired.

Well, as we subsequently learned, there were errors in the published proposal, the comment period was extended, the Corps of Engineers clarified several points about what fees would and would not be charged, and as finally promulgated, the fees did not come near totaling $30 per weekend.

TARNISHED REPUTATION

But I do understand the wide concern—particularly in light of the feeling in some quarters that the Federal Government in general and the Corps of Engineers in particular has a somewhat tarnished reputation for failing to involve the public at appropriate stages in its decisionmaking processes. In many cases this criticism is unwarranted, but a a case such as this certainly does nothing to enhance the standing of the Corps of Engineers or our Government in the eyes of the ordinary citizen and taxpayer.

OBJECTIONS

When these proposals were first brought into the spotlight—in addition to making the point that the public comment period was too brief—I registered three major objections to the proposals.

First, I pointed out the possibility that the fees could be totally unreasonable for most families using the lakes. Following the corrections and clarifications made by the corps, it appears that the maximum fees in each category will not be charged or will not apply.

The highest individual assessment is set at $2—and that at fewer than half of the overnight camping sites. And I do not believe from what the people have told me that they object to a fair fee charged for a valuable service—such as a neat, clean and well-equipped overnight camping area.

The other two major objections have not been resolved, as far as I am concerned. They involve the administration of certain fee collections and, as a related matter, the application of these fees at the places where they are collected.

Insofar as fees other than those for overnight camping are concerned, it seems almost impossible to avoid great administrative difficulties which in addition to creating major inconvenience and irritation for the public will also cost far more than the amount of the fees collected. Thus, these fees will do no good for anyone—the people who pay them, the Corps of Engineers, or the taxpayers generally.

CLARIFICATION REQUIRED

In addition there is the serious question of whether Congress ever intended fees to be charged for the use of day recreation areas and other facilities which most visitors could be expected to utilize when they visited these lakes. In several meetings with Corps of Engineers officials, this point has stood out in sharp disagreement. Apparently the corps believes it is required to impose fees for some day recreation areas, regardless of the administrative difficulties or the inconvenience to the public or the likelihood that the collections will not be enough to offset costs.

I, for one, do not believe it is appropriate to charge fees for day-use recreation areas for picnic tables, drinking fountains, toilets and other lightly developed facilities. First, there is the question that Congress did not intend for them to be charged and the legislative history gives substantial weight to this point.

Second, it simply seems that common sense would avoid initiating a fee program which will probably cost more than it earns—and likely create a good deal of inconvenience and disagreement in the process. Perhaps this legislation is needed to save the Corps of Engineers from itself and from the embarrassment, unpopularity and waste of charging fees for these particular facilities.

I hardly think Congress should make the image or self-imposed difficulties of the Corps of Engineers its major concern. But I do believe we must act on behalf of the public interest.

Therefore, I am joining today in the introduction of legislation to make the intent of Congress unmistakable that day use recreational facilities and other ordinary facilities which any visitor might be expected to utilize, should not be subject ot fees.

I would point out that the schedule of fees published by the Corps of Engineers shows that few day use sites—columns B and C—at most lakes will be subject to the fees; however, this fact does not solve the problems of administration, inconvenience or unprofitability which constitute the basic objections to imposing the fees at all.

So Mr. President, I am pleased to join in this legislation to limit these fees. I believe it will serve the public interest by eliminating a great source of displeasure and inconvience for those who go to these lakes for recreation and leisure activities. It will remove from the Corps of Engineers an unnecessary and cost-analysis unjustified administrative burden. And in the long run it will probably save the American taxpayers money.

I would hope this bill can receive hearings and passage at an early date, so this difficulty can be resolved as soon as possible.

I ask unanimous consent to have a schedule printed in the RECORD at this point for the schedules for Kansas projects and areas where the Corps of Engineers proposes to charge these fees, the text of the explanatory press release from the Kansas City district office of the corps, and the text of this bill.

There being no objection, the material and bill were ordered to be printed in the RECORD, as follows:

CORPS OF ENGINEERS FEES AREAS, 1973—KANSAS

Project and area name	(A) Camping Area	(A) Camping Fee	(B) Day use Area	(B) Day use Fee	(C) Group use Area	(C) Group use Fee
Council Grove Lake:						
Richey Cove North	X	$1				
Richey Cove South Area No. 2	X	1				
Canning Creek	X	1				
Neosho Park Area No. 1	X	1				
Neosho Park Area No. 2	X	1				
Neoshc Park Area No. 3	X	1				
Neosho Park Area No 4	X	1				
Richey Cove South Area No. 1	X	1				
Elk City Lake:						
Card Creek	X	1				
Oak Ridge	X	1				
Fall River Lake:						
Midd.e and North Rock Ridge Cove	X	1				
Brown's Cove	X	1				
White Hall Bay	X	1				
John Redmond Reservoir:						
Damsite North	X	2	X	$0.50	X	$6
Hickory Creek East	X	1				
Hickory Creek West	X	1				
Damsite West	X	1				
Damsite South	X	1				
Redmond Cove North	X	1				
Kanopolis Lake:						
Outlet	X	2				
Venango	X	2				
Marion Lake						
Hilsboro Cove	X	1	X	.50		
Durham Cove	X	1				
French Creek Cove	X	1				
North Cottonwood Cove	X	1				
Milford Lake:						
Clayview					X	$6
Farnum Creek	X	$1				
Outlet	X	1				
Rolling Hills	X	2	X	$0.50		
School Creek	X	1				
Timber Creek	X	1				
Perry Lake:						
Longview	X	2	X	.50		
Old Town (South)	X	2	X	.50		
Old Town (North)	X	2				
Paradise Point	X	2	X	.50		
Perry	X	2	X	.50		
Rock Creek	X	2	X	.50		
Slough Creek	X	2	X	.50		
Sunset Ridge	X	2	X	.50		
Thompsonville	X	2				
Pomona Lake:						
Carbolyn	X	1				
Michigan Valley	X	2	X	.50		
Outlet	X	1				
Wolf Creek	X	2	X	.50		
Tuttle Creek Lake:						
Baldwin Cove	X	1	X	.50		
Carnahan Creek	X	1	X	.50		
Garrison					X	3
Stockdale	X	2	X	.50		
Swede Creek	X	1				
Tuttle Creek Cove	X	1				
Wilson Lake:						
Lucas Park	X	1				
Minooka Park	X	2	X	.50		
Otoe Park	X	2	X	.50		
Sylvan Park	X	1				

U.S. ARMY CORPS OF ENGINEERS,
March 23, 1973.

CORPS ANNOUNCES FEES FOR CORPS LAKES

Colonel W. R. Needham, Kansas City District Engineer, announced today that recreational user fees have been established for the ten Corps lakes located in Kansas, Missouri, Iowa and Nebraska which are under the jurisdiction of the Kansas City District. These fees have been established in accordance with Public Law 92-347 dated July 11, 1972, passed by the 92nd Congress. Fees are scheduled to be placed in effect May 21, 1973 and continue through September 30, 1973, the Colonel said.

Purpose of the fees is for operation, maintenance and improvement of recreational facilities. Fees collected will be deposited in a special account of the U.S. Treasury and be made available to the agency concerned.

According to Colonel Needham, by definition, day use and overnight camping fees will be charged for use of highly developed areas where a substantial Federal expenditure has been made in the development of an area. If a person desires to use a developed public use area during the day, he would pay only the day use fee. If he remained overnight, he would be charged the camping fee, but he would not be charged both fees. It would simply be one or the other, depending on whether or not he stayed overnight.

There will be some free day use areas at each Corps lake where no substantial Federal expenditure has been made.

Colonel Needham explained day use fees of 50 cents per car will be charged in designated areas and overnight camping fees of $1.00 or $2.00 per camping unit will be charged in designated use areas, depending upon improvements such as access roads, potable water, pit or flush-type rest rooms, picnic tables, fireplaces, refuse containers, and designated trailer or tent space.

There will be no charge for launching a private boat in any public use area on the ten lakes in the Kansas City District. Individuals may park their vehicles in parking areas after launching their boats at no charge while boating. However, if they return to the public use area after boating where user charges are in effect, and use the facilities, they will be charged a fee established for that particular area, the Colonel explained.

User fees in the day use areas will cost 50c per vehicle, regardless of the number of occupants, the Colonel said.

Camping and day use fees for the ten lakes in operation in the Kansas City District have been established at the various public use areas at each lake as follows:

Kanopolis Lake located on the Smoky Hill River southwest of Salina, Kansas, has two public use areas where fees for overnight camping are to be charged. They are the Outlet Area immediately below the dam and the Venango Area located on the north side of the lake near the dam. An overnight camping fee in the amount of $2.00 per camping unit for each area has been established. There are no day use fees at Corps operated public use areas on Kanopolis Lake.

Visitor attendance at Kanopolis Lake for 1972 totaled 435,000.

User fees at Wilson Lake on the Saline River near Russell, Kansas, will involve four public use areas. Lucas Park and Sylvan Park areas will have a camping fee of $1.00 each, but no day use fees are involved. Minooka Park and Otoe Park areas will have a camping fee of $2.00 and a day use fee of 50c.

Visitor attendance at Wilson Lake during 1972 totaled 536,000.

Milford Lake on the Republican River near Junction City, Kansas, has six public use areas affected, Farnum Creek, School Creek outlet, and Timber Creek will have camping available at $1.00 per night, but no day use fees are involved. At Rolling Hills public use area a camping fee of $2.00 and a day use fee of 50c has been established. The Clayview public use area has a group camp facility where a $6.00 fee will be charged for either camping or day use by various groups. Reservations may be made with the project manager.

Visitor attendance at Milford last year totaled 1,913,000.

Tuttle Creek Lake located on the Big Blue River north of Manhattan, Kansas, has six public use areas where fees are to be charged. Baldwin Creek and Carnahan Creek have a camping fee of $1.00 and a day use fee of 50c. Stockdale public use area has a camping fee of $2.00 and a day use fee of 50c. Both Swede Creek and Tuttle Creek Cove public use areas will have a camping fee of $1.00, but no day use fee.

The Garrison public use area has a group camp facility where a user fee for either camping or day use will be $3.00. Reservations may be made with the Project Manager.

Visitor attendance at Tuttle Creek Lake in 1972 was 1,304,000.

Perry Lake located on the Delaware River north of Perry, Kansas, has nine public use areas where user fees are applicable. A fee of $2.00 for camping and 50¢ for day use will be charged in the Longview, Old Town (South), Paradise Point, Perry, Rock Creek, Slough Creek, and Sunset Ridge public use areas. Old Town (North) and Thompsonville public use areas each have a camping fee of $2.00, but no day use fee.

There were 2,029,000 visitors at Perry Lake during 1972.

Pomona Lake west of Ottawa, Kansas, has four public use areas affected by the user fees. Carbondale and Outlet public use areas have a $1.00 fee for camping, but no day use fee.

Michigan Valley and Wolf Creek areas have a camper fee of $2.00 and a day use fee of 50¢.

Visitor attendance at Pomona Lake during 1972 was 1,256,000.

Harlan County Lake located on the Republican River near Alma, Nebraska, has five public use areas affected by the user fees. Hunter Cove public use area will have a $2.00 fee for camping, but no day use fee. The Outlet and Methodist Cove public use areas have a camping fee of $1.00, but no day use fee. Patterson Harbor public use area will have a camping fee of $1.00 and a day use fee of 50¢. The Gremlin Cove area is a day use area where a fifty-cent charge will be made, but no camping will be permitted in that area.

Attendance at Harlan County Lake during 1972 was 990,000

Pomme de Terre Lake on the Pomme de Terre River near Hermitage, Missouri, has seven public use areas affected by the user fees. The Bolivar, Lightfoot, and Wheatland areas have a camping fee of $2.00 and a day use fee of 50¢. A fee of $2.00 will be charged for camping at the Damsite public use area. No charge will be made for day use. Nemo public use area will have fees of $1.00 for camping and 50¢ for day use. Both the Outlet

and Pittsburg public use areas will have a fee of $1.00 for camping, but no day use fees.

Visitor attendance at Pomme de Terre Lake during 1972 was 2,261,000

Stockton Lake located on the Sac River near Stockton, Missouri, has nine public use areas where user fees will be charged. Cedar Ridge, Crabtree Cover, Hawker Point, Masters, Mutton Creek, Orleans Trail, Ruark Bluff, and Stockton public use areas all have camping fees of $2.00 and day use fees of 50¢. The Old Mill public use area has a camping fee of $2.00, but no day use fees.

Visitor attendance at Stockton during 1972 was 1,849,000.

Rathbun Lake located on the Chariton River near Centerville, Iowa, has six public use areas affected by the user fees. Bridgeview, Buck Creek (West), Island View, Rolling Cove, and South Fork public use areas will each have a camping fee of $2.00 and a day use fee of 50¢. The Buck Creek (East) public use area has a camping fee of $2.00, but no day use fees.

Attendance at Rathbun Lake during 1972 was 1,588,000.

Visitor attendance at the ten Corps lakes in the Kansas City District during 1972 totaled 14,161,000. Campers at the same lakes during the same period totaled 3,996,000, or 28% of the visitor total, the Colonel concluded.

S. 1381

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of Section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 460L (b) is amended to read as follows:

"(b) SPECIAL RECREATION USE FEES.—Each Federal agency developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense: *Provided,* That in no event shall there be a charge for the day use or recreational use of those facilities or areas which virtually all visitors might reasonably be expected to utilize, such as, but not limited to, lightly developed or back country campgrounds, picnic areas, boat ramps where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors' centers, scenic drives, and toilet facilities."

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1384. A bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Glen Canyon National Recreation Area, in the States of Arizona and Utah, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN), a bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Glen Canyon National Recreation Area, in the States of Arizona and Utah, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

There being no objection, the executive communication was ordered to be printed in the RECORD), as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 16, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill, "To authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Glen Canyon National Recreation Area, in the States of Arizona and Utah, and for other purposes."

We recommend that this bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The bill directs the placement, in a separate fund of the Treasury, of the annual franchise fee received by the Secretary of this Department from the concessioner in connection with the Rainbow Bridge floating concession operation in Glen Canyon National Recreation Area. The bill further authorizes the Secretary to annually transfer such fees from the fund to the Navajo Tribe of Indians, in consideration of the tribe's continued agreement to the use of former Navajo Indian Reservation lands for the purpose of anchoring the Rainbow Bridge floating concession facility.

It is intended that the compensation commence after the enactment of the legislation, and be for franchise fees that accrue after that date. Under the terms of an agreement with the Tribal Council, the annually transferred franchise fees will be the only compensation the tribe receives for use of the lands as an anchor for the floating complex.

Glen Canyon National Recreation Area, Arizona and Utah, is administered by the National Park Service pursuant to P.L. 92–593, the 1972 Act establishing the national recreation area. Prior to passage of that Act, substantially the same area was administered by the National Park Service pursuant to a cooperative agreement with the Bureau of Reclamation, dated April 18, 1958, and revised September 17, 1965. As a part of recreational developments for the area, in January 1965 the National Park Service and its concessioner constructed a floating marina complex, installed it on Lake Powell in Forbidding Canyon, and anchored the facility to former Navajo Indian Reservation land. Pursuant to section 2 of the Act of September 2, 1958 (72 Stat. 1688), former reservation lands transferred to the United States for the Glen Canyon project may not be used for public recreational facilities without the approval of the Navajo Tribal Council. (Section 2(b) of P.L. 92–593, the Act establishing the national recreation area, explicitly continues the Tribal Council's right to approve recreational use of Parcel B lands.) The tribe has construed the use of former reservation lands for anchoring the Rainbow Bridge floating concession complex in Forbidding Canyon as a use for public recreational facilities within the purview of section 2 of the 1958 Act. While the use of the lands for this purpose was necessary to protect the floating complex, we believe the tribe is correct in its view.

The Navajo Tribal Council has approved the use of the former reservation lands for this purpose, in an agreement approved September 11, 1970, which relates generally to the use and development of the Glen Canyon National Recreation Area and adjacent tribal lands. The tribe's approval, however, and its agreement to any recreational use of former reservation land within the recreation area, as well as cooperative development of contiguous tribal lands, is contingent upon transfer of the annual franchise fee for the Rainbow Bridge floating concession complex in Forbidding Canyon to the tribe.

The facility at Forbidding Canyon consists of a floating marina offering emergency boat repair services, boat fuel and oil, and the services of a camping supply store. Pursuant to a concession contract executed March 26, 1969, it is operated by Canyon Tours, Inc. The contract covers the 30-year period January 1, 1969, to December 31, 1998, and authorizes the concessioner to provide visitor services at both the Rainbow Bridge floating complex and Wahweap. The franchise fee is a $60 annual fee for the use of Government-owned structures, plus 2¼ percent of the annual gross receipts from the combined facilities.

Under an earlier contract, which was superseded by the one mentioned above, Canyon Tours, Inc., has provided services at the Rainbow Bridge floating complex from July 1, 1964, through December 31, 1968. That contract—applicable only to the Rainbow Bridge floating complex—provided for a franchise fee of $200 annually, plus 3 percent of the annual gross receipts. Under that formula the franchise fee paid was as follows:

1965	$1,064
1966	3,065
1967	3,784
1968	4,923

On the basis of past receipts, it can be estimated that payments to the Navajo Tribe under the proposed legislation will probably be in excess of $5,000 per year. As noted above, the tribe will receive only those franchise fees accruing after passage of the legislation.

Although there are no other situations in which franchise fees are transferred by the National Park Service to an Indian Tribe, at Bighorn Canyon National Recreation Area, Montana, the Crow Indian Tribe of Montana is given a preferential right to construct and operate revenue-producing facilities on certain Federal lands, and to retain any resulting revenues, pursuant to the Act of October 15, 1966 (80 Stat. 913; 16 U.S.C. 460t).

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL REED,
Assistant Secretary of the Interior.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1385. A bill to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN), a bill to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

There being no objection, the executive communication was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 19, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To amend section 2 of the Act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands".

We recommend that the bill be referred to the appropriate committee for consideration and strongly urge its enactment.

Public Law 91-578 currently authorizes the appropriation of $60 million for fiscal years 1971, 1972, and 1973, but it makes no provision for funds for the civil government of the Trust Territory beyond fiscal year 1973. Our proposed bill would authorize the appropriation of such sums as may be necessary for the civil government of the Trust Territory.

The Trust Territory of the Pacific Islands is administered by the United States pursuant to a strategic trusteeship agreement concluded in 1947 with the Security Council of the United Nations. Under this agreement the United States is charged with the promotion of political, social, educational and economic development. The Trust Territory was originally under the administration of the Secretary of the Navy, but in 1951 administrative responsibility was transferred to the Secretary of the Interior.

Governmental responsibilities are carried out through a territorial government established by order of the Secretary of the Interior. The chief executive of the Trust Territory is appointed by the President with the advice and consent of the United States Senate. The territory has a bicameral legislative body composed of a twelve-member Senate and a House of Representatives with 21 members. The Judiciary is independent of the Executive and Legislative Branches and is headed by a Chief Justice appointed by the Secretary of the Interior.

The Trust Territory Government has made substantial progress in recent years in developing and implementing a coordinated program, which is normally projected five years in advance. The complexity of the current political situation with respect to Micronesia, however, makes it difficult to project with certainty the needs for that long a period into the future. We recommend, therefore, an appropriation authorization not restricted as to either an annual amount or for a single year.

While the 1974 budget includes an appropriation of $56 million for the Trust Territory, we do not necessarily foresee this amount as an indication of appropriation levels for future years since the outcome of the present negotiations is so uncertain. Even with the status negotiations continuing, however, it seems clear that appropriations for the civil government of the Trust Territory are likely to continue for some period beyond fiscal 1974. Accordingly, we believe it is desirable not to limit the amount or period of years for which appropriations are authorized for maintaining the civil government.

The United States Government has for over three years been negotiating with a delegation of the Congress of Micronesia toward a mutually beneficial form of association. We have come a long way and have developed with that Congress the basis of a compact of free association under which Micronesia would be internally self-governing and the United States would be responsible for the foreign affairs and defense of Micronesia. Other areas of the relationship have yet to be resolved, but future negotiations are expected to outline the framework of the obligations and commitments between the United States and Micronesia in greater detail. A part of the status negotiations will focus upon the financial commitment from the United States to Micronesia that will replace the current administrative financial burdens now held by our government. Moreover, it is possible that agreement on an association of the Marianas Islands with the United States may develop rather quickly.

Over the years, substantial strides have been made in the development of political institutions of which the establishment in 1964 of the territorial legislative body, the Congress of Micronesia, was a major step. Educational progress also has been substantial, and universal education through the twelfth grade has been established as an attainable goal. Utilization of the area's limited natural resources has lagged until recently although tourism and the utilization of the resources of the surrounding seas present immediate opportunities for gainful employment and income.

During fiscal year 1974 and subsequent years, the Trust Territory will continue the programs begun in prior years. The four main goals of the current and proposed programs are: (1) improving of health and education programs and facilities in the Trust Territory; (2) developing a viable money economy in Micronesia, which requires land registration and title determination and public works improvements; (3) increasing the ability of Micronesians to communicate with each other and with the rest of the world; and (4) bringing more Micronesians into high-ranking and responsible positions in the Government.

The FY 1974 program reflects a policy of holding the increasing cost of operations to a minimum in order that maximum amounts may be made available for needed capital improvements. Additional staffing will be held to a minimum but consistent with the need to insure the operation of new facilities. The replacement of United States personnel by qualified Micronesians characterizes many programs during this period, and emphasis will continue to be directed toward the development of a physical infrastructure.

Appropriations will be requested as necessary and will reflect the relative priorities within those amounts for continued progress in providing support for elementary, secondary and post secondary public education; for dental, mental, preventative, and environmental public health programs, including expansion of water and sewerage systems; and for increased electric power generation and improved communications.

The Congress of Micronesia is concerned about economic development and cites roads, shipping facilities and airports as high priority items. Construction and improvement of such facilities is vital to education, health, commerce, and the simplest operations of government and private enterprise in most areas of the Trust Territory. With the territory's 20 major population centers scattered across 3,000,000 square miles of ocean, such facilities are critical. Accordingly, work will continue on the improvement of airfields, roads, and shipping facilities.

Another program which is necessary for the development of Micronesia is a district land tenure system which will adequately protect the needs of the people of Micronesia and serve as a base for future economic development. The present land program, which was started in FY 1971, will be continued in order to provide ownership and boundary determinations and title registration for both public and private lands.

The achievement of the proposed program for FY 1974 will continue to place a major burden upon the people of Micronesia. Consistent with existing policies, construction will be done where possible with local contractors, using local labor and, wherever possible, using locally available building material. This will provide quality facilities at lower prices and at the same time provide training, employment, and incomes for young people and those working at subsistence level. Because of their complexity, large projects may continue to require outside contractors. In addition, locally generated revenues will continue to increase. The recent passage by the Congress of Micronesia of the first Trust Territory tax on salaries, wages, and business receipts evidences a solid commitment by the citizens of the Trust Territory to share in the cost of their government and development of their economy.

The Office of Management and Budget has advised that the presentation of this proposed legislation is in accord with the Administration's program.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1386. A bill to authorize appropriations for the saline water program for fiscal year 1974, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN), a bill to authorize appropriations for the saline water program for fiscal year 1974, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

There being no objection, the executive communication was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 5, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To authorize appropriations for the Saline Water Program for fiscal year 1974, and for other purposes."

We recommend that the bill be enacted.

FISCAL YEAR 1974 APPROPRIATION AUTHORIZATION

The legislation under which the Office of Saline Water conducts its program, the Saline Water Conversion Act of 1971 (42 U.S.C. 1959–1959h, as amended), authorizes "to be appropriated such sums, to remain available until expended, as may be specified in annual appropriation authorization acts." In order to meet fiscal year 1974 program requirements, we propose an appropriation of $2,527,000 be authorized to conduct the desalting research and development program. This represents a decrease of $24,344,000 from 1973 authorized appropriations, as more particularly set forth below:

Authorized expenditure	1973	1974
(1) Research expense	$5,850,000	0
(2) Development expense	12,131,000	0
(3) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion test beds and test facilities	5,085,000	$250,000
(4) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion modules	1,075,000	677,000
(5) Administration and coordination	2,730,000	1,600,000
Total	26,871,000	2,527,000

The decrease from the 1973 program level reflects a major redirection in Federal de-

salting research. Construction and operation of capital-intensive test facilities for further development of processes such as distillation and branch-water reverse-osmosis desalting will be curtailed. These processes are sufficiently advanced to be taken over by private industry as the costs of competitive, conventional sources of water supply rise. More emphasis will be placed on basic research on promising new processes such as desalination of seawater by membranes, which offer a greater return at a much lower level of funding. Development work will be limited to bringing these latter processes to the stage where further development can be profitably undertaken by the private sector.

Of amounts authorized and appropriated, $22,399,937 was made available to carry out the saline water conversion program for fiscal year 1973 and $6,675,094 remains as planned carryover to FY 1974. Program funds required for FY 1974 total $9,202,094, including the $6,675,094 carryover. Research and Development expense programs (categories (1) and (2) totaling $2,800,000 will be entirely funded from carryover funds as a result of the redirection of the program during FY 1973. Test beds, facilities, and modules programs (categories (3) and (4) amount to $4,802,094, including carryover funding of $3,875,094. Administration (category (5)) expenses of $1,600,000 are based upon reduced employment and other support costs.

In view of the proposed reduction in the total program, we recommend that the previously employed breakdown of appropriations authorized for categories (1) through (4) be eliminated in order to permit more efficient utilization of new and carryover funds; and the accompanying draft bill so provides.

The annual authorization approach has been retained for FY 1974 because of the proposed program redirection previously mentioned. However, in view of this redirection and the nature and level of the program anticipated in future years, it is recommended that the use of annual authorizations be discontinued as unnecessary and time-consuming.

Section 1 of the bill would authorize the appropriations for FY 1974 set forth above. Section 2 would provide an automatic increase in authorization for FY 1974 should subsequent Federal employee pay, allowances, or other personal benefits require additional appropriations beyond the proposed authorization level. This will obviate the possible need to seek amendment of the authorization for these automatic increases. Section 3 of the bill would eliminate the need for annual authorizations after FY 1974 as described above.

ENVIRONMENTAL EFFECTS

The environmental impact of the program that will be carried out under this Act during FY 1974 is described in the enclosed environmental statement dated February 1973. Should future actions under this program involve significant environmental effects not previously covered by an environmental impact statement prepared under section 102 (2) (C) of the National Environmental Policy Act of 1969, such a statement will be prepared and circulated in accordance with the Act's requirements.

The Office of Management and Budget has advised that this proposed legislation is in accord with the program of the President.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

By Mr. TALMADGE (for himself, Mr. EASTLAND, Mr. MCGOVERN, Mr. ALLEN, Mr. HUMPHREY, Mr. HUDDLESTON, Mr. CLARK, Mr. CURTIS, Mr. BELLMON, and Mr. DOLE):

S. 1388. A bill to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research. Referred to the Committee on Agriculture and Forestry.

Mr. TALMADGE. Mr. President, the news is full of stories about the high cost of food. Almost every metropolitan daily that one picks up these days has something about high food costs in it. Recently, a major weekly news magazine had a picture on its front cover of a man eating a sandwich made out of dollars.

Of course, the food items which housewives are most concerned about are the meats—and meat prices have risen recently. After a period of years in which meat producers were making little or no profits and a period which forced many of them to cut back production or to get out of business altogether, meat prices have begun to respond to a booming market demand. Because meat producers have not received an adequate return for their production in the past years, they are not geared up to produce the quantity of meat that today's affluent consumer is demanding. Hopefully today's improved prices will encourage greater production of meat, but this will take time—more than 3 years in the case of cattle.

Certainly, it behooves us to do everything within our power to increase the efficiency of our livestock producers so that they can meet the burgeoning world demand for protein. Currently, livestock producers' organizations agree that disease and parasites are the greatest handicaps to efficient production and profits. The USDA report, "A National Program of Research for Agriculture" stated:

> Infectious diseases represent the single greatest hazard to the production of an adequate and wholesome supply of animal protein.

With the current world and national shortage of meat, we cannot afford to waste meat animals. The total value of U.S. livestock and poultry is over $31 billion plus the annual offtake. The estimated annual loss of U.S. livestock and poultry because of animal disease is $3 billion or 10 percent of total value.

Despite the importance of meat animals to the Nation's consumers and despite the current shortage of certain meats, the Federal Government devotes little money to research on diseases that affect food animals. A report released last year by the National Academy of Science called "New Horizons for Veterinary Medicare" states that funding for research in veterinary medical colleges is far from adequate. In reviewing its report, the National Academy of Sciences stated:

> American livestock continues "under the threat of highly infectious and devastating diseases from abroad," and research is needed to develop means of prompt detection and treatment. Moreover, "many chronic, infectious, parasitic, toxic, metabolic, nutritional, reproductive, genetic, degenerative, and neoplastic diseases and disorders of animals in the United States have not yet been attacked effectively" and the "food loss for which these diseases are responsible is too great to be accepted."

Our livestock producers' organizations agree that disease and parasites are the greatest handicaps to production and profits. The livestock industry has made great strides in recent years in improving the quality of meat animals and increasing production. However, the current worldwide protein shortage and the increased price of meat in this country shows that we cannot afford to neglect the kind of research that will give an even greater stimulus to meat animal production.

Moreover, current methods of producing livestock and poultry in large concentrated units have the inherent risk of greater and more frequent exposure to disease. Currently, the U.S. Department of Agriculture is undertaking an intensive research program on Asiatic Newcastle disease as part of an emergency program to eradicate the disease in the United States. Five hundred thousand dollars was recently allocated by the USDA for a 7-month crash effort by the Agriculture Research Service in cooperation with five universities to stamp out the disease that has played such havoc in the commercial egg laying industry in southern California.

We should not have to wait as long as was necessary in the case of the Newcastle epidemic to undertake intensive research efforts to stamp out animal or poultry disease. Although there are a number of well-equipped and well-staffed laboratories scattered throughout the Nation, they are slow to respond to the immediate research needs of livestock producers. Their best efforts are directed toward the control and eventual eradication of major livestock diseases such as hog cholera, brucellosis, tuberculosis, and foot-and-mouth disease.

Our schools of veterinary medicine should have the funds, facilities, and personnel to work on animal disease problems immediately as they occur throughout the Nation. They need the flexibility to work on any disease problem within their capability without spending a year or more searching for a source of support. The legislation which I am introducing today would give them this flexibility.

In addition to research on diseases of meat animals, there is need for increased research on diseases of horses and of companion animals such as dogs and cats. I need not remind my colleagues of the epidemic of VEE which was a severe threat to the $12 billion horse industry.

Mr. President, the bill I am introducing was introduced by the late chairman of our committee, Senator Ellender, on June 26, 1972. This bill was introduced late in the 92d Congress and no action was taken on it. However, it is extremely worthy legislation and I am hopeful that we can take prompt action on it this year.

The bill that I am introducing would authorize the Secretary of Agriculture to administer a grant program for research and research facilities needed in solving the health problems of livestock, poultry, and companion animals. There are three meaningful features of this legislation:

First. The recipients of funds would be the colleges of veterinary medicine and the State agricultural experiment stations. At institutions having both a college and an agricultural experiment

station, the college would be the recipient.

Second. Funds would be distributed to eligible institutions according to a formula. The formula gives a weight of 48 percent to the research capacity of the eligible institutions and a weight of 48 percent to the relative State value of livestock and poultry—with the exception that this amount cannot exceed three times the funds obtained through research capacity. Four percent of the funds would be retained for departmental administration of the program. Funds may also be appropriated for research facilities—to be distributed in a like manner.

Third. An advisory board would be appointed by the Secretary to make recommendations concerning relative animal health research capacity of eligible institutions, animal health research priorities, and other matters related to the administration of the act. Eighteen colleges of veterinary medicine and 38 State agricultural experiment stations would directly participate in the program to be established under this bill.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks a list of the veterinary medical colleges and State agricultural experiment stations that would be eligible for benefits under this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TALMADGE. It is wrong to consider that animal disease losses are the problems of the livestock producers only. The current controversy over protein shortages and meat prices is eloquent testimony to the fact that animal diseases are the problems of consumers also. Disease losses are a part of the cost of production for which the public must pay. In the long run, it will be much cheaper to invest in more research to eliminate costly diseases. It is estimated that the cost of carrying out the program to be authorized by this legislation would be $5 million for the first year with an annual increase of $5 million over 4 years until the program reached a $25 million level. Such Federal expenditures would amount to only a fraction of the $3 billion annual loss due to animal diseases.

Mr. President, I am not wedded to the formula for distribution of funds under this bill or to other provisions in the bill. When the Committee on Agriculture and Forestry holds hearings, we may decide that changes are desirable. However, I do feel that we must take prompt action to begin a research program that will reduce animal losses due to disease.

EXHIBIT 1

ANIMAL HEALTH RESEARCH ACT

1. VETERINARY MEDICAL COLLEGES ELIGIBLE TO RECEIVE ANIMAL HEALTH RESEARCH ACT FUNDS

School of Veterinary Medicine, Auburn University, Auburn, Ala.

School of Veterinary Medicine, Tuskegee Institute, Tuskegee Institute, Ala.

School of Veterinary Medicine, University of California, Davis, Calif.

College of Veterinary Medicine, Colorado State University, Fort Collins, Colo.

School of Veterinary Medicine, University of Georgia, Athens, Ga.

College of Veterinary Medicine, University of Illinois, Urbana, Ill.

School of Veterinary Science and Medicine, Purdue University, Lafayette, Ind.

College of Veterinary Medicine, Iowa State University, Ames, Iowa.

College of Veterinary Medicine, Texas A&M University, College Station, Tex.

College of Veterinary Medicine, Kansas State University, Manhattan, Kans.

College of Veterinary Medicine, Michigan State University, East Lansing, Mich.

College of Veterinary Medicine, University of Minnesota, St. Paul, Minn.

School of Veterinary Medicine, University of Missouri, Columbia, Mo.

New York State Veterinary College, Cornell University, Ithaca, N.Y.

College of Veterinary Medicine, Ohio State University, Columbus, Ohio.

College of Veterinary Medicine, Oklahoma State University, Stillwater, Okla.

School of Veterinary Medicine, University of Pennsylvania, Philadelphia, Pa.

College of Veterinary Medicine, Washington State University, Pullman, Wash.

2. STATE AGRICULTURAL EXPERIMENT STATIONS ELIGIBLE TO RECEIVE ANIMAL HEALTH RESEARCH FUNDS

Institute of Agricultural Sciences, University of Alaska, College, Alaska.

Arizona Agricultural Experiment Station, Tucson, Ariz.

Arkansas Agricultural Experiment Station, Fayetteville, Ark.

Connecticut Agricultural Experiment Station, New Haven, Conn.

Connecticut Agricultural Experiment Station, Storrs, Conn.

Delaware Agricultural Experiment Station, Newark, Del.

Institute of Food and Agricultural Sciences, University of Florida, Gainesville, Fla.

Hawaii Agricultural Experiment Station, University of Hawaii, Honolulu, Hawaii.

Idaho Agricultural Experiment Station, Moscow, Idaho.

Kentucky Agricultural Experiment Station, Lexington, Ky.

Louisiana Agricultural Experiment Station, University Station, Baton Rouge, La.

Maine Agricultural Experiment Station, Orono, Maine.

Maryland Agricultural Experiment Station, College Park, Md.

Massachusetts Agricultural Experiment Station, Amherst, Mass.

Mississippi Agricultural and Forestry Experiment Station, State College, Miss.

Montana Agricultural Experiment Station, Bozeman, Mont.

Nebraska Agricultural Experiment Station, Lincoln, Nebr.

Nevada Agricultural Experiment Station, Reno, Nev.

New Hampshire Agricultural Experiment, Station, Durham, N.H.

New Jersey Agricultural Experiment Station, New Brunswick, N.J.

New Mexico Agricultural Experiment Station, New Mexico State University, Las Cruces, N.Mex.

New York State Agricultural Experiment Station, Geneva, N.Y.*

North Carolina Agricultural Experiment Station, Raleigh, N.C.

North Dakota Agricultural Experiment Station, State University Station, Fargo, N. Dak.

Ohio Agricultural Research and Development Center, Wooster, Ohio.

Oregon Agricultural Experiment Station, Corvalis, Oreg.

Pennsylvania Agricultural Experiment Station, University Park, Pa.

Puerto Rico Agricultural Experiment Station, Rio Piedras, P.R.

Rhode Island Agricultural Experiment Station, Kingston, R.I.

South Carolina Agricultural Experiment Station, Clemson, S.C.

South Dakota Agricultural Experiment Station, Brookings, S.Dak.

Tennessee Agricultural Experiment Station, Knoxville, Tenn.

Utah Agricultural Experiment Station, Logan, Utah.

Vermont Agricultural Experiment Station, Burlington, Vt.

Agricultural and Life Sciences Research Division, Virginia Polytechnic Institute, Blacksburg, Va.

West Virginia Agricultural Experiment Station, Morgantown, W.Va.

Wisconsin Agricultural Experiment Station, Madison, Wis.

Wyoming Agricultural Experiment Station, University Station, Laramie, Wyo.

3. STATE AGRICULTURAL EXPERIMENT STATIONS INELIGIBLE TO RECEIVE ANIMAL HEALTH RESEARCH ACT FUNDS

Alabama Agricultural Experiment Station, Auburn, Ala.

California Agricultural Experiment Station, Berkeley, Calif.

Colorado Agricultural Experiment Station, Fort Collins, Colo.

Georgia Agricultural Experiment Station, Athens, Ga.

Illinois Agricultural Experiment Station, Urbana, Ill.

Indiana Agricultural Experiment Station, Lafayette, Ind.

Iowa Agriculture and Home Economics Experiment Station, Ames, Iowa.

Kansas Agricultural Experiment Station, Manhattan, Kans.

Michigan Agricultural Experiment Station, East Lansing, Mich.

Minnesota Agricultural Experiment Station, St. Paul Campus, St. Paul, Minn.

Missouri Agricultural Experiment Station, Columbia, Mo.

New York Agricultural Experiment Station, Cornell Station, Ithaca, N.Y.

Oklahoma Agricultural Experiment Station, Stillwater, Okla.

Texas Agricultural Experiment Station, College Station, Tex.

Washington Agricultural Experiment Station, Pullman, Wash.

* Eligible Agricultural Experiment Station in which there apparently is not current animal health research.

By Mr. NELSON:

S. 1391. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Wisconsin River for potential addition to the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

Mr. NELSON. Mr. President, I am introducing today a bill to add the lower Wisconsin River to the list of rivers being studied for inclusion in the national Wild and Scenic Rivers system.

Originally established in 1968, the Wild and Scenic Rivers system is intended to include those rivers which "possess outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural, and other similar values."

The lower Wisconsin River, stretching 74-miles from Prairie du Sac in Sauk County, through southwestern Wisconsin, to Prairie du Chien on the Wisconsin-Iowa border, meets all of these requirements. The river has served for numerous studies on the ecological development of waterways by major uni-

versities, for investigations into the history of the creation of the Great Lakes, and also represents a recreational resource of the highest quality.

In 1969, the Interior Department considered adding the lower Wisconsin River to a broad study of the recreational values of the upper Mississippi River area. Although it was not subsequently included in that study, the Department did indicate an interest in including the Wisconsin River in the overall long-range plans for resource preservation in the Midwest.

The addition of the lower Wisconsin River to the Wild Rivers system would be particularly appropriate at this time. The inclusion of the Namekagon River, and portions of the Wolf and St. Croix Rivers in the system when it was first established, the addition of the lower St. Croix under legislation which I sponsored in 1972, and the development of the Apostle Islands and a number of other new national parks and lakeshores in Wisconsin, Minnesota, and Michigan, all point to the possibility of establishing a network in the upper Midwest of complementary areas of unsurpassed beauty and great national significance.

The Wisconsin River remains relatively unspoiled by pollution or commercial development. Having had the opportunity to "ride the rapids" of the river and to see the breathtaking natural beauty of this magnificant waterway, it is easy to understand the importance of swift action to preserve the natural state of the Wisconsin River.

Mr. President, the Prairie du Chien Courier Press on March 7, 1973, printed a moving article on the lower Wisconsin River, entitled "Time Machine Backs up 300 Years, Little Change in Wisconsin," which vividly illustrates the preserved beauty of the Wisconsin River. I ask unanimous consent that this article, along with a copy of the bill I am introducing, be included in the RECORD at this point.

There being no objection, the article and bill were ordered to be printed in the RECORD, as follows:

TIME MACHINE BACKS UP 300 YEARS, LITTLE CHANGE IN WISCONSIN

Reflections on the Wisconsin River cast back some strange figures. Canoeists on the lower river have often imagined they were the explorers, Marquette and Jolliet. Today, as it was 300 years ago, the lower Wisconsin River is a quiet dreamy stream.

Changes are noticed by the historians. The hillsides are clocked with great stands of timber. There are some bare spots. Spotted animals graze in the background. Their reflections on the ripples remind one of the buffalo herds. Little settlements send up their steam and smoke from morning fires.

Instead of tepees there are shingled roofs in the distance. Man has changed along with Nature. Most of the lower Wisconsin River resembles that of old. Great sandbars hinder the speedy action of the canoes. The good eye of the lead paddler places the canoe in the deeper waters. It will be a struggle against the currents to undo the grounding of a canoe.

Paddles dipping in unison drop their jewels of memory. To the resonant drip there is the same gurgling sound of the fleeting ripples skudding from the sides of the canoe. Overhead there is the wilderness of the river. Birds continue their serenade along with the humming of the water against the fallen trees. Leaves and branches form an armada of encore to the people marking the 300 years of time.

Around the bend is civilization. This time the tepees and wooden pole homes of the Indians take the form of a farm settlement of this new 300 years of progress.

The Wisconsin River has changed each year for 300 years. The islands have reformed. The river is shallower due to the control dams of the power and paper industry along the middle and upper reaches of the Wisconsin. The lower river from Spring Green to Prairie du Chien has changed little. On some occasions, the highways echo their sounds from the hills—the chugging of farm machinery, the occasional tapping of a small industry in the distance.

The shore line has changed in small places. There are summer cottages and a few year-around homes. This doesn't destroy the natural appearance of the river. The railroad and highway bridges bring a shocking reminder to the present to be a reflection in looking back, to disappear from view at the bend.

Marquette and Jolliet found this a peaceful river. Travelers today enjoy the lower river. Residents of the area have claimed this is one of the most under-rated areas of the midwest. It is a near wild river, with all the peaceful calmness for the novice canoe or river person. This is a drifting river.

A helping hand of strong current makes the Wisconsin River a dream of a place. The sandbars are nice camping areas. You should have some local information on the safe and best places to camp. The Wisconsin River is stronger than any swimmer, so the respect and concern of the users of an unexplored area is necessary for safety.

Early explorers didn't take the changes of the modern generations. They respected the beauty, tranquility, majesty and calm of the various waterways. This is the gateway to exploration of the journey to the Mississippi; a doorway to 300 years of discovery.

S. 1391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276 (a)) is amended by adding at the end thereof the following:

"(28) Wisconsin River, Wisconsin: The segment from Prairie du Sac to its confluence with the Mississippi River at Prairie du Chien."

By Mr. MONDALE:

S. 1392. A bill to establish a ceiling on expenditures for the fiscal year 1974 and to provide procedures for congressional approval of action taken by the President to keep expenditures within the ceiling. Referred to the Committee on Government Operations.

AMENDMENT NO. 59

(Ordered to be printed and to lie on the table.)

Mr. MONDALE. Mr. President, today I am pleased to introduce the Budget Control Act of 1973.

The last several months have seen an unprecedented effort by the Executive branch to assume virtually complete control of domestic priorities without either the advice or consent of the Congress. Just for example, in recent weeks the President has:

Impounded half of the authorization for water pollution control passed last fall over his veto;

Frozen Federal housing programs;

Decreed an end to the public service jobs program;

Without warning, cut off access to the farm emergency disaster loan program, enacted at Presidential request last August;

Ordered the end of 56 regional medical programs and a phase-out of Federal support of over 500 community mental health centers;

Ended most efforts to help farm communities;

Announced plans to sharply reduce day care and other social service programs designed to help families off the welfare rolls, and to help the elderly avoid institutionalization.

This is only the beginning of a long list. Top Presidential advisors have sworn to disregard congressional actions opposing program termination. And the climate of cooperation, respect and compromise between the Executive branch and Congress—so essential to the operation of our constitutional system—threatens to dissolve into bitter infighting from entrenched and inflexible positions.

This must not be allowed to go further.

The legislation which I am introducing today is designed to guarantee the financial responsibility of the Federal Government, to restore the Congress to its proper role in public decisionmaking, and to reestablish the conditions for a full and equal dialog between Congress and the executive branch regarding the future of American domestic policy.

First, the bill is designed to establish a congressional ceiling on Federal expenditures of $268 billion in the next—1974—fiscal year. This figure would be automatically adjusted upward to reflect any increase in Federal revenues through tax reform or economic growth beyond present expectations. If in the course of the congressional appropriations process the ceiling is exceeded, all funds available for expenditure in controllable areas of Federal spending would be reduced on a pro rata basis.

Second, the bill would end the practice the so-called "impoundment" of congressionally appropriated funds which has been put to such extraordinary use—or rather abuse—by the present administration. I propose to accomplish this through the procedure suggested by the very distinguished and able Senator from North Carolina (Mr. ERVIN).

A BUDGET CEILING

Title I of the bill which I am introducing today would establish a ceiling of $268 billion on all Federal expenditures during the next fiscal year.

This expenditure level reflects a consensus among economists; in fact, it is $700 million below the level proposed by the President himself. In the opinion of most experts, it will limit inflationary pressure without jeopardizing our continuing economic recovery.

To the extent that Congress exceeds this ceiling, all funds available for expenditure would be reduced pro rata—so that priorities established through the legislative process would be preserved. The following fixed obligations of the U.S. Government would be exempted from reduction: interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants, medicaid social service grants under title IV of the Social

Security Act, food stamps, military retirement pay, and judicial salaries.

The mechanical function of computing pro rata reductions would be performed by the Office of Management and Budget, and submitted to Congress by the President for approval under expedited procedures.

The $268 billion ceiling would be automatically adjusted upward to reflect increased revenues through tax reform or economic growth.

AN END TO IMPOUNDMENT

With the establishment of a firm ceiling on expenditures, there is no excuse at all for continuing the practice of impoundment, which threatens to tip a balance of power between Congress and the Executive which has lasted nearly 200 years. Therefore, title II of the legislation I propose adopts the approach developed by the distinguished Senator from North Carolina (Mr. ERVIN). No impoundment would be permitted without the approval of Congress. And again, expedited procedures for prompt consideration of impoundment requests would be provided.

Under this approach, the President would be required to report all impoundments to the Congress, which would consider them under expedited procedures which would prohibit delay. If not approved by the Congress within 60 days, any authority to impound would expire.

Proposals have been advanced in both the House and the Senate under which Presidential impoundments would stand under disapproval by the Congress within a given period. But with the many opportunities open to an organized congressional minority to delay and obstruct, this approach is not workable.

If there is to be effective congressional participation, the burden of justifying impoundment must lie with the Executive, as the Senator from North Carolina (Mr. ERVIN) has proposed.

I recognize that there is waste, there are ineffective programs which may need cutting—and there are circumstances where all funds provided by Congress cannot wisely be spent. And so this bill permits the President to withhold funds—subject to congressional approval. We in Congress must assert and accept our responsibility. We must have dialog between Congress and the Executive in the arena of reform, not single-handed demolition by the executive branch.

THE NEED FOR IMMEDIATE ACTION

My bill does not attempt to resolve all of the complex and difficult questions involved in establishing an ongoing congressional budgetary process. Those questions are well presented in the recent interim report of the Joint Study Committee on Budgetary Control, and must be resolved after further study by the committee and full debate by the Congress. This process will take time, and almost certainly will be completed too late to take effect this year.

Instead, the bill which I am proposing today is designed to establish immediate congressional control of Federal spending and priorities for the next fiscal year, beginning July 1 of this year—while the Congress considers the organizational questions involved in a more permanent approach.

And we must take immediate action before the Congress becomes an ornamental advisory board to the Office of Management and Budget.

NEED FOR AN EXPENDITURE CEILING

Everyone agrees that a ceiling on expenditures is badly needed. The American people cannot afford to pay for continued deficits on the record level of recent years.

During the first 4 years of the Nixon administration, the total deficit has exceeded $80 billion—more than all the deficits of Presidents Eisenhower, Kennedy, and Johnson put together. While these deficits may have been useful during our recovery from the recession of 1969, to continue them would contribute to another round of unchecked inflation.

In recent months the need to bring spending under control has become even more urgent. We are now experiencing the worst inflation in 22 years, putting an intolerable burden on our citizens and threatening the stability of the dollar abroad.

Much of this is due to delayed adoption and premature abandonment of wage and price controls and other economic mistakes, but some of it is due to the spiraling deficits of recent years.

By acting now to impose a firm ceiling on spending, we can assure American citizens that inflation will not be fueled by more deficit spending, and we can assure our friends abroad that we are doing our part to maintain the stability of the dollar.

We can demonstrate clearly that Congress is prepared to act in a fiscally responsible manner.

But let us set the record straight. Over the past 5 years, the Congress has cut Presidential requests for appropriations by approximately $30 billion. We have increased other forms of Federal spending for example, through increased social security benefits—by only a little more. And a major share of these increases has come in social security and medicare programs which are fully funded through the payroll tax, and which therefore do not themselves cause deficit spending. Charges that the Congress has spent vast sums over the objections of the administration are simply not true.

The Congress has not outspent the executive branch. And the Congress is on record as favoring a spending ceiling.

Last October, both the House and Senate overwhelmingly agreed to the $250 billion ceiling on expenditures proposed by the President for the current—1973—fiscal year.

But when the executive branch refused to tell us where the cuts would be made, the Senate insisted that cuts be made across the board, so as to retain the priorities previously established by the Congress. And we acted last fall under the leadership of the former senior Senator from Idaho (Mr. JORDAN) a widely respected member of the President's own party, and certainly an economic conservative. Unfortunately, the President refused to accept these limits on impoundment, and the measure died in conference with the House.

While the Congress has not outspent the administration, and while the Congress has agreed with the administration on the need for a spending ceiling, the Congress, on a bipartisan basis, has often disagreed with the administration on how funds should be spent. And this is the real root of the present dispute between Congress and the Executive.

IMPOUNDMENT

When the President disagrees with the Congress, the Constitution gives him the right to veto legislation—and the veto in turn may be overriden by a two-thirds majority of both the House and Senate. But in recent months, the President has simply refused to spend—or "impounded"—funds in those areas where he disagrees with congressional judgments.

There is no way to override an impoundment. While this may appear to some in the executive branch to be a more efficient way to manage government, it also carries us too far down the road to one-man rule. And once we start down that road, we may find it hard to turn back.

Mr. President, figures on current impoundment released by the administration last month reveal a truly fundamental and alarming shift in the relationship between the Congress and the executive branch in determining our national priorities.

According to the administration, only 3.5 percent of available funds are presently impounded. But I have just discovered that an analysis by the Congressional Research Service reveals that an incredible 29 percent of controllable funds made available by the Congress for nondefense purposes in the current year have been impounded. And this figure does not include other actions which, according to the Office of Management and Budget, do not fit the technical definition of "impoundment"—including the administration's refusal to allocate $6 billion of the $11 billion enacted by the Congress last fall over the President's veto for water pollution control.

In the words of a Congressional Research Service analyst:

> Whatever the merits of the technical argument, it certainly suggests that the total amount of reserves—from whatever sources—are at a record level.

A CHALLENGE TO THE ADMINISTRATION

The issue between the Congress and the President is not the amount of Federal spending, or the amount of the Federal deficit. On those questions, I believe we agree. The issue is the unchecked power claimed by the administration to destroy some programs entirely, while spending fullbore for others, with no regard for the requirements of law.

Under our Constitution, the President has the right—even the obligation—to send the Congress his recommendations on what should be done in the Nation's interest. And after the Congress has acted, he has the authority to accept or to reject what we have done. But nowhere does the Constitution give the President the right to substitute his judgment for that of the Congress. He

can suggest—he can lobby—he can try to persuade—he can do many things, but he cannot act in our stead.

Yet, that is precisely what this President is trying to do—what in fact he is doing. From every indication, he is attempting on his own—without the consent of the Congress—to repeal the shared, bipartisan commitment to social and economic justice which this Nation has consciously, and at times painfully, developed over the past 40 years.

The question is: Will the Congress do what is necessary to make its own judgment felt in this great decision? Will we act affirmatively to reassert our constitutional authority in the budgetary process? Will we be able to come together in common cause to preserve the balance between the executive and legislative branches of Government which has served us so well for nearly 200 years?

Or will we, instead, continue to gradually but knowingly relinquish our constitutional authority to the White House?

It saddens me to know that large numbers of Americans—perhaps even a majority—are convinced we will do the latter. They are convinced that the Congress is overmatched in this struggle—they are convinced that our resources—staff, access to information, command of media, and all the rest—cannot compete on an equal footing with those of the Executive. But, most of all, they are convinced that we cannot agree among ourselves on a plan of action to correct the present institutional imbalance.

It is with this latter point most firmly in mind, Mr. President, that I have designed my bill. It is intended to be a bill that virtually every Member of the Congress can support if he or she wants to effectively restore congressional authority to its proper place in our decisionmaking process. It is for this reason that the bill is based on two fundamental principles:

That the Federal Government must live within its financial means;

That within those means, the Congress itself shall determine how our resources shall be spent.

These principles have nothing to do with party—I am preparing a ceiling even below the President's own. They have nothing to do with ideology—liberals and conservatives alike have adhered to them both since the Nation's beginning. They have only to do with budgetary responsibility and constitutional government—concerns that are shared by all Americans.

Mr. President, I would hope, that my colleagues who subscribe to these principles will join me in this effort. I would hope as well that the President of the United States will lend us his support. He has spoken forcefully and often on behalf of both budgetary responsibility and constitutional government. If he is sincere in his support of these principles, then this bill is one that he can readily endorse. If he does not support these principles, then we—and the Nation—should know that.

But I am hopeful that the President will support this effort, because I am convinced that only by working together—within our constitutional framework—can we achieve our common goals.

I am convinced that only through compromise between the Congress and the President will our Government work as it was intended to work—in the interests of all its citizens. That is why I am proposing that the Congress accept a budget ceiling even lower than the President has proposed: if adopted, it is absolute proof that the Congress is prepared to live within sound financial limitations.

I for one am more than willing to live within the ceiling proposed in this bill. I will work as best I can in the Congress for additional revenues through closing the special interest loopholes which riddle our tax laws. It will work to cut waste in the Pentagon and in social programs as well. And I will work to invest the savings in meeting our urgent domestic needs—for a cleaner environment, decent health care, better education, and urban and rural development.

If the Congress agrees to live within the President's budget ceiling, then the question becomes, will the President in turn agree that the Congress shares responsibility for determining how the Nation's resources are to be spent in meeting its needs?

It is that question, Mr. President, to which we are most earnestly awaiting the President's answer.

Mr. President, I am also submitting an amendment, intended to be proposed by me, to the bill (S. 929) to amend the Par Value Modification Act.

I ask unanimous consent that the bill I have introduced (S. 1392), and the amendment which I have submitted (No. 59) be printed in the RECORD.

There being no objection, the bill and amendment were ordered to be printed in the RECORD, as follows:

S. 1392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Budget Control Act of 1973".

SEC. 2. The following provisions of this Act may be cited as the "Expenditure Control Act of 1973".

TITLE I—CEILING ON FISCAL YEAR 1974 EXPENDITURES

PART A—ESTABLISHMENT OF A CEILING

SEC. 101. (a) Except as provided in subsection (b), expenditures and net lending during the fiscal year ending June 30, 1974, under the Budget of the United States Government shall not exceed $268,000,000,000.

(b) If the estimates of revenues which will be received in the Treasury during the fiscal year ending June 30, 1974, as made from time to time, exceed $255,300,000,000, the limitation specified in subsection (a) shall be increased by an amount equal to such excess.

SEC. 102. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, propose reservations from expenditure and net lending, from appropriations or other obligational authority otherwise made available, of such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, within the limitation specified in section 101.

(b) In carrying out the provisions of subsection (a), the President shall propose reservations of amounts proportionately from appropriations or other obligational authority available for all programs and activities of the Government (other than expenditures for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants, Medicaid, social service grants under title IV of the Social Security Act, food stamps, military retirement pay, and judicial salaries).

(c) The President shall propose reservations of expenditures under this section by one or more special messages to the Congress. Each special message shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document of each House.

(d) Any proposed reservation of expenditures shall become effective on the date on which a concurrent resolution approving such reservation is agreed to by the Senate and the House of Representatives pursuant to title II of this Act.

SEC. 103. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this Act, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expenditure (after the application of this Act) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESERVATIONS OF EXPENDITURES

SEC. 111. The following sections of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in section 202); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 112. As used in this title, the term "resolution" means only a concurrent resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows (the blank spaces being appropriately filled): "That the Congress approves the reservations of expenditures set forth in the special message of the President to the Congress dated ——— —, 19— (House Document ———, Senate Document ———)."

SEC. 113. A resolution with respect to a special message shall be referred to a committee (and all resolutions with respect to the same message shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

SEC. 114. (a) If the committee to which has been referred a resolution with respect to a special message has not reported it before the expiration of ten calendar days after its introduction (or, in the case of a resolution received from the other House, ten calendar days after its receipt), it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such message which has been referred to the committee.

(b) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be

made after the committee has reported a resolution with respect to the same special message), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same special message.

SEC. 115. (a) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a special message, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(b) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

SEC. 116. (a) All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a special message, and all motions to proceed to the consideration of other business, shall be decided without debate.

(b) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a special message shall be decided without debate.

SEC. 117. If, prior to the passage by one House of a resolution of that House with respect to a special message, such House receives from the other House a resolution with respect to the same message, then—

(1) If no resolution of the first House with respect to such message has been referred to committee, no other resolution with respect to the same message may be reported or (despite the provisions of section 204(a)) be made the subject of a motion to discharge.

(2) If a resolution of the first House with respect to such message has been referred to committee—

(A) the procedure with respect to that or other resolutions of such House with respect to such message which have been referred to committee shall be the same as if no resolution from the other House with respect to such message had been received; but

(B) on any vote on final passage of a resolution of the first House with respect to such message the resolution from the other House with respect to such message shall be automatically substituted for the resolution of the first House.

TITLE II—REQUIREMENT OF CONGRESSIONAL APPROVAL OF IMPOUNDMENTS

SEC. 201. (a) Except as provided in subsection (g), whenever the President impounds any funds appropriated or otherwise obligated for a specific purpose or project, or approves the impounding of such funds by any officer or employee of the United States, he shall, within ten days thereafter, transmit to the Senate and the House of Representatives a special message specifying—

(1) the amount of the funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any account, department, or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment;

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document for each House.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day as it is transmitted to the Senate and the House of Representatives.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall transmit promptly to the Congress and the Comptroller General a supplementary message stating and explaining each such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the Federal Register published after that special or supplemental message is so transmitted.

(f) The President shall publish in the Federal Register each month a list of funds impounded as of the first calendar day of that month. Each list shall be published no later than the tenth calendar day of the month and shall contain the information required to be submitted by special message pursuant to subsection (a).

(g) The provisions of this title shall not apply to any reservation of expenditures which the President proposes to the Congress pursuant to the provisions of section 102 of this Act.

SEC. 202. The President shall cease the impounding of funds set forth in each special message within sixty calendar days of continuous session after the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by passage of a resolution in accordance with the procedure set out in section 304 of this title.

SEC. 203. For purposes of this title, the impounding of funds includes—

(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated or otherwise obligated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and

(2) any type of executive action which effectively precludes the obligation or expenditure of the appropriated funds.

SEC. 204. The following subsections of this section are enacted by the Congress:

(a) (1) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(b) (1) For purposes of this section, the term "resolution" means only a concurrent resolution of the Senate or House of Representatives, as the case may be, which is introduced and acted upon by both Houses before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the President's message is received by that House.

(2) The matter after the resolving clause of each resolution shall read as follows: "That the Senate (House of Representatives) approves the impounding of funds as set forth in the special message of the President dated ————, Senate (House) Document No. ——".

(3) For purposes of this subsection, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period.

(c) (1) A resolution introduced with respect to a special message shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of a resolution is agreed to, debate on the resolution shall be limited to ten hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution shall not be in order. It shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to, and it shall not be in order to move to consider any other resolution introduced with respect to the same special message.

(3) Motions to postpone, made with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

AMENDMENT NO. 59

At the end of the bill insert the following:

SEC. 2. The following provisions of this Act may be cited as the "Expenditure Control Act of 1973".

TITLE I—CEILING ON FISCAL YEAR 1974 EXPENDITURES

PART A—ESTABLISHMENT OF A CEILING

SEC. 101. (a) Except as provided in subsection (b), expenditures and net lending during the fiscal year ending June 30, 1974, under the Budget of the United States Government shall not exceed $268,000,000,000.

(b) If the estimates of revenues which will be received in the Treasury during the fiscal year ending June 30, 1974, as made from time to time, exceed $255,300,000,000, the limitation specified in subsection (a) shall be increased by an amount equal to such excess.

SEC. 102. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, propose reservations from expenditure and net lend-

ing, from appropriations or other obligational authority otherwise made available, of such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, within the limitation specified in section 101.

(b) In carrying out the provisions of subsection (a), the President shall propose reservations of amounts proportionately from appropriations or other obligational authority available for all programs and activities of the Government (other than expenditures for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants, medicaid, social service grants under title IV of the Social Security Act, food stamps, military retirement pay, and judicial salaries).

(c) The President shall propose reservations of expenditures under this section by one or more special messages to the Congress. Each special message shall be transmitted to the House of Representatievs and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document of each House.

(d) Any proposed reservation of expenditures shall become effective on the date on which a concurrent resolution approving such reservation is agreed to by the Senate and the House of Representatives pursuant to title II of this Act.

SEC. 103. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this Act, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expenditure (after the application of this Act) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESERVATIONS OF EXPENDITURES

SEC. 111. The following sections of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in section 202); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 112. As used in this title, the term "resolution" means only a concurrent resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows (the blank spaces being appropriately filled): "That the Congress approves the reservations of expenditures set forth in the special message of the President to the Congress dated ———— —, 19— (House Document ——, Senate Document ——)."

SEC. 113. A resolution with respect to a special message shall be referred to a committee (and all resolutions with respect to the same message shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

SEC. 114. (a) If the committee to which has been referred a resolution with respect to a special message has not reported it before the expiration of ten calendar days after its introduction (or, in the case of a resolution received from the other House, ten calendar days after its receipt), it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such message which has been referred to the committee.

(b) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same special message), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same special message.

SEC. 115. (a) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a special message, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(b) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

SEC. 116. (a) All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a special message, and all motions to proceed to the consideration of other business, shall be decided without debate.

(b) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a special message shall be decided without debate.

SEC. 117. If, prior to the passage by one House of a resolution of that House with respect to a special message, such House receives from other House a resolution with respect to the same message, then—

(1) If no resolution of the first House with respect to such message has been referred to committee, no other resolution with respect to the same message may be reported or (despite the provisions of section 204(a)) be made the subject of a motion to discharge.

(2) If a resolution of the first House with respect to such message has been referred to committee—

(A) the procedure with respect to that or other resolutions of such House with respect to such message which have been referred to committee shall be the same as if no resolution from the other House with respect to such message had been received; but

(B) on any vote on final passage of a resolution of the first House with respect to such message the resolution from the other House with respect to such message shall be automatically substituted for the resolution of the first House.

TITLE II—REQUIREMENT OF CONGRESSIONAL APPROVAL OF IMPOUNDMENTS

SEC. 201. (a) Except as provided in subsection (g), whenever the President impounds any funds appropriated or otherwise obligated for a specific purpose or project, or approves the impounding of such funds by any officer or employee of the United States, he shall, within ten days thereafter, transmit to the Senate and the House of Representatives a special message specifying—

(1) the amount of the funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any account, department, or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment;

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document for each House.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day as it is transmitted to the Senate and the House of Representatives.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall transmit promptly to the Congress and the Comptroller General a supplementary message stating and explaining each such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the Federal Register published after that special or supplemental message is so transmitted.

(f) The President shall publish in the Federal Register each month a list of funds impounded as of the first calendar day of that month. Each list shall be published no later than the tenth calendar day of the month and shall contain the information required to be submitted by special message pursuant to subsection (a).

(g) The provisions of this title shall not apply to any reservation of expenditures which the President proposes to the Congress pursuant to the provisions of section 102 of this Act.

SEC. 202. The President shall cease the impounding of funds set forth in each special message within sixty calendar days of continuous session after the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by passage of a resolution in accordance with the procedure set out in section 304 of this title.

SEC. 203. For purposes of this title, the impounding of funds includes—

(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated or otherwise obligated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and

(2) any type of executive action which effectively precludes the obligation or expenditure of the appropriated funds.

SEC. 204. The following subsections of this section are enacted by the Congress:

(a) (1) As an exercise of the rulemaking power of the Senate and the House of Rep-

resentatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(b)(1) For purposes of this section, the term "resolution" means only a concurrent resolution of the Senate or House of Representatives, as the case may be, which is introduced and acted upon by both Houses before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the President's message is received by that House.

(2) The matter after the resolving clause of each resolution shall read as follows: "That the Senate (House of Representatives) approves the impounding of funds as set forth in the special message of the President dated ———, Senate (House) Document No. ——".

(3) For purposes of this subsection, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period.

(c)(1) A resolution introduced with respect to a special message shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of a resolution is agreed to, debate on the resolution shall be limited to ten hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution shall not be in order. It shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to, and it shall not be in order to move to consider any other resolution introduced with respect to the same special message.

(3) Motions to postpone, made with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

By Mr. MONTOYA (for himself and Mr. DOMENICI):

S. 1394. A bill to authorize the acquisition of lands within the Vermejo Ranch, New Mexico and Colorado, for addition to the national forest system, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. MONTOYA. Mr. President, on behalf of myself and my colleague from New Mexico (Mr. DOMENICI), I am pleased to introduce a bill authorizing the acquisition of land within the Vermejo Ranch in New Mexico and Colorado for addition to the national forest system.

This bill was introduced in the 92d Congress as S. 2699. The bill passed the Senate last year on June 15, and was favorably reported by the House Agriculture Committee on October 3. Time ran out on the bill before the House could act on it, however, and it died with the adjournment of the 92d Congress.

Mr. President, time is now running out on the period when we may acquire this unique and beautiful land. The Vermejo Ranch is part of an estate which is rapidly being liquidated. If the Congress does not act quickly to acquire the land for the public, the opportunity may be lost forever. In the place of what could have been a majestic park of mountains and high country open to all, we may end up seeing this area ravaged by subdividers and open only to the owners of vacation homes.

Although both the Senate and the House committees last year reported the bill favorably, I am sorry to report that the Department of Agriculture objected to the passage of the bill. Their objections were based on two grounds.

First, the USDA argued that the site of the Vermejo Ranch is too far removed from major population centers to be accessible to large numbers of people. The answer to this argument is simply that the site is well within driving distance of Albuquerque, Denver, Pueblo, and Colorado Springs—all major population centers in the West.

Second, the Department argued that there is no money available with which to acquire the property. Granted, Mr. President, it is difficult to acquire this land with land and water conservation fund moneys when the administration cuts the land and water conservation fund appropriation request from the authorized level of $300 million annually to a mere $50 million for fiscal year 1974. But I think that the Department should come up with better arguments than to plead financial helplessness in the face of an unpleasant situation of its own creation.

Moreover, even if the project cannot be funded immediately, passage of this bill would enhance our ability to fend off commercial interests now seeking to buy the land, while giving us time to work with private conservation organizations and foundations to secure funds which could hold the land until the United States could purchase it. Representatives of the Sierra Club have recently been in my office, and they advise me that they are already in contact with the Ford Foundation and other organizations in an effort to preserve the Vermejo.

At this point, Mr. President, I ask unanimous consent to include in the RECORD certain portions of last year's Agriculture Committee report on S. 2699.

There being no objection, the portions of the report were ordered to be printed in the RECORD, as follows:

VERMEJO RANCH ACQUISITION

The Committee on Agriculture and Forestry, to which was referred the bill (S. 2699) to authorize the acquisition of lands within the Vermejo Ranch, New Mexico and Colorado, for addition to the national forest system, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

SHORT EXPLANATION

S. 2699 would authorize the Secretary of Agriculture to acquire such lands, waters, and interests as he deems desirable for national forest purposes within the proposed Vermejo Ranch purchase area as shown on a map on file in the Office of the Chief of the Forest Service. Acquisitions would become a part of the Carson National Forest. Moneys appropriated from the land and water conservation fund would be available for such acquisitions; and such acquisitions would not be counted for the purpose of the provision of section 6(a)(1) of the Land and Water Conservation Fund Act of 1965, which provides that not more than 15 percent of the acreage added to the national forest system pursuant to that section shall be west of the 100th meridian.

NEED FOR THE LEGISLATION

Unless the Federal Government acts now to purchase this 480,000-acre tract of land which adjoins the Carson National Forest the opportunity may be forever lost.

Evidence presented during the course of the hearings on this measure, taken from an article which appeared in the December 25 National Observer, indicated that:

"There is much concern from all interested parties that a consortium might buy the ranch and immediately start on a helter-skelter land-resort development that would neatly subdivide the ranch into a thousand parcels.

"Reportedly, there are two consortiums close to making the buy. 'I'm not at liberty to discuss who offers what or whether they even made an offer,' Simon says. But whenever there is so much money and land hanging fire, secrets are hard to keep. It is known the Japanese Mitsubishi Corp. is interested, and that another group of private individuals bid the $26,500,000 if the $1,000,000-plus worth of cattle were thrown in.

"Now a consortium headed by Charlie Crowder of Albuquerque is supposedly close to a bid. Crowder, a respected land dealer, has a group of movie stars, land developers, and financiers ready to go, according to the current story. 'Charlie's sort of a mysterious character,' says the Forest Service's Ted Koskella. 'You never know what he's up to until he comes in with, in our case, a land exchange all neatly tied together. He has pulled off more than his share of deals. * * *'" and

"'The first man to meet our terms will buy the ranch,' says Richard U. Simon, the Fort Worth lawyer handling the sale, 'We've told the Forest Service and members of Congress all along that we will not wait to see if they finally decide to buy it. Right now we have half-a-dozen private groups seriously negotiating for its purchase. * * *'"

Senator Clinton P. Anderson in his testimony described the land and the opportunity in this way:

"The Vermejo Ranch is the heart of the old Maxwell Land Grant originally granted by the Governor of Mexico on January 11, 1841, and finally confirmed by the United States Supreme Court in 1887. The grant originally contained approximately 1,714,765 acres. During the next 50 years after the confirmation of the grant, there were numerous subdivisions of the grant. These tracts passed from one owner to another until 1945 when Mr. W. J. Gourley, a prominent businessman from Ft. Worth, Texas, began acquiring property in the area. Between 1945 and 1948, Mr. Gourley purchased several tracts and consolidated them into what is now known as the W-S or Vermejo Ranch.

"This trace of land adjoins the Carson National Forest and could be easily managed by the Forest Service * * * Kaiser Steel Com-

pany holds a coal lease on about 252,000 acres. The lease permits the company to use sufficient of the surface to operate the mines but does not permit town sites. All exploration reports indicate that all present and future milling would be deep underground mining of coal with very little surface disturbance.

"I view this tract of land as one of the most valuable of its kind in the Southwest and believe it is in asset that should be acquired and preserved by the Government for the people of this country. If purchased by the Government and added to the National Forest and managed under the multiple use laws, it would provide outdoor recreation of many varieties to thousands of people from many states annually. It would provide grazing for approximately 10,000 head of cattle belonging to local ranchers. The ranchers in this area are mostly individuals with a very few head of livestock and are, for the most part, at or below the poverty level income. Grazing permits would enable these people to increase their herds and flocks and be a tremendous economic boost to a chronically depressed area. In the past, the income from this ranch as mostly gone to Texas banks; and except for some employment of local people, it has not been a great economic asset to the State of New Mexico. In the years to come, there will, of course, be a new timber crop to be harvested; and the value of this timber we expect to be much greater than it would be at this time.

"The Gourley Estate has offered this ranch to the Government for approximately 26 million which, according to appraisals made and provided me by the Forest Service, is not out of line with other sales in New Mexico. If the ranch is not acquired by the Government, there is a possibility that this important watershed will be broken up and sold to speculators, or to a Japanese company that has been trying to acquire the ranch for exploitation. I hope that we can put this valuable land into public ownership."

Witnesses described the wildlife habitat and resources as truly exceptional, by far the best of any area of like size in the State. There is a fine herd of no less than 4,000 elk, and mule deer number about 12,000. Black bear are more numerous than anywhere else in the State. There are 200 antelope in the low-lying prairie area. Merriam wild turkeys are in good supply and with the existing optimum habitat there is room for an increase in numbers. There are also blue grouse in the areas above 8,500 feet, and a considerable number of ducks nest around the lakes and beaver ponds.

There is a normal population of mountain lions. There are gray foxes, bobcats, too many coyotes, badgers, abert and chicaree squirrels, prairie dogs, cottontail, snowshoe, and jack rabbits. Beavers are abundant and provide many ponds to augment trout waters. The endangered black-footed ferret may still exist there.

Nowhere else that I know of can one find the variety and abundance of wildlife species that is resident on Vermejo Park. The outstanding feature of the big game situation is that the area embraces both summer and winter range. There is suitable habitat for restoration of bighorn sheep and ptarmigan, which were indigenous to the area.

The trout fishing resources are extensive, diversified, and exciting. There are about 100 miles of trout streams and 60 lakes, large and small. Some lakes can be enlarged and new ones developed by transferring water rights from agriculture to fisheries. The fisheries resources are of special interest because lakes and streams are located in the most beautiful scenic areas.

The area is adaptable for camping, picnicking, scenic sightseeing—by car or otherwise—bird and animal watching, picture taking, rock collecting, exploring, mountain climbing, hiking, backpacking, horseback riding, horse pack-in trips, wilderness experiences, et cetera.

This remarkable Vermejo Park area has virtually unlimited resources for all of these activities. There is spectacular scenery all the way from 6,000-foot lowlands to the 13,000-foot timberline peaks. Wild flowers occur in great variety, since the area embraces five of the six life zones found in New Mexico and five of the seven to be found in North America.

Land today is in great demand. Land is the most valuable resource that we have. Land of the quality of Vermejo Park is as sound an investment as can possibly be made. It is a once-in-a-lifetime occurrence to have the opportunity to acquire for public use and benefit a tract of land of this size and packed with multiple, high quality resources. It seems to many individuals and organizations that it would be a major tragedy for the Forest Service not to be authorized to acquire Vermejo Park, or ranch.

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970 the committee agrees with the original acquisition cost estimate of the U.S. Department of Agriculture of about $26.5 million.

Administrative cost estimates by the Department of Agriculture would approximate $288,000 per year.

The committee agrees with the Department on its estimates.

Mr. DOMENICI. Mr. President, I am pleased to join with the senior Senator from New Mexico, Senator MONTOYA, in introducing a bill which would add a truly unique and beautiful parcel of land—the Vermejo Ranch—to our national forest system.

This magnificent ranch covers 480,000 acres of truly unsurpassed terrain in northern New Mexico and southern Colorado.

Fishing lakes, trout streams, timber lands, lush meadows, and huge populations of deer, elk, antelope, and other wild animals are abundant. And the land itself has a broad range of topographic and climatic conditions seldom found in a single parcel of land, regardless of size.

We, in New Mexico, are proud of the Vermejo Ranch and are thrilled with its magnificence; we would like to share this with visitors for generations to come.

I believe we must preserve the natural beauty of our great country, we must shelter such magnificent areas as this. We must preserve it for future generations.

It will cost this country a mere $55 an acre to add Vermejo Ranch to the national forest system. I believe this is a small price to pay for such enduring beauty that our sons and grandsons for years to come will be able to enjoy. If we should let this opportunity pass, we will not have another chance to acquire such splendid land as this at any price.

By Mr. RANDOLPH:

S. 1395. A bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails. Referred to the Committee on Post Office and Civil Service.

Mr. RANDOLPH. Mr. President, I am introducing legislation today which, if enacted, would provide direct congressional support for the dissemination of news, opinion, scientific, cultural, and educational material through the mails. As a result of passage of the Postal Reorganization Act of 1970, Congress is no longer in the business of setting rates for any class of mail. That task is now implemented by the Postal Rate Commission with approval of the new Postal Service Board of Governors.

On June 29, 1972, the Board of Governors announced that temporary rate increases would become permanent on July 6, 1972. Regular second-class mail rates were increased an average of 127 percent phased in over a 5-year period. Nonprofit magazines also have seen their costs increase substantially as a result of the rate hike. Until the new schedule of rates became permanent, a per piece charge had never been imposed upon authorized nonprofit mailers. This charge is in addition to the per pound rate increase schedule now in effect. I know that the impact of postal rates on nonprofit publications is of particular concern to many people. Representatives of the American Legion, for example, have discussed this issue with me on numerous occasions.

For over half a century prior to enactment of Public Law 91–375, the Congress provided preferential mail rates for second-class publications. These rates included commercial magazines, newspapers, publications of veterans organizations, churches, and other nonprofit groups who disseminated information to benefit the public. The question remains, are second-class publications, profit and nonprofit, worth saving? I think they are, and I am sure I am not alone in this observation.

Several of our colleagues have introduced legislation which would be of benefit to second- and third-class publications. My measure is another variation of possible changes in the law. In my judgment, Members of Congress concerned with this subject are not certain what the final answer should be. I know that I am not. It is vital that we explore a range of possibilities. I am confident that the Senate Committee on Post Office and Civil Service, of which I am the ranking member, will carefully consider this bill along with S. 411 by Senator MCGEE, S. 842 by Senators KENNEDY and GOLDWATER, S. 630 by Senator NELSON and other proposals in order to report legislation which will be of benefit to second-class users in this country.

Briefly my bill would do the following:

First of all, this legislation would amend the policy section of the Postal Reorganization Act of 1970 to make it abundantly clear that the Postal Service has an obligation to provide postal services at rates which will encourage and assist the wide publishing of information and differing points of view on all issues of interest to the country.

Second, this measure would prohibit the imposition of a per piece surcharge upon second-class qualified nonprofit matter.

Third, this bill would set the second-class postal rates at the level of June 1, 1972, for the first 250,000 issues of newspapers and magazines sent through the mails. These rates include the approximately 33⅓ percent increase in second-

class charges that were put into effect on a temporary basis last May. This provision would be of particular support to the smaller, almost nonprofit independent journals of opinion that already exist. It would also encourage the entry to new pubilcations of this type and provide continuing outlets for divergent views and fresh ideas.

Any future increase in second-class rates for issues over the 250,000-copy ceiling would be phased in during a 10-year period under this bill. This 10-year period would apply only to increases on editorial content, and any increases for advertising material would be implemented during 5 years as is presently the law for both categories.

In addition, this legislation would provide for sharing of second-class rate increases one-half by mail users and one-half by appropriations: first, nonprofit second-class sharing would apply to unphased amount of the recently approved rate increase as well as to all future increases; second, regular rate second-class sharing would apply only to rate increases resulting from future Postal Rate Commission proceedings—all the recently approved rate increases would have to be paid by the mail user.

Finally, my bill requires a permanent congressional appropriation for public service subsidies and revenue forgone.

By Mr. FULBRIGHT (by request):

S. 1398. A bill to authorize the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines funds for making payments on certain pre-1934 bonds of the Philippines, and for other purposes. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to authorize the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines funds for making payments on certain pre-1934 bonds of the Philippines, and for other purposes.

The bill has been requested by the Secretary of the Treasury and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Secretary of the Treasury to the Vice President, dated March 7, 1973, and an analysis of the bill.

There being no objection, the bill, letter and analysis were ordered to be printed in the RECORD, as follows:

S. 1398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 6 of the Act of March 24, 1934, as amended (22 U.S.C. 1393(g)), (relating to the trust account for the payment of pre-1934 bonds of the Government of the Philippines) is repealed.

SEC. 2. In order to implement the Executive Agreement concluded between the Government of the United States and the Government of the Republic of the Philippines on November 26, 1969, under which the Government of the Republic of the Philippines agreed to assume from the Secretary of the Treasury sole responsibility for payments of the principal of and interest on all outstanding bonds of the Philippines, its Provinces, cities and municipalities, issued prior to May 1, 1934, under authority of Acts of the Congress of the United States, the Secretary of the Treasury is authorized to transfer to the Government of the Republic of the Philippines whatever sums remain on the effective date of this Act in the special trust account with the Treasurer of the United States in the name of the Secretary set up by section 6(g)(4) of the said Act of March 24, 1934, as amended.

SEC. 3. As of the date of the transfer of sums to the Government of the Philippines, authorized by section 2 of this Act, the United States shall cease to be liable for the payment of principal or interest on all outstanding bonds of the Philippines, its Provinces, cities and municipalities, issued prior to May 1, 1934, under authority of Acts of the Congress.

SEC. 4. This Act shall take effect 60 days after the date of its enactment.

SECRETARY OF THE TREASURY,
Washington, D.C., March 7, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill, "To authorize the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines funds for making payments on certain pre-1934 bonds of the Philippines, and for other purposes."

The proposed bill authorizes the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines, sixty days after the date of enactment, the money then held in a special trust account in the Treasury for making payment on certain Philippine bonds issued before 1934, all of which have matured. The Philippine Government would assume the responsibility for such payments and, as of the date of transfer, the United States would cease to be liable for them. As of June 30, 1972, the total outstanding amount of principal and interest on the bonds was $138,733.69. As of the same date, the special trust account held $138,739.21. There have been few payment transactions during the past several years.

Enactment of the proposed bill would be in the best interests of this Government and of the Government of the Republic of the Philippines for the following reasons. The special trust account was established in 1946 with money received from the Philippine Government in effect to guarantee that payment on its obligations would be made. Those obligations have now matured and the exact liability therefor determined. However, it cannot be said when, if ever, all the outstanding matured bonds and interest coupons will be presented for payment, and the Department of the Treasury considers therefore that it is unnecessary for it to continue to maintain indefinitely the special trust account on the books of the Treasury. Finally, the Philippine Government, by an Executive Agreement dated November 26, 1969, has agreed to assume sole responsibility for the payments of its bonds if and when presented.

I enclose herewith an analysis which offers more detailed information concerning the provisions of the draft bill and the reasons for its proposal.

It would be appreciated if you would lay the proposed bill before the Senate. An identical bill has been transmitted to the Speaker of the House of Representatives.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

GEORGE P. SHULTZ.

ANALYSIS OF A TREASURY PROPOSED BILL

"To authorize the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines funds for making payments on certain pre-1934 bonds of the Philippines, and for other purposes."

The proposed bill authorizes the Secretary of the Treasury to transfer to the Government of the Republic of the Philippines the money held in a special trust account in the Treasury to make principal and interest payments on outstanding bonds of the Philippines, its Provinces, cities and municipalities, issued before May 1, 1934, pursuant to Congressional authorizations (those bonds are hereafter referred to as pre-1934 Philippine bonds for ease of reference). The Philippine Government would assume responsibility for the payments. The United States would not be liable therefor as of the date of transfer.

In order to accomplish this purpose, the proposed bill repeals subsection (g) of section 6 of the Act of March 24, 1934 (48 Stat. 456), as added by the Act of August 7, 1939 (53 Stat. 1226, 1228) and amended by the Act of September 22, 1959 (73 Stat. 621, 622), codified at 22 U.S.C. 1393(g), which provides the specific statutory authority of the Secretary of the Treasury to make principal and interest payments on pre-1934 Philippine bonds and prescribed the conditions for setting up the special trust account and its authorized investment. The bill provides for an effective date 60 days after enactment to allow the Treasury adequate time for making the necessary fiscal arrangements.

By 1963 all of the obligations for which the special trust account is liable had matured. The total outstanding liability for principal and interest was $138,733.69 on June 30, 1972. More than enough money, $138,739.21 on the same date, remains in the special trust account to satisfy that liability. The Treasury Bureau of Accounts maintains $57,174.21 of the amount on hand for payments on the peso denominated bonds and the Office of the Treasurer of the United States administers the remainder for payments on the dollar denominated bonds.

The trust account to which the bill refers was set up by the first section of the Act of August 7, 1939 (53 Stat. 1226), which added subsection (g) to section 6 of the Act of March 24, 1934 (48 Stat. 456). That subsection provided for the establishment before July 4, 1946, of a special trust account in the Treasury for the purpose of meeting principal and interest payments on "bonds of the Philippines to which a moral obligation of the United States might have been attached" (H. Rept. 1058, 76th Congress, 3 (1939) and S. Rept. 453, 76th Congress, 3 (1939)), and specified the Secretary of the Treasury as the person authorized to make such payments when the amount in the account was adequate. The account was to consist of all sinking funds maintained by the Government of the Philippines itself for the payment of its bonds, one of which consisted of the proceeds of taxes imposed on exports to the United States, pursuant to section 6(e) of the 1934 Act. The trust account was to consist also of the supplementary sinking fund on deposit with the Treasurer of the United States held for the same purpose, consisting of quarterly payments by the Philippine Government of the proceeds of export taxes imposed and collected by it after August 7, 1939, pursuant to section 6(g)(1) as added to the 1934 Act by the 1939 Act. Pursuant to an agreement between the Government of the Philippines

and the Secretary of the Treasury, that Government also made annual payments into the trust account between 1946 and 1951.

All provisions of section 6(g) of the 1934 Act have either been fulfilled or have expired, except for the provision in subsection (g)(5) authorizing the Secretary of the Treasury to make principal and interest payments on pre-1934 Philippine bonds. In particular, in accord with subsection (g)(5) in November 1951 the Secretary determined that the trust account balance was sufficient to meet principal and interest payments on all outstanding bonds, and all interest and principal payments began to be paid from the account; up to that time the independent Philippine Government had made all principal and interest payments. Also, in accord with the provisions of subsection (g)(5) that, whenever the Secretary determined that the trust account balance was in excess of an amount adequate to meet interest and principal payments on all such obligations, such excess be turned over to the Treasurer of the Philippines, the Secretary determined to be excess and returned to the Philippines an aggregate of $1,838,000, consisting of $1,000,000 in May 1954, $600,000 in February 1962, and $238,000 in August 1965.

The Government of the Republic of the Philippines has agreed to accept the sums which the bill proposes to be transferred and thereafter to assume full responsibility for principal and interest payments in an Executive Agreement with the Government of the United States, dated Novmber 26, 1969, which by its terms will enter into force upon receipt by the Philippine Government of advice from the United States Government that the proposed bill has been enacted. Therefore, enactment of the proposed bill is necessary to implement the Executive Agreement. The Department of State Legal Adviser's Office, in a 1969 Memorandum of Law, concurred in the Treasury conclusion that enactment of the proposed bill was necessary because section 6(g)(5) of the 1934 Act specifies the Secretary of the Treasury as the official authorized to make principal and interest payments on pre-1934 Philippine bonds.

By Mr. KENNEDY (for himself, Mr. HATHAWAY, and Mr. MUSKIE):

S. 1399. A bill to establish the Olson Home, Cushing, Maine, as a national historic site. Referred to the Committee on Interior and Insular Affairs.

OLSON HOME NATIONAL HISTORIC SITE

Mr. KENNEDY. Mr. President, the legislation we introduce today would establish as a national historic site, the Olson Home in Cushing, Maine. I ask unanimous consent that the full text of the bill be printed at the conclusions of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Though many Members of Congress and many Americans may not be familiar with the name "Olson Home," almost everyone is familiar with the house that serves as the setting in the haunting painting by the distinguished American artist Andrew Wyeth—"Christina's World." This legislation not only commemorates a historic colonial structure, a well-known American painter, but a tradition in American art.

The National Park Service ordinarily considers sites for inclusion in the national park system only if the structure or site has achieved historic importance more than 50 years ago. But we have an opportunity with this legislation to make a part of that system, a site which though of relatively recent historic importance has become so meaningful to most Americans that inclusion in this national historic preservation effort is more than warranted.

Andrew Wyeth, born July 12, 1917, received his early artistic training from his father, the noted illustrator Newell Convers Wyeth. The Wyeth family spent their summers in the picturesque Maine countryside where Andrew found the subjects of the landscapes and seascapes that were exhibited in 1937 in New York. Since that time, the success of Andrew Wyeth has grown enormously; and he is considered our leading American painter.

He is admired by critics and public alike for his intimate and loving portrayals of the land and the people of Maine and Pennsylvania. His water colors and temperas are exhibited in the Art Institute of Chicago, University of Nebraska, Boston Museum of Fine Arts, Metropolitan Museum of Art, Butler Art Institute, Toledo Museum, New Britain Institute, and the Lincoln Museum in England among others. Life magazine noted in 1948:

> If there is such a thing as a purely American tradition in art, it is represented at its best in the straightforward canvases of Andrew Wyeth.

Andrew Wyeth's talent has been characterized as fresh, flawless, lyric, polished, clear, controlled, and as the New York Times pointed out in 1953:

> It is only the rigorous discipline of his craftsmanship that keeps the lid on pessimism and on a sort of wild nostalgia for the lost and for the displaced.

It is this feeling for the lost or displaced or the lonely that permeates the famous painting, "Christina's World." In the painting, Christina Olson, crippled and haunted looks toward her house which stands in stark isolation against the horizon. Through the years Andrew Wyeth did over 200 paintings and drawings of Christina. "Christina's World" now hangs in the Museum of Modern Art in New York. Critics since 1948 when the painting was completed have overwhelmingly praised the artistic achievement of the painting. But beyond all of this, the painting has a very special meaning to the rest of us who are neither artists nor critics. And it is this unique feeling for the painting that is most difficult to characterize in words, but so clearly present when confronted with the work. Perhaps, the sense of alienation, frustration, and loneliness that Christina represents matches our own in the modern world; but at the same time it is not a hopeless portrait and Christina's sense of belonging to and being a part of her natural surroundings is similar to our own return to an awareness and appreciation of our natural gifts.

The Olson home is a three-story structure 70 miles from Portland, Maine, that houses a permanent collection of Wyeth paintings. The home has been lovingly restored and maintained by Joseph E. Levine and opened to the public for their appreciation. To date over 20,000 people have had the opportunity to view the artist's work and enjoy the home and land.

The Olson home which often accommodates 2,000 visitors a week will need expert and continuous care and maintenance through the years if the 173-year-old house is to withstand the pressure of time. Mr. Joseph E. Levine and the Cushing Historical Society have restored and preserved the home to the great benefit of us all. We have an opportunity with this legislation to assure that the outstanding work which they have done will be preserved for our children and all future generations of Americans.

EXHIBIT 1

S. 1399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to acquire by gift or by purchase with appropriated or donated funds the lands, including improvements thereon, in Cushing, Maine, comprising the so-called Olson Home, together with such additional lands as the Secretary may deem necessary for the purpose of establishing the Olson Home as a national historic site.

SEC. 2. The property acquired by the Secretary of the Interior under the first section of this Act shall constitute the Olson Home National Historic Site. Such historic site shall be administered by the Secretary of the Interior, through the National Park Service, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916, as amended and supplemented, and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935.

SEC. 3. In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to enter into cooperative agreements with public and private agencies, institutions, organizations and other entities to assist in the preservation and interpretation of the aforementioned properties, or portions thereof.

SEC. 4. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.

By Mr. HRUSKA (for himself and Mr. McCLELLAN):

S. 1400. A bill to reform, revise, and codify the substantive criminal law of the United States; to make conforming amendments to title 18 and other titles of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

THE CRIMINAL CODE REFORM ACT OF 1973

Mr. HRUSKA. Mr. President, I take great pleasure in introducing on behalf of myself and the distinguished senior Senator from Arkansas (Mr. McCLELLAN) S. 1400, the Criminal Code Reform Act of 1973.

In 1966, the Congress created the National Commission on Reform of Federal Criminal Laws and charged it with these statutory duties:

> SEC. 3. The Commission shall make a full and complete review and study of the statutory and case law of the United States which constitutes the Federal system of criminal justice for the purpose of formulating and recommending to the Congress legislation which would improve the Federal system of criminal justice. It shall be the further duty of the Commission to make recommendations for revision and recodification of the criminal laws of the United States, including

the repeal of unnecessary or undesirable statutes and such changes in the penalty structure as the Commission may feel will better serve the end of justice. (Pub. L. 89–801).

Along with my cosponsor, the chairman of the Subcommittee on Criminal Laws and Procedures, the Senator from North Carolina (Senator ERVIN) I was privileged to serve on the Commission.

On January 7, 1971, the Commission submitted to the President and the Congress its final report, which contained a series of recommendations designed to serve as a work basis for congressional consideration of the need for reform with a view toward further refinement of our federal system of criminal justice.

At that time President Nixon made the following statement:

STATEMENT BY THE PRESIDENT AFTER RECEIPT OF THE REPORT OF THE NATIONAL COMMISSION ON REFORM OF FEDERAL CRIMINAL LAWS, JANUARY 16, 1971

Over two centuries the Federal criminal law of the United States has evolved in a manner both sporadic and haphazard. Needs have been met as they have arisen. Ad hoc solutions have been utilized. Many areas of criminal law have been left to development by the courts on a case-by-case basis—a less than satisfactory means of developing broad governing legal principles.

Not unexpectedly with such a process, gaps and loopholes in the structure of Federal law have appeared; worthwhile statutes have been found on the books side by side with the unusable and the obsolete. Complex, confusing and even conflicting, laws and procedures have all too often resulted in rendering justice neither to society nor to the accused.

Laws that are not clear, procedures that are not understood, undermine the very system of justice of which they are the foundations.

In 1966, Congress undertook to provide the United States with a modern, comprehensive, and workable Federal code. The first major step in that effort was an act of Congress creating the Commission on Reform of the Federal Criminal Law—and its principal author was Congressman Richard H. Poff of Virginia.

Composed of distinguished legislators, judges, attorneys—all of demonstrated competence in the field of Federal criminal law—the Commission was mandated to review exhaustively the Federal criminal code—and to make recommendations for both procedural and substantive reform.

The Commission has fulfilled its mandate, and I was pleased to receive its report. My personal appreciation goes to the members of the commission, the advisory committee, and the staff—and especially to the Commission Chairman, the Honorable Edmund G. Brown, the Vice Chairman, Congressman Poff, and the chairman of the Advisory Committee, Justice Tom Clark.

Even a brief examination of the report indicates the enormous investment of time and thought it represents, and the value of this vast work of 4 years. Because of its scope, and its various approaches to controversial problems, it would be premature at this time for me to render judgment on the substance of the recommendations.

What is apparent, however, is that the 92d Congress has been given what the 89th Congress had requested—a broad comprehensive framework in which to decide the issues involved in reform of the Federal criminal code.

I have directed the Attorney General to create and staff a team of experienced Justice Department attorneys to undertake their own evaluation of the Commission's many suggestions and further to make the results of their evaluation available to the appropriate committees of the Congress. Further, I have directed the Department to work with Congress in the same close and cooperative spirit that marked the evolution and passage of the District of Columbia Court Reform and Criminal Procedure Act of 1970.

Certainly, the need for clarification and modernization of Federal criminal law is as great as was the need for reform of the criminal law and procedures of the District of Columbia. Just as in the later, so in the former, procedural reform must go hand-in-glove with substantive reform—as the Chief Justice recommended himself in the State of the Judiciary message.

Further, if the same spirit of bipartisan cooperaton prevails in this new endeavor, as it did in the last, our success is assured.

In accordance with the President's statement, the following request was made of the former Attorney General John Mitchell:

THE PRESIDENT'S MEMORANDUM TO THE ATTORNEY GENERAL DIRECTING ACTION, JANUARY 16, 1971

The Federal Criminal Code reflects our national growth. It has continously been amended to meet new problems. However, this evolution has resulted in conflicting and overlapping criminal statutes. The entire Code is in dire need of comprehensive reform.

I have recently received the Report of the National Commission on Reform of Federal Criminal Laws, which was created in 1966 to make a thorough and complete review of the statutory and case laws constituting the Federal system of Criminal Justice. The Report provides a useful framework for considering the issues involved in reform of the Federal penal law.

Because reform of the Federal Criminal Code should be among the highest of priorities of your Department, I am requesting you to take the following actions:

1. Establish a team of experienced attorneys within the Department of Justice to work full-time on a comprehensive reform of the Federal Criminal Code, and make sufficient deployment to that team of other personnel with specialized expertise.

2. Prepare a thorough evaluation of the Commission's Report.

3. Make an independent examination of the present Federal Criminal Code and recommendations for its comprehensive reform.

4. Carefully examine the recent address on the State of the Judiciary by the Chief Justice of the United States, and consider procedural as well as substantive areas of reform.

5. After the foregoing through analysis, prepare and submit appropriate legislation encompassing comprehensive reform of our Federal Criminal laws.

6. Work closely with appropriate Congressional committees and their staffs throughout your evaluation and recommendation process.

I would like to receive in six months a summary of your progress and your views concerning appropriate future action.

In February of 1971, the Subcommittee on Criminal Laws and Procedures, under the chairmanship of Senator MCCLELLAN, began an ambitious set of hearings and studies on the recommendations of the Commission. These hearings continued over the course of the 92d Congress and culminated in the introduction of S. 1, the massive "Criminal Justice Codification Revision and Reform Act of 1973" on January 12 of this year. Along with Senator ERVIN, I was pleased to join Senator MCCLELLAN in cosponsoring S. 1.

Over the course of the last 2 years, the Criminal Code Unit within the Department of Justice has labored diligently along with representatives of other interested Federal agencies, in the effort to create the Criminal Code Reform Act.

In his sixth state of the Union message on crime on March 14, 1973, the President announced his imminent submission to Congress of legislation to revise, reform, and codify existing Federal criminal laws. The bill which I introduce today and S. 1 will thus provide the two major legislative items upon which the Senate will focus in coming months as it proceeds to move in the direction of creating a new Federal Criminal Code

S. 1 represents the diligent and unsparing efforts of Senator MCCLELLAN and others too numerous to mention. Similarly, the bill which I introduce today is the product of extensive and intensive effort by the administration. As is to be expected, however, there are a number of differences between S. 1 and S. 1400—some minor, others more substantial—but even a cursory comparison between them demonstrates their essential similarity of conception and execution.

Despite the differences between S. 1 and the subject bill, it must be emphasized that neither is partisan in nature. The revision, reform and codification of the Federal criminal law is universally conceded to be imperative. For too long now our efforts to protect life and property, human rights and domestic tranquillity have been hobbled by the most fundamental element of the criminal justice system, the law itself.

While numerous individual criminal statutes, particularly some of the more recent ones, have been of great value, a great number have been of little or no use, and as a body of law existing provisions have been deficient. S. 1400 faces this problem squarely by suggesting a rational, integrated code which is both workable and responsive to the demands of our highly complex 20th-century society.

The bill is structured as an amendment to title 18 of the United States Code—Crimes and Criminal Procedure: Title I consists of a thorough revision of substantive Federal criminal law and its codification into an integrated Federal Criminal Code; title II provides necessary conforming amendments to the entire United States Code. The new Federal Criminal Code proposed by title I of the bill is divided into three parts: the first part deals with general provisions and principles, the second with definitions of Federal offenses, the third with provisions for sentencing.

PART I: GENERAL PROVISIONS AND PRINCIPLES

Part I of title I, setting forth general provisions and principles with respect to such matters as Federal criminal jurisdiction, culpability, complicity, and defenses, contains a number of significant innovations. Foremost among these is a new approach to the treatment of Federal criminal jurisdiction—treating as a Federal offense the basic criminal misconduct which occurs under circumstances giving rise to Federal jurisdiction rather than regarding the offense in terms of an affront to some Federal jurisdictional factor such as the mails.

Among the numerous advantages to this approach are clarity of drafting, uni-

formity of interpretation, and consolidation of numerous existing offenses consisting of basically the same type of conduct. For example, approximately 70 theft offenses under current law—each written in a different fashion to cover the taking of various kinds of property in different jurisdictional situations—have been replaced by 5 general sections. Almost 80 forgery, counterfeiting, and related offenses have been replaced by three sections. About 50 statutes involving perjury and false statements have been consolidated into four sections. Approximately 70 arson and property destruction offenses have been reduced to four.

Similar advantages result from the bill's treatment of culpability, the mental element of an offense. Instead of 79 undefined different terms, or combinations of terms, presently found in title 18, the bill uses four defined terms—intentionally, knowingly, recklessly, and negligently—to describe the state of mind.

Another major innovation reflected in part I is the codification, for the first time in Federal criminal law, of general defenses to prosecution. Not only does codification of defenses comport with the bill's overall goal of setting forth in one place all major aspects of substantive Federal criminal law, it permits clarification of areas in which the law is confused, supplies uniform Federal standards in the area for the first time, and would provide congressional support for the better-reasoned judicial interpretations under existing law.

Probably the most significant feature of the bill's chapter on defenses is its treatment of the insanity defense. Under section 502, a mental disease or defect will not absolve a person of guilt unless it deprives him of the intent or knowledge required for commission of the offense charged. The purpose of this formulation, which has considerable support in psychiatric and legal circles, is to shift the inquiry from "Was he able to control his conduct?" to "Did he know what he was doing and if so, does he require treatment or does he deserve imprisonment?" This innovative approach to the problem of the relationship between mental illness and crime could go far to assure better protection for society while at the same time providing meaningful dispositions for the mentally diseased.

PART II: OFFENSES

Part II of title I defines in one place, for the first time since 1790, all Federal felonies, as well as certain related Federal offenses of a less serious character. As is true of part I, part II encompasses a variety of essential reforms. Offenses and, in appropriate instances, specific defenses, are defined in simple, concise and straightforward terms.

Those provisions of existing law which have been found to be obsolete or unusable have been eliminated—for example, 18 U.S.C. 1651—operating a pirate ship on behalf of a "foreign prince"; 18 U.S.C. 45—detaining a U.S. carrier pigeon; 18 U.S.C. 2198—seducing a female steamship passenger—loopholes in existing law have been closed—for example, section 1731—theft of union welfare funds—and new offenses have been created where necessary—for example, section 1862—leading organized crime. Of course, where existing law has proved satisfactory and where existing statutory language has received favorable case law interpretation, the law and the operative language have been retained.

Reforms are also suggested with respect to penalties: anomalies have been obviated and penal sanctions have been provided which appropriately reflect the seriousness of the offense by contemporary standards. In some instances, higher potential penalties result—for example, the penalty for arson has been raised from 5 to 15 years in prison—in others the potential penalties have been reduced—for example, impersonation of a foreign official carries a 3 rather than a 10-year prison term. Thus, the effect of the bill's penalty provisions is to reflect current judgments as to the seriousness of different offenses. This is particularly true with respect to the death penalty, which would be provided only for particularly heinous criminal conduct such as wartime treason, sabotage or espionage and murder in certain types of situations—section 2401.

As with the definitions of an offense, the circumstances giving rise to Federal jurisdiction over an offense—the jurisdictional bases—are spelled out in simple, concise langage. Far more important, however, is the bill's discriminating approach to Federal jurisdiction. It emphatically rejects the notion of drastic encroachment on areas of State sovereignty, whether by proliferating the number of jurisdictional bases or by radically expanding their applicability. Indeed, jurisdiction has been contracted in areas in which the States have demonstrated little need for assistance in effectively protecting their citizens.

Although the bill reflects a modest extension of Federal jurisdiction, extreme care has been taken to limit expansion to areas of compelling Federal interest which are not adequately dealt with under present law. For example, under present law traveling in interstate commerce to bribe a witness in a State court proceeding is a Federal crime—18 United States Code 1952—but traveling in interstate commerce to threaten or intimidate the witness is not, even if the intimidation takes the form of murder. Obviously, the Federal interest—assisting the State in safeguarding the integrity of its judicial processes—is the same in each case. This being so, an extension of Federal jurisdiction is plainly warranted.

It is anomalous situations of this kind which have prompted the moderate expansion of Federal jurisdiction reflected in the Code. And, of course, the existence of Federal jurisdiction does not require that it be exercised blindly. As they have in the past, Federal prosecutors, under guidelines issued by the Department of Justice, can be expected to continue to exercise discretion by deferring to local authorities in cases primarily of State concern. The bill encourages the sound exercise of prosecutorial discretion in this area by requiring the filing of annual reports by the Department to bring to the attention of Congress the number of cases brought under each of the various jurisdictional bases—section 211.

PART III: SENTENCING

The reforms wrought by parts I and II of title I would have little practical significance if they were unaccompanied by a realistic approach to the myriad problems which arise once a person has been convicted of a Federal offense. Existing law in title 18 alone, provides for 18 different terms of imprisonment and 14 different fines, often with no discernible relationship between the possible term of imprisonment and the size of the fine. Part III of the bill, therefore, replaces existing anomalies with a rational system whereby offenses are classified for purposes of imprisonment and fines into eight categories.

The bill provides for imposition in appropriate cases of a "notice sanction" requiring a corporate or individual defrauder to give notice of the conviction to those innocent victims who may be entitled to file civil claims for damages—section 2004; and includes mandatory minimum prison terms for persons using dangerous weapons in the course of a crime—section 1813—traffickers in hard narcotics—section 1821—and organized crime leaders—section 1862.

To reduce the possibility of unwarranted disparities in sentencing, the bill sets forth criteria for the imposition of sentence—including, in section 2401, detailed criteria for imposition of the death penalty. Another significant change which is suggested in this area is the inclusion of a parole component in all prison sentences to insure that control will be maintained over hardened criminals after their release from confinement.

As even this limited review of the bill's more significant features makes clear, its potential for enhancing our Federal law is enormous.

This bill can be regarded as a truly momentous advance toward fulfillment of one of the most basic demands of our society, justice in the administration of the criminal law, for justice in the administration of the criminal law inevitably rests upon the justice of the criminal law.

Mr. President, when S. 1 was introduced, Senator McCLELLAN and I both indicated that we were not prepared to provide a blanket endorsement of its provisions. That bill was viewed only as a preliminary work product. It is a starting point. A base upon which to build. Each provision will be given deep study and serious consideration. Some will be adopted, some modified, and some rejected during the processing of the bill. The senior Senator from Arkansas has authorized me to say that his attitude and approach to the instant bill will be the same as they will be with respect to S. 1. So will mine.

The bill which I introduce today is recognized as a monumental effort by the administration, including the Department of Justice and other participating departments and agencies. Particular accolades should go to former Attorney General Mitchell, Attorney General Kleindienst, Assistant Attorney General Henry Petersen and Mr. Ronald L. Gainer who led the Code Unit in the Criminal Division of the Department.

There is much room for debate on this bill and S. 1. I myself will likely have

reservations with respect to certain provisions of S. 1400. For example, there is no provision in it for the appellate review of criminal sentences as embraced by the final report of the national commission. Moreover, this concept is not even recognized to the extent of current law with respect to dangerous special offenders as contained in title 18 United States Code, section 3576, added by Public Law 91–452, the Organized Crime Control Act of 1970.

The lack of authority and machinery to review unreasonable sentences has troubled this Senator for many years. Hopefully, the bill that eventually emerges from Congress to supplant the current Federal criminal law will contain some provision in this regard along the lines of S. 716 which I introduced on February 1 of this year with the cosponsorship of Senator McCLELLAN.

Senator McCLELLAN and I firmly believe that the project of rewriting title 18 must be approached with a healthy spirit of compromise. The bill that we will eventually bring forward will have provisions to which we may object or about which we may not be enthusiastic, and that may be true as to each member of the subcommittee and the full Judiciary Committee. But if we are to bring about this reform, again I say that there has to be some give and take. We will have to make up our minds that we are not going to vote against the whole program just because it contains one provision of law or one feature of a bill that we do not like.

S. 1400 and S. 1 offer Congress its first opportunity in nearly 200 years to restructure Federal criminal law so as to better serve the ends of justice in its broadest sense—justice to the individual and justice to society as a whole. While it would be unrealistic to assume that every facet of S. 1400 or S. 1 will be viewed with equal favor by all observers, I do not think it too much to hope that the task of translating the proposals they embody into reality will be approached with quiet reason and in a spirit of true bipartisanship. The monumental importance of the undertaking demands no less.

I ask unanimous consent that the following exhibits be printed in the RECORD at the conclusion of my remarks:

First. Excerpts from the President's sixth message to Congress on the state of the Union;

Second. Letter from the Attorney General transmitting the Criminal Code Reform Act of 1973;

Third. An analysis of the subject bill; and

Fourth. A series of comparison tables.

There being no objection, the exhibits were ordered to be printed in the RECORD, as follows:

EXHIBIT No. 1

THE WHITE HOUSE.

To the Congress of the United States:

This sixth message to the Congress on the State of the Union, concerns our Federal system of criminal justice. It discusses both the progress we have made in improving that system and the additional steps we must take to consolidate our accomplishments and to further our efforts to achieve a safe, just, and law-abiding society.

In the period from 1960 to 1968 serious crime in the United States increased by 122 percent according to the FBI's Uniform Crime Index. The rate of increase accelerated each year until it reached a peak of 17 percent in 1968.

In 1968 one major public opinion poll showed that Americans considered lawlessness to be the top domestic problem facing the Nation. Another poll showed that four out of five Americans believed that "Law and order has broken down in this country." There was a very real fear that crime and violence were becoming a threat to the stability of our society.

The decade of the 1960s was characterized in many quarters by a growing sense of permissiveness in America—as well intentioned as it was poorly reasoned—in which many people were reluctant to take the steps necessary to control crime. It is no coincidence that within a few years time, America experienced a crime wave that threatened to become uncontrollable.

This Administration came to office in 1969 with the conviction that the integrity of our free institutions demanded stronger and firmer crime control. I promised that the wave of crime would not be the wave of the future. An all-out attack was mounted against crime in the United States—

The manpower of Federal enforcement and prosecution agencies was increased.

New legislation was proposed and passed by the Congress to put teeth into Federal enforcement efforts against organized crime, drug trafficking, and crime in the District of Columbia.

Federal financial aid to State and local criminal justice systems—a forerunner of revenue sharing—was greatly expanded through Administration budgeting and Congressional appropriations, reaching a total of $1.5 billion in the three fiscal years from 1970 through 1972.

These steps marked a clear departure from the philosophy which had come to dominate Federal crime fighting efforts, and which had brought America to record-breaking levels of lawlessness. Slowly, we began to bring America back. The effort has been long, slow, and difficult. In spite of the difficulties, we have made dramatic progress.

In the last four years the Department of Justice has obtained convictions against more than 2500 organized crime figures, including a number of bosses and under-bosses in major cities across the country. The pressure on the underworld is building constantly.

Today, the capital of the United States no longer bears the stigma of also being the Nation's crime capital. As a result of decisive reforms in the criminal justice system the serious crime rate has been cut in half in Washington, D.C. From a peak rate of more than 200 serious crimes per day reached during one month in 1969, the figure has been cut by more than half to 93 per day for the latest month of record in 1973. Felony prosecutions have increased from 2100 to 3800, and the time between arrest and trial for felonies has fallen from ten months to less than two.

Because of the combined efforts of Federal, State, and local agencies, the wave of serious crime in the United States is being brought under control. Latest figures from the FBI's Uniform Crime Index show that serious crime is increasing at the rate of only one percent a year—the lowest recorded rate since 1960. A majority of cities with over 100,000 population shows an actual reduction in crime.

These statistics and these indices suggest that our anti-crime program is on the right track. They suggest that we are taking the right measures. They prove that the only way to attack crime in America is the way crime attacks our people—without pity. Our program is based on this philosophy, and it is working.

Now we intend to maintain the momentum we have developed by taking additional steps to further improve law enforcement and to further protect the people of the United States.

* * * * *

THE CRIMINAL CODE REFORM ACT

The Federal criminal laws of the United States date back to 1790 and are based on statutes then pertinent to effective law enforcement. With the passage of new criminal laws, with the unfolding of new court decisions interpreting those laws, and with the development and growth of our Nation, many of the concepts still reflected in our criminal laws have become inadequate, clumsy, or outmoded.

In 1966, the Congress established the National Commission on Reform of the Federal Criminal Laws to analyze and evaluate the criminal Code. The Commission's final report of January 7, 1971, has been studied and further refined by the Department of Justice, working with the Congress. In some areas this Administration has substantial disagreements with the Commission's recommendations. But we agree fully with the almost universal recognition that modification of the Code is not merely desirable but absolutely imperative.

Accordingly, I will soon submit to the Congress the Criminal Code Reform Act aimed at a comprehensive revision of existing Federal criminal laws. This act will provide a rational, integrated code of Federal criminal law that is workable and responsive to the demands of a modern Nation.

The act is divided into three parts—

1. General provisions and principles;
2. Definitions of Federal offenses; and
3. Provisions for sentencing.

Part 1 of the Code establishes general provisions and principles regarding such matters as Federal criminal jurisdiction, culpability, complicity, and legal defenses, and contains a number of significant innovations. Foremost among these is a more effective test for establishing Federal criminal jurisdiction. Those circumstances giving rise to Federal jurisdiction are clearly delineated in the proposed new Code and the extent of jurisdiction is clearly defined.

I am emphatically opposed to encroachment by Federal authorities on State sovereignty, by unnecessarily increasing the areas over which the Federal Government asserts jurisdiction. To the contrary, jurisdiction, has been relinquished in those areas where the States have demonstrated no genuine need for assistance in protecting their citizens.

In those instances where jurisdiction is expanded, care has been taken to limit that expansion to areas of compelling Federal interest which are not adequately dealt with under present law. An example of such an instance would be the present law which states that it is a Federal crime to travel in interstate commerce to bribe a witness in a State court proceeding, but it is not a crime to travel in interstate commerce to threaten or intimidate the same witness, though intimidation might even take the form of murdering the witness.

The Federal interest is the same in each case—to assist the State in safeguarding the integrity of its judicial processes. In such a case, an extension of Federal jurisdiction is clearly warranted and is provided for under my proposal.

The rationalization of jurisdictional bases permits greater clarity of drafting, uniformity of interpretation, and the consolidation of numerous statutes presently applying to basically the same conduct.

For example, title 18 of the criminal Code as presently drawn, lists some 70 theft offenses—each written in a different fashion to cover the taking of various kinds of property in different jurisdictional situations. In the proposed new Code, these have been reduced to 5 general sections. Almost 80 for-

gery, counterfeiting, and related offenses have been replaced by only 3 sections. Over 50 statutes involving perjury and false statements have been reduced to 7 sections. Approximately 70 arson and property destruction offenses have been consolidated into 4 offenses.

Similar changes have been made in the Code's treatment of culpability. Instead of 79 undefined terms or combinations of terms presently found in title 18, the Code uses four clearly defined terms.

Another major innovation reflected in Part One is a codification of general defenses available to a defendant. This change permits clarification of areas in which the law is presently confused and, for the first time, provides uniform Federal standards for defense.

The most significant feature of this chapter is a codification of the "insanity" defense. At present the test is determined by the courts and varies across the country. The standard has become so vague in some instances that it has led to unconscionable abuse by defendants.

My proposed new formulation would provide an insanity defense only if the defendant did not know what he was doing. Under this formulation, which has considerable support in psychiatric and legal circles, the only question considered germane in a murder case, for example, would be whether the defendant knew whether he was pulling the trigger of a gun. Questions such as the existence of a mental disease or defect and whether the defendant requires treatment or deserves imprisonment would be reserved for consideration at the time of sentencing.

Part Two of the Code consolidates the definitions of all Federal felonies, as well as certain related Federal offenses of a less serious character. Offenses and, in appropriate instances, specific defenses, are defined in simple, concise terms, and those existing provisions found to be obsolete or unusable have been eliminated—for example, operating a pirate ship on behalf of a "foreign prince," or detaining a United States carrier pigeon. Loopholes in existing law have been closed—for example, statutes concerning the theft of union funds, and new offenses have been created where necessary, as in the case of leaders of organized crime.

We have not indulged in changes merely for the sake of changes. Where existing law has proved satisfactory and where existing statutory language has received favorable interpretation by the courts, the law and the operative language have been retained. In other areas, such as pornography, there has been a thorough revision to reassert the Federal interest in protecting our citizens.

The reforms set forth in Parts One and Two of the Code would be of little practical consequence without a more realistic approach to those problems which arise in the post-conviction phase of dealing with Federal offenses.

For example, the penalty structure prescribed in the present criminal Code is riddled with inconsistencies and inadequacies. Title 18 alone provide 18 different terms of imprisonment and 14 different fines, often with no discernible relationship between the possible term of imprisonment and the possible levying of a fine.

Part Three of the new Code classifies offenses into 8 categories for purposes of assessing and levying imprisonment and fines. It brings the present structure into line with current judgments as to the seriousness of various offenses and with the best opinion of penologists as the efficacy of specific penalties. In some instances, more stringent sanctions are provided. For example, sentences for arson are increased from 5 to 15 years. In other cases penalties are reduced. For example, impersonating a foreign official carries a three year sentence, as opposed to the 10 year term originally prescribed.

To reduce the possibility of unwarranted disparities in sentencing, the Code establishes criteria for the imposition of sentence. At the same time, it provides for parole supervision after all prison sentences, so that even hardened criminals who serve their full prison terms will receive supervision following their release.

There are certain crimes reflecting such a degree of hostility to society that a decent regard for the common welfare requires that a defendant convicted of those crimes be removed from free society. For this reason my proposed new Code provides mandatory minimum prison terms for trafficking in hard narcotics; it provides mandatory minimum prison terms for persons using dangerous weapons in the execution of a crime; and it provides mandatory minimum prison sentences for those convicted as leaders of organized crime.

The magnitude of the proposed revision of the Federal criminal Code will require careful detailed consideration by the Congress. I have no doubt this will be time-consuming.

* * * * *

CONCLUSION

This Nation has fought hard and sacrificed greatly to achieve a lasting peace in the world. Peace in the world, however, must be accompanied by peace in our own land. Of what ultimate value is it to end the threat to our national safety in the world if our citizens face a constant threat to their personal safety in our own streets?

The American people are a law-abiding people. They have faith in the law. It is now time for Government to justify that faith by insuring that the law works, that our system of criminal justice works, and that "domestic tranquility" is preserved.

I believe we have gone a long way toward erasing the apprehensions of the last decade. But we must go further if we are to achieve that peace at home which will truly complement peace abroad.

The Federal Government cannot do everything. Indeed, it is prohibited from doing everything. But it can do a great deal. The crime legislation I will submit to the Congress can give us the tools we need to do all that we can do. This is sound, responsible legislation. I am confident that the approval of the American people for measures of the sort that I have suggested will be reflected in the actions of the Congress.

RICHARD NIXON.

THE WHITE HOUSE, *March 14, 1973.*

EXHIBIT 2

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: In his State of the Union message on crime on Wednesday, March 14, 1973, President Nixon stated that he soon would be transmitting to the Congress a bill to reform, revise, and codify the substantive criminal law of the United States. Attached for your consideration and appropriate reference is the proposal to which the President referred—the Criminal Code Reform Act of 1973.

The proposed Criminal Code Reform Act had its genesis in Public Law 89-801, by which the Congress created the National Commission on Reform of Federal Criminal Laws to review the existing criminal code and to make recommendations for its reform. On January 7, 1971, the Commission submitted its report to the President and the Congress "as a work basis upon which the Congress may undertake the necessary reform of the substantive criminal laws." Upon receipt of the report, the President acknowledged the valuable contribution of the Commission and directed that the Department of Justice establish a team of experienced attorneys to "prepare a thorough evaluation of the . . . Report [of the Commission,] make an independent examination of the present Federal Criminal Code and recommendations for its comprehensive reform . . . [and,] after the foregoing thorough analysis, prepare and submit appropriate legislation encompassing comprehensive reform of our Federal criminal laws." For two years the Department of Justice has been engaged in the task assigned by the President. The attached Criminal Code Reform Act is the product of that effort.

The need for reform and codification of the federal criminal law is universally conceded. For too long now our efforts to protect life and property, human rights and domestic tranquility have been hobbled by the most fundamental element of the criminal justice system, the law itself. While numerous individual criminal statutes, particularly some of the more recent ones, have been of great value, an even greater number have been of little or no use, and as a body of law the existing provisions have been sadly deficient. The Criminal Code Reform Act faces this problem squarely and meets it fairly, by providing a rational, integrated code which is both workable and responsive to the demands of our twentieth century society.

Although the Code contains approaches and proposals suggested by numerous sources, its principal indebtedness is to the "work basis" supplied by the Commission and to those elements of the current statutory and case law that have proved particularly effective.

Title I of the draft bill contains the revision of the substantive federal criminal law. It consists of an amendment of existing Part I of title 18, United States Code, which replaces that Part with three parts relating, first, to general provisions and principles of criminal law; second, to a description of federal offenses; and third, to sentencing for offenses against federal law.

Part I of the proposed Code sets forth general provisions and principles with respect to such matters as federal criminal jurisdiction, culpability, and complicity, and codifies, for the first time in federal criminal law, general defenses to prosecution.

The matter of the most fundamental importance in Part I is the approach to the treatment of federal criminal jurisdiction—treating as a federal offense the basic criminal misconduct which occurs under circumstances giving rise to federal jurisdiction rather than regarding the offense in terms of an affront to some federal jurisdictional factor. Among the numerous advantages to this approach are clarity of drafting, uniformity of interpretation, and consolidation of numerous existing offenses consisting of basically the same type of conduct. While the basis of this approach had been recommended by the Commission, the variation adopted by the Department of Justice achieves the advantages of the approach without fostering a material expansion of the reach of federal criminal jurisdiction. This has been accomplished by including in each section describing an offense a separate subsection which concisely spells out the specific circumstances giving rise to federal jurisdiction, and which tailors those circumstances to the scope of current law unless there is good reason to vary from it. The proposed Code, therefore, rejects any expansion of federal jurisdiction which would cause a material encroachment on areas of state sovereignty, whether by proliferating the number of jurisdictional bases or by significantly expanding their applicability.

Part II of the proposed Code defines in one place, for the first time since 1790, all federal felonies, as well as certain related federal offenses of a less serious nature. Offenses and, in appropriate instances, specific defenses,

are defined in simple, concise, and straightforward terms. Those provisions of existing law which have been found to be obsolete or unusable have been eliminated, duplicative or overlapping provisions have been consolidated and gaps have been closed. Where existing statutory provisions—particularly the more recent enactments—have proved satisfactory, and where existing statutory language has received valuable case law interpretation, the law and the operative language have been retained.

Part III of the proposed Code replaces the existing hodgepodge of sentences and fines with a rational system whereby offenses are classified for purposes of imprisonment and fines into nine categories. (These categories are made applicable to offenses described outside Title 18 as well as those described within the Title.) For the most part, these penalty levels generally reflect the terms of imprisonment determined by the Congress to be warranted by the current counterparts of the specific offenses listed in the Code, although mandatory minimum prison terms have been included for persons using dangerous weapons in the course of a crime, traffickers in hard narcotics, and organized crime leaders, and a parole component has been included in all prison sentences to insure that "street-time" supervision will be available for all offenders and not just those found to deserve early release on parole. The fine levels, however, have been substantially increased in order that they may be felt not just by defendants without major financial resources but by those defendants, corporate and individual, who for too long have tended to view criminal fines as an insignificant potential addition to the cost of doing business. Moreover, Part III provides for the imposition in appropriate cases of a "notice sanction" requiring a corporate or individual defrauder to give notice of the conviction to those innocent victims who may be entitled to file civil claims for damages. The death penalty provisions of the proposed Code have been carefully drafted to meet the concerns expressed by the justices of the Supreme Court; the penalty is made available only for particular crimes—treason, sabotage, espionage and murder—and then only under certain very limited circumstances.

Title II of the draft bill primarily contains conforming amendments, including amendments designed to retain but relocate those provisions concerning misdemeanors which are appropriately located outside Title 18 because of their relationship to a certain government agency or program, and amendments to conform references to existing sections of Title 18 to the new section numbers. There are a few substantive changes made by Title II. The provisions relating to parole, the sanity of the defendant, and juvenile delinquency have been substantially amended in accord with the amendments to Title 18 made by Title I of the draft bill, and a new statute of limitations provision has been included to provide a single provision for all federal offenses. A few other provisions have been modified or repealed, consistent with the sentencing provisions in proposed Part III of Title 18. Other technical, conforming amendments to certain provisions outside Title 18 which remain to be made will be prepared and submitted for later consideration.

Title III of the draft bill contains the severability and effective date provisions.

Congress is now presented with its first opportunity in nearly 200 years to simplify and restructure the federal criminal law so as to serve more effectively the ends of justice in its broadest sense—justice to the individual and justice to society as a whole. While every facet of the proposed Code may not be viewed with equal favor by all observers, we do not think it too much to hope that the task of translating the proposals it embodies into reality will be approached with quiet reason and in a spirit of true bipartisanship. The monumental importance of the undertaking demands no less.

We look forward to working with the Congress in its consideration of this legislation and we will welcome the opportunity to provide testimony and documentary explanations of the reasons underlying specific aspects of the Code.

The Office of Management and Budget has advised the Department that enactment of this proposal would be in accord with the Program of the President.

Sincerely,

———— ————,

Attorney General.

EXHIBIT 3

OUTLINE OF SOME OF THE MOST SIGNIFICANT PROVISIONS OF S. 1400

CHAPTER 1

§ 102. Four purposes of sentencing are listed: assurance of just punishment, deterrence, incapacitation, and rehabilitation.

§ 103. The common-law rule requiring strict construction of penal statutes is applicable to the code only to the extent necessary to assure fair notice of what constitutes an offense. Any other historical aspects of the rule are expressly made inapplicable, as they are under current case law. Such an express abrogation of the other historical aspects of the rule is included in several modern state codes.

§ 104. This section assures that any civil remedy available to a victim of an offense will in no way be abrogated by any provision of the code.

§ 105. Applicable sentences for offenses are separated into nine penalty levels, instead of permitting an infinite range of penalties.

§ 111. A total of seventy-nine terms commonly used throughout the code are catalogued and specifically defined. In current law, many of these terms are undefined and others are separately defined with conflicting meanings. Standard definitions for such frequently used terms as "anything of value", "government", "mail", "public servant", and "United States" is a major improvement over current law.

CHAPTER 2

Chapter 2 introduces the general treatment of federal jurisdiction in the proposed new criminal code. The essence of the code approach is to impose punishment for the underlying misconduct which is within the federal jurisdiction, rather than to impose punishment for the interference with the jurisdictional factor itself. For example, the essence of section 1621 is kidnapping, rather than, as in the primary provision of current law, the interstate transportation of a victim of a kidnapping. The power of the federal government to prosecute for kidnapping under section 1621, however, is limited by a subsection setting forth the particular circumstances permitting prosecution (among these being the interstate transportation of the victim). This approach has several material advantages, not the least of which are clarity of drafting, uniformity of interpretation, and consolidation of offenses into fewer offenses with several jurisdictional bases. This is the most fundamental innovation proposed by the Brown Commission.

Two collateral jurisdictional proposals were also made by the Brown Commission. First, the Brown Commission recommended consolidating the existing circumstances giving rise to federal jurisdictional bases, one or more of which would apply to each penal section by cross reference. This, by the generality of the language employed, would significantly expand federal jurisdiction in numerous offenses.

This approach is rejected in the proposed new criminal code; instead, particularized bases, tailored to the penal section in which they appear, have been employed. This approach permits tight control over any jurisdictional expansion or contraction. Second, the Brown Commission proposed that some offenses be subject to federal prosecution if they occur in the course of another offense over which federal jurisdiction exists. While this concept of ancillary ("piggyback") jurisdiction has several advantages, and in fact is employed in substance in several provisions of current law, its broad application as suggested by the Brown Commission would result in a material increase in federal jurisdiction. While the proposed new criminal code adopts the concept of ancillary jurisdiction because of its basic advantages, its use in the proposed code is severely limited—considerably more limited than its use in the Brown Commission proposal or the use of the analogous "compound grading" technique employed in S. 1.

§ 202. Proof of more than one circumstance giving rise to federal jurisdiction over an offense does not, in itself, increase the number of offenses committed. Thus, theft of a federal document from the mails on a military post is one offense (theft) with three circumstances giving rise to federal jurisdiction, rather than three offenses (theft of government property, theft from the mails, and theft on a federal enclave).

§ 203. This section defines in one place the territorial maritime, and aircraft jurisdiction of the United States. A major addition to the special territorial jurisdiction is jurisdiction over the Indian country. This, together with associated changes, will eliminate the discrimination in current law so that an offense committed by or against an Indian will now carry the same penalty as an offense committed by or against a non-Indian. As under current law, however, federal law does not apply to Indian reservations where a state has exclusive jurisdiction or where tribal law has been applied.

The broad range of the special aircraft jurisdiction incorporates the requirements imposed by treaties.

§ 204. This sets forth in a single provision all instances in which the United States may prosecute for an offense committed outside its ordinary jurisdiction. It contains three innovations. First, in subsection (g) it closes the gaps in jurisdiction where a civilian accompanying the Armed Forces commits an offense for which the host nation will not or cannot prosecute, where a United States diplomat commits an offense and cannot be prosecuted by the foreign nation because of his immunity, and where a member of the armed forces commits an offense in a foreign nation and the commission of the offense is not discovered prior to his discharge. Second, in subsection (h) extraterritorial jurisdiction is extended to cover any offense by or against a U.S. citizen outside the jurisdiction of any nation, thereby permitting prosecution for offense committed in areas not now covered by the law of any nation, such as Antarctica or the moon. Third, subsection (i) covers such extraterritorial jurisdiction as is required by treaty to implement United States obligations under various international conventions. This provision would cover piracy, for example, as an aspect of extraterritorial jurisdiction under a treaty, through which traditional assault and property-taking offenses may be prosecuted rather than as a substantive offense of "Piracy."

§ 211. Annual Reports to the Congress, setting forth for each offense the number of prosecutions commenced during the preceding year, and identifying the number prosecuted under each particular circumstance giving rise to federal jurisdiction, are required for the purpose of providing the Congress with the information necessary to make reasonable determinations concerning the advisability of expanding or retracting the reach of federal jurisdiction in particular areas. This means of ascertaining and controlling the exercise of federal jurisdiction by legislative review is substituted for the

Brown Commission's hortatory approach. The Brown Commission had called for the declination of prosecution unless there exists a "substantial federal interest" in an offense, such as would be prompted by the involvement of organized crime or the corruption of state law enforcement agencies; the existence or nonexistence of such a "substantial federal interest" would not be litigable.

CHAPTER 3

§§ 301–302. The mental element of an offense must be described by one of four defined terms denoting particular states of culpability. The current title 18 uses 79 different terms or combination of terms to cover the same ranges of culpability. The simplification should permit far more uniformity of interpretation. The Brown Commission proposal and several modern state codes, in emulation of the Model Penal Code, have employed variations of the same four terms.

§ 303. Subsection (c) provides that culpability is not required for jurisdictional factors. Consequently, it is not a requisite to federal conviction that, for example, a sniper be aware that the police officer he is shooting is a federal police officer, nor that a thief be aware that it is federally-owned property he is stealing. This accords with current case law in most, but not all, areas.

CHAPTER 4

§ 402. The liability of an organization for the conduct of its agent has been drafted to parallel existing case law, rather than to contract the existing law slightly as the Brown Commission inadvertently proposed, or to expand it slightly as others have suggested.

CHAPTER 5

For the first time in federal law, general defenses to prosecution are codified. However, instead of adopting the Brown Commission approach of detailing all of the ramifications of the various defenses, they are set forth in simple, general terminology designed to permit the courts necessary flexibility. This approach will permit the clarification of areas in which the case law is confused, and will provide Congressional support for the more carefully considered interpretations under existing law, while not presuming to occupy the field.

For the most part the codified defenses reflect present law in the majority of jurisdictions. The major exception is the defense of insanity. The proposed approach reflects rejection of the *McNaughton* rule combined with the "irresistible impulse" rule, the numerous variations of these rules suggested by the ALI and others, and the *Durham* rule with which the District of Columbia had experimented. The proposal would permit insanity to serve as a defense to a criminal prosecution only if the insanity precluded a finding of the existence of the required mental element of the offense. Under this "criminal intent" test, a defendant who suffers from a mental disease or defect, but who nevertheless is capable of acting intentionally or knowingly, would have his insanity considered at pre-sentence stage in connection with a determination of what should be done with him. While this is not yet the law in any American jurisdiction, respectable legal and psychiatric authority has developed in its support and it was recommended by a minority of the Brown Commission.

CHAPTER 10

§ 1001. There is, under the current law, no attempt statute of general applicability, although a number of individual offenses contain attempt provisions. This section makes it an offense to attempt to commit any Federal crime. The attempted offense in most instances carries the same penalty as the completed offense on the theory that a defendant who begins to commit an offense should not benefit from a happenstance causing its interruption. Nevertheless, to encourage abandonment of criminal enterprise, a voluntary, complete, and effective avoidance of the offense constitutes an affirmative defense.

§ 1002. The conspiracy provision reflects current law, as developed through judicial interpretations of the present general conspiracy statute.

§ 1003. With the exception of subornation of perjury, there is no solicitation offense in current Federal law. The Brown Commission recommended a general offense covering the solicitation of another to commit any Federal offense. This section severely limits the offenses for which solicitation is itself an offense because of concern that its indiscriminate application might in some areas infringe on First Amendment protections.

CHAPTER 11

§ 1101. Unlike the Brown Commission approach, treason is cast in the terminology employed in the Constitution, thereby assuring constitutionality and preservation of existing case law. Major rebellion is graded less severely than assistance to foreign enemies.

§ 1102. Domestic rebellion, of lesser scope than that described in 1101, is made a separate offense, carrying a lesser penalty than treason. While possibly giving the appearance of cutting back on the reach of existing law, it does not do so in fact, since it is similar to 18 U.S.C. 2382 and 2384.

§ 1103. This replaces the Smith Act, 18 U.S.C. 2385. It is a simplified version, embodying those elements the Supreme Court held necessary to the validity of the Smith Act and eliminating the superfluous verbiage and the matters held to be invalid.

§ 1104. This penalizes the use of weapons by a group of persons for the purpose of taking over a government function or a government agency. There is no comparable provision in current law, although the Brown Commission proposed a similar provision. The Brown Commission proposal, which would penalize the use of weapons by a group for "political purposes", is broader than § 1104.

§ 1111. There is added to the traditional means of committing sabotage the knowing supplying of defective materials for national defense purposes.

§ 1121. This section covers the espionage offenses—collecting and communicating military secrets to foreign powers—now found in 18 U.S.C. 793(a)(c) and 794.

The subject of espionage is defined as "national defense" information, a term less broad than the Brown Commission's "national security" information. It covers any information relating to the national defense, whether or not classified. The offense requires a specific intent to harm the United States or to benefit a foreign power. Espionage carries the highest penalty if, *inter alia*, it is committed either during wartime or during a specially-declared period of "national defense emergency."

The Brown Commission's proposal to cover espionage on behalf of domestic rebels is rejected; adequate coverage is available under related sections.

§ 1122. Disclosure of national defense information to any person not authorized to receive it is made an offense even though the information is not classified. This covers such information as has not yet been stamped as classified, and such information as is inherently not capable of being classified. The offense is currently covered by 18 U.S.C. 793 (d) and (e).

§ 1123. This offense, derived from 18 U.S.C. 793(f), punishes grossly negligent conduct, on the part of one entrusted with national defense information, who subjects it to compromise.

§ 1124. The offense of disclosing classified information has been broadened both as to leakers, by including former officials and other persons entrusted with classified materials, and as to recipients, by covering disclosure to any unauthorized person, not merely communists or foreign agents as in current law (50 U.S.C. 783 (b)). It is sufficient for conviction that the information was classified; the propriety of the classification is irrelevant. To avoid the possibility of penalizing persons who have no special responsibility for classified information, penalization of the recipient either as an accomplice or as a co-conspirator is expressly precluded.

§ 1125. An unauthorized recipient of classified information himself commits an offense only if he is a foreign agent. The provision of current law (50 U.S.C. 783(c)) covering communists who are not foreign agents, as well as foreign agents, is dropped.

CHAPTER 13

§ 1301. Current law contains an offense for conspiracy to defraud the government (18 U.S.C. 371) but not a substantive offense of defrauding the government. This section replaces that portion of the conspiracy statute with a substantive offense. In combination with the theft provision which covers frauds involving the taking of property, and the various other provisions of Chapter 13 which cover specific forms of non-property taking frauds against the United States, this section assures adequate coverage against any scheme to defraud the government.

§ 1313. The penalty for bail jumping parallels the penalty provided for the underlying offense charged in cases of major crimes. This eliminates the incentive to jump bail in the hope of facing a reduced penalty after sufficient time has passed that the government's main case has grown stale through unavailability of witnesses and evidence.

§ 1315. Introducing or possessing contraband items in a federal prison is graded according to the seriousness of the item involved, ranging from high penalties for such things as firearms or heroin to very minor penalties for such things as prohibited food items or cigaretts which are deemed contraband purely for reasons of prison discipline. Under current law, possession or introduction of any prohibited item carries a ten-year felony penalty.

§ 1321. The outright bribery of a witness in an official proceeding to influence his testimony receives separate treatment, as it does in current law. It carries a relatively high penalty, reflecting the seriousness of the offense and its effect on the administration of justice.

§ 1322. Payments that do not amount to outright bribes, but are nonetheless improper payments for or because of a person's testimony or appearance at an official proceeding, are penalized as they are under current law. Problems that have plagued the courts on the issues of who specifically is a witness or when an official proceeding has begun have been resolved.

§ 1323. Current law covers tampering with witnesses and informants by means of force or threats only in a vague obstruction of justice statute. This section spells out the prohibited conduct in detail, but continues a catch-all clause to assure that the coverage of current law is maintained. The provision of current law making it a federal crime to cross a state line or to use an interstate facility for the purpose of bribing a witness in a state case is broadened to cover such conduct for the purpose of threatening or intimidating such a witness.

§ 1324. Current law does not cover crossing a state line or using an interstate facility to retaliate against a witness or an informant in a state proceeding. This section would parallel the bribery jurisdiction in such cases.

§§ 1331–1336. These sections deal with criminal contempt and related offenses. Contempt may be punished summarily, as it carries only a six-month prison term. However, if the contemptuous behavior con-

stitutes an offense under another provision of the Code (e.g., failure to appear as a witness), the person could later be prosecuted for such an offense and would face an additional prison term of up to three years. Under current law, there is no limit on the term of imprisonment that may be imposed after a prosecution for criminal contempt.

§ 1342. Current law does not make perjury an offense if the false testimony is not material. This section creates such an offense, carrying a misdemeanor penalty, as a lesser-included form of perjury.

§ 1343. This section consolidates the numerous false statement statutes scattered throughout the United States Code—47 in title 18 alone. The offense, unlike current law, is graded below the penalty for perjury in order to obviate practical difficulties under the current statutes. Oral false statements, as well as written ones, are covered by the section. A limited defense is codified to exempt oral false statements, and written false statements, made to law enforcement officers.

§ 1346. In correspondence with the action of Congress in 1970, the two-witness rule in perjury prosecutions is eliminated, a retraction defense is codified, and a provision is included permitting conviction upon proof of two inconsistent statements without proof of which of the two is false. The element of "materiality", which previously has been left to case law, is codified along the lines of existing judicial interpretation.

§ 1351. Although the term "corruptly" is eliminated, this section covers in a simplified fashion the same reach as the current bribery provisions, and maintains the high penalty under current law (fifteen years) for bribing a public servant.

Concurrent federal jurisdiction to prosecute state and local briberies is not extended beyond current law. Where jurisdiction does exist to prosecute for a state bribery, however, it is the federal definition of bribery that will apply, and not the definition that happens to exist under the laws of the particular state in which the offense occurred. This should help simplify federal prosecutions for such state and local briberies.

§ 1352. The current lesser-included form of bribery is maintained to cover those situations where no express agreement or understanding can be proved, but where a payment, either before or after the official action in question, is made "for or because of" such action. This provision has proved to be of material value.

§ 1354. Payments to public servants, political party officials, and relatives of public servants are made illegal if the payment is made in return for the recipient's exerting influence on a public servant with respect to his official action.

§ 1356. Public servants are prohibited from using their own official actions or information gained because of their position for private gain while they remain public servants or for one year after they leave public service. As a statute of general applicability this offense is new to federal law.

§ 1357. The use of force, threat, intimidation, or deception to influence a public servant in the exercise of his official duties is prohibited. However, a defense is provided if the threat was of lawful conduct and its purpose was solely to influence the public servant to perform his duties properly.

CHAPTER 14

§ 1401. Contrary to the Brown Commission proposal, for the purpose of avoiding unnecessarily complex proof problems the tax evasion statute is graded as a seven-year felony irrespective of the size of the tax deficiency.

CHAPTER 15

§ 1501. The current statute covering conspiracy to deprive a person of his civil rights is modified by writing it as a substantive offense, by eliminating the more antiquated provisions as to the manner in which the offense may be committed (going 'in disguise" on a highway or on another's premises), by eliminating the requirement that the victim be a citizen, and by grading the offense as a misdemeanor rather than a 10-year felony. The reduction to a misdemeanor is appropriate in light of the nature of the offense, and in light of the fact that an actual assault, maiming. or murder occurring in the course of the offense may be separately charged and punished.

§ 1502. This replacement for the current civil rights statute reaching state action covers a law enforcement officer who intentionally commits a crime against a person which deprives that person of his civil rights. It is narrower than existing law in that it covers only acts that are criminal in themselves; it is broader than existing law in that the required intent concerns the criminal act and not the deprivation of civil rights.

§ 1531. Coverage of existing law is expanded to include disclosure of the contents of intercepted mail, thereby paralleling the provisions of the wiretapping statute.

§§ 1532–1533. The current statutory provisions against wiretapping and electronic eavesdropping are maintained. The current provision that prohibits certain advertising of eavesdropping devices is expanded to cover additional forms of advertising.

CHAPTER 16

§ 1601. The degrees of murder are eliminated as they have been employed historically, only to differentiate between murders to which the death penalty is applicable and those to which it is not; this differentiation is supplied in the proposed new code by section 2401.

The felony-murder doctrine is continued in a modified form. It applies only if the killing occurs in the course of one of the offenses specified, if the killing is of a person other than one of the participants in the offense, and if the killing in the course of the offense was a reasonably foreseeable possibility from the standpoint of the defendant.

Concurrent federal jurisdiction over homicide (and other offenses in the assault area) is limited to lesser federal public servants who are law enforcement officers, prison employees, or other specifically designated for coverage by the Attorney General, and who are killed because of their official duties. Concurrent federal jurisdiction is also provided, by the ancillary jurisdiction concept, over killings occurring in the course of certain specified felonies, some of which currently carry an increased penalty if death results in the course of the offense, and some of which do not. While the Brown Commission draft would permit federal prosecution for a murder occurring in the course of any other federal offense, the proposed code limits the attachment of such ancillary jurisdiction to approximately twenty-five federal offenses in which the availability of an aggravated penalty is most needed.

§§ 1602–1603. In these sections, as in the assault series, an increased penalty is provided if the victim of a manslaughter or a negligent homicide is the President or a successor to the presidency.

§ 1611. Unlike the recommendation of the Brown Commission, but like current law, this provision provides an appropriately severe penalty (15 years) where an assault reaches the level of maiming.

§ 1615. This provides for an increased penalty for engaging in any criminal conduct which recklessly endangers the life of another. The provisions, which was suggested by the Brown Commission, provides a convenient way for upgrading offenses, which may or may not in themselves endanger human life, when life in fact is endangered (e.g., arson). It also provides a means of increasing the penalty where extremely aggravated forms of regulatory offenses are committed.

§ 1621. Current law punishes kidnapping for ransom "or otherwise." This section spells out the specific instances in which a kidnapping will warrant the highest penalties. The grading section is designed to deter a kidnapper from subjecting his victim to serious bodily injury or death.

§§ 1622–1623. These are lesser-included forms of kidnapping, carrying grading levels proportionate to the offense. Current law applies the same penalty to all forms of kidnapping.

§ 1625. The grading of aircraft hijacking is altered, like kidnapping, to provide the highest penalty where a victim of the offense is killed, the next highest penalty where a victim of the offense is seriously injured, and the third highest penalty where no victim of the offense is injured. This approach is predicated on the theory that the primary responsibility of the government is to deter the offender from taking the lives of innocent victims.

A special aircraft hijacking jurisdiction provision has been provided to implement the responsibility of the United States under the recent Convention for International Cooperation to Combat Aircraft Hijacking.

§ 1631. The offense of rape, and the other sexual offenses in the sections that follow, apply without distinction as to the sex of the offender or of the victim; forcible sodomy is included in the definition of the offense.

No particularized evidentiary requirements, corroboration requirements, or instruction requirements are included, nor is there any defense or grading distinction based upon the promiscuity of the victim.

The fifteen-year penalty is the basic penalty only. To it is added, by the use of the ancillary jurisdiction concept, any penalty for use of a weapon (seven years), serious bodily injury (seven years), maiming (fifteen years), or death (life imprisonment or death).

§ 1632. Subsection (a)(4) provides a general lesser included form of rape which serves to assure that an offender is less apt than under current law to avoid any penalty at all where a jury questions the sufficiency of the victim's resistance.

§ 1633. Consensual sexual activity between peers is excluded from the statutory rape provision. A limited mistake of age defense is provided.

CHAPTER 17

§§ 1701–1703. The grading of the arson series of offenses, while apparently lower than is customary, is subject to being increased by application of the assault and murder series of offenses where persons are injured or killed, and by application of the reckless endangerment offense where, although no one is injured, persons are endangered by the commission of the offense. Vital public facilities are specifically included for protection against arson, bombing, and other damage.

§ 1711. The modern state code version of burglary is largely adopted, with the rejection of the outmoded common law requirement of a "breaking". The federal interest in covering such premises as bank buildings and post offices is preserved.

§ 1712. The criminal trespass statute is carefully graded so that the penalty matches the degree of protection required by the premises in question and the amount of notice a trespasser has received. The highest penalty (Class A misdemeanor) is limited to trespass in highly secured government premises and dwellings.

§ 1721. The robbery offense is cast in traditional terminology, which has a fairly settled meaning, instead of the "theft plus assault" terminology suggested by the Brown Commission.

§ 1722. Extortion is included as a separate offense, paralleling the robbery offense, instead of being submerged in the general theft section as suggested by the Brown Commission. This avoids the loss of a favorable body of case law. However, the section is worded to overcome the adverse effects of a recent Supreme Court opinion construing the legislative intent as to one aspect of the existing statute in an unusually restrictive manner.

A jurisdictional provision is added to permit federal prosecution of persons extorting money from an employee of a federally-insured bank, thus filling a major gap in the current law which covers only bank robbery and not bank extortion.

§ 1723. This section creates a lesser form of extortion, permitting a grading distinction not available under current law.

§ 1724. The loansharking provisions passed by Congress in 1968 are here incorporated in revised form. The only material change is the making of an independent offense out of elements constituting only a *prima facie* case under the 1968 legislation. This offense, committed by making a loan of over $100 at an annual interest rate in excess of 45 percent which is unenforcible under the law of the state in which it is made (and which presumably is intended to be enforced by extra-legal means), carries a seven-year penalty as opposed to fifteen years for the other two forms of loansharking. The plenary federal jurisdiction provided by the 1968 act, which was based upon the commerce power and the bankruptcy power, is continued unchanged.

§ 1731. The 70-some theft provisions under current law are consolidated into a single offense. It covers all common law property-taking offenses, including larceny, embezzlement, misappropriation, and fraud. It should assure a far greater uniformity of case interpretation than previously has been possible. The extensive list of circumstances under which the federal government might prosecute for theft is derived from the jurisdictional provisions of the numerous statutes being consolidated.

§ 1735. The existing mail fraud and wire fraud statutes have been extremely valuable in federal prosecutions of "white collar" crime, having received highly favorable interpretations by the federal courts. Incorporating these statutes within the general theft provision, as suggested by the Brown Commission, could well result in the loss of what is one of the most important bodies of federal case law. This section sets forth the provisions of those existng statutes, using, for the most part, the current language. A primary difference is that, since the central element of the offense is the scheme to defraud rather than the use of the mails for interstate communications as in existing law, the mailing, for example, of fifty post cards in furtherance of a single scheme will constitute one offense rather than fifty. This meets the concerns that have been expressed about this aspect of the existing statutes.

A new statutory injunction remedy is provided in the procedural part of the Code to restrain violations of this section—a remedy that should be of considerable importance in protecting potential victims from "white collar" crime. This provision parallels the effective provision for injunctive relief which has long been available for violation of the fraud provisions of the Securities and Exchange Act. The limited injunctive relief currently granted the Postmaster General is too narrow to be effective.

§ 1741. This section consolidates more than 50 current statutes relating to counterfeiting and forgery—including statutes covering the counterfeiting and forgery of U.S. and foreign currency and securities; U.S. documents, badges, seals, etc.; writings used to influence an action of the U.S.; records of federally insured banks, and securities and tax stamps. The section creates a distinction between the terms "counterfeited" and "forged" and clearly defines each term, eliminating the confusion engendered by the common law use of these terms as synonyms. Counterfeiting (manufacturing a writing in its entirety) is treated as a more serious crime than forgery (altering an otherwise genuine writing).

§ 1742. This section consolidates more than 20 current statutes dealing with the unauthorized use of certain writings of the U.S., such as obligations and securities, seals, passports, licenses, citizenship documents, postage stamps, etc. The unauthorized issuance or use of such writings, where there is a federal interest, is given the same general coverage as in the forgery and counterfeiting area, thereby providing consistent and uniform coverage.

§ 1743. Consolidated in this section are approximately fifteen current statutes relating to the manufacture, use, or possession of implements suited for the counterfeiting of U.S. coins, currency, stamps, postmarks, vouchers, securities, seals, citizenship papers, visas, licenses, and foreign coins and currency.

§ 1751. This offense of commercial bribery, although broadly worded, is limited by the circumstances giving rise to federal jurisdiction to those cases where the payments involve the banking industry and government contractors. Contrary to the suggestion made by the Brown Commission, the reach of the section is not broadened beyond the bounds of current law. Existing federal jurisdiction over the offense is, in fact, contracted in order to avoid an unnecessary overlap with state criminal jurisdiction where there is no real need for federal intervention. The specific provisions of current law dealing with the televised quiz shows and "payola" in the record industry are maintained as misdemeanors outside the criminal code.

§ 1752. This section moves from title 29 of the United States Code the most serious form of bribery of union officials—involving payments from employers to influence union actions—and increases the penalty from a misdemeanor level to a three-year felony.

The present title 18 statutes covering bribery of pension and welfare officials is continued. Its reach is expanded, however, to cover all trust funds for employee benefits. Current law is also expanded to include the bribing of union officials in relation to union membership procedures and work placement, and in relation to the investment or expenditure of union assets—a coverage which will parallel that of the existing theft provisions.

§ 1765. This section retains existing penalty provisions of current law that punish such acts as distributing misbranded foods or drugs with intent to defraud, thereby preserving the availability of felony prison sentences for this form of "white collar" crime. The current penalty for sound recording piracy is increased to a felony level to reflect recent problems in that industry.

§1766. Offenses concerning the knowing distribution of adulterated meat, poultry, and eggs are moved into the criminal code and maintained as felonies in order to ensure public safety and protection.

CHAPTER 18

§§ 1801–1805. These sections generally maintain the substance of the existing federal law concerning riots, although the definition of "riot" has been contracted to require participation by at least five rather than three persons. In addition, federal jurisdiction over the offense of participating in a riot has been slightly contracted and the penalty for the offense has been reduced from five years to six months, unless the riot occurs in a federal prison or other federal detention facility, in which case the penalty is one year. Similar grading distinctions are applied to inciting or leading a riot and arming rioters.

§§ 1811–1812. These sections incorporate the existing penal provisions from regulatory offenses involving firearms and explosives.

§ 1813. As in a recently-enacted provision of existing law, the use of a firearm or explosive in the course of a crime is made an independently chargeable offense with a mandatory minimum penalty. This provision also covers, although by a lower mandatory penalty, the use of any other kind of dangerous weapon in the course of a felony.

§ 1821. These provisions parallel, in the code form, the new penal sanctions for drug offenses recently proposed to Congress to supplement those enacted in 1970. Basically, they will provide more severe penalties for persons who traffic in substantial quantities of hard narcotics, while continuing present law with respect to other drugs. A procedural section continues provisions for discharging first offenders found guilty of mere possession, as well as for expurging records of such offenders who are less than 21 years old. Possession of marijuana or other drugs continues to be a misdemeanor.

§§ 1831–1832. These provisions consolidate several current statutes covering gambling activities, restricting the application of federal law to large-scale illegal gambling and to protection of state anti-gambling policies. Under section 1831, engaging in an illegal gambling business of a specified size, or accepting lay-off wagers, carries a seven-year penalty. Section 1832 prohibits interstate transmission of gambling information and transportation of gambling devices or proceeds from gambling.

Pending the recommendations of the newly-created Commission on the Review of the National Policy Toward Gambling, no changes in the wagering tax laws are included.

§ 1851. This section consolidates various provisions of current law dealing with obscenity. The section covers dissemination of obscene material to all persons other than those who have legitimate scholarly or medical reasons for possessing it. The definition of "obscene material" is more objective and precise than under current law; this will make the coverage of the law clearer to citizens and to the courts.

§ 1861. This section largely parallels the racketeering provisions of the Organized Crime Control Act of 1970. The penalty, however, is raised from 20 years to 30 years. Provisions for criminal forfeiture and civil remedies have been moved to the procedural part.

§ 1862. Current law does not contain an offense of leading a criminal syndicate, although several suggestions for such an offense have been made in the past. As a practical matter, the offense can never be prosecuted unless evidence has been secured as a result of a wiretapping warrant, unless an undercover agent has infiltrated the organization, or unless a member of the organization is willing to testify (occasional instances of such willingness are beginning to occur). The offense carries a thirty-year potential penalty, with a ten-year mandatory minimum.

§ 1863. This section continues the current law proscription on use of evidence to prosecute organized crime activities and raises the penalty from five to seven years.

§ 1881. This section incorporates the assimilated crimes provisions of current law. It is of less importance than in current law, however, because the rest of the code, by separating the federal jurisdictional elements from the definitions of offenses, provides a readymade federal code for application in enclaves. Hence, all major offenses in enclaves will be prosecuted directly under other federal statutes, leaving only the relatively less important offenses to be assimilated.

CHAPTER 20

§ 2002. This provision has the effect of reducing all felonies outside title 18 to the

level of a one-year misdemeanor, except for certain repeating offenders. This is made possible by moving all serious felonies into the proposed new criminal code, and by leaving outside title 18 only those offenses for which one-year's imprisonment, or less, is sufficient.

§ 2003. This section continues the court's discretion to order the making of a presentence investigation and report in felony cases.

§ 2004. This section permits a judge to impose a requirement that certain defendants give notice to classes or persons affected by their convictions in order to facilitate private suits for restitution. There is no such express provision in current law. While the Brown Commission would have applied such a provision only to corporate offenders, this provision also includes individual offenders convicted of offenses involving fraud.

CHAPTER 21

§ 2101. This section follows current law in creating no presumption for or against probation.

§ 2102. Unlike current law, a minimum one-year term of probation is provided where probation is imposed for a felony.

§ 2103. A split sentence as a condition of probation, as provided by current law, is eliminated. The same general effect can be achieved by alternative means.

§ 2104. This section is consistent with present law, rejecting the recommendation of the Brown Commission that probation be required to run concurrently with federal, state, or local prison terms. Since the purpose of probation is to observe how a person conducts himself out of custody, a probation term cannot sensibly run concurrently with a prison term.

CHAPTER 22

§ 2201. This section effects a material increase in current fine levels in order to make sanctions against "white-collar" crime more effective. The basic fine levels are approximately ten times the amounts recommended by the Brown Commission. The higher alternative limit of double the defendant's gain or the victim's loss was recommended by the Brown Commission. If the defendant is convicted of a non-title-18 offense for which the maximum fine is even higher than that permitted by section 2201, the highest of the three limits is the one that governs.

§ 2202. In imposing a fine, the court is required to take into consideration the defendant's ability to pay.

§ 2204. Imprisonment for willful refusal to pay a fine (as opposed to inability to pay a fine) is permitted for a limited period if the nonpayment is inexcusable. Inexcusable failure to pay by an organization renders the appropriate disbursement officer subject to imprisonment for the failure to pay.

CHAPTER 23

§ 2301. Under this provision, the judge retains power to sentence a defendant to any term of years up to the maximum set for the offense. Authority is provided for a judge to set a minimum term which a defendant must serve before being eligible for parole, but, unlike the current law which makes a minimum term automatic in the absence of a contrary action by the court, affirmative action by the court is required to impose such a term. The longest period that can be set by the court is one-fifth of the total term imposed, as opposed to one-third of the total term imposed as is the case under current law.

§ 2302. Included automatically within any sentence to imprisonment is a term of parole to which a defendant may be subject even if he has served the total term of his imprisonment, and an additional contingent term of imprisonment, totalling no more than one year, to which he may be subject if he violates parole after having served the full term of imprisonment imposed. Such a provision, the substance of which was recommended by the Brown Commission, does not exist in current law. It assures that all prisoners will receive at least some street supervision.

§ 2303. The provisions of this section limit the power of a court to impose consecutive sentences. No such statutory limitation exists in current law.

CHAPTER 24

§ 2401. This section creates a constitutionally supportable death penalty provision. It would permit application of the death penalty only to treason, sabotage, or espionage, or to murder committed either by itself or in the course of seven other federal offenses. Even in such instances, the penalty could not be imposed unless the jury, in a separate proceeding, found that one or more factors in the list of aggravating factors existed, and that none of the factors in the list of mitigating factors existed. Upon such a special finding, however, imposition of the death penalty by the judge would be mandatory.

CHAPTER 42

§ 4202. This provision, unlike the corresponding provision recommended by the Brown Commission, creates no presumption either for or against parole. The Parole Board is required to reconsider a denial of parole annually instead of every three years as under current law.

§ 4204. Under current law, the period of parole lasts for the balance of the term of imprisonment imposed but not served, whether it is 20 days or 20 years. This section requires the imposition of a specific parole term of between one and five years, irrespective of the period of imprisonment imposed but unserved. Contrary to current law, the Parole Board is empowered to terminate a period of parole prior to its expiration date.

§ 4205. Contrary to current law, the Parole Board is empowered to increase, up to a total period of five years, any lesser term of parole previously imposed.

§ 4207. This section sets forth detailed provisions for the revocation of parole to accord with requirements of a recent Supreme Court decision.

EXHIBIT NO. 4

Cautionary note: These tables should be used as a rough guide, since they attempt to compare materials that are not always comparable.

TABLE 1

This table traces the provisions of present title 18, United States Code, to the final report of the National Commission on Reform of Federal Criminal Laws (the Brown commission); to S. 1400, the Criminal Code Reform Act of 1973; and to S. 1.]

Present title 18	Brown commission	S. 1400	S. 1
1	109(j), (s), (z), (ab)	111	1-1A5.
2	401	401	1-2A6.
3	1303-04	1311	2-683.
4	1303	1311	2-6B3.
5	109(am)	111	1-1A4(68).
6	109(n)	111	1-1A4(34).
7	210	203	1-1A4 (64).
8	1754 (j)	1744	2-8E1(c).
9	210	203	Omitted.
10	219 (a), (b)	111	1-1A4(31), (42).
11	109(m), 1112(4)(c), 1201(a)(a).	111	2-5A1(8).
12	Title 39	Omitted	Title 39.
13	209	1881	1-1A8.
14	211	111	1-1A6(c).
15	1745 (b), (k)	1744	Omitted.
Ch. 2—Aircraft and motor vehicles:			
31	Omitted	111	Do.
32-33	1611-13, 1701-09	1611-15, 1701-04	2-8B1, 2-8B2, 2-8B5, 2-8B6, 1-2A4.
34	1601-09	1601-03	1-4E1.
35	1354, 1614	1343, 1616	2-7C3, 2-6D2.
Ch. 3—Animals, birds, fish and plants:			
41	1705, title 16	1703, title 16	2-8B6, title 16.
42	1411, title 16	Title 16	2-6G4, title 16.
43	1411, title 16	1343, title 16	2-6G4, title 16.
44	Title 16	Title 16	Title 16.
45	1705, title 16	Omitted	2-8B6.
46-47	Title 16	Title 16	Title 16.
Ch. 5—Arson: 81	1701	1701-04	2-8B1, 2-8B2.
Ch. 7—Assault:			
111	1301-2, 1367, 1611-14, 1616-18, 1631-33.	1302, 1357-58, 1611-14, 1616-17, 1813.	2-7C2, 2-7C3, 2-7C4, 2-6B1, 2-6B2, 2-6B3.
112	1611-14, 1616-18, 1631-33.	111, 1611-14, 1621-23, 1813; title 22.	2-7C2, 2-7C3.
113	1001, 1611-14, 1616-18	1001, 1601, 1611-14	2-7C2, 2-7C3, 1-2A4.
114	1612	1611-12	2-7C1.
Ch. 9—Bankruptcy:			
151	1756(3)	1764	2-8F1(d).
152	1321, 1351-52, 1356, 1361, 1732, 1756.	1341, 1343, 1764	2-8F1, 2-6D1, 2-6D2, 2-6D3,2-6E1. 2-8D3.
153	1732-1737	1325, 1731	2-8D3, 2-8D6.
154-55	Title 11	Title 11	Title 11.
Ch. 11—Bribery, graft and conflict of interest:			
201	1321, 1361-63, 1732, 1741(k), 3501.	111, 1321-22, 1351-52	1-1A4(58), 2-6E1, 2-6E2, 2-8D3, 1-4A3.
202	Title 5	Title 5	Title 5.
203	1362, 1365, title 5	1352, 1354; title 5	2-6E1, 2-6E2, title 5.
204	Title 5	Title 5	Title 5.
205	1363, 1365, title 5	1353-54; title 5	2-6E2, title 5.
206	Title 5	Title 5	Title 5.
207-09	1327, title 5	1352; title 5	2-6F3, title 5.
210	1361, 1364	1354-55	2-6E1, 2-6E2.
211	1361 1364-65, title 5	1354-55; title 5	2-6E1, 2-6E2, title 5.
212-16	1857, title 12	1751, title 12	2-8F2, title 12.
217	1361-63	1351-53	2-6E1, 2-6E2.
218	3301(2), title 5	Title 12, proc. pt. title 18.	1-4C1(1), title 5.
219	1206, title 5	Title 5	2-5C5, title 5.
224	1757	1753	2-8F2.
Ch. 12—Civil disorders:			
231	1801-04	1801-02, 1804	2-9B1, 2-9B3, 2-9B4.
232	1801-04	111, 1805	2-9A1.
233	206	205	1-1A6(g).
Ch. 13—Civil rights:			
241	1501	1501	2-7F1.
242	1502-1521	1501-02	2-7F1 2-7F5.
243	Title 28	Omitted	2-7F2 title 28.
244	Title 10	Title 10	Title 10.
245	1511-16	111, 1511-13	2-7F2 2-7F3 2-7F4.

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Ch. 15—Claims and services in matters affecting Government:			
281	Title 5	Title 10	Title 5.
283	Title 5	Title 10	Title 5.
285	1356 1732, 1735(2)(e), 1753.	1731, 1743	2-6D3, 2-8D3.
286	1352, 1732	1343, 1731	2-6D2, 2-8D3, 1-2A5.
287-89	1352, 1732	1343, 1731	2-6D2, 2-8D3.
290	Title 38	Title 38	Title 38.
291	Title 28	Title 38	Title 28
292	1363 title 5	Title 5	2-6E2.
Ch. 17—Coins and currency:			
331	1751	1741	2-8E1.
332	1732, 1751	1731, 1751	2-8D3, 2-8E1.
333	Title 12	Title 12	Title 12.
334	1753	1742	2-8E6.
335	1753	1742	2-8E2.
336-37	Title 31	Title 31	Title 31.
Ch. 18—Congressional assassination kidnapping and assault: 351	[Omitted as separate Section].	1001-02, 1601, 1611-14, 1621-23.	2-7B1, 2-7D1, 2-7C2, 1-2A5, 3-10A1(b).
Ch. 19—Conspiracy:			
371	1004, 1732-34, 1751	1002, 1301	1-2A5, 2-8D3, 2-8D5.
372	103, 1303, 1352, 1366-67, 1401, 1511(c).	1002 1302, 1357-58	1-2A5, 2-6B1 2-6B3, 2-6E3, 2-6E4, 2-6D2 2-7F1
Ch. 21—Contempts:			
401	1341-45, 1349	1331	2-6C6.
402	1341-45, 1349	1331-36	2-6C1, 2-6C2.
Ch. 23—Contracts:			
431-33	1372; title 5	Title 5	2-6F3; title 5.
435	Title 15	Title 41	Title 15.
436	1733, title 18, pt. E	Title 5	2-8D3.
437	1372; title 25	do	2-6F3; title 25.
438-39	1363; title 25	Title 25	2-6E2; title 25.
440	Title 39	Title 39	Title 39.
441	Title 41	do	Title 41.
442	Title 44	Title 44	Title 44.
443	1356; title 41	Title 41	2-6D3; title 41.
Ch. 25—Counterfeiting and forgery:			
471-73	1751	1741	2-8E1.
474	1751-52	1743	3-8E3, 2-8E1.
475	Title 31	Title 31	Title 31.
476-77	1752	1742-3	2-8E3.
478	1751	1741	2-8E1.
479-80	1751	1741	2-8E1, 28E2.
481	1751-52	1743	2-8E1, 2-8E2, 2-8E3.
481-83	1751	1741	2-8E1, 28E2.
484	1751	1741	2-8E2.
485-86	1751	1741	2-8E1.
487-88	1752	1743	2-8E3.
Ch. 26.—Counterfeiting and forgery:			
489	1411; title 31	Title 31	2-6G4, title 31.
490	1751	1741	2-8E1.
491	1755	Title 31	2-8E5.
492	Title 31	do	1-4A4; title 31.
493-97	1751	1343, 1741	2-8E2.
498	1751	1741	2-8E1, 2-8E2.
499	1381, 1751, 1753	1301, 1741	2-6F4, 2-8E1, 28E2.
500	1751, 1753	1741, 1742	2-8E1.
501	1751-53	1741-42	2-8E1, 2-8E3.
502	1751	1741	2-8E1.
503	1751-52	1741, 1743	2-8E2, 2-8E3.
504	Title 31	Title 31	Title 31.
505	1351-52, 1751	1341, 1343, 1741-42	2-6D1, 2-6D2, 2-8E1.
506	1751-52	1741	2-8E1.
507	1751	1741	2-8E2.
508	1751	1741	2-8E1.
509	1752	1741-43	2-8E3.
Ch. 27—Customs:			
541-42	1411	1343, 1421, 1423	2-6G4.
543-45	1411; title 19	Title 19, 1421-23; proc. part title 18.	2-6G4; title 19.
546	Title 22	Title 22	Title 22.
547	1411	1421-2	2-6G4.
548	1411, title 19	1343, 1421; proc. part title 18.	2-6G4; title 19.
549	1411, 1732	1343, 1345, 1421, 1731-32.	2-6G4, 2-8D3.
550	1352, 1732	1343, 1731	2-6D2, 2-8D3.
551	1323, 1367, 1411	1325, 1345	2-6B3, 2-6C1, 2-6G4.
552	401, 1002	Omitted	1-2A6, 2-9F5.
Ch. 29—Elections and political activities:			
591	Omitted	do	1-1A4.
592	1535	do	2-6H1.
593-94	1511, 1531	Omitted; 1521	2-6H1, 2-7F3.
595	1511, 1531-32	1523	2-6H1, 2-7F2, 2-7F3.
596	Omitted	Omitted	Omitted.
597	1531	1521	2-6H1.
598	1532	1523	2-7F2.
599-600	1364-65, 1531	1355; title 2	2-6E2.
601	1511, 1532-33	1523	2-6H1, 2-7F2.
602-03	1534	1525	2-6H2.
604-05	1532	Omitted	2-7F2.
606	1533	1524	2-6E5.
607	1534	Omitted	2-6H2.
608-12	Title 2	Title 2 (omitted in part).	Title 2
613	1541	1526	2-6H3.
Ch. 31—Embezzlement and theft:			
641	1732	1731-32	2-8D3.
642	1732, 1752	1731, 1742-43	2-8D3, 2-8E3.
643	1732, 1737; title 5	1731	2-8D3, 2-8D6; title 5.
644	1732, 1737; title 12	1731	2-8D3, 2-8D6; title 12.
645-47	1732, 1737; title 28	1731	2-8D3, 2-8D6; title 28.
648-53	1732, 1737; title 5	1731; title 5	2-8D3, 2-8D6; title 5.
654	1732, 1737	1731	2-8D3, 2-8D6.
655	1732, 1737, 3501	1731	1-4A3, 2-8D3, 2-8D6.
656-57	1732, 1737	111, 1731	2-8D3, 2-8D6.
658	1738	1735	2-8D7.
659	206, 707, 1732, 1737	205, 1731-33	2-8D3, 2-8D6, 3-11B5, 2-8D4.
660	707, 1732, 1737	1731	2-8D3, 2-8D6, 3-11B5.
661	1732, 1737	1731	2-8D2, 2-8D3, 2-8D6.
662	1732, 1737	1732	2-8D4.
663-64	1732, 1737	1731	2-8D3, 2-8D6.
Ch. 33—Emblems, insignia and names:			
700	Title 4	Title 4	2-9G1.
701	Title 4	Title 4	Title 4.
702	Titles 10, 42	Title 10, title 42	Titles 10, 42.
703	Title 22	Title 22	Title 22.
704	Title 10	Title 10	Title 10.
705-06	Title 36	Title 36	Title 36.
707	Title 7	Title 7	Title 7.
708	Title 22	Title 22	Title 22.
709	Title 4	Title 12, title 28	2-8F4; title 4.
710	Title 10	Title 10	Title 10.
711	Title 7	Title 7	Title 7.
712-13	Title 4	Title 4	Title 4.
714	Title 43	Title 43	Title 43.
715	(Not considered)	Title 16	(Not considered.)
Ch. 35—Escape and rescue:			
751	1306	1314	2-6B5, 1-2A4.
752-53	1306	1001, 1314 (omitted in part).	2-6B5, 1-2A6, 2-6B3.
754	1301	Omitted	2-6B1.
755	1306-07	Omitted	Omitted.
756-77	1120	1118	2-5B11.
Ch. 37—Espionage and censorship:			
792	1118	1311	2-5B10.
793-94	1112-13	1002, 1121-24	2-5B7, 2-5B8.
795-97	1112-13, 1712; title 50	Title 50	2-5B7, 2-5B8, 2-8C5; title 50.
798	1114	Omitted	2-5B8.
799	1712; title 42	Title 42	2-8C5; title 42.
Ch. 39—Explosives and other dangerous articles:			
831	Title 49	Title 49	Title 49.
832-34	1602, 1613, 1701, 1704; title 49.	1615; title 49	2-7B3, 2-8B1, 2-8B3; title 49.
835	Title 49	Title 49	Title 49.
836	Title 15	Title 49	Title 15
Ch. 40—Importing, manufacturing, distribution and storage of explosive material:			
841	Title 26	Title 15	Title 26.
842	1812; title 26	Title 15	2-9D3, title 26.
843	Title 26	Title 15	Title 26
844	109(i), 1614, 1618 1701, 1705, 1811, 1814, 3202(2)(e); title 26.	111, 1601, 1611-13, 1615-17, 1701-04, 1811, 1813, proc. pt. title 18.	2-7C3, 2-8B1, 2-8B5, 2-9D2 2-9D2, 2-9D5; title 26.
845-48	Title 26	Title 15	Title 26.
Ch. 41—Extortion and threats:			
871	1614-15	111, 1616-18	2-7C3.
872	1381, 1617, 1732-33	1722	2-6F4, 2-9C3, 2-9C4.
873	1381, 1617, 1732-33	1723	2-9C3, 2-9C4.
874	1732	1722-23	2-9C3.
875-77	1614, 1617-18, 1732-33.	1616-17, 1722-23	2-7C3, 2-9C3, 2-9C4.
Ch. 42—Extortinate credit transactions:			
891-96	1771	111, 1724	2-6D2.
Ch. 43—False personation:			
911	1352	1343; title 8	2-9C2.
912-13	1381	1361, 1731, 1361	2-6F4.
914	1732-33	1731-32	2-8D3.
915	1381	1731	2-6F4.
916	Title 7	Title 7	Title 7.
917	Title 36	Title 36	Title 36.

EXHIBIT NO. 4—Continued

[Cautionary note: These tables should be used as a rough guide, since they attempt to compare materials that are not always comparable.]

TABLE 1—Continued

[This table traces the provisions of present title 18, United States Code, to the final report of the National Commission on Reform of Federal Criminal Laws (the Brown commission); to S. 1400, the Criminal Code Reform Act of 1973; and to S. 1.]

Present title 18	Brown commission	S. 1400	S. 1
Ch. 44—Firearms:			
921	Title 26	Title 15	Title 26.
922	1812; title 26	do	2-9D3; title 26.
923	Title 26	do	Title 26.
924	1811, 3202(2)(e); title 26.	1343, 1812-13; title 15.	2-9D2, 1-4B2(b)(2)(v); title 26.
925-28	Title 26	Title 15	Title 26.
Ch. 45—Foreign relations:			
951	1206; title 22	1128	2-5C5; title 22.
952	1112-14	1121-24	2-5B7, 2-5B8.
953	Omitted	Omitted	Omitted.
954	1353	do	2-6D2(a)(7).
955	Title 22	Title 22	Title 22.
956	1202	1202	2-5C1, 1-2A5.
957	1001-02	Omitted	Omitted.
958	1203	1203	2-5C2.
959	1203; title 22	1203	2-5C2, title 22.
960	1201-02	1201	2-5C1.
961	1204-05; title 22	Title 22	2-5C3, 2-5C4; title 22.
962	1201, 1204-05; title 22.	Title 22	2-5C1, 2-5C3, 2-5C4; title 22.
963-64	1204-05; title 22	1204; title 22; 1001, 1204; proc. part title 18.	2-5C3, 2-5C4; title 22.
965	1204-05, 1352; title 22.	1204; title 22; proc. part title 18.	2-5C3, 2-5C4, 2-6D2; title 22.
966	1352; title 22	1204, 1343; title 22; procd. part title 18.	2-6D2: title 22.
967	1204-05, title 22	1204; title 22; proc. part title 18.	2-5C3, 2-5C4; title 22.
969	Title 22	Title 22	Title 22.
970	(Not considered)	1701-04	(Not considered.)
Ch. 47—Fraud and false statements:			
1001	1352	1343	2-6D2.
1002	1751	1741	2-8E2.
1003	1732, 1751	1343, 1731, 1741	2-8D3, 2-8E2.
1004	1753; title 12	1742	Title 12.
1005	1352, 1732, 1751, 1753; title 12.	1343, 1741, 1742	2-6D2, 2-8D3, 2-8E2, title 12.
1006	1352, 1372, 1732, 1751, 1753, 1758; title 12.	1343, 1356, 1742, 1751.	2-6D2, 2-6F3, 2-8D3, 2-8E2, 2-8F3; title 12.
1007	1352, 1732	1343, 1731	2-6D2, 2-8D3, 2-8E2.
1008	1352, 1732, 1751	1343, 1741	2-6D2, 2-8D3, 2-8E2.
1009	Title 12	Title 12	Title 12.
1010	1352, 1732, 1751, 1753.	1343, 1741	2-6D2, 2-8D3, 2-8E2.
1011	1352, 1732	1343	2-6D2, 2-8D3.
1012	1352, 1356, 1361; title 42.	1343, 1731, 1741; title 5; title 12.	2-6D2, 2-6D3, 2-6E1; Title 42.
1013	1732	1343, 1731	2-8D3.
1014	1352, 1732	1343	2-6D2, 2-8D3.
1015	1108, 1221, 1224, 1352, 1753.	1301, 1343, 1742	2-6D2, 2-5D3, 2-5D1.
1016	1352, 1753	1343, 1742	2-6D2.
1017-19	1753	1343, 1742, 1743	2-6D2.
1020	1352, 1732-33	1343	2-6D2, 2-8D3.
1021-22	1753	1343, 1731, 1742	2-6D2.
1023	1732-1737	1731	2-8D3, 2-8D6.
1024	1732; title 10	1731, 1732	2-8D3, title 10.
1025	1732, 1753	1731	2-8D3, 2-6D2.
1026	1352	1343	2-6D2.
1027	1352, 1732-33	1343	2-6D2, 2-8D3.
Ch. 49—Fugitives from justice:			
1071-72	1303	1311	2-6B3.
1073-74	1310	1316; proceeding part title 18 (omitted in part).	2-6B7.
Ch. 50—Gambling:			
1081	Title 46	Title 46	Title 46.
1082	1831; title 46	1831; title 46	2-9F1; title 46.
1083	Title 46	Title 46	Title 46.
1084	1831-32	205, 1832; title 47	2-9F1, 2-9F2.
Ch. 51—Homicide:			
1111	1601-02	1601	2-7B1, 2-7B2.
1112	1601-03	1001, 1602-03	2-7B3, 2-7B4.
1113	1001	1001	2-7B1, 2-7B3, 1-2A4.
1114	1601-03	111, 1601-03, 1611-14	2-7B1, 2-7B3, 2-7B4.
1115	1601-03	1601-03	2-7B4.
1116-17	(Not considered)	111, 1002, 1601-03	[Omitted as separated section].
Ch. 53—Indians:			
1151-53	211	203	1-1A6(b).
1154-56	Title 25	Omitted	Title 25.
1158-62	do	1343; title 25; omitted in part.	Do.
1163	1732	1731-32	2-8D3.
1164-65	Title 25	Title 25	Title 25.
Ch. 55—Kidnapping:			
1201	1631-33; 1635	1002, 1621-24	2-7D1, 2-7D4.
1202	1304	1312	2-6B3(a)(3).
Ch. 57—Labor: 1231	1551	Omitted	2-77F6.
Ch. 59—Liquor traffic: 1261-65	Title 27	Title 27	Title 27.
Ch. 61—Lotteries:			
1301-03	1831-32	1832; title 39	2-9F1, 2-9F2.
1304-05	Omitted	Title 47	Omitted.
1306	Title 12	Title 12	Title 12.
Ch. 63—Mail fraud:			
1341-43	1001, 1732, 1751	1734	2-8D5.
Ch. 65—Malicious mischief:			
1361	1705	1701-04	2-8B5, 2-8B6.
1362	1107, 1705	111-1112, 1701-04	2-5B4, 2-8B5, 2-8B.
1363	1107, 1613, 1704-05	do	Do.
1364	1701, 1705	1701-04	2-8B1, 2-8B2.
Ch. 67—Military and Navy:			
1381	1119	1117, 1311	2-5B10.
1382	1712	Title 50	2-8C5.
1383	1712; title 10	do	2-8C5, title 10.
1384	1841-43	Omitted	2-9F3, 2-9F4.
1385	Title 10	Title 10	Title 10.
Ch. 69—Nationality and citizenship:			
1421	1732, 1737; title 28	1731	2-8D3, 2-8D6, title 28.
1422	1362, 1732	1351-52, 1731	2-6E2, 2-8D3.
1423	1225, 1352, 1531, 1751, 1753.	1224-25, 1301, 1341, 1343, 1741, 1742.	2-5D3, 2-6D2.
1424	1221, 1224, 1351-52, 1753.	1224, 1301, 1341, 1343, 1742.	2-5D1, 2-5D3, 2-6D1, 2-6D2.
1425	1224, 1351-52, 1361, 1753.	1224, 1301, 1343, 1742	2-5D3, 2-6D1, 2-6D2, 2-8E6.
1426	1351-52, 1751-52	1341, 1343, 1741-43	2-6D1, 2-6D2, 2-8E2, 2-8E3.
1427	401, 1002	Title 8	1-2D6, 2-5D3.
1428	Title 8	do	Title 8.
1429	1342-43	1332-33	2-6C2.
Ch. 71—Obscenity:			
1461	1851	1851	2-9F2.
1462-6	1851	1851; proc. part title 18.	2-9F5.
Ch. 73—Obstruction of justice:			
1501	1301-03, 1611-12	1302, 1611-14	2-6B1, 2-6B2, 2-7C1, 2-7C2.
1502	1301-02	1302, 1611-14	2-6B1, 2-6B2.
1503	1301, 1321-24, 1327, 1346, 1366-67.	1321-25, 1357-58	2-6B1, 2-6C1, 2-6C3, 2-6F2, 2-6C4, 2-6E3, 2-6E4.
1504	1324	1326	2-6C3.
1505	1301 1321-23, 1327, 1346, 1366-67.	1321-25	2-6B1, 2-6C1, 2-6F2, 2-6C4, 2-6E3, 2-6E4.
1506	1323, 1352, 1356, 1732	1325, 1343, 1345, 1731	2-6C1, 2-6D2, 2-6D3, 2-8D3.
1507	1325	1328	2-6C4.
1508	1326	1327	2-6C5.
1509	1301	1302, 1357	2-6B1.
1510	1322, 1367	111, 1322-24	2-6C1, 2-6E4.
1511	1361, 1831-32	1351-52, 1831	2-9F1, 2-6E1.
Ch. 75—Passports and visas:			
1541	1381, 1753	1361, 1742	2-6F4, 2-6D2, 2-8E6.
1542	1225, 1352, 1753	1221-22, 1225, 1343	2-5D3, 2-6D2.
1543	1751	1225, 1741, 1742; title 22.	2-8E2.
1544	401, 1002, 1221-22, 1225; title 22.	1221-22, 1225; title 22.	1-2A6, 2-5D1, 2-5D; title 22.
1545	Title 22	Title 22	Title 22.
1546	1221-22, 1351-52 1751-53.	1221-22, 1341, 1343, 1741, 1743.	2-5D1, 2-6D1, 2-6D2, 2-8E2, 2-8E3.
Ch. 77—Peonage and slavery:			
1581	1301, 1631-32	1302, 1622	2-6B1, 2-7D1, 2-7D2
1582	401, 1002	Omitted	1-2A6, 2-7D2.
1583	1631	1622	2-7D1.
1584-85	1631-32	1622	2-7D1, 2-D72.
1586	1002	Omitted	Omitted.
1587-88	1631-32	1622	2-7D1, 2-7D2.
Ch. 79—Perjury:			
1621	1351	1341	8-6D1.
1622	401, 1003	1003	2-6D1, 1-2A6, 1-2A3, 2-6C1.
1623	1351	204, 1341, 1346	2-6D1, 2-6D2.
Ch. 81—Piracy and privateering:			
1651	201(1); chs. 16-17	204	E-1A4(53) and (54); Chs. 7-8.
1652	208(h)	204	1-1A7, 2-7B1, 2-8B2.
1653	208(g)	204	1-A7.
1654	208(h), 401, 1002	204	1-1A7, 1-2A6.
1655	1805	204	2-7D5.
1656	1732	204	2-8D3.
1657	401, 1002-04, 1805	204	2-7D5, 1-2A6, 1-2A4, 1-2A5.
1658	1613, 1705, 1732	204	2-8B6, 2-8D3.
1659	201(a)(1), 1721	204	1-1A4(54) and (65), 2-8D2.
1660	1304, 1732	204	2-8D4, 2-6B3.
1661	201(1), 1721	204	1-1A4(54), 2-8D2.
Ch. 83—Postal Service:			
1691-99	Title 39	Title 39	Title 39.
1700	1737, title 39	do	2-8D6; title 39.
1701	1301	1302	2-6B1.
1702	1564, 1732	1302, 1531, 1731	2-7G3, 2-8D3.
1703	1564, 1705; title 39	1302, 1531, 1703; title 39.	7-7G3, 2-8B6; title 39.
1704	1734; title 39	1731	2-8D3; title 39.
1705	1301, 1564, 1705	1302, 1703	2-6B1, 2-7G3, 2-8B6.
1706	1301, 1705, 1732	1302, 1703, 1731	2-6B1, 2-8B6, 2-8D3.
1707-10	1732	1731-32	2-8D6.

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1711	1732, 1737	1731; title 39	2-8D3, 2-8D6.
1712	1352, 1732; title 39	1343, 1731; title 39	2-6D2, 2-8D3; title 39.
1713	1753; title 39	1942	2-6D2; title 39.
1714	Omitted	Title 39	Omitted.
1715	Title 39	do	Title 39.
1716	1001, 1601-03, 1612-13, 1701-02, 1704-05; title 39.	1601-03, 1611-15; title 39.	Chs. 7-8, title 39.
1716A	Title 39	Title 39	Title 39.
1717	1001, 1003; title 39	1001, 1003; title 39	1-2A3; 1-2A4, title 39.
1718	Title 39	Title 39	Title 39.
1719	1733	1731	2-8D3.
1720	1733, 1751	1731, 1741	2-8D3.
1721	1732, 1737; title 39	1731	2-8D3, 2-8D6; title 39.
1722	1352, 1733; title 39	1343, 1731	2-6D2, 2-8D3; title 39.
1723	1733; title 39	1731; title 39	2-8D3; title 39.
1724	Title 39	Title 39	Title 39.
1725	1733; title 39	1731; title 39	2-8D3; title 39.
1726-28	1732; title 39	1352, 1731	2-8D3; title 39.
1729-31	1381; title 39	Title 39	2-6F4; title 39.
1732	1753; title 39	1343, 1742	2-6D2; title 39.
1733	1733; title 39	1731	2-8D3; title 39.
1734	Title 39	Title 39	Title 39.
1735-37 (new)	Title 39	Title 39	Title 39.
Ch. 84—Presidential assassination, kidnapping and assault:			
1751	1001, 1004, 1601-03, 1611-12, 1631-32; Title 18, pt. D.	111, 1001-02, 1601-02, 1611-14, 1621-23; proc. pt. title 18.	2-7B1, 2-7D1, 1-2A4, 1-2A5, 3-10A1.
1752	(Not considered)	205, 1871; title 3	2-6B1, 2-8B6.
Ch. 85—Prison-made goods:			
1761-62	Title 15	Title 15	Title 15.
Ch. 87—Prisons:			
1791	1309; title 18, pt. E	1315	2-6B6, 3-12C1.
1792	1308-09	1315, 1801-03	2-6B6, 2-9B1, 2-9B3, 1-2A4, 1-2A5.
Ch. 89—Professions and occupations:			
1821	Title 15	Title 15	Title 15.
Ch. 91—Public lands:			
1851	1732	1731	2-8D3.
1852-54	1705, 1732	1702-03, 1731-32	2-8B6, 28B3.
1855	1702, 1704-05	1702-03	2-8B2, 2-8B3.
1856	1703	Title 43	2-8B4.
1857-58	1705	1703	2-8B6.
1859	1301	1302	2-6B1.
1860	1617; title 43	Title 43	2-9C4; title 43.
1861	1732; title 43	do	2-8D3; title 43.
1862-63	1712	Omitted in part; 1712	2-8C5.
Ch. —Public officers and employees:			
1901	1732, 1737, 3501; title 5.	1731	2-8D3, 2-8D6, 1-4A3; title 5.
1902	1371-72	1356, title 5	2-6F1, 2-6F3.
1903	1372	1356	2-6F3.
1904	1371-72	Omitted	2-6F1, 2-6F3.
1905	1371, 3501	Title 5	2-6F1, 104A3.
1906	1371; title 12	Title 12	2-6F1; title 12.
1907-08	1371; 3501; title 12	do	2-6F1, 1-4A3; title 12.
1909	1363; title 12	do	2-6E2; title 12.
1910	Title 28	Title 28	Title 28.
1911	1732, 1737; title 28	do	2-8D3, 2-8D6; title 28.
1912	1363, 1732, 3501	1353	2-6E2, 2-8D3, 1-4A3.
1913	Title 5	Title 5	Title 5.
1915	Title 19	Title 19	Title 19.
1916	1737; title 5	1731; title 5	2-8D6; title 5.
1917	1352, 1512; title 5	1343; title 5	2-6D2, 2-7F3; title 5.
1918	Omitted	Title 5	Omitted.
1919	1352, 1732	1343, 1731	2-6D2, 2-8D3.
1920	1352-1732	1341, 1343, 1731	6-6D2, 2-8D3.
1921	1732: title 5	1731	2-8D3; title 5.
1922	1352, 1511, 1617; title 5.	1343; title 5	2-6D2, 2-7F2, 2-9C4; title 5.
1923	1732, 1734	1731	2-8D3.
Ch. 95—Racketeering:			
1951	1001, 1004, 1721, 1732	111, 1721-22	2-9C1, 2-9C3, 2-8D2, 2-8D3.
1952	1361, 1403, 1701, 1732, 1822-24, 1831-32, 1841.	1321-22, 1351-52, 1701, 1721-23, 1821-22, 1824, 1831-32, 1841.	2-9C1, 2-6E1, 2-6G3, 2-8B1, 2-9E1, 2-9E2, 2-9F4.
1953	1831-32	205, 1832	2-9F2.
1954	1758; title 18, pt. E	1752	2-8F2.
1955	1831; title 18, pt. D	1831; proc. pt., title 18	2-9F1, 1-4A4.
Ch. 96—Racketeer influenced and corrupt organizations:			
1961	Not considered	111, 1861	2-9C1.
1962	do	1002, 1861	2-9C1.
1963	do	1861; proc. pt., title 18	2-9C1, 1-4A4.
1964	do	Proc. pt. title 18	3-13A1, 3-13A2, 3-13A3.
1965	do	do	3-13A4.
1966	do	do	3-13A4.
1967	do	do	3-13A4.
1968	do	do	3-13A5.
Ch. 97—Railroads:			
1991	1001, 1711, 1713	1711	2-7B1, 2-8D2, 1-2A4.
1992	707, 1601-03, 1613, 1701-02, 1705.	1601-03, 1611-14, 1701-04; proc. pt. title 18.	2-7B1, 2-7B2, 2-7B3, 2-7B4, 2-8B1, 2-8B2 2-8B5, 2-8B6.
Ch. 99—Rape:			
2031	1641-42	1631-32	2-7E1.
2032	1641, 1646	1633	2-7E2.
Ch. 101—Records and reports:			
2071	1356, 1705, 1732	1345, 1731	2-6D3, 2-8B6, 2-8D3.
2072	1753; title 7	1343, 1742	2-6D2, title 7.
2073	1732-33, 1737, 1753	1343, 1731, 1741	2-8D3, 2-8D6, 2-6D2.
2074	Title 15	Title 15	Title 15.
2075	Title 5	Title 5	Title 5.
2076	Title 28	Title 28	Title 28.
Ch. 102—Riots:			
2101-02	206, 707, 1801-02	205, 18-1-03, 1805	2-9B1, 2-9B2, 2-9A1.
Ch. 103—Robbery and burglary:			
2111-12	1721	1721	2-8D2.
2113	1601-3, 1611-13, 1711, 1721, 1732.	111, 1601-02, 1611-14, 1711, 1721, 1731-32.	2-7B1, 2-7B2, 2-7B3, 2-7B4, 2-7C1, 2-7C2, 2-8C1, 2-8C2, 2-8D1, 2-8D2, 2-8D3.
2114	1611-13, 1721	1611-14 1721	2-7C1, 2-7C2 2-8D1, 2-8D2.
2115	1711	1711	2-8C2.
2116	1301, 1611-12, 1712-13.	1302, 1611-14, 1712	2-6B1, 2-7C1, 2-7C2, 2-8C5.
2117	206, 707, 1001, 1712-13.	205, 1711; proc. pt., title 18.	1-2A4, 2-8C5, 2-8C2.
Ch. 105—Sabotage:			
2151	1105	111	2-5B4.
2152	1107, 1301, 1705, 1712	1111-12, 1302, 1701-1704, 1712.	2-5B4, 2-6B1, 2-8B6, 2-8C5.
2153-54	1004, 1105-07	1002, 1111-1112	2-5B4, 1-2A5.
2155-56	1105, 1107	1002, 1111-12	2-5B4, 1-2A5.
2157	Omitted	Omitted	Omitted.
Ch. 107—Seamen and stowaways:			
2191	1612, 1633	1611-13, 1623	2-7C1, 2-7C2, 2-7D3.
2192	1001, 1003-04, 1633, 1801, 1803.	1117, 1621-23, 1626	2-5B6, 2-7D3, 2-9B1, 2-9B3, 1-2A3, 1-2A4, 1-2A5.
2193	1805	1626	2-7D5.
2194	1631-33	1621-23	2-7D1, 2-7D2, 2-7D3.
2195	Title 46	Title 46	Title 46.
2196	1613	1615	2-8B6.
2197	1732, 1751, 1753	1731, 1741-43	2-8D3, 2-8E2.
2198	1642	1631-32	2-7E2.
2199	1714, 1733	111, 1713	2-8D3.
Ch. 109—Searches and seizures:			
2231	1301, 1366, 1611-13, 1616.	1302, 1358, 1611-14, 1813.	2-6B2, 2-6E3, 2-7C2, 2-7C3, 2-7C4.
2232	1301, 1323	1302, 1325	2-6B1, 2-6B2, 2-6C1.
2233	1301, 1323, 1401, 1732	1302, 1731	2-6B1, 2-6C1, 2-6G1, 2-8D3.
2234-36	1521	1501-02	2-7F5.
Ch. 111—Shipping:			
2271	1004, 1705, 1732	1002, 1702-04, 1731	2-8B6, 2-8D3, 1-2A5.
2272	1705, 1732	1702-04, 1731	2-8B6, 2-8D3.
2273	1705	1702-04	2-8B6 .
2274	1001-04, 1705; title 46.	204, 1002, 1301, 1702-04; Proc. pt. title 18.	2-8B6, 1-2A3, 1-2A4, 1-2A5; title 46.
2275	1601, 1611-13, 1701 05.	1615, 1701-04	2-7B1, 2-7C1, 2-7C2, 2-8B1, 2-8B2, 2-8B3, 2-8B4, 2-8B5.
2276	1001, 1705, 1711-13	1703, 1711	2-8B6, 2-8C2, 2-8C5, 1-2A4.
2277-78	Title 46	Title 46	Title 46.
2279	1712; title 46	do	2-8C5; title 46.
Ch. 113—Stolen property:			
2311	1735(7), 1736, 1741(f), 1754(k), (l).	111, 1744	2-8A1(12), 2-8A2.
2312	1732, 1736	1731	2-8D3, 2-8D8.
2313	1732	1732	2-8D3.
2314-15	1732, 1751, 1752	1301, 1731, 1732, 1741, 1743.	2-8D3, 2-8E2, 2-8E3.
2316-17	1732	1732	2-8D3.
2318	Title 15	Title 15	Title 15.
Ch. 115—Treason, sedition, and subversive activities:			
2381	1101-02	1101	2-5B1, 2-5B2.
2382	1118	Omitted	2-5B10.
2383-85	1103	1102, 1002, 1101-02, 1002, 1103.	2-5B3.
2386	1104; title 50	Omitted	2-9D1; title 50.
2387	1110	1117	2-5B6.
2388	1004, 1109-11, 1303	1002, 1114, 1116-17, 1311.	2-5B5, 2-6D2(a)(6), 2-6B3, 1-205.
2389-90	1101-03, 1203	1203	2-5B1, 2-5B2, 2-5B3, 2-5C2.
2391	1004, 1109-11, 1303	Title 50	2-5B6, 2-6D2(a)(6), 2-6B3, 1-205.
Ch. 117—White slave traffic:			
2421	1841	1841	2-9F4.
2422-23	1631-32, 1841-42	1621-22, 1841	2-7D1, 2-7D2, 2-9F4.
2424	Omitted	Omitted	Omitted.

EXHIBIT NO. 4—Continued

[Cautionary note: These tables should be used as a rough guide, since they attempt to compare materials that are not always comparable.]

TABLE 1—Continued

[This table traces the provisions of present title 18, United States Code, to the final report of the National Commission on Reform of Federal Criminal Laws (the Brown commission); to S. 1400, the Criminal Code Reform Act of 1973; and to S. 1]

Present title 18	Brown commission	S. 1400	S. 1
Ch. 119—Wire interception and interception of oral communications:			
2510	1563; Title 18, pt. D	111, 1534	3-10C1.
2511	1561; title 18, pt. D; title 47.	1001, 1532; proc. pt. title 18.	2-7G1.
2512	1562	1533	2-7G2.
2513	5802	Proc. pt. title 18	1-4A4, 3-13A3.
2514		do	3-10D2.
2515	5803	do	3-10C5.
2516	5804	do	3-10C2.
2517	5805	do	3-10C3, 3-10C2.
2518	5806	do	3-10C3, 3-10C5, 3-11E1.
2519	5807	do	3-10C4.
2520	5808	do	3-13A2.
Ch. 207—Release:			
3150	1305	1313	2-6B4.
Title 18 app.:			
1201	1812; title 26	1812; title 15	Omitted.
1202	do	do	Do.

TABLE No. 2

This table traces the provisions of the Final Report of the National Commission on Reform of Federal Criminal Laws ("the Brown Commission") to the provisions of S. 1400, the "Criminal Code Reform Act of 1973."

Brown Commission	S. 1400
Ch. 1: Preliminary provisions:	
101	101
102	102
103	omitted
104	omitted
109	111
Ch. 2: Federal penal jurisdiction:	
201	omitted
202	omitted
203	1001–03
204	303
205	202
206	205
207 (see 211)	omitted
208	204
209	1881
210	203
211	203
212	204
219	111
Ch. 3: Bases of criminal liability: Culpability; causation:	
301	301
302	302
303	501
304	501
305	omitted
Ch. 4: Complicity:	
401	401
402	402
403	403
409	111
Ch. 5: Responsibility defenses: Juveniles; intoxication; mental disease or defect:	
501	
502	503
503	502
Ch. 6: Defenses involving justification and excuse:	
601 (omitted in part)	104
602	521
603	522
604	522
605	omitted
606	523
607	521–24
608	omitted
609	532
610	511
619	111, 524
Ch. 7: Temporal and other restraints on prosecution:	
701	3281
702	531
703	omitted
704	omitted
705	omitted
706	omitted
707	omitted
708	omitted
709	omitted
Ch. 10: Offenses of general applicability:	
1001	1001
1002	omitted
1003	1003
1004	1002
1005	1004
1006	omitted
Ch. 11: National security:	
1101	1101
1102	1101
1103	1101–1103
1104	1104
1105	1111
1106	1112
1107	1111
1108	1115
1109	1115–16
1110	1117
1111	1114
1112	1121
1113	1122
1114	1121–22, 1124
1115	1124
1116	1125
1117	omitted
1118	1311
1119	1117, 1311
1120	1118
1121	1131
1122	1127
1129	omitted
Ch. 12: Foreign relations, immigration and nationality, foreign relations, and trade:	
1201	1201
1202	1202
1203	1203
1204	1211
1205	1204
1206	1128
Immigration, naturalization, and passports:	
1221	1221
1222	1222
1223	1223
1224	1224
1225	1225
1229	1226
Ch. 13: Integrity and effectiveness of Government operations:	
1301	1302
1302	1302
1303	1311
1304	1312
1305	1313
1306	1314
1307	omitted
1308	1801
1309	1315
1310	1316
1321	1322–23
1322	1322–23
1323	1325
1324	1326
1325	1328
1326	1327
1327	1323
1341	1331
1342	1332
1343	1333
1344	1335
1345	1336
1346	1003
1349	1334
1351	1341
1352	1342–43
1353	1343
1354	1344
1355	1346
1356	1343–45
1361	1351
1362	1352
1363	1353
1364 (omitted in part)	1355
1365	1354
1366	1357
1367	1324, 58
1368	1351–55, 1357–58
1369	1359
1371	omitted
1372	1356
1381	1361
Ch. 14: Internal revenue and customs offenses:	
1401	1401
1402	1402
1403	1411
1404	1411
1405	1411
1409	1403
1411	1421–23
Ch. 15: Civil rights and elections:	
1501	1501
1502	1502
1511	1511
1512	1512
1513	1512
1514	1512
1515	1513
1516	omitted
1521	1502
1531	1521–22
1532	1523
1533	1524
1534	1525
1535	omitted
1541	1526
1551	omitted
1561	1532
1562	1533
1563	1534
1564	1531
Ch. 16: Offenses involving danger to the person:	
1601	1601
1602	1602
1603	1603
1609	1601–03
1611	1613
1612	1612
1613	1615
1614	1616
1615	1618
1616	1614
1617	1723
1618	1617
1619	omitted
1631	1621
1632	1622

1633 ---------- 1623
1634 ---------- 1621–23
1635 ---------- 1625
1639 ---------- 1624
1641 ---------- 1631
1642 ---------- 1632
1643 ---------- 1631
1644 ---------- 1632
1645 ---------- 1633
1646 ---------- 1634
1647 ---------- 1635
1648 ---------- omitted
1649 ---------- 1636
1650 ---------- 1631–35
Ch. 17: Offenses against property:
1701 ---------- 1701
1702 ---------- 1615, 1701–02
1703 ---------- omitted
1704 ---------- 1615, 1701–02
1705 ---------- 1702–03
1706 ---------- 1701–02
1708 ---------- 1704
1709 ---------- 111, 1704
1711 ---------- 1711
1712 ---------- 1712
1713 ---------- 1711–12
1714 ---------- 1713
1719 ---------- 1714
1721 ---------- 1721
1731 ---------- 1731
1732 ---------- 1731
1733 ---------- 1731
1734 ---------- 1731
1735 ---------- 1731
1736 ---------- 1731
1737 ---------- 1731
1738 ---------- 1735
1739 (omitted in part) ---------- 1733
1740 ---------- 1731, 1735
1741 ---------- 111
1751 ---------- 1741
1752 ---------- 1743
1753 ---------- 1742
1754 ---------- 1744
1755 ---------- Title 31
1756 ---------- 1764
1757 ---------- 1753
1758 ---------- 1751–52
1759 ---------- 1771
1771 ---------- 1724
1772 ---------- 1761
1773 ---------- omitted
Ch. 18: Offenses against public order, health, safety and sensibility:
1801 ---------- 1801
1802 ---------- 1802
1803 ---------- 1803
1804 ---------- 1804
1805 ---------- 1626
1811 ---------- 1811–12
1812 ---------- 1811–12
1813 ---------- 1811–12
1814 ---------- 1811
1821 ---------- 1825
1822 ---------- 1821–22
1823 ---------- 1822, 24
1824 ---------- 1823
1825 ---------- 1821–23
1826 ---------- 1821–24
1827 ---------- 5101
1829 ---------- 111, 1825
1831 ---------- 1831
1832 ---------- 1832
1841 ---------- 1841
1842 (omitted in part) ---------- 1841
1843 ---------- omitted
1848 ---------- omitted
1849 ---------- 1636, 1841
1851 ---------- 1851
1852 ---------- 1871
1861 ---------- 1871
Ch. 30: General sentencing provisions:
3001 ---------- 2001
3002 ---------- 105
3003 ---------- omitted
3004 ---------- 2003
3005 ---------- omitted
3006 ---------- 2002
3007 ---------- 2004
Ch. 31: Probation and unconstitutional discharge:
3101 ---------- 2101
3102 ---------- 2102
3103 ---------- 2103
3104 ---------- 2104
3105 ---------- omitted
3106 ---------- omitted
Ch. 32: Imprisonment:
3201 ---------- 2301
3202 ---------- omitted
Ch. 32: Imprisonment:
3203 (omitted in part) ---------- 2204
3204 ---------- 2303
3205 ---------- 2304
Ch. 33: Fines:
3301 ---------- 2201
3302 ---------- 2202
3303 ---------- 2203
3304 ---------- 2204
Ch. 34: Parole:
3401 ---------- 4202
3402 ---------- 4202
3403 ---------- 4204
3404 ---------- 4205
3405 ---------- 4206
3406 ---------- 4208
Ch. 35: Disqualification from office and other collateral consequences of conviction:
3501 ---------- omitted
3501 ---------- omitted
3503 ---------- omitted
3504 ---------- omitted
3505 ---------- omitted
Ch. 36: Life imprisonment:
3601 ---------- omitted
Ch. 36: Provisional: Sentence of death or life imprisonment:
3601 ---------- 2401
3602 ---------- 2402
3603 ---------- 2401
3604 ---------- 2401
Appellate Review of Sentence: Title 28:
1291 ---------- omitted

By Mr. HRUSKA (for himself and Mr. McCLELLAN):

S. 1401. A bill to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes. Referred to the Committee on the Judiciary.

RESTORING THE DEATH PENALTY

Mr. HRUSKA. Mr. President, I introduce for myself and the distinguished senior Senator from Arkansas (Mr. McCLELLAN) S. 1401, a bill to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

Earlier today, I introduced S. 1400, the massive "Criminal Code Reform Act of 1973." Section 2401 of that bill provided in certain instances for the imposition of the death sentence in Federal prosecutions for treason, sabotage, espionage, and murder. Section 2402 of S. 1400 set forth the procedures to be followed in determining the applicability of the sentence of death in these instances.

The bill which I now send to the desk would work the same effect as sections 2401 and 2402 of S. 1400. It is introduced separately in order to allow the Congress to act upon the death penalty as an independent issue of immediate concern, which can be resolved prior to final action on the larger project of rewriting the present Federal Criminal Code.

Present Federal law provides that the death penalty is an authorized sentence upon conviction in at least 10 instances, including murder, treason, rape, air piracy, and delivery of defense information to aid a foreign government. (18 U.S.C. sec. 34 (destruction of motor vehicles or motor vehicle facilities where death results); 18 U.S.C. sec. 351 (assassination or kidnaping of Member of Congress); 18 U.S.C. sec. 794 (gathering or delivering defense information to aid a foreign government); 18 U.S.C. sec. 1111 (murder in the first degree within the special maritime and territorial jurisdiction of the United States); 18 U.S.C. sec. 1114 (murder of certain officers and employees of the United States); sec. 1716 (causing death of another by mailing injurious articles); 18 U.S.C. sec. 1751 (Presidential and Vice Presidential murder and kidnaping); 18 U.S.C. sec. 2031 (rape within the special maritime or territorial jurisdiction of the United States); 18 U.S.C. sec. 2381 (treason); and 49 U.S.C. sec. 1472 (i) (aircraft piracy)).

As drafted, they appear to be unconstitutional under the 1972 decision in *Furman* v. *Georgia*, 408 U.S. 238 (1972). In addition, there are several other statutes that authorize the death penalty, but each appears to be unconstitutional under *United States* v. *Jackson*, 390 U.S. 570 (1968), because by permitting the jury and not the court to impose the penalty, they inhibit the exercise of the right to demand a jury trial.

This bill will cure the constitutional defects inherent in present law as revealed in Furman and thus restore the death penalty as an available sentence in certain heinous situations.

This "two-track" approach to restoring the death penalty was suggested by the President in his March 14 crime message and is supported fully by the chairman of the Subcommittee on Criminal Laws and Procedures (Mr. McCLELLAN) and myself.

Mr. President, in the unlikely event that any Senator is unaware of it, I would like to call attention to a particularly shocking crime which was committed here in a Washington suburb just a short time ago. According to newspaper accounts, 5 men armed with handguns and a shotgun held about 25 employees of a vending machine company hostage for more than an hour. During that time, they beat, kicked, pistol-whipped and shot their victims in what appears to have been a random exercise of terror. One of the detectives who investigated it described it as the most vicious holdup he had ever seen. At the end of it all, one of the assailants was dead. Two suspects and a dozen of the innocent victims were hospitalized. It appears to have been pure chance that none of the victims was killed. As it is, one woman employee—shot in the throat—may not be able to speak for a year, and others may have been permanently disfigured.

Reports indicate that at least two of the suspects were not new to crimes of violence. In fact, they had pleaded guilty less than a week earlier to charges that they were accessories to a murder the previous September. They were at the time of this most recent incident free on bond awaiting sentencing.

This case is not unique. It does underscore once again the desperate need for

tough, realistic new efforts to curb lawlessness and violence. And, particularly, it underscores the need to restore the death penalty to our laws.

But if they run true to form, we will hear social theorists talking about the "inhumanity" of new laws to curtail the criminals, rather than about the rights of peaceful citizens to be free from the threat of imminent violence.

Mr. President, I say to the social theorists: Read the reports of this appalling episode, which took place only last week, and tell the victims if the lenient approach to crime which you advocate should be pursued to the exclusion of all else. Read the accounts of the victims who, in the midst of the mayhem, were told, and I quote: "there's no death penalty—what do I have to lose," and then tell these victims that there is no merit in the recommendation that capital punishment be restored.

The American people, in my judgment, are fed up with the kind of outrage that occurred last week in the Maryland suburbs. There can be no other way to describe it. They simply are fed up. There must be a return to the idea that when a person breaks a law, he must be held personally responsible and he must be punished for it. The American people are not of a mood to accept anything less.

The instant bill would create a constitutionally supportable death penalty, limited in applicability solely to wartime treason, sabotage or espionage, or to murder committed during the course of seven specified offenses or under other limited circumstances. However, the death penalty could only be imposed if the jury, in a separate proceeding, determined that the offense was aggravated by one or more specified circumstances and that none of the enumerated mitigating factors was present.

It is my understanding the Criminal Laws Subcommittee will shortly begin consideration of this issue. Hopefully, we will be able to enact this bill with any necessary modifications in the not too distant future.

I ask unanimous consent that the text of the bill and the transmittal letter be printed in the RECORD immediately following my remarks along with newspaper accounts of the shocking crime referred to earlier in this statement and excerpts from the President's sixth crime message to the Congress.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 227 of title 18, United States Code, is amended by adding after section 3562 a new section 3562A, to read as follows:

"3562A. Sentencing for capital offenses.

"(a) A person shall be subjected to the penalty of death for any offense prohibited by the laws of the United States only if a hearing is held in accordance with this section.

"(b) When a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in subsections (f) and (g), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the Government stipulates that none of the aggravation factors set forth in subsection (g) exists or that one or more of the mitigating factors set forth in subsection (f) exists. The hearing shall be conducted.

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury; or

"(C) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

"(c) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of then national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in subsection (f) or (g). Any information relevant to any of the mitigating factors set forth in subsection (f) may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in subsection (g) shall be governed by the rules governing the admission of evidence at criminal trials. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in subsection (f) or (g). The burden of establishing the existence of any of the factors set forth in subsection (g) is on the government. The burden of establishing the existence of any of the factors set forth in subsection (f) is on the defendant.

"(d) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in subsection (f) and as to the existence or nonexistence of each of the factors set forth in subsection (g).

"(e) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the factors set forth in subsection (g) exists and that none of the factors set forth in subsection (f) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in subsection (g) exists, or finds that one or more of the mitigating factors set forth in subsection (f) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

"(f) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that at the time of the offense

"(1) he was under the age of eighteen;

"(2) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(3) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(4) he was a principal, as defined in section 2(a) of this title, in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

"(5) he could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing, death to another person.

"(g) If no factor set forth in subsection (f) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that:

"(1) if the defendant is convicted of an offense under section 794 or 2381 of this title:

"(A) the defendant has been convicted of another offense under one of those sections, committed before the time of the offense, for which a sentence of life imprisonment or death was imposable;

"(B) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; or

"(C) in the commission of the offense the defendant knowingly created a grave risk of death to another person; or

"(2) if the defendant is convicted of murder or of any other offense for which the death penalty is available if death results:

"(A) the defendant committed the offense during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of an offense under section 751, 794, 844(d), 844(f), 844(i), 1201, or 2381 of this title, or section 902(i) of the Act of August 23, 1958, as added by section 1 of the Act of September 5, 1961, and amended (75 Stat. 466, 49 U.S.C. 1472(i));

"(B) the defendant has been convicted of another federal or state offense, committed either before or at the time of the offense, for which a sentence of life imprisonment or death was imposable;

"(C) the defendant has previously been convicted of two or more state or federal offenses with a penalty of more than one year imprisonment, committed on different occasions before the time of the offense, involving the infliction of serious bodily injury upon another person;

"(D) in the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense;

"(E) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(F) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(G) the defendant committed the offense as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value; or

"(H) the defendant committed the offense against

"(i) the President of the United States, the President-elect, the Vice President, or if there is no Vice President, the officer next in order of succession to the office of the President of the United States, the Vice-President-elect, or any person who is acting as President under the Constitution and laws of the United States;

"(ii) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(iii) a foreign official listed in section 1116(b)(1) of this title, if he is in the United States because of his official duties; or

"(iv) a Justice of the Supreme Court, a federal law enforcement officer, or an em-

ployee of a United States penal or correctional institution, while performing his official duties or because of his status as a public servant. For purposes of this subsection, a 'law enforcement officer' is a public servant authorized by law or by a government agency to conduct or engage in the prevention, investigation, or prosecution of an offense."

SEC. 2. Section 34 of title 18, United States Code, is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 3. Section 844(d) of title 18, United States Code, is amended by striking therefrom the words "as provided in section 34 of this title".

SEC. 4. Section 844(f) of title 18, United States Code, is amended by striking therefrom the words "as provided in section 34 of this title".

SEC. 5. Section 844(i), title 18, United States Code, is amended by striking therefrom the words "as provided in section 34 of this title."

SEC. 6. The second paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows: "Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life."

SEC. 7. Section 1116(a) of title 18, United States Code, is amended by striking the words ", except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life".

SEC. 8. Section 1201 of title 18, United States Code, is amended by inserting after the words "or for life" in subsection (a) the words ", and if the death of any person results, shall be punished by death or life imprisonment".

SEC. 9. The last paragraph of section 1716 of title 18, United States Code, is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 10. The fifth paragraph of section 1992 of title 18, United States Code, is amended by changing the comma after the words, "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 11. Section 2031, title 18, United States Code, is amended by deleting the words "death, or".

SEC. 12. Section 2113(e) of title 18, United States Code is amended:

(a) by striking therefrom the words "kills any person, or"; and

(b) by striking therefrom the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or may be punished by death if death results".

SEC. 13. Section 902(i)(1) of the Act of August 23, 1958, as amended (49 U.S.C. 1472 (i)(1)), is amended to read as follows:

"(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life."

SEC. 14. The analysis of chapter 227 of title 18, United States Code, is amended by inserting after item 3562 the following new item:

"3562A. Sentencing for capital offenses."

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 14, 1973.

THE SPEAKER,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is attached for your consideration and appropriate reference a draft bill, "To establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes."

In *Furam* v. *Georgia*, 408 U.S. 238, decided June 29, 1972, the United States Supreme Court held that statutes which left the imposition of the death penalty to the unfettered discretion of a judge or a jury violated the Eighth and Fourteenth Amendments of the Constitution. The decision thereby invalidated the death penalty provisions of all federal statutes under which the death penalty is now imposable.

Furman was decided by a five-to-four vote, each justice writing a separate opinion. Of the majority, only two justices, Brennan and Marshall, argued that the Constitution mandated an absolute prohibition of the death penalty. Justices Stewart, White, and Douglas based their concurrences in the reversals on the fact that the statutes before the Court left the imposition of the death penalty to the unchecked discretion of the judge or jury, thereby permitting and occasioning irrational, selective, and discriminatory imposition. None of the opinions of the latter three justices precludes the upholding of the constitutionality of a death penalty procedure which would remove such unchecked discretion.

It is the Department's opinion that *Furman* holds unconstitutional the imposition of the death penalty as a discretionary, nonmandatory sentencing alternative, but nevertheless does not preclude the enactment of appropriate circumscribed legislation authorizing the imposition of the death penalty. It is the view of the Department that it is reasonable to conclude that the death penalty has deterrent value, and that it may provide a measure of protection against incorrigible, dangerous individuals.

In his recent message on law enforcement and drug abuse prevention, President Nixon stated:

"I am convinced that the death penalty can be an effective deterrent against specific crimes. The death penalty is not a deterrent so long as there is doubt whether it can be applied. The law I will propose would remove this doubt.

"The potential criminal will know that if his intended victims die, he may also die. The hijacker, the kidnapper, the man who throws a fire bomb, the convict who attacks a prison guard, the person who assaults an officer of the law, all will know that they may pay with their own lives for any lives that they take."

Under the Department's proposal, capital punishment will require a post-trial sentencing hearing for the purpose of determining the existence or nonexistence of specific aggravating factors or mitigating factors. The hearing will be held before the judge who presided at the trial and before the same jury, or, under certain circumstances, before a jury specially impanelled or before the judge alone. Imposition of the death penalty by the judge will be mandatory if there is a special verdict finding the existence of one or more aggravating factors and the absence of any mitigating factor. The death sentence is prohibited if the existence of any one or more mitigating factors is found.

Among the factors which would preclude the imposition of a death sentence are the youth of the defendant, lack of capacity to appreciate the wrongfulness of the conduct, and unusual and substantial duress. Aggravating factors include, for treason or espionage, the creation of a grave risk to the national security, and for murder, the killing of another person during the commission of the offense of kidnapping or aircraft hijacking, the assassination of the President of the United States, and the commission of murder after conviction of another offense for which a sentence of life imprisonment or death was imposable.

I urge the prompt introduction and early enactment of this legislation.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the Program of the President.

Sincerely,

———— ————,
Attorney General.

[From the Washington Evening Star and Daily News, Mar. 14, 1973]

ORDEAL IN TERROR

(By Toni House and Jackie Stone)

John Terry Robinson had just punched out for the day on his job as a mechanic at the Canteen Corp. in Landover and was walking to his truck when a large brown car with five men wheeled into the lot.

"Who are they?" a Canteen driver asked Robinson.

"I don't know," he replied. "Maybe they're here to rob the place."

Moments later Robinson's glib aside turned into terrifying reality as he and 24 others found themselves hostages of a group of masked men intent on robbing the company of its estimated $25,000-$30,000 daily receipts.

For what "seemed like days" to Robinson, he and the others were jammed in an 8-by-12 foot yellow tile and concrete men's room, where they were subjected to verbal and physical abuse as the masked men ran in and out of the bathroom, firing handguns wildly and shouting epithets.

"I think I'll throw a hand grenade in here," Robinson recalled one suspect in a red ski mask saying. Robinson said he was "the crazy one . . . the big mouth."

"There's no death penalty, what do I have to lose?" Robinson said the man shouted.

"None of us thought we'd get out of there alive," recalled another hostage, Edward Foley, as he described the ordeal. 'The way they were acting, they were like maniacs . . . high on dope. I'm sure they had every intention of killing us all."

Foley was among the wounded hostages.

Robinson's keys were still dangling in the lock of his white van at the company and his wedding band was safely tucked in a roll of toilet paper in the men's room that had been his prison as Robinson told of the 60-minute ordeal while awaiting treatment at the emergency room of Prince Georges General Hospital last night.

Robinson had been pistolwhipped as had five other hostages. His light blue Canteen Corp. shirt and dark blue pants were spattered with blood.

Here's his story:

About 3:30 p.m. the 27-years-old Bladensburg mechanic said he was walking across the parking lot at the Ardmore-Ardwick warehouse when he was seized at gunpoint by two of the suspects. Robinson then was hustled inside the warehouse and herded into a men's room, which was rapidly filling with fellow employes being rounded up at gunpoint by the bandits and collected there.

The hostages were ordered to lie on the floor of the bathroom and keep quiet. They followed orders, lying in a squirming sweating heap, on the yellow concrete floor.

"Every couple of minutes" a gunman would open the bathroom door and fire wildly into the room, apparently in an effort to keep the large number of hostages cowed. Robinson could not recall how many shots were fired. It was not clear at this time if anyone was wounded in the bathroom.

On one occasion a bandit opened the door and ordered the hostages to place all of their valuables in the sink. Some threw their wallets and valuables into a pile, while others tried to hide theirs.

Robinson said he concealed his wedding ring in a toilet paper roll tube, but threw his wallet and watch into the sink to satisfy the bandits.

On another occasion the bandits opened the bathroom doors and said "they would kill anybody they caught with keys," Robinson said, which touched off a flurry of activity as men and women scattered and hid keys around the bathroom.

Raymond U. Johnson, a Dunbar Express guard (an armored car employe) who had already been wounded twice, was dragged from the bathroom by gunmen who took him to a small, unopened safe and ordered him to open it.

They returned to the room and hustled out Nancy Weaver, a coin counter, who Johnson suggested knew the combination. Johnson told police Miss Weaver said she had to have her pocketbook to open the safe, then was shot in the neck before she could get it.

At least two women, Eleanor Miller and Wendy Post, were pistol-whipped in front of the hostages in the room. Mrs. Miller said she did not know why she was hit.

Miss Post was struck in the mouth and the gun discharged. "My God," she screamed, as the blow split her mouth and knocked out several of her teeth, Robinson said.

"You better hope you have a God," he said a gunman replied. "Maybe you'd be better off back with Adam and Eve."

Robinson's chance came when he and five others were marched outside to serve as cover for the bandits as they tried to escape from police who had cordoned off the warehouse.

The gunmen kept firing at police as they lined up the hostages against the building wall in front of a line of parked company trucks.

Robinson was ordered to open a truck door but said the keys were lost inside. "I was pistol-whipped for my trouble," he said, and while the masked men considered what to do next, he shoved past them and dashed for the police line.

As he zig-zagged across the pavement, he said, the bandits fired at him three times. He heard one bullet ricochet off a truck and whistle past him.

Foley said he probably was the last of the employes herded into the men's room. The next 45 minutes were a nightmare of threats and violence.

"They said they wanted all our billfolds, watches and valuables. Then they told the service manager, Howard Dillard, to pick up the stuff and put it in a paper bag. When he said he didn't have one, they hit him, knocked him down, bashed his head against a wall and then pulled him back to his feet again. Dillard told them to give him a bag and that's when they shot him in the arm."

The gunmen then forced Dillard to go with them to the money room and open the safe. Then Nancy Weaver was taken from the bathroom to the money room, where she was shot in the neck.

When the gunmen attempted to move the sacks of money into their car, they saw the police and ordered Foley and five other employes to act as hostages and accompany them to the loading dock. The police and the gunmen began to exchange fire.

"John Robinson was standing in front of me, and he pushed this one guy down between two trucks. Robinson took off running and managed to get away," Foley said.

"Then the guy turned around and fired twice at me. I was running toward the police lines, and I guess the second shot must have hit me. But I ran, and then crawled and ran again to the side of the building. A policeman hollered for me to 'Get down, and that's when my leg gave way."

Foley, the father of four lives in Lothian, Md. and fills the canteen machines at the Star-News. The gunmen's bullet still lodged in his left thigh. He said his doctor has not yet decided whether (or when) to remove the bullet.

"The doctor said it didn't do a lot of damage, and that maybe an operation to remove it, at least right now, would do more harm than good."

Asked what his thoughts were this morning, Foley replied, "At first I was just sorry to learn that the police had only killed one of them. Those kind of people shouldn't be on the street. Two of them were out on bond on murder charges already.

"As long as they (the courts) keep letting people out on bond when they're charged with major crimes, this kind of thing is going to keep on happening. They should keep this kind of criminal locked up until he can go to trial."

[From the Washington Post, Mar. 15, 1973]

VICTIMS PETRIFIED IN HOUR OF TERROR

(By Ivan G. Goldman)

"Petrified, that's the best way to describe how everyone felt," said the guard yesterday who was shot four times by holdup men during a wild robbery attempt Tuesday at a warehouse in Prince George's County.

"There was no reason to shoot any of those people," said armored car guard Raymond H. Johnson. "Everyone was too scared even to scream. I didn't think I'd ever get out alive."

Johnson was one of at least three hostages shot by five would-be robbers during the Tuesday shooting at the Canteen Corp. building in the Ardmore-Ardwick Industrial Park.

County police surrounded the building, killed one suspect and captured four others, wounding two.

Johnson, shot in both legs, the right shoulder and neck, described a bloody scene of random mayhem as the trapped, enraged bandits shot, beat and pistol-whipped unarmed hostages. He was shot when he and another guard, William T. Marks, stumbled into the holdup while making a currency pickup.

"We didn't know what was going on," Johnson said. "We were both trapped. They were already inside. They pulled their guns on us. We both tried to pull our guns, and that's when I got shot the first time, in the leg.

"Then they told us to go into the bathroom with the others. I asked them where it was, and that's when I got beat in the face with a gun. They told us to behave ourselves or we'd get killed. Then they worked over my partner, beating him for no reason at all. Then they put us in the men's room with the others."

Johnson said there was no room for him to lie down with the dozen or so other hostages, confined there. He stood bleeding in a corner, and no one attempted to administer to his wounds. "I was bleeding pretty badly," he said matter-of-factly.

"One of the gunmen stayed in there with us the whole time. That's the one I wanted to blow away. He was beating this woman. He told her to get out from behind the door. As he said it, he slapped her with the butt of his gun. I saw teeth go flying.

"He was the same one who shot me all four times. One guy (bandit) came in and told a guy to take his shirt off. He wanted it for the muzzle of his shotgun. He didn't take it off fast enough and they shot him and ripped it off him.

"Then they took me out and put me in the vault where they kept the change. They told me to open the safe, and I said I didn't know the combination. I told them who had it, and they brought her in. She wasn't fast enough or something, and they shot her in the neck. They were mad because she said the combination was in her pocketbook."

Johnson said it was difficult to keep track of time, but it soon became evident that the building was surrounded by police, and that the gunmen knew it. He said the gunmen had him begin loading bags of coins and currency from a pile onto a cart, and that he was shot three more times during the loading "because I wasn't fast enough.

"There were about 30 or 40 bags, and I loaded the better part of them. Then they told me to push the cart through the door," he said. "I did, and that's when I got away. I told police there were other people in there."

Johnson, who has worked for Dunbar Express Co., the armored car firm, four weeks, said the one-hour ordeal "took about a year, it seemed."

Johnson was in fair condition in Prince George's County Hospital and Nancy Carmen Weaver, 32, a Canteen employee, was in serious condition yesterday with a gunshot wound in the throat. Police were still piecing together details yesterday, and had not fully interviewed all witnesses.

Assistant Police Chief John W. Rhoads said he believed about five other employees were hiding in the building during the one-hour siege. They were not taken by the holdup men, he said, but they were unable to get out of the building safely as the robbers shot it out with police.

All four suspects were charged with armed robbery and murder. A Maryland law dictates that when death results from the commission of a felony, then the perpetrators can be held legally responsible for the death.

Police said Baron Jerome Cathy, 22, of 3457 25th St. SE, was shot to death at the scene, an office-warehouse at 7650 Preston Dr., in the industrial park. They identified the four other suspects as Guy Thurston Marshall, 22, of 408 Aspen St. NW; Robert John Young, 27, of 5011 Jay St. NE; Samuel Edward Brown, 27, of 2930 Knox St. SE; and Robert Wesley Smith Jr., 27, of 823 N. Henry St., Alexandria.

Smith, Young, and Brown were under police guard yesterday in Prince George's General Hospital. Hospital authorities said Smith was in fair condition with gunshot wounds in the chest and face. Brown was in fair condition with a gunshot wound to the abdomen. Young was in good condition with multiple lacerations and a jaw fracture.

The three patients were held without bond. Marshall remained in the county jail in Upper Marlboro after County District Court Judge Howard S. Chasanow set his bond at $125,000.

Marshall, who appeared smiling at the hearing and wearing jail denims and shower clogs, was unable to post the bond. He said nothing at the brief hearing.

County State's Attorney Arthur A. Marshall Jr. (no relation to the suspect Marshall) said Marshall and Young had pleaded guilty Friday in County Circuit Court as accessories before the fact in the Sept. 18, 1972, murder of Dennis Johnson, 26.

Each had been free on $10,000 bond awaiting sentencing. Law enforcement officials described the murder as a narcotics-related execution. Robert E. Hall, 25, of 1234 Prairie St. NE, was convicted of first-degree murder and conspiracy to commit murder in the slaying by a County Circuit Court jury trial yesterday.

Rhoads said that about 50 county policemen surrounded the building minutes after the robbers entered the building. They were summoned, he said, by a silent alarm pressed by a Canteen employee.

The robbers had driven to the building in a stolen 1971 Cadillac, Rhoads said. He said they entered through a loading dock, pulling their guns immediately and herding employees into the men's room.

Rhoads, who directed the battle, said his men fired "only a few shots" because they knew the gunmen held hostages.

Rhoads said one of the gunmen fired at police Maj. Blair Montgomery as Montgomery, speaking through a bullhorn tried to persuade the men to throw down their guns and surrender. Only one man came out

unarmed, Rhoads said, and he was captured without injury.

"In terms of criminal brutality," Rhoads said, "that was the worst crime scene I've ever seen. For no apparent reason people were shot and beaten unmercifully."

THE WHITE HOUSE,
March 14, 1973.

MESSAGE TO CONGRESS

The sharp reduction in the application of the death penalty was a component of the more permissive attitude toward crime in the last decade.

I do not contend that the death penalty is a panacea that will cure crime. Crime is the product of a variety of different circumstances—sometimes social, sometimes psychological—but it is committed by human beings and at the point of commission it is the product of that individual's motivation. If the incentive not to commit crime is stronger than the incentive *to* commit it, then logic suggests that crime will be reduced. It is in part the entirely justified feeling of the prospective criminal that he will not suffer for his deed which, in the present circumstances, helps allow those deeds to take place.

Federal crimes are rarely "crimes of passion." Airplane hi-jacking is not done in a blind rage; it has to be carefully planned. Using incendiary devices and bombs are not crimes of passion, nor is kidnapping; all these must be thought out in advance. At present those who plan these crimes do not have to include in their deliberations the possibility that they will be put to death for their deeds. I believe that in making their plans, they should have to consider the fact that if a death results from their crime, they too may die.

Under those conditions, I am confident that the death penalty can be a valuable deterrent. By making the death penalty available, we will provide Federal enforcement authorities with additional leverage to dissuade those individuals who may commit a Federal crime from taking the lives of others in the course of committing that crime.

Hard experience has taught us that with due regard for the rights of all—including the right to life itself—we must return to a greater concern with protecting those who might otherwise be the innocent victims of violent crime than with protecting those who have committed those crimes. The society which fails to recognize this as a reasonable ordering of its priorities must inevitably find itself, in time, at the mercy of criminals.

America was heading in that direction in the last decade, and I believe that we must not risk returning to it again. Accordingly, I am proposing the re-institution of the death penalty for war-related treason, sabotage, and espionage, and for all specifically enumerated crimes under Federal jurisdiction from which death results.

The Department of Justice has examined the constitutionality of the death penalty in the light of the Supreme Court's recent decision in *Furman* v. *Georgia*. It is the Department's opinion that *Furman* holds unconstitutional the imposition of the death penalty only insofar as it is applied arbitrarily and capriciously. I believe the best way to accommodate the reservations of the Court is to authorize the automatic imposition of the death penalty where it is warranted.

Under the proposal drafted by the Department of Justice, a hearing would be required after the trial for the purpose of determining the existence or nonexistence of certain rational standards which delineate aggravating factors or mitigating factors.

Among those mitigating factors which would preclude the imposition of a death sentence are the youth of the defendant, his or her mental capacity, or the fact that the crime was committed under duress. Aggravating factors include the creation of a grave risk of danger to the national security, or to the life of another person, or the killing of another person during the commission of one of a circumscribed list of serious offenses, such as treason, kidnapping, or aircraft piracy.

The hearing would be held before the judge who presided at the trial and before either the same jury or, if circumstances require, a jury specially impaneled. Imposition of the death penalty by the judge would be mandatory if the jury returns a special verdict finding the existence of one or more aggravating factors and the absence of any mitigating factor. The death sentence is *prohibited* if the jury finds the existence of one or more mitigating factors.

Current statutes containing the death penalty would be amended to eliminate the requirement for jury recommendation, thus limiting the imposition of the death penalty to cases in which the legislative guidelines for its imposition clearly require it, and eliminating arbitrary and capricious application of the death penalty which the Supreme Court has condemned in the *Furman* case.

By Mr. HARTKE:

S. 1402. A bill to establish a Federal program to encourage voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors. Referred to the Committee on Labor and Public Welfare.

Mr. HARTKE. Mr. President, there will be more than 2 million blood transfusions performed in the United States this year. One out of every 150 of these will cause a death from serum hepatitis in the over 40 age group. Many more transfusions will cause sickness in younger people.

Hepatitis is a growing menace to our Nation's health. Dr. J. Garrot Allen, of Stanford Medical Center, has estimated that at least 455,000 hospital bed-days are devoted to this disease every year. Effective measures, however, can go far to wiping out this disease. The bill I am introducing today is designed to provide the means necessary to accomplish that goal.

In many communities throughout the Nation, there is a critical shortage of blood. To meet this need, blood banks have been established. Most of these blood banks are highly reputable and have performed invaluable service to those in need; but there are far too many unscrupulous blood banks which have failed to screen properly those who donate their blood.

Much of the serum hepatitis in this country comes from the paid blood donor. He may be an alcoholic or a drug addict seeking money for his habit, and some commercial blood banks are all too willing to give him the few dollars he seeks without checking into his background.

Profitmaking blood banks have been established because—regrettably—the voluntary donor system has not been able to meet the demand for blood. Hospitals have no choice but to turn to the commercial blood bank for their supply, yet reliable studies have shown that the risk of contracting hepatitis from the blood of paid donors is from 11 to 70 times greater than the risk from voluntarily donated blood.

Although the Federal Government is already involved in the regulation of blood banks, additional licensing is necessary.

To meet the problems of regulation, my bill would establish a new office in the Department of Health, Education, and Welfare, to license, inspect, and regulate all blood banks in this country. The poor past performance of the National Institute of Health, now the Bureau of Biologics under the Food and Drug Administration, is proof enough that responsibility should be placed elsewhere.

Because the lack of voluntary blood is the only justification for using paid donors, my bill provides for a national effort to recruit voluntary donors. It also requires that the source of each pint of blood be clearly stated on its label.

Under my proposal, the Director of the National Blood Bank is to inspect, license, and regulate all blood banks. It authorizes $9 million for a national program to recruit voluntary donors, include efforts to develop new procedures and techniques to inform the public of the need to donate blood voluntarily.

The Director will be assisted by an advisory council made up of representatives of blood banks, consumers, and the public relations industry. The council will advise in the development of long range policy for the blood bank program and provide expert advice on proposed regulations and voluntary recruitment efforts.

Recognizing that the national blood bank systems of the American Red Cross and the American Association of Blood Banks deserve special attention, the bill authorized the Director to accept their inspection and accreditation program in lieu of Federal inspections.

Among its other provisions, it would establish two classes of accredited blood banks. Class A blood banks are those having a maximum percentage of voluntary donors. Class B blood banks are all others. The Director is required to update annually the percentage to qualify for class A status to the highest level consistent with an adequate national blood supply. Federal agencies are prohibited from purchasing blood from other than class A blood banks.

Mr. President, 17 States have no laws governing blood banks. Another 21 have laws which prevent patients infected by contaminated blood from collecting monetary damages. It is time that the Federal Government acted to protect the health of the American public.

A serious illness or accident is tragedy enough without the danger of receiving contaminated blood. The quality of blood available to hospitals is nothing short of disgraceful. The legislation I introduce today will make it possible for us to eradicate this disgrace without further delay.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "National Blood Bank Act of 1973".

FINDINGS

SEC. 2. The Congress finds that human blood is necessary for medical treatment and that an adequate supply of pure and safe blood throughout the United States is essential to the welfare of the Nation. Congress further finds that interstate shipment of pure and safe whole blood and blood components is necessary for the welfare of the United States; that since human blood is a living tissue which cannot be manufactured, an adequate interstate supply of blood depends upon the willingness of individuals to donate their blood; that since the virus hepatitis is transmitted in human blood and is found significantly more often in the blood of persons who donate for monetary compensation than in the blood of voluntary donors the purity and safety of the national blood supply is seriously threatened by the inadequate level of voluntary donation and by monetary compensation of blood donors. The Congress therefore finds that the welfare of the United States will be promoted by development of a 100 per centum voluntary blood supply as soon as feasible, that voluntary donation should therefore be encouraged and promoted, and that certain procedures and standards should be established with respect to the operation of all blood banks in the United States.

ESTABLISHMENT OF PROGRAM; DIRECTOR

SEC. 3. There is established in the Department of Health, Education, and Welfare a National Blood Bank Program to be under the supervision of a Director appointed by the Secretary of Health, Education, and Welfare. The Director of the National Blood Bank Program (hereinafter in this Act referred to as the "Director") shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

FUNCTIONS AND DUTIES OF DIRECTOR

SEC. 4. (a) NATIONAL BLOOD BANK SYSTEMS.—Upon the application of any group or organization of blood banks, the Director shall designate such group or organization as a national blood bank system under this Act if the group or organization—

(1) includes member blood banks in not less than ten States, which member banks have drawn an aggregate of not less than two million units of blood in the year preceding application;

(2) requires by written contract member blood banks, which are not maintained and operated directly by the group or organization, to adhere and be bound by the rules and regulations of the group or organization;

(3) requires all member blood banks to maintain a program for the recruitment of voluntary blood donors;

(4) adopts rules and regulations for the operation of member blood banks which rules and regulations are approved by the Director and certified to be equal to or more stringent than the standards for blood banks and transfusion services of the American Association of Blood Banks and the applicable standards of the American Red Cross;

(5) provides for—

(A) accreditation of member blood banks which operate in conformity with the rules and regulations referred to in paragraph (4);

(B) a program approved by the Director of annual, unannounced inspection of accredited member blood banks to determine adherence to such standards; and

(C) recommend the fining, suspension, or termination of accreditation of member blood banks which fail to adhere to such standards;

(6) requires that accredited member blood banks—

(A) designate named individuals in such accredited member blood banks to have express responsibility for recruitment of voluntary blood donors;

(B) be open for business on days and at hours most convenient for voluntary blood donors;

(C) cooperate with other blood banks in the recruitment of voluntary blood donors and in other functions; and

(D) label clearly each unit of blood collected as "donated" when it is from a voluntary blood donor or "purchased" when it is from a paid blood donor.

(b) PROMOTION OF VOLUNTARY BLOOD DONATION.—In order to assure an adequate supply of pure and safe blood throughout the Nation, the Director shall—

(1) develop, by grant or contract, new procedures, materials, and techniques to inform the public of the need to voluntarily donate blood;

(2) provide direct assistance to establish an adequate supply of voluntary blood in those parts of the country where it is presently unavailable;

(3) develop a national program to honor and recognize all voluntary donors;

(4) establish yearly goals of voluntary donors for each blood bank;

(5) conduct evaluations of the effectiveness of various recruitment techniques and inform the licensed blood banks of the most effective techniques;

(6) classify blood banks which collect no more than a specified percentage of their blood from paid donors as "Class A Blood Banks" and classify all other blood banks as "Class B Blood Banks";

(7) annually increase the allowable percentage of paid donors to qualify as a "Class A Blood Bank" to the highest level consistent with an adequate national blood supply.

(c) DONOR REGISTRY.—The Director shall maintain a registry of all persons who give blood after July 1, 1972, to a licensed blood bank and shall identify individuals on such registry who may have been implicated in the transmission of hepatitis or who should otherwise be disqualified as blood donors. The Director shall notify all blood banks of such disqualifiying information.

LICENSE TO OPERATE AS A BLOOD BANK

SEC. 5. (a) LICENSE REQUIRED.—No person may operate as a blood bank unless such person is licensed under this section.

(b) REQUIREMENTS OF LICENSE.—Upon application therefor the Director shall issue a license to operate as a blood bank to any person if—

(1) such person agrees to require identification of each blood donor and such other information relating to each blood donor as the Director may prescribe; and

(2) such person agrees to transmit to the Director such information (including information indicating that the donor may be infected with hepatitis) as the Director may require; and

(3) the application therefor contains or is accompanied by such information as the Director finds necessary and the applicant agrees and the Director determines that the blood bank will be operated in accordance with standards the Director issues to carry out the purposes of this Act, including standards for purity, potency, and safety of blood, donor selection, allowable percentage of paid donors, regulations covering the management of blood inventories; and a requirement that all blood be tested by the best practical test for the presence of hepatitis; and

(4) such person agrees to clearly label each unit of blood collected as "low risk" when it is from a voluntary donor and "high risk" when it is from a paid donor.

(c) PERIOD OF VALIDITY.—A licensed issued under this section shall be valid for a period of three years, or such shorter period as the Director may establish for any blood bank or class or classes thereof.

(d) FEES.—The Director may require payment of fees for the issuance and renewal of licenses, but the amount of any such fee shall not exceed $125 per annum.

(e) The Director or his designee shall conduct an annual inspection of each blood bank licensed under this section to determine compliance with standards issued under this Act. The time of such inspections shall not be announced prior to the inspection.

(f) The Director may designate a national blood bank system as his inspecting agent for purposes of this section. He may accept accreditation by a national blood bank system in lieu of this inspection requirement.

(g) REVOCATION, SUSPENSION, OR LIMITATION; NOTICE AND HEARINGS; GROUNDS.—A blood bank license may be revoked, suspended, or limited if the Director finds, after reasonable notice and opportunity for hearing to the licensee blood bank, that such licensee or any employee of the blood bank—

(1) has been guilty of misrepresentation in obtaining the license;

(2) has engaged or attempted to engage or represented himself as entitled to perform any procedure or category of procedures not authorized in the license;

(3) has failed to comply with reasonable request of the Director for any information or materials or work on materials, he deems necessary to determine the blood bank's continued eligibility for its license hereunder or continued compliance with the Director's standards hereunder;

(4) has refused a request of the Director or any Federal officer or employee duly designated by him for permission to inspect the blood bank and its operations and pertinent records at any reasonable time; or

(5) has violated or aided and abetted in the violation of any provisions of this section or of any rule or regulation promulgated thereunder.

(h) LEGAL PROCEDURE; IMMINENT HAZARD TO PUBLIC HEALTH; JURISDICTION OF DISTRICT COURT; TEMPORARY INJUNCTION OR RESTRAINING ORDERS; BOND; FINAL ORDERS.—Whenever the Director has reason to believe that continuation of any activity by a blood bank licensed under this section would constitute an imminent hazard to the public health, he may bring suit in the district court for the district in which such blood bank is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this section shall be granted without bond by such court.

(i) APPEALS; PETITIONS; RECORD; ADDITIONAL EVIDENCE; MODIFIED OR NEW FINDINGS; JURISDICTION OF COURT OF APPEALS; CONCLUSIVENESS OF FINDINGS; REVIEW BY SUPREME COURT.—

(1) Any party aggrieved by any final action taken under subsection (e) of this section may at any time within sixty days after the date of such action file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director or other officer designated by him for that purpose. The Director thereupon shall file in the court the record on which the action of

the Director is based, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Director, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Director, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Director may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Director as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Director shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(j) VIOLATIONS AND PENALTIES.—Any person who willfully violates any provision of this section or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine.

ADVISORY COUNCIL

SEC. 6. (a) ESTABLISHMENT.—There is established an Advisory Council to be composed of the following nine members appointed by the President:

(1) two representatives from each national blood bank system, one of whom shall be a person with not less than five years' recent experience in blood bank administration;

(2) three representatives of blood consumer groups including:

(A) one hospital administrator,

(B) one representative of organized labor.

(C) one representative of business management; and

(3) two persons experienced in advertising and public relations neither of whom may be employed or retained during their service on the Council by any firm or other organization which is engaged in operating a blood bank.

(b) DUTIES OF COUNCIL.—The Advisory Council shall—

(1) make recommendations to the Director with respect to long-term policy goals for the National Blood Banks Program established under section 3 of this Act;

(2) make recommendations to the Director with respect to the encouragement of blood donation and the motivation, recruitment, and recognition of blood donors; and

(3) make recommendations to the Director relating to reciprocal transactions between national blood bank systems to the extent that no agreement relating to such transactions exists between such systems.

(c) TRAVEL EXPENSES; PER DIEM.—While away from their homes or regular places of business in the performance of services for the council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

ANTITRUST EXEMPTION

SEC. 7. Notwithstanding any antitrust law, as defined in section 2(a) of the Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311 (a)), a national blood bank system may exclude or reject from membership in such system any blood bank which does not qualify for tax-exempt status under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

BLOOD ASSURANCE PROGRAMS

SEC. 8. No person other than a blood bank which is classified as a "Class A Bank" may maintain any program in which individuals deposit blood in advance of their need for blood or pledge to give blood upon request.

PURCHASE OF BLOOD BY FEDERAL GOVERNMENT

SEC. 9. No agency, department, or other instrumentality of the Government of the United States shall contract for or pay for the provision of blood from any person other than a "Class A Blood Bank" and such agency department, or other instrumentality shall take such measures as may be necessary to insure that such blood has been tested according to the best available test for hepatitis.

DEFINITIONS

SEC. 10. For the purposes of this Act, the term—

(a) "Blood" means human whole blood, or any component thereof.

(b) "Blood bank" means any person or other entity engaged in the bleeding of individuals and performing two or more of the following functions—

(1) recruitment of blood donors;

(2) processing of blood for transfusions;

(3) storage of blood;

(4) crossmatching of blood;

(5) administration of blood to individuals; or

(6) preparation of blood components for transfusion.

(c) "Blood donor" means a paid blood donor or a voluntary blood donor.

(d) "Paid blood donor" means an individual who receives monetary compensation or an adjustment in his scheduled period of prison confinement for his donation of blood or any component thereof.

(e) "Voluntary blood donor" means any individual donating his blood other than a paid donor.

(f) "Accredited blood bank" means a blood bank accredited by a National Blood Bank System.

AUTHORIZATION

SEC. 11. There is authorized to be appropriated $10,000,000 for the fiscal year 1973, $10,000,000 for the fiscal year 1974, and $10,000,000 for the fiscal year 1975 to carry out the purposes of this Act.

Mr. PERCY. Mr. President, Senator HARTKE and I together sponsored the National Blood Bank Act in the last Congress. No one can be as pleased as I that Senator HARTKE is reintroducing this bill today. Assuring the people of this country a safe and economical blood supply deserves priority consideration, and the senior Senator from Indiana deserves our commendation and support for again giving the Senate an opportunity to consider this fine bill.

Since our introduction of the National Blood Bank Act, blood banking in this country has seen some important changes, most notably in my home State, Illinois. Illinois, I am very proud to say, is a leader in the blood banking field. Since last October 1, when the State blood labeling law went into effect, all blood in Illinois is labeled "From Volunteer Donor" or "Purchased." And after July 1, 1973, any attending physician who orders the use of purchased blood must specify in the patient's medical record his reasons for such action. In essence, Illinois has banned purchased blood and is well on its way toward a statewide all-volunteer donor system.

What Illinois is doing can have significant impact for the public health in the country. Therefore, on March 16, I went back to my State and met with the members of the Governor's blood task force and other blood experts to assess the impact of the State blood labeling law and to solicit recommendations for Federal legislation on blood banking.

What I learned at the meeting has persuaded me not to join Senator HARTKE in the reintroduction of the National Blood Bank Act at this time. Instead, at a later date I will be introducing a modified version of the bill, incorporating the lessons that Illinois has learned about blood banking from its blood labeling law.

By Mr. SCHWEIKER (for himself, Mr. BAKER, Mr. CANNON, Mr. EASTLAND, Mr. PASTORE, and Mr. SCOTT of Pennsylvania):

S.J. Res. 84. Joint resolution proposing an amendment to the Constitution of the United States with respect to prayer in public buildings. Referred to the Committee on the Judiciary.

Mr. SCHWEIKER. Mr. President, I introduce for myself and Senators BAKER, CANNON, EASTLAND, PASTORE, and SCOTT of Pennsylvania, a joint resolution proposing an amendment to the Constitution of the United States with respect to voluntary prayer in public schools and buildings. On January 4 of this year I introduced a similar proposal, Senate Joint Resolution 10, which I am pleased to say has 28 cosponsors, including the Senators who join me today.

In brief, Senate Joint Resolution 10 provides for restoration of "voluntary, nondenominational prayer or meditation" in our public schools and buildings. I introduced Senate Joint Resolution 10—identical to Senate Joint Resolution 34 introduced by Senator SCOTT in the 92d Congress—because I disagree with the Supreme Court decisions of the 1960's which held school prayer unconstitutional. I believe prayer has a place in our public schools and I believe the great majority of Americans share my belief.

The joint resolution I offer today calls simply for the restoration of voluntary prayer in our public schools and buildings. It is introduced after extensive consultation with constitutional authorities from both the Library of Congress and the academic community. It is the opinion of these experts that the words "nondenominational" and "meditation" confuse the question at hand, and that inclusion of this language will only serve to diminish chances for ultimate passage of the school prayer amendment.

These expert opinions are based on the following considerations. First, "nondenominational" is a word not easily defined in legal terms. To find a truly non-

denominational prayer would require legal contortions. Second, "meditation" is not currently prohibited by the Supreme Court. Meditation, and even some student-sponsored prayer sessions, are permitted around the Nation. But that is not the issue at hand. What we are concerned with is returning truly voluntary prayer to the classroom.

The three school prayer resolutions introduced in the Senate this year in addition to my resolution, Senate Joint Resolution 10, also provide for "nondenominational" prayer. Thus, the joint resolution we introduce today provides a clear alternative to those previously introduced. It is my hope that the sponsors and supporters of those other resolutions will now unite behind the "voluntary prayer" language in this new resolution.

It is also important to note that when the House of Representatives voted on this issue in 1971, the word "voluntary" was substituted for the word "nondenominational" in the school prayer amendment. If we are to achieve ultimate passage of the school prayer amendment, it must be approved by both the Senate and the House, the President, and the legislatures of three-fourths of the States. That is why it is so important for us to unite behind the most widely accepted version of the amendment.

The resolution we offer today is similar in wording to House Joint Resolution 333, introduced in the House of Representatives by Congressman CHALMERS P. WYLIE, of Ohio, February 8. The lone difference between the two versions is that in addition to affirming the right of persons lawfully assembled in any public building to participate in voluntary prayer, my proposal also expressly permits States and the District of Columbia to provide for voluntary prayer in the public schools of that jurisdiction. It is a subtle difference, but I think it leaves no room for doubt about the legislative intent of the resolution. We intend by this measure to return voluntary prayer to the classroom. I look forward to working closely with Congressman WYLIE, and all supporters of school prayer, toward our mutual goal.

Mr. President, I am convinced that support for school prayer is at an all-time high and that supporters of prayer are becoming disillusioned with Congress. The vast majority of people want prayer returned to our public schools, and they cannot understand why their elected officials remain unresponsive. The time has come for swift and affirmative action on the school prayer issue.

Mr. President, I request that the full text of the joint resolution be printed in the RECORD at the conclusion of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 84

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within 7 years after its submission to the States for ratification:

"ARTICLE —

"Nothing contained in this Constitution shall prohibit the several States and the District constituting the seat of government of the United States from providing for voluntary prayer in the public schools of that jurisdiction, nor shall it abridge the right of persons lawfully assembled in any public building to participate in voluntary prayer."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 31

At the request of Mr. HOLLINGS, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 31, authorizing the Secretary of Defense to utilize Department of Defense resources for the purpose of providing medical emergency transportation services to civilians.

S. 34

At the request of Mr. HOLLINGS, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 34, to provide for accelerated research and development in the care and treatment of autistic children.

S. 136

At the request of Mr. SCHWEIKER, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 136, a bill to authorize financial assistance for opportunities industrialization centers.

S. 352

At the request of Mr. MCGEE, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 352, to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service.

S. 397

At the request of Mr. STEVENSON, the Senator from Iowa (Mr. CLARK), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 397, to require disclosure of financial interests by Members of Congress and certain congressional employees.

S. 408

At the request of Mr. THURMOND, the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 408, to amend the Food Stamp Act of 1964 in order to prohibit the distribution of food stamps to any household where the head of the household is engaged in a labor strike.

S. 514

At the request of Mr. MOSS, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 514, to amend the act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

S. 580

At the request of Mr. PERCY, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 580, to establish an Institute for Continuing Studies of Juvenile Justice.

S. 626, S. 627, S. 628, AND S. 629

At the request of Mr. Moss, the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 626, to provide increases in certain annuities payable under chapter 83 of title 5, United States Code; S. 627, to provide that the first $4,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income; S. 628, to eliminate the annuity reduction made in order to provide a surviving spouse with an annuity during periods when the annuitant is not married; and S. 629, to increase the contribution by the Federal Government to the costs of Federal employees' health benefits insurance.

S. 645

At the request of Mr. BAYH, the Senator from California (Mr. TUNNEY), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 645, a bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes.

S. 783

At the request of Mr. CHILES, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 783, to establish the Everglades-Big Cypress National Recreation Area in the State of Florida.

S. 821

At the request of Mr. BAYH, the Senator from Michigan (Mr. HART), was added as a cosponsor of S. 821, a bill to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

S. 861

At the request of Mr. Moss, the Senator from Michigan (Mr. HART) and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of S. 861, to allow an income tax deduction for repair or improvement of a taxpayer's residence.

S. 909

At the request of Mr. HOLLINGS, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 909, to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus Federal property to State and local public recreation agencies.

S. 1033

Mr. DOMENICI. Mr. President, today I am pleased to join my distinguished colleague from Oregon, Senator BOB PACKWOOD, in sponsoring S. 1033, a bill to control the export of timber from the United States.

The matter of cosponsorship of legislation is a matter I take very seriously

and I must be convinced before committing myself to cosponsoring legislation that a problem exists which is addressed by the legislation in question. In regard to S. 1033, I am convinced, as are many people, that there is a critcial need to control the export of timber from the United States. I agree with Senator PACKWOOD that the national interest demands a cutback in timber exports. Figures cited by Senator PACKWOOD when introducing S. 1033 show that the export of logs, primarily to Japan, and the import of "substituted lumber," primarily from Canada, results in a balance-of-payments deficit which is highly detrimental to the trade position of the United States.

One of the other serious threats to our national interest has an all too familiar face these days—inflation. The cost of wood for the average home has gone up $1,200 in the past 6 months alone. There can be no doubt that part of the rising cost of lumber is directly attributable to this Nation's growing dependence on imported lumber which is free of any form of price or profit margin control on the first transaction, while at the same time foreign buyers are outbidding domestic users for native-grown timber.

I realize, as does Senator PACKWOOD and other sponsors of S. 1033, that control of exports is not the final answer to the problem of rising lumber costs. We need to take action to increase the total supply of timber and our capacity to process it, for example. But, control of log exports, to my mind, is a step which must be taken if any other efforts are to be of beneficial consequence to the American consumer who can no longer afford to pay the exorbitant price tag attached to timber products. I note with pleasure that hearings are already being held on this bill. I urge its speedy passage when reported to the floor.

S. 1036

At the request of Mr. DOLE, the Senator from Kentucky (Mr. COOK) was added as a cosponsor of S. 1036, to amend the Internal Revenue Code with respect to legislative activity by certain types of exempt organizations.

S. 1083

At the request of Mr. BAYH, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 1083, a bill to amend certain provisions of Federal law relating to explosives.

S. 1120

At the request of Mr. RIBICOFF, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 1120, a bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system.

S. 1125

At the request of Mr. HUGHES, the Senator from Nevada (Mr. CANNON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PELL) and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 1125, to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act and other related acts to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism.

S. 1128

At the request of Mr. ERVIN, the Senator from Texas (Mr. BENTSEN) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 1128, to protect the freedom of speech and of the press and to secure the flow of information in interstate and foreign commerce by protecting the newsman against the compulsory disclosure of confidential sources of information and the compulsory production of unpublished information.

S. 1148

At the request of Mr. CRANSTON, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 1148, to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

S. 1199

At the request of Mr. HOLLINGS, the Senator from Nevada (Mr. BIBLE) and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 1199, amending the Internal Revenue Code to permit a married couple to deduct certain household and dependent care expenses when one spouse is a full-time student to the same extent that a deduction would be allowable were both spouses employed.

S. 1265, S. 1266, S. 1267, AND S. 1268

At the request of Mr. STEVENSON, the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1265, S. 1266, S. 1267, and S. 1268, to provide long-range as well as emergency relief from shoreline erosion.

SENATE JOINT RESOLUTION 1

At the request of Mr. BAYH, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of Senate Joint Resolution 1, a proposed amendment to the Constitution providing for the direct popular election of the President and Vice President of the United States.

SENATE JOINT RESOLUTION 4

At the request of Mr. DOLE, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Joint Resolution 4, to authorize a National Welcome Home to our Prisoners Week.

SENATE JOINT RESOLUTION 24

At the request of Mr. MCINTYRE, the Senator from Wyoming (Mr. HANSEN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of Senate Joint Resolution 24, to establish the fourth Saturday of each September as "National Hunting and Fishing Day."

SENATE JOINT RESOLUTION 47

At the request of Mr. BARTLETT, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of Senate Joint Resolution 47, to prevent forced busing in our Nation's schools.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 15

At the request of Mr. HART, the Senator from New York (Mr. JAVITS) was added as a cosponsor of Senate Resolution 15, to establish a special committee to investigate the feasibility of improving the efficiency in the conduct of Senate hearings.

EXTENSION OF THE INTEREST EQUALIZATION TAX—AMENDMENT

AMENDMENT NO. 57

(Ordered to be printed, and to lie on the table.)

Mr. KENNEDY. Mr. President, I send to the desk an amendment to H.R. 3577, the bill to extend the interest equalization tax, and I ask that it may lie on the table and be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. The purpose of the amendment is to require the administration to submit a comprehensive program of tax reform for consideration by Congress no later than 120 days after the date of enactment of the pending bill to extend the interest equalization tax.

Mr. President, I ask unanimous consent that the text of the amendment may be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 57

On page 30, after line 22, insert the following new section:

"SUBMISSION OF PROPOSALS FOR TAX REFORM

"SEC. 5. Not later than 120 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Congress proposals for a comprehensive reform of the Internal Revenue Code of 1954."

AMENDMENT OF PAR VALUE MODIFICATION ACT—AMENDMENT

AMENDMENT NO. 58

(Ordered to be printed, and to lie on the table.)

SPENDING CUTS JOINTLY MADE BY CONGRESS AND THE PRESIDENT

Mr. EAGLETON. Mr. President, I send to the desk an amendment to S. 929, a bill to amend the Par Value Modification Act, and ask that it be printed and held at the desk.

This amendment would do two things. First, it would establish by law the expenditure ceiling of $268.7 billion recommended by the administration for fiscal year 1974. Second, it would provide for a cooperative approach between the President and Congress in making such spending cuts as may be necessary to stay within that ceiling.

In the past, spending ceiling proposals have foundered on the question of who will make the reductions which may be necessary to stay within the adopted ceiling. At least three approaches have been suggested.

The first would be to give to the President absolute discretion to make what-

ever cuts he chooses. That is totally unacceptable to me and I believe to a majority in Congress. It would be nothing less than a congressional blessing of impoundments.

The second approach may be even worse since it appears to give Congress a voice in the reductions which are made but, in reality, gives it no voice at all. This provision would restrict Congress to the right to say no to the spending cuts recommended by the President.

Suppose Congress does say no. The spending ceiling would still stand and it would have to be met. Clearly, in that situation, the President would feel obliged to impound the money anyway—and very likely the same money Congress said it did not want cut.

The third approach would limit the discretion given the President by providing either that he cut all programs by a given percentage or that he not cut any one program by more than a given percentage. That is preferable to the other two approaches discussed, but it still has serious drawbacks.

The most obvious is that some programs would be able to stand the prescribed reduction better than others. All would depend on how severely that budget was pruned when it went through the Congress. For example, a health or education program which was pared to the bone in the appropriations process might be put out of business altogether should it have to absorb a further 5 or 10 percent reduction. By contrast, other programs will get through the Congress with a good deal of fat in them and could stand a healthy reduction or two.

All of this will lead, as it has in the past, to exemptions for certain budget items, beginning with the so-called uncontrollables but inevitably extending to other favored programs as well. And, thus, would begin the unraveling of the whole effort to impose discipline on spending.

An additional problem is the uncertainty of whether the percentage cut provided for would be sufficient to bring total spending for the year within the ceiling adopted.

Finally, this approach fails to fully meet the impoundment question. Granted it is better than giving away all of Congress' power of the purse to the President. But I am not sure that giving away only part of it meets the serious constitutional questions at issue. I believe there is a better way and my amendment attempts to set out such a procedure.

Basically, it is the same procedure used in appropriating money except that in this case Congress would be rescinding funds already appropriated. Under my amendment, the following steps would be taken in the event reductions must be made to meet the adopted spending ceiling:

First, the President would advise Congress when the cumulative total of appropriations and other spending bills exceeded the ceiling and offer his recommendations for cuts.

Second, Congress would take those recommendations under consideration. If it failed to act within 30 days the President's recommendations would stand.

Third, however, Congress would have the right, operating under special procedures to assure that the resolution reaches a vote within the 30 days allowed, to substitute its own recissions equal to the amount needed to stay within the ceiling. Such a resolution would be open to amendment.

Fourth, if, after both Houses passed such a substitute measure, the President failed to sign it into law or vetoed it, the ceiling automatically would be adjusted upward by the amount involved, unless and until a recission measure is agreed upon. That would prevent a deadlock over this issue and preclude the President from merely turning to his assumed impoundment powers to effect the reductions he originally asked for.

I hope that some day Congress will be able to perfect its procedures for considering spending bills so that we never run into the problem of exceeding the ceiling. But realistically viewed, that day is a long way off.

In the meantime, we must face up to the problem before us and devise some means of dealing with it. I believe my amendment would effectively answer the demand for greater discipline in Federal spending while preserving the constitutional roles of both Congress and the President.

The amendment deals with the budget process as it is, allowing Congress to continue considering spending measures on their merit. The one change it would require is that at the end of that process, Congress must review its work and come up with the hard decisions on overall priorities which it tends now to put off.

Mr. President, I ask that the text of my amendment and an article by Alton Frye which appeared in a recent edition of the Washington Post, be printed in the RECORD at this point in my remarks.

There being no objection, the amendment and article were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 58

At the appropriate place insert the following new section:

Sec.—(a) Expenditures and net lending during the fiscal year ending June 30, 1974, under the budget of the United States Government shall not exceed $268,700,000,000.

(b) Whenever the President determines that appropriations or other obligational authority hereafter made available would require or permit expenditures and net lending during fiscal year 1974 to exceed the limit prescribed by subsection (a), he shall propose, by special message transmitted to the Congress, reservations from expenditure and net lending, from appropriations or other obligational authority heretofore or hereafter made available, of such amounts as are necessary to keep expenditures and net lending during fiscal year 1974 within such limit. A proposal under this subsection shall be transmitted to both Houses on the same day and shall be delivered to each House while it is in session.

(c) The President is authorized, after the close of the 30-day consideration period (as defined in subsection (e)) applicable to a proposal transmitted under subsection (b), to reserve from expenditure and net lending the amounts set forth in such proposal, unless, before the close of such 30-day period, the Congress has passed legislation rescinding appropriations or other obligational authority available for expenditure or net lending during the fiscal year 1974 in an aggregate amount not less than the aggregate amount of reservations set forth in such proposal. If, before the close of such 30-day period, the Congress has passed such legislation, but it does not become law, then the figure set forth in subsection (a) is hereby increased by an amount equal to the aggregate amount of reservations set forth in such proposal.

(d) During the 30-day consideration period applicable to any proposal transmitted by the President under subsection (b), any proposed legislation to rescind appropriations or other obligational authority shall be highly privileged in both Houses of the Congress and rules similar to the provisions of sections 911, 912, and 913 of title 5, United States Code, shall, apply to such proposed legislation, except that amendments to such proposed legislation shall be in order. This subsection is enacted as an exercise of the rulemaking power of the Senate and House of Representatives, respectively.

(e) The 30-day consideration period applicable to any proposal submitted under subsection (b) is the first period of 30 calendar days of continuous session of the Congress after the date on which the proposal is transmitted to the Congress. For purposes of the preceding sentence, (1) continuity of session is broken only by an adjournment of the Congress sine die, and (2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 30-day period.

(f) In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to subsection (c), and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution.

the amount available for expenditure (as determined by the President) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

MENDING THE FRAYED CONGRESSSIONAL PURSESTRINGS

(By Alton Frye)

In the ebb and flow of efforts to modernize Congress, there is at least one constant: Congress and its critics tout control of the pursestrings as the most powerful tool of the legislative branch. It has been and should be, but the strings have frayed. More and more congressmen are searching for ways to ward off the creeping impotence of their authority to raise and appropriate federal funds.

The latest spur to concern on this point was President Nixon's request for explicit congressional approval of a $250 billion ceiling on expenditures for fiscal 1973. After intensive debate, Congress declined to give the Chief Executive *carte blanche* to cut back spending as he deems necessary. As a result, the President will cut back spending as he deems necessary.

He will do so, however, without either sanction or guidance from the legislature. He will do so largely by resorting to the ancient but dubious custom of impounding funds in areas where, according to the executive's fiscal plans, Congress has over-appropriated. Experience suggests that even an irate Capitol will be unable to compel a determined White House to spend money against its will.

This situation represents a serious degeneration of our politics. Yet the crucial problem is not that, through impoundment and administrative stretch-outs of programs the

executive imposes its priorities on the budget; it is that Congress lacks a conclusive mechanism for asserting its own priorities in a budget of finite dimensions. Through its decentralized authorization and appropriations procedures, Congress treats elements of the budget in detail. But it has no means to integrate those elements into a coherent whole or to reconcile their spending implications with likely revenues.

Over the years this classic lament has prompted many to call for a "legislative budget." The idea has usually been for Congress, on receipt of the President's budgetary recommendations, to devote some time to a broad overview of national needs and programs and to adjust the general priorities of the budget before descending to closer analysis of its several parts. The merit of the idea is exceeded only by its improbability.

Perhaps the moment is opportune to consider a less perfect but more practicable cure for this malady. If Congress is not equipped for comprehensive budget-making, it makes sense to focus on marginal decisions to refine the *de facto* budget which emerges from the legislative process. Given the nature of that process, the vital choices lie at the end, rather than the beginning, of the road. Congress needs a method to review its actual appropriations and to align them with the demands of fiscal prudence.

As outlined in recent hearings before Sens. Charles McC. Mathias and Adlai Stevenson III, a fresh approach to this problem might follow procedures similar to those employed for government reorganization plans. Within 30 days after Congress concludes action on appropriations, the President could be obliged by statute to submit his recommendations, if any, for adjusting planned expenditures. He should specify the programs and amounts he proposes to reduce. If, within another 30 days, Congress does not object, the President's proposals would take effect. However, prior to that deadline, Congress could change the Executive's recommendations by a joint resolution prescribing alternative cuts in a total amount not less than that proposed by the White House.

This arrangement promises several advantages. Such a device would focus and contrast executive and legislative priorities in the final stages of the budget process, where it matters most. Unlike the present circumstances, Congress would retain effective authority to endorse or alter the President's preferences. And Congress would have a unique opportunity to view the overall results of its own handiwork, confronting the hard choices at the margin which now elude it.

This mechanism could also serve as a fulcrum for more responsible engagement of the two parties in Congress. The Democratic and Republican Policy Committees could well assume the tasks of analyzing the President's priorities and of proposing alternatives. They could, in theory, provide a natural forum for synthesizing the perspectives of the diverse membership and committees of the Congress.

This plan would add two months to a process which is already too prolonged, but the latter problem might best be redressed by shifting the fiscal year to a calendar-year basis, affording Congress a full year to consider the budget. Paradoxically, this procedure might encourage speedier action on individual funding bills, since Congress could look forward to an opportunity at the end of the year to clear up discrepancies and to shift certain emphases.

Both Congress and the President ought to welcome a method to harmonize their fiscal and programmatic preferences, for both profess their dedication to constitutional government. Present practice affronts that ideal. Imperfect though it may be, the idea sketched here offers to fill a void which Congress tolerates only at peril to itself and its constituents.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973—AMENDMENTS

AMENDMENT NO. 60

(Ordered to be printed, and referred to the Committee on Labor and Public Welfare.)

Mr. CRANSTON. Mr. President, I submit for printing and appropriate reference a series of amendments presented en bloc to S. 1148, the proposed "Domestic Volunteer Service Act of 1973," which I introduced on March 8, 1973. These amendments are bipartisan in nature and are cosponsored by the ranking minority member of the Special Subcommittee on Human Resources, Mr. BEALL, which will meet in executive session to consider S. 1148 on March 28, as well as by the three original sponsors of S. 1148, Senators RANDOLPH, WILLIAMS, and KENNEDY. At the same time, I am today, Mr. President, adding Senator BEALL as a cosponsor of S. 1148.

Thus, these amendments represent a bipartisan approach in the consideration of this bill and oversight of the Action Agency by the subcommittee.

The amendments, Mr. President, are intended basically, first, to afford the Agency some more flexibility in the expenditure of its funds as earmarked in the bill, specifically for special volunteer programs under part C of title I—by reducing the earmarked part A—VISTA—amount from $27.5 to $26 million and the UYA earmarked amount from $10 to $8.5 million for fiscal year 1976, thereby making $3 million more available for part C programs in fiscal year 1976—and for foster grandparents and older American community service programs under part B of title II—by permitting prior year's carryover balances—approximately $6 million from fiscal year 1973—to be included in the $25 million earmarked in annual obligations for the traditional FGP program; second, to limit any allowances and stipends paid to fulltime volunteers serving in a year-long program under part C of title I to those authorized for volunteers under part A of title I; third, to require special efforts to recruit minority group older persons into the title II older Americans programs—rather than to lower the 60-year age minimum to 55, as proposed in S. 1148 as introduced in view of the shorter life span and more rapid aging of minority group persons generally); and fourth, to provide for a Deputy Associate Director of the Action Agency for older American programs and to make such official, as well as the Deputy Associate Director for VISTA and UYA—also specified in the bill—appointed by the Director, but not necessarily directly responsible to him.

Mr. President, I am particularly delighted with the bipartisan, nonpartisan spirit and action represented by these amendments and want to express my personal appreciation for the enormously effective and cooperative efforts of the subcommittee's ranking minority member, Mr. BEALL, who has worked out these amendments with us. I believe these amendments strengthen the bill and I look forward to bringing S. 1148 to the floor for action prior to the April 18 spring recess.

I ask unanimous consent that the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENTS NO. 60

On page 16, line 8, strike out "The" and insert in lieu thereof "Except as provided in subsection (c) of this section, the"; and between lines 10 and 11, insert the following new subsection:

"(c) The Director, in accordance with regulations he shall prescribe, may provide to volunteers serving as fulltime volunteers in a program of one or more years' duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this title, as he determines are necessary to carry out the purpose of this part."

On page 16, line 24, page 18, line 18, page 20, line 5, strike out "10" and insert in lieu thereof "5" in each place.

On page 21, line 21, and on page 23, line 11, strike out "fifty-five" and insert in lieu thereof "sixty"; and on page 27, between lines 14 and 15, insert the following new section:

"MINORITY GROUP PARTICIPATION

"SEC. 23. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified minority group individuals 60 years and older to serve as volunteers under this title."

On page 31, line 16, strike out from "who" through the end of line 20 and insert in lieu thereof "primarily responsible for programs carried out under parts A and B of title I of this Act, and one Deputy Associate Director primarily responsible for programs carried out under title II of this Act, who shall be appointed by the Director."

On page 54, line 19, strike out "50" and insert in lieu thereof "not less than 12".

On page 55, lines 4 and 11, strike out "$27,500,000" and insert in lieu thereof "$26,000,000"; on lines 13 and 18, strike out "$37,500,000" and insert in lieu thereof "$34,500,000" in each place; and on lines 20 and 25, strike out $47,500,000" and insert in lieu thereof "$44,500,000" in each place.

On page 55, line 22, insert "and" after the semicolon.

On page 56, line 1, strike out from "but" through the end of line 11 and insert in lieu thereof "shall be apportioned for use for carrying out parts A, B, and C, respectively, of this title for each such fiscal year in an amount for each such part bearing the same ratio to the total of such excess amount made available for each such year as the amount set aside for use for each such year under each such part in clauses (1), (2), and (3), respectively, of this subsection bears to the total of such amounts set aside for use for each such fiscal year under all such parts."

On page 57, lines 16 and 19, insert "a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals" after "of" in each place; and on lines 18 and 24, strike out "subsection (a) of section 211" and insert in lieu thereof "such subsection" in each place.

NOTICE OF HEARINGS BY DISTRICT OF COLUMBIA COMMITTEE ON NOMINATION OF DAVID LUKE NORMAN TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, the Senate Committee on the District of Columbia will hold a public hearing on the nomination of David Luke Norman to be an associate judge of the Superior Court of the District of Columbia on

Tuesday, April 3, at 9:30 a.m. in room 6226, New Senate Office Building. Persons wishing to present testimony at this hearing should contact Mr. Robert Harris, staff director of the District Committee, room 6222, New Senate Office Building, by Monday, April 2, 1973.

NOTICE OF HEARING ON CERTAIN NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, April 4, 1973, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nominations:

J. Foy Guin, Jr., of Alabama, to be U.S. district judge, northern district of Alabama, vice Clarence W. Allgood, retired.

James H. Hancock, of Alabama, to be U.S. district judge, northern district of Alabama, vice Seybourn H. Lynne, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

ADDITIONAL STATEMENTS

THE AUTOMOBILE AND THE NATION'S ECONOMY

Mr. GRIFFIN. Mr. President, an article in the February 19, 1973, issue of the Detroiter, published by the Greater Detroit Chamber of Commerce, focused sharply on the importance of the automobile to the Nation's economy as a whole. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEST WE KILL "THE GOOSE THAT LAYS THE GOLDEN EGG"

(By Dwight Havens)

The American automobile industry is paying the price of leadership. The most successful sales year in history has just been completed. The industry is achieving technological miracles in passenger safety and environmental clean-up. But ironically, it also has become the scapegoat for many of America's ills and is increasingly attacked by its emotional critics.

It seems everyone is determined to take a pot shot at this most visible industry. Environmentalists, safety groups, consumer groups, and all levels of government are clamoring for a piece of the action. Their number appears to be legion.

With open season on the industry, its public image has deteriorated. Although once respected, recent polls show that it no longer has the same high regard it once had.

But leadership has always had its critics—justified or not. It is the extent that is worrisome. The number, depth and scope of the industry's critics is becoming dangerous.

Harassment of the industry is at an unprecedented level. Ironically, it comes at a time the industry's positive responses to its responsibiilties are at an all-time high.

The auto industry has been a major target in the unprecedented effort to clean up our air. The industry has responded dramatically. It is cleaning up its plants, processes and products to a degree that soon it may well deserve the title: "Nation's Cleanest Major Industry." And the work continues at a feverish pace to meet air pollution and product safety standards and deadlines.

Meeting government deadlines has become a way of life for the industry. It has lived up to its responsibilities and the challenges posed by changing safety regulations and anti-pollution deadlines. Large sums of money are being spent in safety research of vehicles involving the entire gamut of safety related items. This is a thorough examination from initial design to air bags. Millions of additional dollars have been spent on environmental improvements.

But the dilemma still remains. Will the soaring costs to the industry and inevitably to the customer achieve the desired benefits? Evidence suggests that the cost-benefit ratio is out of line. Reasonableness and realism in the standards and the lead-time required to meet them are missing. This means unnecessarily high costs to the industry and to the nation. This is a national expense we cannot afford.

For the past several years, the industry has made tangible and unprecedented progress toward meeting the federal standards, but critics continue to slice away with emotion-tinged barrages at the industry.

They continue to flail away at an industry that provides one out of every six jobs in this country, that provides one-sixth of the $1 trillion plus Gross National Product, that provides one-fifth of the total of all state tax revenues collected last year.

We are talking about an industry that provides 13.4 million jobs, a $185 billion chunk of the Gross National Product and state taxes of nearly $10 billion. We are talking about a major foundation of the American economy.

If that isn't enough, those who berate the industry ignore the fact that the economic growth of the nation during the past 75 years is largely attributable to the motor vehicle; that our 100 million plus vehicles provide all of us—including critics—new freedom in choosing where to work, live and spend our leisure; while improving our standard and quality of life.

No industry is so large that it cannot be severely restricted, harmed, even destroyed by ill-timed and unnecessary political decisions and directives forced upon it. And that is the present danger to the automotive industry.

While the industry is being subjected to the penalties of leadership, it is important to recognize the magnitude and value of its contribution to all of us.

Nationally the industry has 534 plants located in 243 cities. More than 900,000 people are currently employed in motor vehicle assembly and parts manufacturing. But one job in this industry generates 16 more jobs in allied industries. That brings the total vehicle-related work force to 13.4 million people, or one out of every six jobs.

It is easy to see why the nation's economists observe the fluctuations in the automotive market so closely. Some 50,000 firms supply materials, parts, components and services to motor vehicle manufacturers. Major producers of steel, iron, aluminum, cotton, nickel, rubber and zinc are all affected by the economic health of this industry.

Despite the critics, the real test remains in the marketplace. And the auto industry has always met and continues to meet all challenges of the marketplace. Last year's sales were record breaking. And the pace has continued into this year.

But there is cause for concern. Overregulation, unreasonable safety and pollution standards, rigid and arbitrary deadlines could introduce a straight-jacket of inflexibility that even the giant auto industry cannot overcome without seriously affecting the saleability of its product in the marketplace. And that affects all of us.

This is a time for cool heads, a time for reasonableness and a realistic evaluation of the course immediately ahead. There's too much at stake to bind the fate of the industry to unrealistic and unnecessary bureaucratic decisions. The future of the auto industry is a proper concern for us all.

There is a responsibility here for each of us. Each of us has a stake in the future health and viability of the American automobile industry. Everyone in business, government and labor must carefully consider their own involvement and actions to be certain that they are part of the solution and not part of the problem. We must be careful we constructively help improve the industry—lest we kill "the goose that lays the golden egg."

LATIN AMERICAN TEACHING FOUNDATION GROWS RAPIDLY IN MEXICO

Mr. CHILES. Mr. President, I would like to call to the attention of my distinguished colleagues in the Senate a very interesting article that appeared in the February 7, 1973, issue of the News concerning the Latin American teaching fellowships—LATF—program. The News is Mexico's major English-language paper.

I have had the honor of serving for the past year as a member of the national advisory board of the LATF program. This program sends young men and women at the Ph. D level to Latin America to teach in Latin American universities. The great bulk of the support for this effort comes from the Latin Americans themselves. There are currently 95 LATF fellows in Latin America of which 12 are in Mexico. This is a very practical program that has paid real educational and cultural dividends for both Latin America and the United States.

I am particularly pleased by the current position of the three former LATF fellows who are currently teaching in major universities in Florida. The main burden of teaching in the area of Latin American economics at the University of Florida, University of Miami, and Florida State University is carried by former LATF fellows Bill Tyler, Jan Wogart, and Mike Everett respectively.

I am especially pleased to see the expansion of the LATF program in Mexico. We in the United States need an increased understanding of our very important neighbor to the South. Franklin Roosevelt launched the "good neighbor" policy in the 1930's. But you can only be a good neighbor if you understand your neighbor. And it is practical programs like LATF that lead to increased understanding.

I have had recent meetings with William M. Cloherty, director of operations for LATF, and Kevin Kinsella, LATF's resident director in Mexico, in which they outlined the prospects for a substantially increased program in Mexico. I am pleased that our Government is going to help his effort in a modest way. I am hopeful that private sources in both Mexico and in America will increase their support of this very successful program.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FELLOWS FIGHT "BRAIN DRAIN"

(By Patricia Alisau)

In the wake of ever-increasing industrialization, one of the most practical exchanges between the U.S. and Mexico is a corps of dedicated young social scientists and technicians.

Manning university posts an interning in multinational business firms throughout Latin America, the group belongs to the Tufts Latin American Teaching Fellowship (L.A.F.T.), a non-profit organization run by Tufts University's Fletcher School of Law.

Open to doctoral candidates or persons with Ph.D's, the bilingual L.A.F.T. fellows are no ordinary envoys for U.S. technology. Their task in Mexico and other Latin countries is a give-and-take venture.

To stem the Latin American "brain drain," L.A.F.T. helps industrial firms and universities to expand their education programs and at the same time provide teaching and business internship experience for the fellows.

Another major goal is to give fellows a first person look at Latin America in anticipation of their returning to teach in the U.S.

Since L.A.F.T. positions run for 24 months, the individual gets an in-depth picture of the assigned country.

Mexico has 12 fellows placed in Monterrey, Mexico City and Cholula, Puebla. The fruits of their labor are already evident.

Hunt Howell, an economist from the University of Pennsylvania in his second year of a business-internship here, is conducting research for his doctoral dissertation on corn and oil seed yields. He is working with the Mexican Research Center for Wheat and Corn and the National Agricultural Research Institute, in their long-range programs to make Mexico an exporter of top-grade grain.

Supported by I.B.M. de Mexico in the research. Howell also helped design I.B.M.'s first science center in Latin America, opened in Mexico City last June. Purpose of the center is to conduct joint research projects with outside institutions throughout South America.

Many of the fellows hail from other parts of the globe besides the U.S. For some, like Dr. Vivekananea Kandarpa, a metallurgist from India teaching mechanical engineering at the Americas in Cholula, this is their first classroom experience.

A National Academy of Science fellow and former research physicist with Michigan State University, Dr. Kandarpa is already adding a course in applied experimental engineering to the U. of A. curriculum.

Another fellow, Dr. Fred Golden, teaches chemical engineering at Cholula. A Ph. D from Berkeley, Golden plans to develop timely new programs around projects like pollution control and update existing lab facilities.

Dr. John Farnbach uses his teaching tools at Mexico City's Universidad Ibero-americana. A graduate of Princeton University who once designed electronic instrumentation for underground nuclear tests, Farnbach was at first taken aback by the students' reactions to him. "It was embarrasingly favorable," he said. "They look up to me as an authority because they think any technical knowledge from the U.S. is superior."

Contrary to Farnbach's experience, not all fellows are wholly accepted at first. Sometimes openly accused of being foreign agents they work hard at earning respect from their students.

Take the case of a former fellow in Mexico who taught at one of the upper level technical schools. In the beginning students taunted him with "Yankee Go Home." Later he became one of the most popular teachers with pupils at the institute.

L.A.F.T. was founded in 1965 by Prof. William S. Barnes of the Fletcher School of Law and Diplomacy who set it up as a small experimental program. In 1967 the first 10 fellows were sent to Latin America. To date more than 120 have been placed.

NEW FEDERALISM

Mr. THURMOND. Mr. President, the Secretary of Housing and Urban Development, Mr. James T. Lynn, made an interesting and informative address March 6, 1973, to the annual Anderson, S.C., Chamber of Commerce ladies' night banquet.

In delivering this speech on domestic policies and problems in the United States, Secretary Lynn made a very fine impression. He conveyed in an eloquent presentation, the administration's views on "New Federalism" and the fight against inflation. I believe it would be of interest to every Member of this body to read the remarks of Secretary Lynn on that occasion.

Mr. President, I ask unanimous consent that the text of Secretary Lynn's address to the Anderson, S.C., Chamber of Commerce on March 6, 1973, be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM REMARKS PREPARED FOR DELIVERY BY JAMES T. LYNN

I'd like to talk to you this evening about some extremely important intiatives President Nixon is taking on the domestic scene.

Let me quote from his January address to the South Carolina Legislature, if I may. This is the quote:

"For much too long, power has been flowing from the people, from the cities, from the counties, from the States, to Washington, D. C. And that is why, beginning with an historic move on revenue-sharing, and in other areas, I feel firmly we must turn it around, and that power should flow away from the concentration in Washington back to the states and the people."

What we have there is the core element of what the President has termed the New Federalism.

It's a fairly good bet, I think, that New Federalism is a label that will affix itself to the President's two terms.

But New Federalism is vastly different from what we've known in the past under other labels—the New Deal, the Fair Deal, the New Frontier, the Great Society.

Certainly I would be the last to suggest that those Democratic concepts were conceived with less than noble intention. I would be the last to say they were devoid of accomplishment.

But what they shared was a devotion to the concept of Federal superiority, if not infallibility. If you don't trust government, they said, trust State and local government least of all.

They also shared the conviction that money solves all problems. At the level of government philosophy, they rejected the contention that money can't buy happiness.

And those concepts often seemed to incorporate the suggestion that the Federal money supply is endless.

You remember Pogo's line, "We have met the enemy, and they are us." It's about time someone said, "We've found out where that supposedly endless supply of Federal money is coming from, and it's our pockets." . . .

Now, the New Federalism is directly opposed to the concept of Federal omnipotence and unchecked spending. And it is important to note that a return of power to State and local government is only part of what the concept is about.

Another very important part is the requirement that the continuing Federal Establishment, which we all know *will* continue with all its essential functions, be made more responsive and more responsible. . . .

Let us mention as well the consideration that kept the New Federalism and new Federal responsibility from being more than a mere Presidential preference.

It was the literal danger to the Nation, as the President saw it, if spending and program escalations were to continue unchecked.

He was and is trying to tell us that we simply don't have any choice about exercising control. We simply can't go on multiplying projects, programs and deficits without wild inflation. He means, of course, the kind of inflation that makes a cruel hoax of wage increases—the kind of inflation that hurts everybody, including the people all those expensive projects and programs are supposed to help.

The inflation battle is difficult enough already. And the only other possible eventuality, if spending isn't held in check, is higher taxes.

All these things led the President to his proposals, some of them recent, some from his first term. This, to refresh your memory, is the present state of his New Federalism package:

First, hold Federal spending during the current fiscal year, which ends this coming June 30, to $250 billion. Hold the next fiscal year's figure to $269 billion and the figure for fiscal 1975 to $288 billion.

It's the only way, says the President, to the inflation down and prevent that tax increase.

And the only way to hold the figures to those levels, he decided, was to limit spending of some funds appropriated in the current fiscal year—and to curtail or end some programs that aren't doing the job they were supposed to do.

We're all very well aware of the controversies that have grown up around this decision. I will return to that matter in a moment.

But second, in the President's New Federalism package, is his plea for Congressional approval to reorganize and streamline the Federal Establishment. The object is to increase efficiency as well as to save money.

The President's reorganization proposal was first made in 1971. As you might recall, he wants to take seven existing Departments and reduce them to four, organized around major missions.

The seven Departments are my own—Housing and Urban Development—plus these six: Agriculture, Commerce, Interior, Labor, Transportation, and Health, Education and Welfare. The titles of the four new Departments indicate their missions—Community Development, Human Resources, Economic Affairs and Natural Resources.

Congressional adoption of this reorganization would go a long way toward improving coordination of related programs—and toward better management generally.

The third major element in the President's New Federalism package is that central matter of returning power to the States and municipalities. We are already into it, of course, through general revenue sharing. But the President wants to go much further, through special revenue sharing.

To oversimplify, the idea of special revenue sharing is to abolish Federal categorical grant programs in particular areas and give the money to governments below the Federal level to spend within very broadly defined areas, the better to get more out of both Federal and local dollars.

Of course, an equally important part of the concept is to return to State and local governments the decision-making power and responsibility they should have had all along.

Now, with all this—a shifting in the poles of governmental power . . . a shaking of staid bureaucracies . . . a decision to eliminate

entrenched but basically unworthy projects and programs—we are in the midst of what could be the most profound governmental change in the history of the Republic.

Upheavals of that magnitude make almost inevitable the controversies I referred to earlier. As I said, we all know they exist.

Congress, for example, is unhappy over the idea of withholding appropriated funds that, if spent, would send expenditures soaring over the President's budget limits.

There is a predictable—and understandable—displeasure among those whose jobs or programs are being cut back or eliminated. No one likes to change jobs against his wishes—or to lose known benefits in exchange for new approaches which might or might not be of as much benefit to that particular person.

I think it is well to put those complaints into better perspective.

The first point to be made is that the Federal budgets we are proposing are certainly not pinch-penny affairs, even with the restraints the President has proposed or put into effect.

The $250 billion budget for the current year is itself $18 billion more than the figure for Fiscal 1972.

From this year's $250 billion, the President would add $19 billion next year—the Fiscal year beginning—July 1—making the total $269 billion.

He would add yet another $19 billion for the next year—Fiscal 1975—raising the total to $288 billion.

And so the money is there. The question is how it can be spent most wisely, and wisdom dictates shutting down ineffective programs and spending the money where good can be done. This does not imply a lack of compassion or an abandonment of the needy.

The President noted in his recent Budget Message to Congress that—during the period between 1969 and 1974—outlays for Federal human resource programs will more than double. Total budget outlays during the same period will grow by only 46 percent.

This Administration has shown its compassion for the elderly during the past four years by increasing Social Security benefits from $30 billion in 1970 to $55 billion in 1974, for an increase of 83 percent.

As still another example, nearly five million more poor, aged and disabled persons will benefit in 1974 through expanded financial support for health services.

Despite the halt in new subsidized housing commitments during a period for evaluation of better ways to provide housing, subsidized starts in calendar year 1973 will exceed the starts in calendar year 1972, and will be over 300,000 units.

Let us consider urban programs like site improvements, street widenings, relocation benefits and the sale of land for development purposes. The operating level of those programs will continue, through Fiscal 1974, at the average rate of the past five years—or slightly more than $1 billion.

A number of categorical programs—those like Urban Renewal and Model Cities—are being replaced, and that is causing considerable complaint.

But the President is asking for a $2.3 billion Better Communities Act—the special revenue sharing program—and that $2.3 billion will be more than the total appropriation for the community development categorical programs we're doing away with.

What the Better Communities Act means is that communities get their share of the $2.3 billion directly and make their own decisions about how to spend it on those projects.

I'd like to mention one thing about officials who talk about how we're slowing programs down and how they're not getting proper funding.

They should think about what excessive spending—and anything more that the President has outlined *would* be excessive—what that excessive spending would cost all levels of government in terms of inflation.

I've been dealing mostly with the *particulars* of the New Federalism as it takes shape. But I'd like to go just briefly into the spirit of it . . . an example why it's so clearly needed.

In the past few years, we've seen Urban Renewal, for example, do some exciting things—if you're familiar with them, the Gateway in Minneapolis, the riverbank in San Antonio, the Embarcadero in San Francisco, a downtown plaza in beleaguered Newark or the world's largest pedestrian mall, in Fresno, California.

But we've also seen bulldozers roaming around other cities with less aim than we would have liked . . . and with insufficient regard for the people who had occupied the land we'd just cleared.

We've seen the Model Cities program bring on a whole new way of planning in a fruitful coalition between City Hall and disadvantaged and alienated neighborhoods.

But we've also seen the promise frittered away in too many cases by endless bickering.

We've seen HUD-subsidized housing go up and sometimes be successfully occupied on a permanent basis.

But other times we've seen it abandoned almost immediately.

The trouble is that, in too many such programs, the results have been entirely unsatisfactory.

Why?

I won't try to cover *all* the reasons, but one thing I can tell you is that we've been too tied up in the very process of getting Federal taxpayers' money from the Federal treasury to the local agencies.

Under the system as it exists, there's no way to give enough attention to purpose and performance.

I wish you could sit in one day at a meeting between representatives of my department and the people receiving the grants.

You wouldn't hear them talking about how great everything is going. You'd hear a lot of terms like grants-in-aid, submission requirements and waivers. You'd hear complicated or baffling names for a lot of requirements and regulations.

A whole new language has developed. In the past, in and out of jokes about Federal bureaucracy, we've called it governmentese or gobbledygook.

And what it does is talk us all out of any really good idea of just what is going on.

There's a story that one of our designated Model Cities in New England had a large Greek population in the neighborhood being improved.

Somebody made the suggestion that we translate the Model Cities submission requirements into Greek.

The HUD staff felt there was a certain redundancy there!

What the New Federalism envisions is a curbing of red tape and conflicting government preferences, and a by-passing of roadblocks.

It envisions increased efficiency through a revenue sharing process that returns much of the money and many of the programs and a great deal of the decision-making to the local level.

You might be thinking you've heard so much about Federal power and bureaucracy that it hardly bears repeating.

But the point, ladies and gentlemen, is that a President of The United States is finally trying to do something about it.

For years we have heard that constant and justified litany about the abandonment of State and local rights.

How ironic it would be now if scattered opposition—in the Congress, in the cities, among special interest groups—should combine to tie the President's hands.

I think the various opponents of various aspects of the President's overall program should recognize that the well-being and the future of this Nation are involved.

I think they should look beyond themselves and bite the bullet. The opportunity could be a long time coming again.

If, in 1976, George Washington and Thomas Jefferson could somehow look in on us and see what 200 years had wrought, they surely would see much to elate them and much that was disappointing.

Let us hope they would at least see government at all levels—local, State and Federal—acting as the true instruments of the people, busy with the job of securing the blessings of liberty for its citizens and their prosperity.

THE 81ST BIRTHDAY OF FORMER SENATOR PAUL H. DOUGLAS

Mr. STEVENSON. Mr. President, Senator Paul H. Douglas taught us that no task is impossible so long as man has the desire and commitment to seek its fulfillment. We are all his students and would do well to remember the lessons of his life. As I salute him on the occasion of his 81st birthday, I find it impossible to cite all his myriad achievements or adequately measure the greatness of this man.

Senator Douglas' accomplishments cannot be easily quantified nor can their positive effect on the lives of our people be adequately measured.

He is a source of vision, and his legislative accomplishments still produce countless benefits for all Americans.

He is an inspiration and a conscience in public life.

Mr. President, Senator Douglas is well known for his understanding of the complexities of our economy. He recognized that economic growth is not necessarily economic maturity or economic justice. Through his efforts, means for stimulating rational national growth were made available through such vehicles as the Economic Development Act of 1965. He possessed the skill and understanding required to see such landmark legislation enacted. He also possessed the foresight to know that it was not enough. In his own words:

> With the free land gone and with ever closer concentration in industry, finance and commerce, it is necessary to find new ways in which (the) spirit of true democracy may express itself. To seek to do so is indeed to put oneself at the very center of the real spirit of Americanism . . . a living union with the great tradition of our country.

Paul Douglas possesses that real spirit of Americanism. He continues to help us live by it. And his career will always stand out as an inspiration to those who seek, as he did, to improve the human condition through our self-governing political process.

PROPOSAL FOR A MARGINAL BALANCED BUDGET POLICY

Mr. FANNIN. Mr. President, one of the most important objectives of the 93d Congress must be to come up with a system to bring Federal spending under control and stop the chronic deficit spending which has been a prime cause of the runaway inflation we now face.

It has been my privilege to take part

in the work of the Joint Study Committee on Budget Control. We have heard some interesting testimony and some good proposals.

In my judgment one of the most sensible proposals put before the committee came from Prof. William A. Niskanen, Jr., of the University of California at Berkeley. He proposes a system that would allow for flexibility, but would place the responsibility for overspending clearly on the shoulders of those who cause it.

Mr. President, I believe that this topic is of deep concern to all Members of Congress and I ask unanimous consent that the text of Professor Niskanen's remarks to the committee on March 14, 1973, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

PROPOSAL FOR A MARGINAL BALANCED BUDGET POLICY

I am pleased to have the opportunity to address the important subject of this Committee. My remarks this morning summarize one chapter of a study on "Structural Reform of the Federal Budget Process" to be published shortly by the American Enterprise Institute.

Federal fiscal policy is now charged with two major functions:

Efficient allocation of the nation's resources between the federal and non-federal sectors, and

Stabilization of the national economy at low rates of unemployment and inflation.

At best, unfortunately, the present federal budget process can perform one or the other of these functions, but not both. The evidence of the last several years suggests that the increasing focus on the stabilization function has undermined the allocation function without making an effective contribution to stabilizing the economy. The primary reason for both of these effects is that the *marginal* dollar of federal spending is financed, partly or wholly, by increasing the federal deficit.

The one essential characteristic of fiscal policy necessary to perform both the allocation and stabilization functions is that, after some desired amount of fiscal stimulus or restraint, any change in federal spending be wholly financed by changing some broadly-based and broadly perceived tax. This form of fiscal policy is best described as a "marginal balanced budget policy"; the total federal budget may have any planned surplus or deficit that is believed appropriate under expected economic conditions, but any approved *changes* in federal spending, around the level consistent with the desired fiscal effects, would be balanced by an approved change in tax rates to generate an equal change in expected tax revenues.

The general characteristics of a process designed to implement a "marginal balanced budget policy" are summarized below:

1. The process starts with the submission of the President's budget, usually late in January. As at present, this budget would propose a total spending level, estimate the revenues expected from the current tax system and any proposed changes, estimate the expected economic conditions, and discuss the appropriate fiscal policy for these conditions. At this stage, this process would not differ from present practices.

2. Soon after submission, Congress would have a formal fiscal policy review conducted by some joint or select committee consisting of the leadership of the major economic committees. This committee would review the *total* spending and revenues in the President's budget, the expected economic conditions, and the proposed fiscal policy—based on submissions by the administration, its own staff, and outside sources. This committee would then submit a resolution establishing an outlay *target* for the next fiscal year for all activities included in the unified budget, and this resolution would be subject to approval by both houses and the President. This part of the process would be similar to the ill-fated "legislative budget" process established by the Legislative Reorganization Act of 1946 with a number of critical exceptions:

(a) the outlay constraint would be a *target*, and not a ceiling, and

(b) most important, the resolution would provide for an automatic change in the personal income tax to generate revenues equal to the *difference* between total approved outlays and the target outlays, given the expected economic conditions.

3. After approval of the resolution establishing the outlay target and the tax trigger, Congress would review each spending bill "on its own merit" as it does now. If the total outlays approved by Congress, including those for programs not requiring annual approprations, exceeded the approved outlay target by some threshold amount, personal income tax rates would automatically be increased (without any additional required legislation) to generate expected revenues equal to the outlay difference. Conversely, of course, if the total outlays approved by Congress were less than the threshold, personal income tax rates would be reduced to reduce expected revenues by the outlay difference.

This process is primarily designed to establish a dollar-for-dollar relation between *marginal* federal spending (relative to the outlay target) and expected personal income tax revenues. This condition should improve both the allocation function and the stabilization function of fiscal policy. Changes in the personal income tax would make the public face and bear the current tax cost of marginal federal spending, and every congressman contributing to a spending decision would be forced to defend the tax effects of the aggregate of these decisions. This process would contribute to the stabilization function by stabilizing the expected surplus or deficit in absolute amounts. If actual economic conditions differ from those expected at the time the outlay target is established, the actual surplus or deficit will differ from that expected in a counter-cyclical direction. This process, thus, would constrain the expected surplus or deficit to that planned in setting the outlay target and still permit counter-cyclical variations in the actual deficit to reflect current economic conditions.

The major institutional issues that must be resolved to make this process effective are identified and discussed in my larger study.

Both the administration and Congress contribute to the problems of implementing an effective fiscal policy. Although the administration has assumed the primary role in formulating fiscal policy, no administration to date has developed successful procedures to serve both the allocation and stabilization functions. The intermittent presidential request for discretionary spending or tax authority reflects this concern, but Congress has been understandably unwilling to grant this authority. Congress' one major experiment to formulate and implement a legislative budget was a dramatic failure. The major reform in the federal budget process suggested here requires the understanding and approval of Congress. In contrast with the proposals for presidential spending or tax authority, this reform would affirm the primary authority of Congress to formulate and implement fiscal policy. At the same time, this reform would broaden the policy role of Congress, by sharing with the administration the responsibility for formulating the appropriate fiscal policy in each year, and would establish a process that would constrain the aggregate spending decisions of Congress in order to implement the fiscal policy approved by Congress. There is both sustained and current evidence of widespread support within Congress for the objectives of a legislative budget but, as yet, no consensus on an acceptable procedure. The reform described here is suggested for consideration in the belief that Congress wants to exercise a greater responsibility in formulating fiscal policy and is willing to approve some procedure that would make its own spending decisions more consistent with the fiscal policy Congress itself selects.

ARMS CONTROL

Mr. FULBRIGHT. Mr. President, on blue Monday, March 26, there were two significant articles in the morning papers, one in the New York Times, the other in the Washington Post.

Together these articles remind us once more, that the cold warriors in our midst cannot accept the idea of detente with Russia.

They and their patrons insist upon keeping the arms race going at full steam ahead, and, as always at this time of year, as the appropriation procedures begin, they produce frightening stories about Russian prowess and American weakness. Ever since the "missile gap" fiction of the presidential campaign of 1960 it has been fashionable for the Washington Post to carry such stories of American feebleness, which I suppose have their origin in the Pentagon propaganda machine.

I ask unanimous consent to insert the two stories in the RECORD at this point in my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 26, 1973]

U.S. ARMS CONTROL BODY FACES SHAKE-UP AND CUTS

(By John W. Finney)

WASHINGTON, March 25.—The Arms Control and Disarmament Agency—the semi-autonomous agency created in the Kennedy Administration to coordinate and direct disarmament policy—is undergoing an identity crisis, brought on by the threat of a personnel shake-up and by budget cuts.

As described by the White House to the agency's Senate supporters, the Administration's intent is not to dismantle but rather to reshape and revitalize the 12-year-old body.

But in arms-control circles within and outside the Government, there is growing concern that the White House is intent on transforming the political outlook and reducing the influence of the agency, which has taken the lead in negotiating the arms control agreements of the last decade.

Among past and present officials of the agency there is also a mounting suspicion that the White House moves reflect the behind-the-scenes influence of Senator Henry M. Jackson, who has been privately critical of the agency, and portend an Administration shift toward a harder line on strategic arms negotiations with the Soviet Union.

Even if the Administration's intent is only to reshape the organization, some officials also are fearful that the White House has set in motion an irreversible process leading to the virtual dismantling of the agency. With the present uncertainty over the future status of the agency, they say, it is going to be extremely difficult to recruit qualified individuals to serve in the organization.

There are indications that the White House already is running into difficulty in filling the director's post, which has been vacant for nearly four months.

BUDGET CUT PROPOSED

It was understood that the post was offered to Dr. Harold Agnew, the director of the Atomic Energy Commission's Los Alamos scientific laboratory, and that he declined.

The administration now has reportedly offered the job to Dr. Fred Charles Ikle, head of the social science department at the Rand Corporation and a former professor of political science at Massachusetts Institute of Technology.

Dr. Ikle at first declined the offer but now, according to Senate sources, has changed his mind and is likely to be nominated to the post shortly. He has the endorsement of Senator Jackson.

In recent months there have been a series of White House actions all seemingly aimed at reducing if not displacing the agency from its original status as a policy-making organization directly responsible to the President and the Secretary of State.

For the coming fiscal year, the Administration has proposed a one-third cut in the agency's annual $10-million budget. The budgetary cut would fall heaviest on the agency's research program, which would be reduced from an annual level of $2-million and more to around $500,000.

Since last January, according to associates, John J. McCloy, the chairman of the agency's once influential but now dormant general advisory committee, has been trying unsuccessfully to see President Nixon to protest the budget cuts. It was Mr. McCloy a prominent Republican and a banker who has long been active in the disarmament field, who in 1961 proposed creation of the disarmament agency to President Kennedy.

Except for its symbolic importance, the budgetary cut is not regarded as necessarily crippling the agency. There was a feeling among many agency officials that much of the past research was of secondary importance.

"A STATE OF LIMBO"

Far more serious to agency officials is the way the Administration seems to be stripping the agency of its functions and top staff. "We are in a state of limbo," commented one official who is being forced out, "and quite frankly we are baffled as to the Administration's intentions for the agency."

The 1969 law provided that one of the principal functions of the agency would be "preparation for and managment of United States participation in international negotiations in the arms control and disarmament field." Under this mandate, the director of the agency represented the United States in the negotiations that led to the 1968 treaty to bar the spread of nuclear weapons and the 1972 agreements on limitation of strategic arms.

The agency has now been removed from a negotiating role in the second round of strategic arms talks under way in Geneva.

Gerard C. Smith, who represented the United States in the first round of the talks, resigned in January as director of the agency. Even before his resignation, President Nixon had made clear his intention to go outside the agency for the American representative in future negotiations. In line with this decision he picked U. Alexis Johnson, a senior diplomat with considerable negotiating experience but little background in the disarmament field.

Then the White House dealt another blow to agency morale by suggesting unofficially that most if not all the top officials of the agency would be replaced.

As a result, the agency is expected to lose some of its most experienced officials, such as Lawrence D. Weiler, counselor to the director; James F. Leonard, assistant director of the international relations bureau, and Spurgeon M. Keeny Jr., assistant director of the science and technology bureau.

The impending personnel changes are viewed as part of a Government-wide attempt by the White House to shake up the top bureaucracy and make it more responsible to the views and policies of the Nixon Administration.

But in the case of the arms control agency officials see an additional White House motive of attempting to change the philosophical outlook of the agency. It is at this point that officials see the influence of Senator Jackson entering the picture.

There have been subtle yet significant philosophical differences between the arms control agency and Senator Jackson over the proper approach toward strategic-arms agreements with the Soviet Union.

Basically, the arms control agency has argued for agreements based on the concept of parity, where each side might have dissimilar strategic forces but enough to assure the destruction of the other if attacked. In essence this concept was incorporated into the interim agreement imposing a five-year freeze on the deployment of offensive strategic weapons.

Senator Jackson was openly critical of the first agreement on strategic arms, which he contended placed the United States in a potential position of nuclear inferiority. In an amendment ultimately endorsed by the White House last year, Senator Jackson argued that any future arms-control agreements should be based on the concept of numerical equality of intercontinental strategic weapons.

With the arms control agency divorced of its negotiating responsibility, as had been urged by Senator Jackson, and with many of the agency's policy-making officials being removed, observers within and outside the Government see the Nixon Administration shifting toward what they regard as the "hard-line" approach of Senator Jackson.

[From the Washington Post, Mar. 26, 1973]

DEMOCRATS AND NATIONAL DEFENSE

(By Joseph Alsop)

Nowadays, in the dark hours before dawn, you sometimes wonder whether a lot of virtuous Americans do not actually want to see their country defeated. Consider, to begin with, the powerful drive now taking shape among the liberal Democrats in Congress to dismantle the national defense.

Then consider a few other things of some significance, like the dreadful surprise that followed hard on the heels of the first round of SALT talks. The surprise took the form of a Soviet test, demurely delayed until the first SALT round was over, of a submarine-launched ballistic missile with a range of about 4,500 miles.

The surprise was dreadful for several reasons. To begin with, the range of this new submarine-launched missile exceeds by around 1,000 miles the maximum that had been considered possible by the American scientific analysts. The first SALT agreement was squarely based on the U.S. analysts' predictions, which have now turned out to be poppycock.

Then, too, the Soviet test proved that in the first round of SALT talks, the Soviet negotiators had been grossly misleading, if not directly untruthful. They had pleaded that their submarine launched ballistic missiles had a much shorter range than the comparable American weapons. They had stressed the complex operational factors that make an increase of range almost exactly equivalent to an increase of number, in the case of strategic missiles launched from submarines.

Hence the Soviets had claimed they had a right to a lot more submarine-launched missiles than the United States. This claim, made in the sacred name of "parity," was in fact recognized. Under SALT I, the Soviets are allowed to build up to a total of 950 submarine launched nuclear missiles, whereas the United States is held to a level about 600 such missiles.

Now, however, the Soviets have a submarine launched missile of much longer range than any in the U.S. arsenal, either in existence or in prospect. Its present accuracy has been questioned, but accuracy can always be improved. With missiles of such range, moreover, Soviet nuclear submarines can lurk in the Bering Sea or the Sea of Okhotsk, far beyond the reach of U.S. sea surveillance, and thence loft their missiles to almost all the most vital American targets!

In sum, this single Soviet missile test betokens a coming change in the strategic balance that ought to give the creeps to any liberal Democrat who gives a pin about his country's future. Instead, one of the prime aims of the liberal Democratic attack, now being organized in the Senate, is the destruction of the U.S. Trident program. This is the program, of course, intended to give this country greater and less vulnerable seaborne nuclear striking power.

One of the main objections to Trident, naturally, is that the new missiles will be MIRVed—in other words, will have multiple warheads capable of being independently targeted. The doctrine of the virtuous is that if the United States goes on MIRVing its missiles, the Soviets will then be driven to MIRV their missiles. This, once again, is purest goose talk.

Soviet nuclear missiles are not MIRVed today, simply because Soviet missile development took a wrong turn a good many years ago. To MIRV a missile successfully, you have to put a complex miniaturized computer on board the missile. For detailed guidance, the Soviets instead relied for a long time on computer-systems at the launch point, rather than using on-board computers.

Throughout much of the first round of SALT talks, however, it was already perfectly clear that the Soviets were working, all out to correct this past error—and thus to MIRV. Another recent Soviet missile test has shown, furthermore, that the Soviets have already achieved considerable success in this intensive effort.

The new missile tested is called the SS–17. It has an on-board computer and a range of 6,000 miles. It can even be regarded as a new "counterforce weapon." But the main point is that the new missile is a long step in the direction of much more widespread Soviet MIRVing, which the goose-talkers say we must not "stimulate." In such matters, the Soviets need no stimulation.

The goose-talkers still quack about "parity." In reality, another question already faces us. How will the Soviets behave, if and when they are allowed to acquire a heavy predominance of nuclear striking power? Any sensible man ought to be able to figure out the answer to that question. And the question indicates where the Soviets are heading.

RESEARCH IN SURFACE MINING RECLAMATION TECHNIQUES AT BEREA COLLEGE, KY.

Mr. COOK. Mr. President, on March 7, 1972, I appeared before the Interior Subcommittee of the Appropriations Committee and urged that a budget addition of $1,575,000 be allowed the Forest Service to expand its research program at Berea College in Kentucky for improved technology for the reclamation of surface mined lands. In addition I requested that $1,320,000 be made available to construct an office-laboratory at Berea.

While the construction funds were not

authorized, an increase, in a lesser amount, was added for the research and demonstration of reclamation techniques. Unfortunately, these funds were impounded and this much needed research was curtailed. I intend to pursue this matter in this session of the Congress.

Mr. President, I bring this to the attention of my colleagues at this time because the Interior Committee has just completed hearings on several surface mining bills and are in the process of drafting a revised bill. I anticipate that it will be submitted in the near future for Senate action. The hearings left no doubt that the very foundation upon which any acceptable bill will be based is the requirement that adequate reclamation must be accomplished by the mining operator. Such reclamation of the surface will require that a detailed plan be submitted by the operator before a mining permit can be issued. Prior to the release of his posted bond, such reclamation must be accomplished. This is as it should be and I have always supported this policy. However, I submit that without adequate research in reclamation techniques, optimum results may not be obtained. In essence, the coal industry finds itself in much the same position in mining its coal as does the utility industry in the use of the coal itself. Here again regulations are outstripping research. As I did in my statement on March 1, 1973, concerning the requirement for a commercially tested desulfurization system, I again urge that this imbalance be corrected. I believe that the bill, S. 1283, of which I am a cosponsor, would provide research to assist the Nation in its search to find ways to use our coal. However, as over 50 percent of this coal is surface mined, we have an equally important problem of finding acceptable ways to continue this production.

I do not believe that we can consider this reclamation research and demonstration program expansion at Berea, Ky., separate from surface mining operations. Rather, as the only sustained Federal research program of its kind in the Nation, it is an integral part of the surface mine legislation itself.

I have been granted the opportunity to appear before the Interior Subcommittee of the Appropriations Committee when this subject is considered and have been assured by its chairman, my good friend Senator BIBLE, that he will give this important matter his personal attention. I hope that my colleagues will do likewise.

GUY M. GILLETTE

Mr. HUGHES. Mr. President, the 2-week period designated by the Senate for the placing of eulogies in the RECORD to honor the memory of the late distinguished former Senator from Iowa, Guy M. Gillette, has been graciously extended for another week.

I have in hand a number of newspaper obituaries and commentaries concerning Senator Gillette's life and career. I ask unanimous consent that they be printed in the RECORD to round out the Senate's tribute to this great, departed public servant.

There being no objection, the obituaries were ordered to be printed in the RECORD, as follows:

[From the Des Mones (Iowa) Tribune, Mar. 3, 1973]

LAWMAKER GILLETTE DIES AT 94—NOTED SENATOR FROM IOWA

CHEROKEE, IOWA.—Guy M. Gillette, 94, who as a U.S. representative and later a U.S. senator represented Iowa from the depression years of the 1930s until the mid-1950s, died early Saturday at the Sioux Valley Memorial Hospital here.

His death followed a prolonged illness for which Gillette had been hospitalized for a number of years. Hospital officials said the cause of death was a combination of age and illness.

Funeral services will be at 2 p.m. Tuesday in the Memorial Presbyterian Church at Cherokee, with burial at the Oak Hill Cemetery.

LEFT SENATE IN 1955

A Cherokee native, Gillette had been living here since leaving the U.S. Senate in 1955. He had been a resident of a nursing home wing of the Sioux Valley hospital since November, 1966, officials said.

A Democrat, Gillette was a U.S. representative from 1933 until 1936 and a U.S. senator from 1936 to 1945 and again from 1949 to 1955.

Gillette was the last living member of the bipartisan Senate committee appointed to work with the late Secretary of State Cordell Hull in preparing a tentative draft of the original United Nations Charter.

Because of his work on the charter and his lengthy membership on congressional foreign relations committees. Gillette maintained a steadfast faith in the U.N.

In one of his lengthy interviews, in 1966, Gillette said, "I fully believe that the United Nations organization represents the highest point ever attained by civilized nations in the prevention of deadly and destructive wars."

He was known as an inveterate reader of newspapers, news magazines, classical poetry and history.

Gillette was known as Iowa's "Mr. Democrat" through much of two decades.

He was in Congress all but four years from 1933 to 1955—four years in the House and 14 in the Senate. His Senate service, interrupted by defeat in 1944, was resumed in 1949; and ended again when he was defeated by Republican Thomas Martin in 1954.

While he was out of the Senate from 1945 to 1949, he was chairman of the Surplus Property Board for six months and then was president of the American League for a Free Palestine.

He was elected to the Democratic State Central Committee in 1958, and became chairman of the Iowa State Volunteer Crusade for the American Cancer Society later that year. He won the American Freedom Association's 1954 World Peace Award.

After giving up his Senate seat in 1955, he served as counsel for the internal security division of the Senate Post Office and Civil Service Committee for a short time and then returned to his home, on a 200-acre farm west of Cherokee.

Gillette had an air of independence that attracted an emotional following that transcended party lines, and gave him the ability to carry Senate elections in Iowa in years when no other Democrat could win.

He got votes from persons who both idolized and hated then President Franklin D. Roosevelt.

He was a delegate to the 1940 Democratic national convention, but did not attend because he opposed a Roosevelt third-term nomination.

Gillette was elected to Congress in the 1932 Roosevelt landslide. He had attracted some attention by voting against the National Recovery Act (NRA) and the first Agricultural Adjustment Act (AAA).

The death of Senator Louis Murphy in 1936 sent Gillette to the Senate for the two-year remainder of Murphy's term. Gillette's opposition to Roosevelt's "court packing" proposal raised Gillette to martyrdom in the 1938 Democratic Senate primary in which the Roosevelt administration backed former Representative Otha D. Wearin against Gillette.

CLOSE RACE

Gillette defeated Wearin and went on to defeat former U.S. Senator L. J. Dickinson, a Republican, in the 1938 general election.

But the general election race was so close that the winner was not known for days.

Gillette finally won by a 2,805-vote margin—about one vote per precinct—in the same year the late George A. Wilson led Republicans back to the Statehouse after a six-year absence by defeating Gov. Nelson G. Kraschel by 56,000 votes.

SENSED DEFEAT

In 1944, U.S. Senator Bourke B. Hickenlooper, riding Republican resurgence, went from governor to senator by retiring Gillette by a 29,734-vote margin. Gillette, incidentally, felt he'd lose that election. His guess was he'd be 25,000 votes shy.

But Gillette made a spectacular comeback in 1948 with a 162,000-vote victory over then incumbent George Wilson. The Gillette margin compared to former President Harry Truman's victory in Iowa of 28,000 votes.

Martin ended Gillette's senatorial career in 1954 when he defeated Gillette by 39,000 votes.

LAW PRACTICE

Gillette was born two miles west of Cherokee on Feb. 3, 1879. He was graduated from Drake University Law School in 1900, and practiced law in Cherokee for 17 years. He enlisted in the Spanish-American war at 19; was a captain in World War I. When the war ended, he returned from France to enter dairy farming instead of resuming his law practice.

He had been elected Cherokee county attorney in 1907, and to the Iowa Senate—by a single vote—in 1912. From 1912 to 1932 he had only a casual interest in politics.

He easily won the Democratic nomination for Congress in 1932 and was elected by 10,000 votes in 1932 general election. He was re-elected by 26,000 votes in 1934.

Gillette married Rose Freeman of Randolph in 1907. Mrs. Gillette died in Washington in 1955. They had one son, Mark, now a Ft. Lauderdale, Fla., businessman.

[From the Washington Post, Mar. 4, 1973]

ISOLATIONIST TURNED INTERNATIONALIST—FORMER SENATOR GUY GILLETTE DIES

(By J. Y. Smith)

Former U.S. Sen. Guy M. Gillette—an isolationist turned internationalist, an advocate of rigid farm price supports who also worked for lower consumer prices, a onetime foe of President Franklin D. Roosevelt who was also a critic of the late Sen. Joseph R. McCarthy—died yesterday in Cherokee, Iowa. He was 94.

Between 1932, when he was elected to the House of Representatives, until 1954, when he was defeated in a bid for re-election to the U.S. Senate, he spent 18 years in Congress representing Iowa.

He was known as one of the best Democratic votegetters in a largely Republican state and at one time was the only member of his party in the Iowa congressional delegation.

In the years prior to World War II, Sen. Gillette opposed President Roosevelt's plan to "pack" the Supreme Court. He was a member of a group of congressmen who Mr. Roosevelt wanted to purge from Congress. Nonetheless, the voters kept him in office.

He voted against extending the Selective Service Act after the outbreak of war in Europe, against lend-lease assistance for Britain, and for any changes in the Neutrality Act that was designed to keep the United States out of foreign wars.

But by the time his first full term in the Senate was coming to a close in 1944 (he was defeated for re-election that year by Bourke B. Hickenlooper, a Republican), he had come to the view that the future of world peace lay in an international organization. To this end, he helped draft the U.S. formulation of the Charter of the United Nations.

By that time, Sen. Gillette had also made his peace with Roosevelt, who appointed him chairman of the Surplus Property Board even though the senator had opposed Roosevelt's nomination for third and fourth terms.

Sen. Gillette was returned to the Senate in 1948. It was during this period that he worked for revisions to strengthen the U.N. charter.

It was in the same period that he was among the critics of Sen. McCarthy, the Wisconsin Republican. He served on the Senate Elections Subcommittee that investigated McCarthy's financial affairs in 1951–52. McCarthy's attacks on the Committee's findings formed part of the basis for his censure by the full Senate in 1954.

Throughout his career in Congress, Sen. Gillette backed high, rigid farm-price supports. But on two occasions, he conducted hearings in the Senate that led to the reduction of coffee prices.

The senator was born in Cherokee, Iowa. He took a law degree from Duke University in 1900. He established a law practice in his hometown and was elected Cherokee County attorney in 1906.

In 1912, he was elected to the Iowa State Senate, where he served four years.

When the United States entered World War I in 1917, Sen. Gillette joined the Army. As a boy of 14, he had joined the Iowa National Guard. He signed for service in the Spanish-American War, but got no closer to the fighting than a training camp in Georgia. In World War I, he was a captain in the infantry and spent much of his time training troops.

After the war, he gave up his participation in politics and became a farmer for 14 years.

In 1932, he was elected to Congress. He was re-elected two years later. Near the end of his second term in the House, he ran successfully for an unexpired term in the Senate. He was re-elected to the Senate in 1938.

Following his defeat by Hickenlooper in 1944 and his service on the Surplus Property Board, Sen. Gillette returned to Iowa. In the meantime, he refused nomination to a federal judgeship by President Harry S. Truman, saying he was not qualified for the position.

It was during the period between 1945 and 1948, when he went back to the Senate, that he became president of the American League for a Free Palestine.

During his final term in the Senate, Sen. Gillette, who was a member of the Senate Foreign Relations Committee, warned against U.S. involvement in Indochina.

In a speech prepared for delivery in the Senate in April, 1954, he said the United States is "deeply, dangerously and perhaps inextricably involved" in Indochina and that it would start a "program of political warfare, as distinct from military measures."

This was prior to the French withdrawal from Indochina and the negotiation of the Geneva Accords that divided Vietnam into northern and southern regions.

Following his final retirement to Cherokee, Sen. Gillette suffered a stroke in 1966. He was hospitalized in recent years.

He is survived by a son, Mark.

[From the New York Times, Mar. 4, 1973]

EX-SENATOR GUY GILLETTE DEAD; IOWAN, 94, IN CONGESS 18 YEARS—FARM DEMOCRAT WENT FROM ISOLATION TO INTERNATIONALISM—MADE COMEBACK IN 1948

CHEROKEE, IOWA, March 3.—Former Senator Guy M. Gillette, a Democrat who represented Iowa in the United States Congress for 18 years, died at a hospital here early today. He was 94 years old.

A GENIAL ORATOR

(By Alden Whitman)

Silver-haired, handsome, tall and soldierly in bearing, Guy Mark Gillette looked the part he played in life for 14 years, that of a United States Senator. He had, moreover, the oratorical skills to match and an independence of mind that recommended him to Iowa's voters. In addition, he possessed an innate geniality that made him popular with his fellow members of Congress.

A powerful vote-getter in a traditionally Republican state, Mr. Gillette was elected first to the House of Representatives in the Roosevelt sweep of 1932. Near the end of his second House term, he was elected to a two-year term to fill a vacancy in the Senate, where he remained through 1945, defeated for re-election by Bourke B. Hickenlooper, a Republican.

Three years later he staged a spectacular comeback and reentered the Senate for six years. He was unseated in 1954, an event many observers traced to President Dwight D. Eisenhower's popularity and Mr. Gillette's opposition to the flexible-farm-price-support system.

Although Mr. Gillete was more than 75 years old when he made the race, he conducted a robust campaign and maintained his reputation as one of Iowa's foremost orators. He spoke then, as he had in Congress, without notes or a manuscript but with a notable variety of vigorous gestures.

In defeat he was without rancor. Asked what he thought had "primarily" accounted for his loss, he replied:

"Well, primarily, it was that I didn't get enough votes."

A WORKING FARMER

Mr. Gillete's down-to-earth approach to politics reflected his farm background. He was born a farmer's son in Cherokee on Feb. 3, 1879, and spent some of his adult years as a farmer who milked his cows twice a day and took pride in his ability to "pick" a chicken and grow tall corn.

Mr. Gillette took his law degree at Drake University in Des Moines in 1900 and set up practice in his hometown. He entered politics as a Democrat almost immediately and was elected to local posts, becoming a state senator in 1912. His margin was one vote in a strong Republican district.

In World War I, he was a captain in the Army and served five months overseas. Released and back home in 1919, he discovered that in his absence he had run—and been defeated—for state auditor.

Mr. Gillette was just as pleased, returning to farming for what he described as 14 years of "happy days."

Urged by friends to run for the House in 1932, Mr. Gillette accepted with reluctance and won by 10,000 votes. Two years later, his margin rose to 26,000 votes. In the House, his chief legislative activity was in behalf of farmers, and he sought to expose monopoly and profiteering by middlemen in the food industry.

An independent New Dealer, he opposed the National Recovery Administration program of President Franklin D. Roosevelt. He also voted against the Agricultural Adjustment Act on the ground that it was "compulsory and passed the processing tax from the industrial East to the West."

Mr. Gillette was renominated for the House in 1936, but during the summer Senator Richard Louis Murphy was killed in an automobile accident, and a state Democratic convention chose Mr. Gillette as a candidate for the vacancy. He won easily.

In the Senate, he opposed President Roosevelt's Supreme Court reorganization plan and was reportedly on the President's "purge list" for the 1938 primaries. However, Mr. Gillette defeated his opponent, who had been endorsed by the President's confidant and spokesman Harry L. Hopkins, and went on to win in the general election.

WORKED ON U.N. CHARTER

In this Senatorial term, Mr. Gillette shared the isolationist views of many Midwesterners. He voted against lend-lease and against extending Selective Service. He also fought modification of the Neutrality Act as an aid to Britain and France. By 1943, however, he had changed his attitude, introducing a resolution that supported the principles of the Atlantic Charter and advised the President to negotiate "a postwar peace charter."

The Gillette resolution was eventually merged into another resolution approving American participation in a world organization. Mr. Gillette was then named to a bipartisan Senate group that worked with the State Department in drafting the United Nations Charter.

His other legislative activities included a bill designed to curb exploitation of racial prejudice in elections, a vote to abolish the Fair Employment Practices Commission and a vote to support a stringent antistrike bill. Mr. Gillette was also a critic of what he considered excessive spending for election purposes.

ACTIVE FOR REFUGEES

Mr. Gillette was a prime mover, in 1943, in the creation of the War Refugee Board, and his was a powerful voice to save surviving European Jews.

In 1944, the Senator withdrew as a delegate to the Democratic National Convention because, he said, "I could not conscientiously vote for the renomination of President Roosevelt." He had also opposed a third Roosevelt term in 1940, but less dramatically.

Following the Senator's 1944 defeat, President Harry S Truman offered him a Federal judgeship, but instead he took the presidency of the American League for a Free Palestine. The group advocated a democratic Arab-Jewish government for Palestine. Mr. Gillette headed the league until 1948.

Returned to the Senate in that year, he made frequent headlines for his efforts to keep consumer food prices from getting out of hand.

His term was also notable for his clashes with the late Senator Joseph R. McCarthy of Wisconsin. As a member of a Senate Elections subcommittee, Mr. Gillette questioned whether Mr. McCarthy had diverted to his personal use contributions from his anti-Communist campaign fund. Mr. McCarthy denied that he has misused the monies, but the special Senate subcommittee that voted later for his censure took into account his refusal to cooperate fully with the Gillette subcommittee.

Following his defeat in 1954, Mr. Gillette was employed as counsel by Senate committees, returning in 1961 to his Cherokee farm, where he lived until his death.

In 1907 Mr. Gillette married Miss Rose Freeman, a schoolteacher, now dead. Their son, Mark Freeman Gillette, survives.

[From the Cherokee (Iowa) Daily Times, Mar. 3, 1973]

GUY M. GILLETTE DIES AT 94

Guy Mark Gillette, credited generally as the most illustrious and famous citizen in

the history of Cherokee, died Saturday at Sioux Valley Memorial Hospital, where he had been in residence for the past few years. He was 94.

Former congressman and U.S. senator, the prestigious Democrat was in public life over a span of six decades; and, until his final days, he remained aware of and interested in events of the world.

An adversary of President Franklin Delano Roosevelt and a confidant of Secretary of State Cordell Hull and other national leaders, Gillette outlived his contemporaries.

On the world scene, Gillette is remembered for his impassioned involvement in helping form the new nation of Israel.

Nationally, he is noted for his change from being an isolationist in the Thirties to an internationalist in the Forties, when he aided in establishing the United Nations.

But, in his own estimation, the most memorable contributions he made in his years of public service were in helping Iowa farmers get electric power and in promoting soybeans as a new cash crop.

In a lifetime of varied pursuits, most always concerned with helping others, he was in turn a soldier, lawyer, legislator, farmer and statesman.

Guy Mark Gillette was born in Cherokee County on Feb. 3, 1879, the son of Mark Dennis Gillette and Mary Hull.

He married Rose Freeman on June 17, 1907. She preceded him in death in 1956. Their son, Mark, now resides in Florida.

Gillette's career as a soldier began when he was only 14 years old. As a member of Company M, Fourth Regiment, Iowa, National Guard, Gillette was on duty during a railroad strike in Sioux City.

In 1898, Gillette was called into federal service during the Spanish-American War and as a sergeant, with Company M, served out the emergency in a Georgia camp.

The hometown company, which had been disbanded, was reactivated in 1910 under Gillette, then a captain. Then in 1917, Gillette again was called into service, heading an infantry company which went overseas in 1918. When discharged in 1919, he was a major.

A graduate of Cherokee High School in 1896, Gillette received his law degree in 1900 after spending a year as an understudy to his uncle, J. D. F. Smith, who was a Cherokee attorney, and a year at Drake Law School.

He began his professional practice here in 1901.

Gillette's political career began in 1906 when he was elected county attorney. Defeated in 1908, Gillette was appointed city attorney for Cherokee.

In 1912, Gillette won election to the Iowa Senate from a district comprising Cherokee, Plymouth and Ida counties—a district which had never before sent a Democratic senator to the legislature.

Four years later, Gillette had determined that America's entry into the war in Europe was imminent, so he announced that he would not seek reelection. However, he was nominated on a write-in vote. He did not campaign for the post and was narrowly defeated.

Following World War I service, Gillette farmed near Cherokee until 1932 when he again ran for office and was elected to the U.S. House of Representatives. Almost immediately, the Cherokee native formed a group of congressmen from Midwest states to work for legislation that would benefit their area, and Gillette was named chairman.

In 1936, Gillette resigned his House post and was elected to the U.S. Senate to fill a vacancy. He was reelected in 1938.

An isolationist in the years preceding World War II, Gillette often clashed with President Roosevelt, particularly concerning neutrality legislation.

On Oct. 2, 1941, amid predictions that war soon would break out with Japan, Gillette introduced a Senate resolution calling for investigation of what he believed to be subversive groups of Japanese on the mainland and in Hawaii. And privately, he used his position to pass on to the State Department intelligence reports which indicated that Japan planned to attack Pearl Harbor.

Once the U.S. had entered the war, Gillette began to change his philosophy. By 1944, he was recognized as an internationalist; and as a member of the Senate Foreign Relations Committee, he worked with Hull to chart this country's conception of the United Nations. He introduced the first Senate resolution calling for creation of the international organization.

That same year, he failed to win reelection.

In the election aftermath, President Harry Truman offered Gillette an appointment to the federal bench, and the Cherokean made headlines when he refused. He reasoned that he was not qualified, inasmuch as he had not practiced law for years. A Washington correspondent commented that "An honest man has been found."

Appointed chairman of the Surplus Property Board, Gillette served in that capacity until mid-1945 when he resigned to become president of the American League for a Free Palestine.

In 1948 the same year that the United Nations authorized the creation of Israel as a nation, Gillette ran for the U.S. Senate and was elected.

In 1954, he was defeated when he sought another six-year term at the age of 75. He returned to Cherokee to live in semi-retirement.

In his later years, he was active locally as a member of the Chamber of Commerce and Rotary Club, as chairman of the Cherokee County Red Cross for three years, as member of the Cherokee Library board and as a member of the Chamber's industrial committee. He also served as a director of Cherokee State Bank.

In 1964, Gillette was honored at a community banquet attended by Gov. Harold Hughes. Tributes to Gillette's contributions came from President Lyndon Johnson, ex-President Truman, Sen. Margaret Chase Smith and Sen. Henry Cabot Lodge.

The following year, Gillette was presented with a scroll of honor by the United Nations Association of Iowa.

In 1966, at the age of 87, Gillette suffered a stroke and was hospitalized.

Funeral services will be held Tuesday at 2 p.m. at Memorial Presbyterian Church. Rev. A. E. Goldhorn will officiate and burial will be in Oak Hill Cemetery.

Speculative Lodge No. 307 A.F. and A.M. will meet at the Masonic Lodge temple Tuesday at 1:15 to conduct a Masonic Service.

The Gillette family requests that memorials reflect Mr. Gillette's love of nature and his belief that a strong democracy is an educated one. Memorials may be sent to the Cherokee Park Commission, the Cherokee Garden Club or the Cherokee Library Board.

[From the CONGRESSIONAL RECORD, Feb. 4, 1969]

NINETIETH BIRTHDAY ANNIVERSARY OF FORMER SENATOR GUY M. GILLETTE, OF IOWA

Mr. HUGHES. Mr. President, Monday, February 3, was the 90th birthday anniversary of a distinguished American public servant, former U.S. Representative and Senator, Guy M. Gillette, of Iowa. Senator Gillette, who was stricken with serious illness in 1966, observed his birthday in the Sioux County Memorial Hospital in his native Cherokee, Iowa, alert and in good spirits. Born in Cherokee in 1879, Guy Gilette served as county attorney in Cherokee County and subsequently as State senator. He was elected a U.S. Representative in 1932. After two terms of outstanding service in the House, he was elected U.S. Senator in 1936. His achievements have been outstanding, both in and out of Congress. Many present Members of the Senate will remember his distinguished work on the Committee on Foreign Relations and the fact that he is the only living Senate Member who signed the United Nations Charter. At a time when America has awakened to the valued contributions our citizens can make in the later years of their lives, we are particularly proud of Senator Gillette, who remains acute of mind and young of heart despite his confinement in the hospital. My own affection and esteem for Senator Gillette, feelings shared by all Iowans, were contained in the telegram which I sent to him on his birthday. It reads as follows:

"Heartiest congratulations to you on the happy occasion of your ninetieth birthday. Your distinguished career of public service stands as an inspiration to me as to all other Iowans. God bless you and your fighting heart."

I know that this distinguished American would enjoy hearing from his friends and colleagues of the Senate.

GUY M. GILLETTE,
Cherokee, Iowa, March 17, 1964.

DEAR MAC: I need your help today in a couple of matters—

First, A group of psychiatrists called on me yesterday and said they were contacting me at the request of Governor Hughes of Iowa who was greatly interested in helping in the field of alcoholism and had asked these men to make a study and report of such advance had been made and was being made in this field. That the four Scandinavian countries had made strides in this field and it was urged that a small delegation go into that area and find what had been done and what was being done. They wanted me to help in forwarding such a study trip.

I told them that I knew nothing of the possibility of funds to finance such a trip however of value it might be. And that if Federal funds were available in whole or in part, it would be necessary that it be a National inquiry rather than an Iowa inquiry. And in addition, it would have to have the clearance of the State Department. I told them I would try to find out if any Federal funds were available in whole or in part to go with State fund to finance the study and inquiry. I would welcome for them any information or suggestion as it would be highly desirable that if Scandinavia or any area had developed means of help for these unfortunates, we should have the benefit of their advanced work.

MARCH 24, 1964.

Hon. GUY M. GILLETTE,
Cherokee, Iowa.

DEAR SENATOR: It was delightful to hear from you in your letter of St. Patrick's Day, and I was glad to be asked to give you some help.

With respect to your first request about possible Federal funds for a study and treatment of alcoholism in Scandinavia, the following information may be useful:

The National Institutes of Mental Health is sponsoring research in alcoholism, and, indeed, has financed a meeting with representatives from Scandinavia and other countries on the methods they use in treating this malady. Grants by NIH can be made to individuals, but as a general rule a sponsoring institution is involved. This need not be a university or a medical school but could be a county or State psychiatric or medical society. If your group of psychiatrists would find an appropriate public or private sponsoring institution and draw up a fairly specific proposal for submission to NIH, we on the Committee would be very happy to help it on its way through the bureaucratic labyrinth. I would imagine that the State Depart-

ment of Health would have considerable knowledge and experience in checking and handling NIH research grants.

STATEMENT ON GUY GILLETTE'S DEATH

Washington, D.C., March 3, 1973.

All Iowans will be saddened at the death of Guy Gillette, a great Senator and a consummate gentleman. In his two periods of service in the Senate, Senator Gillette faithfully represented the people of Iowa and the people of America. In his twilight years, he has been a benign father-figure to younger Iowans in public life, including me. I often sought his counsel and received strength from his advice and encouragement.

He was a ruggedly independent but compassionate man who looked the part of a Senator and conducted himself with strength, wisdom and dignity.

[From the Cherokee (Iowa) Daily Times Mar. 3, 1973]

THE LIFE AND TIMES OF THE HONORABLE GUY MARK GILLETTE

1879—Born February 3.
1893—Enlisted in Iowa National Guard; in Sioux City "Pullman Fuss."
1896—Graduated from Cherokee High School.
1898—With rank of Sergeant in Co. M., off to Spanish-American War.
1899—Read law with J. D. F. Smith, uncle.
1900—Graduated from Drake Law School.
1901—Began law practice in Cherokee.
1906—County Attorney.
1907—Married Rose Freeman.
1908—City Attorney.
1909—Reactivated Co. M., 56th Ia., Reg., serving as Captain.
1912—State Senator.
1917 to 1919—WWI, discharged March 10, 1919.
1919 to 1932—Was a "'dirt farmer" and dairyman.
1932—Elected to Congress.
1936—Resigned from the House; elected to the U.S. Senate to fill a vacancy.
1938—Elected to six-year term in Senate.
1944—Lost Senate seat. After defeat, in 1945 was offered a position on Federal Court by President Truman but refused.
1944-45—Chairman, Surplus Property Board. Resigned July 15.
1945-48—President of the American League for Free Palestine.
1948—Elected to Senate.
1954—Defeated in bid for reelection. Returned to Cherokee. Age 75.
1958—July 4, Gillette Park dedicated.
1964—Cherokee Testimonial Dinner given in his honor.
1966—Oct. 24, United Nations Day, tree planted in Gillette Park in his honor.
1966—Late in year suffered severe stroke.

HE SANG BASS IN THE CHOIR

Guy Gillette's national prominence tended to overshadow his contributions on a local level.

Some years ago, when asked to summarize his busy life in and around Cherokee, Mr. Gillette responded as follows:

"It rather surprised me that I had participated in so many local activities; but, I was born and raised here, and it is natural that I would have an interest in my home community.

"I am not listing these to show what a humdinger I was, but as factual matter that you might want to have in your files after my demise."

Church—Presbyterian. Sang bass in choir many times. Superintendent of the Sunday School for two or three years. Helped organize and was president of Men's Brotherhood and planned most of its programs during the years when it was the strongest men's organization in the city.

Lodge—Master Masonic Lodge. Chancellor Commander of Knights of Pythias. Secretary F.O. Eagles. Captain and trainer of Uniform Rank Knights of Pythias unit, taking it to state meetings. Captain and trainer of Girls' Drill Team which visited several neighboring towns.

Sports and Social Groups—For several years was manager of semi-pro baseball team, playing teams in surrounding towns. Member of city bowling team, which competed in other towns. Helped organize and was a member of Cherokee Tennis Association. Member of city whist team, which played teams from several cities. For many years was president of dancing club and helped organize military balls and others.

Military—Member of original Co. M, 4th Iowa Military, and went with this company to the 1893 railroad strike at Sioux City (14 years of age). Member of Co. M, 52nd Iowa Infantry Volunteers, Spanish American War. In 1909 reorganized Co. M, 56th Iowa, and established it at Cherokee; and helped organize the group that built the Maple Street Armory. In World War I, attended officers training camp at Minneapolis. In Europe as Captain of Co. F, U.S. Regular Infantry. As member of Treptow Camp, American Legion, organized the Miniature Minstrels, which played in several cities. Wrote all the music, songs, and minstrel material, and played the piano for them.

Political—County chairman for many years of the Democratic County Committee. Served as City Attorney, County Attorney, State Senator. Later served over 20 years in Washington as 9th District Congressman and U.S. Senator from Iowa.

Later years—Member of Cherokee Chamber of Commerce and minor committees. Rotary Club, County Red Cross chairman for three years. Member of the Industrial Committee. Member of Library Board. Board of Directors of Cherokee State Bank.

[From the Washington Star & Daily News, Mar. 4, 1973]

EX-SENATOR GUY GILLETTE DIES, ISOLATIONIST BEFORE WORLD WAR II

CHEROKEE, IOWA.—Former U.S. Sen. Guy M. Gillette, a one-time isolationist who later became one of the United Nations' strongest supporters, died yesterday at the age of 94.

Sen. Gillette had been hospitalized for the past few years. He suffered a stroke in 1966.

Until World War II, Sen. Gillette was an isolationist, opposing lend-lease and U.S. involvement in foreign wars, although he had fought in the Spanish-American War and World War I. At one point he was one target of an attempted "purge" of unfriendly congressmen by President Franklin D. Roosevelt.

After the war, Sen. Gillette worked for international cooperation. He was a member of a bipartisan Senate group that worked with the State Department to formulate the U.N. charter and he authored a resolution that set up a group to study U.N. charter revision.

IN CONGRESS 18 YEARS

Sen. Gillette, a Democrat, was in Congress for 18 years. He was first elected to the House in 1932. Near the end of his second term, he was elected to a two-year term to fill a Senate vacancy.

He remained in the Senate through 1944, was defeated, then was re-elected in 1948 by the greatest majority in Iowa history. He was defeated in 1954 by Republican Thomas E. Martin.

Sen. Gillette, who received his law degree from Drake University, fought Roosevelt on several issues besides foreign policy. He opposed Roosevelt's third and fourth terms in the White House and his plan for reorganizing the Supreme Court.

GOT FDR APPOINTMENT

After Sen. Gillette's 1944 defeat, however, Roosevelt appointed him chairman of the Surplus Property Board. He resigned after 5 months. He later was offered a federal judgeship by President Harry S Truman, but instead accepted the presidency of the American League for a Free Palestine.

Born on a farm here, Sen. Gillette retained an active interest in the land. He lived for a while on a small farm near Cherokee where he grew corn and raised hens.

Sen. Gillette was a widower. He is survived by a son, Mark. Services will be Tuesday at the Memorial Presbyterian Church here.

PROVISIONS OF THE GENOCIDE CONVENTION ARE CLEAR AND PRECISE

Mr. PROXMIRE. Mr. President, those who oppose Senate ratification of the Genocide Convention have often gone to great lengths to point out the purported vagueness of the provisions of that convention. In the words of one of my distinguished colleagues who opposes ratification, the "meaning of the convention is shrouded in uncertainty" such that "no mind can fathom" the effects of some of its provisions.

In fact, Mr. President, opponents of this convention are doing their best to foster this uncertainty by bringing up the most outlandish hypothetical conditions and asking with alarm, "will the Genocide Convention bring ruin to our system of laws?" In reality, the provisions of the Genocide Convention are as clear and precise as those of any other treaty or law I can think of.

For example, there has been much ado about the term "mental harm" as it appears in article II of the convention as a possible commission of genocide. This term has repeatedly been further elucidated by the understanding requested by the Senate Foreign Relations Committee, that "mental harm" means "permanent physical injury to mental faculties." This to me seems a perfectly clear expression which can be applied without undue difficulty to specific cases. What opponents of the convention apparently desire is a definition of mental harm which would cover every conceivable instance of possible mental harm and spell out whether it comes under the convention's definition or not. Even I, not trained as a lawyer, know very well that no law can fully spell out its precise application; that is what courts of law are for. We can certainly expect this to be the case with the Genocide Convention.

Another aspect of "uncertainty" conjured up by opponents of the convention is the jurisdictional question. We are led to believe that enactment of the convention will mean that citizens of our country will be led away in chains to face the cruel sanctions imposed by an international penal tribunal. This, of course, would not be the case. Article VI of the convention stipulates—in completely clear English—that—

Persons charged with genocide or any of the other acts enumerated . . . shall be tried by a competent tribunal of the nation in

the territory of which the act was committed or by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction.

This makes abundantly clear that implementation of the treaty provisions is wholly up to the signatories unless they agree otherwise.

Mr. President, we should ratify this convention without delay.

THE BIKEWAY PLAN

Mr. DOMINICK. Mr. President, it has come to my attention that the bicycle, one of our earlier forms of transportation, may hold the solution to some of today's environmental and traffic problems. A recent report compiled by the Denver Planning Office at the request of the Denver City Council, entitled "The Bikeway Plan," clearly shows the potential of the bicycle to eliminate air and noise pollution, reduce traffic problems, and promote physical fitness.

Prior to preparing "The Bikeway Plan," the Denver Planning Office conducted a survey and found that there are a significant number of bicycle commuters in the Denver area, and an even larger percentage of commuters who would use bicycles if bikeways were available. The planning office then developed a plan for a network of bicycle routes designed to give commuters living within a 5-mile radius of downtown Denver a clean, efficient, and economical alternative to driving to work. A pilot bicycle route from an outlying residential area to the heart of downtown Denver is being established with the expectation that this pilot route will lead to the establishment of a 164-mile network of bikeways for the Denver area.

Mr. President, it is only too well known a fact that each year our citizens become a little less physically fit, our air a little more polluted, and our traffic a great deal more unbearable. I am very pleased that Denver—along with several cities which have already developed extensive bikeway systems—is among the leaders in exploring the use of bicycles to reverse this trend.

I am indebted to Mr. Linden Blue, councilman at large of the city and county of Denver, for bringing this matter to my attention. I would like to take this opportunity to commend Mr. Blue for his leadership in the development of this idea, and applaud his associates at the Denver City Council and the Denver Planning Office for the excellent work they did in preparing "The Bikeway Plan."

EDWARD DURRELL STONE, ARCHITECTURAL GIANT

Mr. FULBRIGHT. Mr. President, in the February-March issue of the magazine Modern Maturity there appears an article by Arthur S. Freese entitled "The Man Who Designed It."

This article consists of an interview with the famous architect, Edward Durrell Stone, together with appropriate comments by the author of the article.

Mr. Stone has long been recognized as one of the greatest architects ever produced by our country.

I am especially proud of the fact that Mr. Stone is a native of my hometown Fayetteville, Ark., where he spent his youth and where his interest in architecture was first aroused by a local competition to build birdhouses.

I regret that the CONGRESSIONAL RECORD cannot reproduce the distinguished photograph of Mr. Stone which accompanies the article.

I ask unanimous consent to include the article as part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MAN WHO DESIGNED IT

(By Arthur S. Freese)

Edward Durell Stone has long straddled the architectural world as one of the few genuine giants of our era. His buildings cover the earth. He has built mosques in Jordan and science institutes in Pakistan. His El Panama Hotel in Panama City set the style for hotels from Hawaii to Istanbul.

Here in the United States, where he has designed buildings literally from coast to coast and border to border, his latest distinctive contribution is the new Ethel Percy Andrus Gerontology Center on the University of Southern California campus in Los Angeles.

Born on March 9, 1902, in little Fayetteville, Ark., Stone has spent 56 of his almost 71 years involved with building. At 14, he won a local competition for the design of a bird house and says the fame and fortune—his name was in the paper and he won $2.75—started him on his career.

In his early school, he recalls, "they didn't know the difference between a carpenter, an architect and a builder." But he moved to Boston where his older brother was an architect. Working as an office boy and studying at night, Edward Stone won three architectural scholarships; to Harvard, then to MIT, finally for advanced studies in Europe.

Returning to New York City in 1929, his first work was on the Waldorf Astoria Hotel. Then, while working on Rockefeller Center, he became friendly with Nelson Rockefeller who brought him into the Museum of Modern Art project as associate architect. As Stone says, "This was my first significant building and the first so-called modern building in New York—a very auspicious start." He was, by then, 35.

But architecture, he explains, "is not traditionally a young man's profession, since clients usually don't entrust the huge sums of money involved to an architect until he has built an organization." Pausing, he goes on with a mischievous chuckle: "As a rule of thumb, an architect only tools up for his life's work when he's about 50—so it pays to keep his health and live forever if he wants to get that life's work done."

With a string of doctorates and honorary awards, Stone has taught at Yale, Princeton, MIT, Cornell, Columbia, New York University and the University of Arkansas.

A few of his designs are the John F. Kennedy Center for the Performing Arts and the National Geographic Building in Washington, D.C., the American Pavilion at the 1957 Brussels World's Fair, New York's General Motors Building, Chicago's 80-story Standard Oil of Indiana Tower, and the Eisenhower Medical Center in Palm Desert, Calif. He was recently named architect for a $50 million hotel-resort complex outside Dubrovnik, Yugoslavia, overlooking the Adriatic Sea, and is said to be the first American architect to get a major commission in Eastern Europe.

What has this giant of modern art and architecture—for the two go hand in hand—to offer from his vast talent and experience? Here are some of his thoughts:

Which of your buildings do you like the best?

Architects go through phases in their careers. The Museum of Modern Art was in what we then called the "international style." When I was 50, I built the U.S. Embassy in New Delhi and it has a sentimental attachment for me—it was a landmark in my career, a striking departure and an individual personal approach. [This building has been called a masterpiece, one of the most significant structures of our century.]

What should architecture be?

The architect should never approach any problem with a preconceived idea. The building should grow out of all the circumstances—its relationship to the community, the reason for it, the client's wishes—all the considerations unique to that particular problem.

What were your goals in designing the Andrus Center?

When you work on a college campus with a tradition—and USC is one—it's very important that all the buildings be related in scale, size and material. USC's campus is fundamentady in the Romanesque tradition: It's a red brick campus of certain size buildings. I wanted to design something related, and the center is just that—a very basic solution to a building. It's historically good in that climate and in the architectural tradition of the area, being built around a beautiful garden or courtyard (or patio, as it is called there).

It had to satisfy all the requirements I've mentioned and the result is, I think you'll agree, a very distinguished building.

How do you rate the Andrus Center with your other buildings?

I think it's one of the recent *good* buildings. It rates high because it was built for and is harmonious with the particular place, climate and client.

How important is good architecture to a happier world?

It's one of the factors profoundly affecting man in his environment. Man responds to a beautiful environment. The Italians, for example, love the beauty of their cities and villages—they know how to live in them and relish them. They've planned for people, and the people are happy even though most of them have only very modest incomes.

What should older people look for in architecture, for greater happiness in their later years?

Buildings have lives just as human beings do. A simple way to get great pleasure from your environment is to have a rudimentary knowledge of architectural history; with this, you can follow the history of the whole development of the city. It's fascinating—and I'm sure there are primers on architectural history that can enable laymen to know where the ideas originated.

Are retirement communities a good thing?

I don't think *retirement* is a very good idea and I don't ever intend to retire unless I develop some physical infirmity. The painter Titan was 90; Churchill, Adenauer, Pope John, De Gaulle—all had some of their most productive years when they were elderly. I think man seeks his own justification through work and feeling useful, so giving up the enormous personal satisfaction of being useful to your fellow man is, *I* think, a mistake.

Retirement communities are not a good idea—they're places where you assemble a lot of people who've given up striving for a realization of their life's work.

What kind of home have you designed for yourself?

I haven't. It's amazing what you can do to express your personal taste by the transformation of a house, but I've never *built* a house for myself. Like the proverbial shoemaker? Exactly!

Should people change homes at different times of their lives?

My avocation is travel. Seeing how past civilizations lived inspires and recharges me. But I can only speak for myself—I like change, and I don't know how many different places I've lived in New York, Long Island, Connecticut. I think change is good for everyone.

How good is today's architecture?

Not very. In my profession—like most, I'm told—there are only a handful of architects who are any good: only 10 per cent are really qualified. I don't know whether I should be *in* that 10 per cent, but if not, it isn't for lack of effort!

How do you see the profession of architecture?

The responsibility of guiding a government or a great corporation in the expenditure of sometimes hundreds of millions of dollars is a fantastic vote of confidence, a great privilege not given to many people and I take it seriously. There's a moral obligation not to be cavalier with expenditures, to try to bring to this scene more than you derive from it. It's always hard to reconcile dreams with dollars—but that's one of the principal objectives of architecture.

What changes for the better have you seen in architecture?

I don't find many things that inspire me. There hasn't been much striving for excellence in architecture here since Thomas Jefferson. I would hasten to add, though, that in the last 20 years there is a concern about the ever-growing problems of pollution.

Should we have community planning for future building?

The only city the United States ever planned was Washington, D.C. Thomas Jefferson was an architect and George Washington, a surveyor; they started us off in a fabulous manner. But the country grew so fast that it was built without advance planning, and this was one of history's major irresponsibilities. Since the 1850's, nothing has been done right. Now it all has to be done over—and it will be. There's more realization now that buildings are not single objects but must all relate to a large pattern—should all be fitted into a grand plan.

How much attention should be given to ecological balance and the need to avoid overcrowding?

Only 20 years ago, no one had the faintest realization that we'd ruined our environment, poisoned our rivers, that our air was dangerous. They didn't even *use* the phrase ecological balance. Now they're in a panic.

We need more parks and plazas in the cities, less crowding, more room; places where people can be free of automobiles, like beautiful Venice, a city of pedestrians.

What is your recipe for happiness?

The great period of Greece was our highest civilization, a time of beauty and intelligence—yet they didn't have a word for happiness! The closest meant work in a worthy cause to a constructive end. That's how I feel. You can't get happiness from external things, it has to originate inside—from doing whatever you can to the fullest limits of your ability and for the benefit of your fellow man.

Is today's world better or worse off than when you were a child?

Things were relatively simple and idyllic when I was a boy—the problems my three sons face in our society today are very difficult with all the labyrinths and pitfalls of modern life.

What do you consider the world's greatest danger today?

I don't think there's any easy answer, but the single most alarming thing is the prospect of overpopulation.

What do you believe is the world's greatest hope?

Education, because through it you can alleviate such fundamental problems as hunger. It's the one sure route to the future.

What do you think is the world's greatest need?

Granted the basic problems are food, shelter, and so on—but education should dispel all these. Man has always relied on his spiritual life and should continue to do so.

If you had your life to live over, what would you do differently?

I'm sure that inadvertently I've hurt some people, but I know my motivations were acceptable and I have no regrets. I think I've been blessed and probably have gotten more out of life than I have deserved.

What is the most significant lesson you ever learned?

Maybe it's a banality, but I think you should really make certain that in every single instance when you deal with another human being you give more than you get—that's a fundamental belief of mine. I've tried to live that way and will continue to.

Have you any special advice for younger generations?

I've always been obsessed with excellence. I've tried to convey that idea to my three sons—and have succeeded.

What goal should one seek in life?

Excellence and, through its pursuit, justification of one's own existence. Only through searching for excellence can one find happiness.

How important is knowledge?

I'm not a scholarly or a reflective man. I can't sit under a tree with a book of poetry. I'm a man who's concerned with other people with making their lives more acceptable through their environment.

How important are friends?

Love of my fellow man is a very basic part of my life. I actually do genuinely love my fellow man, and I'm not presumptuous enough to believe I'm entitled to pass judgment on others.

How important are religious beliefs?

I personally find the Christian philosophy important and I like to live by it.

How important are the arts?

A friend of mine said all great periods of history are great only because of the art they produced. I find solace in that because I'm dedicated to the arts. No one is interested in who was mayor of Venice when Michelangelo created "David," or who was king of France when Chartres Cathedral was built.

How important is science?

Architecture is a combination of art and science. The invention of the elevator and the concept of framing a building with steel made possible the skyscraper, America's unique contribution to architecture. It has a "made in U.S.A." label on it.

Have you found most people, in the long run, to be good?

Yes, yes, yes! I long ago decided I wasn't going to live in suspicion of my fellow man. I work and live in trust of others, and I've very, very seldom been disappointed.

Which individuals among those you have known have you liked the most?

My wife. She's my inspiration and the most important person in my life.

If you could take a look at the world in 2073, what would you like to see?

That's a large order. Of course, the folly of war is incredible. If, by some miracle—I'm not optimistic—war were eliminated. . . .

THE DEDICATION OF MENDEL RIVERS PARK AND THE UNVEILING OF A MONUMENT OF THE LATE CONGRESSMAN IN CHARLESTON, S.C.

Mr. THURMOND. Mr. President, on March 23, 1973, a ceremony was held in downtown Charleston, S.C., dedicated to the memory of our late and distinguished colleague, Congressman L. Mendel Rivers.

It was a fitting tribute to a great American who contributed so much to the security of this Nation. A crowd of about 1,000 persons jammed the small park adjacent to the county courthouse where a monument of Congressman Rivers was unveiled by Mrs. Rivers.

Congressman F. EDWARD HÉBERT, the able successor to Mr. Rivers as chairman of the House Armed Services Committee, delivered the principal address. Other speakers were Gen. Mark W. Clark and Gov. John C. West.

In addition to Mrs. Rivers and other members of her family, the ceremony was attended by a sizable delegation from Washington and people from all walks of life in South Carolina. It was my pleasure to be among them. Throughout the short program there was praise for the patriotism which guided Congressman Rivers and which makes this country great.

Indeed, this Nation is better for having had the leadership and services of Mendel Rivers. His dedication and his foresight have left indelible lines of progress and patriotism for all of us to follow.

Mr. President, there were several newspaper articles and editorials published about the dedication ceremonies. I ask unanimous consent that four such accounts be included in the RECORD at the conclusion of my remarks. They are as follows: "Rivers' Patriotism Lauded," Charleston Evening Post, Charleston, S.C., March 23, 1973; "Rivers Monument," the News and Courier, Charleston, S.C., March 24, 1973; "Friends Dedicate Rivers Monument," the News and Courier, Charleston, S.C., March 24, 1973; and "Clark Lauds Rivers as 'Mighty Mendel'," the State, Columbia, S.C., March 24, 1973.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

RIVERS' PATRIOTISM LAUDED

(By Sally Lofton)

A little girl clutching her Raggedy Ann doll, the working man and woman, the poor, the rich, and local, state and national leaders came out to pay tribute to the late L. Mendel Rivers today.

Several hundred persons attended the ceremony held to dedicate a monument erected in his honor in the County Courthouse Park.

Keynote speaker for the ceremony was U.S. Rep. F. Edward Hebert, chairman of the House Armed Services Committee. Hebert served in Congress with Rivers for 30 years; both of them were sworn in together in 1941.

Hebert said he remembered Rivers as "one of the greatest patriots of all time. . . for the great leadership he gave . . .

"I remember the heap of trouble we got into when I stumped for Strom Thurmond for President in Louisiana and Mendel stumped for him in South Carolina . . .

"I remember those of us in Congress who were fearful Charleston would sink if it got any more military here."

Hebert paraphrased a quote of John C. Calhoun whom he said Rivers patterned himself after, saying "At the essence of government is the consideration of public service as a public trust."

The Louisiana congressman said the memory of Mendel Rivers should be a blend of 'What I remember and what you remember

into a common memory of a great man, a great American whom you'll never forget."

Also speaking in tribute to Rivers was Gov. West, who said he should be remembered for making the term "freedom" have meaning and be a reality. Gen. Mark W. Clark, chairman of the Rivers Monument Committee, said he would remember Rivers as "Mendel the Mighty," a phrase which he said sums "his patriotism, his statesmanship, his many strengths."

Unveiling the bronze bust, sculptured by Willard Hirsch, was the congressman's widow. She was escorted by her son. S.C. Rep. L. Mendel Rivers Jr.

Among the guests at today's ceremony were Sen. Ernest F. Hollings and Sen Strom Thurmond, and U.S. Reps. Mendel J. Davis, Melvin Price, Bob Wilson, Samuel S. Stratton, Lucien N. Nedzi, William L. Dickinson, Floyd V. Hicks, Richard C. White, John E. Hunt, W. C. Daniel, Floyd D. Spence, Marjorie S. Holt and Robert W. Daniel Jr.

Also attending was Robert W. Stevens, former Secretary of the Army; Dewey J. Short, former chairman of the House Armed Services Committee; Gen. William C. Westmoreland, USA (ret.), former Army chief of staff; Vice Adm. Hyman T. Rickover and Maj. Gen. Marion L. Boswell of the Department of Defense; Maj. Gen. John R. Blandford, USMC, (ret.), former chief counsel of the House Armed Services Committee; Rear Adm. Alfred J. Whittle, commander of Submarine Flotila Six, Charleston Naval Base; and Brig. Gen. Robert L. Moeller, commander of the 436th Military Air Lift Wing at the Charleston Air Force Base.

RIVERS MONUMENT

Dedication on a sunny March day of a monument to the late L. Mendel Rivers paid honor to a renowned son of Charleston and added another spot of beauty to a famous neighborhood. The bronze bust by Charleston sculptor Willard Hirsch was unveiled by the congressman's widow, in the company of friends and admirers of her husband, in a small park between the venerable court house and the new county office building. An iron fence matches the one around Washington Square across Meeting Street near Broad.

In appropriate ceremonies, three speakers concisely and eloquently paid tribute to Mendel Rivers, a man they all knew well: Gov. John C. West, Rep. F. Edward Hébert, who succeeded Mr. Rivers as chairman of the House Armed Services Commitee, and Gen. Mark W. Clark, chairman of the Rivers Monument Committee. Distinguished guests from far and near were gathered in Meeting Street for the occasion, joined by people of the community. The News and Courier joins in applause for those who had a part in developing this tasteful memorial to Mendel Rivers. His name deserves to be known by generations yet to come.

FRIENDS DEDICATE RIVERS MONUMENT

(By Barbara S. Williams)

L. Mendel Rivers would have loved it.

His friends were there.

The crowd of 1,000 ranged from the "man on the street" to the star-studded military and the power politician.

The sky was blue, the music by the Sixth Naval District Band was stirring and the speeches contained the kind of poetic imagery Rivers liked.

While they sometimes drowned out the oratory, it somehow seemed appropriate that there were military planes in the sky as the L. Mendel Rivers Monument was dedicated Friday.

It was a time for reminiscing.

Rivers' successor as chairman of the House Armed Services Committee, Rep. F. Edward Hebert of Louisiana, mentally carried the crowd back in time.

Hebert remembered how he and Rivers stood together in the House chamber in Washington to take the oath of office in 1941.

The Louisiana Democrat also recalled the trouble he and Rivers got into with their party when they stumped their states for States Rights presidential candidate and now-Republican U.S. Sen. Strom Thurmond, who was among the crowd of dignitaries.

Hebert was among many in the audience who made the trip to the Birmingham, Ala., hospital where Rivers died of heart failure on Dec. 28, 1970. "I remember the last time I saw him there. So full of fire and life, giving me orders," Hebert recalled.

Rivers' final trip back home to the First District he had turned into a military stronghold also was on Hebert's mind. "I remember seeing the highways lined with people, black and white, waiting for the funeral cortege. They wanted to see for the last time a man who had been their friend," Hebert said.

Rivers' old friend, Gen. Mark W. Clark, who headed the monument committee, told the crowd that history should portray the late congressman as "Mendel the Mighty."

"It is the kind of title more Americans should seek. It is the way I shall fondly remember him. It sums up his patriotism, his statesmanship, his many strengths," Clark said.

Gov. John C. West described Rivers as a "man born to challenge and a man born to greatness."

". . . . He will be remembered as a man who defended his nation when many attacked it; he will be honored as a man who supported national defense when many criticized it; he will be saluted as a patriot when the term was not totally appreciated," West said.

The list of notables who came to Charleston to salute Rivers is long. It includes Vice Adm. Hyman G. Rickover, former Secretary of the Army; Robert T. Stevens, former Armed Services Committee Chairman; Dewey J. Short, South Carolina's congressional delegation, and the entire House Armed Services Committee. The crowd also included many just plain friends and employes, including long-time assistant Mrs. John Bull.

In the crowd were two Mendels, Rivers' son and godson, who have both climbed the political ladder since the congressman's death.

Mendel J. Davis succeeded Rivers as First District Congressman and L. Mendel Rivers Jr. is a new member of the State House of Representatives.

Young Rivers escorted his mother across Meeting Street to the new Courthouse Square Park where the monument is located. While the monument itself has been on view for several weeks, a bust of Rivers, by Charleston sculptor Willard Hirsch, was unveiled at the ceremony by Rivers' widow and son.

CLARK LAUDS RIVERS AS "MIGHTY MENDEL"

CHARLESTON.—The late Rep. L. Mendel Rivers, chairman of the House Armed Services Committee for five years, was lauded Friday by Gen. Mark W. Clark as "Mighty Mendel."

Clark, speaking at a dedication ceremony for a monument to Rivers, said the former First District congressman "was mighty and he was right."

The general, retired president of The Citadel, joined Gov. John C. West, current Armed Services Chairman F. Edward Hebert, D-La., and more than 100 other officials for the ceremony.

"He was a mighty man, a mighty servant of the people, a mighty politician, a mighty statesmen," said Clark. "Yes, he was mighty right."

About 700 citizens whom Rivers liked to call "My people" joined in paying tribute to Rivers during ceremonies in a small courtyard in the shadow of the historic Port City's county office building.

Rivers' widow and son, State Rep. L. Mendel River Jr., D-Charleston dedicated a large granite memorial and bronze bust of Rivers during the ceremony.

Hebert, the man who succeeded Rivers as chairman of the Armed Services Committee, was principal speaker.

He said be remembered Rivers as that "gangly kid born on the other side of the tracks who came up the hard way to become one of America's greatest patriots."

"No one who can remember Mendel Rivers can ever remember him acknowledging inferiority in anything he did," Hebert said.

"He sought always to reflect superiority."

West said Rivers knew that "only through strength could we bargain and negotiate for peace."

"I hope—as do all Americans—that we have reached the point that a true and meaningful peace can be achieved," he said.

"If we are successful, then our entire nation owes a debt of gratitude to L. Mendel Rivers, the man who kept America strong and helped it weather one of the most difficult periods in our nation's history."

West said Rivers' name would "take its place among the greatest Americans of our time" and he described the late congressman as a "man born to challenge, a man, born to greatness."

The entire House Armed Services Committee attended the event along with Sens. Ernest F. Hollings, D-S.C., and Strom Thurmond, R-S.C., and Rep. Mendel J. Davis, D-S.C., Rivers godson and successor in office.

The granite monument, enclosed in a high wrought-iron fence, described Rivers as a "Statesman and Patriot." A short inscription reads: "He spoke for his neighbors and strove to keep his country strong."

The monument and bust were made possible, in part, by small donations from Rivers' former constituents.

"This monument will be a tangible and visible reminder for generations to come of the affection and esteem which we held for him," said West.

SOCIAL SERVICES REGULATIONS COUNTERPRODUCTIVE

Mr. EAGLETON. Mr. President, new social services regulations proposed by the Department of Health, Education, and Welfare on February 16 would have a devastating effect on the ability of Missouri to provide meaningful services to public assistance recipients, and would virtually eliminate preventive and supportive services to enable families to stay off the welfare rolls and older people to remain in their homes.

Many aspects of the proposed regulations are open to criticism. In my view, those with the most serious implications are a prohibition against the use of private funds as a State's matching share and severe restrictions on eligibility for services of those who are not currently welfare recipients.

The immediate effect of these regulations in Missouri would be the closing down of a large number of day-care centers, forcing perhaps hundreds of families onto the welfare rolls.

Their effect, in the long term, would be to indefinitely postpone the development of vitally needed social services, including those which can enable older people to avoid institutionalization and remain in their homes.

DAY CARE JEOPARDIZED

One of the more important components of the social services program in Missouri is day care for the children of

working mothers. This day care is provided primarily through contracts with other public or private agencies and with the State's share of the funding coming from either private sources or model cities agencies.

A prohibition against the donation of private funds would put in immediate jeopardy day-care programs serving over 600 children in St. Louis, 60 to 70 children in St. Joseph, and 30 children in Mexico.

Uncertainties about the future of model cities funding affect a second day-care program in St. Louis serving over 200 children and day-care services for more than 600 children in Kansas City.

Putting aside the question of continued funding, the proposed regulations governing the eligibility of children to receive day-care services would disqualify large numbers of those children who now receive day care in Missouri.

Under existing regulations, social services may be made available to low-income families and individuals who are potential welfare recipients for a period of up to 5 years and to former welfare recipients for a period of up to 2 years.

Under the proposed regulations, a person leaving the welfare rolls would be deprived of supportive services, including day care, within 3 months. Services would be available to potential welfare recipients for a period of only 6 months, and only if their income did not exceed 133⅓ percent of the State's public assistance payment level.

Under these rules, the Kansas City Model Cities Agency estimates that 60 percent, or 450, of the children between the ages of 3 and 5 years now receiving day care in Kansas City would be made ineligible.

Mr. President, the effect of these regulations would be to deny day care to those families who can derive the most benefit from it. The end result could well be the addition of hundreds of Missouri families to the welfare rolls.

The Child Day Care Association of St. Louis estimates that 100 of the 600-odd families they serve could end up on welfare if their day-care eligibility is terminated.

In St. Joseph, as many as 52 former welfare recipients whose children now receive day care in the Wesley/Catholic Services day-care program might be forced to return to the welfare rolls.

Mr. President, how ironic it is that an administration which lauds the "work ethic," which professes concern for the "working poor," and which criticizes, and properly so, the disincentives built into our welfare programs should now say to a mother in St. Joseph, Mo.: "As long as you work so little that you qualify for welfare, you may have day care for your children. But if you work your way off welfare, then you must make other arrangements for your children or quit your job and go back on welfare."

SUPPORTIVE SERVICES FOR ELDERLY WOULD BE ELIMINATED

Under a law passed by Congress last year, the States are required to spend 90 percent of their social services funds for the elderly on services for current welfare recipients. This is a statutory requirement that I believe should be reconsidered.

In any event, the proposed regulations would make it virtually impossible for States to utilize even 10 percent of their funds for elderly persons not receiving old-age assistance.

Under current regulations, services may be provided beginning at age 60 to enable an elderly person to maintain his or her independence and avoid institutionalization. Under the proposed regulations no such services could be provided until 6 months before the person's 65th birthday.

The Kansas City Model Cities Agency tells me that 210, or 70 percent, of the elderly people it now serves with homemaker services, home-delivered meals, chore service, transportation, and protective care would become ineligible. The provision of adult services in the St. Louis model cities area would be similarly affected.

Mr. President, in my view, our efforts should be directed toward providing more adequate supportive services for the elderly. Without those services, many more of our senior citizens will be forced to leave their homes and turn to various forms of institutional care at a greater expense to the public and to their own self-esteem and dignity.

DEVELOPMENT OF NEW SERVICES WOULD BE THWARTED

Missouri has a relatively small social services program. Currently it receives Federal funds at an annual rate of $17 million even though its share under the $2.5 billion ceiling established by Congress last year is $57 million.

Prospects for the development of more adequate services for public assistance recipients and other low-income residents lie largely with the contribution of private funds.

If the use of such funds is prohibited, those prospects would vanish and a number of projects now in the developmental stage would have to be postponed indefinitely.

In St. Louis a coalition of voluntary agencies has agreed to provide necessary social services to the approximately 18,000 old age assistance recipients in that community. A communitywide network of information and referral services is also being planned. Both of these projects are dependent upon the use of private funds.

In St. Joseph a home health care project, a cooperative effort between a United Fund agency and two general hospitals, was to have been implemented later this year. If the use of private funds is prohibited, both that effort and a projected social services program for public housing residents in St. Joseph would go by the boards.

CONGRESS MAY ACT TO SAVE SOCIAL SERVICES

Mr. President, on February 14 a group of 46 Senators, in a letter addressed to Secretary Weinberger, expressed our concern about the proposed regulations.

I ask unanimous consent that the text of that letter and the Secretary's reply dated March 14, be printed at this point in my remarks.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

FEBRUARY 14, 1973.

Hon. CASPAR WEINBERGER,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: We are extremely concerned about reports that forthcoming social service regulations may make fundamental changes in the operation of federally-assisted programs in the fields of day care, aid to the elderly, mental retardation and juvenile delinquency.

In particular, we would like to register our strong opposition to the reported administrative repeal of existing provisions which permit the use of privately contributed funds—from charitable organizations such as the United Way of America—to make up the required local or state match. This proposed change would seriously undermine the excellent existing private-public partnership approach to human problems. These kinds of cooperative efforts should be encouraged rather than discouraged.

Such an extreme change in the existing social services program is unwarranted. Fears of an uncontrollable budget in this area were resolved by the $2.5 billion ceiling on Title IV–A which the Congress adopted last year. And less extreme proposals for dealings with isolated examples for abuse have been offered by individuals such as former Secretary Richardson. We are attaching for your information a copy of a letter Secretary Richardson sent to Representative Wilbur Mills last October concerning this issue.

In addition, we would like to express our concern about other parts of the reported new regulations such as those which would repeal the current use of in-kind contributions for the non-federal match, deny day care eligibility to former welfare recipients just after this day care program has permitted them to find employment and leave the welfare rolls; and raise serious questions about whether the Federal Inter-agency Day Care Standards—which establish minimum protection for children in federally-assisted day care and which have been in effect for the past 5 years—will continue to apply.

We respectfully request that we be informed in advance about any proposed changes in areas such as these, and that if and when any changes are proposed they be available for public comment and later revision.

With warmest personal regards,
Sincerely,
Senators Mondale, Javits, Ribicoff, Packwood, Stevenson, Abourezk, Bayh, Beall, Brooke, Burdick, Case, Church, Cranston, Dominick, Eagleton, Fulbright, Gravel, Hart, Hartke, Hatfield, Hathaway, Huddleston, Hughes, Humphrey, Kennedy, Mathias, McGee, McGovern, McIntyre, Metcalf, Moss, Muskie, Nelson, Nunn, Pell, Percy, Randolph, Schweicker, Stafford, Stevens, Taft, Tunney, Williams, Clark, Montoya and Symington.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., March 14, 1973.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: Thank you for your expression of concern over the proposed revisions in the social service regulations which govern programs operated under the public assistance titles of the Social Security Act.

A Notice of Proposed Rule Making was printed in the Federal Register February 16. We believe the redirection in the regulations is consistent with Congressional intent when titles I, IV–A, X, XIV, and XVI were amended in 1962 to allow 75% Federal matching of the costs of social services.

The amendments were added to encourage States to provide services in order to help people receiving public assistance to become self-supporting or self-sufficient and to prevent families and individuals from becoming dependent on welfare. The Administration has always understood that these programs were targeted entirely for the poor and near poor, among whom are some mentally retarded persons, as well as aged persons and youth in danger of delinquency. Other Departmental authorities, however, are designed specifically to serve individuals and groups with special problems such as mental retardation, regardless of income. Eligibility for federally supported public assistance social service programs is limited to families and individuals on welfare and those who are very close to dependency on such assistance.

The Department has been engaged in a lengthy discussion of the use of private funds as the State's share in claiming Federal match. Members of Congress, particularly those on the Senate Finance Committee, have expressed concern over continued recognition of these funds. This matter also was brought up recently in the hearing on my confirmation as Secretary of Health, Education, and Welfare. Consistent with the concerns expressed, we have included a prohibition on the use of these funds in the proposed regulations. You may be assured that the Department will analyze very carefully comments on this subject in order to determine the most appropriate position. However, at no time has use of in-kind contributions been valid for matching under these programs. These rules imply no change in that prohibition.

There appears to be some misunderstanding of the intent of the proposed revisions. At State option, any family in danger of becoming dependent on welfare within six months is eligible to receive day care and other services in order to allow the caretaker to accept training or employment. If such a family is not eligible as a former recipient within the three-month limitation, but might be forced to return to welfare without day care services, it is possible that the family may again be determined to be eligible under the "potential" category. The six-months' limitation for potential recipients does not preclude receipt of services for a longer period of time; it does require States to certify, at the end of the six-month period, that the recipient is still in immediate danger of welfare dependency if services were not provided. The purpose of the provision is to make certain that States do periodically review these categories.

We are mindful of the necessity and importance of day care standards. The existing Federal Interagency Day Care Requirements are now under intensive review and will become effective as soon as final clearance and approval procedures are completed.

The purpose of publishing proposed regulations is to stimulate discussion of the provisions before final rules are set. After you and members of your staff have studied the proposed regulations, we hope you will comment further. I am asking Departmental staff to be available to assist in interpreting specific provisions to assure a better understanding of the purposes of the revised regulations.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

Mr. EAGLETON. Mr. President, on March 14, a bipartisan group of Senators, under the leadership of the Senator from Minnesota (Mr. MONDALE) introduced S. 1220, a bill to limit the authority of the Secretary of Health, Education, and Welfare to promulgate regulations governing the social services program.

I ask unanimous consent that the text of that bill be printed at this point in my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

SEC. 2. (a) The regulations of the Secretary of Health, Education, and Welfare (relating to the administration of titles, I, X, XIV, and XVI, and part A of title IV, of the Social Security Act) as in effect on January 1, 1973, shall remain in full force and effect insofar as such regulations relate to—

(1) the use of privately contributed funds and inkind contributions as part of State expenditures, in determining (for purposes of any such title or part A) the amount of the Federal contribution to which any State is entitled on account of expenditures incurred by the State for social services under a State plan approved under any such title or part A: *Provided,* That the Secretary may clarify requirements that such privately contributed funds be expended in accordance with a State plan.

(2) the authority of any State, under any such plan, to define the categories or classes of individuals who are eligible to receive such social services;

(3) the authority of any State, under any such plan, to include, as social services, drug and alcohol treatment programs, education and training services, and comprehensive service programs for children, the elderly, or the disabled (including such programs for mentally retarded children and adults);

(4) reporting requirements of States, under any such plan, with respect to the provision of social services; or

(5) the standards imposed, under any such plan, with respect to the provision, as social services, of day care services.

(b) No regulation, promulgated by the Secretary of Health, Education, and Welfare after January 1, 1973, shall have any force or effect, and any such regulation shall be invalid, if, and insofar as, such regulation is inconsistent with the provisions of subsection (a).

Mr. EAGLETON. Mr. President, briefly, this bill would preserve existing regulations relating to—

The use of privately contributed funds and inkind contributions to make up the State's matching share;

The authority of the States to provide services to past welfare recipients for up to 2 years and to potential welfare recipients for up to 5 years;

The authority of the States to provide drug and alcohol treatment programs, education and training services; and comprehensive services for children, the elderly and the disabled;

The application of day-care standards; and

Reporting requirements of the States.

Mr. President, I am hopeful that Secretary Weinberger and his Department will recognize the counterproductive nature of the proposed social services regulations. I cannot believe that this administration really wants to take actions that would penalize industry and self-reliance or that would require the institutionalization of additional numbers of our elderly citizens.

However, if the final regulations to be issued by HEW do not provide for the continued use of private funds and do not preserve the ability of the States to provide preventive and supportive social services, then I will join with Senator MONDALE in an effort to obtain the expeditious enactment of S. 1220.

Mr. President, I ask unanimous consent that there be printed at the conclusion of my remarks resolutions adopted by the Missouri House of Representatives and the City Council of Kansas City; a statement by Bert Shulimson, director of the Missouri Division of Welfare; and communications from James E. Meyers, president, health and welfare council of Metropolitan St. Louis; Donald Checkett, executive director, child day care association of St. Louis; Frank E. Boykin, chairman, board of commissioners, St. Louis Housing Authority; Samella Gates, director, Kansas City Model Cities Agency; and Robert L. Slater, president, and Rabbi Stephen Arnold, chairman of the planning committee, St. Joseph Area United Fund.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MISSOURI HOUSE OF REPRESENTATIVES—RESOLUTION

Whereas, the Department of Health, Education and Welfare has proposed new regulations that will affect the delivery of Social Services under the Social Security Act; and

Whereas, these regulations, if enacted, would seriously curtail, if not eliminate many of the services Missouri has been able to provide for low-income families, senior citizens, and child welfare programs; and

Whereas, some of these services are protective services to children and adults, including health related, employment, educational, day care, family planning, foster care, and homemaker services; and

Whereas, the proposed regulations, if and when effective, will have the effect of discouraging the poor, both on and off public assistance rolls, from exerting further efforts to break the poverty cycle in which they are entrapped, and of encouraging or even requiring low-income parents who have now broken the poverty cycle to return to the status of welfare recipients for lack of financial ability to provide day care for children; and

Whereas, the Missouri Division of Welfare's capability to deliver these essential social services may well bid to have a disastrous impact on the urban centers of St. Louis, Kansas City, Springfield, St. Joseph and others;

Now, therefore, be it resolved, that the House of Representatives of the 77th General Assembly of the State of Missouri hereby expresses its dismay and objection to the proposed new Social and Rehabilitation Service Regulations of the Department of Health, Education and Welfare on the delivery of Social Services in Missouri, and petitions such modification of these regulations as will assure the continuance of all services currently offered to its low-income citizens; and

Be it further resolved, that this Resolution be adopted and that copies hereof be provided to Mr. Casper W. Weinberger, Secretary of Health, Education and Welfare; to Mr. Phillip J. Rutledge, Acting Administrator, Social and Rehabilitation Service; to Mr. Robert Davis, Regional Commissioner, Social and Rehabilitation Service; to each of the Missouri members of the United States Senate and House of Representatives, thus conveying the conviction of the General Assembly that such proposed change, if permitted to stand, will result in serious harm and dan-

ger to the general well-being of the citizens of the sovereign State of Missouri.

Offered by Representative Phillip B. Curls, et al.

I, Agnes Moore, Chief Clerk of the House of Representatives of the 77th General Assembly, certify that the above is a true and correct copy of House Resolution No. 118 adopted by the House of Representatives, March 15, 1973.

AGNES MOORE,
Chief Clerk.

RESOLUTION

Expressing dismay at the impact of social and rehabilitation service regulations proposed by the Department of Health, Education, and Welfare of the United States, on child day care programs

Whereas, among many federally funded programs of value to the community now facing drastic reduction or outright curtailment under new fiscal policies of the federal government, the Child Day Care Program is ingeniously devised and of unique value, in that its benefits, largely directed to low-income employed parents, have enabled former welfare recipients to accept employment and to remove themselves from public assistance rolls, and have freed mothers, otherwise required to remain at home to supervise their children, to augment the family income above the poverty level by accepting gainful employment; and

Whereas, new Social and Rehabilitation Service Regulations proposed by the Department of Health, Education and Welfare of the United States, by effectively restricting the funding of Day Care programs to children of current welfare recipients, threaten to reduce the number of children now cared for by such projects in Kansas City by more than 60%; and

Whereas, such proposed regulations, if and when effective, will have the effect of discouraging the poor, both on and off public assistance rolls, from making further efforts to break the poverty cycle in which they are entrapped, and of encouraging or even requiring, low-income parents who have now broken the poverty cycle to return to the status of welfare recipients for lack of acceptable and economically feasible facilities for day care of their children; and

Whereas, the Council is dismayed at the impact of such proposed regulations on Child Day Care Programs, and on the lives of hundreds of deserving citizens of this City to whom such programs represent the sole opportunity to escape from the ignominy of poverty and reach the dignity of self support and self respect; Now, therefore,

Be it resolved by the Council of Kansas City:

That the Council hereby express its dismay at the impact of new Social and Rehabilitation Service Regulations, proposed by the Department of Health, Education and Welfare of the United States, on Child Day Care programs, in Kansas City, and throughout the Nation; and

Be it further resolved, that this Resolution be spread upon the minutes of the Council in testimony thereof, and that copies hereof be provided to Mr. Caspar W. Weinberger, Secretary of Health, Education and Welfare, to Mr. Philip J. Rutledge, Acting Administrator, Social and Rehabilitation Service, to Mr. Robert Davis, Regional Commissioner, Social and Rehabilitation Service, to each of the Missouri members of the United States Senate, and to each member of the United States House of Representatives from a Congressional District including any portion of the City of Kansas City, Missouri, in token of the deep conviction of the Council that such regulations, if permitted to stand, will destroy important fibers in the fabric of American self sufficiency and self respect.

STATEMENT

(By Bert Shulimson, Director, Missouri Division of Welfare)

On February 16 the Department of Health, Education, and Welfare published a proposed set of new regulations affecting the social services program under the Social Security Act. We believe these regulations, if they are finalized, will severely restrict the ability of Missouri to provide adequate social services through this agency.

However, a thirty day period prior to the final adoption of the proposed regulations will be given to any comments, suggestions or objections. We are submitting our objections to Washington and, in addition, are advising Governor Bond and the members of the Missouri Congressional delegation of our objections. Furthermore, members of the Missouri General Assembly, members of the County Welfare Commissions, and private agencies and organizations that provide services to welfare recipients will have our comments.

At the present time nearly $25 million is being spent per year on social services to low income families and public assistance recipients in Missouri. Seventy-five percent of the cost of these services has been provided by Federal Government while the remaining twenty-five percent is money that has been appropriated by the State Legislature or is private funds donated by other public and private agencies.

Some of the services that are provided are protective services to children and adults, health related services, employment services, educational services, day care services, family planning services, foster care services, and homemaker services. Some or all of these services are presently available to all welfare recipients and other low income families residing in model cities areas or in designated public housing facilities. The proposed regulations could drastically curtail the Federal funds available to the state for these social services.

Some of the more restrictive provisions of the new regulations include the elimination of the use of private donated funds to match Federal funds, a narrow definition of eligibility for low income families to receive social services, overly restrictive and burdensome procedures for the administration of such programs, the limitation of the kinds of services which can be matched by the Federal Government, and a significant loss of Federal matching funds for the state's child welfare program.

We are concerned about the impact of these regulations on low income families in Missouri. These regulations are exceedingly harsh and will substantially reduce social services to families in need. The definition of services to "former and potential" recipients has been so limited as to make the procedures unworkable and unusable. Especially since so many other programs providing services to the poor are about to be curtailed, it is unfortunate that low income families and public assistance recipients must now suffer a reduction in welfare services which help to break the cycle of poverty.

The most profound affect of the new regulations would be to virtually eliminate the Division of Welfare's capability to purchase certain social services such as day care from private agencies or other government organizations. Since many families presently receiving services will be unable to pay for the cost of these services, many day care programs and agencies will be forced out of operation. Thus in additon to thousands of low income children and adults being denied these services, as many as 500 jobs in day care centers and other service programs will be jeopardized.

The attached tables list and describe the purchase of service programs which most probably will have to be eliminated. Letters have been sent to the private agencies we are contracting with advising them of the precarious situation and the public housing and model cities programs will be contacted shortly.

The proposed regulations will also place Missouri's child welfare program in difficulty since a major portion of the present Federal matching funds will no longer be available for the cost of providing these services. More state revenue will have to be appropriated to offset this reduction.

Other restrictions will affect the eligibility for services of those recipients in model cities and Federal housing units. The requirement that the Division of Welfare would have to individually certify every child and every person who was to receive purchase of services, describe the kind of services to be purchased, and justify the need for them would necessitate a complete new paperwork procedure. An assistance recipient would no longer be automatically eligible for such services just because he was an active assistance recipient and a new determination by Welfare staff would have to be made on a quarterly basis. These are procedures which are not being done at the present time and most assuredly the Division of Welfare does not have the service staff and the money to comply with these regulations.

In short the proposed regulations would effectively reduce the amount of money which would be spent on the provision of social services through private agencies and other units of state and local government. The major restrictions in the new regulations to contend with being: prohibition of the use of private donated funds as match; reduction in the percentage of "former and potential" recipients who can be served; elimination of group services and provision for individual services based on an individual service plan; and a quarterly redetermination of eligibility for services. These restrictions, taken either individually or collectively, will hamper the operation of the service program.

We are hopeful that the Federal Government will rescind much of what is contained in the proposed regulations. We understand that these regulations were designed to curtail social service expenditures in those states which had taken unfair advantage of "loop holes" in the laws. Contrary to statements originating from Washington, the Missouri Division of Welfare program has been "clean" and Federal dollars have been well spent. No Division of Welfare staff or outside agency personnel have "got fat" providing social services. No funds intended for services have been used to build roads, buy uniforms, or make films, to mention a few abuses that have apparently taken place in other states.

The total loss of Federal matching money for the 1973–74 fiscal year is estimated to be in excess of $7.5 million with the total loss in dollars for services to be $10 million. This will represent a thirty-three percent reduction in funds available for social services in fiscal 1974 as compared with fiscal 1973.

We had planned to expand our social services program in fiscal 1974 to take advantage of money authorized by Congress in the Revenue Sharing Act. Missouri's share was to have been $57 million. It now appears entirely unrealistic for us to expect to be able to match these funds without support from the private sector and other government agencies. To add to the problem, it is now believed that the Department of Health, Education and Welfare will not spend as much as Congress has provided and Missouri's share for social services will only be about $40 million.

The states and other parties will have until March 19, 1973 to object or comment on the proposed social services regulations, and any

such communications should be addressed to the Administrator, Social and Rehabilitation Service, Department of Health, Education and Welfare, 330 Independence Avenue, S.W. Washington, D.C.

PROGRAM DESCRIPTIONS

I. Provider: Child Day Care Association of St. Louis.

Donor: Health and Welfare Council of Metropolitan St. Louis.

This program provides Day Care services to children from families who are current recipients of AFDC as well as former and potential recipients residing within Model Cities Neighborhoods or Housing Authority. The geographic area served by this contract is Metropolitan St. Louis and during January 1973, CDCA provided services to a total of 627 children. The total approved budget for this project is $140,000.00.

II. Provider: Wesley/Catholic Services.

Donor: United Community Council of St. Joseph.

This program provides Day Care services to current AFDC recipients and former and potential recipients residing in St. Joseph and Buchanan County. During January 1973, W/CS served a total of 45 children and the approved budget for this project is $60,960.00.

III. Provider: Kansas City Model Day Care Corporation.

Donor: Kansas City Model Cities.

Program provides Day Care Services to children from families who are current AFDC recipients or former and potential recipients residing within Housing Authority or Model Cities neighborhoods. Geographic area covered by this agreement is Metropolitan Kansas City and Jackson County. Total number of children served during January 1973, was 329 and approved budget for this project is $2,400,000.00.

IV. Provider: Early Childhood Education Center, Kansas City Board of Education.

Donor: Kansas City Model Cities.

Program provides Day Care Services to children from families of current AFDC recipients as well as former and potential clients residing in Model Cities Neighborhoods or Housing Authority. Geographic area served by this program includes Metropolitan Kansas City and Jackson County. A total of 359 children received services under this program in January 1973, and the approved budget for this program is $800,763.00.

V. Provider: St. Louis Division of Community Services.

Donor: St. Louis Model Cities.

This program provides protective, transportation, homemaker, home delivered meals, and chore services to current recipients of OAA, AB, and PTD residing in the Metropolitan St. Louis area. The program also provides these services to former and potential recipients living within the Model Cities neighborhoods and Housing Authority in this same geographic area. Approved budget for this program is $644,752.00.

VI. Provider: Early Child Care Development Corporation.

Donor: St. Louis Model Cities.

Program provides Day Care services to children from families currently receiving AFDC and former and potential recipients living in the Model Cities neighborhoods and Housing Authority. Geographic area by this program is St. Louis Metropolitan area. During January 1973, 230 children received services and approved budget for the project is $1,478,560.00.

VII. Provider: Housing Authority Social Service Center, Health and Welfare Council.

Donor: St. Louis Housing Authority.

Program provides Information and Referral, job development and counseling, community planning, and social group activities to current, former and potential recipients of assistance, with the exception of GR and BP to residents of public housing in the St. Louis Metropolitan area. Approved budget for this program is $1,705,152.00.

VIII. Provider: Services for the Elderly, Human Resources Corporation.

Donor: Kansas City Model Cities.

This program provides the same social services to the same client population as the program in St. Louis (see #V) which is sponsored by St. Louis Model Cities; approved budget for this program is $400,000.00.

IX. Provider: Sikeston Child Day Care.

Donor: Bootheel Regional Planning Commission.

Program provides Day Care Services to children from current AFDC families and former and potential recipients living within the Housing Authority. Geographic area served by this program is Scott County. Total of 30 children received services in January 1973. Total approved budget for the program is $49,439.05.

X. Provider: American Camping Association.

Donor: Health and Welfare Council of Metropolitan St. Louis.

This program provides summer camping experience for children from families who are current recipients of AFDC in St. Louis City, St. Louis County, Jefferson, St. Charles, and Franklin Counties. Total budget for this program which operates primarily during the summer is $565,339.00.

XI. Provider: National Youth Development Foundation.

Donor: United Community Services of Jackson County.

Program provides same services as provided under purchase agreement with American Camping Association in remaining areas of the State not covered by ACA contract. This project also operates primarily during summer and approved budget is $375,000.00.

XII. Provider: Courtney Community Child Care Center.

Donor: Mexico Housing Authority.

Provides Day Care Services to children from families in Audrain County who are current recipients of AFDC and former and potential recipients living in Mexico Housing Authority. Total of 28 children received service in January 1973; and approved budget is $39,600.00. Program was initiated in November 1972.

XIII. Provider: Serve, Incorporated.

Donor: Fulton Housing Authority.

Program provides Homemaker services, Home Delivered Meals, Educational, Employment, Housing Improvement, and Social Group Activities to current recipients of all categories except GR and BP in Callaway County and former and potential recipients in Fulton Housing Authority. Approved budget for program is $69,113.17. Program initiated in Mid-December.

XIV. Provider: East Central Missouri Mental Health Center.

Donor: Mexico Housing Authority.

This program provides the same services as program of Fulton Housing Authority, but eligible clients are limited to current recipients of assistance residing in Mexico Housing Authority. Program was approved on February 15, 1973, and is not yet in operation. Approved budget is $43,500.00.

XV. Provider: Information and Referral Health and Welfare Council.

Donor: Metropolitan Association of Philanthropy.

This contract was approved in June 1972, as a planning contract for the development of a network of Information and Referral for the St. Louis Metropolitan area. Original amount of contract was $50,240.00, but contract expires February 28, 1973, and may not be renewed under new regulations.

HEALTH AND WELFARE COUNCIL,
OF METROPOLITAN ST. LOUIS, INC.,
St. Louis, Mo., February 28, 1973.

Hon. THOMAS F. EAGLETON,
Senate Office Building,
Washington, D.C.

DEAR TOM: On behalf of the Board of Directors of the Health & Welfare Council I have today sent the enclosed letter regarding the proposed social service regulations to the Administrator of the Social and Rehabilitation Service of the Department of Health, Education and Welfare.

First, let me thank you for co-signing the letter to Secretary Weinberger on this subject. We appreciate your prompt and forceful action.

The implications of these regulations cause us great concern. They will severely restrict the ability of both the public and voluntary agencies to serve those in need. On one hand our State Division of Welfare will provide fewer services to less people. On the other hand the demand on the voluntary agencies will increase substantially while the amount of governmental support will either be decreased or in some areas totally eliminated.

Let me cite some specific examples:

Twenty-one day care centers (list enclosed) in our community are serving approximately 600 children on AFDC. If the prohibition against the use of voluntary funds goes into effect, these 600 children may be deprived of this service unless either the State provides the local matching funds or the United Fund or some other voluntary source provides the amount currently coming from the Federal government. Even if the prohibition against the use of private funds is eliminated from the proposed regulations, approximately 90 of these children may no longer be eligible for this service because of the restrictive new eligibility requirements.

Approximately 3,000 children on AFDC have attended 39 different camps operated by 17 voluntary agencies in our community. A copy of the camps and agencies is enclosed. This program is endangered on two grounds. First, it is dependent upon the use of private funds for matching purposes; and second, the proposed regulations seem to eliminate camping as a service in which the Federal government participates financially.

Our social sevice program serving the tenants of public housing will have to be cut back severely if the prohibition against "area eligibility" goes into effect and if information and referral services is no longer a permissible service. We have been developing this program for over a year and may now find that a significant investment of time and Federal money may go down the drain.

A number of important programs in our community are now in the developmental stage. These efforts will have to be terminated as a result of the proposed new regulations. A coalition of voluntary agencies has agreed to provide the necessary social service to Old Age Assistance recipients, of which there are approximately 18,000 in our community. This effort has been given a high priority by the Division of Welfare but is again dependent largely upon the use of private funds for matching purposes. The other project in danger is a community-wide network of information and referral sevices. This network would result in a more effective utilization of all our health and social welfare resources. It would also assist the Social Security Administration in carrying out a mandate given to them by the President last summer.

You can see from the above examples that the proposed regulations affect a large number of people and agencies in our community. Anything that you can do to avert the negative impact of these regulations will be deeply

appreciated by those citizens affected by them.

Sincerely yours,

JAMES E. MEYERS,
President.

HEALTH AND WELFARE COUNCIL OF METROPOLITAN ST. LOUIS, INC.,
St. Louis, Mo., February 27, 1973.

ADMINISTRATOR,
Social and Rehabilitation Service, Department of Health, Education and Welfare, Washington, D.C.

DEAR SIR:

The Health and Welfare Council of Metropolitan St. Louis, a voluntary association representing close to two hundred health and social welfare agencies, and business, labor, professional and other civic organizations appreciates the opportunity to comment upon the proposed regulations pertaining to the provision of services for families and children and for aged, blind or disabled individuals published in tentative form on February 16th, 1973. The contents of this letter have been approved by our Board of Directors at a regularly scheduled meeting on February 27, 1973.

We are impressed with the clarity and precision of the regulations and especially applaud the emphasis upon specific goal achievement. While there may be certain administrative problems with the stricter requirements for individual service plans we believe this emphasis is laudatory and if implemented through the provision of all required services will produce tangible results.

There are, however, a number of provisions in the proposed regulations which cause us great concern and we wish to comment on these in detail.

Reduction of mandatory services.

Families and Children: The proposed regulations reduce the mandatory services to be provided by each State to family planning, foster care and protective services for children. While each of these mandatory services are desirable and should be available throughout each State, the proposed reduction of mandatory services is deficient for the following two reasons:

(1) They appear to be in violation of the statutory requirements for services of Title IV A of the Social Security Act;

(2) They negate both the intent of the law and make it impossible to achieve the service goals stated in the proposed regulations.

Title IV A of the Social Security Act states that a State plan must provide a program of family services which will assist the recipients to attain or retain capability for self support and care, and maintain and strengthen family life. Family services are defined as services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self support and personal independence.

The proposed regulations state that the services to be provided must be directed to the achievement of the following specific goals:

(1) Self support goal: To achieve and maintain the feasible level of employment and economic self sufficiency.

(2) Self sufficiency goal: To achieve and maintain personal independence, self determination and security, including for children the achievement of potential for eventual independent living.

In view of the statutory requirement for family services and the specific goals of self support and self sufficiency we believe that limiting mandatory services to family planning, foster care and protective services for children is undesirable and self defeating.

The three mandatory services address themselves only to certain aspects of the definition of family services and only deal with a portion of the "self sufficiency goal." None of the mandatory services are related to the self support goal which we believe is of equal importance.

We, therefore, urge that the entire subject of mandatory services be thoroughly reexamined before new regulations are proposed and implemented. We are especially concerned about the elimination of the following mandatory services which appear under the following headings in the current regulations: 220.17 Employment objectives; 220.18 Child care services; 220.22 Services to meet particular needs of families and children; 220.24 Services related to health needs; and 220.25 Legal services.

Aged, Blind and Disabled: While we recognize that Titles I, X, XIV, and XVI do not require mandatory services for the aged, blind or disabled we believe that the current regulations which make certain services mandatory are sound and should be retained. The language in the proposed regulations which refers to services in the adult categories as "defined" services is undesirable and may lead to a further deterioration of services for those population groups.

Other comments on services: The proposed regulations reclassify a number of mandatory services as optional services and eliminate others completely. Our concern about the reduction of mandatory services has been expressed in the previous section. Throughout the proposed regulations we note an obvious limitation of specific services to be provided—either mandatory or optional—and a deemphasis or elimination of those services which focus on prevention, rehabilitation, protection of legal rights, and the development aspects of family life generally and children specially, and the removal of barriers which prevent families and individuals from becoming self supporting and self sufficient.

Specifically we note that because of the limited definitions of services the provision of resident camping and information and referral may have inadvertently been completely eliminated. Resident camping contributes substantially to helping children attain personal independence and achieve the potential for eventual independent living. Information and referral services result in maximum utilization of public and voluntary agencies providing similar or related services which is one of the requirements of both the current and proposed regulations.

Limitation of the definition of "former" and "potential" recipients: One of the positive aspects of our public assistance programs, has been the fact that while financial assistance was limited to those who met specific and in some states overly rigid income and resource limitations, services could be provided to a far wider population.

The intent of providing services to former and potential recipients is to enable those who have been recipients to remain self supporting and self sufficient and to prevent others from becoming dependent upon financial assistance payments. The current regulations define "former" and "potential" quite broadly. This, in our judgment, is wise and foresighted. It is better to provide social services to families and individuals while they are still comparatively self supporting and self sufficient instead of waiting until they are just one step from destitution.

The proposed regulations by severely limiting the definition of "former" and "potential" recipients constitute a serious step backward. While these proposed regulations may save money in the short run they will result in greater costs in the long run. They will on one hand serve as a disincentive for recipients to leave the assistance programs and on the other hand many others who would never become recipients because of the availability of services will actually wind up as recipients.

We, therefore, urge that the current regulations pertaining to "former" and "potential" recipients be retained substantially in their present form. We also believe that the current regulations which permit group or area eligibility are sound and economical and should be retained.

Prohibition against use of donated funds for matching purposes: The proposed regulations state: "Donated private funds or in-kind contributions may not be considered as the State's share in claiming Federal reimbursement."

Current regulations read: "Donated private funds for services may be considered as State funds in claiming Federal reimbursement. . . ."

The current regulations, in our judgment, if properly enforced contain adequate safeguards against the misuse of the utilization of private funds. The provision permitting the use of private funds has resulted in a sound partnership between the governmental and voluntary sectors. Furthermore, it has tended to result in a better utilization of liimted financial and human resources.

We want to assure that in our community this provision has not resulted in reduced allocations of voluntary funds to the social services provided under the Social Security Act but has been used for increasing and improving the quantity and quality of these services.

During the past year 3,668 children have received day care and camping services as a result of $300,000 of donated funds. If the proposed regulations remain unchanged these children will be deprived of services unless the State legislature replaces these funds.

Not only do we strongly urge the retention of the current provision but its use should be encouraged wherever feasible. If this provision is eliminated it will severly damage the social services programs for those most in need.

Sincerely yours,

JAMES E. MEYERS,
President.

CHILD DAY CARE ASSOCIATION OF ST. LOUIS,
St. Louis, Mo., March 9, 1973.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We wish to call your attention to the impact proposed HEW regulations would have on the lives of working ADC families and other working poor persons in St. Louis.

The regulations prohibiting the use of private funds as matching funds for social service programs would immediately stop day care services to 527 working ADC mothers in St. Louis and in addition, would stop day care services to another 100 non-ADC working poor. The effect of this appears to be diametrically opposed to your own stated goals for the attainment of personal independence.

If the intent of this regulation is to force states to assume the matching fund responsibility, then it seems vitally important to allow them a year in which to plan for the assumption of this responsibility. If you intend to substitute special revenue sharing funds, then the action ought to wait until such legislation is passed. Failure to allow a phasing over period will simply mean the loss of day care services to working parents and the destruction of their ability to maintain their employed status.

The regulation which restricts the definition of former and potential recipients has an equally destructive effect on poor families striving to stay off welfare. The 100 plus such families we are serving will very likely end up on the welfare rolls if their ability to receive employment related day care services is destroyed. The use of geographic eligibility (Model City area and public hous-

ing) is an important tool in the fight against poverty, particularly if it is restricted to those families under the poverty guidelines who reside in such areas.

The regulation which requires certification, an individual plan and periodic re-verification is one we agree with in principal, however, it should be broadened somewhat so that as a nation, we do not spend a disproportionate amount of time, effort and money on a constant bureaucratic merry-go-round of paper-work. Let's limit service to eligible persons but let's do it in a reasonable manner which does not wind up defeating its own purpose.

The concept of private and public money working together is a valuable one and should be maintained. It is, in fact, the first really viable example of this concept in practice. If there have been abuses, regulations can be devised to curb the abuses. It is not necessary to destroy the entire concept in the process.

We appreciate this opportunity to express our point of view and sincerely trust that you will see the validity of our position on these matters and instruct the Department of Health, Education and Welfare to modify the proposed regulations accordingly.

Sincerely,

DONALD CHECKETT,
Executive Director.

ST. LOUIS HOUSING AUTHORITY,
St. Louis, Mo., March 8, 1973.

ADMINISTRATOR,
Social and Rehabilitation Service, Department of Health, Education, and Welfare, Washington, D.C.

DEAR SIR: I wish to comment upon the proposed social service regulations published in tentative form on February 16, 1973.

The St. Louis Housing Authority has long been aware of the inadequacies of social services to its tenants, most of whom are either current, former or potential recipients of public assistance. After many false starts the Missouri Division of Welfare decided to purchase through the Health & Welfare Council of Metropolitan St. Louis, comprehensive social services, including information and referral services, for the tenants of our various projects. This purchase of service arrangement fully utilizes the concept of goal oriented social service delivery. The program is now in the second year of its existence and is beginning to show some initial results.

We believe that the proposed regulations seriously endanger our project for the following reasons:

1. While our tenant population is composed predominantly of (approximately 75 percent) current public assistance recipients, it also includes a significant number of former and potential recipients who will be excluded from services under the proposed regulations. These former and potential recipients are struggling to remain off the public assistance programs and should not be penalized for this effort by being denied extremely valuable social services.

2. We have found that the information and referral services provided in each of our housing projects has been of great value in assisting tenants to obtain services from public and voluntary agencies in our community. Frequently, these services have been provided at no cost to the State agency.

3. The most prevalent problem faced by our tenants is in the area of employment. The social services program, therefore, has concentrated heavily on assisting tenants to become partially or fully self-supporting. This has required the provision of a variety of social services, all of which are currently included as mandatory services. Limiting the mandatory services to family planning, foster care and protective services for children will make the task of rehabilitating our tenant population far more difficult, if not impossible.

4. Some of the services provided to public housing tenants have been made possible through the donation of voluntary funds. If such funds may no longer be used for matching purposes, these services, we are afraid, will no longer be available to our tenants.

For the above reasons, we urge that the proposed regulations be changed in order to enable the Division of Welfare to continue operating a comprehensive social services program for our tenants. The specific changes which we suggest are:

1. To make all services mandatory which are required to help families and individuals achieve the goal of self support and self sufficiency.

2. To make I & R a service in which the Federal government will financially participate.

3. To retain the current definitions of former and potential.

4. To permit the continued utilization of private funds for matching purposes.

We are sure that you will give these comments your most serious consideration.

Sincerely yours,

FRANK E. BOYKIN,
Chairman, Board of Commissioners.

MODEL CITIES,
CITY OF KANSAS CITY, MO.,
March 16, 1973.

MR. PHILIP J. RUTLEDGE,
Acting Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. RUTLEDGE: On behalf of the Kansas City, Missouri Model Cities Agency, I am writing to express our grave concern and to comment adversely on the proposed regulation published in the Federal Register of February 16, 1973 relative to the Title IV–A program of social services for children, and the elderly.

In order to better focus your attention and demonstrate the magnitude of the potential problems we are facing, I will confine my review and comments to a single item, the proposed eligibility requirements, and the effect of those requirements on projects which Model Cities is now funding.

Model Cities now provides local matching funds for two projects under Title IV–A: Day Care and Social Services for the Elderly. Under the new proposed eligibility requirements 450 children between 3 and 5 years old (more than 60%) would be ineligible for day care services and 210 elderly (more than 70%) would also be ineligible.

On the surface, it would seem that Model Cities is providing matching funds to services for a large number of non-welfare families and individuals who can pay for the services and thus are not intended to have the benefit of those services. But a simple examination of AFDC and OAA payments will shatter this illusion. In the State of Missouri, the AFDC payment for a mother with 4 children is $121.00 monthly. The OAA payment for an elderly individual is $85.00 monthly. 133⅓% of $121.00 and $85.00 is $161.00 and $113.00 respectively. We question your interpretation of the statutory language as saying in effect that only those families (e.g., mother with 4 children who have income of less than $161.00, and elderly individuals who have income of less than $113.00 are potential welfare recipients and thus qualify for Title IV–A programs. Many states, including Missouri, define eligibility for AFDC and OAA on the basis of minimum level necessary for subsistance but provide payments which are substantially below that state-determined level. This is a fact of life, especially for a large portion of Model Neighborhood residents.

In addition, we also question the wisdom for this interpretation for the following reasons:

(1) In view of the widely known disparity of AFDC and OAA payments between states, we don't believe it's wise nor reasonable to relate income requirements for potential welfare recipients to the welfare payments the state is presently providing. We have been using OEO poverty guidelines as income eligibility requirements. The OEO poverty guidelines are far more realistic for indicating a minimum level of subsistence, and they are applied nation-wide as we believe is the intent of federal social legislation.

(2) It is to the advantage of those individuals served, the community in which they live, the state and the nation as a whole to have social services provided to a wider range of income levels than the proposed regulation would allow. We trust HEW, with its vast investment in social programs, understands that it is not only important but almost mandatory to have wide income-group participation to make social service programs successful. Our experience with the Model Cities Program certainly reaffirms this point. If the proposed regulation is put into effect, it would be most ironic that while HUD is learning painfully through the experience of concentrating poverty families, location-wise, HEW is in effect promoting a similar type of concentration program-wise.

(3) There is a good chance that the families and elderly individual will try to be qualified as AFDC or OAA recipients in order to take advantage of social service and day care programs. We believe this is a direct contradiction to the legislative intent, but for the many borderline cases we expect this would be the result of the regulation. (e.g. it is only natural for an elderly person who has only social security income to try to qualify for OAA even only for a small portion of it in order to receive benefits from the social service for elderly project.)

Our concern is definitely shared by the City, the State, and many others who are involved in Social Programs. Though we believe they have written to yon individually, we do wish to call to your attention the attached copy of resolution no. 42387 of the Kansas City, Missouri, City Council relative to this issue.

In closing, I want only to re-emphasize that we are unequivocally opposed to the proposed changes in Title IV–A eligibility as published in the February 16, 1973 Federal Register.

Sincerely,

SAMELLA GATES,
Director.

ST. JOSEPH AREA UNITED FUND,
St. Joseph, Mo., March 9, 1973.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

SIR: I am taking this opportunity to comment and advise of our official Board action on the proposed regulations on social services as published in the Federal Register on February 16, 1973. This proposal will drastically eliminate or curtail a number of essential social services presently being provided in St. Joseph to those individuals presently eligible.

Specifically, the proposed regulations will:

(a) eliminate Day Care services for 74 children, and may cause 52 former welfare recipients now participating in these programs to return to the welfare roles.

(b) leave dozens of low-income families without essential Home Health Care services which were proposed as a cooperative project between a United Fund agency and two general hospitals for implementation later in the year.

(c) drastically reduce the number of low-income children who will be able to attend summer camp this year in YMCA and Girl Scout programs.

(d) eliminate or indefinitely postpone vital social services to residents of public housing and other low-income family housing projects within the metropolitan St. Joseph area.

The particular regulations that severely

limit our ability to serve individuals in need within our community are the following:

(a) Section 221.6 *Eligibility.*

This section places such restrictions on former and potential client service eligibility as to make such persons virtually indistinguishable from current recipients. Such restrictions fail to recognize the preventive and supportive aspects of current programs which keep people free from dependency and contribute to the well-being of the total community.

(b) Section 221.61 (a) and 221.62 *Private Donated Funds.*

The use of private donated funds would have virtually no impact on the expansion of services because of the ceiling placed on social service allotments to states under the State and Local Fiscal Assistance Act of 1972. If proposed eligibility requirements are maintained, this would further limit increases in social service expenditures.

Furthermore, the restrictions on the use of such donated funds precludes the possibility of maintaining a viable public/private partnership in the delivery of human care services in a comprehensive and coordinated manner.

(c) Section 221.5 *Optional Services.*

This section, by limiting the number of optional services under Family and Adult Services, prevents flexibility in designing other programs which have been of significant benefit to our community, for example, information and referral services, family planning, etc.

We are cognizant of and support the stated goals behind the change in regulations; namely, to substitute more careful procedures for assuring that dollars allocated will be spent in the best interests of those needing the services the most. We believe that this can be accomplished by a careful review and possible revision of the regulations and eligibility requirements; however, we do not believe that this can be done within a thirty-day period.

On behalf of hundreds of benficiaries who will be denied vital community services, we ask your reconsideration of the actions taken on February 16.

Sincerely,

RABBI STEPHEN ARNOLD,
Chairman, United Fund Planning Committee.

ROBERT L. SLATER,
President, St. Joseph Area United Fund.

KATE RODEN: PORTRAIT OF A YOUTH VOLUNTEER

Mr. PERCY. Mr. President, the February issue of the Mental Retardation News featured an article about Miss Kate Roden, an extraordinary young Illinois woman, who is a nursing student at the Youth National Association for Retarded Children.

Miss Roden's activities in the two areas of mental retardation and physical health care represent a combination of talent and interest that will be of tremendous benefit not only to her patients, but also to the rest of us who will be indirectly affected by her career. I congratulate Miss Roden on the fine accomplishments of her term as president of YNARC and wish her much success in her chosen field of service.

Kate Roden's achievements and ambitions can be held up as models for us all. I ask unanimous consent that the article from the Mental Retardation News be included at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KATE RODEN: PORTRAIT OF A YOUTH VOLUNTEER

For a young woman who has said "I could never devote my life to any one subject," Kate Roden has a headstart on accomplishing just the opposite. This pert, 21-year-old president of Youth NARC has been involved in the field of mental retardation as a volunteer since she was ten.

Kate's involvement is due in part to the close relationship between her and her older sister, Barbara, who is mentally retarded. As a child, Barbara would experience epileptic seizures. When the seizure would begin, Mr. and Mrs. Roden would send Kate and her two brothers out of the room. "I used to go outside and walk around wondering if she was going to die. It was quite frightening because I didn't understand what was happening. And it seemed to me that my parents spent more time with her than with me," Kate recollected.

One day as Mrs. Roden was working on a dress in the sewing room, young Kate appeared at the door and declared, "You don't love me as much as you love Barbs!" Mrs. Roden stopped sewing and according to Kate, "She just engulfed me with her arms and my parents knew I was ready and needed to learn about mental retardation and what it meant."

Kate was rarely embarrassed by her sister's retardation, mostly frustrated by the lack of understanding from other children.

"My sister is a very loving and sensitive person. And she knows she cannot do everything we can do. She's discussed it with me often. But she is very proud of the things she can do well. She likes to sew, although she needs a little help in finishing the garment. And she is really quite a good artist."

SERVED ON WISCONSIN COMMITTEE

Kate's mother, a special education teacher, and father have been involved in local associations for retarded persons. So, when the Youth ARC movement first started gaining ground in Wisconsin just four months after grants from the Alcoa Aluminum Corporation and the federal government made it possible for NARC to initiate a youth activities program, Kate was chosen to serve on the steering committee which organized a May 1968 conference to kick-off the state wide association. It is to Kate's and her fellow-committee members' credit that the Wisconsin Youth ARC has become one of the strongest in the Youth NARC chain which now has 15,000 members and over 500 local associations.

Although the organizational aspect of the youth group has changed somewhat since its inception six years ago, the personal aspect and its purpose remain the same—young people helping retarded persons of all ages. That help might include a Youth ARC member spending an afternoon in the park with a retarded child, or, it might encompass a full scale campaign for needed facilities within the community. Recently, after Youth NARC membership became alarmed at the high incidence of retardation due to lead poisoning, a conference to establish a coalition of youth volunteers to work toward the eradication of lead poisoning was held, funded by the Department of Health, Education & Welfare's Bureau for Community Environmental Management.

"Youth NARC is an ideal situation for young people who really want to do something," Kate said in interview with *Mental Retardation News.* "We are saying, 'Hey! There's a need here, and we're willing to help do something about it!' It gives us an opportunity to show our community and civic concern and at the same time learn about careers in the field of mental retardation and health care."

A young person doesn't have to be interested in mental retardation and health care as a career, however, to become a member of a Youth ARC. Any person between the ages of 13 and 25 is eligible to join his local group. If there is no local Youth ARC, he can obtain information about the group closest to his home by writing NARC headquarters in Arlington, Texas.

DEVELOP LEADERSHIP ABILITIES

Being a member of Youth NARC also affords a young person the chance to develop leadership abilities while working within the framework of the organization. Kate is one of the many who have taken advantage of this learning experience. Three years after serving on the steering committee in Wisconsin, she was elected president of Youth NARC.

DISTINCTIVE STYLE

That election opened the door to many new and exciting experiences for Kate, each of them challenging and rewarding. And she has met them all with great finesse. For in spite of any apprehension she may have felt, Kate has brought a distinctive inimitable style to the presidency. She has insisted on the personal touch in every respect of her administration—writing her own letters of appointment and corresponding with Youth ARC leaders across the nation.

She takes great delight in dropping in on Youth meetings unannounced and participating in the interaction before identifying herself. "It's really fantastic. They know who I am before they know what office I hold, and we really communicate on a person-to-person basis."

DEDICATED TO COOPERATIVE EFFORT

In addition to her many other achievements, Kate has been particularly dedicated to generating a spirit of cooperative effort on the part of adult and youth members within NARC. This is most evident in the work of the Interaction Committee which she chairs. In discharging its responsibility to effect divisional status for Youth within NARC, the committee has obtained approval for a new organizational model which strengthens the voice of local and state Youth ARCs by giving state presidents direct voice in setting national priorities. It is a great source of pride to Kate that the NARC constitutional amendment which will formally recognize the Youth group as a division of NARC has been initiated during her final term as president.

"I think the new working relationship between Youth and adult ARCs is fantastic. We need this. The divisional status will give us a broader base from which to work. It will help give us greater national visibility," she said.

Preliminary discussions and plans for the change were begun in 1971, Kate's first year in office. In the months that followed, she devoted much of her time to helping draft the model for divisional status and Youth ARC bylaws. Ratification of the bylaws is expected at the upcoming Youth ARC Convention to be held in August at Boise, Idaho.

Coming to the presidency after a four-year period of rapid membership growth, Kate geared much of her effort to organizational development. Due in part to her unrelentless drive to see better understanding between youth and adults, some dozen Youth members have been appointed to serve on various NARC committees, including the extremely active Membership Development Committee. And in addition, a task force which is currently writing proposed standards for the evaluation of member units is including a section for Youth ARCs.

MATURITY OF JUDGMENT

"A great deal of credit for the divisional status goes to Kate," said Marion Smith, NARC Senior Vice President. Smith, who is President Robert L. Jensen's special representative to the Youth ARC Interaction Committee, has worked closely with Kate during her administration. "She had some pretty tough homework facing her, and the enthusiasm and dedication with which she pursued it has helped to make the new status a reality.

"Kate has shown a maturity of judgment that many adults might feel is uncommon in a young person," he continued. "Her creativity in problem-solving has enabled us to quickly and logically resolve some situations that might otherwise have been a deterrent in the continued development of Youth NARC.

"In addition to being an articulate and knowledgeable spokeswoman for Youth, I feel strongly that Kate has made a lasting contribution in helping to build a firm foundation for Youth NARC in the years to come."

TIME AND TRAVEL

If Kate were unprepared for any aspect of her presidency it might be the great amount of time she must devote to it. For instance, recently she flew out of O'Hare in Chicago on a Thursday to attend the Southeast Regional Conference in Orlando, Fla., and was there for three days before returning to school. Two days later she left for Minneapolis for a three day meeting of the American Association on Mental Deficiency in which she also holds membership. She finished in Minnesota at 5 AM and headed immediately for Pendleton, Ore., and the Northwest Regional Conference. Two days later she was back at school trying to catch up on all the classes she had missed and getting ready for the Iowa Youth ARC Convention which started the next week.

JUNIOR NURSING STUDENT

Somehow, however, she has managed to squeeze in enough college hours to become a junior nursing student at the University of Illinois, Kate spends five hours per week attending lectures at the Medical Center and twenty hours per week working at a Cook County Hospital in Chicago as required to receive a Bachelor of Science degree in nursing.

"You have to learn all the textbook things, naturally. I could cite you the symptoms of and treatments for metabolic acidosis—but, really, I don't know what it's all about until I've worked with a child who is suffering from the effects of diarrhea."

She recently completed a pediatric unit and has attended children who are mentally retarded. One of her patients was a two-and-a-half-year-old boy who was mentally retarded. "As a nurse I could understand his physiological problems, but I also had a sensitivity to his retardation and could understand it, too. I think I communicated with him and that gave me a true sense of meeting his needs."

Public health holds particular intrigue for Kate as a career possibility, and she feels that at this time, at least, she is headed in that direction. "I don't think I could fit into the regimented pattern of a hospital. And, I prefer working with the emotional needs of the patient and his family as well as the medical needs. I guess you could say that I have a humanistic approach toward nursing."

PHILOSOPHY OF EDUCATION

You might also say that she has a "humanistic" approach toward many things—one of which is education: "Education isn't necessarily what you learn from books, you know. Education is the total of your experiences—it's what you learn in the pursuit of life."

Putting her words into action, Kate has taken time off from her formal education to seek work experience. After her freshman year which was spent at Beloit College, she participated in a field program. Her first assignment was at the Cooperative School and Rehabilitation Center in St. Paul, working with young adults with mental retardation.

After four months there, she moved to Rochester, Minn., where she was a live-in volunteer at the Former Adolescent Psychiatric Unit of Mayo Clinic. Her five months in Rochester turned out to be some of the most memorable of her life. "I will never regret taking the time to do this. I learned so much about myself.

"One of my projects was to help the director of the unit with a new diagnostic form designed to do away with labels—like schizophrenic, paranoid. Just like we're trying to do away with the labeling of retarded persons."

RAP SESSIONS IMPORTANT

Kate is into communication among people. Her idea of an exciting evening is one spent with a few friends—sharing experiences and talking. This is not unusual, however, for her family has been having "rap sessions" all her life. The Rodens are undeniably part of that seemingly vanishing breed—the family unit.

Home for Kate is a rambling farmhouse on the Illinois side of the Wisconsin-Illinois stateline, about 10 miles out of Beloit. Their farm itself is not in any town, but part of a group of rural communities. Kate's home overlooks 140 acres of farmland, replete with a pond that's ideal for ice skating after the first good freeze. None of her ancestors were farmers, however, at least none in Kates recollection. As a matter of fact, her grandfather was an inventor of sorts. He came up with an idea for a special mailing wrapper device and founded the "Pull the String" Mailing Wrapper Company in 1894. Kate's father has kept the family business going with the able assistance of his only employee, "Gerty," a trustworthy machine that has been spitting out mailing labels for nearly a century.

KEPT FAMILY TRADITION

Not only have the Rodens kept the family business alive, but the family tradition of doing things together has been nourished also. They always seem to have a project going. Several years ago, the project was refurbishing a retired school bus, painting it and furnishing it with beds, sofa, table and chairs. When completed, it was a great camper and dutifully hauled the Roden troupe on many an expedition across the United States.

PROJECT IN THE WORKS

One of their biggest undertakings is still in the works. They are planning to build a small residential facility for retarded persons on several acres of their land. In this project, Barbs is leading the way with what may prove to be the most valuable advice since she can offer personal observations on what a mentally retarded person needs and wants most. Although realization of the facility is still several years away, it will be completed with their special brand of togetherness.

Perhaps it is the support and encouragement of her family that has enabled Kate to work so diligently as the number one volunteer in Youth NARC. She is never hesitant to get a plug in, wherever or whenever possible. For instance, displayed prominently on the briefcase she carries is a bold, bright sticker bearing the initials Y.A.R.C. (Youth Associations for Retarded Children). Kate said, "You'd be surprised how many people ask me what it means!" And, of course, she is always willing to tell the story of youth volunteers.

She is also willing to discuss the future of Youth NARC. "One of the most important things, I think, is joining with adult members of NARC in pressing for the application of the knowledge we now have. Some European countries have taken what we know and put it into action, accomplishing great things for their retarded citizens. And, we must never stop looking for the answers to why there is retardation and also get involved in prevention.

"In the future," she continued, "I think you will see even greater membership growth." Citing current Citizen Advocacy activities by Youth ARCs in such states as Illinois, Florida, Nebraska and Tennessee, she said, "I think you will also see young people who are advocates for the human rights of all individuals, young people who can speak with knowledge about mental retardation, and young people who are willing to help provide the manpower necessary to offer increased services to mentally retarded persons."

WILL SERVE AS PAST PRESIDENT

One of those young people will no doubt continue to be Kate Roden. Although her term as Youth NARC President is up in August, she will continue to serve on the board of directors as immediate past president. After that, Kate would like to get back to volunteerism on a one-to-one basis, in a less administrative capacity.

Whatever she decides to do, you can be assured that Kate will do it with the same determination she displayed as an adolescent when she marched confidently up to her father and announced, "I want to be a person of my own. I don't want to be known just as Harlan Roden's daughter!"

He smiled and sympathized, "I know what you mean, Kate. It's the same for me. In many places, I'm known as Kate Roden's father!"

But when you think about it, Kate Roden's father must be a pretty nice person to be.

DOES NOT CONCUR WITH VA STUDY

Mr. DOLE. Mr. President, the Topeka, Kans., State Journal of March 8, 1973, carried a most interesting interview with Dr. Mark Ardis, director of the Veteran's Hospital in Topeka.

Dr. Ardis points out that the Topeka VA Hospital was not visited by congressional staffers who recently conducted a secret study of the care and treatment of veterans in VA hospitals which resulted in critical conclusions of the VA hospital system.

The interview was most informative and I would like to share it with my colleagues in the Senate.

I ask unanimous consent that the interview with Dr. Mark Ardis be entered into the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

TOPEKA'S UNIT NOT VISITED

(By Stannie Anderson)

Topeka VA Hospital was not one of the 14 VA hospitals visited and criticized by a congressional committee and "as far as I am concerned, the hospital here provides excellent care comparable to any hospital in the community," Dr. Mark Ardis, director, said today.

The hospital director said seven personnel positions were dropped "in the recent shuffle as a part of the economy moves. These were partly from current vacancies that we simply won't fill. We have made every effort to keep the cuts in areas that do not affect patient care."

Topeka VA is not on the verge of being closed, he emphasized, and there have been many indications to the contrary. Among them are the intensive care unit being completed and the activation of a nuclear medicine unit, for which approval has been received to purchase $100,000 worth of equipment.

Dr. Ardis said that if VA hospital quarters are cramped, they would not meet hospital accreditation standards.

"At the present time, as far as I know, there is no hospital in the VA system that is not accredited. In the private sector there are a good many hospitals that are not accredited. So there's an absolute inconsistency there. The accreditation standards are very clear cut, and no hospital is accredited unless it meets the standards."

Discussing the charge that daily census figures of VA hospitals over the nation have pad-

ded their figures by 2,000, Dr. Ardis said Topeka VA had as many as five beds recently that it couldn't use for anywhere from a day to a week in one building while installing bedside oxygen.

He did not feel this was a significant number. Nor did he feel that 2,000 beds out of service among the approximately 98,000 operating beds over the nation was significant on any one particular day, because the average daily patient load is about 35,000 this year.

"At the present time at Topeka VA we have no waiting list in medical or surgical wards," Dr. Ardis said. "We do have a waiting list in psychiatry and in the intermediate service (extended care). But there is never a waiting list for an emergency or for treatment of a service-connected ailment. Waiting for psychiatric treatment, for a non-emergency patient, may be about two weeks."

HO CHI MINH

Mr. FULBRIGHT. Mr. President, Mr. Lloyd Shearer, in the March 18 Parade magazine, wrote a succinct and lucid article about a recent book by Mr. Charles Fenn, entitled "Ho Chi Minh." It is one of the most interesting, short descriptions of some of the circumstances of our engagement in Indochina that I have seen. I ask unanimous consent that it be inserted in the RECORD as part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHEN HO CHI MINH WAS AN INTELLIGENCE AGENT FOR THE UNITED STATES

(By Lloyd Shearer)

DUBLIN, IRELAND.—Charles Fenn, an American intelligence agent who had worked for The Associated Press in China and India, recruited the kind, bearded old gentleman towards the end of World War II. Fenn recruited him in the Indochina cafe on Chin-Pi Street in Kunming, China, in March, 1945.

The gentleman, then 55, lived in a small, dank room above a candle shop. He wore Chinese-type cotton trousers and jacket and spent most of his spare time in "The American Office of War Information, where he read everything from Time magazine to the Encyclopedia Americana."

Fenn gave him the code name Lucius and agreed to supply him with radio equipment, a radio operator, arms and medical supplies.

In return, Lucius and his band of Vietnam guerrillas agreed to fight the common enemy, Japan, to rescue American airmen who were shot down in Indochina, and to provide the Americans with the latest intelligence. As part of the deal Lucius also asked to meet Gen. Claire Chennault, then commanding the U.S. 14th Air Force in China.

ONE PHOTO, SIX PISTOLS

At the meeting Lucius was gracious, diplomatic and said he wanted only one favor from the American general, an autographed photo. Chennault was only too happy to comply. Later, Lucius asked Charles Fenn for one further favor: "Six new Colt .45 automatic pistols in their original wrappings."

With Chennault's autographed photo and the six .45's, Lucius was able to become the leader of the Vietminh and to help rescue 17 American airmen.

In August, 1945, when the Americans dropped atomic bombs on Hiroshima and Nagasaki, Lucius wrote a final letter to Charles Fenn.

"The war is finished," he wrote in English. "It is good for everybody. I feel only sorry that our American friends have to leave us so soon. And their leaving this country means that relations between you and us will be more difficult.

"The war is won. But we small countries and subject countries have no share, or very small share, we have still to fight. I believe that your sympaty (sic) and the sympaty of the great American people will always be with us.

"I also remain sure that sooner or later, we will attain our aim because it is just. And our country get independent. I am looking forward for the happy day of meeting you and our other American friends in Indochina or in the U.S.A.!"

Lucius was Ho Chi Minh, the Communist father of Vietnam, who died in 1969 and never lived to see his country united or at peace.

RUNS ARTISTS COLONY

Fenn, 65, who now runs an artists colony in Schull, a fishing village of 500 in County Cork, Ireland, tells how he first recruited "Uncle Ho" into the U.S. intelligence network, how Ho operated behind the lines, how he was compelled to fight on against the French and later, the Americans.

It's all in his worthy, objective, revealing book, *Ho Chi Minh*, which Scribner's plans to publish within the next few months.

"The first time I met Ho," Fenn recalls, "was on March 17, 1945, in the Office of War Information in Kunming, China. I kept a diary—extracts are printed in my book—which is why I'm so exact about the date.

"Back then I was an agent for OSS, the Office of Strategic Services which was later to become the Central Intelligence Agency. My assignment was to work with another intelligence group operating in Indochina, a group known as GBT, from the initials of three Allied civilians, formerly employed by an oil company in Saigon. These three were L. L. Gordon, a Canadian; Harry Bernard, an American, and Frank Tan, a Chinese-American. They had superb French contacts and supplied the Allies with the best intelligence on Vietnam until the Japanese wiped out their French contacts. I was then ordered to replace those contacts with a Vietnamese network of agents.

"Kunming in early 1945," Fenn narrates, "was filled with Vietnamese—they were called Annamites—but we had been warned not to use them since no one seemed to know which of them were reliable and which were not.

"An officer I knew in AGAS, still another operational U.S. intelligence agency (Air Ground Aid Services), told me there was an old Annamite in Kunming who had rescued an American pilot down in Vietnam, a Lieut. Shaw, and who also controlled a rather large political group in Vietnam.

"A meeting was arranged, and Ho came with a young associate named Fam. Ho wasn't at all what I expected. He had a silvery wisp of a beard, which gave him the appearance of an elder, but his eyes were bright and alert and all his movements were vigorous. We spoke in French. He told me that what he wanted from the Americans was recognition of his group, the Vietminh or the League of Independence, something which some of our OSS men had previously denied him.

COMMUNIST QUERY

"I remember asking Ho if his Vietminh group was Communist, and he said the French called all Vietnamese who wanted their independence, Communists. I told him something about our work and asked if he would be interested in providing us with intelligence on Japanese movements. He said yes but that he had neither radios nor men who knew how to operate such sophisticated equipment.

"I told him that it could all be arranged and asked what he wanted in return. He said arms and medicines. We agreed to meet again.

"At our next meeting," Fenn continues, "we discussed radio equipment, the logistics of supplying Ho's group and which of us would accompany him back to his cave headquarters in Bac Bo, Vietnam. It was at this meeting that Ho again asked to see General Claire Chennault. We agreed to arrange such a meeting providing Ho didn't ask the general for anything.

"On the 29th of March, Ho met Gen. Chennault, who gave him a photo and signed it, 'Yours Sincerely, Claire L. Chennault.'

BECOMES TOP MAN

"Weeks later, after we had flown Ho down to the border in one of our small taxi planes, an L–5, and he had walked back into Vietnam, he invited all the top leaders of Vietnam, his political rivals, to a meeting. He told them that he had secured the help of the Americans and Gen. Chennault in particular. When his rivals doubted him, Ho whipped out Chennault's autographed photo, then gave as a gift to each of the leaders, one of the six Colt automatics we had previously supplied him with. That clinched it for him. From that point on Ho Chi Minh was the number-one man in Vietnam, and we had a trusted agent whom we regularly supplied with weapons, radio equipment, operators, and medicine. All of it served to reinforce his position and status.

"I wanted to join Ho but AGAS wouldn't let me parachute into his headquarters. Instead we dropped in a young officer named Phelan. Like the rest of us, Phelan started out suspicious of Ho, particularly because of his Communist background, but ended up convinced that the old man was a selfless, dedicated patriot.

"Ho set up an excellent intelligence network of native agents, and he served us well, very well. We exchanged correspondence for some time but I regret that circumstances prevented me from ever seeing him again.

"Unfortunately some of the men OSS sent into Vietnam were not the most perceptive and intelligent men we had. I have frequently wondered if America might have found in Ho, not merely a second Tito but a new species of political animal—one who could transmute Marxism into true internationalism."

When I asked Charles Fenn if he thought the current cease-fire in Vietnam would work, he said, "in my opinion it will work long enough to extricate the U.S. forces and prisoners of war from Vietnam, but I doubt if it will work for the Vietnamese.

"After all, the South Vietnamese and the U.S. together were unable to beat the North Vietnamese and the Viet Cong. Can it seriously be supposed that the South Vietnamese by themselves can now have a better success?

"The elections in Vietnam" he predicted, "can take place only against a background of squabbles, intimidation and bitter accusations of rigging. If the North Vietnamese lose, they will certainly find ways to sabotage the elected government as being falsely instigated. They will make it unworkable. They will take over in a series of coups, some of them bloodless. I should think this might happen within a year or two.

MUST OFFER SUBSTITUTE

"If we deplore this situation," he went on, "we need to remember that the evil lies not so much in such high-handed methods as in the U.S. having supported, as it did in China, a regime which was unable to win the hearts and minds of the population. It is not much good being anti-Communist (or anti-anything) if you cannot offer people a substitute they believe in."

Fenn, like other authorities on Vietnam, believes that had President Truman and his Secretary of State Dean Acheson been more knowledgeable and farsighted, had they been more tolerant and open-minded with their one-time intelligence agent, Ho Chi Minh, and his nationalist-Communist background—as President Nixon is of the Soviet

Union's Leonid Brezhnev and China's Mao Tse-tung—then the U.S. might never have gotten so long and expensively bogged down in the tragic Vietnamese quagmire.

Surely in hindsight that was the single most costly error of the Truman-Acheson and subsequent U.S. Administrations.

PRODUCTIVITY IN THE FOOD INDUSTRY

Mr. JAVITS. Mr. President, I testified on March 14 in support of the extension of the authorization for the National Commission on Productivity, a commission which was set up by legislation I introduced.

The purpose of the Productivity Commission is to seek solutions to a national crisis which evolved during the 1960's; namely, the reduced output per man-hour of American workers. This problem has caused us great damage in our international competitive position, and it also generates inflation at home. For if productivity does not keep pace with increased labor costs, the result is—as it has been in the United States over the past 5 years—reflected in higher prices of goods produced.

Since the food industry has a huge impact on the cost of living, and since the food price component in recent years and the most recent wholesale price index has risen steeply and exorbitantly, the success or failure of productivity in that area is of major concern; even though Americans now spend a lower percentage of their disposable income on food than any other people in the world. In order for this to be true in the future, the food industry in this country must find new and innovative ways to bring food from the farmer to the table.

Prof. Gordon Bloom has recently completed a comprehensive study of productivity in food area, a work entitled "Productivity in the Food Industry: Problems and Potential." Because of the impact that the food industry's productivity record has on our country's productivity gains, Mr. President, I ask unanimous consent that a summary of Mr. Bloom's book be printed in the RECORD.

There being no objection, the summary ordered to be printed in the RECORD, as follows:

PRODUCTIVITY IN THE FOOD INDUSTRY: PROBLEMS AND POTENTIAL

(By Dr. Gordon F. Bloom)

The American food industry has performed an outstanding job in bringing an abundance of food to the American consumer at low prices. In no other country in the world do consumers spend such a low percentage of disposable income on food as in the United States. This record of achievement has resulted from the individual efforts of thousands of manufaturers, wholesalers, and retailers to lower costs and to improve the efficiency of their own businesses.

The American food industry will continue to make such efforts to further improve efficiency in the future. But such individualistic efforts are unlikely to be able to cope with the cost pressures which now face the industry. The pressures arising from consumerism, environmental concerns, increasing demand for meat and other products, and rising costs in agriculture stemming from the growth of union organization, a rising minimum wage, and other factors are likely to be felt at the checkout counters in the form of higher prices. Moreover, the industry record of improvement in manhour output—which over the past decade averaged about 3 per cent per annum—is unlikely to be able to cope with the level of wage adjustments now being demanded by unions in the industry.

Although there is much talk about improving productivity in the industry, it is unlikely that the rate of change in manhour output will vary materially from that in the past unless government adopts a program designed to stimulate needed research and to eliminate institutional, legal, and systems barriers which impede rapid progress. It is sobering to consider that in the entire period from 1929 to 1958, which was marked by one of the most revolutionary changes in the long history of food distribution—the transition from service to self-service stores—the rate of improvement in manhour output in food wholesaling and retailing averaged only about 2.8% per annum.

What is needed is a systems approach which look at the entire food distribution business as one process and will seek to design programs and to standardize components so as to achieve major breakthroughs in productivity. There are a number of reasons for believing that such a systems approach is required to achieve results in the food industry:

1. The most visible areas of inefficiency in the industry lie in the intercorporate orbit—in the great wasteland between the manufacturer and the wholesaler and the retailer. Legal and institutional problems have retarded progress in this area.

2. The nature of technology in industry at large is changing: a number of significant technological developments—including the Universal Code and Automatic Checkout—can only be feasible if introduced on an overall basis with agreements among firms as to standardized applications.

3. Efforts by individual companies to improve productivity have sometimes been counterproductive from a systems viewpoint because they have produced diseconomies elsewhere in the system at the same time as they have improved efficiency of the initiating company.

4. The structure of the food industry is such that key leadership could be brought together in industry committees to establish priorities for technological advances, to suggest areas for standardization, and to recommend overall policies which would improve productivity on an industry basis.

If the nation is truly interested in improving productivity in the food industry, it should embark upon a long range program which would involve:

1. Government sponsored research into complex distribution problems, such as greater use of the unit train, carton standardization, unitized shipments, and the like which are now being neglected because they are beyond the scope of control of any one company.

2. Industry committees should be convened with authority to set priorities, to focus on areas of inefficiency, and to recommend corrective procedures, including greater standardization.

3. Subject to satisfactory safeguards to protect the public interest, the application of the antitrust laws should be relaxed so as to permit and to encourage cooperative action among firms designed to improve food industry productivity.

DISTRICT COURT JUDGE QUASHES WATERGATE SUBPENAS

Mr. ERVIN. Mr. President, on March 21, Judge Charles R. Richey of the U.S. District Court of the District of Columbia delivered an eloquent and significant decision denying a motion that would have required the reporters and officials of four publications—the Washington Post, the Washington Evening Star News, the New York Times, and Time magazine—to testify and release certain documents arising in the course of the publications' Watergate investigations. The subpenas, which were issued by the Committee for the Reelection of the President which is plaintiff in a libel suit against the Democratic National Committee, were extremely broad, encompassing all the tapes, notes, drafts, and documents prepared and obtained in the course of their investigations.

I highly commend Judge Richey's decision to quash these subpenas. His wise opinion only serves to reaffirm my faith in the courts as the best means of handling this difficult problem.

As you are aware, Mr. President, the Subcommittee on Constitutional Rights has recently conducted hearings on the pending newsmen's privilege legislation. But such legislation would not have been necessary had the Supreme Court decided in the Caldwell case to take a balanced approach to this problem. To my mind, this would have been preferable. Judge Richey's fine opinion confirms my judgment. I ask unanimous consent that excerpts from the decision as they appeared in the Washington Post of March 22, 1973, be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

OPINION OF JUDGE ON PRESS FREEDOM

We, then, must go to the constitutional issue which is viewed by this court, at least, as one of the first magnitude. What is involved here is the right of the press to gather and publish, and that of the public to receive, news from widespread, diverse and often times confidential sources.

Now, this record contains numerous and persuasive affidavits of prominent figures in the fourth estate or the field of journalism which assert unequivocably that the enforcement of these subpoenas would lead to the disclosure and subsequent depletion of confidential news sources without which investigative reporting would be severely, if not totally, hampered.

The competing consideration is the right of litigants to procure evidence in civil litigation.

Underlying that right is the basic proposition that the public has a right to every man's evidence, and that in examining any man's or any person's claim of exemption from the correlative duty to testify, there is the primary assumption that there is a general duty to give what testimony one is capable of giving, and that any exemptions which may exist are distinctly exceptional.

This court is of the view, and so finds that these cases are all exceptional on the basis of the facts alleged, and, thus, require a special, if not particular, scrutiny by the courts.

This court is well aware that other courts in civil and criminal cases, including the Supreme Court of the United States in a landmark case involving a newsman's testimony before a grand jury, have been reluctant in the absence of a statute to recognize even a qualified newsman's privilege from the disclosure of confidential news sources.

In view of the decisions and circumstances present in many of the cases, I think it will be instructive for all of us to note what is not—and I emphasize "not"—present in the instant cases.

First of all, these three cases . . . are not criminal cases. And even though they are primarily, with one exception, actions for monetary damages, their importance in the eyes of this court transcends anything yet encountered in the annals of American judicial history.

The movants are not parties, as has been suggested today, to these actions. But they have merely been called upon to testify and produce documents at an oral deposition. The parties on whose behalf the subpoenas were issued have not demonstrated that the testimony and material sought here go to the heart of their claim . . .

What is ultimately involved in these cases between the major political parties . . . is the very integrity of the judicial, as well as the executive, branches of our government and our political processes in this country.

For, without information concerning the workings of the government, the public's confidence in that integrity will inevitably suffer. This is especially true where, as here, strong allegations have been made of corruption within the highest circles of government and in a campaign for the presidency itself.

This court cannot blind itself to the possible chilling effect the enforcement of these subpoenas would have on the flow of information to the press and, thus, to the public.

This court stands convinced that if it allows the discouragement of investigative reporting into the highest levels of government, that no amount of legal theorizing could allay the public's suspicions engendered by its actions and by the matters alleged in this lawsuit . . .

Now, in proceeding to fashion a remedy in the instant case, the court would recall the words of Mr. Justice Powell's concurring opinion in the Branzburg v. Hays matter, wherein he stated, and I quote:

"The asserted claim of privilege should be judged on its facts by the striking of a proper balance between the freedom of the press and the obligation of all citizens to give relevant testimony.

"The balance of these vital constitutional and societal interests on a case-by-case basis accords with the tried and traditional way of adjudicating such questions."

Now, the court has noted the above constitutional interest, which, I might add, is an interest which translates itself in my mind into nothing less than the problem of maintaining an informed public, capable of conducting its own affairs . . .

Against this interest must be balanced the interest of the parties to receive evidence going to the substance of their claims.

Yet, there has been no showing that the alternative sources of evidence have been exhausted or even approached as to the possible gleaning of facts alternatively available from the movants herein.

Nor has there been any positive showing of the materiality of the documents and other materials sought by the subpoenas.

In the face of these considerations, it appears to the court that what is asked for here, in effect, is for the doors to the reporters to be completely opened.

The scales, when balanced, however, are heavily weighted in favor of the movants.

The recognition that the movants are entitled, in my mind, to a qualified privilege from having to testify under the circumstances of these cases is not totally without legal precedent . . .

All indicate that First Amendment values will weigh differently in a civil case as against a criminal case.

And it should be noted that the Supreme Court, itself, in Branzburg declared that, without some protection for seeking out the news, freedom of the press would be eviscerated, and that is an exact quote.

This court disagrees with counsel for the newsmen in the sense that they can be said to have an absolute privilege. This court believes that the holding of an absolute privilege under the circumstances even of this case would be clearly improper under the Branzburg decision.

Now, it may be that at some future date the parties in this case will be able to demonstrate to the court that they are unable to obtain the same information from sources other than the movants, and that they have a compelling and overriding interest in the information thus sought.

Until that time, this court will not require movants to testify at the scheduled depositions or to make any of the requested materials available to the parties.

In conclusion, the court notes and believes that the First Amendment to the Constitution, to the Bill of Rights of the federal Constitution, is broader than that suggested by counsel for the news media. It entitles the public to more than the right to know. It also requires that any incursions into the areas protected by the Bill of Rights will be given a prompt judicial inquiry, and, hopefully, one that will be predicated on a judicial decision that will not only be sound—and this is what I want to emphasize—but which the public will understand and accept . . .

The government generally, and the courts in particular, must always stand first in the vanguard of upholding the spirit, as well as the letter, of the First Amendment freedoms which, of course, are among the most precious of a citizen's fundamental rights.

This includes recognition of a special role for the press as was so well expressed by James Madison when he said, and I quote:

"A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or tragedy, or perhaps both."

The court will enter an order that the subpoenas be quashed at this time.

DENYING THE HANDICAPPED: THE TRAP OF "HOSPITALITIS"

Mr. DOLE. Mr. President, an article about Miss Stephanie Monteverdi, a young woman facing what most consider an impossible life situation, was recently brought to my attention. Miss Monteverdi was born without arms or legs. She is an example of one of many severely disabled individuals with a strong desire to be as self-sufficient as possible. Many severely disabled never escape an often deplorable hospital existence. Some have no families and, therefore, no homes. They are unemployed and have no transportation available even if a job opportunity were to arise. During this Congress I have again introduced the Disabled Workers Transportation Assistance Act which provides for the reimbursement of extraordinary transportation expenses incurred by certain disabled individuals. This is one step to help solve transportation problems. Attention should also be focused on establishing supervised housing in order that a severely disabled individual may be a contributing part of our society and not a hospital shut-in.

The following article, "Denying the Handicapped: The Trap of 'Hospitalitis'," by Joanna Mermey, appeared in the Village Voice January 18, 1973. At this point I ask unanimous consent this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DENYING THE HANDICAPPED: THE TRAP OF "HOSPITALITIS"

(By Joanna Mermey)

Stephanie Monteverdi was born 21 years ago without arms or legs. The only homes she has known are New York City institutions. She grew up at Bellevue and now lives on a ward at Bird S. Coler Hospital on Welfare Island in a drab green cubicle. Her door is a sheet on a string. Day after day, Stephanie sees her fellow patients leaving on a slab and she wants out before it's too late.

Although Coler is clean, drug addiction and alcoholism are rampant and patients fear for their lives. Neglect is evident at any time of day when the halls are filled with patients in wheelchairs or stretchers staring vacantly into space or glued to the television sets waiting to die.

This bright, sensitive, active young woman has taught herself to type, file, write, and care for herself—with her prosthesis and without—preparing for an eventual life in the "outside world," as she calls it. Her overwhelming desire is to live in the community and be independent. But almost insurmountable barriers prevent her escape and force Stephanie and hundreds like her to be prisoners in the isolated depressing world of the institution.

When Stephanie finished high school in 1971, she applied to the New York State Office of Vocational Rehabilitation (OVR) for assistance in planning vocational goals. OVR is the only governmental agency which funds education and vocational training for the disabled in New York State. If OVR considers an individual feasible for employment, it will pay for training and transportation costs only to and from the training site.

On her own initiative, Stephanie applied to and was accepted at the Human Resources Administration, a vocational training school on Long Island, but OVR refused to sponsor her and she could not go. She applied and was accepted at New York Community College, but OVR did not consider her "college material," based on its own tests, and she could not attend. OVR would not even give her the chance to secure or fail.

No matter how many times she asked the agency about the status of her case, she was given no information and told to wait. Finally OVR informed her that because she had no outside home to go to, it was impractical to invest money in her because a patient is not permitted to work on the outside and live in the hospital.

In order for OVR to act any further Stephanie had to find a place to live. But there was no place for her to go. Housing for the handicapped is almost non-existent. Practically no private housing with the needs of the handicapped in mind is being built. Although public housing does provide some housing, federal laws mandate that only families may apply. Foster homes are an alternative, but according to Stephanie's social worker these homes have been traditionally reserved for the immobile elderly.

By February 1972, Stephanie was tired of no action. "I wrote a letter to the Daily News Action Reporter and suddenly OVR finds me a program. You've got to do it yourself. I may be physically handicapped but my spirit isn't. I'm not giving up," she said emphatically.

She commuted to an evaluation program at the Federation of the Handicapped and was told she should be trained for homebound work, which would put her behind closed doors again. In the meantime, Stephanie had spent two summers working in the nursing office in the hospital as part of the Neighborhood Youth Corps, and had also registered patients to vote. When OVR was asked whether her work experience had any effect on her evaluation, her counselor remarked, "We never thought to consider it."

One of the reasons for the decision to train her for homebound work was based on her need for special transportation and the total lack of government funds to transport handicapped working people to their jobs. (The handicapped must pay for their own transportation, which may run as high as $90 per week.)

Stephanie is caught up in the vicious circle that affects the handicapped. She can't get a job until she leaves the institution, but she can't find a place to live. Even if she does find a home outside, she won't be able to afford the astronomical cost of transportation and won't be able to work. If she leaves the institution, she may be forced to stay in an apartment and depend on welfare, although she desperately wants to become a contributing member of the community.

If Stephanie stays in Coler much longer, she's liable to become one of the "failures," as Dr. Maurcy Silber, Director of Rehabilitative Medicine, describes them. "They are the patients," he explains, "who have chronic hospitalitis and will never leave the institution. They have been institutionalized to such an extent that they cannot be saved."

Al Santana and Bernie Lighte, whom Silber has called "failures," react violently to this categorization. "Silber used that excuse because he can't conquer us," said Lighte. Lighte, who cannot control his bodily movements and is strapped to a wheelchair, types with his foot. Editor of the patient newsletter, he wants to become a writer. "But, Dr. Silber and OVR say I'm too far gone," he laughed cynically. "You know what I'd love to do more than anything," he said with a grin. "Go to Jimmy's and drink with the writers and politicians. I may be stuck in this place but I know where the action is."

Santana, formerly a salesman in the Fulton Fish Market, is now a quadraplegic as a result of an accident. He was appointed by Manhattan Borough President Percy Sutton to Planning Board 8 to represent the hospital community, and also heads the Patients' Coalition which is demanding better care and opportunities for the patients. By no reasonable standards is Al Santana a failure.

"In this institution you are a number and a vegetable," says Santana very matter-of-factly. "The only difference between this and a prison is that there are no bars. We're not looked at as individuals but as case numbers who may live another 15 or 20 years. I have five kids and have been here for eight years. I know I'm not destined to lie in a cubicle and be a number."

Coler's rehabilitation unit is quite selective and actively treats only 133 of the 1100 patients. Its success rate is very high. But Lighte charged, "If a patient is not an interesting teaching case, he is not cared for. As a result of staff neglect, patients who were once able to carry on limited movement are now stiff and motionless and dying by inches."

"When, at 1:30, 'As the World Turns' comes on, Coler stops," Lighte continued. "If you want to go to the bathroom you either hold it or let it go. If you have an accident in the chair when the shifts are changing, they leave you for the next shift. When the next shift arrives, you get it in the neck and they ask you why you didn't have the early shift clean you up."

Santana's anger flares when he sees employes watching television and collecting their paychecks. "We have patients who have the ability to do administrative work, but are denied that right by archaic government laws. No patient is allowed to work at Coler."

After seeing elevator operators shut the doors in patients' faces, I was impressed by one operator who showed compassion for a patient just learning to use an electric wheelchair. He spent several moments showing her how to maneuver the chair out of the elevator. I later learned that he had once been a patient at Coler and understood the despair and frustration of the patients.

Patients receive bi-weekly allowances. Those on welfare receive $8.50 and those on medicaid $13.25, which the state feels is sufficient. But Stephanie says, "After a few sodas and cigarettes there's nothing left for a new dress or a trip outside, but we're not supposed to need those things. You know what it feels like to be on welfare when you want to work?"

Santana is presently trying to organize a lobbying effort to pressure the government to allow patients to work. He feels this will allow the hospital to function as a halfway house (an idea Silber rejects) and give the doctors added insight into the patients' potential.

"This place is crawling with drug addicts and alcoholics," Lighte said, shaking his head. "Patients are turning on other patients and mugging and stealing to keep up their habits. We're afraid of traveling in the halls at night for fear of attack. The patients have asked since 1969 for a drug program but nothing has been done."

Dealing with the medical staff is another problem Santana explained. "We are treated as sub-human. Our cases are discussed with everyone except the patient. (Dr. Silber very willingly discussed privileged details of Miss Monteverdi's case with this reporter and Voice photographer Fred McDarrah.)

Santana recalled Dr. Silber's bowel training program for para- and quadraplegics. "Everyone had to move their bowels once a day. We were *required* to move them between 7 and 8 a.m. That's when breakfast is served. Can you imagine eating breakfast on a bedpan?

"We are human beings with normal desires," Santana mused quietly. "But they would never consider us having normal sexual relationships. We have no place for privacy in this hospital. The third floor hallway is lovers' lane. We find our own hiding places. When Dr. Silber and members of his staff were asked whether there was sexual activity in the hospital, they laughed, and Silber remarked, "Sure, one patient just had an abortion; does that answer your question?"

Santana alleges he was removed from the rehabilitation program for political reasons. He attacked the medical staff for not attending to the patients and was soon transferred off rehabilitation. He says his chart now reads "no program." He still believes that if patients can open communication with the doctors and the administration, there is a chance for improvement, but Lighte maintains that the patients fearing staff reprisals, are often afraid to stand up for their rights.

Theodore Perkins, executive director of Bird S. Coler, blames the problems on lack of money. He is aware of the drug problems but says he has no money for a psychiatric unit or drug program. He attributes the lack of care to the fact that "it is hard to attract qualified staff to this type of institution. The medical staff wants the glamor jobs. If we have a hospital full of Bernie Lightes no doctor would work here. We have to select interesting cases to keep a staff."

Perkins tried to prevent McDarrah from taking pictures of anything except those he had authorized. He was very amenable to our photographing patients typing and writing, but when he found McDarrah taking pictures of patients lying around the hallways he had a security guard follow us. He seemed afraid to let others see the hundreds of patients sitting around waiting to die. It is interesting to note that Perkins informed us that Oscar Turk, who works as a liaison with the patients, and was the only member of the administration who was cooperative, is to be fired for talking too much.

Dr. Silber, representing the medical staff, blamed the failures on "society." When asked why they were failures, he refused to comment on the subject. "People won't accept the handicapped," he said. "They look at them as freaks." He admitted that, "after 30 years in this business, I still have not gotten used to seeing a seriously disabled patient." He defined a patient as "one who has tremendous insecurity by definition of being a patient and an inferiority complex by definition of being handicapped." If this is how the Director of Rehabilitation perceives the patient, how can he expect society to change its values or the patients to achieve success? His attitude is perceived by every patient interviewed.

Santana sees the future in store for the handicapped as complete oblivion unless there is a public outcry. "We will continue to be hidden in institutions dying slowly without treatment. The city spends $40,000 a year per patient for a bed, three lousy meals, and medication."

The city could provide patients with a luxury apartment, a full-time nurse, and transportation to and from work for half that cost. Instead enormous amounts of money are spent to let the patients rot in Bird S. Coler.

Because of pressure from the press, OVR has once again agreed to reconsider Stephanie Monteverdi after a year's hiatus. A spokesman from the agency told me OVR would be willing to try to place her in a training program, although she has not found suitable housing as yet. OVR must first meet with a team from the hospital to determine if the hospital thinks she is ready to leave Welfare Island for the outside world. Hopefully they will vote in her favor. But as Dr. Silber told me, "I don't care what you want or what Stephanie wants. I am the expert and I make the decisions."

COMMUNITY ACTION PROGRAM AND LEGAL SERVICES

Mr. INOUYE. Mr. President, the Office of Economic Opportunity is presently being dismantled by the Nixon administration without the expressed approval of the Congress and in violation of the letter of the law which gives authority to the Office through June 30, 1975. A number of beneficial services to those citizens who are economically disadvantaged are being ended as a result of the actions of Howard Phillips, the Acting Director of OEO, under the orders of the President.

Several of the programs administered by the OEO have been debated since the inception of the war on poverty. Supporters of the community action program and legal services projects have consistently argued that these programs are necessary if poor people are to be given the proper motivation to join the mainstream of American economic, social, and community life. Detractors of these programs, including Mr. Phillips, have argued that these agencies aggravate social tensions and foster dissent.

I wish to introduce into the record a resolution which was passed by the Senate of the State of Hawaii on March 16, 1973. This resolution places the Senate of the State of Hawaii firmly on the side of the supporters of the legal services program. The Legal Aid Society of Hawaii which works as an integral part of the Hawaii legal services project and the staff of the project have been providing legal assistance to the poor for several years. This assistance has begun to make the American goal of "justice for all" a reality in Hawaii. I wish to be counted among the supporters of these programs. Accordingly, I request unanimous con-

sent that this resolution, which eloquently expresses my views concerning the need for continuation of Federal support for Legal Services programs, be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION NO. 182

COMMENDING THE HAWAII LEGAL SERVICES PROJECT OF THE LEGAL AID SOCIETY OF HAWAII

Whereas the Legal Aid Society of Hawaii provides legal assistance to persons who cannot afford private counsel; and

Whereas the Hawaii Legal Services Project, a part of the Legal Aid Society of Hawaii sponsored by the National Legal Services program, furnishes legal assistance in noncriminal matters to poor persons throughout the State; and

Whereas the staff of the Hawaii Legal Services Project have for many years served as dedicated and capable counsel for the poor through negotiation, in the courts, in administrative hearings, and before the legislature; and

Whereas the activities of the Hawaii Legal Services Project have been of profound benefit not only to the poor but to all people of the State of Hawaii; and

Whereas certain changes at the national level may result in reduced funding for the Hawaii Legal Services Project, or in restrictions upon the scope of services which it can provide to the poor: Now, therefore be it

Resolved by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1973, that the Hawaii Legal Services Project of the Legal Aid Society of Hawaii be, and it hereby is, commended for its excellent efforts in behalf of the poor; and be it further

Resolved, That the Senate of the State of Hawaii fully supports the continued existence of the Hawaii Legal Services Projects in its present form; and be it further

Resolved, That certified copies of this resolution be transmitted to President Richard M. Nixon, Governor John A. Burns, Senator Hiram L. Fong, Senator Daniel K. Inouye, Representative Spark Matsunaga, Representative Patsy Mink, and Legal Aid Society of Hawaii President Robert R. Mackey, S.M.

TIME FOR THE DEPARTMENT OF TRANSPORTATION TO ACT NOW ON SCHOOLBUS SAFETY

Mr. PERCY. Mr. President, over 7 years ago, Congress gave to the Secretary of Transportation the authority to issue regulations and to establish standards for motor vehicle safety. This was meant to include standards for schoolbus safety.

Two specific acts, the Federal Highway Safety Act and the National Traffic and Motor Vehicle Safety Act, allow the Secretary to approach this problem via different routes. The Highway Safety Act of 1966 instructs the Department of Transportation to assist the States in establishing and operating various programs designed to reduce traffic accidents. The general wording of this act and the reliance on State regulation, however, has precluded effective Federal action.

On the other hand, the National Traffic and Motor Vehicle Safety Act of 1966 vests in the Secretary of Transportation authority to prescribe Federal safety regulations for all motor vehicles. Since the act is administered in the Department of Transportation under the provisions of the National Highway Traffic Safety Administration — NHTSA — it could serve as the most capable tool for establishing effective schoolbus safety standards. The act places the authority to promulgate schoolbus safety regulations with the Department of Transportation. Accordingly, no new legislation would be necessary if agency officials carried out their assigned responsibility.

During the 7 years which have elapsed since the passage of this act, 41 Federal motor vehicle standards have been drafted by the National Highway Traffic Safety Administration by its own count. On the surface, this appears to be an impressive attempt by the Department of Transportation to comply with the act. In fact, in its report to the House and Senate Commerce Committees on legislation introduced last year by Senator NELSON to mandate schoolbus safety standards by a fixed date, the Department of Transportation pointed to these 41 proposed regulations as clear evidence that NHTSA was satisfactorily complying with the stated intent of the National Traffic and Motor Vehicle Safety Act of 1966. The report concluded that the new legislation was not necessary in light of that effort.

Further investigation reveals, however, that this conclusion is far from accurate and that the facts on which it is based may be misleading. Three concerned students at the George Washington University Law School—James T. Bruce, Carol A. Elder and Laura G. Ross—under the supervision of Prof. John Banzhaf, undertook an exhaustive review of these 41 proposed regulations and presented their findings in a 106-page petition sent to the Department of Transportation pursuant to 5 U.S.C. 533(e), 49 C.F.R. 533.31(a), and 49 C.F.R. 5.11. Read together, this statute and supporting Federal regulations establish the right of any interested person to submit a petition to the appropriate administrator of any Federal agency asking him to issue new regulations or to amend existing departmental regulation or rules.

This group, organized as "BUSWREC"—BAN Unsafe Schoolbuses Which Regularly Endanger Children—charged the Department of Transportation with procrastination and outright neglect of its statutory duty under the National Traffic and Motor Vehicle Safety Act of 1966. They further proposed eight separate engineering performance standards to insure schoolbus safety: safety seats, rollover strength structural integrity, driver restraints and steering wheel delethalization, front seat passenger protection, elimination of stanchions, and safer exit doors.

BUSWREC's petition also points out that only 21 of the 41 proposed standards, relied on by the Department of Transportation to stifle legislation last year, apply to schoolbuses. Furthermore, the petition demonstrates that most of these regulations were drafted for passenger car safety and were extended to include schoolbuses seemingly as an afterthought.

Another alarming fact indicated in the BUSWREC petition reveals that the Department of Transportation classified schoolbuses under the category of "buses" generally, and only occasionally were they cited under a separate classification. When only one out of 72,000 full-time employees in DOT is working on schoolbus safety on a full-time basis—according to a recent investigative series by WTTG–TV—Metromedia—reporter John Goldsmith—neglect seems inherent.

Just after I became a cosponsor of S. 847 in February, these various charges against the Department of Transportation were brought to my attention. S. 847 is similar to S. 2582, introduced last year by Senator NELSON, which the Department of Transportation argued was not necessary in light of their 41 proposed regulations. The bill would amend the National Traffic and Motor Vehicle Safety Act of 1966 to require the Department of Transportation to issue, within 18 months after enactment, minimum design standards concerning specific aspects of schoolbus safety performance.

Shortly after I joined Senator NELSON and others on S. 847, several Congressmen and Senators, including myself, received a letter, dated February 15, 1973, from BUSWREC. This letter thoroughly explained the reasons underlying their petition to the Department of Transportation. Their principal conclusion was that:

> In the past 4½ years, DOT has issued or proposed only four bus standards which can be said to have involved any significant agency effort, and these four standards have undesirable limitations. Contrast this to the 41 existing or proposed standards listed in the DOT outline which gave the impression of a conscientious ongoing Federal effort to improve schoolbus safety.

The real difference involves the comprehensiveness and effectiveness of the DOT standards. Unfortunately, neither of these factors seems to have been considered by this Department in formulating standards. Ultimately, it will be the difference between the number of children who are needlessly killed or maimed, and those who would have gone unharmed if protected by adequate safety standards.

As more data, substantiating BUSWREC's charges was received, I sought an explanation of this apparent disregard by DOT for the safety of the 20 million American children who ride schoolbuses each day.

On March 1, 1973, I wrote Secretary Claude Brinegar, explaining that I cosponsored S. 847 because I had become convinced that NHTSA had abdicated its public responsibility under the National Traffic and Motor Vehicle Safety Act of 1966. In that letter, to be printed in its entirety at the conclusion of my remarks, I asked Secretary Brinegar personally to investigate whether the Department had failed to follow the clear instructions of that act, requiring promulgation of Federal standards for safer schoolbuses.

I pointed out to the Secretary that even the regulation of just a little over a month ago for safer bus seats was not without a history of unacceptable delay. The long overdue proposal came after a 5 year hiatus and only after the BUSWREC report was issued. By contrast, seat standards have been in effect for regular autos since 1968.

On further analysis, it now turns out that even this seat regulation leaves much to be desired. It wholly ignores a recent recommendation by the New York State Automobile Association to that State's legislature proposing a padded seat compartment, including a padded shoulder rail, padded armrests, and high-back rearward facing seats. The proposed standard also does not apply to side-facing seats commonly found on "short route" buses and does not adequately provide for seat integrity in side-impact situations. Moreover, the proposed standard leaves unmentioned such interior features in the immediate vicinity of passenger seats as overhead hand grasps, hazardous window frame structure, and aisle poles.

Finally, I pointed out to Secretary Brinegar that figures, furnished by a NHTSA spokesman and cited in a Washington Post article of February 28, 1973, conservatively estimated that over 1.4 million American children ride to school each day dangerously standing in the aisles. The article concluded that no major attempt to reduce this number of standees had been implemented by DOT, even though standard 17, part 204, title 23, Public Transportation Safety, issued May 6, 1972, effective June 6, 1972, prohibits this dangerous condition.

On March 19, 1973, I received what I regretfully considered to be an unsatisfactory response from Secretary Brinegar. Basically, the Secretary related that the NHTSA was currently reviewing many of the possible safety countermeasures which I mentioned in my letter to him, but the response implied that all was proceeding space so far as schoolbus safety was concerned.

It appears that DOT feels that what in some instances has been referred to as "the yellow tin can" which we call a schoolbus is not in urgent need of mandatory standards for rollover protection, efficiency and integrity of joints, emergency exists, floor strength, and the elimination of padding of interior poles.

In light of the 47,000 schoolbus accidents costing 150 lives and injuring 5,600 persons in 1971 alone, I could not disagree more with the Department's assessment. If DOT does not reorder priorities and act shortly, I plan to call for an investigation in the very near future within the Senate Permanent Investigations Subcommittee, on which I serve as the ranking minority member.

As a result of this apparent lack of concern on the part of DOT, I have written directly to the presidents of the major schoolbus manufacturing companies enlisting their support and suggestions for comprehensive Federal safety standards. I am awaiting their replies, in the hope that the industry will be more responsive to this urgent situation than the Department of Transportation.

In order for Senators who are particularly interested in this problem to have a complete record of the entire exchange of correspondence referred to above, I ask unanimous consent that the following documents be printed in the RECORD at this point: my March 1 letter to Secretary Brinegar; Secretary Brinegar's March 19 response to my letter; and BUSWREC's March 21 memorandum, commenting on Secretary Brinegar's response to me. I also request that the original BUSWREC letter of February 15, 1973, with attached appendices be included at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 1, 1973.

Hon. CLAUDE S. BRINEGAR,
Secretary, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: In the last several months I have become increasingly concerned about the safety of the 20 million American children who ride schoolbuses each day. On February 8, 1973, I co-sponsored a bill (S. 847) that would finally require the Department of Transportation to issue comprehensive safety standards for the design and construction of new schoolbuses by a date certain. Mandatory standards would be required for emergency exits, interior protection for occupants, floor strength, seating systems, crashworthiness of body and frame, vehicle operating systems, windows, windshields, fuel systems, exhaust systems, and flammability of interior materials.

I supported that bill, frankly, because I am convinced that NHTSA has abdicated its public responsibility under the National Traffic and Motor Vehicle Safety Act of 1966 to promulgate Federal standards for safe schoolbuses. I would ask you to investigate whether there has not been a dereliction of duty in the fact that the Department has failed to promulgate certain elementary precautions and regulations to prevent schoolbus accidents. In 1971 there were 47,000 schoolbus accidents, taking 150 lives and injuring some 5,600 persons, many of the injuries particularly resulting from weak structural design which allowed the buses to crumble upon impact. Too many buses have too many joints and far too few rivets fastening the sheet metal exterior to the bus frame. As a result, upon impact during a collision, the sheet metal not infrequently peels back almost like a giant cookie cutter and needlessly lacerates children riding on the bus. Moreover, parts of the bus have been known to break apart in such circumstances.

Many other tragedies result from poor seating design with the chest and heads of children propelled into inflexible metal bars atop seat backs. Still other children suffer serious injury when their bodies are thrust forward over low seat backs and into steel protrusions in the front of schoolbuses.

Seven years ago, the Congress gave DOT the power to issue motor vehicle safety standards which would prevent "unreasonable risk of death or injury" in schoolbus accidents. It is a tragic commentary on the carrying out of that mandate that today Congress sees a need for "kick in the pants" legislation to spur NHTSA into action that is long overdue.

Last year when legislation nearly identical to S. 847 was introduced, Congress was informed by the Department of Transportation that such legislation was unnecessary. An impressive list of 41 schoolbus safety standards (issued or proposed) was offered as evidence that NHTSA was pursuing its mandate vigorously. No doubt the relevant Commerce Committees of both Houses were soothed by these assurances.

I am disturbed, however, that the Congress was misled. A number of Congressmen and Senators, including myself, recently received an in-depth analysis of the 41 schoolbus safety standards allegedly issued or proposed by NHTSA. A group of George Washington University law students—organized to ban unsafe schoolbuses which regularly endanger children (BUSWREC)—took the time to exhaustively scrutinize all motor vehicle safety standards applicable to schoolbuses that had been issued or proposed as of December 31, 1972. I find their principal conclusion, expressed in a letter to me dated 15 February 1973 (which I am attaching), to be most upsetting:

". . . in the past 4½ years, DOT has issued or proposed only four bus standards which can be said to have involved any significant agency effort, and these four standards have undesirable limitations. Contrast this to the 41 existing or proposed standards listed in the DOT outline which gave the impression of a conscientious ongoing Federal effort to improve schoolbus safety."

If NHTSA's presentations have not been duplicitous, at the very best the agency has not been wholly candid about its progress in the area of schoolbus safety.

Last week the agency finally proposed a bus seating standard which apparently has been in development for about 5 years now. First, let me say that its arrival, however belated, is welcome. Probably no other single standard was as sorely needed to protect the millions of children who ride schoolbuses daily.

As I read this standard, however, I can't help but wonder if the major portion of it could not have been issued years earlier. High seatbacks, padding, strong seat anchorages, and seat belts are all the kind of safety features that were incorporated into automobiles at least five years ago. Even if this proposal is finalized, buses are not expected to incorporate the required equipment until after September 1, 1974.

If such a rudimentary and vital standard took this long, how much longer—how many more months and years—must we wait for more improvements in schoolbus safety? How many children will be needlessly maimed or even killed before NHTSA overcomes its inertia again to recognize and proclaim the obvious?

I am also concerned about another area of schoolbus safety which apparently has been neglected by NHTSA and that is the enforcement of Standard 17, Part 204, Title 23, Pupil Transportation Safety. In particular, this standard clearly prohibits standees on schoolbuses while in motion. Yesterday's Washington Post cited a "conservative" estimate coming from a NHTSA spokesman and based on 1970 figures that over 1.4 million children ride to school each day dangerously standing in the aisles of schoolbuses.

I realize that the states have primary responsibility to enforce these rules, but when the states fail to do so the Federal government is authorized to reduce Federal funding as an incentive to compliance. If I am wrong and NHTSA is encouraging state compliance, then please inform me. To aid in the enforcement of this requirement, would it not be feasible to request through a press release that any parent who discovers that his child is forced to stand on a schoolbus enroute to or from school should contact NHTSA immediately?

Claude, this letter is written with regret, because under the leadership of NHTSA Administrator, Douglas Toms, the agency has established an outstanding record of promulgating effective safety standards in other phases of motor vehicle safety. I regret his announced departure from that post because I believe that his vigorous concern for automobile safety would have been carried over into the schoolbus area. Perhaps it was a matter of priorities. But the priority need for prompt and concentrated attention to schoolbus safety cannot be overstated. I only hope that past neglect in the area of schoolbus safety will be remedied forthwith. I encourage you personally to look into this matter and energize the agency effort so that fur-

ther legislation and other such stimuli will be rendered unnecessary.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 19, 1973.

Hon. CHARLES H. PERCY,
Committee on Government Operations,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of March 1, 1973, commenting on school bus safety, and enclosing a copy of your correspondence from Mr. James T. Bruce. The petition to which Mr. Bruce refers was submitted by Mr. Lowell Dodge, Director, Center for Auto Safety, on December 29, 1972, in accordance with regulations governing the answering of petitions.

The Department shares your concern for school bus safety. It should be remembered that the estimated pupil fatality total for 1971 was 83. Of these, 17 were pupils on the bus, 33 were pupils run over by the bus, and 33 were pupils run over by other vehicles. Despite the small number of fatalities, the Department recognizes the need to ensure the well-being of school children while they are being transported to and from school in school buses. To this end, the Department is working to improve school bus safety under both the Highway Safety Act and the National Traffic and Motor Vehicle Safety Act.

Under the Highway Safety Act, the Department, in May 1972 made what it considers to be a significant advance in the regulation of school bus operation, issuing Highway Safety Program Standard No. 17, Pupil Transportation Safety. The standard is designed to improve State programs for transporting pupils safely in urban and rural areas by setting requirements for proper and safe equipment; maintenance of equipment; selection, training, and supervision of drivers and maintenance personnel; and administrative provisions in the field of pupil transportation.

In general, Standard No. 17 has been well received and is being implemented by the States through the various legislative and administrative bodies that have responsibility for implementing the requirements of the standard. Since standard implementation requires considerable resources and coordination of numerous public and private groups, the Act contemplates implementation over a reasonable period of time. In most cases the States are afforded several years to achieve full implementation. The need for several years for implementation is especially true with respect to the standard requirement prohibiting standees to which you refer. The National Highway Traffic Safety Administration (NHTSA) has encouraged States to being immediately to seek solutions to their standee problem. State officials have begun to develop plans for legislative amendments, rerouting and rescheduling plans, and additional vehicle purchases that may be necessary to eliminate standees. We hope to see some significant advances in this area as more States acquire administrative and substantive capabilities in the area of pupil transportation safety.

There has also been significant activity under the Vehicle Safety Act. The majority of all safety standards promulgated thus far under this Act, including those relating to school buses, were initially promulgated to improve passenger car performance since this vehicle type represents 80 percent of the vehicle population. A great deal of basic research and standard developmental work was put into this effort. Many of these standards address basic safety problems that are common to several vehicle types, including buses. The standards are, therefore, appropriate for application to buses. The fact that limited additional effort was necessary to adapt the requirements does not detract from the safety benefits of these standards.

In addition to the need for some adaptation efforts, it is also true that issuance of safety standards normally necessitates the shutdown and changeover of vehicle assembly lines. Passenger car assembly lines are usually shutdown annually to accommodate a model year change, while the shutdown and changes of truck and bus assembly lines are considerably longer. Thus, a longer lead-time is needed by the truck and bus industry for the introduction of standards if a complete disruption of the truck or bus assembly process is to be avoided. For this reason, truck and bus standards became effective at a later date.

We have recently instituted several important rulemakings relating specifically to buses. Motor Vehicle Safety Standard No. 217, Bus Window Retention and Release, is designed to reduce the possibility of pupil ejection and will aid in emergency egress. The standard also provides for the identification of emergency exists. Also, on February 29, 1973, a Notice of Proposed Rulemaking was issued on bus passenger seating and crash protection. The proposed standard would require buses to have passenger seats that are stronger, higher, and less hostile on impact than present seats. An alternative seat belt restraint system is provided that employs lap belts and sequential warning systems.

Many planned research and developmental efforts discussed in the Department's earlier submissions are also continuing. Crash Avoidance Standards, particularly on direct and indirect visibility aids for the school bus driver to prevent him from inadvertently running over the child, continue to be studied. This is especially important in view of the high percentage of pupil fatalities (66 of 83 total) that are outside the vehicle. In addition, Highway Safety Program Standard 17 includes requirements relating to school vehicle identification and regulation of other motorists around the vehicle, as well as requirements for mirrors.

Crash Survivability Standards will further reduce the injuries and fatalities experienced by children inside the bus. These standards are concerned with occupant protection, of which the new seating standard is a part, as well as the structural integrity of the bus itself. The National Transportation Safety Board has recommended that school bus structures be improved, particularly in the area of joint construction. NHTSA is presently drafting a new standard which addresses this problem and has scheduled it for early release.

In addition, a School Bus Structural Improvement Program is being included in the NHTSA FY 1973 research programs. The research is intended to establish the performance of current model buses by a series of structural and operational tests, and by structurally modifying an advanced "prototype" bus and test its performance. This program will point the way toward future improved school bus safety standards.

The NHTSA is currently reviewing many of the possible safety countermeasures mentioned by you and those which are included in the petition to which you have referred. All of the docket information and other sources, including research reports related to school bus safety, are being used for consideration in implementing the NHTSA course of action on school bus rulemaking.

I appreciate your bringing this critical situation to my attention, and I share your concern for the safety of children who ride in school buses everyday. If I may be of any further assistance, please contact me.

Sincerely,

CLAUDE S. BRINEGAR.

MEMORANDUM

MARCH 22, 1973.

To Senator Charles H. Percy.

From Carol Elder, Laura Ross, Jim Bruce: BUSWREC (Ban Unsafe Schoolbuses Which Regularly Endanger Children).

Re Schoolbus Safety: March 19 Response of Department of Transportation Secretary Brinegar to Letter of Senator Percy dated March 1, 1973.

The following issues are raised by Secretary Brinegar's response:

DISPARATE STATISTICS

Secretary Brinegar says that an "estimated" 17 children were killed while passengers in schoolbuses in 1971. While this figure is subject to dispute because of the lack of accurate or comparable reporting by states, a much more significant figure in any consideration of the magnitude of the schoolbus safety problem is the sum of 5,600 disabling injuries in schoolbus accidents in 1971. The latter figure does not even include the undoubtedly thousands of reported and unreported *nondisabling* injuries, nor does it include injuries—disabling or otherwise—in the following states: Alaska, Connecticut, Georgia, Minnesota, Michigan, Pennsylvania, Rhode Island, Wyoming. (National Safety Council—Accident Facts, 1972—p. 93)

All these injuries to passengers are for the most part unnecessary and senseless results of Departmental and industrial inaction in not requiring a safer vehicle. Furthermore, the NHTSA 1971 figure of 17 fatalities is very suspect considering the fact that we know of one recent schoolbus accident alone in 1972, in New Mexico, in which there were 19 passenger deaths. There are 290,000 schoolbuses in the U.S.

The figures cited in your letter of March 1 had been cited earlier by former DOT Secretary John Volpe.

IMPLEMENTATION OF STANDARD 17

In his reply, Secretary Brinegar states, with respect to Standard 17:

"Since standard implementation requires considerable resources and coordination of numerous public and private groups, the Act contemplates implementation over a reasonable period of time. In most cases the States are afforded several years to achieve full implementation. The need for several years for implementation is especially true with respect to the standard requirement prohibiting standees to which you refer. The National Highway Traffic Safety Administration (NHTSA) has encouraged States to begin immediately to seek solutions to their standee problem."

The passage above is an exercise in obfuscation and another attempt to deflect criticism of DOT's nonfeasance by misleading a concerned Member of Congress. When Standard 17 was issued on May 6, 1972, it was accompanied with the traditional comments of the Administrator of NHTSA, excerpts of which are set forth below. It is important to note that the Pupil Transportation Safety requirements were divided into 4 distinct categories:

A. Administration
B. Identification and equipment
C. Operation
D. Vehicle maintenance

The "no standees" provision was included under category "C. Operation" as part C. (3) (d) (2). The question of when compliance would be required was specifically addressed by Administrator Douglas Toms in the comments which explain the standards:

"It is expected that States will begin immediately to implement the administrative, operational and maintenance requirements of the Standard by developing whatever programs are possible for the 1972–73 school

year. Of particular importance are establishment of an administrative authority, development of schoolbus inspection procedures, and programs for proper selection and training of schoolbus drivers.

"It is understood that since the schoolbus fleet represents an existing capital investment, the equipment and identification requirements may be less susceptible to immediate compliance. It is expected, however, that States will begin immediately to develop programs showing the long-range plans for achieving full compliance with these as with all other requirements within a reasonable period of time." (*Federal Register*, Vol. 37, No. 89, p. 9212, Saturday, May 6, 1972)

Thus, NHTSA expected that there would be *immediate* implementation of Categories A, C, and D. Whatever programs that were *possible* for the 1972–73 school year were expected to be *immediately* developed. The "no standees" provision is included under this urgency deadline.

Implicit in this language is the assumption that any delay in implementation of Categories A, C, or D could be justified only if the Secretary were convinced that the particular provisions in question were not within the realm of possibility for immediate implementation.

The less urgent "reasonable period of time" deadline was reserved for "Category B. Identification and equipment" and for other category requirements that *could not possibly* be met in the 1972–73 school year.

This is not just legalistic hairsplitting. It is clear that DOT has effectively repealed this sense of urgency with respect to categories on administration, operation, and vehicle maintenance, including the "no standees provision." By simple misinterpretation and obfuscation of the original standard, DOT has gutted Standard 17 for the next several years.

The Federal Highway Safety Act is unequivocal as to the Secretary's duty:

"Federal aid highway funds apportioned on or after January 1, 1969, to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State is implementing an approved highway safety program. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of the preceding sentence to a State. Any amount which is withheld from apportionment to any State under this section shall be reapportioned to the other States in accordance with the applicable provisions of law." (Public Law 89–564, Title I—Highway Safety Section 101, Title 23, Chapter 4 Highway Safety Section 402(b)(2)(c)).

Thus, if Secretary Brinegar believes it is in the public interest to delay the implementation of Standard 17, particularly with regard to the "no standees" provision, that should be made clear. The question he faces is whether it is in the public interest for over 1.44 million children to ride to school each day standing up for the next "several years."

It has been nearly 10 months since Standard 17 became effective (June 6, 1972). Not one cent of highway construction funds has been withheld as a result of action by the Secretary to "encourage" compliance with Standard 17.

ADAPTATION OF AUTO STANDARDS TO SCHOOLBUSES

In the second paragraph of page two of his letter, Secretary Brinegar discusses the Department's activity under the Vehicle Safety Act. He discusses why many of the standards first applied to cars were later made applicable to buses: "The fact that limited additional effort was necessary to adapt the requirements does not detract from the safety benefits of these standards." The Secretary apparently missed the point that Senator Percy was trying to make in his March 1 letter. If indeed, as the Secretary puts it, these earlier auto standards "address basic safety problems that are common to several vehicle types, including buses" and these auto standards ". . . are, therefore, appropriate for application to buses" and only "limited additional effort was necessary to adapt the requirements" to buses—then why was there such a prolonged delay (5 years) before the adaptation was completed?

PRIORITIES AGAINST DELAYS

Senator Percy expressed the belief in his letter that the reason for delay in promulgating needed standards was really a problem of agency priorities. However, Secretary Brinegar suggests a much more disturbing explanation:

"A longer leadtime is needed by the truck and bus industry for the introduction of standards if a complete disruption of the truck or bus assembly process is to be avoided. For this reason, truck and bus standards became effective at a later date."

Secretary Brinegar has thereby rewritten the Motor Vehicle Safety Act so that assembly line convenience displaces passenger safety. It would appear that the public must wait until the bus and truck industries decide to shut down their assembly lines before safety standards can be implemented.

Furthermore, Secretary Brinegar heralds a new policy of disincentives to innovation in the transportation industry: manufacturers should, by this reasoning, minimize improvements in their vehicles so that assembly line shutdowns become less frequent. In this manner an even longer "leadtime" will become necessary.

If indeed a longer leadtime is needed to give adequate notice to the truck and bus manufacturers, then why doesn't NHTSA issue the standards *immediately*, but increase the period between the standard's issuance and its effective date? This would give a longer period of effective notice to the industry. Normally, the lag time is about two years, and it is not uncommon for the Secretary to grant extensions.

Finally, except for the proposed standard on seating which, if adopted, will not become effective until September, 1974, there really are no Federal standards covering buses which would require any major structural changes. For the most part, the only disruption involved would be changing the subcomponent fed into the assembly line. The effect on the assembly line itself would be minimal.

RECENT RULEMAKING PROPOSALS OF DOT

On page 3 of the Brinegar letter, two recent rulemakings relating specifically to buses are discussed. Standard 217, Bus Window Retention and Release was issued on May 10, 1972, and will be effective September 1, 1973. It sets the minimum total area of unobstructed openings for emergency exits on buses *but schoolbuses are explicitly excluded from this requirement!* If a schoolbus happens to contain push-out windows (few do) or other emergency exits, then these exits must conform to certain standards for identification of the exit, means of opening the exit and a requirement that an individual can pass unobstructed through the exit. This standard also requires the window frames (excluding the windshield) to retain the window when a test force is applied such as might be exerted by a person being thrown against it.

The other standard concerns bus passenger seating and crash protection. It is long overdue but sorely needed. Nevertheless, it has several weaknesses, a number of which were pointed out by the Insurance Institute for Highway Safety Status Report of February 26, 1973:

The standard would not apply to side-facing or rear-facing seats commonly found on "short route" buses

The proposal has no requirements for seat strengths in oblique or side force loadings.

The proposal does not address hostile window frame structures, overhead hand grasps, foot rests, luggage racks, aisle poles or other needlessly hazardous bus interior features that are located outside a small, designated zone directly ahead of the passenger seats.

If bus makers choose to install belts, seat anchorages would have to be stronger than on seats without belts. "Forward" and "rearward" seat strength performance tests would also be modified. Under the proposal, passenger belt anchorages (which are required to be attached to the seat) would be tested under a pull of only 1,000 pounds. Under a standard already in existence (FMVSS 210), seat belt anchorages for passengers and drivers of cars and trucks and for bus drivers are tested under a pull of 5,000 pounds.

However, there is another more glaring deficiency in the proposal. If the manufacturer does not choose to install belts, then in an accident where the bus impacts at an oblique angle or is hit from the side or rolls over, there is no provision for preventing the occupants from flying out of their seats. In November of 1968 the National Motor Vehicle Safety Advisory Council recommended that any seat standard include "protection from side impact by use of arm rests . . ." In response to the Council's recommendations on seats, the NHTSA acknowledged in September, 1969, that they were working on a seat standard: "This proposal includes requirements for high seat back, seat anchorages, *padded armrests (on the aisle side)* . . ." (emphasis added). In research done on bus safety at UCLA a safety seat was designed, built and tested. It included a safety armrest that would restrain the occupants if thrown to the side during a collision. Somehow along the way NHTSA dropped this critical component of the safe bus seat.

Finally, the performance standard is worded so that the anchorage of each seat will be tested individually. There is no guarantee that in an accident the floor structure to which the seats are attached will remain strong when *all* the seats are subjected to the impact decelerations *simultaneously*.

SUMMARY

Secretary Brinegar is not responsive to the question of why within the last 4½ years DOT has issued or proposed now only 5 bus standards which can be said to have involved any significant agency effort. (Senator Percy's letter mentioned 4 as of the end of 1972—the bus seating standard has since been proposed.) Those standards are: Bus Seating, Bus Window Retention and Release (No. 217 mentioned above); Hydraulic Brake Systems (No. 105) which will not be effective until September 1, 1975; Air Brake Systems (No. 120) which does not require any bus to have these safest of brakes but rather imposes restrictions on those buses which do have air brakes; and finally the standard on Direct Fields of View is only proposed.

FEBRUARY 15, 1973.

Hon. CHARLES H. PERCY,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: We are a group of three George Washington University Law Students who are concerned, as you are, for the safety of the twenty million children who travel daily in schoolbuses. In December 1972, we submitted to the Department of Transportation a 106-page legal petition for rule-making for the following schoolbus safety standards: 1) well-anchored safety seats; 2) energy-absorbing high seatback with armrest; 3) roll-over strength; 4) joint

efficiency; 5) front seat passenger protection by wheel delethalization; 7) elimination of stanchions; and 8) outward opening exit doors. These recommendations for safety standards for schoolbuses were based on the analyses and conclusions of the National Transportation Safety Board, the Institute of Transportation and Traffic at UCLA, the Society of Automotive Engineers, and the Vehicle Equipment Safety Commission.

We felt the necessity for taking this "public interest" action because we believe that the Department of Transportation has been derelict in its duty to fulfill the mandate of the National Traffic and Motor Vehicle Safety Act of 1966. From your past and continuing expression of concern for these youngsters traveling in fragile yellow schoolbuses, we feel that you have reached a conclusion similar to ours: The Department of Transportation has grossly neglected the issue of schoolbus safety.

In response to H.R. 11159 and S. 2582 (companion bills) introduced in the 92nd Congress, you received letters from the Department of Transportation indicating that there was no need for this type of legislation to be enacted. (A copy of the letter to Senator Magnuson is attached and labeled as Appendix I).

Attached to DOT's letter of assurance was an outline of their efforts entitled "Existing or Proposed Federal Motor Vehicle Safety Standards Relating to the Areas of School Bus Performance Listed in Section 3 of S. 2582." A number of Senators and Congressmen received this outline from DOT.

We have analyzed this document line-by-line (Appendix II) to determine what, in fact, DOT has done in the area of schoolbus safety. Our conclusion is that the Department's activity on schoolbus safety is more imagined than real. Indeed, it would appear to us that the Department has misled the Congress into thinking that the agency was committed to promulgating safety standards in the critical area of crash-worthiness and occupant protection. As the summary to Appendix II fully explains, in the past 4½ years, DOT has issued or proposed only four bus standards which can be said to have involved any significant agency effort, and these four standards have undesirable limitations. Contrast this to the *41* existing or proposed standards listed in the DOT outline which give the impression of a conscientious ongoing federal effort to improve schoolbus safety.

A further documentation of the Department's zealous pronouncements is a case study, researched by us, of the Agency's repeated promises for a standard on safety seats over the last four years. (Appendix III) All technical studies done in this area have indicated that the overwhelming cause of schoolbus injuries is the seat, and that it is critical that the "unconscionable engineering" of the schoolbus seat be corrected. Yet, the Department has done nothing but make empty promises since 1968.

As we are sure you are aware, legislation has been again introduced in this Congress urging the Department of Transportation to enact schoolbus safety standards within a fixed time period. We would hope that our enclosures will demonstrate to you that there is a need for this type of legislation. The Department's assurances of schoolbus safety programs will not effectuate safety standards; the impetus must come from the Congress. Not only has the Department misled the Congress in believing that there is no need for legislation in this area (as documented in Appendix I and II); but, it has repeatedly issued false promises to curtail criticism from the Congress, the mass media, and the concerned public.

Should we be able to be of any further assistance in your efforts to establish the Department of Transportation's accountability for the safety of twenty million youngsters, please do not hesitate to contact us.

Sincerely yours,

JAMES T. BRUCE,
CAROL A. ELDER,
LAURA ROSS,
Chairman.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 17, 1972.

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

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Transportation on S. 2582, a bill

"To amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize design standards for schoolbuses, to require certain standards be established for schoolbuses, to require the investigation of certain schoolbus accidents, and for other purposes."

This bill would require the Secretary of Transportation to issue, within 18 months after the enactment of this bill, minimum design of performance standards covering specified aspects of schoolbus safety performance. "Schoolbus", as defined in this bill, includes any motor vehicle designed primarily for the purpose of transporting children to and from schools. The aspects of performance would be (1) emergency exists, (2) interior protection for occupants (including restraint systems), (3) floor strength, (4) seat anchorages, (5) crash worthiness of body and frame, (6) vehicle operating systems, (7) windows and windshields, (8) fuel systems, (9) exhaust systems, and (10) flammability of interior materials.

The Secretary would be required to procure an experimental safety schoolbus not later than three years after the enactment of this bill.

Schoolbus manufacturers and distributors would be required to follow special certification procedures in addition to those presently specified in the Act. The manufacturers and distributors would be required to certify that each new schoolbus had been individually inspected and test driven for the purpose of determining its conformity with all applicable safety standards. Further, dealers would be required to certify that they had test driven each new schoolbus.

This bill would also require the Secretary to investigate and report to the public the probable cause of each fatal schoolbus accident and of each fatality in such accidents.

The Department recognizes the need to ensure the well-being of school children while they are being transported to and from school in schoolbuses. To this end, the Department is working to improve schoolbus safety under both the National Traffic and Motor Vehicle Safety Act and the Highway Safety Act. Under the former Act, the Department has issued or is developing standards relating to eight of the ten schoolbus performance areas specified in section 3 of this bill. A complete list of these standards is attached to this letter.

Among the proposed standards are ones relating to bus seating, window retention and release, and tires. The proposal on bus seating would require stronger seats and seat anchorages, substantial padding in the immediate seat area, and increased seat back height for improved occupant protection. It would also require the elimination of lethal surfaces. A notice of proposed rulemaking on the proposal will be issued next year.

Notices of proposed rulemaking have already been issued with regard to the other two proposals. The window notice proposes minimum escape criteria and requirements for the integrity of the structure and latching mechanisms of bus windows. The tire notice proposes performance requirements for pneumatic tires. Final rules with respect to both notices will be issued early next year.

Under the Highway Safety Act, the Department is nearing issuance of a Highway Safety Program Standard on Pupil Transportation. The standard is intended to improve State programs for transporting school children safely by setting requirements for safe routing; proper and safe schoolbus equipment; maintenance of schoolbuses; and selection, training and supervision of schoolbus drivers and maintenance personnel. Implementation of this standard will improve the already good safety record of the schoolbus. The fatality rate (based on each hundred million hours of travel) for schoolbuses is approximately 1 as compared to 96 for passenger cars.

In view of the Department's rulemaking activity on schoolbus safety, the requirement for the promulgation of standards covering specific performance areas appears unnecessary. The authority clearly exists for promulgating standards with respect to the specified performance areas and is being so used.

The authorization in section 1 of this bill for the formulation of safety standards for schoolbuses in terms of either design or performance is also unnecessary. We understand the present Vehicle Safety Act as conferring authority to set performance standards which affect design so long as they are stated in objective terms and regulate only those features of vehicles and equipment which bear on their safety performance.

The value of performance standards is that they provide the manufacturer with latitude in his choice of a method of compliance. In addition, they permit him to innovate and adopt superior methods of compliance as they are developed. This opportunity enables the manufacturers to compete with each other in the extent to which their vehicles exceed the level of safety performance required by the standards.

Design standards, i.e., standards that contain a detailed description of every significant aspect of a product, including materials and processes used, would unduly inhibit innovation and competition. If several methods of providing a particular type of safety performance were available, the Department would probably be compelled to issue a design standard for each of them. Further, new methods of compliance could not be adopted until the Department had had an opportunity to evaluate them and then promulgate additional design standards for those methods providing the necessary level of safety.

Issuance of performance standards would obviate the necessity for issuing multiple standards for the same aspect of vehicle performance. A well-drafted performance standard would also make generally unnecessary amendments or new standards as new methods of providing the required level of safety were developed. Only when the technology of the new methods had advanced substantially beyond that of the methods existing at the time of the drafting of the standard might an amendment be necessary.

The additional certification procedure specified in section 5 of this bill is unnecessary and impracticable. Manufacturers and distributors of schoolbuses are already required by section 114 of the Vehicle Safety Act (15 U.S.C. 1403) to certify the conformity of each schoolbus with all applicable safety standards. Failure to issue such a certification is a violation of the Act and punishable by a civil penalty of up to $1,000 per violation. Further, the issuance of a certification by a person who, in the exercise of due care, has reason to know such certification is false or misleading in a material respect is also a violation of the Act. While testing of a vehicle in accordance with the

test procedures specified in the safety standards is not required under the Act, it is the best method for establishing the requisite care.

Several bus safety standards which have been issued or are being developed specify destructive test procedures, such as a collision into a fixed barrier. Thus, the testing by manufacturers and distributors of each new schoolbus in accordance with such test procedures would clearly be impossible.

Furthermore, even as to those procedures which are nondestructive, no guidance is provided in this bill as to what conduct would satisfy the inspection and test driving requirements in section 5. While the ambiguity might be eliminated by promulgation of interpretive regulations under section 119 of the Act (15 U.S.C. 1407), such rulemaking would duplicate the effort expended in devising the test procedures in the standards. More importantly, such regulations might, by specifying requirements other than the complete test procedures in the standards, dilute the due care provision. Instead of establishing minimum requirements for the measures which would have to be taken to satisfy the due care provision in the case of schoolbuses, this section and the regulations might be construed as establishing maximum requirements.

Section 7 of this bill, which would require the investigation of all fatal schoolbus accidents, may also be unnecessary. The Department has already been directed under section 106 of the Act (15 U.S.C. 1395) to investigate motor vehicle accidents to collect data on the relationship between vehicle performance and accidents and deaths and injuries resulting from such accidents. Pursuant to that authority, the Department has established multi-disciplinary accident investigation teams to collect the necessary data. This data is invaluable in identifying the need for developing new safety standards. It is also useful in verifying the efficacy of existing safety standards.

In selecting schoolbus accidents to be investigated, we give special attention to those accidents likely to yield the most new knowledge on schoolbus safety. We believe that this practice of selective investigation should be continued since it permits us to maximize the amount of new knowledge collected on the safety performance of different types of vehicles.

In view of the foregoing discussion, the Department does not favor the enactment of this legislation.

The Office of Management and Budget advises that there would be no objection from the standpoint of the Administration's program to the submission of this report to the Congress.

Sincerely,

JOHN W. BARNUM,
General Counsel.

Existing or Proposed Federal Motor Vehicle Safety Standards Relating to the Areas of Schoolbus Performance Listed in Section 3 of S. 2582

1. Emergency Exits: New—Bus Window Retention and Release.[1]

2. Interior Protection for Occupants (including restraint systems):

(a) FMVSS No. 208—Occupant Crash Protection.

(b) FMVSS No. 209—Seat Belt Assemblies.

(c) FMVSS No. 210—Seat Belt Assembly Anchorages.

(d) New—Amend FMVSS No. 201—Occupant Protection in Interior Impact.[1]

(e) New—Amend FMVSS No. 203—Impact Protection for the Driver from Steering Control Systems.[1]

(f) New—Bus Passenger Seating and Crash Protection.[2]

3. Floor Strength: FMVSS No. 207—Anchorage of Seats.

4. Seat Anchorages: FMVSS No. 207—Anchorage of Seats.

5. Crashworthiness of Body and Frame:

(a) New—Amend FMVSS No. 204—Steering Control Rearward Displacement.[1]

(b) New—Vehicle Crash Energy Management Systems.

6. Vehicle Operating Systems:

(a) FMV'S No. 101—Control Location, Identification, and Illumination.

(b) FMVSS No. 101—Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect.

(c) FMVSS No. 103—Windshield Defrosting and Defogging Systems.

(d) FMVSS No. 104—Windshield Wiping and Washing Systems.

(e) FMVSS No. 107—Reflecting Surfaces.

(f) FMVSS No. 108—Lamps, Reflective Devices, and Associated Equipment.

(g) FMVSS No. 112—Headlamp Concealment Devices.

(h) FMVSS No. 113—Hood Latch Systems.

(i) FMVSS No. 116—Motor Vehicle Hydraulic Brake Fluids.

(j) FMVSS No. 121—Air Brake Systems.[1]

(k) New—Amend FMVSS No. 105—Hydraulic Brake Systems.[1]

(l) New—Amend FMVSS No. 106—Brake Hoses and Brake Hose Assemblies.[1]

(m) New—Amend FMVSS No. 111—Indirect Visibility.

(n) New—Amend FMVSS No. 117—Retreaded Tires Other Than Passenger Cars.

(o) New—Brake Shoe and Pad Assemblies.

(p) New—Vehicle Power Requirements.

(q) New—Tires, Rims, Wheels, other than Passenger Cars.[1]

(r) New—Road Wheel Performance.

(s) New—Tire Pressure Warning Indicator.

(t) New—Direct Fields of View.[2]

(u) New—Spray Protectors.

(v) New—Accelerator Control Systems.[1]

(w) New—Driver Environment.

(x) New—High Speed Warning and Control.[1]

(y) New—Alcohol Interlock System.

(z) New—Warning Devices.[1]

(aa) New—Amend CFR575.101—Consumer Information—Stopping Distance.[1]

7. Windows and Windshields:

(a) FMVSS No. 205—Glazing Materials.

(b) New—Amend FMVSS No. 212—Windshield Mounting.[1]

(c) New—Bus Window Retention and Release.[1]

(d) New—Windshield Zone Intrusion.[1]

8. Flammability of Interior Materials: FMVSS No. 302—Flammability of Interior Materials.

APPENDIX II: ANALYSIS OF "EXISTING OR PROPOSED FEDERAL MOTOR VEHICLE SAFETY STANDARDS RELATING TO THE AREAS OF SCHOOLBUS PERFORMANCE LISTED IN SECTION 3 OF S. 2582"

1. Emergency Exits: New—Bus Window Retention and Release [1]

This standard was indeed issued on May 10, 1972 and will be effective September 1, 1973. It sets the minimum total area of unobstructed openings for emergency exits on buses *but schoolbuses are explicitly excluded from this requirement.* If a schoolbus happens to contain push-out windows (few do) or other emergency exits, then these exits must conform to certain requirements on identification of the exit, means of opening the exit and a requirement that an individual can pass unobstructed through the exit.

2. Interior Protection for Occupants (including restraint systems):

(a) FMVSS No. 208—Occupant Crash Protection: This standard provided incremental increases in the effectiveness of restraint systems for occupants and eventually will require complete passive protection for all occupants. Rollover protection and lateral impact protection standards are spelled out. It is a thorough, tough, occupant crash protection standard. *However, these provisions do not apply to school buses.* The driver of the schoolbus is only required to have a seatbelt—that is all this standard demands of schoolbuses. Effective 1/1/72

(b) FMVSS No. 209 Seat Belt Assemblies: specified requirements pertaining to the manufacture of seat belt assemblies for all vehicles. The requirements apply to straps, webbing, buckles, fasteners, hardware designed for installation. Again, in the case of schoolbuses, only the driver must have a seat belt. Effective 7/1/72

(c) FMVSS No. 210 Seat Belt Assembly Anchorages: Effective 7/1/71 although this standard applied to automobiles in 1968.

Specifies the requirements for seat belt assembly anchorages to ensure effective occupant restraint and to reduce the likelihood of failure in collisions. Included is a requirement for anchorages for lap and upper torso restraint belts in all forward facing outboard seats (four in standard sedans).

However, the upper torso restraint is not required for anyone in a school bus and only the driver must have a seat belt.

(d) New—Amend FMVSS No. 201—Occupant Protection in Interior Impact: [1]

"Over a wide range of impact speeds, the injuries suffered by driver and passengers are largely determined by the extent to which the structures on the inside of the vehicle have been designed to cushion the heads and other parts of the bodies hitting them. This standard specifies requirements to afford impact protection for occupants; it contains requirements for padded instrument panes, seat backs, sun visors, and armrests."

However, this standard does *not* apply to schoolbuses and as of Feb. 15, 1973 it still did not, nor had a Notice of Proposed Rulemaking been issued although the footnote indicated that some action would have been taken by June 30, 1972.

(e) New—Amend FMVSS No. 203—Impact Protection for the Driver from Steering Control Systems: [1]

Specifies requirements for minimizing chest, neck, and facial injuries by providing steering systems that yield forward, cushioning the impact of the driver's chest and absorbing much of his impact energy in front-end crashes. Such systems are already proving highly effective in reducing the likelihood of serious and fatal injuries.

Unfortunately, this standard does not apply to school buses. The footnote indicated that by June 30, 1972 either a Notice of Proposed Rulemaking or the rule would be issued. As of Feb. 15, 1973, neither have appeared.

(f) New— Bus Passenger Seating and Crash Protection: [2]

The history of DOT's delay on this standard is provided in Appendix III.

3. Floor strength: FMVSS No. 207 Anchorage of Seats: This standard requires "when tested in accordance with S5, each occupant seat, *other than a side facing seat or a passenger seat* on a bus, shall withstand the following forces." (emphasis added) Thus, this standard applies only to the school bus driver's seat.

4. Seat Anchorages: FMVSS No. 207—Anchorage of Seats. See 3.a.

5. Crashworthiness of Body and Frame:

(a) New—Amend FMVSS No. 204—Steering Control Rearward Displacement: [1]

Specifies requirements limiting the rearward displacement of the steering control into the passenger compartment to reduce the likelihood of chest, neck, or head injuries.

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[1] Final rule or notice of proposed rulemaking to be issued by 6/30/72.

[2] Final rule or notice or proposed rulemaking to be issued by 12/31/72.

However, this standard does not apply to schoolbuses. We can only presume that the proposed amendment would bring schoolbuses under this provision. Although the footnote says that either a Notice of Proposed Rulemaking or final rule will be out by June 6, 1972, as of Feb. 15, '73 no action has been taken of any kind.

(b) New—Vehicle Crash Energy Management Systems: Presumably this standard would require devices or designs that would soak up the force of an accident impact. At present there is no such standard proposed or in existence that would apply to schoolbuses.

6. Vehicle Operating Systems:

(a) FMVSS 101—Control Location, Identification, and Illumination: This standard requires that essential controls be within reach of driver when wearing his seat belt and that certain of these controls be labeled when mounted on the instrument panel. For buses with a gross weight under 10,000 pounds there are instrument panel illumination requirements effective as of Sept. 1, 1972, and for heavier buses the illumination provisions are effective March 1, 1973.

(b) FMVSS No. 102—Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking effect:

Requires that transmission shift lever sequences have the neutral position placed between forward and reverse drive positions. Its purpose is to reduce the likelihood of driver error in shifting. Also required is an interlock to prevent starting the car in the reverse and forward drive positions, and an engine-braking effect in one of the lower gears at vehicle speeds below 25 miles per hour.

This provision has applied to schoolbuses since Jan. 1, 1968.

(c) FMVSS No. 103—Windshield Defrosting and Defogging Systems: Requires that there be a windshield defrosting and defogging system, but schoolbuses are exempted from the section that sets performance standards for these systems.

(d) FMVSS No. 104—Windshield Wiping and Washing Systems: The schoolbus must have a windshield wiper and washing system and performance standards are specified.

(e) FMVSS No. 107—Reflecting Surfaces: Specifies limits on how much light can be reflected from windshield wiper arms, inside windshield moldings, horn rings, and the frames and brackets of inside rearview mirrors.

(f) FMVSS No. 108—Lamps, Reflective Devices, and Associated Equipment: The number, location, and brightness of red and amber lights on schoolbuses is specified.

(g) FMVSS No. 112—Headlamp Concealment Devices: Just in case anyone ever desires a rakish sports schoolbus, there are safety requirements applicable to disappearing headlamps.

(h) FMVSS No. 113—Hood Latch Systems: There must be a hood latch and two latches if the hood blocks the driver's view when opened.

(i) FMVSS No. 116—Motor Vehicle Hydraulic Brake Fluids: Minimum physical requirements for brake fluids used in any motor vehicles.

(j) FMVSS No. 121—Air Brake Systems: [1] The original standard consisted of performance and equipment requirements for vehicles which have air brakes. There is no requirement that specific vehicles be equipped with air brakes. The footnote suggested that changes were imminent and indeed on Feb. 24, 1972, minor amendments were issued.

(k) New—Amend FMVSS No. 105—Hydraulic Brake Systems: [1] This standard established requirements for hydraulic brakes, but schoolbuses were excluded. However, on Sept. 2, 1972 the standard was amended to include schoolbuses. Unfortunately, the provisions applying to schoolbuses will not be effective until Sept. 1, 1975.

(l) New—Amend FMVSS No. 106—Brake Hoses and Brakes Hose Assemblies: [1] The standard at present does not apply to schoolbuses at all. The footnote indicates that an amendment would be proposed or issued by June 30, 1972. However, as of Feb. 15, 1973 nothing has appeared.

(m) New—Amend FMVSS No. 111—Indirect visibility: This standard is entitled "Rear-view Mirrors" in the Code of Federal Regulations because it only applies to passenger cars and multipurpose vehicles, not schoolbuses. As of Feb. 15, 1973, there has been no action taken of any kind on an Indirect Visibility standard.

(n) New—Amend FMVSS No. 117—Retreaded tires, Other than Passenger Cars: The existing standard is entitled "Retreated Pneumatic Tires". Labeling and manufacturing requirements are set forth along with performance requirements for retreated tires. However, schoolbuses are not included under this regulation and the amendment to include schoolbuses has not appeared in any form.

(o) New—Brake Shoe and Pad Assemblies: No sign of this has appeared at all as of Feb. 15, 1973.

(p) New—Vehicle Power Requirements: No evidence of such a standard as of Feb. 15, 1973.

(q) New—Tires, Rims, Wheels, other than Passenger Cars: [1] An Advance l Notice of Proposed Rulemaking was issued in Nov. 1972.

However, it would only specify labeling requirements for tires filled with cellular foam instead of air.

(r) New—Road Wheel Performance: No sign of such a standard as of Feb. 15, 1973.

(s) New—Tire Pressure Warning Indicator: No sign of such a standard as of Feb. 15, 1973.

(t) New—Direct Fields of View: On April 12, 1972, a notice of proposed rulemaking was issued that "specifies requirements for freedom from obstructions in fields of direct view of driver, for light transmittance of glazing materials within those fields of view, for visibility of the front vehicle corners, and for the installation, view interception, adjustment, and spectral transmittance of sun visors."

(u) New—Spray Protectors: As of Feb. 15, 1973, no such standard has appeared.

(v) New—Accelerator Control Systems: [1] On April 8, 1972, a standard was issued specifying that the accelerator must return to idle if the linkage breaks or the driver's foot is taken off the accelerator. However, compliance is required only after September 1, 1973. Also, a proposed rulemaking was unveiled that would require the accelerator to return to idle after no more than ½ second.

(w) New—Driver Environment: No such proposal seen as of Feb. 15, 1973.

(x) New—High Speed Warning and Control: [1] Although action was supposed to be taken by June 30, 1972, nothing has appeared on this subject as of Feb. 15, 1973.

(y) New—Alcohol Interlock System: No such standard has been issued or proposed as of Feb. 15, 1973.

(z) New—Warning Devices: [2]

Establishes shape, size and performance requirements for reuseable day and night warning devices that can be erected on or near the roadway to warn approaching motorists of the presence of a stopped vehicle. It applies only to devices that do not have self-contained energy sources.

This standard was issued on March 1, 1972, but will become effective Jan. 1, 1974. As one can see from the description of the proposal it has nothing to do with schoolbus design or construction.

(aa) New—Amend CFR 575.101—Consumer Information — Stopping Distance [1]: This standard does not apply to school buses and no amendments have been issued or proposed as of Feb. 15, 1973.

(7) Windows and Windshields:

(a) FMVSS No. 205—Glazing Materials: Specifies requirements for all glazing materials used in windshields, windows, and interior partitions of motor vehicles. Its purpose is to reduce the likelihood of lacerations to the face, scalp, and neck, and to minimize the possibility of occupants penetrating the windshield in collisions.

This standard has applied to all vehicles since Jan. 1, 1968.

(b) New—Amend FMVSS No. 212—Windshield Mounting [1]: This standard requires that, when tested as described, each windshield mounting must retain either: (1) not less than 75 percent of the windshield periphery; or (2) not less than 50 percent of that portion of the windshield periphery on each side of the vehicle longitudinal centerline, if an unrestrained 95th percentile adult male manikin is seated in each outboard front seating position. The purpose of the standard is to keep the vehicle occupants within the confines of the passenger compartment during a crash.

This standard has applied since Jan. 1, 1970 to passenger cars, not to schoolbuses and no proposed amendments have appeared, although supposedly action was to be taken before Jan. 1, 1972.

(c) New—Bus Window Retention and Release: [1] The rule was issued May 10, 1972, and will become effective Sept. 1, 1973. This standard requires the window frames (excludes the windshield) to retain the window when a test force is applied such as might be encountered by a person being thrown against it. It does not apply to windows which have a minimum dimension less than 8 inches. "The purpose of this standard is to minimize the likelihood of occupants being thrown from the bus and to provide a means of readily accessible emergency egress." (See 1.a.)

(d) New—Windshield Zone Intrusion: [2] No such standard has been proposed as of Feb. 15, 1973, even though action was supposed to be taken by June 30, 1972.

(8) Flammability of Interior Materials: FMVSS No. 302—Flammability of Interior Materials:

This standard specifies burn resistance requirements for materials used in the occupant compartment of motor vehicles in order to reduce deaths and injuries caused by vehicle fires. This applies to cars, trucks, multipassenger vehicles, and buses as of Sept. 1, 1972.

SUMMARY OF APPENDIX II—AS OF DECEMBER 30, 1972

There are 22 Federal standards which have been issued or proposed which apply to school buses. Two of these (No. 213 Child Seating Systems and No. 125 Warning Devices) have absolutely nothing to do with the operation or design of schoolbuses and so there are really only 20 applicable standards. Of these 20 standards 15 are currently effective, 1 is proposed, and 4 are issued but not yet effective.

As of Aug. 6, 1968, four and a half years ago, 9 of these 20 standards were already in effect. Hence under the present administration of NHTSA only 11 standards applicable to schoolbuses have been proposed or issued. Of these 11 standards 4 consisted of simply requiring buses to meet prior existing automobile safety standards. That is, the agency merely extended the applicability of previous standards to include buses. These standards are No. 101 Control Location, No. 210 Seat Belt Assembly, No. 207 Anchorage of Seats, No. 207 Seat Belts Installation. All four of these standards had been drafted and made applicable to automobiles by Aug. 6, 1968.

[1] Final rule or notice of proposed rulemaking to be issued by 6/30/72.

[2] Final rule or notice or proposed rulemaking to be issued by 12/31/72.

Their extension to include buses required minimal effort on the part of NHTSA. So in the past 4½ years only 7 standards applicable to schoolbuses can be said to have been truly researched, debated and issued.

Of these 7 standards applicable to schoolbuses which required some agency resources to develop in the last 4½ years, only 4 can be said to have involved consideration of buses in particular. The other three standards (No. 124 Accelerator Control, No. 302 Flammability of Interior Materials, No. 116 hydraulic brake fluids) apply to nearly all vehicles and so they did not require any special effort on the part of NHTSA as far as bus safety is concerned.

Only 4 standards remain for our consideration and they apply to buses in general and not just schoolbuses. First, Direct Fields of View is only proposed. Second, No. 105 Hydraulic Brake Systems will not be effective until Sept. 1, 1975. Third, No. 121 Air Brake Systems does not require buses to have air brakes, the safest kind of brake available. Rather *if* the bus is equipped with air brakes *then* there are certain requirements. And finally, the standard on Bus Window Retention and Release and Emergency Exits specifically exempts schoolbuses from the provisions on emergency exits. Yet the above 4 standards are all that NHTSA can claim to have accomplished in the area of bus safety in the last 4½ years under the mandate of the National Traffic and Motor Vehicle Safety Act of 1966.

APPENDIX III: IN A PETITION FOR RULEMAKING FOR THE ESTABLISHMENT OF SCHOOLBUS SAFETY STANDARDS WHICH WAS SUBMITTED TO THE DEPARTMENT OF TRANSPORTATION ON DECEMBER 29, 1972

The following was the justification for the standard on seating systems which the petitioners proposed:

JUSTIFICATION FOR STANDARD ON SEATING SYSTEMS

Of all the motor vehicle occupant hazards which might be classed as "unconscionable engineering" probably none can compare to the typical schoolbus seat. Of particular notoriety is the steel "guard rail" and the steel bar which often forms the top of the typical seatback.

Six years have elapsed since the passage of the Federal Motor Vehicle Safety Act and yet even today schoolbuses are being sold with these dangerous seats. To a thoughtful engineer the interior of these buses is a grotesque but precise array of steel weaponry, with each child's head targeted for a piece of steel. The driver, the children, and even the schoolboard which purchased the bus are all, most likely, unaware of the dangers involved. And yet suddenly, with no warning, one of those schoolbuses will eventually have an accident. The yellow schoolbus will instantly be transformed into the yellow peril as all the children are simultaneously hurled against the steel cudgels before them. Injuries and deaths will be inflicted which are entirely unnecessary, wholly the result of negligent engineering.

This prediction is certainly within the realm of reasonable forseeability. In fact, it is a statement of the inevitable.

In November of 1968 the National Motor Vehicle Safety Advisory Council—the Council authorized by Congress to advise the National Highway Safety Bureau (and later the successor organization—the NHTSA)—offered the following recommendation to the Bureau:

"7. Collision protection of schoolbus as follows: . . . (g) performance standards for seats within schoolbus should be developed making allowances for: seat back height requirements, strength to withstand forward and rear force application, protection from side impact by use of arm rests and elimination of all force-concentrating contours and materials within possible range of the pupils during impact."

In response to this specific schoolbus safety recommendation of the Advisory Council the Bureau stated the following:

"Docket No. 2–11, at the discussion paper phase, applies to passenger seats in school buses. This proposal includes requirements for high seat backs, seat anchorages, padded armrests (on the aisle side) and padding on rear of seat backs. Other impact protection requirements in the interior of the bus could be added. . . ."

In a study which was contracted-out by DOT in 1969 to the Institute of Transportation and Traffic Engineering of UCLA the researchers made the following conclusions in their report entitled "School Bus Seat Restraint and Seat Anchorage Systems":

"The overwhelming cause of injury in a school bus collision is the seat. This fact does not appear to hold true for commercial and charter buses using a covered seat. It is probable that, as currently designed, seats account for, or contribute to, two-thirds or more of the injuries in the TYPE III impacts."

Thus, as early as 1969 the Department was cognizant of the importance of issuing a standard on passenger seats. Its Advisory Council and researchers were calling for action and the National Highway Safety Bureau (predecessor of NHTSA) was showing incipient signs of interest.

On January 27, 1970 Senator Edward Kennedy wrote DOT Secretary John Volpe a letter in which the Senator expressed his concern for the deplorable lack of safety engineering in schoolbuses and recommended rulemaking in a number of areas:

"All of these questions seem to be matters that the Department should have resolved long ago to carry out the mandate of the National Traffic and Motor Vehicle Safety Act. Nearly all of these points were cited on the recommendations of the National Motor Vehicle Safety Advisory Council on November 26, 1968, and positive action by the Department was discussed in a report by the National Highway Safety Bureau . . . I believe the following steps should be a matter of immediate concern and action by your Department.

"1. Performance standards for seats and for padding of seat backs, the latter also affecting school buses now in service."

John Volpe replied to Senator Kennedy's letter on February 10, 1970, referring specifically to the Kennedy recommendation on seats:

"Performance standards for Seats:

"The Department, in Dock 2–11, has already initiated the first rule-making action to upgrade substantially the safety performance of school bus seats. Prior to proceeding with this work a research contract was initiated with the ITTE at the UCLA, . . . to provide objective criteria for seat performance standards. While the information from this research has not been as definitive as we would like, we nevertheless believe that there is sufficient information for us to proceed with this rule-making . . ."

In a letter written five days later by the Acting Administrator of the National Highway and Traffic Safety Administration, Douglas Toms, to a Dr. Shelness of the Physicians for Auto Safety—a professional concerned-citizens group, the Acting Administrator noted that—

"In addition, we will soon release a notice of proposed rulemaking on bus seats which will provide additional protection to school children."

It would seem, then, that in early 1970 a federal standard on bus seats was forthcoming and all concerned legislators and citizens could rest assured that the Department of Transportation was looking after the welfare of their little loved ones.

But a whole year passed and there was no proposed rule making on bus seats. The Department had not forgotten about the earlier promises it had made. On the contrary, at a New Jersey Symposium on Seat Belts and Emergency Exits in School Buses NHTSA trotted out its Director of Pupil Transportation—David Soule to demonstrate their commitment to keep their promise:

"The DOT will soon issue a Federal Motor Vehicle Safety Standard on a high strength padded safety seat that will materially reduce the hostile environment presented by the present bare metal frame found in most of today's school buses."

1971 moved on and the Department did not. But the Administrator of NHTSA managed to raise hopes once again that a rule making on seats was at hand. At a hearing in July before a subcommittee of the Committee on Government Operations which was investigating the "Effectiveness and Efficiency of DOT Programs Relating to Automobile and Schoolbus Safety" Mr. Toms testified:

"We deem one of the best payoffs in schoolbus standards would be to provide for friendlier seats. One thing we do not like are the seats with the metal hard rails and metal backs so as the youngster moves forward in any kind of a crash he strikes a solid, unyielding surface . . . We are moving forward to see that the seat backs and most of the interior parts of the bus are friendlier.

"Docket 2–11. Bus Passenger and Crash Protection. Notice of proposed rulemaking to be issued late summer or early fall 1971. Proposes stronger seats and seat anchorages, elimination of lethal surfaces, substantial padding in the immediate seating area, and increased seat back height for improved occupant containment."

The summer passed and the early fall came and still there was no rulemaking. But Administrator Toms was back on the Hill with his now familiar projections:

"I would like to describe briefly three of our current proposals for improved bus safety. We are nearing completion of a notice of proposed rulemaking that would require stronger seats and seat anchorages, substantial padding in the immediate seating area, and increased seat back height for improved occupant protection. It would also require the elimination of lethal surfaces."

Apparently the legislators had had their fill of empty promises for in late September Senator Gaylord Nelson and Congressman Les Aspin introduced companion legislation that would require the Department of Transportation to issue standards within a specified time period. After the General Counsel for DOT informed the legislators that the Department was certainly aware of its authority to promulgate rules, he went on to say:

"Among the proposed standards are ones relating to bus seating, window retention and release, and tires. The proposal on bus seating would require stronger seats and seat anchorages, substantial padding in the immediate seat area, and increased seat back height for improved occupant protection. It would also require the elimination of lethal surfaces. *A notice of proposed rulemaking on the proposal will be issued next year.*" (emphasis added)

That letter was dated February 19, 1972. Almost two months later NHTSA issued a press release in which it said:

"NHTSA is preparing several standards that apply to new school bus construction. Our goal here is to increase bus safety in the area of occupant crash protection. The most significant standard would relate to improved occupant containment. We will attempt to improve the hostile environment inside present buses, so that, in a crash situation, occu-

pants are retained within the bus and are protected from serious injury. *One proposed standard, to be issued shortly,* deals with bus passenger seating and crash protection. It would require stronger seats and seat anchorages, elimination of lethal surfaces, substantial padding in the immediate area, and increased seat back height. The purpose is to contain passengers between strong, well padded, high-backed seats during a crash situation." (Emphasis supplied)

A little over a month later in a letter to Congressman John Moss, Chairman—Subcommittee on Commerce and Finance, House of Representatives, Secretary Volpe made the following announcement:

"A third rulemaking action relating to bus passenger safety is underway. *A notice of proposed rulemaking is slated to be published in the next few weeks,* titled, "Bus Passenger Seating and Crash Protection". This notice will propose greatly improved passenger protection in the form of strong, well-padded, high-backed seats to form passenger compartments which will restrain and protect passengers in most crash situations."

The seasons passed with summer turning into fall and again there was no proposal for rule making. In late September of 1972 a newspaper article in a Washington, D.C. paper quoted the agency (NHTSA) as saying that they "had decided to give priority consideration to proposing strong seats with higher backs to protect children in buses."

"In a few more weeks, the agency said, it will have a notice of proposed standards for stronger, safer seats. Then in a few months, a hearing will be held and eventually a seat standard will be announced." (emphasis added)

The reporter observed that "It has taken six years to get this far on a seat standard. No one will venture to guess how long it will take to get a standard on a safer bus structure." Actually the reporter was assuming a great deal in thinking that the agency was getting any nearer to a standard on seats than it had in 1968 when it first recognized the critical need for one. In an October status report of the Insurance Institute for Highway Safety the Institute quoted an NHTSA official as saying:

"NHTSA will soon require schoolbus manufacturers to build buses equipped with high, padded seat backs, . . . a public proposal of the requirement is 'imminent' . . ."

A pattern emerges of promises and assurances of DOT's forthcoming actions which never seem to materialize. DOT's strategy so far has been effective in blunting their critics' charges but surely the patience of the public is limited. The situation is doubly intolerable because NHTSA has created a bottleneck, clearly implying that no other major action on schoolbuses will be undertaken until the seat standards are proposed:

"Asked about his agency's reaction to the (NTSB) board's call for immediate action on schoolbus structural strength, an NHTSA official told Status Report that it would be 'possibly two years' before NHTSA issues a corrective standard. It is giving priority, he suggested, to the area of passenger restraints in school buses, which it feels is the 'biggest single' factor in occupant protection. 'Once we get that out of the way we can go after the other things,' he said . . .NHTSA hopes that the improved seat backs (which they plan to propose a rule on soon) "will negate" the need for seat belts in school buses, he said."

Thus, it would appear that NHTSA's major priority in schoolbus safety is passenger restraints, but NHTSA hopes that the need for restraints will be obviated by improved seats. And we are told that a proposal for rule-making is imminent. Again, words of assurance quell the public outcry for action. But this strategy is losing its credibility.

SENATOR CHARLES H. PERCY'S NEWS RELEASE

WASHINGTON.—Senator Charles H. Percy (R-Ill.) said today on the Senate floor that the Department of Transportation may have misled the Congress about the need for new legislation requiring safety standards for schoolbuses by a fixed date.

When legislation was introduced in Congress last year, Percy said, D.O.T. officials testified that it was "unnecessary" because, they claimed, comprehensive safety requirements were already underway.

"I am disturbed, however, that the Congress was misled," Percy said. "An 'impressive' list of 41 schoolbus safety standards was used as evidence that the National Highway Safety Administration was pursuing the issue vigorously," Percy said. "But a recent independent study of those standards does not support the agency's position," he said.

The study, conducted by concerned members of the George Washington University Law School—organized to Ban Unsafe Schoolbuses Which Regularly Endanger Children (BUSWREC) concluded that as of the start of this year, D.O.T. had issued or proposed only four bus safety standards since 1968 which involved any significant agency effort—and those four have serious limitations.

"The real difference involves the comprehensiveness and effectiveness of the D.O.T. standard—they are neither," Percy said. "Ultimately, it will be the difference between the number of children who are needlessly killed or maimed, and those who would have gone unharmed if protected by adequate safety regulations," he added.

Percy wrote to D.O.T. Secretary Claude S. Brinegar saying, "If NHTSA's presentations have not been duplicitous, at the very best the agency has not been wholly candid about its progress in the area of schoolbus safety."

In his letter to Brinegar, Percy said that he has supported another schoolbus bill this year, despite D.O.T. claims that new legislation was not needed. "I supported that bill, frankly, because I am convinced that NHTSA has abdicated its public responsibility," he said.

"I would ask you to investigate whether there has not been dereliction of duty in the fact that the Department has failed to promulgate certain elementary precautions and regulations to prevent schoolbus accidents," he said in his letter.

Percy noted that in 1966, Congress gave D.O.T. authority to issue safety standards for all motor vehicles, including schoolbuses, and that no new legislation would be needed if agency officials were doing their job.

"After a five year delay, and after the BUSWREC report was issued, NHTSA proposed a regulation for safer bus seats just a little over a month ago. By contrast, seat standards have been in effect for regular autos since 1968," he said.

"And even this seat regulation leaves much to be desired," he said. In addition to the fact that it ignores the recent recommendation by the New York State Automobile Association to that State's legislature proposing a padded seat compartment, including a padded shoulder rail, padded armrest, and high back rearward facing seats, Percy also criticized the stand because:

It does not apply to side-facing seats commonly found on "short route" buses.

It does not adequately provide for seat strength integrity in side-impact situations.

It leaves unmentioned such interior features in the immediate vicinity of passenger seats as overhead hand grasps, hazardous window frame structures, and aisle poles.

Percy said the reintroduced legislation is a "tragic commentary on the carrying out of the (1966 Congressional) mandate that today Congress sees a need for 'kick in the pants' legislation to spur NHTSA into action that is long overdue."

Percy cited an investigation conducted last week by local TV Station WTTG (Metromedia) which revealed that of 72,000 full-time employees in the Department of Transportation only one is assigned full-time responsibility for schoolbus safety.

"Viewing the problem as an example of ill-considered priorities at best if not outright dereliction," Percy noted that in 1971 there were 47,000 schoolbus accidents costing 150 lives and injuring 5,600 persons. He warned that if D.O.T. failed to act soon, he would call for an investigation "in the very near future" within the Senate Permanent Subcommittee on Investigations on which he serves as ranking minority member.

Percy characterized Secretary Brinegar's lengthy response to his letter as "regretfully unsatisfactory," but expressed the hope that now that the schoolbus safety problem has been brought to the Secretary's personal attention, he will give the matter priority consideration.

"From all I can tell," Percy said, "D.O.T. feels that the yellow tin can which we call a schoolbus is not in urgent need of mandatory standards for roll-over protection, efficiency and integrity of joints, emergency exits, floor strength, and elimination or padding of interior poles. I couldn't disagree more."

Secretary Brinegar's response said, "The NHTSA is currently reviewing many of the possible safety countermeasures mentioned by you."

In a separate action, Percy has written directly to the presidents of the major bus manufacturing companies enlisting their suggestions and support for comprehensive Federal safety standards.

SENATOR ERVIN'S STATEMENT ON "SPEECH OR DEBATE" CLAUSE BEFORE JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

Mr. ERVIN. Mr. President, on Wednesday, March 21, 1973, I had the pleasure of appearing before the Joint Committee on Congressional Operations, in connection with the Joint Committee's hearings on the Legislative Role of Congress in Gathering and Disclosing Information.

The protection of Members of Congress from intimidation and harassment by the executive and judicial branches of Government is an integral part of the separation of powers doctrine and is a matter which rightly concerns every Member of Congress.

Mr. President, I ask unanimous consent that my remarks before the Joint Committee on Congressional Operations be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF U.S. SENATOR SAM J. ERVIN, JR., BEFORE THE JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

I want to commend the Joint Committee on Congressional Operations for its initiative in scheduling these hearings. Americans of every ideological persuasion are greatly concerned that the principle of separation of powers, one of the fundamental doctrines incorporated in our Constitution, is on its deathbed. The search for a cure has become absolutely essential if the form of government established under our Constitution is to be preserved. I am confident that this Committee's hearings will underline the imbalance of power that presently exists among the branches of the federal government and

point us toward some remedies to this imbalance.

While there are many important issues currently associated with the principle of separation of powers—including such matters as Executive impoundment of appropriated funds, sweeping Presidential assertions as to the scope of executive privilege, and the troublesome relationship between Congress and the President in the conduct of foreign affairs—I want to concentrate today upon the issues in conflict with respect to the "Speech or Debate" Clause of Article I, Section 6 of the Constitution. This Clause is a vital part of the doctrine of separation of powers inasmuch as it protects members of Congress from intimidation by the Executive and Judiciary through the use of judicial inquiry into legislative activity.

During its last term the Supreme Court decided two cases, *United States* v. *Gravel*, 408 U.S. 606 (1972), and *United States* v. *Brewster*, 408 U.S. 501 (1972), in which the Court set forth its interpretation of this Clause. In my opinion, these decisions pose a dangerous threat to the independence and integrity of the Legislative Branch.

The Senate was properly alarmed about the threat to its independence posed by the judicial inquiry into the activities of Senator Mike Gravel. After the Supreme Court agreed to hear the case, the Senate on March 23, 1972, adopted S. Res. 280 authorizing the filing of an *amicus curiae* brief with the Court on its behalf. The Senate realized that the Supreme Court would interpret the "Speech or Debate" Clause and, in the words of the resolution, feared that the Court thereby might "impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole."

The Senate's fears were well-founded, for on June 29, 1972, the Supreme Court did just that. In handing down its decisions in *United States* v. *Gravel* and *United States* v. *Brewster*, which also involved an interpretation of the "Speech or Debate" Clause, the Court set forth significant restrictions as to the scope of the protection provided Members of Congress by the Clause.

In these two cases the new majority on the Court tinkered with the very heart of the constitutional doctrine of separation of powers. These decisions impair the constitutional independence and prerogatives of every individual Senator and of the Senate as a whole to a degree none of us anticipated when the resolution was adopted.

These two Supreme Court decisions have os restricted the immunity given to Members of Congress by the "Speech or Debate" Clause that they can no longer independently acquire information respecting activities of the Executive Branch nor inform their constitutents of their findings without risking criminal prosecution. Indeed, these decisions raise the clear danger that a Member's speech or vote on the floor may subject him to inquiry by the Executive or Judicial Branch.

The framers of the Constitution wrote the "Speech or Debate" Clause to remedy a very specific evil. Fresh in their minds was the history of harassment by English kings and their judges of Members of Parliament who spoke out in the course of their legislative activities in a manner embarrassing to the Crown. The legislative immunity incorporated in our Constitution is a product of that turbulent period in English history marked by the Glorious Revolution and the beheading of Charles the First. Indeed, one reason Charles the First lost his head was his imprisonment of Members of Parliament who opposed his overseas military campaigns.

Justice Frankfurter related the history and origins of legislative immunity to the "Speech or Debate" Clause in his excellent opinion in the case of *Tenney* v. *Brandhove*, 341 U.S. 367, 372 (1971):

"In 1668, after a long and bitter struggle, Parliament finally laid the ghost of Charles I, who had prosecuted Sir John Elliot and others for 'seditious' speech in Parliament. . . . In 1689, the Bill of Rights declared in unequivocal language: 'That the Freedom of Speech, and Debate or proceeding in Parliament, ought not to be impeached or questioned in any Court or Place out of Parliament.' 1 Wm. & Mary Sess. 2, Ch. 2.

"Freedom of speech and action in the legislature was taken as a matter of course by those who severed the Colonies from the crown and founded our Nation. It was deemed so essential for representatives of the people that it was written into the Articles of Confederation and later into the Constitution. . . .

"The reason for the privilege is clear. It was well summarized by James Wilson, an influential member of the Committee of Detail which was responsible for the provision in the Federal Constitution. 'In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary that he should enjoy the fullest liberty of speech, and that the should be protected from the resentment of everyone, however, powerful, to whom the exercise of that liberty may occasion offence.' II Works of James Wilson (Andrews ed. 1896) 38."

Until these decisions by the present activist majority, the Supreme Court relied heavily upon this history to derive the meaning of the Clause. When I refer to a court as "activist," I mean a court which ignores the history or policy or settled precedents underlying a particular clause of the Constitution or statute. The Supreme Court popularly considered "liberal," as was the Warrent Court, or as "conservative." The vice is the same whatever the ideology—placing the Court itself above the Constitution. It is not interpreting and applying, but rewriting.

An unfortunate example of an activist court at work is also found in the majority opinion in *United States* v. *Brewster*, written by Chief Justice Burger who was joined by Justices Stewart, Marshall Blackmun, Powell and Rehnquist. There the majority concluded that the English history which gave rise to Artcile I, Section 6 of the Constitution was no longer dispositive in interpreting the "Speech or Debate" Clause. It was satisfied that "our history does not reflect a catalog of abuses at the hands of the Executive that gave rise to the privilege in England."

The Court has conveniently forgotten much about American history. During the infamous "alien-sedition" period the Federalist Administration used the judiciary to intimidate anti-Federalist Congressmen. For example, in 1798 Congressman Matthew Lyon was convicted and sentenced before a biased Federalist judge who was motivated by purely partisan political considerations. The judge would not even allow Lyon time to prepare his defense. In 1797 a grand jury under the supervision of another Federalist judge, conducted an inquisition of an anti-Federalist Congressman for "sedition" in sending a newsletter to his constituents critical of the Administration's war policy. Thomas Jefferson considered the grand jury's action to be a blatant violation of the "Speech or Debate" Clause and suggested that the grand jurors should be arrested and imprisoned for this "great crime wicked in its purpose, and mortal in its consequences."

Of course, even if the Court were correct about its American history, its conclusions would be of little comfort. My fears would not be allayed by the knowledge that until now most Presidents have exercised great restraint in hauling legislators they do not like into court. Effective separation of powers between branches of government must rest not only upon good faith and great expectations, but also on the firm bedrock of Constitutional principles.

The Constitution provides two methods by which Congressmen can be held accountable for their misdeeds. They can be disciplined by the body of which they are a members and they can be disciplined by the electorate at the next election. These means of holding Congressmen accountable for misbehavior do not compromise the independence of the Legislative Branch.

Apparently, the Supreme Court's majority in the *Brewster* case was not satisfied with what the Founding Fathers provided for in this respect. This majority ignored the explicit words and policy of the Constitution in favor of what it believed to be a better procedure for dealing with alleged misdeeds by members of Congress. In so doing, the Court's majority in *United States* v. *Brewster* ran roughshod over the "Speech or Debate" Clause.

Earlier Courts, concerned about the independence of Congress, have felt it necessary to give the Clause the broadest possible interpretation. Chief Justice Burger, in his majority opinion in *United States* v. *Brewster*, dismissed these prior judicial expressions. He wrote that, "the contention for a broader interpretation of the privilege draws essentially on the flavor of the rhetoric and the sweep of the language used by the courts, not on the precise words used in any prior case, and surely not on the sense of those earlier cases, fairly read." He thus rationalized away the important policies and principles underlying the Clause which have been recognized by all Supreme Courts until this one by the simple and unconvincing device of labelling the Court's past precedents as mere rhetoric and sweeping language.

The *Brewster* case involved the alleged solicitation and acceptance of a bribe by former U.S. Senator Daniel B. Brewster of Maryland. A 1969 indictment charged that Senator Brewster as a member of the Senate Post Office and Civil Service Committee had been influenced in his actions on legislation proposing changes in postal rates as the result of an alleged $24,000 bribe from the mail-order company of Spiegel Inc. The District Judge dismissed the indictment against the former Senator on the ground that he was immune from prosecution under the "Speech or Debate" Clause. The Supreme Court reversed by simply concluding that the bribery could be proved without relying on the evidence of what the Court defined as protected activity—the actual vote on the postal rates.

The *Gravel* case involved Senator Mike Gravel's reading of the "Pentagon Papers" at a meeting of the Senate Public Works Subcommittee on Public Buildings and Grounds and the inclusion of the documents into the Subcommittee record. The case arose out of the attempt by a Federal grand jury in Boston to inquire into the matters relating to the public disclosure of the Papers, and its subpena of an aide to the Senator. Senator Gravel moved to intervene in the aide's motion to quash the subpena—asserting immunity under the "Speech or Debate" on behalf of the aide.

Although the Senator failed to quash the subpena against this aide, the lower Federal courts granted a protective order precluding questioning of the Senator or any member of his staff about the Subcommittee meeting, including the acquisition and subsequent publication by Beacon Press of the Papers and the proceedings before the Subcommittee. The Court of Appeals based its order on its conclusion that the aide and Senator Gravel enjoy similar immunities under the Clause and on a common law privilege akin to that accorded Executive and Judicial officials to protect them from liability for official conduct.

There were several different issues before the Court in each of these two cases. However, the fundamental question facing the Court in both cases was the same, a question

of jurisdiction—whether inquiry into certain behavior of Members of Congress could be conducted by the Executive and Judicial branches or whether the separation of powers concept and the "Speech or Debate" Clause require that the inquiry remain the exclusive responsibility of the Legislative Branch.

The general question of what activity is protected by the "Speech or Debate" Clause and, therefore, is within the exclusive jurisdiction of Congress took three forms in these cases.

First, in the *Gravel* case, the Court decided whether aides to Members of Congress enjoy the same immunity under the Clause as Members themselves.

Second, in *Gravel* and to a certain extent in Brewster, the Court determined what was "legislative activity" and thereby protected by the Clause. More precisely the Court determined whether a Member was engaged in legislative activity when he acquired information on the activities of the Executive and informed his constituents of his findings.

Finally, in *Brewster* the Court was concerned with the extent to which a Federal court could indirectly question a Senator on concededly protected activity—the casting of a vote—without violating the Clause.

The Court decided the first issue—whether aides enjoyed the same immunity as their legislator-employers—in the affirmative. It concluded that the immunity of an aide is identical to that of the Senator. In the Court's words the Clause provides immunity to the aide, "where his conduct would be a protected Legislative act if performed by the Member himself."

Unfortunately, this determination by the Court is of little significance because what the Court gave with one hand it more than took away with the other.

While the Court concluded that an aide enjoys immunity equal to that of his Senator, it so restricted the immunity enjoyed by the Senator as to make it largely worthless to the Senator or his aide. It decided, in the *Gravel* case, that the acquisition of information in preparation for a legislative hearing and the publication of the hearing thereafter are not protected activities. And, in *Brewster*, it held that even a protected activity such as voting is still subject to inquiry by the Court or the Executive Branch.

Under the Supreme Court's view, no activity is protected except the narrowly defined casting of a vote or the giving of a speech before the House or in Committee. No preparatory acts leading up to a protected activity would be immune under the Clause. A Senator would not be protected when he obtains information for use in a speech or a hearing or when he attempts to bring the result of his legislative activity or that of the whole body to the attention of the public. Further, even the narrow range of activity still protected after these decisions—voting and speaking on the floor—is subject to question if the Executive or the Judiciary can find a possibility of an illegal act. So, in effect, not even voting and official speaking are any longer covered by the Clause.

In *Gravel* the Court excluded acquisition and republication from the protection of the "Speech or Debate" Clause because these matters did not fall within its new artificial definition of "legislative activity." According to the Court the only activity which is "legislative" and therefore entitled to protection is that which is "an integral part of the deliberative and communicative process by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House." In other words, five of the Justices of the Supreme Court, none of whom has spent any time in Congress, have concluded that the acquisition of information for hearings and the communication of the results of hearings to the public are not "integral" parts of the legislative process.

This definition of "legislative activity" reflects a lack of appreciation of the things essential to the legislative process. As we all know, the formulation, consideration and passage of legislation involves much more than the introduction of a bill, a few speeches and a vote. The Washington Post, in an editorial critical of this decision, on July 15, 1972, made this point quite forcefully:

"This decision is extremely troubling because it declares, in effect that the only communications essential to the legislative process are those among congressmen. This relegates to a lesser realm the constant, churning traffic in ideas and opinions between congressmen and citizens. Yet this communication is central to the idea and functioning of representative government, not peripheral as the court seems to think."

To my mind, Chief Justice Parsons had a much more realistic view of the legislative process when he defined the scope of legislative activity in the case of *Coffin v. Coffin*, 4 Mass. 1, 27 (1808):

. . . for every thing said or done by him, as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules.

According to Chief Justice Parson, "legislative activity" is what we as Members of Congress do as representatives of our constituents. If we feel that we are representing our constituents by investigating the Executive Branch's conduct of a foreign war, as anti-Federalist Congressmen did during Federalist Administrations in the late 1700's, that is legislative activity and beyond inquiry in a Federal court. If we want to inform our constituents of the findings of our investigations, that is also legislative activity and beyond inquiry by a Federal court. Of course, we are not unaccountable in the performance of these legislative activities. Our constituents can vote us out of office if they decide that any of our activities do not represent their interests. And the Senate can establish rules and penalize us for activity it deems inappropriate. But the Supreme Court can contrive no definition which will convince me that it is appropriate for any Federal court or grand jury to inquire into such legislative activity as obtaining information about the functioning of the Executive Branch and informing the public of the actions of its government.

What I have just stated has been the unquestioned law of this land for almost two centuries. Indeed the Supreme Court has frequently relied on Justice Parson's formulation (e.g., *Kilbourne* v. *Thompson*, 103 U.S.C. 163 (1880)).

There is very disturbing language in these opinions, language which illustrates a lack of appreciation of what is essential to the legislative function. Although the *Brewster* decision does not turn on what is and what is not legislative activity, the majority felt compelled to expound on the subject. Despite the fact that it is all dicta, the Court's reasoning reveals its attitude toward Congress and perhaps explains the real reason why the Court stripped Congress of immunity for acquisition and publication in *Gravel*.

In *Brewster*, the Court expressed its view that Congress is incapable of disciplining its own Members in a wise manner and that Congress could not provide all the protections that a Federal court could in disciplining misbehavior.

But to my mind, the most serious affront to this body occurred in the Court's distinction in *Brewster* between protected and nonprotected activity. The Court drew a distinction between what it determined to be "political" activity and "legislative" activity. The majority would not protect what it labels as "political" activity or "errands" performed by Congressmen:

These include a wide range of legitimate "errands" performed for constitutents, the making of appointments with government agencies, assistance in securing government contracts, preparing so-called "news letters" to constitutents, news releases, speeches delivered outside the Congress. . . . They are performed in part because they have come to be expected by constituents and because they are a means of developing continuing support for future elections.

In essence, the majority believes that those activities we do on behalf of our constituents are for our own personal advancement, that is, for increasing our chances of re-election. It regards them as "political" and therefore not entitled to protection. It demeans many legitimate acts we perform in our representative capacity or as ombudsmen between the people and their government by labeling them as "errands" and assuming that they are performed for base political reasons.

As disturbed as I am about the ruling in *Gravel* and dicta in *Brewster* stripping immunity from acquisition and republication, I fear that the Court may have sounded the death knell for the "Speech and Debate" Clause in its holding in *Brewster* permitting indirect inquiry into the motives for a Member's actual speech or vote in the floor or in committee. The Court in *Brewster* split over whether inquiry into a nonlegislative act (bribery in this case) could be conducted without indirectly bringing into question a legislative act—the casting of a vote in committee or on the floor. Justice White, who wrote the majority opinion in *Gravel*, thought that inquiry into the former was for all practical purposes an inquiry into the latter and filed a vigorous dissent in *Brewster*.

In writing the majority opinion in *Brewster*, Chief Justice Burger was faced with Justice Harlan's fine opinion in the case of *United States* v. *Johnson*, 383 U.S. 169, a 1966 case with facts almost identical to *Brewster*. In that case the Court frustrated a prosecution of a Congressman for giving a speech in return for a bribe, while in *Brewster* the prosecution was for the casting of a vote in return for a bribe. Justice Burger distinguished the cases by concluding that the *Johnson* Court would have been satisfied if the government had proven the bribe and a promise to give a speech without offering the speech as evidence of the bribe. Therefore, the Chief Justice reasoned, the prosecution in *Brewster* could proceed if the government would offer only the promise to vote and not the vote itself. Ironically, almost the same argument was offered by the Justice Department in the *Johnson* case and was explicitly rejected by Justice Harlan.

In Justice White's view an inquiry into the bribery would of necessity touch upon matters which are, beyond question, within the scope of the privilege—that is the vote itself and the Senator's motives in casting the vote. In the Justice's own words:

"Insofar as it charged crimes under 18 U.S.C. § 201(c)(1), the indictment fares little better. That section requires proof of a corrupt arrangement for the receipt of money and also proof that the arrangement was in return for the defendant 'being influenced in his performance of any official act . . . . Whatever the official act may prove to be, the Government cannot prove its case without calling into question the motives of the Member in performing that act, for it must prove that the Member undertook for money to be influenced in that performance."

Justice White recognized the Chief Justice's logic for what it was—mechanistic and artificial—a logic which fails to recognize the fundamental principle underlying the "Speech or Debate" Clause.

We could look upon these decisions fatalistically. We might resign ourselves to the view that the unbridled expansion of Executive Privilege and the withering of legislative privilege are part of an inevitable trend of aggrandizement of power in the Presidency evidenced throughout American history. But if we do so, we profane our oaths to uphold the Constitution and indeed we may preside over the funeral of our system of government.

If we do not respond rationally and firmly to the constitutional crisis wrought by these decisions, the doctrine of separation of powers may die a quiet and ignoble death. The Congress may find itself in the same situation as Parliament found itself under the reign of Charles the First. That crisis led to revolution in 1640 and a total restructuring of the English system of government. Continued inaction on our part may lead to consequences no less grave for our constitutional system. As Woodrow Wilson once warned, warfare between branches would be fatal to the continuation of democratic government.

SHENYANG ACROBATIC TROUPE

Mr. JAVITS. Mr. President, April 18 will be the date of a historic TV broadcast. The Shenyang Acrobatic Troupe of the People's Republic of China will perform that evening for 90 minutes. This special event marks a significant opening in the door of cultural exchange between the people of China and the people of the United States.

The bringing of this engaging TV performance to the American people is the result of the efforts of David J. Mahoney, chairman and president of Norton Simon, Inc. Mr. Mahoney witnessed the performance of the Shenyang Acrobatic Troupe when it was in the United States. He decided that all the American people should have the opportunity to witness performances that took place in New York; Washington, D.C.; Chicago and Indianapolis. His decision has been translated into action and on April 18 the TV performance of the Shenyang Acrobatic Troupe will be an experience for everyone to share.

Mr. Mahoney's introductory remarks to the TV special are as follows:

"President Nixon's dramatic visit to the People's Republic of China last year, brought about a new chapter in our relationships with China. And we at Norton, Simon, Inc., are proud to be part of this move toward friendship through understanding.

"And so, we are particularly pleased to present the renowned Shenyang Acrobatic Troupe—the first performing arts group from the People's Republic of China to visit the United States. I first heard of the Shenyang Troupe when I was in China last November. Not long after, they conducted their first tour of this country, to standing room only audiences. Wherever they played—Chicago, Indianapolis, New York and Washington's Kennedy Center, where tonight's show was taped—the people loved it. And like everyone who's seen the show, I found them fascinating.

"Chinese acrobatics is one of the world's oldest art forms, going back to the second century before Christ. Today, acrobatics are taught in every Chinese primary school and virtually every province has its own troupe. The Shenyang Troupe, which is named for the city in northeast China, is the most celebrated acrobatic troupe throughout the world.

"It is our sincere hope that the Shenyang Acrobatic Troupe presentation will be just the first in a long series of cultural and educational exchanges between the people of the United States and the People's Republic of China."

SCHOOL FINANCING IN MINNESOTA

Mr. HUMPHREY. Mr. President, the State of Minnesota under the leadership of Gov. Wendell Anderson has had the courage and vision to face up to the requirements of financing quality education. The Governor led the fight to establish a financing system that provides a fair and equal finance base for all school districts in the State of Minnesota.

The article by the respected columnist Carl T. Rowan entitled "School Financing: Minnesota Moves" describes the program that was outlined by the Governor and the action taken by the State of Minnesota.

I ask unanimous consent that the full text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SCHOOL FINANCING: MINNESOTA MOVES

(By Carl T. Rowan)

ST. PAUL, MINN.—An honest-to-goodness revenue sharing plan would not be the Trojan-horse disaster that the Nixon scheme is if more states and local officials showed the guts and farsightedness being manifested here in my old home state.

A lot of mayors and some governors are now screaming that Mr. Nixon has suckered them on revenue sharing. They say he gives a dollar with one hand and takes two with the other by hatcheting social programs previously financed by Washington.

Many of these local officials deserve just what they are getting, because they always viewed revenue sharing as a way to get money without facing the political risks of raising local taxes or revising their own spending priorities.

A lot of poor people and minorities are screaming about revenue sharing because they fear that states and cities cannot, or will not, grapple with immense social problems the way the Federal Government could.

Their fears are well justified. Most states and cities never lifted a finger to deal with the problems of hunger in general, or school lunches in particular, until the national government moved in. What state or city ever made a real go at compensatory education for the culturally and educationally deprived, or a "head start" program for four-year-olds?

The challenge these last several years has not been whether local government would show initiative in the social fields; the question was whether they could be forced to spend federal allocations on the poor for whom they were intended instead of diverting monies to luxuries and frills for the already affluent.

Yet, if more state officials had the good sense and the guts of Minnesota's young Gov. Wendell R. Anderson, revenue sharing would not be such a sham and America's needy would have less reason to be suspicious.

Anderson has been bold enough to raise taxes, something that was political suicide for his predecessors. He has shown a genuine concern for the education of the poor and the handicapped—and has made Minnesota the foremost example of progress toward a public education financing system that is fair to rich and poor alike.

It was just under two years ago that the California Supreme Court ruled that the quality of public school education available to a child could not be conditioned on the property wealth of the local school district because this automatically meant that one child got a super education while another child was neglected.

A federal appeals court then confirmed the unconstitutionality of the old "real estate tax" system of financing public schools. But just a few days ago the U.S. Supreme Court ruled, 5–4, that that California judge and the appeals court were wrong.

But Gov. Anderson had seen enough in his state to conclude that the property tax system was unjust. The suburban Anoka school district was levying a tax of $581 on a $20,000 home so it could spend $536 per pupil; yet the suburban Golden Valley district levied only $369 on a similar home in order to spend $837 per pupil.

Democrat Anderson said he "felt it absolutely essential to try to do something about school financing in Minnesota."

What he did was badger a Republican-controlled legislature into raising the liquor tax 25 percent, the tax on a pack of cigarettes by a nickel, the sales tax by a penny (a 3⅓ percent boost). He increased the income tax and wiped out the deductibility of federal taxes paid by corporations.

By raising these taxes, the legislature could reduce real estate taxes by an average of 11.5 percent and still come up with $600 million in new money. This money enabled the state to increase its support for the maintenance costs of education from 43 percent in 1971 to 70 percent today.

The result is that the $20,000 homeowner in Anoka now is taxed only $359 to provide $627 per pupil, while the Golden Valley resident is taxed $397 to provide $1,031 per pupil. The Anderson plan has made great progress at equalizing the taxes, but the richer districts continue to boost expenditures faster than poor ones.

Anderson is now pressing a Democrat-controlled legislature to increase the budget by $700 million for the next two years, with about $250 million of the increase going to education. He wants the legislature to commit the state to raising per-pupil expenditures in all the poorer districts to the statewide average within six years.

Minnesota officials say they are handicapped because they have no idea what the federal revenue sharing package for education will do for or to the state—if Congress approves such a package.

But this is one place where officials are moving on their own to at least try to do what is fair for people and good for the state.

REPORT TO KANSAS

Mr. DOLE. Mr. President, I ask unanimous consent that the text of my latest report to the citizens of Kansas be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

WASHINGTON NEWSLETTER

(By BOB DOLE of Kansas)

DOLE WARNS OF MAJOR EFFECTS OF FUEL SHORTAGE

Citing the inability of seven independent Kansas refineries to obtain sufficient crude oil supplies for maintaining capacity fuel production, Senator Dole has warned of possible major effects on agriculture and consumers.

In a letter to President Nixon, also signed by the other members of the Kansas delegation, Dole pointed out that these refineries, particularly cooperatives, which are major suppliers of agricultural fuels, are producing at 1.3 million gallons below their capacity

each day because they cannot obtain enough crude oil.

In a statement on the Senate floor, Dole said, "If farmers cannot get fuel for their planting, they will be unable to meet the rising demand for their crops and products—with the certain outcome of severe dislocations in our rural economy and food prices being driven to new heights."

The Senator said "while immediate action is imperative, a reallocation of existing crude oil supplies is, however, not a complete long or short term answer. Many other questions involving increased supplies, more efficent use, and better planning must be taken into account as we deal with the broad outlines of a comprehensive national energy policy."

Dole urged the President to "continue all efforts to secure immediate relief" for these shortages by increasing the supplies of crude oil made available to these refineries.

93D CONGRESS TO CONSIDER MAJOR LEGISLATIVE ISSUES

Many issues will be considered during the first session of the 93rd Congress. Some of the major items will be:

Federal-Aid Highway Act of 1973—This bill was reported out of the Senate Public Works Committee on March 1. The proposed highway legislation would authorize spending of nearly $18 billion over the next three years.

Federal Housing Program—The loan insurance authority of the Federal Housing Administration expires June 30.

Health Insurance—Several proposals for National Health Insurance plans will be considered. The Subcommittee on Health of the Finance Committee, of which Senator Dole is a member, will be the first to consider the legislation.

No-fault Insurance—A No-Fault Insurance Plan was reported in 1972 but not considered by the Senate.

Wage-Price Controls—The President's power to enforce wage and price controls expires April 30.

DOLE SEEKS HEARINGS ON USER FEES

Senator Dole has joined with 15 other Senators in requesting Senate hearings on the proposed User Fees to be collected by the Army Corps of Engineers at water resource development projects.

Dole has held a series of meetings with Major General J. W. Morris of the Army Corps of Engineers and with other Senators concerning the User Fees proposal which was published on February 1.

Following a meeting on March 14, Dole indicated the following points had been clarified:

1—There will be no Corps of Engineers fees whatsoever for the use of private boats on the lakes in question or for boat launching ramps where no special mechanical or hydraulic equipment is available.

2—Only use fees comparable to those charged at similar sites by other federal agencies (U.S. Forest Service and Department of Interior) would be charged.

3—Preliminary studies indicate that overnight fees at approximately 90% of the camp and trailer sites, where fees have customarily been charged by the Corps since 1965, would be less than $2.00—significantly below the $4.50 maximum mentioned in the published proposal.

However, Dole said there was serious disagreement with the Corps of Engineers over the intent of Congress regarding the collection of fees at day use recreation areas.

The letter requesting hearings was sent to the Senate Interior Committee and to the Chairman of the Parks and Recreation Subcommittee.

DOLE PROPOSES EXTENSION: SENATE HOLDS HEARINGS ON FARM PROGRAMS

Hearing began February 27, in the Senate Agriculture and Forestry Committee on farm programs. Senator Dole has introduced legislation to extend present farm programs for five more years. Working with Senator Milton Young (R-N.D.), Dole drafted the bill. Several Senators from farm states are cosponsoring it.

The bill was designed to assure the continuation of the wheat, feed grains, dairy and wool programs and the Food For Peace Program.

Dole said, "Kansas farmers have generally indicated to me that they are pleased with these programs, they enable them to plant those crops which are most profitable to their particular operation."

Two factors of the present farm program which Dole believes require a closer look and may result in amendments to the bill are:

—the method of determining domestic marketing certificate payments to a recurrence of the inequities resulting from the Russian wheat sale of last summer; and

—proven yield provisions for wheat allotments have several weaknesses and need close scrutiny in considering new farm legislation.

The Senate hearings are expected to continue through April.

DOLE ADDS KANSANS TO SENATE STAFF

Senator Dole has made some recent additions to his Washington staff. The new staffers, all Kansans and graduates of Kansas universities are:

Judy Ann Barnes, 1970 graduate of the Washburn University School of Law. Judy is from Great Bend and attended Fort Hays Kansas State College as an undergraduate.

Becky Sinclair, 1970 graduate of Kansas State University with a B.S. in Speech Pathology. Becky is from Salina.

William J. Daley, 1970 graduate of Washburn University with a B.A. in Political Science. Bill is from Parsons.

George E. Speer, 1971 graduate of Kansas University with a B.A. in History. George is from Kansas City, Kansas.

RESOLUTION INTRODUCED TO INVESTIGATE VIETNAM WAR

Senator Dole has introduced in the 93rd Congress a resolution to create a Joint Congressional Committee to investigate the causes and origins of U.S. involvement in Vietnam.

Dole proposed that a joint committee, appointed by the Speaker of the House and the President of the Senate conduct a thorough study and investigation of United States involvement in Vietnam from 1945 to the present.

When proposing the resolution Dole said, "When the battle flags have all been brought home and America has recovered her sons, and the question is asked, 'How did it all begin?' A people such as ours cannot simply reply with weary indifference, 'Ah if one only knew.'"

"We must know. We have paid bitterly for whatever wisdom there may be in this longest war. And if from that wisdom, we may get peace and reconciliation—and if by that wisdom we may prevent the loss of other, future lives—then should we not seek that wisdom? I think we must."

In a reply letter dated February 23, 1973, Senator J. W. Fulbright, Chairman of the Foreign Relations Committee, wrote: Dear Senator Dole: examination of the origins of the war is called for. The staff of the Committee has issued a few pamphlets on this subject, but we have not as yet undertaken a full-fledged investigation, such as called for by your resolution.

I appreciate your writing me.

(s) J. W. FULBRIGHT.

DOLE APPOINTED TO FINANCE—SENATE RANK INCREASES

In the 93rd Congress, Senator Dole will be the 67th ranking member of the Senate.

On his major committees, Dole is the 2nd ranking Republican on the Agriculture and Forestry Committee and 5th on the Finance Committee.

In addition, Dole is the 3rd ranking Republican on the Select Committee on Nutrition and Human Needs and 3rd on the Select Committee on Small Business.

Senator Dole is on five of the six subcommittees the Agriculture and Forestry Committee. They are:

Agricultural Credit and Rural electrification—

Agricultural Production, Marketing and Stabilization of Prices—

Agricultural Research and General Legislation—

Rural Development—Foreign Agricultural Policy—

Dole's appointment to the Finance Committee makes him the fourth Kansas Senator to serve on that Committee since 1919.

The first was Charles Curtis, who was a member between 1919 and 1929. While a member of the Committee, Senator Curtis was majority leader and resigned in 1929 to become Vice President of the United States.

Senator Arthur Capper was the next Kansan to serve on the Committee; he was a member from 1935 to 1942.

In 1953, Senator Frank Carlson became a member, he served on the Finance Committee until his retirement in 1968.

Dole has been appointed to three key subcommittees of the Finance Committee. They are:

Health—this subcommittee will deal with major health issues such as Medicare, Medicaid and Health Insurance proposals.

Private Pension Plans this Subcommittee will deal with the rights of the individual and the guarantees of pension plans.

International Finance and Resources—this subcommittee will be concerned with taxation of overseas income, foreign investments and energy.

REAPPOINTED TO U.S. COMMISSION FOR UNESCO

Senator Dole has been reappointed to the U.S. National Commission for the United Nations Education, Scientific and Cultural Organization (UNESCO).

The U.S. National Commission for UNESCO is a 100 member body of citizens and non-governmental organizations which advises the Department of State on matters of International science, culture, education and communications.

SENATOR TESTIFIES ON U.S. POSTAL SERVICE

On March 8, Senator Dole appeared before the Senate Post Office and Civil Service Committee to testify on the operations of the U.S. Postal Service.

Dole told the Committee that he had received more complaints about mail service than any other government service provided to Kansas. He said that problems most often mentioned included:

The consolidation of rural routes

The reduction of Post Office personnel and operating hours

The possibility of additional postal rate increases

The possible discontinuance of Sunday delivery service to third and fourth class Post Offices.

Dole said that all Kansans, whether from a large or small community, have a right to expect efficient mail service and the U.S. Postal Service should be committed to delivering this service.

"The U.S. Postal Service cannot be viewed as just another business," Dole said, "rather, it must be considered as a public service providing both commercial and social services on which every community relies."

Postmaster General E. T. Klassen, a former Kansan, was present during Dole's testimony. Klassen said he is familiar with the problems facing rural residence in regard to lack of efficient postal service and that he appreciated the Senator's testimony. However, he added, it will be some time before all of the problems can be corrected.

DOLE URGES JUDGESHIP FOR KANSAS

Senator Dole has urged the Senate Subcommittee on Improvements in Judicial Machinery to authorize an additional Federal Judgeship for the District of Kansas.

Dole told the Subcommittee that, "the District of Kansas has been identified, by a four year survey of the Administrative Office of the United States Courts, as one of the districts where the workload had increased to the point that a new judgeship was necessary."

Dole said two factors add considerably to the volume of work in the District of Kansas.

1—The presence of the United States Penitentiary at Leavenworth and the stream of prisoners petitions, challenges and appeals flowing out of Leavenworth into the Federal Court in Kansas.

2—The unusually high ratio of criminal cases tried by juries, Dole said he was, unaware of the cause of this but, "anyone who has ever practiced as either a prosecutor or defense attorney can verify, a jury trial is infinitely more time-consuming than a case tried before a Judge.

HEARINGS REQUESTED ON DATE CHANGE FOR VETERANS DAY

Senator Dole has requested the Senate Judiciary Committee to hold hearings on his proposal to reinstate November 11, as Veterans Day. In 1971, Veterans Day was changed to the fourth Monday in October in lieu of November 11.

The Kansas Senator said that Veterans Day is a day of great significance to all Americans and changing the legal holiday date cannot erase its significance.

Dole said, "An extra three-day weekend is little justification for slighting this Nation's tribute and homage to the men and women who have made free holidays possible at all.

THE U.S. PRESENCE IN CAMBODIA

Mr. FULBRIGHT. Mr. President, I noted on the back page of the press on Monday, March 26, a statement that U.S. Air Force planes had just completed the 19th consecutive, daily B–52 bombing attack in Cambodia. Yesterday it was so close it rattled windows in Phnom Penh.

The news from Cambodia is, except for the recent attack on the Palace in Phnom Penh, so relegated to the back pages that the American people are not aware of what military force is being used in their name in that country.

I believe it is imperative that the administration make a public statement focused on these three questions:

First. What are American forces doing in Cambodia?

Whom are we striking? Whom are we supplying?

How many Americans are in Cambodia, in or out of uniform?

Second. Why are we carrying on these activities in Cambodia?

Are we protecting American forces there?

Are we there to support Lon Nol and the form of government he represents?

Has the executive branch made some vague "commitment" to Lon Nol?

Third. By what authority is the United States carrying on any military activities in Cambodia?

By some wild stretch of the imagination has the administration projected SEATO as a legal basis for our military presence?

Does the President assert—as the Kings of old—that as Commander in Chief he can order American forces anywhere for any purpose that suits him?

Unless a full, forthcoming statement is made shortly, I see no course other than a full public hearing with the Secretary of State to explore this subject in depth.

ANNUAL BROTHERHOOD AWARD TO MANUEL JARA, FORT WORTH, TEX.

Mr. BENTSEN. Mr. President, I wish to make a few remarks about an outstanding organization, and about an outstanding citizen of Texas who will be honored by that organization within a few days.

The organization is the National Conference of Christians and Jews, which has worked tirelessly since 1928 to advance the ideas of brotherhood and respect for all men among Americans. The goals of the NCCJ represent the highest values of our civilization. Its methods, devoid of the harshness and stridency which lead to divisiveness, are effective. And, its accomplishments are many.

The citizen of Texas to whom I refer is Manuel Jara, of Fort Worth. On March 29, the West Texas Region of the National Conference of Christians and Jews will present to Mr. Jara its annual brotherhood award. And, judging from his record of service to his community and Nation, it would be difficult to imagine a more appropriate recipient. His energy seems boundless, the list of his activities endless.

Manuel Jara now serves as president of Catholic Social Services for Tarrant County, Tex. and of the International Good Neighbor Council in Fort Worth. He is a past president of the Community Action Agency of Tarrant County.

He has also made his services available to an immense range of worthy causes, including the National Conference of Christians and Jews, which he serves as a director; Tarrant County Child Study Center; Easter Seal Society; Arthritis Foundation; Tarrant County United Fund; North Texas Region of American GI Forum; Tarrant County Drug Abuse Council; and Big Brothers of Tarrant County.

Manuel Jara has been honored by the President of the United States for his work for the Selective Service as an adviser to registrants; he has been honored by the Director of the U.S. Office of Economic Opportunity; and he has been praised for his efforts by the Governor of Texas, the mayor of Fort Worth, the county judge of Tarrant County, the American GI Forum, the Governor of the Mexican State of Jalisco, and the mayor of Guadalajara, Mexico.

SENATOR WILLIAM BENTON

Mr. RIBICOFF. Mr. President, March 19, 1973, I announced in the Senate that former Senator William Benton, of Connecticut, had died on March 18. Bill Benton was a brilliant man whose talents were diverse, ranging from advertising to business to politics. He was a great American and his Nation and the State of Connecticut benefited enormously because of his efforts. The Hartford Courant on March 21 and the Hartford Times on March 26 carried editorials on Bill Benton. I ask unanimous consent that the editorials be printed in the RECORD at this point along with an article about Bill Benton from the New York Times of March 25.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILLIAM BENTON—AN APPRAISAL

(By Sidney Hyman)

William Burnett Benton, Yale '21, worked a year for the National Cash Register Company and was then told by his strongwilled mother—a school teacher—to enroll in the Harvard Law School. But for the first time in his young life, he defied her by entering instead the world of advertising.

When news of his waywardness in New York reached his mother in St. Louis, she compressed her outrage into a one-sentence letter: "I am appalled to learn that you are going to waste yourself in a business which does nothing except say that Palmolive soap is a good soap."

Only 14 years of Mr. Benton's life, which ended last week on the eve of his 73d birthday, were tied to advertising. And of these, only six were spent with Benton & Bowles, which he and Chester Bowles founded in July, 1929 and from which he voluntarily resigned, as planned, in 1935.

He was 35 at the time, and his break with the business was irrevocable.

Yet no matter what he did afterward, and did with distinction in different fields—in education, publishing, national politics and diplomacy—sniffish people declassed his worth, saying that he was "just another flim-flam Madison Avenue type."

Mr. Benton, on his part, never apologized for his time in advertising. Many of his best achievements were rooted in the million dollars paid him in installments for the stock he sold back to Benton & Bowles when he resigned from the firm.

The money financed his high-risk ventures involving the purchase or start of a cluster of companies that were to make him a worldwide force in mass education, and only incidentally one of the richest men in the United States.

When Mr. Benton embarked in 1922 on his short but lucrative career in advertising, New York had more agencies than Chicago, but Chicago was where the most creative minds in the field were to be found.

Most of the valedictorians of the "Chicago school" were trained at Lord & Thomas, whose head and sole owner was Albert D. Lasker. Mr. Lasker, all imperious, exciting, excitable and wacky genius, was to the advertising world of the day the same protean force that John H. Patterson of the National Cash Register Company was to the world of "scientific sales management."

To expose himself to what Mr. Lasker had to teach, Mr. Benton moved from New York to Chicago in the mid-nineteen-twenties and into a job at Lord & Thomas. Mr. Benton gave Mr. Lasker what the agency head wanted and he absorbed from Mr. Lasker what he needed to know before he brought his own firm of Benton & Bowles to birth.

There were particular reasons why that firm became after six years of life one of the largest single-office advertising agencies in the United States.

First, the Great Depression of the nineteen-thirties forced corporations to examine their advertising policies and to welcome new ideas. The need for new ideas brought creative men to the forefront in place of the old-line account executives who had previously dominated the advertising business.

It was a time when other young men like Mr. Benton and Mr. Bowles, originally

trained as copywriters, founded their own advertising agencies or took over the direction of existing firms.

A second element in the success of Benton & Bowles was Mr. Benton's introduction into New York of the consumer research surveys that he had accidentally devised at Lord & Thomas in Chicago. These gave client prospects the hope of being more scientific in deciding how to sell and advertise their products in a market where effective consumer purchasing power was drastically curtailed.

The rough-hewn surveys Mr. Benton introduced into New York were later eclipsed in polish and significance when Raymond Rubican, the creative head of one of the most admired newer advertising agencies of the day, turned to the academic world for help. At Northwestern University on the edge of Chicago, he found a young sociologist named George Gallup, who was perfecting techniques for polling public opinion.

Another element in the success of Benton & Bowles involved innovations in the use of radio.

The innovations included the first use of live audiences and the first cueing of audiences with placards reading "laugh" or "applaud."

The commercials were also something new. Previously, during a "pause for a commercial announcement," a "voice from the sponsor" would read a few paragraphs of advertising. This was changed after Benton & Bowles launched the "Maxwell House Show Boat."

The actors drank coffee, smacked their lips and tinkled their cups to give listening audiences around the country an acoustical substitution for what their eyes could not see. These innovations were followed by a Benton invention of the singing commercial—something for which he later did penance.

Above all, Mr. Benton's success in winning business away from old and large advertising agencies lent credence to a theory he advanced and proved by his later success with other enterprises at which big companies had faltered or failed.

"Every great corporation," he said, "is struggling with many failures buried down in its soft underbelly, failures awaiting development by enterprising men with original ideas. If I were a young man in pursuit of wealth I would look for and compete with the big corporations at their weak points.

"I am not talking about a corporation such as the Commonwealth Edison Company. You don't compete with monopolies when you are a young man, though you try to create and own them when you get older. But as a young man, I would look for the soft spots in the business structure of the great nonmonopolistic corporations and start my own business in one or another of these areas."

WILLIAM BENTON

William Benton, former United States Senator from Connecticut, died quietly in his sleep March 18 at his New York City apartment. It may come as a surprise to some that the educator, statesman, politician, advertising pioneer, art collector, traveler, lecturer and philanthropist ever slept. For Mr. Benton crammed five diverse careers into his almost 73 years whetted by an insatiable thirst for activity abetted by seemingly unlimited energy.

Thanks to his perfect sense of business timing, whatever he touched seemed to turn to money. Yet, though his genius for innovation made him a millionaire by the age of 35, it was as a statesman and educator that Mr. Benton wanted to be recalled. Once the foundation of his fortune was laid, he spend his life using much of it for a number of good causes, particularly related to education.

Under his guidance, financial losers such as Encyclopedia Britannica and Muzak Corporation became winners. His advertising agency, Benton and Bowles, in partnership with former Connecticut Governor Chester Bowles, became the world's sixth largest. Always daring to try something new, he developed the first sound commercials for radio. During his tenure as Senator from 1949 to 1953 he initiated the investigation of Senator Joseph McCarthy leading to the Wisconsin legislator's censure.

While active in international affairs, he was a member of the Committee for Economic Development which helped rebuild Europe after World War II and led to the formation of the U.S. Information Agency. Later he supervised the infant Voice of America radio operation.

Besides his countless private interests, Mr. Benton was most proud of his work with colleges and universities, including those at Chicago and Bridgeport, Brandeis University and the University of Connecticut. In the latter capacity he worked for higher salaries for faculty and scholarships for deserving needy students.

Up to $45 million in encyclopedia royalties have benefited the University of Chicago since Mr. Benton turned them over to the school in 1943. All his stock in the firm went to establish the Benton Foundation in 1968. His extensive art collection now is housed in the UConn art museum bearing his name.

For his humanitarian efforts at home and abroad, Mr. Benton has been honored many times. But perhaps his greatest gift was his flair for living—"at full tilt" as a biographer put it. It is not surprising that so large an enthusiasm overflowed to encompass so many of his fellow men, the beneficiaries of his generosity for years to come.

WILLIAM BENTON

It was a happy coincidence that Chester Bowles and Bill Benton were students at Yale University at the same time. Their friendship produced two statesmen whose services were significant to Connecticut and the nation.

Their partnership in an advertising agency made them financially independent while they were still young. In the many offices, both elective and appointive, they held during their public lives, they were free of the responsibilities of earning a living and providing for their families. When a call to service came along, each of them could consider it on its merits.

Early in his career of public service, Bill Benton associated himself with education. His connection with the University of Chicago, among others in higher education, made him known in national affairs and enabled him to attract offers from government.

Except in Connecticut, Mr. Benton's name probably is not widely recognized outside business circles. Yet he exerted significant influence on the nation and the world.

He was the first United States senator to call for the resignation or censure of the demogogic Joe McCarthy of Wisconsin. He was an assistant secretary of state, and in that post he organized the Voice of America and helped establish UNESCO—two accomplishments whose effects will outlive his generation.

As a citizen of Connecticut, he was an able United States senator and was generous with his time and talents in behalf of the University of Connecticut and the University of Bridgeport, among other institutions. His art benefactions are remembered in the art museum of the University of Connecticut, which last year was named for Mr. Benton.

Bill Benton's story is not the Horatio Alger cliche. Though he achieved financial success early in life and thereafter was not primarily interested in making money, he had a kind of Midas touch, a feeling for a good investment at the right time.

He has been praised for his political courage—in attacking McCarthy at the high tide of the other senator's popularity, for instance. His courage also displayed itself in decisions affecting his personal life. It took courage to refuse a Rhodes scholarship in favor of going into the advertising business, and it took courage to buy Encyclopaedia Britannica when encyclopedia salesmen were joked about as pests.

It is safe to predict that his obituaries are not the last word on Bill Benton. His stature and reputation will surely attract biographers, and posterity may know him even better than do we, his contemporaries.

PROTECTION OF THE NEWS MEDIA

Mr. GOLDWATER. Mr. President, in recent weeks we have heard a great deal of discussion about freedom of the press and whether the Congress should enact some kind of legislation to provide a Federal "shield" granting newsmen and their sources of information either absolute or qualified protection under the law.

As one who has long revered the freedoms which our Founding Fathers sought to protect through the first amendment to the Constitution, I have listened carefully to the pros and cons of this debate and studied carefully legislation proposed for the protection of the news media.

Up until this moment, I do not see how any legislation could be adopted which would not only dilute the protection of the first amendment for all citizens and endanger the very freedom of the press which the legislation is designed to protect.

The big stumbling block comes when legislators encounter the problem of just who the legislation is supposed to shield. The question arises as to how to define "newsmen" or whether the word is to be defined at all. If the law attempts to define the term "newsmen" it would, in effect, be establishing a system for licensing members of the press. And Mr. President, when you reach the point where the press is licensed by any branch of the Government, you reach the point where the word freedom is meaningless.

But on the other hand, if you do not define the term newsmen, any irresponsible person in the country can get out a mimeographed scandal sheet and claim immunity under the law. Failure to define the term "newsmen" in this kind of law would extend its protection and privileges to anybody who claims to be a journalist and provide him with immunity from testifying about a crime he may have witnessed or knows about.

The impossibility of enacting sound legislation in this area is comparable to the impossibility of accurately defining who is a "newsman." Where can the line be drawn? After all, newsmen are not professionals in the same sense as are doctors and lawyers. They are not required to measure up to a set of standards for the right to practice. They are not required to meet any particular standards of responsibility or honesty, except as these traits are demanded by their employers and by the possible penalties inherent in the libel laws.

Mr. President, in my public life, I have encountered all kinds of newsmen, the majority of whom were responsible and

honest. However, I encountered some who were nothing more than liars and character assassins. I had the privilege of suing one such journalist—an alleged magazine publisher—and was awarded a $90,000 judgment against him. And having had such an experience, I would shudder to think of passing a law which would grant this man and those like him any special privileges not enjoyed by the remainder of our citizens.

Mr. President, I have a great and abiding belief in the ability of the legitimate press in this country to defend its own freedom. I agree with many of the more conscientious newsmen who claim there is no need for setting newsmen apart from other citizens and making their freedom something more than just an exercise of free speech.

Mr. President, I would remind the Senate that the first amendment of the Constitution states that—

> Congress shall make no law—abridging the freedom of speech or of the press.

I am just wondering whether the current rush to shield the news media might not do just what the amendment warns against. As the gentleman from North Carolina, my colleague, Senator ERVIN, has himself stated:

> The same Congress which grants the privilege may condition it on proper conduct. A future Congress, irritated by a critical press, may hold repeals of the privilege as a threat to secure a more compliant press.

Thus, Mr. President, legislation which would for the first time put the Government in the position of granting special privileges to newsmen and set them apart from other citizens might just be the kind of a law the Founding Fathers and the Constitution warned against.

It is my considered belief, Mr. President, that the Constitution is clear and adequate as it now stands. The only true way to protect the freedom of the press is to allow the courts to apply the provisions of the first amendment to each individual case as it arises. Any other course, I believe, would violate the spirit of the first amendment and increase rather than diminish the threat to a free press in this country.

CHILD NUTRITION EDUCATION ACT OF 1973

Mr. HUMPHREY. Mr. President, on March 1 I introduced S. 1063, the Child Nutrition Education Act of 1973. The purposes of that legislation include the raising of the school lunch program's reimbursement rates, the establishment of an effective nutrition education program, and the expansion of the school breakfast program. In addition, S. 1063 seeks to clarify States' responsibilities with regard to recalcitrant school districts that have refused to provide free or reduced price school lunches to all needy children and to extend the school lunch program to all schools in a participating school district, as we required by Public Law 91–248 to be effective January 1, 1971.

It has come to my attention that there is some misunderstanding about my intentions pursuant to section 14 of the Child Nutrition Education Act of 1973. In order to fully clarify my purposes under that provision, I think it is necessary to provide a brief explanation of it.

Section 14 of my bill—which would amend section 8 of the School Lunch Act—42 U.S.C. 1757—is not intended to postpone the requirement that, as of January 1, 1971, all needy children in participating school districts were to receive free or reduced price lunches. That requirement—which is contained in section 9 of the act—42 U.S.C. 1758—will not be changed or postponed at all by my proposed legislation. In point of fact, I take great pride in the role I played in assuring that all needy children, whose family income falls below the income poverty guideline must receive a free lunch; school districts may provide reduced price lunches to children whose family income is above the income poverty guideline. That was accomplished by the passage of Public Law 92–433 last year, a bill that I cosponsored.

In order to accomplish the provision of free lunches to all needy children in participating school districts, those districts, since January 1, 1971, have been required to provide school lunch program services in all of their schools. The purpose of my bill, S. 1063, is not to diminish that requirement but to put greater strength in it. All needy children in participating school districts, under my bill, retain their section 9 rights—(obtained in Public Law 91–248 and Public Law 92–433—to go to court to enforce their free lunch entitlements. But, since several school districts have not fully extended the program, it is clear that more substantial means must be used to accomplish this goal.

Section 14 of my bill gives clear instructions to State educational agencies. Those agencies, as a condition of disbursing Federal school lunch program funds to school districts, must make sure that such school districts implement the program in all of their schools by June 30, 1975. Previously, the State agencies did not know how to enforce the provisions of section 9 requiring the extension of the program to all schools in a district that contained needy children. Now those State educational agencies will know that they may not disburse Federal funds after June 1975 unless local school districts comply with our present requirements under section 9. This added remedy will give needy children a better chance to have their present free lunch rights enforced.

Finally, my bill will require States to expand the program to nonparticipating school districts. Unlike poor children's present rights in participating school districts, indigent children in nonparticipating school districts cannot legally compel officials to expand the lunch program to their schools. My bill would change this and would bring midday nutrition to needy youngsters residing in nonparticipating school districts.

In sum, my bill takes the necessary steps toward feeding the needy throughout the country. No effort is more important. I am hopeful that the day will soon come when no child is denied equal educational opportunities due to his hunger and consequent inability to learn. My bill will take the necessary steps to end malnutrition in our Nation's classrooms.

REFORMING THE CONGRESSIONAL BUDGET PROCESS

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD my letter to the Honorable JAMIE L. WHITTEN and AL ULLMAN, cochairmen of the Joint Study Committee on Budget Control, on the subject of reforming the congressional budget process.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 23, 1973.

Hon. JAMIE L. WHITTEN,
Hon. AL ULLMAN,
Cochairmen, Joint Study Committee on Budget Control.

DEAR MESSRS. CHAIRMEN: Thank you for giving me the opportunity to submit testimony on this very important subject, namely, reforming the Congressional budget process so that Federal spending outlays reflect national priorities without contributing to inflationary fiscal policies and insuring that Congress can assert its proper responsibility in this crucial area.

OFFICE OF GOALS AND PRIORITIES ANALYSIS

As we have become recently aware, this country faces a major budget crisis brought about by the fact that we in Congress have been voting to spend money at a rate faster than our ability to gather revenues at full employment. No reasonable person could deny that one of the chief contributing factors to this deplorable situation has been the absence of anybody in the Congress responsible for informing the Congress about the hard facts of priorities planning.

No existing office or committee provides the kind of overview which is necessary. This arises simply from the fact that most Committees are specialists in and advocates for a certain slice of the federal dollar. It is assumed that when a bill is considered by the Senate or the House on the floor that an overview will be provided. But we all know that the Congress itself too often proceeds piecemeal—as do the Committees—without overview.

Thus, the Congress needs a mechanism which would assist it by providing a framework for and encouraging that overview as well as additional information to make keen assessments of relative priorities within that framework.

For some years, I have proposed an Office of Goals and Priorities Analysis—in effect, a Budget Bureau responsible to the Congress—so that we might be able to make rational choices among appropriations with the same analytical capability as the Executive Branch has when drafting its own budget proposals. The most recent version of my proposal is contained in Title II of S. 5 (attached), which has been re-introduced in 1973 after having passed the Senate last year.

Title II of S. 5 would establish within the Congress all Office of Goals and Priorities Analysis. The Director and Assistant Director of the Office are to be appointed jointly by the majority leader in the Senate and the Speaker of the House. Drawing from the social data and program evaluations generated by the Council of Social Advisers and other sources, the Office of Goals and Priorities Analysis would submit an annual report to the Congress setting forth goals and priorities in the general context of needs, costs, available resources, and program effectiveness. It would also provide information to members of the Congress on an ongoing basis.

At a time when the ability of Congress to carry out its responsibilities even in its own

domain of power over the purse has been challenged, it is essential that those of us who serve in the public trust have at our disposal more adequate means of making enlightened priority decisions.

Of course, the appropriations process is the vital mechanism through which the Congress seeks to reflect its views on budgetary priorities. But there remains a great need to equip Congress with the kind of manpower, data and technology that would furnish it with the information necessary if it is to fully examine and evaluate each appropriations measure, separately and perhaps most crucially—in view of all other appropriations measures, with regard to the relative needs of the Nation. The office proposed in title II would not supplant the efforts of the Appropriations Committees to determine the Nation's expenditures. Rather, it would further explain, coordinate and compare the various budgetary proposals so as to provide the overview so necessary to responsible fiscal planning. The program information it would collect and interpret would be made available to other committees and individual Members of Congress.

The Congress needs such an institution in order to attempt to redress the imbalance that exists in the information available to the legislative, as opposed to the executive branch, in the essential matter of expenditures.

Since 1965, budget outlays on a unified basis have increased by $111 billion. As a result, we are now in a budget crisis of major dimensions, wherein tax hikes or cutting back on established programs has to be seriously considered and cutbacks are in fact taking place. Furthermore, many observers agree that the helter-skelter way in which certain programs were enacted has impaired their effectiveness. The authors of the recent Brookings Institution study on national priorities have pointed out to us that some effective prior planning as to how we could best have spent this $111 billion would have prevented the budget crisis from occurring. That is what the Office of Goals and Priorities Analysis could have given us.

Therefore, I strongly urge that as a first step in Congressional budgetary reform you establish a Congressional budget bureau, along the lines which the Senate has already approved in Title II of S. 5.

MANDATING APPROPRIATIONS

While Congress must reform its budgetary and appropriations processes, it also must take action to recapture its control over the expenditure of federal funds. By this I refer to the impoundment problem.

I am a member of the Senate Ad Hoc Subcommittee on Impoundment of Funds which includes members of the Judiciary Committee and Government Operations Committee.

This subcommittee held hearings on S. 373, which is cosponsored by over 50 members of the Senate, including myself, and which seeks to limit the ability of the Executive to impound appropriated funds without the approval of the Congress. Similar legislation has been introduced in the House by its leadership and it is quite likely that some type of measure will pass both houses of Congress seeking to limit the ability to impound appropriated funds.

However, it should be recognized that Congress throughout the years has not only acquiesced in impoundments by the Executive but has made most of its appropriations permissive rather than mandatory. When Deputy Attorney General Joseph T. Sneed testified before the Ad Hoc Subcommittee on Impoundment, he stated that there had been few instances where Congress had expressed an unequivocal intention to mandate spending for a particular program. Mr. Sneed concluded that if Congress wishes to mandate full spending for a particular program it must do so in unmistakably clear terms.

Mr. Sneed further stated in his testimony that the President often must consider other laws such as the debt limit in deciding whether or not to spend money appropriated by the Congress in an appropriations law.

In addition, Mr. Sneed also felt that to mandate spending Congress must explicitly express an intention to override the Anti-Deficiency Act and all other direct and indirect statutory sources of Presidential spending control. Even then he felt Congress' power was limited in the area of foreign affairs and military affairs by the President's Constitutional powers. During the course of the questioning, Mr. Sneed did admit that Congress could mandate that funds be spent notwithstanding other laws and that the Executive would probably have to spend them.

At another hearing on the confirmation of Secretary of Health, Education, and Welfare Weinberger, I asked whether the Department would spend moneys mandated by the General Education Provisions Act and Mr. Weinberger said that those funds would be spent as called for by the Congress.

Thus, without conceding the correctness of any arguments made by Deputy Attorney General Sneed, I believe the Congress can and should mandate spending in those areas where it feels this should be done. When the supplemental appropriations bill was before the Senate, I suggested language mandating spending since it was clear that HEW was going to spend over $2 billion less than was called for by Congress in that bill. At the time, the Chairman of the Appropriations Committee thought that the problem should be dealt with on a broad basis and not just on one particular bill which basically only covered expenditures in the Department of Labor and HEW. I agreed and did not press the amendment at that time.

I believe that this Committee should consider recommending to the Appropriations Committees of the House and Senate that they include the following language in appropriations bills to mandate spending:

"Notwithstanding any other provision of law, the full amounts appropriated under this Act for projects and activities shall be made available and obligated by the appropriate departments, agencies, corporations, offices and other organizational units of the Government during the period for which appropriated."

This language would obviate the Anti-Deficiency Act, the Debt Limit and any other statutory authorities relied upon by the President for his authority to impound appropriated funds.

If we are to recapture our authority over the spending of federal funds, it is imperative that Congress mandate spending so that the Executive will be presented with a clear expression of Congressional intent to spend funds in an area. If we do not want all the funds spent then we should appropriate less or give the President discretion to hold back a certain amount in particular appropriations bills.

It is not enough to reform the budgetary and appropriations process alone but we must also reassert Congressional power and prerogatives over the purse if we are to prevent further erosion of Congressional power and further imbalance in the Constitutional separation of powers.

With best wishes,

Sincerely,

(s) JACOB K. JAVITS.

RULES OF THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. SPARKMAN. Mr. President, in accordance with section 133B of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, I ask unanimous consent that the rules of the Committee on Banking, Housing and Urban Affairs be printed at this point in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

(Adopted in executive session, Mar. 11, 1971)

RULE 1.—REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be cancelled at the discretion of the Chairman.

RULE 2.—COMMITTEE

Investigations

(a) No investigation shall be initiated by the Committee unless the Senate or the full Committee has specifically authorized such investigation.

Hearings

(b) No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman and the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

CONFIDENTIAL TESTIMONY

(c) No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part by way of summary, unless specifically authorized by the Chairman of the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

INTERROGATION OF WITNESSES

(d) Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the ranking minority member of the Committee.

Prior notice of mark-up sessions

(e) No session of the Committee or a subcommittee for marking up any measure shall be held unless (1) each Member of the Committee or the subcommittee, as the case may be, has been notified in writing of the date, time and place of such session at least 48 hours prior to the commencement of such session, or (2) the Chairman of the Committee or subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

Prior notice of first degree amendments

(f) It shall not be in order for the Committee or a subcommittee to consider any amendment in the first degree proposed to and measure under construction by the Committee or subcommittee unless a written copy of such amendment has been delivered to each Member of the Committee or subcommittee, as the case may be, and to the office of the Committee at least 24 hours before the meeting of the Committee or subcommittee at which the amendment is to be proposed. This subsection may be waived by a majority of the Members of the Committee or subcommittee voting. This subsection shall apply only when at least 48 hours written notice of a session to mark up a measure is required to be given under subsection (e) of this rule.

RULE 3.—SUBCOMMITTEES

Authorization for

(a) A subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

Membership

(b) Membership to subcommittees shall be by nomination of the Chairman and the ranking minority member of the Committee and shall be approved by the majority vote of the Committee.

Investigations

(c) No investigation shall be initiated by a subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

Hearings

(d) No hearing of a subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the ranking minority member of the Subcommittee or by a majority vote of the Committee.

Confidential testimony

(e) No confidential testimony taken or confidential material presented at an executive session of the Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the ranking minority member of the Subcommittee or by a majority vote of the Subcommittee.

Interrogation of witnesses

(f) Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the ranking minority member of the Subcommittee.

Special meetings

(g) If at least three members of a subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within three calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular, additional, or special meeting of the Subcommittee, the ranking member of the majority party on the Subcommittee who is present shall preside at that meeting.

Voting

(h) No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee are actually present. Any absent member of a Subcommittee may affirmatively request that his vote to recommend a measure or matter to the Committee or his vote on any such other matter on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4.—WITNESSES

Filing of statements

(a) Any witness appearing before the Committee or Subcommittee (including any witness representing a Government agency) must file with the Committee or Subcommittee before noon 48 hours preceding his appearance 75 copies of his statement to the Committee or Subcommittee. In the event that the witness fails to file a written statement in accordance with this rule, the Chairman of the Committee or Subcommitte has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

Length of statements

(b) Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his views to the Commmittee or Subcommittee. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

Fifteen-minute duration

(c) Oral statements of witnesses shall be based upon their filed statements but shall be limited to 15 minutes duration. This period may be extended at the discretion of the Chairman presiding at the hearings.

Subpoena of witnesses

(d) Witnesses may be subpoenaed by the Chairman of the Committee or a subcommittee with the agreement of the ranking minority member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

Counsel permitted

(e) Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

Expenses of witnesses

(f) No witness shall be reimbursed for his appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and ranking minority member of the Committee or by a majority vote of the Committee.

Limits of questions

(g) Questioning of a witness by members shall be limited to 10 minutes duration, except that if a member is unable to finish his questioning in the 10 minute period, he may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 10 minutes until all members have been given the opportunity of questioning the witness for a second time. This 10 minute time period per member will be continued until all members have exhausted their questions of the witness.

RULE 5.—VOTING

Vote to report a measure or matter

(a) No measure or matter shall be reported from the Committee unless a majority of the Commitee are actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the roll vote of the members present and voting, as an official record of the vote on the measure or matter.

Vote on matters other than a report on a measure or matter

(b) On committee matters other than the vote to report a measure or matter, a member of the Committee may request that his vote may be cast by proxy.

Vote to report a measure or matter

(c) No measure or matter shall be reported from the Committee unless a majority of the Committee are actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his vote to report a measure or matter be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the roll call vote of the members present and voting, as an official record of the vote on the measure or matter.

Vote on matters other than a report on a measure or matter

On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of a Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him during such public or executive hearing on the dais. If a member desires a second staff person to accompany him on the dais he must make a request to the Chairman for that purpose.

RULE 8.—PUBLIC ATTENDANCE AT MEETINGS

Except in the case of the conduct of hearings (which are provided for in section 112(a)

of the Legislative Reorganization Act of 1970), or in the case of any meeting (other than a hearing) to consider the nomination of an individual submitted by the President to the Senate for its advice and consent, all meetings for the transaction of business, including sessions for marking up bills and resolutions, of the Committee and subcommittees thereof shall be open to the public unless the Committee or subcommittee (as the the case may be) in open session and with a quorum present, by majority vote conducted by roll call, determines that all or part of the remainder of the meeting on that day shall be closed to the public. In the case of any such meeting with respect to a nomination, the Committee or subcommittee in executive session may, with a quorum present and by majority vote conducted by roll call, determine that the meeting for that day shall be open to the public.

DRUG ABUSE

Mr. GURNEY. Mr. President, on February 20 I introduced S. 918, a bill to require a mandatory life sentence for those convicted for illegal trafficking in narcotics and for those convicted for committing a violent crime while under the influence of such drugs. Joining me in supporting the bill are my distinguished colleagues Senator BIBLE, Senator EASTLAND, Senator HELMS, Senator PASTORE, and Senator THURMOND.

When the Senate Judiciary Committee begins hearing on this and other related antidrug abuse proposals, I intend to propose a modification of S. 918 to allow a mitigated sentence if the individual convicted for pushing drugs is cooperative in disclosing information relative to illegal drug sources.

As presently written, S. 918 provides for a mandatory life sentence with no suspension or probation or parole. The amendment I intend to add will allow the court to determine, upon recommendation of the U.S. attorney, whether or not the individual has cooperated in providing useful source information. If the court so determines, those provisions regarding mandatory sentencing would not apply.

In his own proposal relating to the sentencing of drug pushers, the distinguished chairman of the Senate Judiciary Committee, Senator EASTLAND, provides a similar exemption to the mandatory life sentence. I believe this provision has strong merit for several reasons.

First of all, it is obvious that we will not be able to stop drug abuse and drug trafficking unless we can get to the source of these illegal drugs. As those who are involved in drug abuse enforcement efforts are well aware, it is rarely the street pusher who is the real source of the problem. This fellow is more than likely just one of a network of people engaged in smuggling, storing, transporting, and distributing a large amount of narcotics throughout the country and typically he is an addict himself. Uncovering these networks and getting to the ringleaders may take months or even years. We cannot afford years—or even months—when the stakes are so high. Thus, any assistance in breaking a ring is important.

Second, it is likely that this approach will result in increased information to assist our law enforcement people. Faced with the prospect of spending his life in prison, a pusher will have little to lose and everything to gain by cooperating. If he refuses to cooperate, he will go to prison and we will have rid the streets of another menace.

Third, there is legal precedent for such sentence reduction. Common law has traditionally left room for discretion in sentencing where cooperation is involved. We are now witnessing apparently successful use of this information stimulating device in the Watergate case, where Mr. McCord is offering to provide, according to him, a great deal of hitherto concealed information about the Watergate affair.

Finally, the constant fear of being identified will put pressure on those involved in the drug business, and should serve as a deterrent to some who might consider becoming involved.

I have been greatly encouraged by the support I have received from many individuals in connection with S. 918. I believe this amendment will improve the bill even further. It provides a just alternative and a strong deterrent toward drug abuse.

A NATIONAL ENERGY POLICY

Mr. JACKSON. Mr. President, on March 20, Andrew J. Biemiller, director of the department of legislation of the AFL–CIO spoke before the second annual energy forum of the U.S. National Committee of the World Energy Forum.

Support was expressed for the $20 billion, 10-year program I introduced with 27 colleagues earlier this week, to make America self-sufficient in energy by 1983.

Mr. Biemiller, our respected former colleague in the Congress who is one of the most perceptive spokesmen in Washington, expressed confidence that this country can find answers to the need for a national energy policy.

He pointed out that all Americans, as workers, consumers, and as environmentalists have a vital stake in solving this problem and I share those views.

The AFL–CIO represents 15 million union members throughout America. Over the years their efforts have benefited not only members of organized labor but all Americans through their support of far-sighted and progressive legislation and policies for the benefit of our society as a whole.

I welcome labor's continued concern over the shape and content of U.S. energy policy. I ask unanimous consent that Mr. Biemiller's comments on "A Realistic National Energy Policy" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A REALISTIC NATIONAL ENERGY POLICY

Some 14 years ago, the AFL–CIO urged adoption of a comprehensive national policy covering both natural resources and energy. Now that there is a so-called "energy crisis" perhaps our voice will be heard.

Less than one month ago, the AFL–CIO Executive Council repeated its call for such a policy—a policy that would "foster and sustain full employment, protect and preserve the environment, benefit the consumer, prevent monopoly and eliminate wasteful and . . . contradictory activities among" federal agencies.

It doesn't take a divining rod to figure out why the labor movement is concerned about future energy sources:

First, our members are workers. Without energy, there is no work.

Second, they are consumers. Every month they receive in the mail their electric and gas bills. About once a week they take the family car to the gas station. So, they are very concerned about prices.

Third, in addition to working in this country, they also live here. Workers are concerned about the environment, too. When they go fishing they don't want to find the water polluted and the fish dead.

While it is traditional for the labor movement to point out problems—such as natural resources and energy—we are also optimists. We have faith that this country can find the answers that will satisfy union members and all Americans as workers, as consumers and as environmentalists.

Since we were talking about the need for a national energy policy long before many of our industry colleagues, there is no point in trying to stampede the labor movement into panicked reactions in a so-called "crisis."

For example, the natural gas companies are going to have to convince us that gas prices will not soar if federal regulation over gas pipeline companies is lifted. And I'll be frank with you: we are not the least bit impressed with the cries for an increased return on investment, especially with today's average return of 15 percent.

The Interior Department says that the petroleum industry has exported refining capacity and 110,000 refining jobs and plans to increase its export through 1975.

The oil companies are going to have to do a lot of talking to convince us that the export of 110,000 American refining jobs was in the best interests of the American workers who buy their products. (Parenthetically, I might add, the oil companies—with two notable exceptions—have shown proper concern for the workplace as an environment and given workers a contractual role in keeping the workplace safe and healthful. It is a lesson other industries should heed.)

Rather than promote a panic, we believe the energy industry should support the reasoned approach of Senators Jackson and Magnuson. Just as this country set and achieved a goal of reaching the moon in 10 years, let us set a goal of energy self-sufficiency in 10 years.

This goal is not going to be achieved by more and more government concessions to industry. The favorable economic and regulatory climate of the past decade did not encourage private research and development. It only brought about complacency and neglect. That is why the federal government must stimulate a $20 billion, 10-year research and development project that takes into consideration all potential energy sources and the nation's supply of natural resources.

I believe that every member of this panel is a realist—in business and in politics. If for one minute, anyone here thinks that the consumer is prepared to loosen what few controls he now has—regulatory and environmental controls—because of slick television commercials, then he is not being realistic.

One of the things organized labor is most concerned about is the trend toward monopolies in energy-production. Rather than loosen regulations, we think they should be tightened. We don't think they should be punitive.

Let's also face facts about the scope of the federal research and development effort that is required. There is less than $800 million in the current federal budget for energy research and development—and three-quarters of this is for nuclear power. That's called putting all of our eggs in the nuclear basket.

We believe the budget should be more like

$2 billion a year to promote research and development of all potential energy sources—coal gasification, solar power, shale oil, advanced power cycles, coal liquification and geothermal energy. Because energy is a national problem, the federal share of research funds should be proportional to the risk and uncertainty of each approach.

A broad-scale, national research and development project could serve as a bargaining point with foreign oil producers. As long as they believe the U.S. has no place to go, they won't reduce their prices. But other countries are very much aware of the technological potential of the United States. They know that if the sleeping giant of American research and development is awakened, America will have another place to go and won't be sympathetic toward trading "partners" who gouged this nation when it needed help.

While we are talking about self-sufficiency, it would be a mistake to leave out America's battered and neglected merchant marine. Self-sufficiency demands a healthy U.S. merchant marine capable of transporting petroleum and natural gas—American ships, flying the American flag and manned by American seamen.

It is critical that the public be informed as to what is going on. After all, the public, as consumers, will be paying the bill. What I'm saying is advertising is not what I'd call information, and trying to push the Congress into passing special interest or "relief" measures is not going to solve the problems.

Hence, the AFL–CIO repeats its call for a full-scale Congressional investigation of the so-called energy crisis.

We reiterate our support for a Council on National Energy Policy.

We again ask for creation of a TVA-type development agency for raw materials and energy fuels. This agency would oversee domestic fuel reserves on public lands and in the oceans, while maintaining a proper balance between industry needs, consumer needs and environmental needs.

We repeat our support for a truly national power grid system open to all utilities.

Loud and clear, for those who may have missed it earlier, we repeat our opposition to efforts to remove interstate natural gas pipeline companies from federal regulation.

We repeat, for the umpteenth time, our call for expanded research into alternatives for the internal combustion engine.

And lastly, we call for a Congressional investigation of the increasing concentration of energy resources in a small number of giant corporations.

The AFL–CIO believes that the United States must be self-sufficient in energy. This country cannot be dependent upon the political whims of foreign countries. That is not "protectionism"; that is plain common sense.

We are optimistic. It is a big job, but it can be done. The stakes are enormous—to producers, to consumers, to the economy.

1983 is the target, and the goal is abundant supplies of reasonably priced fuels to meet this country's needs. Lets get on with the job.

RETIREMENT OF ASSISTANT SECRETARY SPENCER J. SCHEDLER

Mr. SAXBE. Mr. President, Mr. Spencer J. Schedler, Assistant Secretary of the Air Force for Financial Management, will leave Government service on March 31 of this year to accept a position as executive vice president of Hycel, Inc., a Houston based manufacturer of automated medical laboratory equipment.

I look upon Mr. Schedler's leaving with mixed emotions. On the one hand, I know that his new position in industry affords him a great personal opportunity, and a chance to spend more time with his lovely wife, Judy, and son, Ryan. But, on the other hand, the Government will miss having the highly capable services of this fine gentleman, who was dedicated and devoted to the service of his country and to the concept of sound financial management of the Air Force.

Since Mr. Schedler became Assistant Secretary, the Air Force has made substantial improvements toward controlling cost growth on major weapons systems, implemented a centralized and automated military pay system, and reduced the cost of operating its ever more complex modern weapons systems for the defense of the Nation.

As a result of these changes, there has been vast improvement in the overall financial operations of the Air Force, with the taxpayers of this country being the chief beneficiaries.

I ask the unanimous consent of the Members of this body, to enter in the RECORD my sincere appreciation for the service Mr. Schedler rendered to the Nation as Assistant Secretary of the Air Force, and my best wishes to him in his new venture.

ROBERT BALL—A SUPERB PUBLIC SERVANT

Mr. MONDALE. Mr. President, the March 15 Washington Post contained an editorial on Robert M. Ball, who has served as Commissioner of the Social Security Administration for the past 11 years.

The editorial—entitled "A Superb Public Servant Steps Down"—summarizes well why those of us who have worked with him hold Commissioner Ball in such high esteem.

In these days when there is so much talk about Government programs that do not work, he has demonstrated that Government programs can work—that they can bring real benefits to people efficiently and fairly. And he has given us a standard against which all programs can be measured.

He has given real meaning to the term "Government service." He will be missed.

I ask unanimous consent that the Post editorial on Commissioner Ball be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A SUPERB PUBLIC SERVANT STEPS DOWN

This is the last week of duty for Robert M. Ball, the remarkable Commissioner of the Social Security Administration, who has been in office for 11 years and who served in lesser jobs with the Social Security Administration for 21 years before that. To the disappointment of many—ourselves included—the White House picked up Mr. Ball's pro forma resignation this winter after the election. But we do not feel that Mr. Ball's leaving office should be the occasion for expressing more gloom. Rather, it seems a moment briefly to recount the career of this extraordinary public official. For Mr. Ball's 34 years in government constitute a genuine good news story—and, not incidentally, they challenge some of the absolutes you hear tossed around these days concerning the capacity of the federal government to govern and the capacity of the bureaucracy to do well by the rest of us.

Mr. Ball, who began his career in 1939 in the field organization of the Bureau of Old Age and Survivors Insurance, worked his way up through the career service to become Social Security Commissioner. In the course of so doing he threatened, by his performance, to give the bureaucracy a good name. For, in his particular way, Mr. Ball has been the ideal public official: fair-minded, energetic, committed to the success of the statutes he administered and—above all—apolitical. In the 11 years since he came to preside over the Social Security Administration, all these attributes were put to the test as coverage (and complexity) expanded at a geometric rate during the 1960s.

Lyndon Johnson was fond of describing the actions required to put Medicare into effect after its enactment in 1965 as the most complicated and arduous government operation undertaken since the military planning operations of World War II. He didn't exaggerate much. Mr. Ball and his associates had 11 months' time to arrange for such diverse and intricate matters as medical standards, hospital care regulations, insurance coverage, accounting procedures, reimbursement techniques and the rest for some 19 million Americans who came under Medicare's provisions as of July 1, 1966. To look back over the news clippings of the period is to read a wealth of public statements from all manner of concerned persons predicting certain disaster on D-Day. It didn't happen—and the reason it didn't lies largely with the man who is now leaving his government post. That particular exercise in competence and success would of itself have been enough to distinguish Mr. Ball's career. But as many people in this town know it was typical—not atypical—of his performance. Robert Ball's 34 years in government were devoted to showing what *could* be done.

THE LAW OF THE SEA CONVENTION

Mr. JACKSON. Mr. President, members of the U.S. delegation to the Law of the Sea Convention are now completing preparatory sessions in New York for the upcoming Law of the Sea Convention to be held in Santiago, Chile, later this year. The actions taken in Santiago will, in many respects, determine not only how productive our oceans will be in the future, but also how harmoniously we will be able to work with both developed and undeveloped nations.

Attaining success at the Law of the Sea Convention is essential—and it will come only through a complete understanding of the problems involved, and a willingness on the part of each nation to discuss these matters in an open and frank way. Because of its timeliness, I would like to call to the attention of my colleagues a highly innovative and well-thought-out article by Capt. A. T. Church, Jr., U.S. Navy, retired, entitled "The Time Has Come the Porpoise Said * * *." In this article, which was published in a centennial issue of Naval Institute Proceedings, Captain Church views the needs of law of the sea reforms from a wholly different perspective—that of the inhabitants of our marine environment. Perhaps the overriding theme of the article is that the need for boundaries and other restrictions are not nearly as great as having an understanding by all nations concerned that we are all dependent upon the marine environment—and we must deal in an air of cooperation if we are to benefit by the things the oceans have to provide.

Captain Church, who is a personal

friend of mine and a cousin of our colleague from Idaho (Mr. CHURCH), is eminently qualified to write this article on law of the sea. He is a graduate of the U.S. Naval Academy, he conducted international law extension courses at the Naval War College, served variously as assistant chief of staff at CinCPacFlt, acted as senior aid to the Under Secretary of the Navy, on the Joint Staff, and was in OpNav.

In closing, Mr. President, I should point out that Captain Church comes from a true and distinguished Navy family. His father, A. T. Church, Sr., graduated from the Naval Academy and later managed the Bremerton Naval Shipyard in Washington State. Further, Captain Church's son, A. T. Church III, also graduated from the Naval Academy and is now a lieutenant in the Navy serving on a destroyer in the Pacific.

I ask unanimous consent to insert the text of Captain Church's article in the RECORD so as to make it available for all Members to read.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TIME HAS COME, THE PORPOISE SAID . . .

(By Capt. A. T. Church, Jr.)

They had all come together on a plateau on the North Atlantic Ridge in November 1972. There were eels from the Sargasso Sea, turtles from Ascension Island, seals from the Bering Straits. They were all there—yellow-bellied sunfish, dogfish, stately seahorses, tuna, swordfish, halibut, mackerel, whales, and exotic tropical fish that carried the proxies of many crustaceans and smaller species that could not come because of the distance involved or lack of fare.

Earlier, the Temporary Chairman, Everett McKinley Actopus, had welcomed them and reminded them that the first CIO Convention had been called to formulate the oh-fish-all position toward the International Conference on the Law of the Sea, to be held in 1973.

The introduction of Percival Lee Porpoise to the Convention by the Temporary Chairman, Ev Octopus, had been memorable. Affectionately wrapping several arms around Percy Porpoise, while holding up several other arms for silence—and two in his inimitable "Victory" sign—Octopus had intoned: "Our Permanent Chairman, as you all can tell from his novel navel, is neither fish nor fowl. He is, however, a mammal who is not about to be taken in by a line; a mammal who prefers plain old herring and mackerel to caviar; a mammal who knows a can of worms when he sees one; a mammal who . . ."

Following the tumultuous applause for Octopus' introduction, a hush fell over the convention as Porpoise grasped the rostrum with both flippers and began earnestly: "The time has come," he said, "to talk of many things . . ."

When the ovation had died down and he was permitted to resume, he continued. "Gentlefish, compared to the insect world and the stars in the heavens, we are a minority. Yet, we who inhibit 70% of the viable area of the planet have our rights, too. We have the right to eat what we like." At these words, the herring, mackerel, and squid delegations coughed nervously and eyed the nearest exits. "We have the right to love"—the distaff dolphins present smiled and nodded in agreement—"and, finally, we have the right to *protest*."

"I remind you again," Porpoise continued, "that our CIO Conference was convened in anticipation of a U.N.-sponsored Conference on the International Law of the Sea, to be held in 1973. As most of you know, the United Nations is an organization and forum for a landlubber species which calls itself *Homo sapiens*, a term which refers to its alleged wisdom, as reflected by its enormous brain—somewhat half the size of mine.

"This species—for convenience sake, let's call it Man—is one of many, many forms of life that crawl around on the land. However, man has assumed unto himself a position of predominance over all other land-based species. Man, it has been said, although neither the strongest nor the swiftest, is easily the smartest of all living things. But, of course, nobody but man has said so.

"We can learn something of the nature of Man when we ponder the thought that he shudders at the sound of the word 'man-eater'—yet thinks 'fishing' is a *manly* sport. We can agree if we define 'manly' as insultingly as he does the word 'fishy'—something doubtful or suspicious. You, my friends, and I have cause to worry.

"Their Conference on the Law of the Sea will cover seven topics: (1) the Seabed Regime, (2) the Continental Shelf Regime, (3) the Territorial Sea Regime, (4) the Regime of the High Seas, (5) *Fishing* and Conservation of Living Resources, (6) Scientific Research, and (7) Preservation of the Marine Environment. It is obvious that the fifth and the last of these topics are of greatest concern to us. However, mankind will be looking into all these topics as they—not necessarily as we—might perceive each problem. Consequently, one of the major decisions that has faced our Committee on International Law and the sub-committees which have been hard at work here for several weeks before this Conference convened, was whether we should comment to the Secretary General of the United Nations on all the topics to be addressed at their 1973 Conference, or only on those that were clearly of direct vital interest to you and me. Your Committee on International Law of the Sea elected the former alternative for two reasons. First, it is possible that *any* action associated with the sea conceivably could affect us; and second, because of our vastly greater knowledge of the sea environment, our comments—solicited or not—might be helpful. Accordingly, our Report to the Secretary General, which I shall present to you shortly for your approval, embraces all those topics although not item by item.

"I must once again stress the naive character of the creature with whom we are dealing. For example, mankind simplistically assumes that the small fish eats the tiny fish, the medium-sized fish eats the small fish, and so on. To a degree, that is correct, and for their purposes perhaps that will suffice for the present; however, we all know that such a view fails to take into consideration the millions of years that it has taken us to attain the ecological oceanic balance of which we may be justly proud.

"One point they do not understand is that we have no objection to providing them with food from our over-abundance. To assure you that the foregoing statement is correct, I discussed this point at length with the cod, tuna, shellfish, and other concerned delegates a few days ago. They will confirm the point, but each and every one added a qualification, to wit: 'provided that it does not upset the ecological balance within the oceans.' They (*Homo sapiens*) may have difficulty understanding our philosophy on this, because they are not naturally inclined to share their own overabundances with their neighbors. The point we wish to make to them is that they are most welcome to our over-abundance if at the same time they will not further deplete those endangered species which contribute to our ecological balance. They should not confuse this with the evolutionary process of gradual extinction of a species that does not contribute to any ecological balance. To read the statements of their environmentalists, one might conclude that if dinosaurs were still on land Man would go to great extremes to ensure their perpetuation.

"Making this clear may be difficult, because one of the accomplishments of which they are most proud is their U.N. 'Declaration of Human Rights,' prepared without regard to commensurate 'responsibilities,' despite the advice of all their world leaders at the time. In short, they are strong on *rights* and weak on *responsibilities*. I warn you on this point. They may grab you with no thought of your—or even their own—perpetuity! In brief, we cannot credit them with an understanding of the difference between the flowers and the weeds of life's garden.

"With your indulgence, then, I will proceed directly to read to you what your Committee on the International Law of the Sea has proposed that I forward to the Secretary General of the United Nations, with the request that he place it before their Conference in 1973."

Resolved! That the following be forwarded to the Secretary General of the United Nations:

My dear Secretary General:

I am Percival Lee Porpoise, Permanent Chairman of the Conference of Inhabitants of the Ocean, and I am respectfully addressing you on the subject of your forthcoming International Conference on the Law of the Sea.

We note that you do not plan to address a large body of your well established common law of the sea, notably such matters as blockade, pacific blockade, neutrality, insurgency, contraband, and related matters such as continuous voyage. This is understandable. This body of law was developed during the period you call "colonial," and by association might be repugnant to many developing nations. However, having objectively observed its application, we wish to remind you that you cannot erase experience, and that you will find within that body of law many options for the settlement or avoidance of disputes that are far less drastic and bloody than initial resort to the foot soldier and attack aircraft.

First, I shall address the matter of *Boundaries*. Each of your seven topics contains an underlying implication that a great deal of your discussions will relate to boundaries that you will establish on the sea—lines that you will draw on your maps and charts of the oceans. I would remind you that life has been absolutely chaotic on land ever since you crawled out of the waters a few hundred million years ago. One of your first territorial imperatives was to set up boundaries—borders, fences, maps with lines. At one time you even tried to do this with sea areas under a *mare clausum* concept, which did not hold water. Furthermore, most of your lives over the centuries have been involved in bloodletting over jurisdictional disputes about these same artificial boundaries.

We serve notice to you: we have no intention whatsoever of abiding by any boundaries you set up. Nevertheless, there is a tie-in with your anti-pollution efforts and to that extent we do have an interest in "general areas" as opposed to "specific boundaries."

To be completely candid, I must inform you that although the report of the Conference of the Inhabitants of the Ocean has been endorsed by over one million sea species, there was one dissent. This was the shark vote. The sharks were strongly of the view that this Conference should endorse a position that lines and boundaries be established throughout the ocean areas and that you then fight it out as to who controls what. The shark delegation was outvoted, but I regret to inform you that this Conference cannot assume responsibility for fu-

ture shark actions should you fail to heed the advisories set forth herein.

I note that in the past your agreements concerning fishing—terrible word!—have been formulated without any consistency with respect to territorial boundaries. In general this is good, since no standard rule will fit all the geography and sinuosities of the coasts throughout the world, let alone the habits of our migratory fish species. What I hope I am getting across to you is that if I am a seal caught at a certain latitude, it is of little significance to me whether the Canadian, U.S., Japanese, or Soviet fisherman had the "right" to catch me. He was there! He could afford to be there without being interfered with. Artifical boundaries are not going to change that. Furthermore, whereas one of your nation states may have the right of appeal to an International Court of Justice, Ms. Seal does not. Thus, Ms. Seal's survivors and mourners are concerned with *quantities, not boundaries*. Without intending to carp, we are not concerned with species that might become extinct by normal evolution. We are, however, very much concerned about an "over-catch" of species vital to our current ecological balance.

If the nations of the world decide that they wish to pro-rate the resources that are available in the oceans, they will have to do so in a spirit of cooperation. Governments have as yet shown little disposition to do so, but people might do this! Still, in the last analysis, unilateral declaration of boundaries in the oceans is naive. Those who can exploit *will* exploit, as both men and fish have observed in the continuing threat of the Red Tide. Those who cannot are incapable of doing anything about it.

In this connection the oceans' population recognizes, as one of your more intelligent achievements through the years, your concept of "innocent passage" as the fundamental precept of international law of the sea. This provides all people, nations, ships, and other interests an overriding privilege insofar as their action is innocent. How intelligent you have been to narrow the question to the meaning of "innocent" in the military sense, instead of arguing about whether a ship was there or 200 miles offshore! Of course, we are aware of the disruptive efforts to expand the interpretation of "innocent" beyond its historical military connotation—to such areas as potential pollution, for example. Should that happen you will have entered into an entirely new era of oceanic chaos. We do not care!

We are quite aware of your "International Law of the Sea." Perhaps we are more cognizant of it than you seem to be. It appears that you cannot get off the subject of boundaries—3-mile limit, 6-mile limit, 12-mile limit, 200-mile limit! If you would only look into your own common law of the sea you would find that, through the last few centuries, you have already established various degrees of control of territorial and extra-territorial waters for specific purposes. Even before you engaged in arguments about territorial waters being too restrictive—when in fact they were over-permissive—exclusive rights to sponge diving were recognized 20 to 30 miles offshore, and the right to the resources on and under the sub-shelf on the part of a contiguous state also had acceptance world-wide. In brief, you have long ago settled most of the issues that you are preparing to go to conference to argue about. All the principles exist in your customary law. If you must insist on codifying it—a step of doubtful value—we only advise you to stick to principles, not depths or distances.

I now take up my second subject, Freedom of the Seas, to which the right of innocent passage is directly related. Fish enjoy freedom of the seas. Except as it might interfere with his own ecological balance, any fish may go any place where man still has left him sufficient oxygen to breathe. "Freedom of the Seas," as we understand your application of the expression, has meant freedom to engage in international commerce without interference—provided, of course, that a nation has the merchant fleet to engage in international commerce, and provided that it has a navy to protect that merchant fleet. That ties in very nicely with recent extensive claims over territorial waters. In other words, it is our observation that one of the powerful nations could make exorbitant claims and be able to back them up with force. A smaller state might make similar claims, but could not back them up. The smaller state, at your 1973 Conference, is therefore looking for a guarantee that will ensure him against past practices, and he is doing it in a most artificial and arbitrary manner, and—we must add—with complete inattention to the words and actions of the de facto seapowers. The real power of customary law that the smaller state has in its favor is the right of innocent passage which permits his ship absolute freedom of passage through any ocean waters. Instead of pressing for that principle, the small state is attempting to protect itself against past practices that are completely unrelated to the present situation. Their actions are self-defeating.

This paradox becomes even more apparent when one examines the much-touted concept of the resources of the sea as "the common heritage of mankind." My friends and I have reservations about that wording, but I shall not dwell on the point. However, with that altruistic start, the nations that have most to benefit from the concept are staking claims that they cannot police, e.g., 200 miles of absolute jurisdiction. Such claims, if acknowledged, could take up 30% to 50% of the ocean floor and the waters above. Add to that a very possible agreement on a 200-meter depth jurisdiction off the coast of the littoral state, and very little is left for "all mankind." What is left is in the very deepest areas of the ocean that will be the last and most difficult for you to exploit. Actually, very few of *us* even inhabit those depths. It leaves absolutely nothing to your landlocked beneficiary of the concept of "the common heritage of all mankind."

It is therefore obvious that your efforts to establish your individual nation states' areas of cognizance are based on a deep feeling of mutual distrust. The reactions of your nation states have often been perverse. Again, you might question as of what interest is this to us. I can answer quite honestly. We have no interest in going on land, not even as tourists, but at the same time we detect a strong tendency on your part of going into the sea. We are vitally concerned over the manner in which you do it.

I would suggest to you that we have at least two elements of leverage on our side. I have already mentioned our shark delegation, whose position we have not at this time supported. Should we reverse our position, I am sure you would find them very effective "shock troops," and I suggest they would in those circumstances be actively supported by sting rays, barracuda, killer whales, Moray eels, and others of our group. Secondly, we have already on our books legislation to be implemented only in emergencies. Although this was intended to be a passive protest to pollutant activities on a regional basis. it is sufficiently broadly written to be applicable against a more active challenge. This is our "no-bite" dictum. Fishing requires patience and certain equipment, but, above all else, it requires fish. Oceanwide, we know we could hurt you if we all kept our mouths shut. We also are developing oceanwide tactics for net avoidance.

As my third point, I should like briefly to address a group of problems, all interrelated, which I am sure will be considered at your Conference. These involve scientific research in the oceans, navigation control, and the matter of absolute versus limited jurisdiction.

To start with the last one, the fact that you have a need for any jurisdiction at all is evidence of your mutual distrust and lack of cooperation. We only advise that your own common international law of the sea provides you with all sorts of limited jurisdiction if you deem that any jurisdiction at all be necessary. Certainly extensions of absolute jurisdiction are retrogressive.

With respect to navigation control it is rather obvious that a state with an underwater drilling rig, for example, would wish to avoid having it rammed by a tanker of a foreign, or even its own, flag. So would the tanker! Seemingly, such a simple problem could be resolved without claims of absolute jurisdiction over the waters in which the drilling rig is established.

This is a serious problem on a state bordering on an international strait. Because of your preoccupation with staking our boundaries, you are threatening your customary law of right of free navigation through straits and territorial waters. It would, of course, be an economic absurdity for a ship to be diverted 200, or even six, miles around some arbitrary line established by one nation which might choose to deny the right of free navigation. This is why we have contended throughout that your concept of "innocent passage" is the real wisdom of your international law of the sea. No master of a ship will deliberately endanger his ship. That point was confirmed at the Convention for the Prevention of Collisions at Sea in London in October 1972. The results of that Convention, although amply provided with legal advice, primarily will be the views of seamen.

Your Convention, alas, is *political*. We advise that you not override the judgments of seamen!

I understand that one of your serious concerns is with respect to scientific activities of one or more nations off the coasts of other nations. You may, of course, decide to place inordinate restrictions on this type of activity. Actually, we are not overly concerned if you obstruct yourselves and delay your advancement of knowledge in the oceanic medium. We of the undersea world are quite content without you. At the same time, we are alert to your belated but growing awareness of the resources in the ocean and under the ocean floor, as the ant is resigned to the existence of the anteater. So we accept your continued scientific research and eventual extensive arrival into the sea environment as inevitable. We only trust that your 1973 Conference will serve as a medium through which you arrive in a responsible manner.

With respect to scientific activities in the waters contiguous to a particular State, it would appear that a simple Resolution to the effect that the contiguous State be invited to participate in any such scientific activities would be reasonable and adequate.

You do not need boundaries and restrictions. You need a "control" system.

Next, Mr. Secretary General, I address my fourth subject, which is anti-pollution. This, as you undoubtedly understand, is a matter of some urgency to us. We realize, of course, that the International Conference on the Law of the Sea is separate from the U.N. Conference on Anti-Pollution. Nevertheless, we feel that, essentially, the issues you face in your conferences and the decisions you may reach will be interlocking.

I must strongly advise that we are greatly disturbed by explosions of mammoth tankers on the high seas and by collisions of your ships in the approaches to your harbors, with resultant spills of oil and loss of life to the fish species. I know that you can counter the implications of this statement by pointing out that much greater spillage occurs from natural faults. This is true, but fish have advance warning on most natural phenom-

ena. We have no such warning on acts committed by you, however, accidental they may be.

These, and following comments, therefore, are important to your Law of the Sea Conference, because with diverse rules of navigation over "staked-out" sea areas by many different members of your organization, the net result will be confusion, collision at sea, and resultant pollution. I apologize for my redundance in reporting that the intransigent shark delegation favored this confusion, but we are at a period in our history wherein the minority view must be overemphasized.

With the exception of such incidents as I have cited above, and which I suggest you carefully consider during your forthcoming Conferences, the undersea inhabitants are not too concerned about oil pollution on the high seas. We have become used to a little bit of oil. We get very little because most of it is is removed by bacteria. Nevertheless, a touch here and there has become like dressing on the salad Since you are completely and abysmally uninformed as to how much oil the ocean can absorb, I trust you will abstain from any rulings about the right of passage of ships based on their potential oil discharge, including that from ballast and bilge, in the course of normal operations.

The ocean on the whole probably can absorb all the pollutants that you could accidentally pour into it over the next few thousand years. Still, we do not condone your habit of dumping concentrations of pollutants into confined off-shore or harbor areas. This has already become a serious problem for many of our shellfish species.

We have watched your anti-pollution efforts and we favor them in general. However, we are aware of your instinctive reaction, after having ignored a problem for decades or more, to take drastic and illogical actions in an attempt to correct it. For example, one of your nations, the United States, is imposing stringent restrictions on merchant ships with respect to sewage disposal and doing very little about effluent discharges in the major waterways from urban areas. Merchant ships contribute perhaps a maximum of one tenth of one per cent to the problem. We find it difficult to applaud such misdirected efforts toward pollution abatement. We would prefer that you go to the seat of the problem. To reinforce this point by using an example in a somewhat unrelated field, this same nation, the United States, has a catastrophic accident record on its highways, 95 to 98% of which are caused by incompetent or drunken drivers. The answer of this nation to that problem has been to go to great expense to the consumer to ensure that the incompetent or drunken driver will have an absolutely safe automobile with which to commit mayhem.

May I assure you that we do not want this philosophy carried over into your adventures into the oceans; nor do we wish to see it germinate in your Conferences on the Law of the Sea and Pollution in 1973.

We do indeed endorse your efforts to limit pollution of the seas. We object to actions such as have been taken in San Diego, California, where you have created a most unsightly area off Point Loma in the interests of anti-pollution of San Diego Bay, the results of which must be as repulsive to you as it has been to us. We support efforts on a gradual scale that will counteract the incessant pollution of inshore areas. At the same time we warn you against radical extremes. Some of our species over the past few thousand years have adjusted themselves to a diet of some of your pollutants. Too radical a readjustment could be devastating!

In sum, please bear in mind that when pollution issues are considered at your Conferences—and we are sure they will be—it is our request that you do not take steps that will so upset the ecological balance in the oceans that it will deprive me of my dinner—and you of yours!

RESOLUTION ADOPTED BY ARKANSAS HOUSE OF REPRESENTATIVES ON RECREATION USE FEES

Mr. FULBRIGHT. Mr. President, the Arkansas House of Representatives has recently adopted a resolution which urges the U.S. Corps of Engineers to refrain from establishing special recreation use fees.

The resolution points out—

These projects were initially constructed from public funds and the establishment of schedules of fees for the use of these projects will deny access thereto to thousands of citizens, and will enable only individuals of wealth or substantial income to gain the benefits from these projects.

The proposed special recreation use fees, in compliance with provisions of Public Law 92–347, appear to have significantly enlarged the scope of activities and facilities which will be subject to use fees by requiring that comparable fees should be charged by all Federal agencies for comparable facilities and services.

As the special recreation use fees are of a particular concern to the people of Arkansas, I have been in contact with the U.S. Corps of Engineers about this matter.

Mr. President, I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION 29

Urging the U.S. Corps of Engineers to refrain from establishing special recreation use fees

Whereas, the Corps of Engineers has engaged in numerous projects in Arkansas in creating dams, reservoirs, and other water impoundments; and

Whereas, these projects were constructed from tax funds paid by the public and were constructed for multiple public purposes; and

Whereas, one of the purposes for which these projects were constructed included the availability thereof for public recreation purposes; and

Whereas, thousands of citizens of this State, and of other states, have benefited from recreational use of these projects; and

Whereas, the United States Corps of Engineers published a proposed regulation in the February 1, 1973 Federal Register proposing to establish special recreation use fees for various projects under the jurisdiction of the Corps of Engineers; and

Whereas, said regulation would propose to impose fees for camp and trailer sites, boat storage, boat houses, and for operating a motor boat or other boat thereon; and

Whereas, such system of fees and charges would make it impossible for many families to continue to enjoy camping, boating, fishing, and other recreational activities on such Corps of Engineers projects; and

Whereas, these projects were initially constructed from public funds and the establishment of schedules of fees for the use of these projects will deny access thereto to thousands of citizens, and will enable only individuals of wealth or substantial income to gain the benefits from these projects,

Now, therefore, be it resolved by the House of Representatives of the 69th General Assembly of the State of Arkansas:

That the House of Representatives respectfully urges each member of the Arkansas Congressional Delegation to use the influence of their office in opposition to the proposed special recreational use fees which were published on page 3051 of the Federal Register, Volume 38, Number 31, on Thursday, February 1, 1973.

Be it further resolved that, upon adoption hereof, a copy of this Resolution shall be furnished to the Chief Engineer of the United States Corps of Engineers, and to each member of the Arkansas Congressional Delegation.

THE DOCTOR SHORTAGE

Mr. McINTYRE. Mr. President, today I want to discuss the doctor shortage, a shortage national in dimension but acute in certain areas.

Now when we talk of a doctor shortage, we are considering more than a straight numbers situation. We are also discussing maldistribution.

We not only need more doctors, we need them in the right places.

By far the great majority of physicians are located in metropolitan areas where facilities and technical assistance are readily available.

This is not the case in many rural areas. Nor is it always the case in the inner cities; 133 counties have no active physician in patient care, yet nearly half a million Americans live in these, predominantly rural, areas.

And, as I have already noted, many inner cities are also deprived in terms of physician services.

Let me quote the President in his 1971 health message to the Congress:

In some areas of New York, he said, there is one doctor for every 200 persons, but in others the ratio is one to 12,000. Chicago's inner city neighborhoods have some 1,700 fewer physicians today than they had 10 years ago.

And just 2 years ago the mayor of Baltimore told a Senate hearing that

. . . so many doctors have left Baltimore for the suburbs that 15 census tracts have no neighborhood doctors.

Mr. President, the Congress has not been insensitive to this problem. Steps are and have been taken to meet it. The Federal Government has provided substantial assistance to medical schools through the Health Professions Educational Assistance Act, an act originally enacted in 1963 and amended five times since.

This legislation provides a variety of programs to aid schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry.

The Congress last amended this program in 1971 when it passed the Comprehensive Health Manpower Training Act, and the strength of the Congress' support lies in the fact that this bill passed the Senate without a nay vote and cleared the House with only three dissents.

As the legislation now stands, financial support is authorized for construction of medical and other health professions schools, for capitation grants for basic educational support, for special projects to encourage curriculum im-

provements and enrollment expansions, and for startup assistance to new schools of medicine, dentistry, and osteopathy.

In addition to authorizing a variety of student assistance programs, the act authorizes grants for family medicine training and grants for graduate training of physicians and dentists who are taking their internships and residencies in primary care.

Mr. President, the intent of this legislation is clear. It provides many incentives for medical schools to increase their enrollments, broaden their curriculums, train increasing numbers of primary care physicians, and encourages physicians to practice in areas of greatest need.

Over the years, the support authorized by the Health Professions Educational Assistance Act has made a significant contribution to our medical education resources.

In 1968, there were 10,240 first-year medical students in the Nation's medical schools. By 1972 the figure had risen to 13,330, as the number of medical schools increased from 100 to 108 in that same timespan.

In fiscal 1973 it is estimated that 12,859 medical students—almost 30 percent of the eligible students—will receive HPEA student loans, while 7,305—17 percent of the eligible students—will receive HPEA scholarships.

But in spite of increasing enrollments, in spite of additional schools, thousands of individuals who want to become physicians are still being turned away.

In the 1971–72 academic year, 29,172 applied for entrance into medical schools. But only 12,335 were accepted.

And this discrepancy tells only half the story, Mr. President, because the individuals we have been educating in medicine have become specialists and not family practitioners.

In 1931, 72 percent of the private practicing physicians in the United States were family practitioners. But by 1967, only 2 percent of the students graduating from medical school followed that pursuit.

It should be obvious from these starkly simple figures that the need to provide more physicians, particularly family practitioners, remains very great, Mr. President.

Yet it is equally obvious that incentives are there, incentives already provided by law.

Given this, it seems clear to me that it is crucially important to fund those programs authorized under the Health Professions Educational Assistance Act at a level which would help them to meet their objectives.

Yet it is equally clear to me, Mr. President, that this is not the administration's intent.

Consider its fiscal 1974 budget:

No new construction grant money is requested;

No funds are requested for startup assistance;

Only 81 special project grant awards will be made to medical and osteopathic schools, as contrasted with 174 in fiscal 1973;

Schools of medicine, osteopathy, and dentistry will continue to receive capitation grants, but other schools authorized for such assistance under the Health Professions Educational Assistance Act will not.

Obviously, this administration does not consider increasing the number of trained physicians a priority concern, and this is truly unfortunate. It is more than unfortunate: it is dangerous.

Real progress has been made under the HPEA Act in the last 10 years, but much remains to be done, far too much, Mr. President, to countenance the fiscal starving of such important legislation.

Underscoring all this is still another factor:

We must remember that the physician shortage is only one aspect of the health problem facing poorer areas. Even where good health is available, the poor are often closed out of the system either because they cannot pay, or, equally significant, because of cultural and psychological fears.

I believe these barriers must be broken down. This is why on March 6 I reintroduced my National Health Care Act of 1973—S. 1100—a measure directed at improving both the financing and delivery of health care. I believe comprehensive legislation of this kind is necessary if we are to guarantee quality health care to all Americans at a cost they can afford.

The doctor shortage problem bears an important relationship to national health insurance. It is clear that any national health insurance will greatly increase the demand for health services as more and more people are given access to comprehensive care.

In view of the current shortages of health manpower, I do not believe the system will be able to meet this new demand, and so strongly urge my colleagues to support the full funding of health manpower programs already legislated and authorized.

LEGISLATIVE REVIEW ACTIVITIES OF THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. ERVIN. Mr. President, section 136(b) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 190d (b)), requires Senate standing committees to make reports "not later than March 31 of each odd-numbered year" with respect to their activities during the previous Congress in reviewing the "application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of that committee."

The following report is submitted in compliance with the above requirement. Complete details concerning all of the activities of this committee will be contained in the activities report for the 92d Congress, which will be published at a later date.

COMMITTEE JURISDICTION

The functions of the Committee on Government Operations, pursuant to the Legislative Reorganization Act of 1946, as amended, require consideration of legislation and other matters dealing with budgeting and accounting, other than appropriations, and with reorganizations in the executive branch of the Government. The committee is further required to: First, study audit and other special reports submitted by the Comptroller General of the United States to the Congress; second, study the operation of Government activities at all levels with a view to determining economy and efficiency; third, evaluate the effects of laws enacted to reorganize the legislative as well as the executive branch of the Government; and fourth, study intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

BUDGETING AND ACCOUNTING

During the 92d Congress, the committee received and reviewed 291 reports containing reviews of various governmental activities, prepared by the General Accounting Office, pursuant to the Budget and Accounting Act, 1921, the Accounting and Auditing Act of 1950, the Government Corporation Control Act, and the Legislative Reorganization Act of 1970. In addition, the committee staff met with GAO staff on numerous occasions to discuss action indicated to follow up on GAO recommendations.

In further implementing its responsibilities relative to budgeting and accounting, the committee staff, in collaboration with the GAO, reviewed the execution of all legislative enactments dealing with financial management in the Federal Government. This review, which is part of a continuing study of these matters, was entitled, "Financial Management in the Federal Government, Volume II." Published as Senate Document 92–50, it contained selected information on all financial developments in this field from the enactment of the Treasury Act of 1789 and dealt with all developments from the 80th through the 86th Congresses.

Finally, the committee reviewed various operations under the Budget and Accounting Act, 1921, and processed and considered a number of bills to amend that statute.

EVALUATION OF LEGISLATIVE REORGANIZATION

During the 92d Congress, the committee conducted a continuing study and appraisal of the effect of the Legislative Reorganization Act of 1970—Public Law 91–510—to determine whether it enabled the Congress to operate effectively and whether further legislative action was required to improve committee and congressional operations. In this connection, special emphasis was placed upon the requirements of the Senate.

This study revealed that additional legislation was required to: First, correct certain omissions in the 1970 act relative to use of counterpart funds by committees of the House of Representatives; second, clarify and simplify certain procedures relative to supplemental expenditure authorizations for Senate standing committees; third, enable improvements in specified operations of the Senate Disbursing Office; fourth, clarify the status

and source of payment of minority clerical personnel for Senate committees; fifth, authorize professional staff members of the Appropriations Committee and the Majority and Minority Policy Committees of the Senate, and certain joint committees, to obtain the same specialized training as was authorized by the 1970 act for professional staff members of standing committees; sixth, raise the minimum age of Senate pages; and seventh, require Senate committees, and certain joint committees, to reimburse the General Accounting Office for the salaries of employees assigned or detailed to such committees.

Following further study and consideration, the committee reported favorably H.R. 4713 which became Public Law 92–136 on October 11, 1971. All of the recommended actions were included in this act, except the proposed change in the age of Senate pages which was left unchanged.

EXECUTIVE REORGANIZATION

During the 92d Congress, the committee, and its Subcommittee on Executive Reorganization and Government Research, continued its evaluation of the effects of laws enacted to reorganize the executive branch of the Government, as well as its study and review of the operation of research and development programs financed by Federal departments and agencies in order to bring about governmentwide coordination and elimination of overlapping and duplication of scientific and research activities.

Following hearings and careful consideration by the subcommittee, the committee concluded that revision and clarification of chapter 9 of title 5, United States Code—executive reorganization—was necessary. In reporting an extension of the President's authority to submit reorganization plans, the committee revised and restructured portions of the statute in an effort to clarify and simplify its language without effecting any changes in the procedures or the substantive law provided for therein. These revisions were embodied in Public Law 92–179—December 10, 1971.

During the 92d Congress, in connection with its continuing study and surveillance of the executive branch, the committee prepared and issued its annual chart reflecting the organization, structure, and personnel requirements of executive branch departments and agencies, as of January 1, 1972. In addition, the committee conducted extensive hearings relative to the President's major departmental reorganization proposals.

In the field of Government research, the committee issued two committee print, prepared by the subcommittee, which appeared in December 1971 and November 1972, as parts 6 and 7, respectively, entitled "An Inventory of Congressional Concern With Research and Development."

NATIONAL SECURITY AND INTERNATIONAL OPERATIONS

In carrying out its responsibility for efficiency and economy of all branches and functions of the Government in the field of national security and international operations, the Subcommittee on National Security and International Operations studied the operation of the National Security Act of 1947, as amended, and, in this connection, reviewed the role of the National Security Council and its relation to the other national security agencies, including the Department of State and the Department of Defense. The subcommittee issued three committee prints on international negotiation, and one committee print on councils and committees.

INTERGOVERNMENTAL RELATIONS

The continuing responsibility of the Committee on Government Operations for Intergovernmental Relations is conducted by its regularly established Subcommittee on Intergovernmental Relations, which carried on the following legislative review activities:

REVIEW OF ACTIVITIES OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS (ACIR)

The Subcommittee on Intergovernmental Relations, on November 16, 1971, conducted a legislative review hearing on the operations of the Advisory Commission on Intergovernmental Relations which was created in 1959 by Public Law 86–380.

At that hearing the subcommittee heard testimony from several witnesses, including Robert E. Merriam, Chairman of the Advisory Commission on Intergovernmental Relations, who was accompanied by Mayor Richard G. Lugar of Indianapolis, the Vice Chairman; Representative AL ULLMAN, a Commission member; and William R. MacDougall, Executive Director of the Commission. In addition, the subcommittee reviewed the activities of the Advisory Commission on Intergovernmental Relations since 1966, when it last conducted such hearings. At that time, the subcommittee submitted a report entitled "Five-year Record of the Advisory Commission on Intergovernmental Relations and Its Future Role," published as Senate Document 80, 89th Congress.

The subcommittee found that in recent years the Advisory Commission on Intergovernmental Relations has sought to play a more active role in securing implementation of its recommendations for intergovernmental action. At the same time, the ACIR staff has increased the number and scope of its reports as well as its range of technical and professional assistance to all levels of government.

The subcommittee concluded that at a time when State and local governments are faced with responding positively to awesome challenges confronting them, it is doubly important that the ACIR—as an independent, bipartisan body representing all levels of our Federal system—be maintained and strengthened. The subcommittee was somewhat concerned, however, that the Advisory Commission on Intergovernmental Relations faces some danger of becoming too closely allied with spokesmen for the Federal Government.

REVIEW OF THE INTERGOVERNMENTAL COOPERATION ACT OF 1968 (P.L. 90–577)

The subcommittee held hearings in March and April 1972, to review the Intergovernmental Cooperation Act of 1968, and considered a bill, S. 3140, which would have amended the 1968 act. The purpose of the bill was to improve the efficiency of the Federal grant-in-aid system by strengthening State auditing procedures, providing a mechanism for the consolidation of grant programs in the same functional area, and providing a mechanism for approval of combined applications for joint grant-in-aid projects which require funding from two or more programs. Following approval by the full committee, S. 3140 was reported favorably on August 17, 1972—Senate Report 92–1109. It passed the Senate on September 14, 1972, and was referred to the House of Representatives which took no further action.

REVIEW OF THE UNIFORM RELOCATION ACT OF 1970 (P.L. 91–646)

During its review of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the subcommittee found a series of shortcomings in the law. As a result of that finding, the subcommittee recommended favorable action on S. 1819, which was reported favorably by the full committee on March 28, 1972—Senate Report 92–721—and passed the Senate on April 12, 1972. This legislation would have continued until July 1, 1976, full Federal funding of the first $25,000 per displacee in relocation assistance payments to persons forced to move from their homes or businesses by a federally assisted project. It was also intended to expend the coverage of the 1970 act. An amended version of S. 1819 passed the House August 7, 1972. On October 10, 1972, Senate and House conferees agreed to a compromise version of S. 1819. That legislation failed to be enacted, however, when the House, for lack of a quorum, was unable to act upon the conference report before the adjournament of the 92d Congress.

REVIEW OF THE INTERGOVERNMENTAL PERSONNEL ACT OF 1970 (P.L. 91–648)

During its review of the Intergovernmental Personnel Act of 1970, the subcommittee considered legislation, S. 3141, to amend that act. The purpose of this legislation was to create a Federal-State fellows program and a Federal-urban fellows program in order to provide for the employment of younger citizens by State and local governments, thereby strengthening the federal system. The subcommittee heard testimony on S. 3141 March 7, 1972, and took no further action.

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED (40 U.S.C. 471)

The committee continued its review of the activities of the General Services Administration with particular reference to activities and operations under the Federal Property and Administrative Services Act involving the disposal of surplus property.

Hearings were held by the Ad Hoc Subcommittee on Federal Surplus Property, and numerous proposals to improve the administration of the act were considered and processed, a number of which were enacted into law.

The committee also considered and processed 111 proposals from the GSA, and other Federal agencies, relating to the disposal of surplus Federal property by negotiated sale.

ADDITIONAL LEGISLATIVE REVIEW ACTIVITIES

During the 92d Congress, the committee, through its Permanent Subcommittee on Investigations, conducted inquiries and investigations in specified areas, relative to economy and efficiency in the Government at all levels.

In 1971, following an intensive inquiry into the operations of military service clubs, messes, and post exchanges, the Permanent Subcommittee on Investigations found evidence of widespread fraud, corruption, and other criminal activities in the operation of these nonappropriated-fund activities. Following the completion of the inquiry, which included public hearings, the committee issued a report, prepared by the subcommittee, detailing its findings and conclusions—Senate Report No. 92–418. Thereafter, the Department of Defense, and other Federal agencies, took more than 60 corrective and remedial actions designed to eliminate any repetition of the practices found. Where appropriate, information was turned over to the Department of Justice for appropriate action, and the principal individuals concerned were tried and convicted. In addition, four legislative proposals, including amendments to the Budget and Accounting Act, 1921, designed to correct and prevent the practices found, were prepared by the subcommitteee, and introduced in the Senate.

The subcommittee also conducted an intensive investigation into theft, conversions, and manipulation of stolen securities involving many millions of dollars. Following hearings by the subcommittee, various remedial and corrective actions were taken by Federal regulatory agencies which were concerned, and recommendations are expected to be forthcoming for appropriate legislative action.

The Permanent Subcommittee on Investigations, in cooperation with the Department of Defense, engaged in a thorough study of the disposal of surplus and excess war materiel by the armed services, and of the military supply and procurement system. A specific objective of this study was to determine whether existing statutes are adequate to regulate U.S. participation in international sales of surplus and excess war materiel. Following hearings, in 1971, the military services undertook a series of corrective actions, designed to remedy numerous deficiencies in the present system, which, if fully implemented, are expected to result in annual additional returns from such sales of approximately $50 million.

WEINBERGER PLEDGES BILINGUAL SUPPORT

Mr. CRANSTON. Mr. President, I wish to share with Senators a most heartening letter I have received from HEW Secretary Caspar W. Weinberger, in which he promises administration support for the bilingual education program and assures me that the program will be continued at division status within the U.S. Office of Education.

The Secretary also indicates that a permanent director for the Division will be named in the near future.

As author of the measure that resulted in the bilingual program being elevated to a division, I am deeply pleased to have the assurances of the new Secretary that bilingual education will have organizational priority and full administration support over the next 4 years.

Mr. President, I ask unanimous consent that my letter of February 23, 1973, to Secretary Weinberger, and his response to me of March 22, be printed at this point in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

FEBRUARY 23, 1973.

Hon. CASPAR W. WEINBERGER,
Secretary of Health, Education and Welfare, Washington, D.C.

DEAR MR. SECRETARY: According to information I have received from within the U.S. Office of Education, the present Bilingual Division is slated to be reorganized back to its former, lower status as a small program within the Bureau of Elementary and Secondary Education. If this report is correct, I urge you to intervene and correct what I believe to be an unsound decision.

Last year, I authored an amendment to S. 659—the Higher Education bill—that prohibited unauthorized program mergers and fund transfers from one appropriation to another. The amendment is now law. The original language of my measure included the statutory organization of the Bureau of Elementary and Secondary Education and specified a Division of Bilingual Education within BESE. I agreed, as did other conferees on the bill, to drop this statutory organization language upon receipt of written assurances by the then Secretary of Health, Education, and Welfare, Elliot Richardson, that the bilingual program would be raised to a Division within BESE. These assurances were received, and the conferees adopted my amendment minus the statutory organization language.

In the months that have passed (it will be a year in May) the Bilingual Division has struggled along with no permanent director and only token support from the Administration. Preliminary budget figures for 1974 included no funds for bilingual education, and though monies were eventually restored, they are less than was spent last year, despite growing evidence of need. As you know, the funds normally devoted to training bilingual teachers under the Education Professions Development Act, are absent from the President's new budget. Also, the funds specified by the Congress to be spent for bilingual purposes under the new school desegregation program have been reduced to a tiny fraction of the amount the Congress appropriated. And now we learn that the federal bilingual effort may be denied even token visability by dropping it in status and, unquestionably, in spirit and vitality.

As Senator from California, I protest strongly this reportedly contemplated action. The history of the federal role in bilingual education is brief, but so very promising. Successful, federally-sponsored bilingual programs have sparked enthusiasm and renewed hope in schools throughout California, the Southwest, and elsewhere in the nation, and have provided a base for encouraging local and state actions without reliance upon federal funds.

We dare not, I believe, let our efforts at the federal level subside into atrophy. It is not a matter of differing philosophies about what the federal role should be; it is a matter of honor about keeping federal promises.

I am hopeful that your response will assure our bilingual constituents in California and elsewhere that the federal efforts in bilingual education will not waste away or vanish, just at the height of their promise. The Division of Bilingual Education should be continued, a permanent Director appointed, and its place as a national priority program clearly established by the Administration as it has by the Congress on so many occasions.

With best regards.

Sincerely,

ALAN CRANSTON.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., March 22, 1973.

Hon. ALAN CRANSTON
U.S. Senate
Washington, D.C.

DEAR ALAN: Thank you for your letter of February 23 concerning a report from the Office of Education that the Division of Bilingual Education would be reorganized back to its former, lower status as a small program within the Bureau of Elementary and Secondary Education.

Let me assure you that this report is incorrect. There are no plans to reduce the status of Bilingual Education below the Division level. We are hopeful of announcing our selection of a permanent director for the Bilingual Education Division in the near future.

Please be assured of the Administration's continued support for the Bilingual Education Program.

Sincerely,

———— ————, *Secretary.*

HOUSING AND COMMUNITY DEVELOPMENT ISSUES FOR 1973

Mr. STEVENSON. Mr. President, the impact of the administration's housing moratorium and community development terminations has been shrouded by the complexities of the budget and facile rhetoric from the administration. However, the February issue of the Journal of Housing sets the record straight in a clear and unemotional article by Mary K. Nenno and John Maguire.

Among other things, the authors find that:

The level of new commitments for federally subsidized housing will drop from 426,924 units in fiscal year 1972 to 29,800 units in fiscal year 1974—a reduction of 93 percent in activity.

Because of housing units already committed before the moratorium, there will be a continuing level of new construction starts of 232,400 units in fiscal year 1974. This is a slight reduction from the 259,100 units anticipated for fiscal year 1973 but a reduction of 27 percent from the level of 322,025 new housing starts in fiscal year 1972. The level will drop off drastically in fiscal year 1975 because of no new commitments in fiscal year 1974.

The moratorium, added to an already slowed-down pace of new construction activities, will place the HUD assisted programs 45 percent behind the goals set for these programs by the end of fiscal year 1974, as projected in the first annual housing goal report published in 1968.

The suspension of the HUD housing programs will have an economic impact related to new housing starts spread over fiscal years 1973, 1974, and 1975. In total, it will result in a loss of $7.5 billion in new housing construction activity, with a total economic impact, including related facilities and services of $19.3 billion. There is an estimated loss of 2.2 million man-years of employment.

Mr. President, the picture painted by

Miss Nenno and Mr. Maguire's objective presentation amounts to a searing indictment of the administration's lack of housing policy. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOUSING AND COMMUNITY DEVELOPMENT ISSUES LOOMING FOR 1973 WHITE HOUSE/CONGRESSIONAL DEBATE

(By Miss Mary K. Nenno, Director, NAHRO Policy and Research Division, and John Maguire, Staff Director, NAHRO Information Center for Community Development)

The Nixon Administration, in the early weeks of 1973, initiated a series of fiscal and budgetary actions and offered a set of proposals designed to curb federal spending and to accomplish the President's program of "New Federalism," i.e., a restructuring of the federal system, a reorganization of the national government, and a redirection of public decisionmaking away from the federal government to state and local government. In the housing and community development field, these actions included:

—an 18-month moratorium on new commitments programs, effective June 30, 1973, to be replaced in part by a Community Development Special Revenue Sharing Program, whose effective date would be a year later, July 1, 1974; and

—the impoundment of nearly 1.25 billion dollars of fiscal year 1973 appropriations and Congressionally-approved contract authority for housing, urban development, and rural development programs (see chart on page 66).

The blueprint for the Administration's new domestic strategy is set forth in a series of Presidential statements issued since the first of the year; the second inaugural address, the State of the Union message, the budget proposal for fiscal year 1974, the 1973 Economic Report, and the January 8 announcement of an 18-month housing moratorium. These policy directions are summarized in a terse opening paragraph of the budget messeage sent to Congress on January 29: "The 1974 budget proposes a leaner federal bureaucracy, increased reliance on state and local governments to carry out what are primarily state and local responsibilities, and greater freedom for the American people to make for themselves fundamental choices about what is best for them."

The keystone of the fiscal year 1974 budget is a 268.7 billion dollar spending ceiling and the maintenance of a 250 billion dollar ceiling for the current fiscal year. The President's firm intention to maintain these ceilings is based on a belief that this decision will result in improving the nation's economic picture. As further detailed in the 1973 economic report, the "268.7" figure is designed to preclude the necessity for new taxes, to reduce inflation to an annual rate of 2.5 percent, to lower unemployment to a 4.5 percent rate, to accelerate national economic growth to a 6.75 percent figure, and to cut the federal deficit in half, to a 12.7 billion dollar level.

While the 268.7 billion dollar spending ceiling does represent an 18.7 billion dollar rise over estimated fiscal year 1973 spending, increases in "uncontrollable" items (e.g. interest in the national debt and increased social security payments) mean that other programs must be terminated or curtailed to achieve this spending maximum. The budget, therefore, proposes a termination of over 70 programs and severe spending reductions for dozens more. Likewise, the budget also reveals the extent of fiscal year 1973 impoundments necessitated to maintain this year's 250 billion dollar level and proposes to stretch other fiscal year 1973 appropriations through the end of fiscal year 1974.

In addition, to the housing and community development areas cited above, the budget also would terminate such programs as: the public service employment program; Hill-Burton hospital construction; federal library construction grants; regional medical research and treatment centers; and training programs for medical and scientific research personnel. The budget also proposes to phase out federal support for local mental health programs; to curtail or to eliminate various education and manpower programs, including a drastic reduction in "impacted" aid to local school districts; and to reduce federal spending in the environmental field. Ironically, the budget does call for increases in certain areas, such as a 5.7 billion dollar increase in defense and smaller increases for law enforcement, housing and community development research, and mass transit.

The President also proposes that federal special revenue sharing be substituted for many of the programs in the fields of manpower, education, and community development. His budget proposes four such categories of special revenue sharing—community development, education, law enforcement, and manpower. These programs, similar to those proposed two years ago by the President, but not enacted by Congress, would allocate federal money to state and local governments to be used within these broadly defined areas. However, in some cases the special revenue sharing would result in less federal money than is currently being spent and in others (community development) would not be activated until 12 months after the existing programs were terminated. Proposals for two other special revenue sharing programs—transportation and rural development—are dropped from this year's legislative package.

The President's justification for terminating programs and proposing special revenue sharing is summed up in his State of the Union message: "The time has come when we must make clear choices—choices between old programs that set worthy goals but failed to reach them and new programs that provide a better way to realize those goals; and choices, too, between competing programs—all of which may be desirable in themselves, but only some of which we can afford."

Implicit in these messages, moreover, is the President's determination to bring about a restructuring of the federal bureaucracy. It is expected that his executive reorganization proposals to create four new supercabinet posts will again be sent to Congress (see 1971 JOURNAL, No. 2, page 61). Pending Congressional action, the President has moved to accomplish much of this reorganization through administrative action. For example, Housing and Urban Development Secretary Lynn has already been named community development counselor to the President and, as such, is to coordinate all federal programs in the fields of housing, transportation, and community development, not just those administered by his department (see page 62). In a related move, the budget proposes to dismantle the Office of Economic Opportunity and transfer its functions to various other departments. (The community action programs would be terminated but could continue at the local level by using general or special revenue sharing funds.) Finally, the elimination of programs or their substitution by special revenue sharing would mean a reduction in the federal bureaucracy, another goal of "New Federalism." In short, the President summarized his philosophy in a radio address of January 28, telling Americans that the purpose of his new program was "to get big government off your back and out of your pocket."

The President's Philosophy: An analysis of "New Federalism" is contained in the Presidential messages and documents reveals five undercurrents in the philosophy that underlies it.

First, the President's domestic priorities are clearly economic, not social. Curbing inflation is given a higher priority than rebuilding cities. In fact, controlling the economy becomes the chief federal domestic function, with the solution of social problems relegated to state and local government for action.

Second, the Administration firmly believes that many existing categorical grant programs are not working and, therefore, should be eliminated, reevaluated, or replaced. Housing and community development programs fall within this category, as noted below.

Third, the "economy first" argument is being used to kill or cripple a number of programs that have always been unpopular with conservatives. The dismantling of OEO is one prime example of this undercurrent.

Fourth, there is a belief that the shifting of responsibility to state and local government in certain areas will improve efforts to cure social problems. This "grass roots" philosophy is evidenced in the special revenue sharing proposals. A corollary to this feeling is that state and local government will be strengthened by the shifting of responsibility to them and that the citizen will be better served by local decisionmakers.

Fifth, there is a distrust of the present federal bureaucracy, composed, to a large degree, of men and women believed to be more sympathetic to the philosophy of the Democratic party than to Republican goals. Because of civil service protection, many middle management staff and professionals remain within the bureaucracy, having entered into federal service during the Kennedy and Johnson years. The President may feel thwarted by these bureaucrats and, hence, see a major governmental reorganization and restructuring as the only means of accomplishing his objectives.

HUD 1974 APPROPRIATIONS REDUCED BY 37 PERCENT

Appropriations requests to Congress for the Department of Housing and Urban Development for fiscal year 1974 total 2.7 billion dollars: a net reduction of 1.6 billion dollars, or 37 percent, from the 4.3 billion dollars appropriated for fiscal year 1973. Actual HUD outlays in 1974, however, will increase from 3.4 million dollars to 4.8 billion dollars, reflecting the momentum of past commitments.

The principal area for reductions is community development, where the appropriations request is over 2 billion dollars less than approved in fiscal year 1973, a drop of over 90 percent. This reduction reflects the termination of all new community development activity for seven categorical grant programs by June 30, 1973 (urban renewal, model cities, water and sewer, open space, neighborhood facilities, rehabilitation loans, and public facility loans). To replace them, the budget anticipates Congressional passage of urban community development special revenue sharing legislation, to be effective on July 1, 1974. The budget document projects an annual level of 2.3 billion dollars for fiscal year 1975 for community development under new legislation.

In terms of the urban renewal program, the budget document indicates that the full fiscal year 1973 appropriation will be committed during the fiscal year (950 million dollars for regular Title I programs and 510 million dollars for disaster assistance). For fiscal year 1974, 137.5 million dollars is proposed but this amount will not support new activity. The funds for 1973 must cover existing activity in urban renewal projects, including

NDPs, until the effective date of special revenue sharing. The appropriations request for 1974 covers 127 million dollars for conventional projects and 10 million dollars for NDPs and is intended only to accelerate the close-out of existing projects, as well as to "preserve the capability" of local agencies (e.g. provide administrative costs) over the year so that they will be in a position to participate in any special revenue sharing for community development effective on July 1, 1974.

During a January 28 radio address, the President cited urban renewal as one of the programs that needs replacement. He stated: "[Urban renewal programs] have cost us billions of dollars, with very disappointing results. And little wonder. How can a committee of federal bureaucrats hundreds or thousands of miles away, decide intelligently where building should take place? This is a job for people you elect at the local level, people whom you know, people you can talk to."

An additional 20 million dollars is made available under the 312 rehabilitation program, bringing the amount available for fiscal year 1973 to 70 million dollars; this additional funding will be used for loans to facilitate the closing out of urban renewal projects. A total of 72 million dollars still remains impounded and the 117 code enforcement program is not reactivated.

Model cities funding will be used to supplement programs in effect as of June 30, 1973. It is estimated that the funds will be sufficient to provide localities, on the average (except for planned variations cities), new funds at a rate of 55 percent of the current grant level, from February 1, 1973 to July 1, 1974, with no additional funds thereafter. Not all cities will be funded at the average rate but funds will be withdrawn from poor performers and reallocated to better performers. According to the Administration, model cities "does not have a significant enough impact on social and economic problems nationally to justify continued funding as a separate program."

The fiscal year 1974 budget also anticipates the termination by June 30 of the community development training and fellowship programs funded at a 1973 level of 3.5 million dollars and the new community supplementary assistance program funded in 1973 at 7.5 million dollars.

The largest increase in the HUD appropriations, other than for housing payments, is for research and technology, with a new level of 71.5 million dollars, up 18.5 million dollars over last year. This is largely a result of the addition of 13 million dollars for research and demonstration efforts formerly performed by the Office of Economic Opportunity. The balance of the increase (5 million dollars) will be used to maintain the level of HUD research activity attained in 1973. A major emphasis of HUD research and technology will be in *housing management* (11 million dollars); *housing allowances* (11.6 million dollars); *other research* to support national housing programs (9.4 million dollars). In addition, a range of research activities (17.8 million dollars) will focus on *environment and utility service technology; patterns and trends of national growth;* and *delivery, equity, and quality of local government services.* For the first time since 1969, no funds will be allocated to Operation Breakthrough.

A significant shift in direction, although related only to an increase of 10 million dollars in appropriations, is in the "701" comprehensive planning program. In the past, the majority of this funding was made directly to cities for comprehensive planning. Beginning in 1974, grants will be made only to states, with governors expected to make sub-allocations to local governments and other eligible recipients in accordance with state priorities. The Administration intends to propose legislation to broaden this program into "a more flexible instrument of community development planning and management assistance, which will support all aspects of government management including the application of development resources."

Appropriations for the Federal Insurance Administration's national flood insurance program will be doubled, from 10 million dollars to 20 million dollars. This money will be used for administrative expenses and for studies and surveys necessary for conduct of the program.

Significant appropriations decreases occur within HUD management. Total appropriations for department management decline by some 6 million dollars, reflecting the projected cut-backs in total HUD personnel by some 12 percent. The number of permanent full-time employees is expected to be cut to 13,868 by June 30, 1974, a drop of 1968 from the expected June 30, 1973 level. Virtually all all of this decrease will result from reductions in the staffing of housing production (1540) and community deveopment (382) programs as a result of the projected reduced workload. The full impact of these staff reductions is shown in "functional" areas. Salaries and expenses for housing production and mortgage credit are reduced from 15.7 million dollars in 1973 to 5.3 million dollars in 1974, the result of the cut of over 1500 employees in this area.

Appropriations requests for all other HUD activities remain at basically the same levels as in 1973. For further detail, see the table on page 68.

1974 HOUSING BUDGET TIED TO MORATORIUM, REVIEW

In housing, the fiscal year 1974 HUD budget provides, in essence, no new contract authority for subsidized housing programs and confirms the January 8 announcement of an 18-month moratorium on all new assisted housing commitments, resulting in a withholding of 431 million dollars of Congressionally-approved fiscal year 1973 contract authority. This moratorium is part of the President's strategy to reduce federal spending and curtail programs that he feels have not accomplished their goals.

The 18-month "freeze" on new housing commitments implements these objectives in specific ways:

The suspension of new housing commitments will result in substantial reductions in outlays in the federal budget beginning in fiscal year 1973, when there will be fewer past commitments reaching the completion stage requiring federal housing payments. These suspensions, it is estimated, will save 50 million dollars from the federal budget in fiscal year 1973, 305 milion dollars in fiscal year 1974, and 612 million dollars in fiscal year 1975.

There will be a new dependence on the "private market." The present strong position of private housing production will be called upon to serve a larger part of housing need. Private housing starts in 1972 reached 2.4 million housing units, despite a drop in federally-assisted housing. In 1972, 318,000 housing units were produced with federal assistance for low- and moderate-income families, 13.5 percent of total production. This compares with 408,000 units in 1971 (20 percent), and 400,000 units in 1970 (28 percent).

Housing assistance programs are among those programs that "set worthy goals but failed to reach them." These programs are to be reevaluated, particularly with a view to establishing "a greater sense of responsibility at the state and local level, and among individual Americans." The 18-month suspension will provide a time for such reevaluation.

Rationale for Suspension of Housing Programs: The rationale for the suspension of new housing commitments in the HUD-assisted housing programs, as well as for the decisions on housing funding as part of the fiscal year 1974 HUD budget, is expressed as follows in the appendix to the budget: "The Federal Government has committed itself to long-term housing assistance payments which will cost the Federal taxpayer in the range of 57 billion dollars to 82 billion dollars in direct subsidy payments alone, as well as additional sums for various tax subsidies. These programs have not produced results commensurate with the costs to the taxpayer. Instead, the statutory programs have:

"Provided a fortunate few with new housing through subsidies totaling 700 dollars to 3000 dollars annually, while other families in the same income range pay more for unsubsidized housing that is not new;

"Provided windfall profits and tax shelters to intermediaries in housing and financial sectors;

"Created strong pressures for builders, developers, suppliers, and laborers to inflate construction and land costs, causing subsidized housing to cost more than comparable unsubsidized housing;

"Placed families in homes which they cannot afford to maintain thus severely straining the family budget.

"The Administration is evaluating alternative means for enabling families and individuals to afford adequate housing on their own."

Some Impacts of the Housing Suspension: *New commitments reduced*—Because of the 18-month moratorium on new commitments for HUD housing assistance programs that began on January 5, 1973 and is reflected in the proposed fiscal year 1974 budget, there will be the following relative reductions in *new* activity (see table on page 70):

The level of new commitments will drop from 426,924 units in FY 1972 to 29,800 units in FY 1974—*a reduction of 93 percent* in activity.

The level of new commitments in FY 1973 will drop from an anticipated level of 500,800 units in the original FY 1973 budget to 195,000 units in the adjusted budget—*a drop of 62 percent.*

Construction starts leveled off: Because of housing units already committed before the moratorium of January 5, 1973 (units under preliminary loan contract in public housing or with approved feasibility in FHA-assisted programs), there will be a continuing level of *new construction* starts of 232,400 units in fiscal year 1974. This is a slight reduction from the 259,100 units anticipated for FY 1973 but a *reduction of 27 percent from the level of 322,025 new housing starts in fiscal year 1975 because of no new commitments in FY 1947.*

Housing authorizations unused: The moratorium on new commitments will leave unused substantial amounts of contract authorization for the rent supplement and Sections 235 and 236 programs—in total for these three programs, 436.1 million dollars, which could produce some 485,500 new housing units for low- and moderate-income families. There will be no unused authority in the public housing program; it will require further Congressional authorization if new commitments are to be made.

Housing goals set back: The January 5 moratorium on new commitments, added to an already slowed-down pace of new activity resulting in lower numbers of construction

starts, will place the HUD-assisted housing programs 45 percent behind the goals set for these programs by the end of fiscal year 1974, as projected in the original 1968 housing goals. By the end of FY 1974, (the sixth year for the 10-year goals) the original goals for HUD-assisted programs projected half of the 6 million subsidized units for the 10-year period; based on FY 1974 budget projections, goal. The most serious goal gaps are in rent housing (55 percent gap), both of which serve the lowest-income families. Only four years remain (through fiscal year 1978) to make up these deficits (see table at right).

Economic activity and jobs lost: The suspension of the HUD housing assistance programs (the failure to utilize the available contract authority in Sections 235 and 236 programs) will have an economic impact related to new housing starts spread over FY 1973, 1974, and 1975. In total it will result in a loss of 7.5 billion dollars in new housing construction activity, with a total economic impact, including related facilities and services, of 19.3 billion dollars. There is an estimated loss of 2.2 million man-years of employment (see table on page 68).

Public Housing Modernization Suspended: The public housing modernization program is suspended, as of June 30, 1973. This program has been utilizing annual contributions authority at a level of 20 million dollars for the last two fiscal years and has a cumulative obligation of 87.5 million dollars. In a special HUD study made in March 1971, unfunded modernization requirements were estimated at approximately 90 million dollars, which, if funded, would require slightly over 77 million dollars of additional contract authority. A total of 20 million dollars of contract authority was utilized in each of the fiscal years 1972 and 1973, leaving an unfunded requirement at the end of the FY 1973 of 35 million dollars, not counting additional requirements which may have developed since March 1971.

Nonprofit Housing Sponsor Funds Suspended: The nonprofit sponsor fund was suspended as of January 5, 1973—and the FY 1974 budget has no appropriations request. In FY 1973, 31 sponsors received loans covering 3565 housing units, for a total of 1.1 million dollars. As expressed in the budget appendix, activity is being discontinued "since the program is considered an ineffective means of providing assistance which is available elsewhere from a variety of public and private organizations."

Public Housing Operating Subsidy Extended on "Interim Formula": Operating subsidy is projected at a level of 280 million dollars for FY 1974 to cover "forward funding" obligations. This is in contrast to the fiscal year 1973 level of 350 million dollars (which covered 260 million dollars in "forward funding" obligations, 60 million dollars to restore 1972 deficits, and 30 million dollars in reimbursements). *The 1974 fiscal year projection involves extending the use of the "interim formula" of December 1, 1972 through fiscal year 1974.* The minimum requirement for public housing was estimated by HUD at 325 million dollars in early 1972. Experience under the 1972 "formula" indicates that the funds most housing authorities receive will be seriously deficient in terms of operating cost needs. The true need for operating subsidy is estimated at close to 400 million dollars.

Housing Payments Budget Item Increases: The major increase in the HUD budget is for payments for assisted housing already in management—up to 300 million dollars over fiscal year 1973, reflecting 365,000 new subsidized units placed in management over last year's figure. Total assisted housing payments for next fiscal year are 2.1 billion dollars.

Public housing accounts for 1.3 billion dollars of this 1974 payment, including 689 million dollars for debt service; 280 million dollars for operating subsidies (see above for discussion); 248 million dollars for leased housing; and 87.5 million dollars for modernization debt service. There will be 1,170,000 units of public housing under payment in fiscal 1974, a 100,000-unit increase. In *rent supplements*, a total of 162,000 units will be under contract (a 36,000 unit increase), increasing appropriations to 164 million dollars. Fifty thousand *Section 235* units will come into management in fiscal 1974, bringing the total to 503,000 units requiring a 412 million dollar appropriation. The largest increase, however, is in the Section 236 program, with an additional 174,000 units coming into management for a total of 335,000 units under this program. The appropriations request will increase to 800 million dollars.

PROGRESS TOWARD 1968 HOUSING GOALS FOR LOW- AND MODERATE-INCOME FAMILIES UNDER HUD PROGRAMS

[In dwelling units, starts and rehabilitation, estimated through fiscal year 1974]

HUD programs	Original goals, 1969–74	Actual housing units, 1969–73	Estimated housing units, fiscal 1974	Gap in goals progress behind goal	
				Units	Percent
Public housing	995,000	386,499	60,000	−548,501	55
Sec. 235 (homeownership)	695,000	400,883	17,100	−277,017	39
Sec. 236 (plus other rentals)	865,000	517,921	136,600	−210,479	24
Rent supplements	360,000	80,463	19,400	−260,137	72
Rehab loans and grants	135,000	53,865	6,855	−74,280	55
Total	3,050,000	1,439,631	239,955	−1,370,414	45

Source: For original housing goals: hearings before the Subcommittee on Housing Urban Affairs, March 1968, submission by the Department of Housing and Urban Development, pt. 2, table 1-c, page 1325. For actual starts: fiscal years 1969 through 1971, President's Fourth Annual Report on National Housing Goals," 1972, pp. 44–45. For estimated housing starts: fiscal years 1972, 1973, and 1974, Budget Highight Tables," fiscal year 1974, HUD, Jan. 29, 1973, table 9.

AMOUNT OF FISCAL YEAR 1973 APPROPRIATED FUNDS AND CONGRESSIONALLY-APPROVED CONTRACT AUTHORITY CURRENTLY IMPOUNDED

Appropriated funds for community development and other HUD programs impounded:	
Water and sewer grants	$400,175,000
Sec. 312 rehabilitation loan fund [1]	72,320,000
Nonprofit sponsor loans and grants	6,686,000
Open space grants	50,050,000
Public facility loans [1]	20,000,000
Interstate land sales protection program	2,341,000
Subtotal	551,572,000
Congressionally-approved contract authority withheld:	
Sec. 235 homeownership	221,000,000
Sec. 236 rental assistance	175,500,000
Rent supplements	38,600,000
College housing	10,200,000
Subtotal	441,300,000
Farmers Home Administration funds impounded:	
Rural water and waste disposal grants	120,000,000
Housing for domestic farm labor	2,947,000
Mutual and self-help housing	832,000
Rural housing insurance funds	133,000,000
Subtotal	256,779,000
Total	1,249,651,000

[1] Includes balance available from loan repayments.

APPROPRIATIONS REQUESTED FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT: FISCAL YEAR 1974

[In thousands of dollars]

	Estimated appropriations 1972–73	Appropriations requests: 1973–74
Housing production and mortgage credit:		
Nonprofit sponsor fund	$1,000	
Total	1,000	
Housing production and mortgage credit—GNMA:		
Restoration of capital—special assistance funds		$95,647
Participation sales insufficiencies	26,054	24,931
Total	26,054	120,578
Housing management:		
Housing payments:		
Public housing	1,214,500	1,305,000
College housing	11,500	19,000
Rent supplements	122,000	164,000
Sec. 235 (homeownership)	340,000	412,000
Sec. 236 (rental)	112,000	200,000
Total	1,800,000	2,100,000
Community planning and management:		
Comprehensive planning grants (701)	$100,000	[1] $110,000
Community development training	3,500	
New community assistance grants	7,500	
Total	111,000	110,000
Community development:		
Urban renewal programs	[2] 1,450,000	[3] 137,500
Rehabilitation loans (312)	70,000	
Model Cities	500,000	
Neighborhood facilities grants	40,000	
Open space land programs	100,000	
Total	2,160,000	137,500
Federal Insurance administration: National flood insurance	100,00	20,000
Interstate land sales registration	885	1,100
Research and technology	53,000	[4] 71,450
Fair housing and equal opportunity	9,489	9,850

	Estimated appropriations 1972–73	Appropriations requests 1973–74
Department management:		
General management, administration, staff services	$25,048	[4] $29,325
Regional management and services	22,991	20,200
Salaries and expenses, functional programs	72,041	[5] 64,300
Total	120,080	113,825
Total HUD appropriations	4,291,508	2,684,303

[1] Additional authorizing legislation will be proposed by the administration to focus 701 grants more particularly on improving State and local government management.
[2] Includes $510,000,000 for disaster assistance.
[3] The administration anticipates community development revenue-sharing legislation to be enacted by July 1, 1974 and funded at $2,300,000,000 for fiscal year 1975.
[4] Includes $13,000,000 in research activity transferred from the Office of Economic Opportunity.
[5] The increase in general management and administration includes creation of the new office of Inspector General. Under salaries and expenses for functional programs, there is a decline in Housing Production and Mortgage Credit from $15,700,000 to $5,300,000 reflecting the reduction of over 1,500 employees.

ECONOMIC IMPACT OF SUSPENSION OF NEW ACTIVITY IN HUD HOUSING ASSISTANCE PROGRAMS, FISCAL YEAR 1973 AND 1974[1]

	Housing starts possible with unutilized contract authority as of June 30, 1973 [2]	Total cost (millions)
I.—Construction cost:		
Sec. 235 (single-family homeownership):		
Improvement: $15,200	260,000	$3,952.0
Land improvement: $2,500	260,000	650.0
Sec. 236 (multifamily rental):		
Improvement: $13,500	190,500	2,571.8
Land improvement: $1,700	190,500	323.9
Public Housing (no unutilized authority)		
Total, construction cost		7,497.7

	Per unit cost	Number of units	Total cost (millions)
II.—Community facilities to support housing:			
Sec. 235 (single-family)	$3,000	260,000	$780.0
Sec. 236 (multifamily)	1,500	190,500	285.8
Additional direct expenses	250	450,500	112.6
Durable goods and services	500	450,500	225.3
Total, community facilities			1,403.7
Total, housing and supporting facilities cost (sum of I and II)			8,901.4
III.—Multiplier effect:			
Total, direct expenditures: I and II ($7,497.7 + $1,403.7): $8,901.4 multiplied by 2			$17,802.8
IV.—Related services:			
Real estate taxes:			
Sec. 235	420	260,000	109.2
Sec. 236	400	190,500	76.2
Interest:			
Sec. 235	1,578	260,000	410.3
Sec. 236	1,357	190,500	258.5
Insurance:			
Sec. 235	60	260,000	15.6
Heat and utilities:			
Sec. 235	360	260,000	93.6
Maintenance and repairs:			
Sec. 235	168	260,000	43.7
Annual operating expenses on multifamily units:			
Sec. 236	2,562	190,500	488.1
Total, related services			1,495.2
Total, dollar impact (I, II, III, and IV)			19,298.0

	Total man-years lost
V.—Impact on employment: Based on a factor of 115 workers employed for 1 year for each $1,000,000 spent on all construction and related facilities and services:	
Total, dollar impact ($19,298.0×115)	2,200,000

[1] Based on factors supplied by Dr. Michael Sumichrast, National Association of Home Builders.
[2] Part of the economic impact from unutilized authority will come in the fiscal year ending June 30, 1973, because of cutbacks in projected construction starts in fiscal year 1973. The sec. 235 construction starts were reduced by 105,500 units over the original fiscal year 1973 budget; the sec. 236 starts were reduced by 87,800 units over the original budget. Public housing starts were reduced 20,000 units over the original projections in fiscal year 1973 but will be placed under contract in fiscal year 1974.

NEIGHBORHOOD YOUTH CORPS SUMMER JOB PROGRAM

Mr. JAVITS. Mr. President, on February 20, 1973, 26 Members of this body joined with me in a letter to the President calling to his attention the very serious youth unemployment problem and the need for an aggregate of $505.5 million for the Neighborhood Youth Corp summer job and recreation programs to provide a total of 1,018,991 job opportunities, as well as recreation and transportation; joining in that letter were the following Senators: Mr. ABOUREZK, Mr. BIBLE, Mr. BROOKE, Mr. BURDICK, Mr. CANNON, Mr. CASE, Mr. CLARK, Mr. CRANSTON, Mr. GRAVEL, Mr. HART, Mr. HASKELL, Mr. HATHAWAY, Mr. HATFIELD, Mr. HUDDLESTON, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. MCGEE, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. RANDOLPH, Mr. TUNNEY, Mr. WEICKER, and Mr. WILLIAMS.

The President announced on March 21, that the administration plans to provide 776,000 summer jobs for poor youth this summer with $424 million in Federal funds. This is some recognition, at least, of the very crucial—if not dangerous—situation we would face this summer with respect to youth unemployment in our major cities and poverty areas—where the unemployment rate ranges from 30 to 40 percent.

In fact, however, the administration's proposal still falls short by 242,891 jobs of the 1,018,991 needed according to a city-by-city survey conducted by the National League of Cities-U.S. Conference of Mayors at my request, and, perhaps even worse, the administration would ask the cities to provide the 776,000 slots by raiding funds appropriated by the Congress for certain other equally needy groups in our Nation—the returning veteran, the welfare recipient, the displaced aerospace engineer and other unemployed.

This arises from the fact that $300 million—almost three-fourths of the amount to be made available for the summer jobs—is to be taken out of funds already requested by the administration and appropriated by the Congress for the Emergency Employment Act of 1971, the public service employment program.

The $300 million is itself 29 percent of the $1.25 billion requested by the administration and appropriated by the Congress for the Emergency Employment Act.

Ironically, none of the proposed funding is to be provided under the Economic Opportunity Act of 1964 or the Manpower Development and Training Act of 1962—the statutory sources of the Neighborhood Youth Corps summer programs since its inception—even though the administration requested and the Congress already made available $256.5 million for 575,000 summer jobs for that specific purpose.

The Emergency Employment Act is designed to provide "transitional" job opportunities for unemployed and underemployed persons of all socioeconomic and age groups; although youth are among those who may receive assistance, the act focuses on year-round programs; it was not designed to focus on short-term work experience between school years; the latter is the focus of the Neighborhood Youth Corps summer job program.

Thus the situation is that the administration has been "keeping money in the drawer" specifically appropriated by the Congress for one purpose—and now urges that cities and other governmental agencies utilize funds—intended for another and essential purpose—to meet the needs of youth.

This is more than impoundment; it is impoundment and breach of promise.

The cities were entitled to rely upon and undertake planning under the administration's own requests both for full funding for the Emergency Employment Act, and for at least $256.5 million for the 1973 Neighborhood Youth Corps summer job program.

The administration's proposal means that instead cities and States are left with the "Hobson's choice" of "firing the father in order to hire the son."

It means that the administration is giving cities and States new responsibilities but "at a discount"; the decision-making "buck" is being passed to the local level, but dismembered on the way.

It means, most sadly, that someone will suffer—either poor youth with 30 to 40 percent unemployment or Vietnam veterans with 10 to 20 percent unemployment or thousands of the approximately 2 million persons on welfare who are "employable" but cannot get jobs; even with full funding the Emergency Employment Act of 1971 could reach only 228,000 or approximately 5 percent of the four million unemployed.

When the second supplemental appropriations bill is considered in the Senate, within the next few weeks, I shall seek the funds necessary to meet the actual needs of the cities for summer jobs for disadvantaged youth and related transportation and recreation—which the National League of Cities estimates at $505.5 million—witout diminution of efforts under the Emergency Employment Act of 1971.

The "crises of the cities" is not just a youth employment crisis; with national unemployment at 5.1 percent—0.6 percent above the 4.5 percent threshold which "triggers" the Emergency Employment Act into operation—it affects millions of other individuals; the administration should be held to its original commit-

ments to do what is necessary to do the job.

Mr. President, in the administration's announcement, the President states that the "Government commitment to summer jobs is being matched by significant efforts in the private sector" and noted that the National Alliance of Businessmen has a goal of 175,000 young people. I share the President's pride in this private effort and urge that it be undertaken with the maximum commitment from the private sector. But in even "easier times", similar goals have netted approximately 150,000 jobs and we must not forget that the "target" group we are talked about is not just the 1,018,991 which the cities indicate they can effectively place, but over 1.7 million youth. Accordingly, we need a greater governmental commitment and a greater private commitment at the same time if, to cite the President's statement,

The summer of 1973 is to be a time of expanded opportunity for young Americans.

I ask unanimous consent that the statement by the President, dated March 21, 1973, together with a copy of the letter dated February 20, 1973, and attachments as well as a copy of a letter from the National Alliance of Businessmen to me dated March 16, 1973, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT

Today I am pleased to report that a total of $424 million in Federal funds will be available this summer for youth programs, some $3 million more than last year.

This money should help in making the summer of 1973 a time of expanded opportunity for young Americans.

The outlook for young people this summer is encouraging in many ways. Job prospects are particularly promising, thanks in large measure to the rapid expansion of our economy. Last year the unemployment rate for youth dropped by 1.8 percent, even though the youth labor force increased by 1.1 million people. This summer, as we continue to lower the overall rate of unemployment, we can expect still further gains for young Americans.

One important element in the employment picture—especially for disadvantaged youth in our central cities whose unemployment rate is far too high—is that funding from Federal programs will be sufficient to support 776,000 job opportunities for young people. Total Federal funding available for this effort will be $354 million, slightly less than last year but more than the average of previous years.

Three different sources are available to States and localities in providing such jobs:

—*The Emergency Employment Assistance Act.* Last year I asked that money for this program be increased from $1 billion in fiscal year 1972 to $1.25 billion for the current fiscal year. Under a continuing resolution passed by the Congress last month, full funding is now available for this program, and we estimate that the States and local communities will be able to use some $300 million of it for summer youth jobs.

—*Direct Federal Employment.* An additional $50.4 million is available to the Federal Government itself for hiring young people through ongoing Federal programs. The Federal-State Employment Service should provide a total of 120,000 jobs for young Americans through its Youth Summer Placement Program.

—Finally, another $3.5 million is available for summer job programs through the *Youth Conservation Corps.*

I am also happy to report that this Government commitment to summer jobs is being matched by significant efforts in the private sector. For example, the National Alliance of Businessmen plans a massive summer employment campaign to hire an additional 175,000 young people in 126 major metropolitan areas. Overall, I am hopeful that this summer will bring another significant increase in the employment rate of our youth.

For those under fourteen, a wide range of recreational opportunities will be available this summer through federally funded recreation programs operated by cities, colleges and universities across America. These programs are targeted to the needs of disadvantaged youth, providing them with healthful exercise, sports instruction and exposure to local cultural institutions. Such efforts will make the coming summer a better and more productive time for approximately 2.3 million people.

Other summer programs will provide transportation services to make these employment and recreational opportunities more accessible. Approximately 850,000 young people will benefit from federally financed transportation services concentrated in the Nation's largest cities. In another important effort—one that is also expanding this summer—the summer nutrition program will serve some 128 million meals to nearly 2 million needy young Americans.

Our Nation's youth are our most valuable natural resource. Each of these summer programs will enrich their lives and help develop their potential as well-rounded human beings and as good citizens. I pledge the fullest possible cooperation of the Federal Government to help make the summer of 1973 a great summer for all of our young people. And I urge the American people to give their fullest cooperation and support to all of these efforts.

U.S. SENATE,
Washington, D.C., February 20, 1973.

Hon. RICHARD M. NIXON,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: We are writing to urge you to submit revised and amended budgetary requests for fiscal year 1973 for an aggregate of $505,517,789 for the Neighborhood Youth Corps summer job program and related transportation and recreation components for the coming summer. The Administration's revised budget request for fiscal year 1973 does not request any funds for the program.

As you know, the Neighborhood Youth Corps summer jobs program, which is authorized under the Manpower Development and Training Act of 1962 and the Economic Opportunity Act of 1964, provides work experience opportunities with public and private non-profit agencies, and related transportation for economically disadvantaged youth, fourteen to twenty-one years of age; the recreational component of the program funds meaningful activities for poor youth six to twelve years of age.

Our request consists of the following elements:

$476,887,788 for the Neighborhood Youth Corps summer job program to make available an aggregate of 1,018,991 job opportunities, as outlined in detail below; last year the Administration provided 740,200 opportunities with an aggregate of $316,250,000.

$24,946,580 for the recreation component; last year a total of $14.8 million was provided.

$3,683,431 for the transportation element; last year $1.2 million was made available.

These requests are documented on a city-by-city basis in the enclosed letter dated January 12, 1973 and attachments to Senator Javits from the National League of Cities-United States Conference of Mayors, which represent the Nation's cities.

As stated in the National League of Cities letter, the amounts requested are those which the cities may "effectively utilize". In fact, the overall needs are much greater; for example, the Department of Labor estimates that in the job program more than 1.8 million poor youths could benefit—almost twice the number which may be covered under our request.

The Administration's position is set forth in the enclosed letter dated February 2, 1973 from the Secretary of Labor, Peter J. Brennan, which states:

"Under the President's revised 1973 budget, the Manpower Training Services appropriations does not contain funds for the funding of a 1973 NYC Summer Program. Instead, local sponsors of EEA projects will be permitted to use, to the extent they desire, 1973 EEA funds for a summer employment program. In addition, States and local communities may elect to use existing Manpower Training Services funds available in the communities to supplement the EEA summer program."

While we recognize and share the Administration's general concern with respect to limiting federal expenditures during the current fiscal year, we believe that funding for the Neighborhood Youth Corps should be given the highest priority and attention. Although, the Administration has been successful in reducing unemployment nationally from six percent to five percent, disadvantaged youth in poverty areas continue to face unemployment rates ranging from thirty to forty percent. The Neighborhood Youth Corps program is designed for that group and provides a meaningful alternative to wasted summers of restlessness.

The Emergency Employment Act of 1971 (EEA) cannot be viewed as an adequate alternative source of funding to meet the employment needs of poor youth. As you know, the Act is designed to reach all ages and socio-economic groups and coverage is largely at the discretion of State and local sponsors. Unfortunately, experience indicates that coverage of poor youth will not be adequate to their needs. Of the 138,170 job opportunities presently funded under the $1.0 billion available nationally, only 14,150—or approximately 10.2 percent—are held by poor youth under the age of twenty-two; even if the Administration's request for an additional $250 million for fiscal year 1973 is appropriated, it is quite clear that the aggregate number of slots that could be made available to poor youth from these new sources will not begin to meet the needs which we have documented.

Similarly, manpower training services funds available in communities will not be satisfactory alternative sources of jobs for poor youth; in fact, if the Administration's new requests for fiscal year 1973 are appropriated, appropriations (not taking into account the Neighborhood Youth Corps summer program) will fall approximately $200.0 million below the actual level for fiscal year 1972.

We were very gratified by your support for a supplemental appropriation last summer and we urge you to respond to these needs at the earliest possible time so that poor youth can make plans for a profitable and meaningful summer and the communities and agencies responsible for administering

the program may ensure the most effective use of funds.

Very truly yours,

Jacob K. Javits, James Abourezk, William D. Hathaway, Frank E. Moss, John V. Tunney, Dick Clark, Hubert H. Humphrey, Harrison A. Williams, Jr., Edward M. Kennedy, Walter D. Huddleston, Jennings Randolph, Harold E. Hughes, Alan Bible, Gaylord Nelson, Philip A. Hart, Clifford P. Case, Edward W. Brooke, Alan Cranston, Quentin Burdick, Floyd K. Haskell, Edmund S. Muskie, Gale McGee, Walter F. Mondale, Mark O. Hatfield, Mike Gravel, Howard W. Cannon, and Lowell P. Weicker.

NATIONAL LEAGUE OF CITIES,
UNITED STATES CONFERENCE
OF MAYORS,
January 12, 1973.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: In response to your request for information, we have made inquiries as to the cities' 1973 needs for the summer Neighborhood Youth Corps slots. The information we have received from the 50 largest cities shows that the total number of slots these 50 large cities could effectively use this summer is 421,930.

On the basis of our contacts with a sample of smaller cities, we estimate that their needs and the number of slots these smaller cities could effectively utilize total 597,061.

Combining these figures—the total for the 50 largest cities with estimated needs for the balance of the Nation—the present real need for 1973 is 1,018,991 slots nationwide.

We trust that these statistics will be helpful to you in pointing up the critical need for an adequate appropriation for the summer Neighborhood Youth Corps.

Sincerely,

ALLEN E. PRITCHARD, Jr.,
Executive Vice President, National League of Cities.
JOHN J. GUNTHER,
Executive Director, U.S. Conference of Mayors.

SUMMER NEIGHBORHOOD YOUTH CORPS

City and (rank in size)	Population	Slots: 1972 need	Slots: 1972 actual [1]	Slots: 1973 need	Dollars [2] 1973 need
REGION I					
Boston (16)	641,000	5,000	5,213 (4,692)	6,400	$2,995,200
REGION II					
Buffalo (28)	463,000	4,268	2,238 (2,014)	6,834	3,198,312
Newark (35)	382,000	14,563	7,000 (6,300)	14,563	6,815,484
New York (1)	7,868,000	77,500	54,800 (49,320)	77,500	36,270,000
Rochester (49)	296,000	4,650	1,030 (927)	4,650	2,176,100
REGION III					
Baltimore (7)	906,000	9,420	7,712 (6,941)	9,420	4,408,560
Norfolk (47)	308,000	2,625	2,200 (1,980)	3,500	1,638,000
Philadelphia (4)	1,949,000	12,500	8,571 (7,714)	15,000	7,020,000
Pittsburgh (24)	520,000	9,265	5,670 (5,103)	9,265	4,336,000
District of Columbia (9)	757,000	36,000	3,999 (3,599)	20,000	9,360,000
REGION IV					
Atlanta (27)	497,000	3,408	4,680 (4,212)	5,388	2,521,584
Birmingham (48)	301,000	2,135	2,757 (2,481)	2,774	1,298,232
Jacksonville (23)	529,000	1,735	637 (573)	2,500	1,170,000
Louisville (38)	361,000	3,500	2,250 (2,025)	3,500	1,638,000
Memphis (17)	624,000	2,394	1,935 (1,741)	2,394	1,120,392
Miami (Dade County) (42)	335,000	8,226	5,429 (4,886)	8,226	3,849,768
Nashville (30)	448,000	2,000	1,700 (1,530)	2,000	936,000
Tampa (50)	278,000	6,515	2,649 (2,384)	6,515	3,049,020
REGION V					
Chicago (2)	3,367,000	40,000	31,617 (28,455)	40,000	18,720,000
Cincinnati (29)	452,000	3,000	3,592 (3,233)	5,000	2,340,000
Cleveland (10)	751,000	11,100	12,457 (11,211)	12,500	5,850,000
Columbus (21)	540,000	2,000	1,650 (1,485)	1,800	842,400
Detroit (5)	1,511,000	25,000	18,488 (16,639)	25,000	11,700,000
Indianapolis (11)	745,000	2,500	2,100 (1,890)	3,000	1,404,000
Milwaukee (12)	717,000	3,000	3,379 (3,041)	3,379	1,581,372
Minneapolis (32)	434,000	2,735	1,800 (1,620)	3,080	1,441,440
St. Paul (46)	310,000	1,025	1,120 (1,008)	1,300	608,400
Toledo (34)	384,000	990	1,400 (1,260)	1,400	655,200
REGION VI					
Dallas (8)	944,000	2,280	1,505 (1,355)	2,280	1,067,040
El Paso (45)	322,000	3,000	1,168 (1,051)	4,672	2,186,496
Fort Worth (33)	393,000	1,507	155 (140)	1,507	705,276
Houston (6)	1,233,000	3,560	5,284 (4,756)	5,664	2,650,752
New Orleans (19)	593,000	5,000	3,085 (2,776)	5,000	2,340,000
Okla. City (37)	366,000	1,530	1,010 (909)	1,530	716,040
San Antonio (15)	654,000	5,514	5,080 (4,572)	6,000	2,808,000
Tulsa (43)	332,000	1,011	771 (693)	1,011	473,148
REGION VII					
Kansas City (26)	507,000	4,000	3,580 (3,222)	4,000	1,872,000
Omaha (41)	347,000	1,670	867 (780)	1,670	781,560
St. Louis (18)	622,000	5,910	8,060 (7,254)	9,000	4,212,000
REGION VIII					
Denver (25)	515,000	2,100	2,038 (1,834)	2,100	$982,800
REGION IX					
Honolulu (44)	325,000	2,800	791 (711)	2,800	1,310,400
Long Beach (40)	358,000	432	384 (345)	432	202,176
Los Angeles (3)	2,813,000	24,568	25,319 (22,787)	27,491	11,700,000
Oakland (39)	362,000	5,850	2,050 (1,845)	5,850	2,737,800
Phoenix (20)	582,000	17,000	3,964 (3,567)	17,000	7,956,000
San Diego (14)	697,000	4,510	4,733 (4,259)	5,500	2,574,000
San Francisco (13)	716,000	8,000	4,000 (3,600)	8,000	3,744,000
San Jose (31)	446,000	3,535	1,910 (1,719)	3,535	1,654,380
REGION X					
Portland (36)	382,000	5,000	2,500 (2,250)	5,000	2,340,000
Seattle (22)	581,000	5,000	2,163 (1,947)	5,000	2,340,000
SAMPLING OF CITIES OTHER THAN 50 LARGEST					
Akron, Ohio	275,425	1,216	1,190 (1,071)	1,351	632,268
Albany, N.Y.	114,873	540	449 (404)	600	280,000
Albuquerque, N. Mex.	243,751	1,000	815 (733)	1,000	468,000
Amarillo, Tex.	127,010	1,092	820 (738)	1,200	561,600
Baton Rouge, La.	165,963	225	150 (135)	250	117,000
Columbia, S.C.	113,542	1,825	2,030 (1,827)	2,030	950,040
Columbus, Ga.	154,168	1,820	1,720 (1,548)	2,000	936,000
Dayton, Ohio	243,601	1,500	1,320 (1,188)	2,500	1,170,000
Des Moines, Iowa	200,587	750	750 (675)	750	351,000
Erie, Pa.	129,231	950	950 (855)	950	444,600
Flint, Mich.	193,317	1,800	920 (828)	2,000	936,000
Ft. Lauderdale, Fla.	139,590	540	600 (540)	600	280,800
Gary, Ind.	175,415	4,447	3,500 (3,150)	4,447	2,081,196
Greensboro, N.C.	144,076	871	880 (792)	968	453,028
Hartford, Conn.	158,017	2,730	2,495 (2,245)	3,000	1,404,000
Jackson, Miss.	153,968	757	403 (363)	757	354,276
Knoxville, Tenn.	174,587	1,520	1,520 (1,368)	1,520	711,360
Lansing, Mich.	131,546	900	460 (414)	1,000	468,000
Lincoln, Nebr.	149,518	350	386 (347)	400	187,200
Little Rock, Ark.	132,483	1,320	72 (65)	1,320	617,760
Mobile, Ala.	190,026	900	756 (680)	950	444,600
Montgomery, Ala.	133,386	500	557 (501)	570	266,760
Riverside, Calif.	140,089	150	75 (67)	150	70,200
Santa Ana, Calif.	156,601	2,550	1,900 (1,710)	2,800	1,310,400
Savannah, Ga.	118,349	600	550 (450)	650	304,200
Shreveport, La.	182,064	637	628 (565)	700	327,600
Syracuse, N.Y.	197,208	1,365	1,200 (1,080)	1,500	702,000
Tacoma, Wash.	154,581	600	588 (529)	600	280,800
Wichita, Kans.	276,554	980	1,075 (967)	1,075	503,100
Winston-Salem, N.C.	132,913	850	750 (675)	850	397,800
Worcester, Mass.	176,572	825	705 (634)	900	421,200
50 largest, total		410,831	278,490 (250,641)	421,930	197,463,240
Balance of cities		537,893	461,732 (415,559)	597,061	279,424,548
Total		948,724	740,222 (666,200)	1,018,991	476,887,788

[1] All figures in the above chart represent 10-week slots except the first column under "72 Actual" which are 9-week slots.

[2] Dollar figures represent 10-week, 26-hour slots at $1.65 per hour.

SUMMER RECREATION SUPPORT PROGRAM (RSP)

	1972 need	1972 actual	1973 need
REGION I			
Boston	$180,000	$168,000	$350,000
REGION II			
Buffalo	120,000	123,000	125,000
Newark	140,000	100,000	200,000
New York	2,934,000	2,336,000	2,934,000
Rochester	95,000	68,000	136,000
REGION III			
Baltimore	335,000	302,910	335,000
Norfolk	180,000	132,000	201,500
Philadelphia	$700,000	$543,000	$1,000,000
Pittsburgh	165,000	168,000	200,000
District of Columbia	364,000	245,000	364,000
REGION IV			
Atlanta	180,000	143,000	180,000
Birmingham	170,000	120,000	170,000
Jacksonville	175,000	150,000	250,000
Louisville	130,000	96,000	130,000
Memphis	305,000	264,000	305,000
Miami (Dade County)	192,000	126,000	192,000
Nashville	150,000	150,000	200,000
Tampa	175,000	132,000	175,000
REGION V			
Chicago	$2,100,000	$913,000	$2,100,000
Cincinnati	175,000	135,000	175,000
Cleveland	205,000	230,000	380,000
Columbus	211,000	132,000	211,000
Detroit	897,000	399,000	897,000
Indianapolis	195,000	130,000	260,000
Milwaukee	155,000	144,000	160,000
Minneapolis	96,000	63,000	130,000
St. Paul	58,000	36,000	58,000
Toledo	120,000	84,000	120,000
REGION VI			
Dallas	285,000	228,000	285,000
El Paso	200,000	194,000	250,000

SUMMER RECREATION SUPPORT PROGRAM (RSP)—Con.

	1972 need	1972 actual	1973 need
Fort Worth	$173,000	$108,000	$175,000
Houston	440,000	350,000	440,000
New Orleans	300,000	306,000	500,000
San Antonio	400,000	324,000	500,000
Tulsa	115,000	92,000	200,000
Oklahoma City	170,000	108,000	170,000
REGION VII			
Kansas City	130,000	118,000	200,000
Omaha	96,000	61,000	96,000
St. Louis	384,000	254,000	405,000
REGION VIII			
Denver	170,000	126,400	170,000
REGION IX			
Honolulu	99,000	70,000	140,000
Long Beach	125,000	72,000	125,000
Los Angeles	650,000	552,000	650,000
Oakland	125,000	104,000	125,000
Phoenix	200,000	144,000	288,000
San Diego	200,000	164,000	825,000
San Francisco	250,000	180,000	250,000
San Jose	100,000	85,000	100,000
REGION X			
Portland	135,000	89,000	135,000
Seattle	129,000	89,000	129,000
50 largest, total	15,928,000	11,451,310	18,096,500
Balance of cities	6,030,000	3,548,690	6,850,080
Total	21,958,000	15,000,000	24,946,580

SUMMER YOUTH TRANSPORTATION PROGRAM (SYTP)

	1972 need	1972 actual	1973 need
REGION I			
Boston	$20,000	$10,700	$20,000
REGION II			
Buffalo	13,000	7,500	13,000
Newark	39,500	23,437	69,300
New York	251,400	149,130	500,000
Rochester	12,000	7,500	15,000
REGION III			
Baltimore	35,000	21,100	35,000
Norfolk	12,000	7,500	25,600
Philadelphia	24,360	24,360	100,000
Pittsburgh	22,000	12,650	22,000
Washington, D.C.	38,700	22,960	100,000
REGION IV			
Atlanta	30,000	12,080	30,000
Birmingham	24,000	13,790	24,000
Jacksonville	14,000	6,300	14,000
Louisville	12,500	7,500	12,500
Memphis	18,000	11,860	18,000
Miami (Dade County)	23,000	12,000	23,000
Nashville	12,000	7,000	12,000
Tampa	17,000	7,500	0
REGION V			
Chicago	70,000	42,240	70,000
Cincinnati	15,000	7,920	15,000
Cleveland	35,000	19,310	35,000
Columbus	17,000	8,640	17,000
Detroit	75,000	36,560	75,500
Indianapolis	15,000	8,480	15,000
Milwaukee	65,000	47,280	66,192
Minneapolis	20,000	12,380	75 000
St. Paul	12,500	7,500	12,500
Toledo	15,750	7,990	20,000
REGION VI			
Dallas	23,990	19,340	23,990
El Paso	58,900	38,900	77,800
Fort Worth	15,000	8,130	15,000
Houston	45,000	25,060	0
New Orleans	25,000	14,790	25,000
Oklahoma City	25,000	14,000	25,000
San Antonio	26,570	14,570	26,570
Tulsa	12,500	7,500	20,000
REGION VII			
Kansas City	50,000	13,970	50,000
Omaha	15,000	13,500	16,000
St. Louis	43,500	25,790	43,500
REGION VIII			
Denver	$29,000	$18,320	$29,000
REGION IX			
Honolulu	15,000	7,500	15,000
Long Beach	16,000	7,500	16,000
Los Angeles	82,870	82,870	164,000
Oakland	28,000	15,000	28,000
Phoenix	23,000	11,740	25,000
San Diego	30,000	14,360	30,000
San Francisco	25,000	11,970	25,000
San Jose	8,160	7,500	9,000
REGION X			
Portland	13,000	25,000	25,000
Seattle	32,100	19,060	32,100
50 largest total	1,608,940	979,487	2,155,552
Balance of cities	1,141,060	520,513	1,527,879
Total	2,750,000	1,500,000	3,683,431

NATIONAL ALLIANCE OF BUSINESSMEN,
Washington, D.C., March 16, 1973.

Hon. JACOB K. JAVITS,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

DEAR SENATOR JAVITS: Thank you for your letter of March 9, 1973. We appreciate your interest and share your concern for the problems of providing job opportunities for disadvantaged youth this summer. The Alliance will be operating this coming year with about one third fewer metro offices throughout the country, as we are streamlining our efforts to provide the greatest results within the limits of the funds available to us.

In spite of this, we have decided not to lower our goals from last year and have set a minimum target of 175,000 jobs for the summer of 1973. The survey of our field offices for individual targets is not yet complete, but if there is any adjustment to this figure it will be upward.

Because other summer work programs, notably Neighborhood Youth Corps, are doubtful participants this summer, NAB will make a very strong effort to pick up as much of the slack as possible with job opportunities in the business community.

With best wishes,

Sincerely,

LAWRENCE L. O'CONNOR.

TRIBUTE TO SENATOR McCLELLAN'S SERVICE AS CHAIRMAN AND JAMES R. CALLOWAY'S SERVICE AS CHIEF COUNSEL AND STAFF DIRECTOR OF THE GOVERNMENT OPERATIONS COMMITTEE

Mr. ERVIN. Mr. President, the name JOHN L. MCCLELLAN has long been synonymous with U.S. efforts to combat crime, strengthen law enforcement, and reform the administration of criminal justice. His unprecedented achievements in this field have earned him Presidential acclaim and the lasting gratitude of a nation engaged in an unrelenting war against crime.

As the vigorous, able, and effective chairman of the Senate Permanent Subcommittee on Investigations for 18 years, Senator MCCLELLAN has been the driving force behind its exposure of organized crime in this country. He has uncovered malfeasance, mismanagement, and corruption in both governmental and private institutions. He has conducted more than 107 major investigations and saved taxpayers billions of dollars which otherwise would have been squandered or wasted in operations of the Federal bureaucracy. No other chairman of a congressional investigating committee in the history of the U.S. Congress has approached Senator MCCLELLAN'S records for tenure as chairman of both the Permanent Subcommittee on Investigations and the Select Committee on Improper Activities in the Labor or Management Field—popularly known as the McClellan Committee—for number of investigations conducted, total days and hours of hearings, and numbers of witnesses heard.

Since 1955, more than 135 persons have been convicted of unlawful acts uncovered by Senator MCCLELLAN'S subcommittee and its productive incursions into the twilight zone of crime in America. From investigations of military textile contracts, the Billie Sol Estes empire, and PX scandals to the riots on college campuses and the underworld infiltration of the securities market, JOHN L. MCCLELLAN has led the way for honesty in Government and a society free from the scourge of corruption.

Mr. President, it was altogether fitting, therefore, that the Committee on Government Operations paid special tribute to the senior Senator from Arkansas upon his resignation as chairman of the Permanent Subcommittee on Investigations, a body he led with such remarkable distinction. I ask unanimous consent to insert into the RECORD a resolution adopted by the Committee on Government Operations on January 26, 1973, so honoring Senator MCCLELLAN for his long and meritorious subcommittee service.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE COMMITTEE ON GOVERNMENT OPERATIONS OF THE U.S. SENATE

ADOPTED JANUARY 26, 1973, IN RECOGNITION OF HON. JOHN L. M'CLELLAN

Whereas the distinguished Senior Senator from Arkansas, has honorably and faithfully served for 18 years as Chairman of the United States Senate Permanent Subcommittee on Investigations of the Committee on Government Operations; and

Whereas John L. McClellan throughout his many years as Chairman of the Subcommittee has taken an unswerving stand in defense of freedom and democracy and has worked unrelentingly to combat crime, corruption and subversion in America; and

Whereas John L. McClellan has been acclaimed nationally for his vigorous, energetic and effective investigation into the operations of organized crime and into unlawful labor-management practices; and

Whereas John L. McClellan's diligent efforts have led to the enactment of legislation which has saved taxpayers untold millions of dollars, strengthened our Nation's fight against crime, bolstered the forces of law and order and improved our system of criminal justice; and

Whereas John L. McClellan has rendered exemplary and outstanding service to the Committee and Subcommittee, to the United States Senate, to the State of Arkansas, and to the people of this Nation; and

Whereas John L. McClellan has found it necessary to resign his Chairmanship of the

Permanent Subcommittee on Investigations in order to devote more of his time and energy to his new responsibilities as Chairman of the Committee on Appropriations: Now, therefore, be it

Resolved, That the Committee on Government Operations, and the Members thereof, express and record their deepest appreciation and esteem for John L. McClellan's extraordinary leadership, his valued and treasured friendship and his personal contributions to the Committee and Subcommittee, to the Senate of the United States and to the people of his State and Nation.

Mr. ERVIN. Mr. President, in the course of serving in the Congress, one of the most distinct pleasures and rewarding moments comes with the opportunity to honor staff members who have made special contributions to the legislative process and to the welfare of this great Chamber. Speaking personally and on behalf of the Committee on Government Operations which I chair, I wish to offer such deserved recognition today to James R. Calloway, former chief counsel and staff director of my committee.

Jim Calloway's 12-year career on the committee was filled with extraordinary achievement—a testament to his unusually high professional abilities and his unusually high personal qualities. But he did more than just manage, administer, and oversee the countless day-to-day details of the committee, its four subcommittees, and large staff with remarkable skill and aplomb. He did more than counsel the committee membership and its chairman with willing dedication, singular ableness, and selfless tact. He went well beyond all normal expectations in fulfilling the myriad and multifaceted responsibilities of his job. Jim Calloway's most exceptional mark was his creative initiative—his astuteness in recognizing the larger legislative picture and adding this pertinent dimension with such clarity and originality to his many committee endeavors.

It is particularly noteworthy that those who have had the good fortune to have known and worked with Jim Calloway in his committee capacities over the years have only the highest admiration, esteem and affection for him. As we begin this 93d Congress, all of us serving the committee and on its staff will sorely miss his loyal presence, his keen advice, and his skillful direction. But we take pride in Jim Calloway's appointment as counsel of the Committee on Appropriations and wish him continued success and every good fortune in this new position.

Mr. President, I ask unanimous consent to insert into the RECORD a resolution of appreciation adopted by the Committee on Government Operations on January 26, 1973, in tribute to Jim Calloway.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE COMMITTEE ON GOVERNMENT OPERATIONS OF THE U.S. SENATE

ADOPTED JANUARY 26, 1973, IN RECOGNITION OF JAMES R. CALLOWAY

Whereas, James R. Calloway has honorably, loyally, and faithfully served, since 1961 as Professional Staff Member, and, since 1966 as Chief Counsel and Staff Director, of the Committee on Government Operations of the United States Senate; and

Whereas, James R. Calloway has, in these capacities, untiringly, effectively and efficiently performed his Committee duties in an outstanding manner, demonstrating the highest qualities of responsible staff leadership, creative initiative and exemplary dedication; and

Whereas, James R. Calloway has made numerous and extraordinary contributions to the Committee on Government Operations, specifically its Chairman, and its Members, as well as the Senate of the United States and, by virtue of his expertise, skill and knowledge, has advanced and improved the legislative process, and rendered unique and able assistance in the development and enactment of legislation which has enhanced the economy and efficiency of government, the organization and performance of the Executive Branch thereof and the intergovernmental relationships of government at all levels; and

Whereas, James R. Calloway has found it necessary to relinquish his position with this Committee in order to assume new duties and responsibilities as Counsel of the Committee on Appropriations; Now, therefore, be it

Resolved: That the Committee on Government Operations, and the Members thereof, express and record their deep appreciation and esteem for his many exceptional contributions and for his years of dedication, loyalty and service to this Committee, to the Senate of the United States, and to the people of this Nation.

Mr. ERVIN. Mr. President, I would also like to place into the RECORD some excerpts from the transcript of the executive session in which Senator MCCLELLAN and Mr. Calloway received their resolutions. These excerpts reflect, I believe, the attitudes and feelings of each of the members of the committee.

There being no objection, the excerpts were ordered to be printed in the RECORD as follows:

EXCERPTS OF MEETING

(Senate Committee on Government Operations, March, 1973)

Resolution for Senator McClellan:

Senator JAVITS. "Mr. Chairman, may I say on behalf of the minority that I have had long experience with Senator McClellan and I have yet to find the definition of an American more accurately portrayed than that of our distinguished former Chairman."

Senator JACKSON. "Mr. Chairman, from my side, may I just say, as the Chairman read the Resolution, it does, indeed, describe a man who is, in every sense, a real, decent American, and I speak as one who served with him, continuously now, for 21 years, since January of 1953. And I might say that anyone who has dealt with Senator McClellan, whether it be as a witness, an adversary or a friend, has always found one thing to be true, and that is: He is fair, honorable, and decent. And I do not know how one can add much to that.

"With that, I wholeheartedly join in the comments of the Chairman and the distinguished minority member Senator Javits."

Chairman ERVIN. "I would like to say that some years ago I was on a radio program and was asked about a possible candidate for the Presidency, and I said: "If you want to get a man with rugged individualism and rugged honesty and rugged courage—the rugged courage of Grover Cleveland—nobody fits that definition better in my book than John McClellan."

Resolution for James R. Calloway:

Senator JACKSON. "Mr. Chairman, I am very pleased to move the adoption of the Resolution. I think all of us who have served on the Committee—and I have been on it since Jim first came to the Committee—deeply respect his professionalism. We know we could always get the right answer from Jim. He was always fair, as Staff Director of the Committee. And it has been a real pleasure for my staff and for myself to work with Jim Calloway."

Senator JAVITS. "Mr. Chairman, I would like to join in and adopt everything that Senator Jackson has said about Jim Calloway, and I think, equal in rank with this testimonial we are giving him now, is that fact that he has been called to at least as eminent a position by the man with whom he had worked for many years.

I can think of nothing that would delight me more, if I were Chief Clerk of this Committee, than to know that when the Chairman went to so high a responsibility he wanted me with him to assure that he would discharge that post credibly.

I certainly congratulate Jim and second the Resolution."

Chairman ERVIN. "My personal experience with Jim has been that he has always done his full duty and he always went the second mile not only for the Committee but for every member of the Committee that needed his assistance."

Senator CHILES. "I just wanted to say, as a freshman member of this Committee, Jim Calloway spent an awful lot of time with me and my staff trying to get us prepared, and I think that, in spite of all his other duties, he will spend a considerable amount of time with the freshman members of the Appropriations Committee, doing the same thing.

Certainly, I think Jim Calloway represented all of the members of the Committee in his work.

Chairman ERVIN. "Well, I know when you are speaking, in law, about evidence, I think Jim Calloway is about the best evidence I know of the truth that what good is accomplished by a Senator or by the Senate is due, in large measure, to those like Jim Calloway, who assist us."

Mr. MCCLELLAN. Mr. President, I am deeply touched by this tribute from the senior Senator from North Carolina and my colleagues on the Senate Committee on Government Operations.

While I appreciate this expression of support, I am convinced that whatever success that I have achieved as chairman of the Senate Permanent Subcommittee on Investigations is based upon the assistance given me by the members of the committee. Little could have been accomplished without the confidence, the cooperation, and the dedicated efforts of the members of the committee.

Mr. President, I cherish the long and close association I have had with my colleagues in the committee and look forward to working with them under the able leadership of Senator HENRY M. JACKSON as chairman of the Senate Permanent Subcommittee on Investigations and Senator SAM ERVIN as chairman of the Senate Government Operation's Committee.

Again, I thank my colleagues for this fine tribute.

Good staff work is an indispensable essential to the wise and sound deliberations of this body. Overall, the Senate has been most fortunate in this respect. And, no committee of the Senate has been better served than the Committee on Government Operations during the 7 years that James R. Calloway was its chief counsel and staff director.

As the former chairman of the Committee on Government Operations, it is

a source of great personal pleasure to me to see Mr. Calloway honored in this Chamber today. It is also a great privilege and pleasure to announce that the Committee on Appropriations has appointed him as its new counsel.

I am extremely pleased to make this announcement because Mr. Calloway has proven himself to be a skillful legislative technician who is exceptionally knowledgeable and who is a most loyal Senate staff member. He has shown unusual administrative ability, tact, and efficiency in the performance of his duties to the Committee on Government Operations, to the Senate, and to the people of the United States.

I know he will make a signficant contribution to the vital work of the Committee on Appropriations.

During his 12 years of dedicated service on the Committee on Government Operations—the last 7 as its chief counsel and staff director—Mr. Calloway evidenced his professionalism in the finest tradition and sense of the term. He discharged his responsibilities with thoroughness, expedition, and efficiency. He dealt with problems of law, administration, and procedure in a fashion that reflects a high degree of credit on himself and on this body.

I take special pride in his accomplishments over the past dozen years. Our contacts and association together have extended far beyond a mere professional and official relationship. His courtesies, his devotion to duty, and my respect for his abilities have commanded my lasting admiration for him.

Mr. President, I strongly endorse the sentiments expressed in the Government Operations Committee resolution.

THE STATUS OF PUBLIC TELEVISION

Mr. HART. Mr. President, over the past few months there have been troubling signs of disagreement and disarray within the ranks of public television in this country. The Corporation for Public Broadcasting, an independent agency established by Congress, has announced its intention to assume control over all national programing decisions for public television. Licensee organizations, stations, and production agencies from coast to coast have responded with cries of protest and dismay. This internal division troubles me, because, unless resolved, it obviously does not bode well for the future of public television.

In Michigan, the tangible benefits of the Federal contribution to the public television system are evident. With the help of Federal funds, public television stations in Michigan have grown in number and in capability. WTVS in Detroit, now in its 17th year on the air, has recently been joined by WGVC in Grand Rapids and WNPB in Marquette, both of which went on the air just 3 months ago. These three stations, along with stations in East Lansing, Mount Pleasant, and University Center have all been aided by the national programing underwritten by Federal funds and by public television facilities grants from HEW. But now what should be a healthy partnership between CPB, the major source of Federal funds, and the stations looks progressively weaker.

For the past 2 months, two distinguished representatives of Michigan's public broadcasting licensees—Dr. Clifton Wharton, Jr., president of Michigan State University and head of WKAR, East Lansing, and Mrs. Edward Cole, board member of WTVS in Detroit—have been on a negotiating team representing the views of the public television licensees before the Corporation for Public Broadcasting. The existence of this special team suggests a growing split between CPB goals and licensee goals. That "split" results from the CPB effort to wrest from station control all responsibility for selecting and scheduling national programing and from CPB's disregard for the wishes of the local stations as to what programs they desire to be funded for next season. These actions clearly run counter to the spirit and the letter of CPB's mandate from Congress.

Congressional support for the establishment and funding of the Corporation for Public Broadcasting dates back to the recommendations of the Carnegie Commission report on public broadcasting. Essentially, those recommendations envisioned the progressive growth and strengthening of an American public television system based on two principles: Local control of programing decisions and long-range, insulated funding to protect an otherwise vulnerable communications medium from abuse. CPB was to act as a patron or "guardian angel" for the system, but was specifically forbidden from producing programs and from operating anything resembling a national network.

We all know that the long-range financing promise has not yet been fulfilled—nearly 6 years after passage of the act—and recent CPB announcements indicated that centralization, not localism, is the watchword of the Corporation. CPB apparently does not feel bound by the rstrictions imposed on its activities by the 1967 act. An indication of licensee apprehension about CPB's actions is the fact that licensees, meeting in Washington this week will vote on whether to unite in a single new public television organization. The purpose of the proposed new licensee organization would be to oppose actions taken by the Corporation for Public Broadcasting on licensee control of national programing and interconnection policy.

Mr. President, the twin principles of localism and long-range insulated financing were cited in the 1967 Carnegie report and more recently they have been linked together by the administration. Dr. Clay Whitehead of the Office of Telecommunications Policy appeared before the Senate Subcommittee on Communications a few weeks ago and repeated the administration position that long-range financing should not be considered until certain structural changes in public broadcasting were made. Dr. Whitehead referred to President Nixon's concern that the fundamental principle of localism was being lost in an ever more centralized public television system.

Dr. Whitehead's testimony prompted me to submit to him a written list of quetsions about his attitudes toward the future of public broadcasting. Among my questions were the following:

First. How do you feel about the apparent contradiction between your stated position of concern over the centralization of powers in Washington and the recent CPB action which serves to centralize those powers in an even more concentrated manner?

Second. Where is the administration's long-range financing plan for public broadcasting which was promised many months ago?

Third. How do you feel about public affairs or current events programing decisions for the national service?

Fourth. What is the role of the local stations with regard to programing decisions for the national service?

Dr. Whitehead's answers are not, in my view, fully responsive to my questions. However, I ask unanimous consent that the questions and the answers be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HART. Mr. President, in any event, I must express my strong disagreement with the conclusions reached by the administration. It seems to me that, given the demonstrable need for more funds and for long-range financing in public television and given the recent attempt to centralize decisionmaking power in an organization that is not under licensee control, Congress would be well advised to look carefully at the status of public television today, 6 years after passage of the Public Broadcasting Act. The time has come for Congress to compare the goals and principles of the Carnegie report with the reality of public television as we see it today.

At the very least, Congress should consider whether significant amendments should be added to the Public Broadcasting Act to spell out more explicitly the limitations originally imposed on the Corporation's powers and responsibilities. The most important of these limitations, of course, are the prohibitions against program production and against control of the national interconnection.

Mr. President, public television simply cannot survive and maintain any credibility if it is continually involved in a national political dispute. Where there is a possibility that 15 men and women, appointed by the President and confirmed by the Senate, have ultimate control over public broadcasting's direction and goals, public broadcasting is in trouble. Further, I suggest we redouble our efforts to develop a plan for long-range insulated financing. The gravity of the present situation—centralized program control and no plan for long-range

financing even in evidence on the horizon—dictates that Congress examine much more closely the changing relationship between the independent licensees and the Corporation for Public Broadcasting. A long-range financing plan is long overdue—a plan that guarantees insulation for public television from undue control from any and all quarters.

EXHIBIT 1

QUESTIONS FROM SENATOR HART TO DR. CLAY WHITEHEAD

Dr. Whitehead, you have expressed concern over what you describe as the centralization of power in the Public Broadcasting Service. At the same time you urge that the local stations should be the primary decision-makers in matters of programming.

Just recently the Corporation for Public Broadcasting announced that it was planning to assume all responsibility for national television programming and PBS, which is governed by a board with a majority of station representatives, would be responsible only for the operation of the interconnection system. A question which naturally comes to mind is "How do you, Dr. Whitehead, feel about the apparent contradiction between your stated position of concern over the centralization of powers in Washington and the recent CPB action which serves to centralize those powers in an even more concentrated manner?"

"Where is the Administration's long-range financing plan for public broadcasting which was promised many months ago?"

"How do you feel about public affairs or current events programming on public television?"

"What is the role of the local stations with regard to programming decisions for the national service?"

(With regard to last question, I must state my own prejudice that the local stations must have a major role in decisions affecting national programming. The freedom to use or not use nationally distributed programs is not the same as playing an active role in the decisions about which programs will be offered and at what time.)

ANSWERS OF DR. WHITEHEAD TO SENATOR HART

Your other questions touched on public broadcasting and certain recent developments in the relationship between the Corporation for Public Broadcasting and the Public Broadcasting Service.

At the outset, let me state that I share your "prejudice" in favor of local stations and the weight they should carry in public broadcasting generally. I continue to believe, as I have previously indicated, that decentralization of programming activities should be a cornerstone of the public broadcasting foundation, and that local stations should play a major role in decision-making in matters of programming. The most effective way for them to play this role is not to provide for some limited local station representation in national entities that make program decisions, but to implement the plan of the Public Broadcasting Act, which gives local stations the autonomy and authority for complete control over their program schedules.

Once this and other issues in public broadcasting are resolved it will be appropriate to consider long-range financing.

Finally, public affairs and current events programming is an important component of public television's contribution to the flow of information. Indeed, this type of programming is recognized as part of every broadcasters responsibilities under the Communications Act of 1934.

While I support public affairs and current events programming done by local educational broadcast stations on public television, I have been concerned about use of appropriated funds to produce and disseminate such programming at the national level, especially with the tendency of program production to become centralized in New York or Washington based production centers. Reliance on federal monies for the maintenance of public affairs programming is inappropriate and potentially dangerous. Robust electronic journalism cannot flourish when federal funds are used to support such programming.

THE PRESENT STATE OF THE NATION'S ECONOMY

Mr. HARTKE. Mr. President, I submit for printing in the RECORD a statement made by the AFL–CIO Executive Council delineating their concern for the present state of the Nation's economy and suggesting steps they feel should be taken to lift America's economy to a sustained and balanced level, to create jobs and expand needed public facilities and services.

I commend the AFL–CIO on their analysis of the many facits of the economic problem and ask unanimous consent that the statement be printed at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE NATIONAL ECONOMY

The momentum of the economy's rapid expansion, which got under way last year after a slow start in 1971, is carrying forward in 1973.

However, 4.4 million workers, or 5 percent of the labor force, were still unemployed in January and an additional 2 million workers were compelled to work part-time because full-time jobs were not available. In addition, the recent sharp rise in the wholesale prices of farm products and processed foods—at a yearly rate of 45.1 percent in the three months from November to January—threatens to reverse the reduced pace of increasing living costs and undermine the government's stabilization effort. And the continuing deterioration of America's position in international economic relationships adds uncertainty to business conditions.

The outlook for economic developments during the course of 1973, particularly in the latter part of the year, is further clouded. The Administration's proposed cuts of essential government programs and predictions of a tightened monetary policy—with interest rates already moving up—can bring a substantial slowdown in the pace of the economy's expansion, if they become a reality. Moreover, the probable slowing in the rise of consumer expenditures, which account for close to two-thirds of total national output, can add to the emergency of growing economic difficulties before the end of the year.

Yet, continuation of a rapid rate of economic expansion throughout 1973—accompanied by specific job-creating government measures—is essential, if further reductions in the unsatisfactory level of unemployment are to be achieved, in this period of sharply advancing productivity and fast growth in the civilian labor force.

The core of the economy's rapid expansion, last year, was in residential construction and consumer spending. Housing starts rose from the depressed level of 1.4 million in 1970 to 2.1 million in 1971 and 2.4 million in 1972—spurred by government programs, a widespread housing shortage and increasing real incomes of many families. The volume of consumer expenditures, after accounting for increased prices, rose 6 percent in 1972, following a nearly 4 percent gain in the previous year—reflecting the slower pace of inflation since early 1971, as well as increases in wages, working hours and employment and an extraordinarily sharp rise of installment credit.

But the home-building industry states that the rise of housing starts of the past two years is now over. At present high rentals for new apartments and prices of homes, in relation to family incomes—combined with a hold-down of government programs and anticipated further increases of interest rates—housing starts are expected to decline in 1973.

In addition, the pace of rising consumer expenditures will probably slow down, after the early months of the year. With repayments in installment debt now running at $11.6 billion a month, the more than 15 percent rise in the extension of installment credit of 1972 cannot be sustained through 1973. The anticipated slowing of installment buying and the growing burden of repayments mean that the pace of rising consumer expenditures, during the second part of the year, will increasingly depend on consumer buying power and confidence—employment, wages and the degree of advance of living costs.

A slackening rise of consumer spending during the second half of the year and the expected decline of housing starts through 1973 can be offset, only partially, by the anticipated 14 percent rise of business investment in plants, machines and equipment. During the latter part of 1973, the national economy may become dominated by a temporary, lopsided boom of business outlays for capital goods, with declines or slower rates of expansion in other economic sectors.

The foundation for such a lopsided condition has been set by the government-encouraged, unbalanced profit boom, with after-tax profits shooting up 14 percent in 1971 and about 15 percent in 1972, while wage increases have been under government restraint. And this lack of balance in the economy will be aggravated, if the government pursues proposed cuts of essential job-creating programs, while the growth of the money supply is slowed substantially and interest rates climb.

As the year progresses to its close, such trends could produce a sharply slowing pace of general economic expansion, with a renewed rise of unemployment.

Government measures are required to assure a balanced expansion of the economy in 1973, with rising real incomes and declining unemployment—decisive and selective measures to lift the economy on a sustained and balanced basis, to create jobs and expand needed public facilities and services.

1. We urge the Congress to reject proposals to cut or terminate essential government programs and, instead, to expand the operation of programs that strengthen American society and create job opportunities.

We repeat our request to the Congress to adopt an expanded and strengthened public-service employment program—federal grants to the states and local governments for the creation of jobs to provide needed public services.

2. Tax justice and additional federal revenue are needed and can be achieved by eliminating major loopholes of tax privilege for corporations and wealthy families. Such action can eliminate the continuing federal budget deficits that have resulted from the effects of the 1969–1970 recession and the grant of billions of dollars of special tax subsidies to business.

3. We urge the Congress to direct the Federal Reserve System to allocate a portion of available bank credit, at reasonable interest rates, to effectuate the construction of housing and community facilities. We also urge the Congress to require pension funds and trust accounts of banks to invest a proportion of these moneys in low- and moderate-income housing. Socially important projects need protection against the fluctuations of the money market so that in period of tight money all available credit is not channelled to corporate interests at the expense of the public good as is the case now.

A Congressional review of the entire Federal Reserve System and the nation's monetary policy is long overdue—to bring America's central bank fully into the federal government structure, to provide improved coordination of the nation's monetary policy and to make the Board of Governors and the managing boards of the district banks more representative of the major groups of the economy, including workers and consumers.

4. We urge the Administration and the Congress to eliminate the inequities that persist in the economic stabilization program.

5. We call on the Congress for immediate action to increase the federal minimum wage and to extend the coverage of the Fair Labor Standards Act to the millions of low-wage workers who are still outside of the law's protection.

6. We urge the Administration and the Congress to adopt and pursue a comprehensive policy to halt the continuing deterioration of America's position in the world economy—to stop the export of American jobs and undermining of the nation's industrial base, to regulate the export of American technology and capital, to eliminate the tax and other incentives that encourage U.S. companies to expand their operations in foreign countries and to curb the rising tide of imports that displace American production.

BLUEPRINT FOR A CRIMINAL JUSTICE SYSTEM

Mr. COOK. Mr. President, for the past several years, the distinguished senior Senator from Illinois (Mr. PERCY) has been a leader in corrections reform. We all owe him a debt of gratitude for his contributions in this field.

Last July, the Penitentiaries Subcommittee of the Senate Judiciary Committee held hearings on the Federal Corrections Reorganization Act, introduced by Senator PERCY. As a followup to those hearings, I would like for my colleagues to have available to them an article that Senator PERCY wrote for the American Criminal Law Review, volume 11, No. 1, 1972.

Mr. President, I ask unanimous consent that the Senator's article appear in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FEDERAL CORRECTIONS REORGANIZATION ACT: BLUEPRINT FOR A CRIMINAL JUSTICE SYSTEM

(By the Honorable CHARLES PERCY)

INTRODUCTION

The "criminal justice sysetm" is a phrase widely used to describe the combined functions of our police, our courts and our prisons. The system strives to ensure protection for potential victims, fairness and rehabilitation for offenders, and justice for all. To accomplish these goals we attempt to employ a system of coordinated, interdependent efforts between the police, courts and prisons. This so-called criminal justice system, however, neither dispenses justice nor even vaguely resembles a system.

Overview of the present system

Statistics compiled over the past twelve years confirm that our prior efforts have been wholly inadequate. While our population rose 13.3% between 1960 and 1970, reported incidents of violent crime and property crime rose 156% and 180% respectively.[1] But even these estimates fail to fully expose our failures, particularly because they exclude "white collar" crimes such as embezzlement, tax fraud and price-fixing and only reflect increases in the number of crimes reported to authorities.[2]

Furthermore, only one out of every 70 reported crimes results in an individual being charged, convicted, sentenced and incarcerated.[3] But even those we bring within the system have failed to respond to our efforts. About 80% of all felonies are committed by repeaters [4] and about two-thirds of all prison inmates have been in prison previously.[5]

There have been efforts to reform the system,[6] but too often these efforts have been haphazard and piecemeal. Attention is often focused upon one aspect of the system while another equally important and vitally related aspect is completely ignored. The District of Columbia Court Reform and Criminal Procedures Act of 1970,[7] for example, modernizes courtroom management procedures, but leaves the other parts of the system, particularly the prisons, virtually unable to cope with the inevitable result of its reforms—a massive influx of new cases.

In hearings held before the Senate Subcommittee on Business, Commerce and the Judiciary of the Committee on the District of Columbia, the consequences of piecemeal reform were dramatically described. Because of the new procedures implemented by the Act, prosecutions in the District were estimated to increase from 2,150 in 1970 to approximately 5,200 in 1973.[8] This, in turn, was expected to increase the overall number of offenders committed to the District of Columbia Department of Corrections from 3,972 in September of 1970 to an estimated 5,258 by the end of June, 1972.[9] But facilities have not expanded to meet the needs. In fact, the Department of Corrections now seriously contemplates the use of 10 railroad cars to house 200 inmates in order to relieve severe overcrowding.[10]

At the federal level, the corrections crisis is no less severe. Perhaps there is no better example of a completely overburdened agency than the United States Board of Parole.[11] With only eight members and a staff of eight hearing examiners, the Board assumed responsibility for over 20,000 prisoners in fiscal 1970.[12] During that year, the Board issued 17,453 official decisions,[13] each requiring the concurrence of at least two members. Thus, nearly 35,000 individual decisions were made by only eight men.

Another factor, however, compounds the problem. In addition to making these decisions, the members and examiners conducted 11,784 personal hearings in prisons across the nation.[14] Were the Board members to have the patience of Job and the wisdom of Solomon, they still could not make 35,000 individual decisions and conduct thousands of hearings in one year with anything approaching the care and close personal attention that both the prisoner and society deserve.

At the operational level, the burdens are also overwhelming. A mere 640 federal probation officers supervise 42,541 people.[15] The resulting average caseload, 66 per officer, is nearly twice that recommended.[16] In large metropolitan areas, however, each officer is burdened with over 100 cases.[17]

Footnotes at end of article.

Response to the criminal justice crisis

The inadequacies of the criminal justice system have not gone unnoticed, however. Everyone from the President to the Chief Justice has pointed to the stunning failure of the system to serve and protect society. In the corrections area, for example, President Nixon has pointed out:

"The various stages of rehabilitation are often poorly coordinated at present. The offender cannot proceed in an orderly manner from confinement to work release to release under supervision and finally to an unsupervised release. The unification of the various programs involved could bring to this process the coordination and sense of progression it badly needs." [18]

Fortunately, however, many have offered new ideas as well as condemnations. Since 1967, four presidential commissions, dozens of legislative reports and the authors of more than 500 books and articles have recommended reform of our correctional system.[19] But despite these suggestions and others made as early as 1929 by the Wickersham Commission, we have taken no positive steps towards overhauling this tragically inadequate system.

I am not an expert in the area of criminal justice. My background is in business, and during my years in the Senate, I have attempted to scrutinize the operations of the government by using the same commonsense approach I once applied to business organizations. Consequently, the President has given me the responsibility of introducing and managing four major Executive Reorganization bills now pending before the Congress.[20] The need for these bills is great, but nowhere is the need for reorganization greater than in the criminal justice system.

Federal Corrections Reorganization Act

For these reasons, I introduced the Federal Corrections Reorganization Act. S. 3185, on February 17, 1972.[21] This bill attempts to reorganize the federal system of justice by providing a new structure in which to incorporate many suggestions that have been made, but never fully implemented. To supplement the structural reform, the bill creates new programs that have been suggested and tested by some of the most respected people in the field of criminal justice.[22]

As President Nixon has observed, however, " 'reform' as an abstraction is something that everybody is for, but reform as a specific is something that a lot of people are against." [23] I have found this to be true concerning prison reform. Although I have received much favorable comment on the bill, and everyone has agreed that something should be done, many people are reluctant to discard the present system.

By utilizing a forum such as this article, I hope to stimulate critical comments that will improve the bill.[24] I originally introduced the legislation, not because I considered it to be the final solution to the problems of the criminal justice system (because it is not), but because I felt it necessary to provide a catalyst for the generation of thought, comment, and hopefully, some results. The following analysis will illustrate how the Act changes the current system and will outline the new organization that would be created, the new programs that would be encouraged, and the results that should be achieved.

It should be kept in mind, however, that this is an organizational bill. We are all cognizant of the need to deal with the problems that foster and promote crime, and our efforts in this regard should continue unabated. Nevertheless, while we attempt to solve these long-term problems, we should neither ignore the problems inherent in the structure of the present system nor fail to

reform it so it may effectively meet the challenge posed daily by crime in our nation.

TITLE I—FEDERAL CORRECTIONS ADVISORY COUNCIL

In 1950, Congress enacted 18 U.S.C. 5002, authorizing the creation of an "Advisory Corrections Council" to: "improve the administration of criminal justice and assure the coordination and integration of policies respecting the disposition, treatment, and correction of all persons, convicted of offenses against the United States. It shall also consider measures to promote the prevention of crime and delinquency (and), suggest appropriate studies in this connection to be undertaken by agencies both public and private." [25]

The potential embodied in the enabling legislation, however, has not been realized. While our crime rate has skyrocketed and our system of justice has staggered, the Advisory Corrections Council has failed to meet during the last five years. No one is even sure when the members of the Council last got together.[26]

The role of that Council, as it is delineated by statute, is an important one; yet, today that role is not adequately filled. In response to President Nixon's memorandum of November 13, 1969,[27] the Inter-Agency Council on Corrections was established within the Executive branch to perform a similar function. According to its Director, Norman Carlson, this Council has three goals:

1) Develop recommendations for national policies and priorities in corrections.

2) Develop strategies and mechanisms to implement national corrections policies and priorities.

3) Deevlop methods of maintaining closer coordination between federal agencies, private industry, labor, and state and local jurisdictions in an endeavor to develop better tools as aids in the correction of the offender.[28]

Although I think the Inter-Agency Council is a step in the right direction, more coordination is needed. It is the responsibility of the Congress to take the initiative, to build on the present foundation and thereby to bring some order out of the chaos that now exists in our criminal justice system.

One experience will illustrate the present extent of the confusion. I was interested to know exactly how much money was being spent by the federal government for programs designed to benefit the criminal offender. I soon found, however, that no one knew either the total amount being spent or how many were spending. Consequently, on October 28, 1971, I requested the Comptroller General of the United States to initiate an investigation in an attempt to answer this simple question.

The efficiency of the General Accounting Office is well known, yet despite its efficiency, it took more than half a year for G.A.O. to obtain the information I requested. Seven months later, on May 17, 1972, I received the report of the Comptroller General. It identified 11 different federal departments and agencies which were conducting programs designed to benefit the criminal offender, programs that together cost $192 million per year.[29]

Although the programs identified were all worthwhile, no one knew what the government as a whole was doing. Thus there was a real danger that these programs might be operating at cross-purposes. We were spending close to $200 million per year in such a totally uncoordinated manner that it took more than a half of a year just to find the programs. If a business were to operate in this manner, it would soon be bankrupt.

The results of this inquiry, I believe, present dramatic evidence of the need for a coordinating body to monitor the various public and private activities in this area, and to recommend alternative approaches to the government. I believe that the Federal Corrections Advisory Council, established in Title I of S. 3185 fills this need.

The membership of such a Council must be diverse and professional, grounded in both practicality and academia. The Council, as I promise it, would be composed of two former federal prisoners, two criminologists, an attorney, a former or retired federal judge, two law enforcement officials, two sociologists, two psychologists, one person representing the communications media and one person, with some knowledge and interest in this area, who may not fit into any particular category. In addition, various officials of the government would serve as ex-officio members of the Council.

The Council would have three main purposes:

1) to exercise an investigative and advisory role in the overseeing and direction of the federal corrections system;

2) to recommend standards and guidelines for States to meet in order for them to be eligible to receive grants under any federal program involving state law enforcement and correctional agencies, including the reorganization of their criminal justice system in a manner consistent with the rest of the bill; and

3) to serve as a clearinghouse for study, planning and dissemination of information in the field of corrections.[30]

To achieve these ends, the Council would establish a study center at which information could be collected and disseminated. It would sponsor seminars for judges, attorneys, correctional officers, and all others who are part of the criminal justice system in order to make them more aware of their place in an integrated scheme.

Out of such a structure would emerge the new ideas and suggestions necessary for more efficient operations of our correctional system. More specifically, the Council would recommend a complete reorganization of federal correctional facilities for the purpose of increasing the alternative means available for disposition of individual cases. After regular meetings it would also issue yearly reports to the three branches of government, recommending what courses of action each should follow to keep the system operating at peak efficiency, without sacrificing justice and safety for all citizens.

The experience of groups such as the Vera Institute of Justice in New York and the EXCEL program in Indiana would also assist the Council in its efforts.[31] The success of these groups would be made part of the system, and their observations would be invaluable in the initial stages of reform. We need some central body that can collect such information and bring it to the attention of those who are working in this area. Properly organized, such data will serve as a catalyst for new ideas and programs.[32]

The Council established by Title I of S. 3185 would perform these functions and, I believe, perform them well. We must stop mindlessly discussing and creating innumerable councils and boards, while allowing other such bodies, without clear-cut charters and sufficiently diverse membership, to languish in the statute books. These sham organizations give the appearance of coordination without providing its benefits. We need to establish an effective body that will have both the authority and the responsibility to find new solutions to old problems in a way that will truly serve the needs of contemporary society.

TITLE II—FEDERAL CIRCUIT OFFENDER DISPOSITION BOARD

In order to establish some consistency in the operational phase of criminal justice, we need an overall authority to assume responsibility for the administration of the new organization. At present, the federal courts lack such an authority and, as a result, do not apply uniform standards in dealing with offenders who are brought before the bench. This lack of uniformity is most conspicuous in the sentences imposed by federal judges. In 1965, for instance, the average length of prison sentences for narcotics violations was 83 months in the 10th Circuit, but only 44 months in the 3rd Circuit.[33] Similarly, during 1962, the average sentence for forgery ranged from a high of 68 months in the Northern District of Mississippi to a low of 7 months in the Southern District of Mississippi.[34] Faced with such inequality, we can only agree with the conclusion of the former Attorney General and later Supreme Court Justice Robert Jackson:

"It is obviously repugnant to one's sense of justice that judgment meted out to an offender should be dependent in large part on a purely fortuitous circumstance; namely, the personality of the particular judge before whom the case happens to come for disposition.[35]

This inconsistency was also clearly illustrated at workshop sessions of the Federal Institute on Disparity of Sentences.[36] Judges were given sets of facts for several offenders and offenses and were asked what sentences they would have imposed. In one case involving tax evasion, of 54 judges who responded, three judges voted for a fine only; 23 voted for probation; and, 28 voted for prison terms ranging from less than one year to five years.[37] As a result of this type of experiment, judges themselves have attempted to resolve these discrepancies by meeting to study various sentencing techniques.[38]

While these trends are encouraging, we must not fail to appreciate the time and energy that would be consumed if we leave the solution of the disparity problem to an already overworked judiciary. If we impose this added burden upon our judges, we can only diminish their effectiveness. The task of providing for a coordinated sentencing policy in the federal judicial system should be given to a body that is better suited to that type of problem. Since the problem is national in scope, a national body is needed.

Title II of S. 3185 would establish a Federal Circuit Offender Disposition Board [the Circuit Board] to handle precisely this type of problem. The 11 board members, each representing a federal circuit, would be drawn from the fields of corrections, psychiatry, psychology, sociology, law, medicine, and education among others. It would set national guidelines for the imposition of sentences but would not arbitrarily impose its will upon every federal judge in the country. We do not now, nor should we ever contemplate complete uniformity of sentencing, for such a practice would ignore the need for individualized, if not personalized, attention for a particular offender. The Circuit Board, however, would help the federal judiciary to function harmoniously as a component part of an integrated system of justice.

Nor would the Circuit Board be concerned with just one facet of the criminal justice system. Questions involving bail, alternative programs, parole and incarceration are integral parts of the sentencing function and should all be confronted at the national level. To meet this need, the Circuit Board would also establish guidelines for federal courts in pre-trial release, diversion in lieu of prosecution, probation, parole, diversion in lieu of incarceration, and incarceration.

The Circuit Board would also hear appeals from decisions concerning parole. Since it would also establish national policy on parole, it is the logical body to handle appeals of this nature. In this regard, it would be much like the present United States Board of Parole, except that it would be relieved of the day-to-day decisionmaking responsi-

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bility.[39] Under the new system which S. 3185 would establish, the operational decisions would be made on a local level, allowing the Circuit Board to concentrate on the setting of policy and conducting appellate hearings.

Each member of the Circuit Board, as representative for a federal circuit, would oversee the direction and operation of the various local (District) boards within his circuit. In essence, a pyramidal structure would be established, thus providing a continuity of responsibility and a decision-making procedure that separates policy formulation from operational detail.

TITLE III—DISTRICT COURT OFFENDER DISPOSITION BOARDS

When a person is apprehended and charged with the commission of a federal crime, the steps through which he proceeds, from arrest to release, should be monitored and directed by one authority. At present questions of setting bail, pretrial procedures, presentencing investigations, tests and evaluations to determine prison assignments and eligibility for parole are all determined by separate agencies, with little or no coordination among them.[40] As a result, an offender is often shunted from agency to office, to department, to board, thus minimizing the effectiveness of each body and reducing the possibility for his effective rehabilitation. Neither the individual offender nor society is served by such a haphazard process.

The Reorganization Act would replace the present hodgepodge with a network of District Court Offender Disposition Boards (District Boards) to supervise the activities of the system components in each district. The membership of a District Board would represent the same diverse background as that of the Circuit Board, but given the varying caseload of individual districts, the number of people on each of them should vary.[41]

The District Boards are designed to achieve two major goals: regionalization and unification. In the parole area, for instance, no longer would 35,000 individual decisions be made and 11,784 personal hearings conducted by 16 Parole Board members and examiners, located thousands of miles away, with little or no time to investigate cases with any degree of personalized attention. Instead, each District Board would handle an average of about 400 cases per year, with detailed attention for each.

This process of regionalization is probably the least controversial aspect of the bill.[42] Regionalization of decision-making, with the right to appeal to a national body, is the only logical way to deal with the large number of cases passing through our criminal justice system each year. In fact, such an approach has long been used by the federal trial court system. Our judicial system has come a long way since the days when judges would ride a circuit, yet our parole process has barely moved. The regionalization of decision-making would belatedly bring the parole process into the twentieth century.

Unification is a much more difficult concept to implement since few bureaucracies are willing to dismantle themselves. If left alone, however, the present system will continue to function with the speed and direction of an amoeba. Perhaps we can afford this type of resistance to change in some areas of our society, but we can ill afford to expend our money and patience in return for a criminal justice system that only offers a rate of failure fast approaching 70%.[43]

There has been quite a bit of discussion as to whether we might not solve the problem by grafting new procedures and rights onto the old system. This approach, however, would further tax an already overburdened system and only increase the already intolerable inefficiency. The only way to resolve the problem is to scrap the unworkable system and replace it with one designed to meet the needs of both offender and society.

The new system must be designed with care. It must ensure professionalism and personal attention. It must guarantee fairness and provide officials with sufficient time to carefully consider all of the factors relevant to a proper sentencing or parole decision. But more than this, any new system should be just that—a system, coordinated and integrated with the other aspects of the criminal justice process. Similar functions should be performed by a single body, a body that provides a reservoir of expertise upon which other parts of the system can rely for sound recommendations and efficient operations. By unifying these various functions within the District Boards, such a coordinated system would emerge.

THE OPERATION OF THE NEW SYSTEM

Pre-trial procedures

After arrest each defendant would be assigned to the District Board which would promptly recommend the proper bail to be set. At this point, the District Board would become acquainted with the individual by conducting a relatively cursory examination into the defendant's background. Since it would be futile for someone else to repeat the same investigation at a later point in the proceedings, the process of sifting through the information would be performed with an eye towards later stages of the process.

This information would be distilled into a formal report for use at a precharge conference attended by counsel for the defense and the prosecuting attorney. Unlike the plea-bargaining conference commonly held, the primary concern of the participants would not be the quickest disposition of the case at hand,[44] but rather the determination of the appropriateness of noncriminal disposition for the offender.[45]

Not every defendant ought to be prosecuted. Chief Judge Harold H. Greene of the District of Columbia testified before the Congress on June 23, 1971 that "present court figures suggest that perhaps as many as twenty per cent of the total number of cases prosecuted annually might be diverted from the criminal justice system if a narcotics pretrial diversion project were fully implemented." [46] In the same way confirmed alcoholics should not be processed through the criminal justice system. Sick people will not benefit from legal interference and the system will only be stifled by their sheer numbers.[47]

Certainly the federal system will not be plagued by relatively large numbers of alcoholics or drug addicts, but if they do find their way into the system, there should be a procedure whereby they can be diverted from the legal system into medical facilities. Both they and society will benefit from this diversion since there is little use in prosecuting a sick person for having exhibited the symptoms of his disease.

Likewise, there are offenders who may not be sick but whose problems can be better dealt with by a diversion project than by prosecution. In New York, for instance, the VERA Insitute of Justice sponsored the Manhattan Court Employment Project, a program designed to divert defendants who could benefit from some type of vocational training. Alcoholics and drug addicts were specifically excluded from this project and the results were dramatic. The average rate of arrest among active participants was .039% during the second quarter of fiscal year 1971–72,[48] partly because the project established a regular procedure for screening defendants and evaluating the chances for successful diversion in lieu of prosecution. Great attention was given to ensuring that the offender would be helped and society protected.

If we want a correctional system that pays for itself many times over by truly helping to "correct" an offender, we must utilize programs such as this. The Precharge Conference would provide an opportunity to make these rational decisions, based upon sound background developed by the District Board.

Placement in a diversionary program, of course, would depend upon the consent of the particular defendant. The charges would be held in abeyance until such time as the defendant either demonstrates his successful completion of his diversion project, or is terminated. A necessary compliment to any program of this kind, however, is an intensive counseling apparatus supervised by the District Board.[49]

If the experience of the aforementioned projects were indicative of the successes the new system will bring, there would be a substantial benefit to society in terms of reduced crime. The savings to society derived from the reduction of crime as well as the improvement in the quality of our human resources would more than offset any increased costs of the re-organization. Diversion projects have proven their worth. The system should, therefore, be redesigned so that diversion decisions can be intelligently made.

Sentencing

If the defendant were prosecuted and convicted, the District Board would again play a very important role. As previously noted, many judges will disagree on the proper disposition of a convicted defendant in a particular case. But under S. 3185, the Circuit Board will have established board national sentencing guidelines. Within these guidelines, it will be the responsibility of the District Board to recommend the sentence that should be imposed upon the offender. It would base its recommendation not only upon the professional background of its members, but also upon the substantial amount of information it has accumulated during prosecution.

At present, pre-sentence reports are widely used for informational purposes.[50] These reports are prepared by probation officers who not only have a caseload two to three times greater than that recommended, but who also serve as parole officers as well. Because of their burdensome caseloads, they do not have the time to prepare a complete presentence report. Under the new system, the local board report would, of course, recommend the penalty to be imposed, such as probation, a fine, an alternative to incarceration, or incarceration. But the report would also include two new and very significant elements. The purpose or reason for imposing the sentence and the goals the offender must attain in order to obtain release from the court's jurisdiction.[51]

The Supreme Court has noted four purposes for imposing a sentence: 1) deterrence of similar crimes, 2) protection of society, 3) discipline of the offender, and 4) rehabilitation of the offender.[52] There may be other valid reasons, yet too often these are never articulated by the court, let alone understood by the offender. In S. 3185, the District Board would make it clear why a sentence was imposed.

By establishing corrections goals for offenders we will transform sentencing into a meaningful, achievement-oriented process. The sentence will be shaped to correspond with the offender's needs, thus improving the chances of successful rehabilitation. More specifically,

"[a] detailed judicial determination of the specific goal to be attained by supervised confinement would provide administrators with guides for shaping the individual's correctional experience as well as serve as a benchmark by which the progress and nature of each prisoner's treatment within the institution could be judged." [53]

The new procedures in S. 3185 would give the sentencing process the attention and professionalism it has long deserved. In a society

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interested in the rights of the accused, we have tended to focus all of our attention on arrest and trial. But it is probably more important to society to effectively deal with a criminal after we have convicted him. The courts themselves have recognized the misplaced emphasis by focusing more directly upon sentencing procedures, prison conditions and parole practices.[54] The time has long passed for the process of sentencing to be elevated to a more professional status.

A report, prepared for me by the Library of Congress on September 30, 1971, examined the procedures for sentencing criminals in foreign countries. The report indicates that other countries have made efficient use of outside experts to aid the court in the sentencing process. Though all of the countries studied left the finding of guilt and the responsibility for imposing a sentence to the courts, "these standard procedures do not prevent the courts from seeking expert advice where problems arise as to the imputability of a crime because of the mental condition of the defendant, or other factors residing within him or his environment. In Scandinavian countries, for instance, the courts as a practical matter rely heavily on the advice of experts who are appointed directly by the courts, rather than appearing as expert witnesses for the defense or the prosecution." [55]

Informal procedures have developed, both in this country and abroad, which recognize the inability of the court, by itself, to adequately determine a sentence. Consequently, advice and recommendations are sought, be it from a pre-sentence report by a probation officer, or a panel of experts.

Given the great importance of the sentencing process, informal methods of dealing with sentencing should be incorporated in a formal structure through which the most competent and professional advice can reach the court on a regular basis. The present haphazard manner of getting this type of information should be replaced by a newer model. In this regard the United States can and should be a leader in proposing and implementing solutions for these complicated problems.

I re-emphasize that recommendations by the Board would not be binding on the sentencing judge. At all times, he would retain his prerogative to reject the advice and impose his own sentence. If he is to reject the advice, however, he too would have to state both his reasons for imposing the particular sentence and goals he feels the offender should attain. This additional procedure is necessary to protect both society and rights of the individual offender.

Probation and parole

Under the present system, if an offender were released into the community under limited supervision or placed on probation, his community or probation officer would operate under the administrative authority of the court. This again imposes a needless burden upon our court system. Since an administrative body, the District Board, would already exist, good management would dictate that a community officer be under its administrative responsibility. The community officer, now better supervised, would help the offender to achieve the rehabilitation goals set for him by the court.

Despite the fact that parole and probation, two supervised release programs, have evolved in an historically independent manner,[56] it makes little sense to institutionalize an historical accident by keeping two similar functions separate and distinct. Today, for instance, one man may be both a probation officer reporting to the court, and a parole officer reporting to the parole board. In either case, he performs essentially the same function but responds to two masters, possibly with two different philosophies. In the legislation which I have proposed, the community officer would answer only to the District Board, which would handle the administrative problems and ensure that the sentence and its goals would be carried out in the most efficient manner.[57]

If the offender were incarcerated, the value of the goals set by the trial judge would be equally significant. At present, too many inmates have no clear idea of what they must do in order to effect their return to the community. I have received innumerable letters from prisoners who have been denied parole without knowing why. They were never told with any specificity what they had to do to make parole, and often waited months for a one word answer, "yes" or "no," from the Parole Board.[58]

Although the United States Parole Board has made limited improvements, the prisoner still does not receive the type of in-depth report that inspires him to improve himself. He still neither knows why he has been denied parole nor what he must do in the future. The anger and frustration created by this arbitrary process is a major cause of both prison unrest and the high rate of recidivism among ex-offenders.

The procedures established by S. 3185 would replace this antiquated process with a system of incentives based upon reason. Upon entering prison, the offender would know why he was sentenced, and what he had to do to obtain release. The goals toward which he could strive would always be in sight.

At least once a year the District Board would hold a hearing to determine the prisoner's progress. The hearing would consist of an in-depth study of the prisoner's record by people familiar with the case from the time of arrest. This would replace the five minute presentation before an overworked and nameless official that is now so common in the parole area. During these hearings, a review of the offender's progress would be made, and within two weeks he would receive a decision as to his suitability for parole. Within another two weeks, the detailed reasons for the denial of parole would be given to the offender, hopefully accompanied by a personal visit.

An obvious benefit of this type of approach would be a reduction in tension inside our prisons and an increasing emphasis upon the rehabilitation of the individual offender. Those individuals who threaten the safety of the community would be confined, but those who could be safely released under supervision would have the opportunity to rejoin their families, as well as a greater chance of staying out of prison.

Once released on parole, the offender's community officer would also be under the authority of the District Board. His progress in the community could be monitored in a manner that would both help the offender to readjust to his surroundings and ensure the safety of others.[59]

The District Board is the logical body to fill our very pressing needs. By regionalizing, it would make the decisional process one that is open to thought and personalized attention, and by unifying, it would eliminate needless duplication of function. Perhaps we are still doomed to suffer through experiences like that of Jarndyce and Jarndyce in *Bleak House*.[60] Perhaps we will continue to tolerate a system that does nothing but produce failures. But common sense demands that something be done. S. 3185 offers us a new approach that will ensure that our criminal justice system meets the needs of all Americans.

Conclusion

Machiavelli warned that "[T]here is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things." [61] But certainly, nothing could be worse than our present system of justice. No one is satisfied with it; everyone clamors that it must be changed. We must now take positive action to give meaning to our words.

I believe that the changes proposed by S. 3185 can help solve the problems created by crime in a free society. Those of us in the Congress, as well as members of the legal community, should not feel it necessary to limit ourselves to past mistakes. Adherence to present procedures will bind us to a system as archaic and useless as many of our antiquated prisons. We should learn from past experience, the successes as well as the failures, and thereafter apply our knowledge to the creation of a new system of criminal justice. This is the goal of the Federal Corrections Reorganization Act.

The Act was considered in the House of Representatives by the Judiciary Subcommittee Number 3.[62] In the Senate the Act was the subject of hearings on July 25, 26, and 27 before the Subcommittee on National Penitentiaries of the Judiciary Committee. At that time it received searching examination that will help make it a better bill. Realistically, I know that this bill will not be passed by Congress this year; time is too short. I plan to reintroduce this bill during the next Congress, however, with changes inspired by the many helpful comments that I have and will continue to receive.

We cannot permit such a vital bill to languish and be forgotten in the Congress. We can ill afford to allow the present system to sap our resources while giving us nothing but failures. The Congress must act so that we may transform an apparatus designed for the needs of a horse-and-buggy era into a system that will meet the challenges of our modern society in an effective and professional manner. In the struggle to meet this challenge, I look forward to working with the legal community to achieve this common goal. Its suggestions and ideas and support will be essential to success.

FOOTNOTES

[1] F.B.I., Uniform Crime Report 2–4, charts 1–3 (1970).

[2] The National Opinion Research Center has estimated that the rate of violent crime in 1965–66 was almost twice that actually reported. The rates for burglary and forcible rape were respectively estimated to be three and four times the reported levels. National Opinion Research Center Survey, *reprinted in* The President's Commission on Law Enforcement and the Administration of Justice, Task Report: Crime and Its Impact—Assessment 17 (1967).

[3] Testimony of Jerome M. Rosow, Assistant Secretary for Policy Evaluation and Research, United States Dept. of Labor, Before the Subcomm. on National Penitentiaries, Senate Comm. on the Judiciary, May 19, 1971, *quoted in* 117 Cong. Rec. 20,746 (daily ed. Dec. 7, 1971).

[4] C.Q. Weekly Report, June 4, 1971, at 1219, *quoting* Richard W. Velde, Associate Administrator, Law Enforcement Assistance Administration.

[5] *Id., quoting* Chief Justice Warren Burger.

[6] For an account of one attempt at corrections reform see in this *Symposium* Note, *The Youth Corrections Act* at —.

[7] D.C. Code §§ 11–101 to 23–1705 (Supp. IV 1971).

[8] *Hearings on Impact of the Court Reform and Criminal Procedure Act of 1970 on the Correctional Institutions in the District of Columbia Before the Subcomm. on Business, Commerce and the Judiciary of the Senate Comm. on the District of Columbia*, 92d Cong., 1st Sess. 166 (1971).

[9] *Id.*

[10] Letter from Kenneth Hardy, Director of the District of Columbia Dept. of Corrections, to Senator Charles Percy, June 23, 1972.

[11] *See* 18 U.S.C. § 201 *et seq.* (1970).

[12] [1968–1970] United States Board of Parole Biennial Report 16.

[13] *Id.* at 17.

[14] *Id.* at 16.

[15] Statement of Wayne P. Jackson, Chief of the Division of Probation, Administrative Office of the United States Courts, Before the Subcommittee on National Penitentiaries Senate Comm. on the Judiciary, July 26, 1972. (presently unpublished).

[16] *Id.*

[17] This figure was supplied by Benjamin Meeker, Chief Probation Officer, Chicago, Illinois, through a communication to the office of the author.

[18] Statement of the President Outlining 13 Point Program for Reform of the Federal Corrections System, Nov. 13, 1969 *in* PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES: RICHARD NIXON, 1969, at 924 (1971). [hereinafter cited as Statement of the President].

[19] TIME, Jan. 18, 1971, at 48.

[20] S. 1433, 92d Cong., 1st Sess. (1971); S. 1432, 92d Cong., 1st Sess. (1971); S. 1431, 92d Cong., 1st Sess. (1971); S. 1430, 92d Cong., 1st Sess. (1971).

[21] *See* app. A *infra* for complete text of S. 3185.

[22] *E.g.*, The EXCEL Program, Indianapolis, Indiana; P.A.C.E. Institute, Cook County, Illinois; Vera Institute of Criminal Justice, New York, New York, EXCEL and Vera are discussed *infra* note 31.

[23] Address by President Nixon, National Conference on the Judiciary, in Williamsburg, Va., March 11, 1971.

[24] I have already redrafted the Bill several times, based upon comments I have received.

[25] 18 U.S.C. § 5002 (1970).

[26] Letter from Comptroller General to Senator Percy, May 17, 1972.

[27] Statement of the President, *supra* note 18.

[28] Letter from Norman Carlson, Chairman, Inter-Agency Council on Corrections, to Senator Percy, July 7, 1971.

[29] The findings of the G.A.O. are reproduced in app. B, *infra*.

[30] S. 3185, 92d Cong., 2d Sess. § 102 (1972).

[31] EXCEL, Ex-Offender Coordinated Employment Lifeline, with the aid of matching funds from both the federal government and the State of Indiana, conducts a job placement and counseling program for ex-offenders. By primarily relying on businessmen and former parole officers to encourage employers to hire those with prison records, EXCEL has met with significant success. In January, 1972 it had placed 175 of its clients and by March of that year had increased that number to 250.

Vera Institute of Justice, a private organization based in New York City, has developed and continues to sponsor a number of projects to benefit criminal offenders. The Institute and the projects it sponsors (*e.g.*, Manhattan Bail Project, Manhattan Court Employment Project, Manhattan Bowery Project) operate with the close cooperation of the New York City police and corrections departments as well as other city agencies. For a dscription of a number of Vera's projects see CITY OF NEW YORK, CRIMINAL JUSTICE COORDINATING COUNCIL TWO YEAR REP. (April 1968–April 1969).

[32] In Statement of the President, *supra* note 18, Mr. Nixon emphasized the need for such a system. He concluded that "the poor record of our rehabilitative efforts indicates that we are doing something wrong and that we need extended research both on existing programs and on suggested new methods." After noting the large number of federal agencies involved in corrections, he recognized that "if all of these efforts are to be effectively coordinated then some one authority must do the coordinating."

[33] THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: THE COURTS 23 (1967) [hereinafter cited as TASK FORCE REPORT: THE COURTS.

[34] *Id.*

[35] *Id.*, *quoting* 1940 ATT'Y GEN. ANN. REP. 5–6. *Cf.* ABA PROJECT ON MINIMUM STANDARDS FOR CRIMINAL JUSTICE, STANDARDS RELATING TO SENTENCING ALTERNATIVES § 2.1(a), Comment (Approved Draft 1968) [hereinafter cited as ABA STANDARD: SENTENCING] which suggest that

"[o]ne of the chaotic aspects of the law relating to sentencing is the condition of the penal codes themselves. It is easily demonstrable in most states that the sanction available for different offenses are utterly without rational basis. This in turn is one of the significant contributors to disparity in treatment of offenders of comparable culpability."

[36] The Institute, convened on October 12 and 13, 1961 by the Chief Judges of the Sixth, Seventh and Eighth Circuits, extended invitations to all District Judges of the three circuits. This and similar Institutes are authorized by 28 U.S.C. § 334 (1970) "for the purpose of studying, discussing and formulating the objectives, policies, standards and criteria for sentencing those convicted of crimes and offenses in the United States . . . ." *Id.*

For a record of the proceedings see *Seminar and Institute on Disparity of Sentences*, 30 F.R.D. 401 (1961) [hereinafter cited as *Seminar and Institute*].

[37] *Seminar and Institute*, *supra* note 36, at 505, table 5A.

[38] The establishment of a Sentencing Council and Sentencing Institutes is also recommended in ABA STANDARDS: SENTENCING *supra* note 35, at § 7.1–2. For a review of similar judicial sentencing programs and alternative solutions to the disparity problem see TASK FORCE REPORT: THE COURTS, *supra* note 33, at 22–26.

[39] The United States Board of Parole places heavy reliance upon its hearing examiners in making parole decisions. In a recent conversation with the author, James Nagel of the United States Parole Board estimated that as many as 85 per cent of all parole decisions are made by hearing examiners with only the concurrence of the Board member.

[40] *See* Diagram of the Present Criminal Justice System, app. C *infra*.

[41] Each District Board would have a minimum of five members. The need for flexibility in the maximum membership of each District Board becomes apparent upon examination of recent caseloads in the United States District Courts. The total number of criminal cases commenced in the 93 DISTRICT courts was 36,837 in fiscal 1969, 40,025 in fiscal 1970 and 45,880 in fiscal 1971, or an average caseload of 385 cases per district in 1969, 430 cases in 1970 and 493 cases in 1971. In the District courts of Illinois, for example, the caseloads are distributed as follows:

Northern District of Illinois:
1969—868.
1970—732.
1971—1,020.
Eastern District of Illinois:
1969—93.
1970—168.
1971—162.
Southern District of Illinois:
1969—158.
1970—201.
1971—205.

1971 ATT'Y GEN. ANN. REP. 11, table 1; 1970 ATT'Y GEN. ANN. REP. 16–17, table 1; 1969 ATT'Y GEN. ANN. REP. 105–06 table 1.

[42] During a recent conversation with the author, George Reed, former Chairman of the United States Board of Parole, stated that the parole process will, of necessity, move in the direction of greater regionalization.

[43] *See* note 5 *supra* and accompanying text.

[44] The intensity of the concern for summary disposition was expressed by Judge Lummus several decades ago:

"[T]he prosecutor must subordinate almost everything to the paramount need of disposing of his list during the sitting. Rather than dismiss the excess by nolle prosequi, with no penalty, he must induce in fact guilty to plead guilty in order that some penalty may be imposed. Half a loaf is better than no bread. . . ."

Enker, *Perspectives on Plea Bargaining*, in TASK FORCE REPORT: THE COURTS *supra* note 33, app. C, at 112 *quoting* LUMMUS, THE TRIAL JUDGE 43–46 (1937). *See* Ohlin and Remington, *Sentence Structure: Its Effects Upon Systems for the Administration of Criminal Justice*, 23 LAW & CONTEMP. PROB. 495, 504 (1958). *See generally* ABA PROJECT ON MINIMUM STANDARDS FOR CRIMINAL JUSTICE, STANDARDS RELATING TO GUILTY PLEAS (Approved Draft 1968); D. NEWMAN, CONVICTION: THE DETERMINATION OF CONVICTION WITHOUT TRIAL (1966).

[45] The President's Task Force on the Courts suggests:

"(A) conference between the prosecutor and defense counsel before formal charges are filed would provide an opportunity for them to discuss the appropriateness of noncriminal disposition of the case. . . . When there is a factual basis for the charge, the central concern at the precharge conference should turn on the question of what disposition is most appropriate for the offender and whether prosecution or noncriminal methods are the preferable way to attain that disposition."

TASK FORCE REPORT: THE COURTS, *supra* note 33, at 7–8.

[46] *Hearings on Drug Addiction and Treatment in the District of Columbia Before the Subcomm. on Public Health, Education, Welfare and Safety of the Senate Comm. on the District of Columbia*, 92d Cong., 1st Sess. 14 (1971).

[47] According to statistics compiled by the F.B.I., drunks account for approximately one-third of all arrests. TASK FORCE REPORT: THE COURTS, *supra* note 33, at 99. The success of the Manhattan Bowery Project, however, clearly shows the benefits derived by diverting alcoholics from the system. Arrests for disorderly conduct, loitering and public intoxication in the Bowery during 1968 totalled 3,655. After the institution of a diversion project, arrests on those charges dropped to 157 in 1971. Letter from George V. Pascale, Vera Liaison Office, New York City Police Dept. to Senator Percy, August 30, 1972. *See generally* CITY OF NEW YORK, CRIMINAL JUSTICE COORDINATING COUNCIL TWO YEAR REP. (April 1968-April 1969) [hereinafter cited as CRIMINAL JUSTICE COORDINATING COUNCIL].

[48] Manhattan Court Employment Project, Quarterly Report 5 (2d Quarter, 1971–1972). *See generally* CRIMINAL JUSTICE COORDINATING COUNCIL, *supra* note 47, at 10–12.

[49] Such a program is authorized in S. 3309, 92d Cong., 2d Sess. (1972), introduced by Senator Quentin Burdick and co-sponsored by the author.

[50] *See* R. DAWSON, SENTENCING 11–65 (1969) for a detailed discussion and evaluation of pre-sentencing practices. (Dawson primarily relies upon a comparison of the results of field investigations conducted in the cities of Detroit and Milwaukee and the State of Kansas.)

[51] If the offender is to be incarcerated, the recommendation would include the goals the prisoner must attain in order to be released on parole.

[52] Lay, *A Judicial Mandate*, TRIAL, Nov.-Dec. 1971, at 15.

[53] *Id.*, at 18.

[54] Cross reference to Kutak.

[55] Library of Congress, Procedure for Sentencing Criminals in Foreign Countries, Sept. 30, 1971 (report prepared for Senator Percy). *See also* J. CONRAD, CRIME AND ITS CORRECTION (1967) (a survey of international corrections theories and practices).

[56] For a history of the parole process see, *e.g.*, D. DRESSLER, PRACTICE AND THEORY OF PROBATION AND PAROLE 56–76 (2d ed. 1969); G. GIARDINI, THE PAROLE PROCESS (1959); C. NEWMAN & C. THOMAS, SOURCEBOOK ON PROBATION, PAROLE AND PARDONS (3d ed. 1968); Moran, *The Origins of Parole*, 1945 NATIONAL PROBATION ASSOC. YEARBOOK 71; O'Leary, *Parole Administration* in this *Symposium* at—.

For a history of probation see, *e.g.*, D. DRESSLER, *supra*, at 16–32; United Nations, Dept. of Social Affairs, *The Legal Origins of Probation, in* PROBATION AND PAROLE: SELECTED READINGS 3 (R. Carter and L. Wilkins ed. 1970).

[57] The North Carolina Penal Study Committee, for example, could find: "no logical reason why these persons should not be supervised by one department. The education, training and type of supervision is essentially the same." NORTH CAROLINA PENAL STUDY COMMITTEE, INTERIM REP. 13 (March, 1971) [hereinafter cited as INTERIM REP.].

[58] Despite its lack of manpower, the United States Board of Parole has attempted to provide more detailed justification for its decisions. In two institutions the Board has instituted the use of a check list of reasons for denial of parole. The reasons included (*e.g.*, "He has not done enough in the institution to improve himself"; or "[b]ecause of the nature of the offense, justice requires he be confined for a longer period of time."), are, at best, a slight improvement. See U.S. Board of Parole, Form H–7a.

[59] The North Carolina Penal Study Committee also concluded that "the supervision of all persons convicted of crime and who are released and placed on probation, parole or given conditional release should be supervised under one system. INTERIM RET., *supra* note 57.

[60] "(The court was) mistily engaged in one of ten thousand stages of endless cause, tripping one another up on slippery precedents, groping knee-deep in technicalities, running their goat hair and horse-hair warded heads against walls of words; and making a pretense of equity with serious faces as players might. . . . Well may the court be dim, with wasting candles here and there: well may the fog hang heavy in it, as if it would never get out: well may the stained glass windows lose their colour, and admit no light of day into the place: well may the uninitiated from the streets, who peep in through the glass panes in the door, be deterred from the entrance by its owlish aspect. . . . [B]ut Jarndyce and Jarndyce still drags its weary length before the court, perennially hopeless. The empty court is locked (now). If all the injustice it has committed, and all the misery it has caused, could be locked up in it, and the whole burnt away in a great funeral pyre,—why so much the better." C. DICKENS, BLEAK HOUSE 2, 3, 5 (Riverside ed. 1956).

[61] N. MACHIAVELLI, THE PRINCE 21 (Mod. Library ed., L. Ricci transl. 1940).

[62] The bill was introduced by colleague Congressman Tom Railsback of Illinois as H.R. 13293.

APPENDIX A

A bill to promote more effective operations and management of the Federal corrections system by reorganizing certain functions and creating new organizations, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Federal Corrections Reorganization Act".

(b) (1) The Congress hereby declares that a reorganization of the Federal departments and agencies dealing with parole, probation, and other activities relating to the disposition of Federal offenders is necessary to insure a unified and coordinated approach to the rehabilitation of such offenders and the protection of society.

(2) The Congress further declares that the Federal Government has primary responsibility for formulating coordinated Federal corrections policies with regard to prison construction, the appointment and training of corrections personnel, pretrial and posttrial release programs, alternatives to incarceration, the establishment of a national clearinghouse and study center for corrections, and other such activities.

(3) The Congress further declares that the Federal Government has a responsibility in recommending standards and guidelines to States for the operation of programs concerning State correctional facilities, and the treatment of State offenders.

TITLE I—FEDERAL CORRECTIONS ADVISORY COUNCIL

ESTABLISHMENT; COMPOSITION

SEC. 101. (a) There is hereby established the Federal Corrections Advisory Council (hereinafter referred to in this Act as the "Council") which shall consist of the following members:

(1) two members who shall be former inmates of Federal Correction Institutions;

(2) two members who shall be criminologists;

(3) one member who shall be an attorney;

(4) one member who shall be a former or retired judge of a Federal court;

(5) two members who shall be involved in law enforcement;

(6) two members who shall be sociologists;

(7) two members who shall be psychologists;

(8) one member who shall be appointed on the basis of his knowledge and interest in the field of corrections;

(9) one member representing the communications media;

(10) Director of the Federal Bureau of Prisons (ex officio member);

(11) Administrator of Law Enforcement Assistance Administration (ex officio member);

(12) Attorney General of the United States (ex officio member);

(13) Associate Justice of the Supreme Court (ex officio member), who shall be designated by the Chief Justice of the United States;

(14) Secretary of Health, Education, and Welfare (ex officio member);

(15) Secretary of Labor (ex officio member);

(16) Director of the Office of Management and Budget (ex officio member); and

(17) Chairman of the Federal Circuit Offenders Disposition Board (ex officio member).

(b) The Council shall elect, from among its members, one member to serve as Chairman. The Council may appoint and fix the compensation of a Director (who shall be responsible for the administrative duties of the Council) and such other staff personnel as it deems necessary.

(c) Members of the Council designated in clauses (1) through (9) of subsection (a) of this section shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve for terms of five years, except that of such members first appointed, two shall serve for terms of one year, two shall serve for terms of two years, two shall serve for terms of three years, two shall serve for terms of four years, and one shall serve for a term of five years, as designated by the President at the time such appointments are made. Members shall be eligible for reappointment.

(d) (1) Members of the Council designated in clauses (1) through (9) of subsection (a) of this section shall receive compensation at the rate of $100 for each day on which they are engaged in the performance of duties of the Council, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Council.

(2) Members of the Council serving ex officio shall serve as members of the Council without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Council.

(e) The first meeting of the Council shall be called by the Attorney General of the United States.

PURPOSE OF COUNCIL

SEC. 102. It shall be the purpose of the Council—

(1) to exercise an investigative and advisory role in the oversight and direction of the Federal corrections system;

(2) to recommend standards and guidelines for States to meet before being eligible to receive grants under any Federal program involving State law enforcement and correction agencies; and

(3) to serve as a clearinghouse for study, planning, and dissemination of information in the field of corrections.

FUNCTIONS OF COUNCIL

SEC. 103. (a) The Council shall recommend to the courts of the United States and other appropriate Federal instrumentalities and officers, guidelines, and standards for—

(1) the training and appointment of correctional employees within the Federal system;

(2) the design of the physical plan and facilities of Federal prisons and the replacement of existing Federal correctional institutions;

(3) the operations of all Federal correctional institutions;

(4) pretrial and posttrial release programs;

(5) the operation of the Bureau of Prisons; and

(6) States to meet as a condition of eligibility for Federal grants which may be made by the Law Enforcement Assistance Administration, or any other Federal instrumentality when such grant has a substantial relationship to corrections, pretrial release, posttrial release, or alternatives to incarceration.

(b) The Council shall establish an information and study center for—

(1) the collection, evaluation, and dissemination to appropriate Federal, State, or private organizations of information relating to corrections and corrections reform;

(2) the training of personnel in the field of Federal and State corrections, including parole and probation personnel;

(3) conducting seminars for attorneys, judges, administrators, Federal and State correctional officials, ex-offenders, and students of the correctional system;

(4) the study, analysis, and encouragement of plans and projects relating to corrections submitted or recommended by private organizations;

(5) the development of a plan which, if adopted, would reorganize the Federal corrections system in a manner which, within the five-year period following the date of the enactment of this Act, would give the Federal courts maximum flexibility in deciding upon the disposition and treatment of Federal offenders, and which would give the district court disposition boards and Federal prison authorities maximum flexibility with respect to disposition and treatment; and

(6) the study of plans and petitions from Federal prisoners and ex-offenders.

(c) The Council shall submit annually to the President of the United States, the Chief Justice of the United States and the Congress (through the Committees on Government Operations, Appropriations, and Judiciary of the Senate and House of Representatives) a public report which shall—

(1) examine the effectiveness of the various Federal programs and activities relating to the field of corrections;

(2) review and assess other programs in the field of corrections which are unique or otherwise of national significance;

(3) recommend legislative action to the Congress, and recommend to the President and the Chief Justice administrative actions which could be taken by the executive and judicial branches, to improve the system of corrections;

(4) comment specifically on the implementation of the recommendations of the so-called Wickersham Commission (the National Commission on Law Observance and Enforcement—1931), and the report of the President's Commission on Law Enforcement and Administration of Justice—"The Challenge of Crime in a Free Society"; and

(5) comment specifically on the introduction of legislation to establish academies for correctional officers training on either a national or regional basis.

(d) In carrying out its functions under this act, the Council shall insure the coordination and integration of policies and programs respecting the disposition, treatment, and rehabilitation of offenders on the Federal and State levels.

(e) The Council shall assist in the development of funding requests for all Federal instrumentalities which participate in or contribute to the areas of correction and the rehabilitation of offenders, and shall, upon request, be available to advise the Congress on matters involving the allocation of Federal resources in such areas.

(f) Any vacancy in the membership of the Council shall not affect its powers and shall be filled in the same manner as the original appointment was made.

(g) The Council may establish such temporary task forces as it may deem necessary.

(h) The Council is authorized to enter contracts or other arrangements for goods or services, with public or private profit organizations, to assist it in carrying out its duties and functions under this Act.

TITLE II—FEDERAL CIRCUIT OFFENDER DISPOSITION BOARD

Establishment; Composition

Sec. 201. (a) There is hereby established the Federal Circuit Offender Disposition Board (hereinafter referred to in this Act as the "Circuit Board"), which shall be composed of eleven members appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall represent diverse backgrounds, including, but not limited to, the fields of correction, psychiatry, psychology, sociology, law, medicine, education, and vocational training. Such members shall serve for terms of four years, except that, of the members first appointed, three shall serve for terms of one year, three shall serve for terms of two years, three shall serve for terms of three years, and two shall serve for terms of four years, as designated by the President at the time of their appointment, each member shall be designated by the President to represent a specific judicial circuit. The Attorney General shall call the first meeting of the Circuit Board within six months of enactment.

(b) The Circuit Board shall elect, from among its members, one member to serve as Chairman. The Chairman shall represent the Circuit Board on the Council. The Circuit Board is authorized to appoint and fix the compensation of such employees as it determines necessary to carry out its duties under this Act.

(c) Members of the Board shall receive compensation at the rate of $100 for each day on which they are engaged in the performance of the duties of the Board, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Board.

(d) The Circuit Board is authorized to enter into contracts or other arrangements for goods or services, with public or private profit organizations, to assist it in carrying out its duties and functions under this Act.

Functions

Sec. 202. It shall be the function of the Circuit Board to formulate, promulgate, and oversee a national policy on the treatment of offenders under the jurisdiction of any court of the United States on the basis of a charge of having violated any of the laws of the United States. In carrying out such function, the Circuit Board shall, among other things—

(1) establish and recommend sentencing guidelines and standards for the United States courts, and provide periodic review thereof;

(2) establish guidelines and standards for the United States courts in probation, parole, or other forms of release of offenders;

(3) hear appeals by offenders denied parole on the sole ground that a District Board deviated from the established national guidelines and standards established pursuant to clause (2) of this section;

(4) assist and advise the Council in determining overall Federal correction policy;

(5) assign to each member of the Board the responsibility of overseeing the direction and operation of the various District Boards within the circuit which such member represents; and

(6) assign each member of the Board the responsibility of notifying the President of the United States of any vacancy on the various District Boards within the circuit which such member represents.

Reports

Sec. 203. The Board shall, not less than annually, make a written report to the Attorney General concerning the carrying out of its functions and duties under this Act.

TITLE III—DISTRICT COURT DISPOSITION BOARDS

Establishment; Composition

Sec. 301. (a) There is hereby established in each judicial district a District Court Disposition Board (hereinafter referred to in this Act as the "District Board"), which shall be composed of not less than five members appointed by the President of the United States, by and with the advice and consent of the Senate, and representing diverse backgrounds, including, but not limited to, the fields of corrective, psychiatry, psychology, sociology, law, medicine, education, and vocational training. Such members shall serve terms of six years, and shall be eligible for reappointment. The Board shall elect, from among its members one member to serve as Chairman. The Board may appoint and fix the compensation of such employees as it determines are necessary to carry out its duties under this Act. The Attorney General shall call the first meeting of each District Board.

(b) Each member of a District Board shall be compensated in an amount equal to $——— per annum, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Board.

(c) Each District Board may establish such units as it determines necessary, which may include an investigation unit, a pretrial evaluation unit, a presentence unit, a youthful offender unit, and a narcotics and alcohol unit. Each unit shall consist of such members as shall be determined by the Board. Each unit, with the approval of the Board, shall be authorized to appoint and fix the compensation of such employees as it determines are necessary to carry out its duties.

(d) Immediately following the arraignment of a person charged with a Federal offense, the case shall be assigned to the District Board, which shall—

(1) investigate the defendant's background, family ties, relationship with the community, employment history, and the circumstances surrounding the alleged offense, and other information which it deems pertinent;

(2) recommend, if indicated, mental observation, or medical observation for problems such as alcoholism, drug addiction, or other mental or physical disabilities; and

(3) submit, within thirty days of arraignment, a written report to the counsel of record for such defendant, and the office of the United States attorney having jurisdiction over the case.

(e) The report shall set forth the findings and conclusions of the District Board, including its conclusions as to any physical, mental, social, economic, or other problems of the defendant and shall recommend whether and what type of diversion of the defendant from the criminal justice system of prosecution is desirable. The report shall be made part of the permanent record of the defendant's case.

(f) The report shall be the basis for discussion between the United States attorney and counsel of record for the defendant at a formal precharge conference, during which the report and alternatives to prosecution shall be considered. If the United States attorney and counsel for the defendant agree that diversion of the defendant from the criminal prosecution system would be desirable, and an appropriate authorized diversion program exists, then the charges against the defendant shall be suspended for up to twelve calendar months, subject to the defendant agreeing to participate in that program. The Board shall file with the court a statement of the date the defendant has commenced participation in the program. The United States attorney shall make periodic reviews as to the progress of the defendant while participating in the program. If the United States attorney is not satisfied with the defendant's progress, he may resume prosecution of the charges by filing, within one year after the defendant commenced participation in the program, a statement of intention to resume prosecution, which shall include the reasons for resumption of prosecution. If the United States attorney does not file a timely statement of intention to resume prosecution of the charges against the defendant, the charges shall be permanently dismissed. The statement of intention by the United States attorney to resume prosecution shall be included in the record of the case.

(g) If a defendant is prosecuted for, and convicted of, a Federal offense, the court shall refer the record of the case to the appropriate District Board for review and consideration prior to sentencing. The Board shall examine and review the record, the pretrial evaluation report and other pertinent information concerning the case, including the recommendations of counsel for the defendant. Within thirty days after receiving the record, the Board shall file a written report with the court, the counsel for the defendant, and the United States attorney, such report shall include—

(1) the sentence recommended by the Board, which may be a suspended sentence, probation, imprisonment, or any alternative authorized by law to imprisonment;

(2) the reasons for the sentence recommended; and

(3) if imprisonment is recommended—

(A) the reason imprisonment is recommended (such as for reasons of punishment, deterrence or rehabilitation) and what alternatives were considered as inapplicable, and the reasons therefor;

(B) the term of imprisonment recommended and the institution or facility in which the imprisonment is recommended to be carried out; and

(C) the goals for the offender to attain while so imprisoned which, when attained, should entitle him to parole, but the goals may, from time to time, be revised by the District Board.

(h) If the court determines not to follow the recommendations of the District Board, it shall so state in writing along with the reasons therefor, and the purposes and goals of its sentence.

(i) The District Board shall carry out, with respect to a defendant who has been sentenced, the functions relating to probation, parole, or other form of release (as the case may be) transferred to the Board pursuant to section 401 of this Act. In carrying out those fuctions, the District Board shall hold an annual hearing with respect to each offender who has been sentenced to imprisonment. In the hearing, all pertinent information concerning the offender shall be reviewed with a view to determining the progress of the offender in attaining the goals established for him by the District Board. At the hearing the offender shall have the right to be represented by counsel, to submit evidence, and to cross examine witnesses. Within fourteen days following the conclusion of the hearing, the Board shall make its determination as to whether the offender should be released on parole or other authorized alternative action taken. A determination by the Board to authorize release on parole of an offender eligible for parole shall be accompanied by a statement of the conditions of parole. If the Board determines that an offender who is not eligible for parole should be released on parole, it shall recommend to the appropriate court that the sentence of the offender be reduced so that the offender may be so released, or that an authorized alternative disposition be made. Within fourteen days after the determination, the District Board shall submit to the offender and to the appropriate court a written report containing the decision of the Board and the reasons therefor, including the views of the Board with respect to the goals the offender has attained and the goals he has not yet attained.

(j) A quorum for any hearing held pursuant to subsection (i) shall be not less than three members of the District Board.

(k) The decision of the District Board may be appealed to the Circuit Board by the offender affected by the decision solely on the basis that the District Board, in conducting the hearing, failed to follow the standards and guidelines established by the Circuit Board pursuant to section 202(2) of this Act. Nothing in this section shall be construed as abridging the right of an offender to appeal a sentence to the Federal courts.

(l) The District Boards are authorized to enter into contracts or other arrangements for goods or services, with public or private profit organizations to assist them in carrying out its duties and functions under this Act.

TITLE IV—TRANSFER OF FUNCTIONS

PAROLE; PROBATION

SEC. 401. There are hereby transferred to the District Boards established by this Act all functions which were carried out immediately before the effective date of this section—

(1) by the Federal Board of Parole;

(2) by any United States court relating to the appointment and supervision of probation officers;

(3) by the Attorney General relating to the prescribing of duties of probation officers; and

(4) by the Director of the Administration Office of the United States Courts relating to probation officers and the operation of the probation system in the United States courts.

MISCELLANEOUS

SEC. 402. (a) With respect to any function transferred by this title and exercised after the effective date of this section, reference in any other Federal law, rule, or regulation to any Federal instrumentality or officer from which or whose functions are transferred by this Act shall be deemed to mean the instrumentality or officer in which or whom such function is vested by this Act.

(b) In the exercise of any function transferred by this Act, the appropriate officer of the District Board to which such functions were so transferred shall have the same authority as that vested in the officer exercising such function immediately preceding its transfer, and such officer's actions in exercising such functions shall have the same force and effect as when exercised by such officer having such function prior to its transfer by this title.

(c) All personnel (other than the members of the Board of Parole), assets, liabilities, property and records as are determined by the Director of the Office of Management and Budget to be employed, held or used primarily in connection with any function transferred by this title are hereby transferred to the District Boards in such manner and to such extent as the said Director shall prescribe. Such personnel shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(d) Effective on the effective date of section 401 of this Act, the Board of Parole shall lapse.

(e) As used in this Act, the term "function" includes powers and duties.

EFFECTIVE DATE

SEC. 403. Sections 102, 103, 202, subsections (d), (e), (f), (g), (h), (i), (j), and (k) of section 301, and sections 401 and 402 of this Act shall take effect upon the expiration of the one-hundred-and-twenty-day period following the date of the enactment of this Act. All other provisions of this Act shall take effect upon the date of its enactment.

DEFINITION

SEC. 404. As used in this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

AUTHORIZATIONS

SEC. 405. (a) On and after the date of the enactment of this Act, all moneys received by any court of the United States as fines, penalties, forfeitures and otherwise shall be deposited in the Treasury to the credit of Federal Circuit Offender Disposition Board and shall be available for carrying out the purposes of this Act.

(b) There are authorized to be appropriated such sums as may be necessary in addition to those available pursuant to subsection (a) of this section to carry out the provisions of this Act.

APPENDIX B

Listing of programs designed to benefit the criminal offender

[Amount applicable to criminal offender—fiscal year 1971]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE	
Office of Education:	
Vocational Education	$1,188,000
Adult Education Program	2,381,000
Title I of the Elementary and Secondary Education Act of 1965	19,100,000
Title II of the Elementary and Secondary Education Act of 1965	(1)
Teacher Corps Program	1,502,000
Project START [2]	90,000
Drug Education Program	(1)
Nationwide Education Programs in Corrections	400,000
Career Opportunities Program	$112,000
Community Service Program	29,000
Title I of the Library Services and Construction Act	(1)
Health Services and Mental Health Administration:	
Research on criminal behavior and on the sociology of crime	2,200,000
Supporting research and development—Corrections	2,100,000
Narcotic Addict Rehabilitation Program	6,591,000
Training of social workers, psychiatrists, and paraprofessionals in the correctional field	5,167,000
Narcotic Addict Community Assistance Program	18,939,000
Social and Rehabilitation Service:	
Title I of the Juvenile Delinquency Prevention and Control Act of 1968	634,256
Title II of the Juvenile Delinquency Prevention and Control Act of 1968	2,530,000
DEPARTMENT OF LABOR	
Offender Rehabilitation Program	15,900,000
OFFICE OF ECONOMIC OPPORTUNITY	
Legal Services Program	(1)
Drug Rehabilitation Program	(1)
Volunteers in Service to America (VISTA)	(1)
Other Programs and Projects [3]	5,410,950
DEPARTMENT OF THE INTERIOR	
Employment Assistance Program	200,000
CORPS OF ENGINEERS	
Rehabilitated Offender Program	6,300
ENVIRONMENTAL PROTECTION AGENCY	
Physically Handicapped Program	(1)
DEPARTMENT OF AGRICULTURE	
Extension Service	(1)
Forest Service	(1)
U.S. POSTAL SERVICE	
Job Opportunity Program	(1)
Postal Academy Program	(1)
DEPARTMENT OF JUSTICE	
Law Enforcement Assistance Administration:	
Block grants under title I, Omnibus Crime Control and Safe Streets Act	(1 4)
Discretionary grants under title I, part C, of the act [5]	18,969,625
National Institute of Law Enforcement and Criminal Justice	2,100,000
Grants under title I, part E, of the act	(6)
Other bureaus:	
Rehabilitation of offenders [7]	22,170,000
Treatment of narcotics and dangerous drug offenders	2,428,000
Federal Prison Industries, Incorporated [8]	44,500,000
JUDICIAL BRANCH (FEDERAL PROBATION SERVICE)	
Services of probation officers	17,500,000
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
Model cities program	(1)
Total	192,148,131

[1] We were unable to determine the amount of funds being applied to programs or projects affecting the criminal offender. For more details, see appendix II.

[2] This project was co-funded. The Office of Education contributed $75,500, and the Civil

Service Commission provided the remaining $14,500.

[3] This total is a sum of the examples presented on page 16 in appendix II and is not to be considered all inclusive.

[4] Part C includes estimated expenditures of $50,660,000 for correction and rehabilitation. Information was not available, however, to show how much of this money would be spent to benefit the criminal offender.

[5] Our analysis included only those projects interpreted as having direct impact on the criminal offender. Projects having indirect impact, such as research projects and studies, were excluded.

[6] The amount budgeted for part E was $47,500,000 for fiscal year 1971. Information was not available to show the amount of funds to be spent for projects to benefit the criminal offender.

[7] The amount includes $20,990,000 from the Bureau of Prisons. The total appropriations for the Bureau were about $74.9 million for fiscal year 1969, $87.6 million for fiscal year 1970, and $120.2 million for fiscal year 1971. In this report we included only those funds that we could identify as being expended for programs and projects to benefit the criminal offender.

[8] This figure represents the total sales for fiscal year 1971. Net industrial profits were about $5 million. The Federal correctional institutions' vocational training programs are funded from these profits.

CORVAIR STABILITY CONTROVERSY

Mr. RIBICOFF. Mr. President, on March 14, 1973, I released the results of a 2½ year staff study of charges by Mr. Ralph Nader that representatives of General Motors had misled the Subcommittee on Executive Reorganization concerning the safety of the 1960–63 Corvair automobile at a hearing on March 22, 1966. The staff found that GM had not misled the subcommittee and I therefore informed Mr. Nader that I saw no reason to hold any further hearings on this matter.

I intended to place the staff report and related exhibits in the RECORD March 14, but, in response to a request from Mr. Nader, I agreed to delay doing so until he had an opportunity to comment on the report. Yesterday, Mr. Nader sent me a lengthy letter, memorandum and other material concerning the report which shall appear in the RECORD after the staff report. Following Mr. Nader's material will appear a response to his memorandum by my staff. This material will provide a complete public record on this important controversy.

To assist the public in reading and understanding this material, I have prepared the following brief table of contents:

Attachment I Staff Investigation Report and Exhibits.

Attachment II Nader letter to Senator RIBICOFF dated March 12, 1973.

Attachment III RIBICOFF letter to Nader dated March 14, 1973, and staff memorandum in response to Nader letter.

Attachment IV Nader letter to Senator RIBICOFF dated March 26, 1973.

Attachment V Nader staff memorandum and exhibits.

Attachment VI RIBICOFF letter to Nader dated March 27, 1973, and staff memorandum in response to Nader letter and memorandum.

Having complied with the rules of the Joint Committee on Printing, I ask unanimous consent that these documents be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTACHMENT I—STAFF INVESTIGATION REPORT AND EXHIBITS

To: Senator RIBICOFF.
From: Robert Wager and John Koskinen.
Re: Corvair Stability Controversy.

I. SUMMARY

For more than two and a half years, we have conducted an extensive investigation into Mr. Ralph Nader's charges that statements of certain General Motors witnesses at the hearing of March 22, 1966, misled the Subcommittee on Executive Reorganization concerning the safety of the Corvair automobile. After consideration of all the relevant evidence, we have concluded that the subcommittee was not misled and hence there is no basis for reopening the hearings for further testimony on the stability and handling of the Corvair.

Although we have not upheld Mr. Nader's charges against the Corvair and General Motors, we believe they were made in good faith based on the information available to him. After gathering all the evidence concerning them, we can understand how he reached the positions stated in his letters. The documents he cites provide some support for his views. However, we believe the clear preponderance of the evidence, much of which was unavailable to Mr. Nader, is on the other side.

II. BACKGROUND

A. The 1966 Hearings

We believe it is best to begin by reviewing the testimony at the hearing relating to the Corvair. The subject of the hearing on March 22, 1966, was General Motors' (hereinafter GM) investigation and surveillance of Mr. Nader's personal life (Tr. 1380). The issue of Corvair safety was first discussed by Mr. Aloysius F. Power, general counsel of GM, when he maintained that the Corvair was not unsafe, and cited two court cases, *Anderson* v. *GM*, and *Collins* v. *GM*, in which GM had won jury verdicts (Tr. 1409).

Mr. Nader's (hereinafter Nader) testimony followed the GM witnesses and was devoted in large part to an attack on the safety of the Corvair (Tr. 1469–1500). His statement described the Corvair as "an inordinately dangerous vehicle" (Tr. 1469), and he submitted for the record a design study of the Corvair prepared at his request by a New York consulting firm (Tr. 1471).

In a short rebuttal, Mr. James Roche, chairman of GM, asked to have inserted in the record a copy of the statement made by Mr. Louis Bridenstine, assistant general counsel of GM, and Mr. Frank Winchell (hereinafter Winchell), chief of research and development at Chevrolet, to the Michigan Legislature in February 1966 (Tr. 1554). Mr. Bridenstine's statement to the Michigan Legislature said in part:

"* * * to assure that your committee is not misled, we can advise you regarding litigation already terminated. In the only two cases in which this claim that the Corvair is defectively designed has been tried and decided, the juries in both instances returned verdicts in favor of General Motors * * *. In both cases, and under proper rules of procedure and evidence, the juries disagreed with plaintiffs' counsel and agreed with our position. (Tr. 1555)."

Winchell's statement to the Michigan Legislature explained certain automotive engineering terms relating to vehicle dynamics, described the stability and handling characteristics of the 1960–65 Corvair, and commented upon Michigan Senate bill 773, which would have established a lateral acceleration standard of 0.75 for all vehicles operated within the State (Tr. 1559–63).

The printed hearings of the subcommittee contained additional material relating to the safety of the Corvair. This includes a rebuttal to Winchell's statement by Dr. Thomas Manos, associate professor of mechanical engineering at the University of Detroit, and a plaintiff's witness in certain (*Anderson, Collins, and others*) Corvair court cases (Tr. 1564–70), a statement by Mr. Harry M. Philo, one of the plaintiffs' attorneys in the *Anderson* case, entitled "Accident Reconstruction Problems in Corvair Cases" (Tr. 1570–72), and a copy of the complaint in *Franklin* v. *GM*, one of the leading Corvair cases of the time (Tr. 1573–80).

The committee report to the Senate on the Federal role in traffic safety noted the continuing controversy over the Corvair. It said:

"During the hearing, and in documents submitted for the record, the safety of the Corvair automobile was debated. The subcommittee reaches no conclusions on this matter. The subcommittee lacks the technical competence to do so. Moreover, such an inquiry is beyond the purpose of the hearing and the jurisdiction of the subcommittee. This is not the proper forum to decide that issue. (S. Rept. 951, 90th Cong., second sess., 1968, p. 33.)"

Thus, the subcommittee made no determination about the safety of the Corvair as a result of the 1966 hearings. Moreover, we had no jurisdiction over the 1966 traffic and highway safety legislation. Accordingly, it is difficult to see any substantive effect on the subcommittee from the GM statements concerning the Corvair.

The safety of the 1960–63 Corvair design has been heavily litigated. Nearly 300 cases have been filed, of which about 30 are still pending. The potential liability from the pending cases exceeds $40 million.

The subcommittee had no further involvement with the Corvair until Nader's letters to you and Secretary Volpe on September 4, 1970, requesting that you and the Department of Transportation undertake official investigations into the safety of the vehicle and GM's actions concerning it. These letters, and subsequent correspondence, are attached as exhibit 5.

B. Department of Transportation evaluation of the stability and handling of the 1960–63 Corvair

In response to Nader's request, and in accordance with his suggestions, the Department of Transportation (DOT) conducted extensive performance tests of the 1962 Corvair and five other contemporary vehicles—a 1962 Falcon, 1962 Volkswagen, 1963 Renault, 1960 Valiant and a 1967 Corvair. To assist the Department in evaluating the results, it employed three independent, outside technical experts.

The tests were conducted at the Texas Transportation Institute (TTI) under the supervision of DOT engineers in the summer of 1971. All vehicles were instrumented and every test was filmed. The five test maneuvers selected by DOT were designed to disclose any instability or susceptibility to rollover.

After examining the data and films, the DOT concluded in July 1972 that "the handling and stability performance of the 1960–63 Corvair does not result in abnormal potential for loss of control or rollover and its handling and stability performance is at least as good as [the other vehicles tested.]" DOT Report, p. 93.

After independently reviewing the test results, the panel reached the same conclusion and added, "the 1960–63 Corvair does not have a safety defect and is not more un-

stable or more likely to rollover than contemporary automobiles." (Panel Report, p. 3.)

The conclusion of the DOT and its independent panel are consistent with the results of tests performed by Consumer Union, Ford Motor Co., GM, and with statements of expert witnesses questioned during our investigation.

Nader has challenged the validity of the DOT conclusions, claiming that they conflict with earlier tests conducted by the University of Michigan Highway Safety Research Institute (HSRI). Nader further asserts that the DOT ignored both relevant Corvair accident statistics developed by Professor B. J. Campbell at the University of North Carolina, and GM test report PG 11106, which showed that a 1960 Corvair overturned in a J-turn at 25 mph. Nader's comments on the background of the DOT tests and his analysis of them, prepared by Dr. Carl Nash, are attached as exhibit 1. This material has also been submitted to the Senate Commerce Committee.

Many of Nader's contentions are technical and we do not have the capability to evaluate them fully. We asked the DOT to give us its analysis and response to his claims. After considering them, the DOT reaffirmed its previous conclusions. The DOT letter is attached as exhibit 2.

Nader places great reliance on the HSRI test results, pointing out that the Corvair rolled over in the HSRI drastic steer-drastic brake maneuver when tested in a lightly loaded condition. (It did not roll over in the corresponding DOT tests when loaded with an additional 615 pounds.)

We asked DOT to explain the difference in result between its own tests and those conducted at the HSRI. In response, DOT advised us that at the conclusion of the drastic steer brake comparative tests it noted the results were not the same as those obtained by HSRI. Accordingly, DOT decided to conduct another series of tests on the Corvair in a lightly loaded condition.

DOT described the test results as follows:

"No outrigger contact (i.e., simulated overturning) occurred during any of the TTI 28 p.s.i. (hot) front and rear tire noncomparative maneuvers. During one 50 m.p.h., 18 p.s.i. (hot) front and 30 p.s.i. (hot) rear TTI noncomparative maneuver, with the tires that had the unique sidewall, shoulder, and tread wear from previous severe limit maneuvers, outrigger contact occurred. The tires were switched so the tires with the smaller amount of wear from the limit maneuvers were placed on the outboard side of the vehicle in the turn and the tires with the greater amount of wear were on the inboard side of the turn. No outrigger contact occurred at either the same steering input or more severe steering inputs up to the limit of the equipment.

"During the 60 m.p.h., 18 p.s.i. (hot) front and 30 p.s.i. (hot) rear TTI noncomparative maneuver again with tires worn from previous severe limit maneuvers, no outrigger contact occurred until the last run with the maximum (for the equipment) steering input. When the rear tires were switched left to right and right to left and the maneuver repeated at this maximum input, no outrigger contact occurred. . . .

"The tires in the 18 p.s.i. (hot) front and 30 p.s.i. (hot) rear TTI noncomparative tests were tires that had the unique wear patterns from previous severe limit maneuvers similar to those believed to be on the Corvair during the HSRI drastic brake maneuver. The tires on the 28 p.s.i. (hot) front and rear TTI noncomparative tests were tires that had not been used in previous limit maneuvers. These tires were broken-in and the wear monitored in accordance with the procedures of the comparative test program. The wear referred to is that resulting from severe limit maneuvers, not normal highway wear."

DOT believes its results are valid and pointed out "considerable and important differences" between the HSRI and TTI tests:

"One significant difference was the condition of the test surfaces which in both cases were former aircraft runways. The surface in the original HSRI tests, which they recognized as being in poor condition, was concrete that was spalled and cracked with marked irregularities and uneven displacement at the divider strips. The test surface at TTI on the other hand was in much better condition, with more even and uniform surface and less distortion at the divider strips. HSRI personnel aided in the selection of the TTI test site and recommended the actual area on the runway that was subsequently used . . . .

"Another significant difference was the effect of using tires that had unique and abnormal sidewall, shoulder, and tread wear patterns resulting from previous severe limit maneuvers and using tires that had been broken-in and the wear monitored to assure uniformity and repeatability in the tests."

In a follow up study to the one cited by Nader, but not noted in his material, HSRI found "a dramatic sensitivity of peak side force to tire shoulder wear—the type of wear which occurs during limit turning tests." Vehicle Handling Performance, Summary Report, November, 1972, p. 5. Therefore, HSRI concluded that "adequate measurements of 'O.E.' limit cornering performance cannot be made for certain tire-vehicle systems by a testing method which utilizes repetitive runs as a means of searching for the limit, since the testing process acts to alter the O.E. condition." Ibid, p. 17.

This finding and conclusion are particularly relevant in comparing the results of the original HSRI and TTI tests. Robert Ervin, the HSRI engineer who conducted the 1970 tests, told us that the tires were not checked for wear nor were they rotated during the tests. All six test maneuvers were performed on one set of four tires, Ervin stated. This would tend to confirm DOT's assertion that the tire wear characteristics were a significant difference in the two tests. It would also be consistent with another recent report from HSRI which declared that "tires are probably the single most important vehicle component in determining how the vehicle responds in extreme steering and braking maneuvers." Limit Handling Performance as Influenced by Degradation of Steering and Suspension systems, November 1972, volume 1, p. 26.

Another important point should be made about the tires used in the HSRI and TTI tests. DOT installed original equipment type tires on the Corvair at TTI, but Ervin told us that the HSRI Corvair was equipped with three different make and model tires. (Two Peerless and two others from different manufacturers. Ervin could not recall them, and the car has been disposed of by HSRI.

Use of these tires by HSRI may have substantially affected the stability and handling performance of the Corvair. Earlier in our investigation, as discussed further in the Corporate Responsibility section below, we found that certain after-market tires significantly changed the handling characteristics of the Corvair and other cars. Though some attention has been given to the danger which may result from mixing radial and bias ply tires, particularly snow tires, there has been no recognition that serious stability and handling problems may arise from the use of certain replacement tires. As indicated below, this subject requires further study by DOT, the tire manufacturers and auto companies.

As a third reason for the difference in result between its own tests and those of HSRI, DOT noted that the drastic steer-drastic brake maneuver conducted with the lightly loaded Corvair at TTI involved "more severe" speeds and steering wheel inputs than those performed at HSRI.

Finally, DOT concluded, "none of the miscellaneous test material and data modifies our previously announced decision that the handling and stability performance of the 1960–63 Corvair does not result in an abnormal potential for loss of control or rollover and that its handling and stability performance is at least as good as the performance of some contemporary vehicles both foreign and domestic. If anything it adds support to our decisions relative to importance of certain controls necessary for this type of testing. . . ." DOT then asked the panel members whether the results of the lightly loaded vehicle tests would cause them to change their conclusions or report. "Each [of them] indicated that it would not," DOT told us.

Further analyses of the TTI tests also support the views of DOT and the panel. Nader stresses the additional 615 pounds carried in the Corvair during the comparative DOT tests, claiming they made the car more resistant to spinout and overturning. Background p. 14.

It is true that this weight increased the *initial* resistance to spinout and rollover by about 20 percent. But after the brakes were applied in the drastic steer-drastic brake maneuver, this weight provided 20 percent *more* energy toward spinout and rollover. This is the result of the well-known flywheel effect. The added weight made it more difficult to reach the point where spinout or rollover would occur, but once that point was reached, the additional 615 pounds made it more likely that these responses would occur. (See explanation attached as exhibit 3.) This is implicit in the GM recommendation that the Corvair be tested in a lightly loaded condition. See GM submission to DOT, Proposed Vehicle Testing Procedure, p. 1–3. Accordingly, we do not believe that the additional weight tended to make the Corvair more stable in limit of control maneuvers, rather it tended to make the car more unstable and hence made a spinout or rollover more likely than if the vehicle were tested in a lightly loaded condition.

In summary, we believe that neither the HSRI test results nor the additional weight carried in the Corvair during the comparative DOT test runs provide a sufficient basis for invalidating the conclusions reached in the DOT and panel reports.

Second, Nader asserts that DOT "dismissed" data compiled by Professor B. J. Campbell of the University of North Carolina. Nader claims that Campbell's data is "more directly indicative of the handling and stability problem which the Corvair and other rear-engine swing axle cars have since it directly measures the incidence of crashes which are most likely to be due to handling defects." Analysis, p. 11.

The DOT report discussed the Campbell data and noted the relationship of the accident statistics to the changes in the Corvair suspension. (See report, p. 32–33). But it declined to draw any specific conclusion from the data "in view of unexplained changes in the same data for other vehicles, such as the Chevy II, and Valiant about which there is no knowledge of any pertinent changes in the vehicle during the related periods." Report, p. 32.

We called Professor Campbell to discuss his data and its significance. He explained that he had studied more than 270,000 auto accidents over a period of two years in North Carolina, and had divided them into seven categories: ran off road, car v. fixed object, car v. other object, car v. car, car v. truck, multiple vehicle, and other. A summary of his Corvair data is attached as exhibit 4.

Differing with Nader's interpretation of his classification system, Professor Campbell told us that it did not "directly measure" the incidence of crashes due to handling defects. He pointed out that a car may go

off the road or become involved in another type of accident for a number of reasons other than loss of control caused by a handling defect. Campbell believes Nader has overstated the conclusions which may be drawn from his classification system.

Continuing, Campbell stated that the trend of the Corvair ran off road accidents statistics corresponds to changes made in the rear suspension in 1964 and '65. But he pointed out two important caveats which must be considered when interpreting the data:

1. The Corvair pattern is not unique. The Corvette (which has never been challenged on its stability and handling) has an even higher percentage of off road crashes. (See exhibit 4.) Accordingly, Campbell observed that his present data does not permit a conclusion that the Corvair accidents are due to its rear suspension and the Corvette crashes to another cause. "You can't have it both ways," Professor Campbell declared. Logically, both sets of data require a consistent conclusion.

2. While the Corvair's percentage of off road crashes is relatively high, Campbell noted that in assessing its total handling performance, you must also take into consideration its less than average number of accidents in other categories. For example, Campbell's statistics show that the 1960–63 Corvair is consistently involved in significantly less than average truck and multiple vehicle accidents.

We asked Professor Campbell what conclusions he has reached on the basis of his study of the Corvair. He replied that up to the limit of control [.6g] he believes the car is perfectly satisfactory. He told us he had owned a '61 Corvair, driven it 70,000 miles and was satisfied with its performance. But at the limit of control it performs differently from most other cars, he thinks. We then asked him whether he believed this difference was sufficient to justify the finding of a defect and consequent recall. He answered, "no." "The benefit to the public does not justify the cost. If I were [Douglas] Toms [Director of the NHTSA], I would not recall the Corvair," he concluded.

Finally, Nader contends that DOT accepted GM's unsupported claims that PG 15699 and 17103 were not relevant to its inquiry. Analysis p. 13. He maintains that PG Report 11106 showed the Corvair's lack of stability by rolling on its side in a J-turn maneuver at 25 mph. Analysis, p. 14.

Test reports 15699 and 17103 are discussed below. Report 11106 is also a rollover test similar to the later ones. There is nothing significantly new or different in it.

In answer to Nader's charge DOT wrote us,

"The NHTSA did not accept the opinions or conclusions of either the proponents or opponents of the Corvair without question. We did solicit and accept films, data and information from various sources and read and listened to many opinions. The Administration then sifted and evaluated these inputs to arrive at our own independent conclusions. The fact that we may have arrived at the same conclusions as someone else does not mean they were adopted without question. Allegations to the contrary are simply not true.

"More specifically, NHTSA's evaluation of the significance of these GM rollover tests is documented on pages 34 and 35 of the NHTSA report and the summary is quoted here for your information:

" 'In summary, because of the nature and severity of these development tests which were not representative of the practical driving environment, these tests should not reasonably be interpreted to conclude that 1960–1963 Corvair is susceptible to rollover at low speeds on a flat surface in the normal driving environment.'

"The foregoing is NHTSA's evaluation—not GM's."

To conclude this section, we do not believe that Nader's criticisms of the DOT report justify rejecting its conclusions. As noted above, we do not have the technical capability to make an independent engineering evaluation of the stability and handling of the Corvair. Congress established the National Highway Traffic Safety Administration to make just such technical judgments. We must accept its conclusions where, as here, they appear reasonable and its tests were conducted in accordance with Nader's suggestions. Of course, our decision in this matter is limited to the context of this report. The Senate Commerce Committee will make its own determination of the quality and competence of the DOT report.

We shall now consider Nader's charges concerning GM's conduct in certain Corvair lawsuits, its statements to the subcommittee and the Michigan Senate, and its handling of certain documents. These matters deserve separate consideration from the technical issues.

C. Charges concerning the Corvair

Nader's letter to you on September 4, 1970, alleged that GM officials knowingly misled the subcommittee regarding the safety of the Corvair by "suppression of test data and films * * *". The letter to Secretary Volpe claimed that "GM proving ground test and films back in 1962–63 conclusively proved the Corvair uniquely unstable with unprecedented rollover capability unlike any other American car." The letter relied on certain GM documents and a so-called "hot documents" file as proof of these claims.

Your reply to Nader on September 14, 1970, said that his charges "raise important issues which the subcommittee must seriously consider." Accordingly, you asked him to provide you with "all the information in his possession concerning the Corvair."

Six weeks later, on October 23, Nader sent you a 32-page letter, concurrently distributed to the press, detailing his allegations against GM. It made four basic charges:

"1. Suppression of adverse documents within GM;

"2. Fraud in the defense of the *Anderson* and *Collins* cases;

"3. Conflict between the results in proving ground tests 17103 and two GM statements—Mr. Roche's testimony to the subcommittee in 1965 on improvements in automobile stability and Mr. Edward Cole's letter of September 1970 to Secretary Volpe explaining the significance of that proving ground report. This charge was repeated and expanded in Nader's letter to you on July 8, 1971;

"4. A greater likelihood that the Corvair wheel rim would contact the road than would the wheel rim of other cars."

A second letter to you, on May 20, 1971, did not concern the stability and handling of the Corvair. Accordingly, it is discussed in another section of this report.

The third letter, on July 8, 1971, was accompanied by several documents, and made seven basic charges against GM:

"1. Throughout the 1950's and early 1960's Maurice Olley, a highly respected GM suspension engineer, warned the corporation of the hazards of a rear engine, swing axle independent rear suspension vehicle, such as the Corvair;

"2. GM attempted to suppress the existence of these warnings and falsely attempted to explain them away in the court cases;

"3. In the interest of cost savings, GM refused to adopt modifications to the 1960 Corvair which would have remedied its defect;

"4. The difference in front/rear tire pressures was insufficient to provide adequate vehicle stability;

"5. After introduction of the Corvair, GM failed to take the action necessary to correct the car's defect, but instead attempted to fix it through minor modifications;

"6. Winchell misrepresented the nature of the changes in the 1964 Corvair suspension;

"7. Winchell misrepresented the purpose and effect of the 1965 Corvair suspension modifications."

Copies of your correspondence with Nader and his three letters are attached as exhibit 5.

During the entire period of the investigation, we had numerous conferences with Nader and his associate, Mr. Gary Sellers, to develop and refine the issues further. These meetings provided several leads and helped advance the progress of the inquiry. We also asked GM for written responses to Nader's charges, all of which had received wide publication in the Nation's press.

D. The investigation

Our investigation focused on two principal issues—the veracity of GM's testimony to the subcommittee in 1966 and its conduct of certain Corvair lawsuits.

On the same day you wrote to Nader requesting that he provide the subcommittee with all the information and documents in his possession substantiating his charges, you wrote to GM asking for certain information and material discussed in Nader's letter. Ross Malone, vice president and general counsel of GM, and his staff, cooperated fully in the investigation. Throughout the investigation they provided access to every document sought to be inspected and every person asked to be interviewed. In total, they furnished us with thousands of pages of information and scores of individual documents and films in answer to Nader's charges.

To support their claims Nader and Sellers provided us with 53 documents. Carl Thelin, Harley Copp, George Caramanna, and others not presently connected with General Motors provided additional documentary evidence which contributed to the investigation. Much of this material is discussed in later sections of this report.

All these documents were helpful in illuminating various aspects of the case and have been carefully studied, but the heart of our investigation consisted of 117 hours of recorded interviews with 97 people. They covered 33 days in seven cities. The majority of our time, 20 days, was spent in Detroit. These interviews were reduced to writing and now cover over 4,000 pages. Except as indicated below, each is accompanied by a sworn affidavit attesting to the truth of the statements made. In addition to the interviews and affidavits, we obtained written statements and spoke on the telephone with more than 30 other present and former GM employees concerning their knowledge of certain issues relating to Corvair safety.

Our interviews covered every level of the corporation, from the top management, Messrs. Roche and Cole, to clerical and technical employees. We sought to obtain all relevant information on the issues before us by the best means possible. Thus, the information we gathered includes personal interviews, written documents, films, graphs, and charts.

In addition to our interviews with current GM personnel, we questioned many retired and former employees and several persons not connected with GM.

III. THE CORVAIR ISSUE

A. The October 23, 1970, Letter

1. Status of adverse documents within GM

Nader's letter alleged that GM atempted "to hide from the courts and even from their own defense witnesses the existence and contents of reports (such as PG 15699 and 17103) critical of the Corvair's safety." (P. 6) (Reports 15699 and 17103 are a series of related rollover tests conducted by GM in 1962 and 1963. They are attached as exhibit 6). This

charge is apparently based on statements of Carl Thelin, a former GM employee in the product analysis unit (a group of Chevrolet engineers assigned to the defense of the Corvair and other Chevrolet products), reported in the Washington Post on September 27, 1970. The article is attached as exhibit 7.

We questioned Mr. Thelin (hereinafter Thelin) at length concerning this matter. Early in the interview he acknowledged, "Any opinion I might have about withholding is strictly the opinion of an engineer who looks at the questions and looks at the answers and makes his decisions based on personal belief, which are not necessarily the result of legal training." This statement places the issue in proper perspective. The question is whether GM was legally obligated to produce certain documents in the court cases and failed to do so.

In examining the record of these and other cases, we have not reviewed them in the manner of an appellate court, to determine whether the verdict reached was clearly erroneous. This would be inappropriate for a Senate investigation. Rather, we sought to determine whether GM had perpetrated a fraud or deceit upon the courts so that it would have been improper for the corporation to rely on the judgments obtained as judicial findings favorable to its position.

Thus, whether GM restricted access to reports within the corporation is relevant here only if it resulted in illegal actions in the trial of the Corvair cases. Moreover, in order for the subcommittee to have been misled, the unlawful actions must have taken place before March 22, 1966, the date of the Senate hearing.

We find both necessary elements missing here. In March 1966, *Anderson* and *Collins* were the only cases which had been litigated to a conclusion. In *Anderson*, the court required production of only those documents in existence prior to April 19, 1963, which related to the testing of 1960, 1961 and 1962 models. Since PG 15699 was issued June 14, 1963, and 17103 on November 4, 1963, there was no requirement for GM to furnish them to the plaintiff. Similarly, in *Collins*, the discovery order was confined to tests of 1960 and earlier models. Accordingly, there was no reason to supply those particular reports to the plaintiff.

Furthermore, so far as we could learn, knowledge of these documents was not withheld from GM witnesses in these cases. Almost contemporaneous with the trials, GM produced test reports 15699 and 17103 for discovery in the *Franklin* case (see discussion below). We questioned many witnesses closely on this point, but could find no evidence that these reports were concealed from the lawyers and engineers involved in the *Anderson* and *Collins* cases.

Nader next maintains that GM testimony before the subcommittee and the Michigan Senate overstated the results of the *Anderson* and *Collins* cases and thus misled us. As examples, he cites Power's assertion at the hearing that "engineers have advised us that it [the Corvair] isn't unsafe, and they have testified in two cases already in court and a jury has accepted their testimony;" and Bridenstine's Michigan statement that "In both (*Anderson* and *Collins*) cases and under proper rules of evidence, the juries . . . agreed with our position." Nader claims "this testimony directly conflicted with GM's own internal documents such as PG 17103 . . ." (Letter, p. 5.)

To the extent the GM statements imply that the *Anderson* and *Collins* cases were a complete disposition of the Corvair safety issue, they attempt to make too much of the cases. *Collins* and *Anderson* were simply the findings of two juries in two separate legal and factual situations. The fact that the juries there did not find that the design of the Corvair contributed to those specific accidents does not resolve the general question of the safety of the Corvair. A more proper description of these cases would have been to state that juries in two cases had found that the Corvair design did not cause those specific accidents.

We believe that in the manner of advocates both GM and Nader have misstated the decisions in the *Anderson* and *Collins* cases. GM's version was too broad, implying that the general question of safety had been at issue, and Nader's too narrow arguing that the cases could not legitimately be mentioned at all. We do not believe the subcommittee was misled by GM's characterization of the cases, for as noted above, the subcommittee reached no conclusion on the question of Corvair safety in 1966 and the DOT study has supported GM's position that the Corvair was not unsafe.

Nader's letter to Secretary Volpe on September 4, 1970, claimed that certain films and reports properly responsive to interrogatories were "secreted in a special category of hot documents." In answer to a subcommittee inquiry, GM acknowledged on October 21, 1970, the existence in 1965 and 1966 of a collection of documents which might be used by plaintiff's lawyers in an adverse manner. These items were commonly called "hot documents" by some of those acquainted with them, and were kept in the legal staff offices. These documents had been collected by GM lawyers in the fall and winter of 1965–66, after the trial of the *Anderson* and *Collins* cases, in an attempt to determine whether additional documents existed which might be used adversely to GM's position in future litigation. We were told that there was no index or list of those documents, and they were subsequently disassembled. GM stated that it was not possible to reconstruct the collection, but, according to the best recollection of the lawyers, they included PG reports 17103, 15699, 12207, 11543, and 11106. Our investigation disclosed that the collection also contained engineering correspondence and minutes of Chevrolet engineering staff meetings.

Though the existence of this collection of documents was not widely known among GM lawyers involved in the Corvair litigation, we could find no evidence that any document contained in it was unlawfully withheld from a plaintiff in a lawsuit. Where necessary, GM lawyers consulted this collection in responding to interrogatories to insure that answers were complete and, when legally required, supplied relevant documents to the plaintiffs.

In March 1966, there were many other cases in the pretrial stage. Among the most significant were *Franklin* and *Fuette*. We investigated GM's response to the court orders in these cases and determined that no relevant data had been improperly withheld from the plaintiffs (for specific discussion of PG 15699 and 17103, see infra).

Nader and Sellers have unsuccessfully attempted in other contexts to prove suppression of documents and to secure a reopening of certain Corvair cases.

In 1971, Nader wrote to Judge Bernard Jefferson, the judge who decided the *Drummond* (Corvair) case, alleging suppression of documents and perjury at the trial. Judge Jefferson, rejected the charges and refused to reopen the case, pointing out that Nader had no standing to raise such issues (Los Angeles Times, Aug. 5, 1971).

Sellers charged two GM attorneys with misconduct before the grievance board of the Michigan State Bar Association. He alleged that they filed false answers to interrogatories in two cases by failing to disclose the existence of certain microfilm records. After review, the board dismissed the complaint (file No. 29793, Jan. 20, 1972).

In one of these two cases, *Veatch* v. *GM* (U.S.D.C. Kansas, 1971), the plaintiff sought to impose sanctions on GM for failure to disclose the existence of the microfilm records which were involved in the Michigan bar proceeding. The court denied the plaintiff's request saying, "I can't find that there was a withholding of information, which, if taken as true, would have caused a different result to ensue."

2. Fraud in the defense of the court cases—Anderson

With respect to the *Anderson* case, Nader's letter charged that the testimony of Frank Winchell, then head of Chevrolet research and development, was "grossly misleading" in response to questions concerning the existence of written records of tests for several 1960, 1961, and 1962 Corvairs. Nader asserted, in effect, that by this testimony Winchell denied the existence of PG 15699 and 17103.

The testimony in question at pp. 4802–03 follows:

By Mr. MASTERSON:

Q. Mr. Winchell, were there Corvair automobiles involved in this testing?

A. Yes, sir.

Q. How many?

A. Well, I tried to estimate that a moment ago. I think I—I couldn't say it very precisely, 12 to 24, in that area.

Q. Does it include 1960, 1961, and 1962 models?

A. Yes, sir.

Q. And were the results of your testing reduced to writing?

A. No. Our—our testing was a development, exploratory kind of work where we are seeking fundamental facts.

Q. And the results of these tests were not reduced to writing?

A. Not formal reports with——

Q. Well, was any of the data preserved?

A. Well, when you say "any of the data," I—I would be hard pressed to say. Our custom in this thing, I have to explain to you, Mr. Masterson, is——

Q. Well, my question was: Is any of the data preserved?

A. I can't—I can't say positively whether there was any or not. I presume there was some.

Q. Where would it be if it was preserved?

A. Probably in our Research and Development files.

Q. Of which you are the head?

A. Yes, sir.

Q. Do you know whether it was preserved or not?

A. I can't really say, Mr. Masterson. It was——

[The transcript then changed to another subject.]

Nader's letter sets out Winchell's testimony at pages 4802–4806 of the record and concludes, "Thus, by these untruthful answers, GM withheld significant GM proving ground test reports and records which were essential to her [plaintiff's] case." (Letter, p. 11.)

A proper evaluation of Winchell's testimony in *Anderson* must be based on the entire record in the case, and the knowledge gained during our investigation. Earlier in his testimony in the *Anderson* case, Winchell explained why no written records were made of these tests. He told the court that in 1961 and 1962, the research and development unit established a vehicle dynamics group in order to determine more precisely the factors which influence automobile behavior. The group was quite small: Two engineers, two technicians, and a driver-consultant. Mr. Winchell stated that they tested between 100 and 200 cars, front-engine as wel' as rear-engine vehicles, including the 12 to 24 Corvairs of various designs he personally tested (Tr. 4787–91). He informed the court that the testing program took place at a number of locations: The GM proving ground, the GM technical center, and road racing courses across the country (Tr. 4799–800).

It was these tests for which Mr. Winchell said there were no formal reports. As the record shows, the judge found it difficult to

accept that such extensive testing could be done without written reports, so Mr. Winchell distinguished for the court (and later for us), the informal test procedures used in Chevrolet research and development and the more formal test procedures applicable to the Chevrolet production engineering group for the product improvement program. The Chevrolet Research and Development unit does the basic design and evaluation to establish the feasibility of the car and its components, while product engineering is concerned with the design of the production hardware and subsequent refinements.

Our investigation showed that only tests performed at the GM proving ground by GM proving ground personnel result in formal proving ground test reports. Since the vehicle dynamics team used its own personnel and equipment at many locations for these tests, there were no formal reports, and therefore Winchell's testimony was correct.

Winchell's testimony did not deny that some records had been kept; in fact, he said that the results were noted and he presumed that some material was preserved in the research and development files. In the course of our investigation, we learned that at the conclusion of the vehicle dynamics program in 1966, after the *Anderson* trial, the results were summarized in a series of films.

When asked by the judge how the engineers communicated the results of their work to others at GM, Winchell replied that this was done "by personal contact * * * in meetings and (ride) evaluations * * *" (Tr. 4807). This testimony was corroborated for us by two knowledgeable witnesses, George Caramanna, a technician in the research and development group for 13 years, told us that the results of most research and development tests were not written, but personally communicated. Mauri Rose, the driver of the cars in many of the vehicle dynamics tests, described most of the work as "seat of the pants stuff", which was not written up, but orally discussed.

It should be noted that Winchell's testimony did not deny the existence of PG 15699 and 17103. Those reports were the result of work done for the Chevrolet product engineering section by the GM proving ground. This was completely separate from the work performed by Winchell and his group.

The only testimony by Winchell which is relevant to Nader's charges shows that in response to a question concerning the existence of lateral acceleration tests on the Corvair in 1960, 1961, and 1962, he replied "there are quite a few published reports on that, I believe." (Tr. 5226.) And in answer to a related, following question, he said, "I presume such reports would be at the proving ground or the Chevrolet engineering center." (Tr. 5230–31)

3. Defense of Collins

Concerning the *Collins* case, Nader's letter made three principal allegations: False testimony by Mr. Winchell in four instances, deceit by GM in denying the existence of certain test reports and willful failure to produce PG 17103.

As in the *Anderson case*, Winchell's testimony must be judged on the entire record, not just the sections quoted in Nader's letter. Winchell's testimony in this case covers over 750 pages. We have carefully reviewed all of it. It discloses that Winchell was responsible only for the design of the Corvair transmission (tr. 2676), and that it was the duty of each engineer to test the component he had developed (tr. 2691). We further established that Winchell did not become involved in matters relating to the suspension and handling of the Corvair until 1960, after its public introduction.

One of Nader's charges against Winchell was that he denied knowledge of important proving ground reports such as 11245 (a tire blowout test) and 11106 (a rollover test) (letter, p. 17). However, in view of his role in the development of the car, it was understandable that he would not have known about these reports. He did not have responsibility for such matters and was not involved in them.

Moreover, the testimony quoted by Nader related to records of testing at Manitou Springs, Colo., and did not call for a response from Winchell concerning PG 11245 and PG 11106. It should also be noted that the Manitou Springs test was done in 1958, during the research and development phase of the car's preparation. Accordingly, a formal test report was not made regarding stability and handling.

A second charge against Winchell is that he denied the existence of lateral acceleration tests on the 1960 Corvair (letter, p. 13). The testimony cited in Nader's letter fails to support this charge and is rebutted by other evidence. It is clear from the trial transcript that the plaintiff was attempting to prove that the Corvair was not adequately tested prior to public sale. The plaintiff's lawyer was trying to show that the tests Winchell had previously referred to were done in connection with the litigation. In response, Winchell said only that these tests did not involve the 1960 Corvair. (See transcript pages 3213–16 attached as exhibit 8.)

At no time did Winchell deny the existence of lateral acceleration tests. In fact, at page 3766 of the record, he said he had run such a test on a 1960 Corvair and at page 3848–49, he acknowledged the existence of written reports on such tests. The testimony cited on page 20 of Nader's own letter (page 3856–58 in the trial record) also shows that Winchell recognized the existence of lateral acceleration tests. (These pages are attached as exhibit 9.)

The third asserted instance of Winchell's alleged false testimony is his statement, "I have never seen the Corvair rolled over on the [GM] skid pad."

The excerpt quoted on page 19 of Nader's letter (page 3855 of the trial record) makes it clear that the plaintiff's attorney, Mr. Harney, was asking Winchell whether he was present when a Corvair was rolled on the skid pad.

"Q. Have you ever at General Motors seen a car turned over on the skid pad except for a Corvair?

"A. Yes, sir.

"Q. What kind?

"A. Renault.

"Q. A Renault. Any others?

"A. Volkswagen.

"Q. Any other?

"A. I can't recall of any others.

"Q. Each and every one was a rear engine car?

"A. Those two are rear engine cars.

"Q. And Corvair is a rear engine car?

"A Yes.

"Q. You have seen the Corvair roll over on the skid pad?

"A. I have never seen the Corvair rolled over on the skid pad.

"Q. Didn't you see the movies that were presented?

"A. I saw those. When you said skid pad, I thought you were referring to our skid pad."

The record and our investigation support Mr. Winchell's answer. He had previously testified that he personally rolled a Corvair at the proving grounds, but not on the skid pad (Tr. 3154, 3360, 3361), and he had seen the rollover film produced at trial. There would be no reason for him to deny his presence at such a test. So far as we have been able to determine, this is a true statement.

The fourth instance of alleged false testimony by Winchell was his statement that the only skid pad test for which movies existed was the rollover test at one and one-half miles per hour (letter, p. 18). The test Nader refers to was not a rollover test, but a simulated road-ability test, which Winchell designed to demonstrate the dynamics of load transfer distribution (Tr. 3259–60). Nader's letter did not cite any transcript page on which Winchell is alleged to have made such a statement, but it appears that he is referring to Winchell's testimony on p. 3858, where he is being questioned about the documents and films he has seen since his arrival in San Jose for the trial. There Winchell did not deny the existence of rollover test film because he was not questioned about it.

Nader also alleged that "the depositions of other key GM employees were equally inaccurate as to the existence of past records or proving ground tests." (letter, p. 12.) As proof of these charges, Nader cited Winchell's answers to certain questions concerning the depositions of Harry Barr, then chief engineer of Chevrolet, and Kai Hansen, staff engineer, taken 2½ years earlier in another case, *Drummond* v. *G.M.*

In response to questions by plaintiff's counsel in which counsel asserted that Barr and Hansen had said that "practically everything that had to do with the testing of the Corvair had been destroyed by General Motors," Winchell stated, "I did not read that." (Tr. 3128.) On the contrary, Winchell said that to his knowledge, such material had not been destroyed.

We questioned Barr and Hansen closely concerning their depositions in the *Drummond Case*. Both denied under oath making the statement attributed to them by the plaintiff's councel. We also obtained copies of their depositions and reviewed them. We could find nothing in them to support the contention of Mr. Harney, plaintiff's counsel. In fact, Hansen testified that some of the engineering reports were still in existence (p. 86), and the record shows that a number of such documents were presented to the plaintiff at the deposition (p. 87).

Turning from Winchell's testimony to the corporate response to the plaintiff's subpena in *Collins*, Nader charged, "There were essential proving ground tests such as PG 11245 * * * and PG 11285, which were never admitted by GM to exist." (Letter, p. 16.) The record shows, however, that the test report and film for 11245 were submitted to plaintiff in that case (tr. 1477, 81).

PG 11285 was not submitted to the plaintiff because it was a rollover test, and in GM's judgment, beyond the scope of a subpena calling for "tests of stability and handling characteristics." (tr. 1482, 87.) The plaintiff's attorney, Mr. Harney, obtained a copy of the film of this test from counsel in the *Anderson* case, and sought to use it as a basis for subpenaing similar tests from GM. After a long debate, in which its admissability was fully argued to the court, the judge refused to grant the subpena and excluded the test (tr. 1498).

Based on this ruling, it seems likely that the other rollover tests cited in Nader's letter, such as 11106 and 12207, also would have been excluded by the judge. The *Collins* case did not involve vehicle rollover and Harney repeatedly stated that he was seeking "lateral" or "directional" stability tests (see e.g., pp. 1496–97 and 3856–58, where he used these words nine times). Carl Thelin and George Caramanna, former GM employees, told us that a distinction between lateral stability and rollover tests was recognized by GM engineers. Many of the engineers later corroborated this point during our interviews. (Cf. P.G. Report 2673–16, which establishes the procedure for a steady state lateral stability test. See also Vehicle Dynamics Terminology SAE J670a 1965.) In any event, it is difficult to believe that the plaintiff was prejudiced by lack of these reports, since GM did furnish voluntarily, although not required by the court, the motion pictures of PG 11106, a rollover test, which were shown to the jury. Moreover, the court allowed

numerous other rollover films to be placed in evidence by Harney.

During our investigation Gary Sellers submitted a list of 15 additional PG reports which he believed GM should have supplied in the *Collins* case. The majority of these reports consisted of static ride and roll rate and durability tests. As noted above, the subpena in the *Collins* case required the production of "tests of stability and handling characteristics * * *." In interpreting these words, it is important to remember that there was no pretrial discovery in the case. All discovery took place during the trial. Since Harney stated that he was seeking lateral or directional stability tests, it was reasonable for GM to conclude that he wanted directional controllability tests under normal operating conditions—the generally accepted meaning of lateral stability tests within the engineering profession and the corporation (see Vehicle Dynamics Terminology, supra). Such tests are not commonly understood to include static or durability tests. (Ibid.)

The final allegation concerning the *Collins* case was that PG 17103 should have been produced. At page 15 of Nader's letter, he quotes from GM's statement of September 26, 1970, which said that the report had not been produced "because, in the opinion of our counsel, it has not been called for," and concludes "no objective analysis can fail to discredit this statement." He then quotes the relevant language from the subpena in the *Collins* case which required the submission of "all tests * * * of stability and handling characteristics of Corvair prototype, Corvair preproduction and 1960 Corvair automobiles * * *" But as noted above, the court required only tests relating to 1960 and earlier models to be produced. The automobiles used in PG 17103 were modified 1962 and 1963 models. Accordingly, GM was under no obligation to supply it in this case.

4. Comparison between the results of PG 17103 and two GM statements

a. The Roche statement

Nader's letter of October 23, 1970, charged that certain statements of Roche in 1966 and Cole in 1970 conflict with the results of PG 17103.

First, concerning Roche's statement, the five paragraphs quoted by Nader on pages 23 and 24 of his letter were not part of Roche's March 1966 testimony, as stated by Nader. Roche made these comments 8 months earlier during his July 1965 testimony on the Federal role in traffic safety. He did not refer to the Corvair by name, stating generally "Today's automobile, even at higher speeds (more than 50 miles per hour), is almost impossible to turn over (in a J turn), unless the outside wheels strike an obstacle."

Nader contends Roche's statement is contradicted by the results of PG 15699 and 17103. In these tests a modified 1962 and a 1963 model Corvair rolled over in J turns at speeds lower than 50 miles per hour

In July 1965, Roche was one of several auto industry witnesses called to testify before the subcommittee. His testimony was broad gaged. He began by saying, "My comments . . . will concentrate on what the corporation has done and its significant contributions to the overall improvement of traffic safety in this country." Then he listed a two-page, chronological summary of the safety advances made by GM in the past 55 years. The paragraphs Nader cites are a segment of that testimony. In the quoted portion, Roche was speaking generically about the safety improvements made in GM cars in the past 30 years. The Corvair's safety was not raised specifically anywhere during the 1965 hearings.

Nader does not claim that these paragraphs are incorrect in the context in which they were made. Rather, he seeks to test them by a much narrower standard—a proving ground test of two Corvairs—a tiny fraction of the many models GM produced during those years.

In defense of Roche's statement, GM argues that it was literally true. When Roche said, "Today's automobiles," the phrase meant, and was intended to mean just 1965 model cars.

We cannot agree with GM's interpretation of Roche's testimony. The thrust of Roche's statement and the language he used are too broad to be narrowed to a single model year. In context, Roche's statement could just as easily be interpreted to mean all contemporary vehicles on American roads. If his statement was to be limited, this should have been done clearly with no ambiguity.

Reading Roche's statement broadly, however, we do not find it misleading. As noted above, the Department of Transportation found that the tests which resulted in PG 17103 were severe engineering tests, not representative of normal driving patterns. Though the Corvair did overturn several times during them, it did not experience a single rollover during the DOT tests at speeds up to 60 miles per hour, when equipped with original equipment type tires in good condition. And DOT found that the Corvair was no more likely to overturn than other similar cars. Thus, the DOT results do provide some support for Roche's statement as applied to the 1960–63 Corvair.

Moreover, in light of the time period between Roche's 1965 statement and the March 1966 hearing, and the fact that the subcommittee specifically disclaimed any findings relating to Corvair safety, we do not believe the subcommittee was misled by Roche's statement.

b. Cole's letter of September 7, 1970 to DOT

On pages 24–25 of Nader's letter he claims Cole's description of the PG tests in reports 15699 and 17103 "is contradicted by the language of 17103." Cole described the tests as "engineering development tests in which Corvairs, specially equipped with experimental parts, were intentionally overturned by experienced test drivers using violent maneuvers designed to overturn them." Nader contends that the "actual words of test run No. 120 show the vehicle to be a '1963 production' " car.

The automobile used in run No. 120 was a 1962 Corvair which had been modified for the rollover tests by installation of a roll bar, removal of the gas tank and rear seat, and the attachment of a 50th percentile dummy in the left rear passenger seat to simulate an unfavorable load condition. In addition, the rear suspension rebound angles had been reset to 7¼ degrees. GM advised us that these modifications adversely affected the rollover stability of the car by about 10 percent, compared to a production vehicle with two passengers in the front seat.

Nader's allegation that the vehicle used in run No. 120 is a production car, is apparently based on the test summary sheet in the PG report. (P. 11.) Under the heading "designation of shock absorber," the phrase "63 production" is written on the line summarizing run No. 120. He probably concluded from this that the vehicle was a "63 production" car.

But the car was, in fact, a 1962 model which had been altered for the tests. The engineers who conducted them believed that it was representative of a production car for their purposes; however, it is not accurate to say that the vehicle was a "63 production". It was a 1962 with 1963 shock absorbers on which the rear suspension rebound angles had been set to nonstandard specifications. (Standard angles on 1962 models initially was 10.4 and 11 degrees. This was later reduced to 8.1 and 9 degrees during the model year, and further reduced in 1963 to 6.8 and 8 degrees.)

We believe DOT aptly described PG 15199 and 17103 when it said: "because of the nature and severity of these development tests (they are) not representative of the practical driving environment * * *" DOT report p. 35. This is consistent with Cole's characterization of them.

5. The alleged greater likelihood that the Corvair wheel rim would contact the road than would the wheel rim of other cars.

The gravamen of Nader's argument here is that the instability of the 1960–63 Corvair rear suspension causes the tires to tuck under in hard cornering maneuvers thereby allowing the wheel rim to hit the road and tip the car over. As evidence, he points to tire scraping in PG reports 15699 and 17103 (letter, p. 29–30). Accordingly he asserts that Winchell's Michigan Senate statement that "photographs of tire distortion with a car sliding sideways will show no significant difference between the proximity of the rim to the pavement of the Corvair and any other automobile" is untrue.

Nader's theory is apparently based on the then widely held belief that wheel rim contact caused the Corvair rollovers (see Nader, Automobile Design Hazards, 16 American Journal Proof of Facts, section 91, pp. 121, 130–131). This idea was disapproved by DOT. Through frame-by-frame analysis of the motion pictures of 15699 and 17103, the Department found that the "wheel rim contact with the pavement is not the precipitating cause of Corvair rollover, but occurs in the course of rollover." (DOT report p. 33.) DOT also found that "tuckunder is not observed until the vehicle is well into a rollover mode." Ibid. From this it concluded that tuckunder "is not a major contribution to Corvair rollovers." Ibid.

GM submitted side pull test photographs to the subcommitteee showing the relative rim to ground clearance of Corvair rear and Falcon front tires at various levels of lateral acceleration. They, too, support Winchell's statement.

B. Letter of July 8, 1971

1 and 2. The writings and testimony regarding Maurice Olley

Maurice Olley was a highly respected GM suspension engineer. He retired from the corporation in December 1955, but was periodically retained for years afterward as an informal adviser. We sought to interview Mr. Olley, but were advised by his close friend, Mr. William Milliken of the Cornell Aeronautical Laboratory, that this would be impossible due to his poor health. Olley died on April 20, 1972.

Olley was a prolific writer, publishing many articles on vehicle suspension. Nader cites some of them to show that Olley warned GM of the dangers inherent in the design of the Corvair suspension (letter, pp. 9–13). Nader also contends that GM should have produced the Olley papers in response to the subpenas in the *Collins* and other cases (letter, p. 11). Finally, Nader alleges Winchell's testimony in the *Anderson* and *Collins* cases explaining Olley's writing was deceptive and misleading.

Nader's letter cites only a few of the many papers and articles written by Olley concerning the Corvair and the swing axle rear suspension which it employed. To obtain a complete picture of Olley's views on the Corvair and its suspension, we requested GM to provide us every relevant document written by Olley. After a thorough search of individual and corporate files, GM delivered to us numerous documents, several of which apparently were unknown to Nader or the general public. Two of them are especially relevant to our inquiry.

The first is titled "Cadet Studies," dated April 16, 1957. From the text of the paper, it is obvious that the design of the Corvair was then under consideration by the GM management. Olley discussed the proposed swing axle rear suspension, concluded that a swing axle should be used and stated that the type adopted for the Corvair was superior to the single or double jointed low center

axle (pp. 5, 7–8) (this paper is attached as exhibit 10).

The second is titled simply "Corvair," and dated June 29, 1959, just 3 months before public introduction of the car. In it Olley reviews the characteristics of the car, explains how certain design goals were achieved, and concludes, "There's no question that the car is an outstanding success." (P. 9.) (This paper is attached as exhibit 11.)

Thus, it is clear that Olley participated in the design process on the car and approved of the result. We believe these papers are more probative of Olley's views on the Corvair than his earlier, general writings which did not specifically concern the car.

Olley's papers recognized that improved tire design would be necessary for satisfactory handling in the Corvair. In the "Cadet Studies" paper he said, "The need for tires with cornering power more nearly proportional to the load seems a necessary part of rear engine development." (P. 9.)

In his paper on the Corvair, he noted that:

"Modern low profile, long cord tires, using Tyrex cord, and mounted on wide rims, have cornering power much more nearly proportional to load than anything which was available a few years ago . . . All that is needed is to use normal inflation in rear tires of modern type and adequate size, and then to reduce the inflation of the fronts until, with the assistance of independent suspension in front and a swing axle at the rear, we have produced the desired margin of understeer." (P. 5.)

This is much the same point Winchell made in his testimony in the *Anderson* case, which Nader criticized on page 13 of his letter. Nader's remarks about Winchell's testimony in the *Collins* case (p. 12) may be similarly disposed of. There, Winchell stated that rear wheel jacking occurs only under severe lateral acceleration. As noted above, this is exactly what DOT found in its tests and so stated in its report (p. 33).

Olley's paper, "Corvair Steering", cited by Nader, is consistent with his previous papers on the Corvair. From the preface and subsequent discussion, it is evident the purpose of the paper was to explain that the Corvair's limit of control could be extended by altering the roll couple distribution. This is the course GM followed in the 1964 and 1965 suspension changes. Olley's statement that "The increased cornering power of the rear tires virtually 'saves the life' of the Corvair," follows from his prior stress on the importance of proper tires on rear engine, swing axle cars.

Olley acknowledged that his calculations were preliminary and incomplete. He was focusing on only one point—roll couple distribution. We find no expressed or implied statement that the then current vehicle was unstable of handled improperly. (Olley's paper "Corvair steering," is attached as exhibit 12.)

Nader's contention that GM should have provided the Olley papers to the plaintiff in the *Collins* case cannot be supported. As stated above, the subpena in that case required the production of "tests, studies, reports, et cetera, pertaining to GM proving ground tests of stability and handling characteristics * * *" The Olley papers were completely independent of the proving ground reports. So far as we could find, there is no reference in any of them to any proving ground tests of stability and handling characteristics.

3. GM's alleged refusal to adopt modifications to the Corvair which would have remedied its defect.

Nader argues that GM failed to install a front stabilizer bar and multiple leaf rear spring suspension because they would have increased the cost of the car and produced a more harsh ride. In support of this charge, he quotes a paper by Charles Rubly, one of the GM engineers who developed the Corvair suspension (letter, p. 15).

Our investigation disclosed that the pretest model version of the Corvair did include a front stabilizer bar. However, later development tests with and without the bar showed that it contributed little to the car's handling. (See PG report 10841. Mar. 17, 1959, attached as exhibit 13.)

As a result, McCullom, one of the supervisory engineers, ordered the bar removed. His memorandum to Rubly said, "This car with the latest engine mounts is a very good handling car either with or without the stabilizer bar. Without the bar there is a slight loss of straight ahead stability and an improvement in cornering. There was no noticeable increase in roll when the bar was removed and the ride balance is improved." (Memo dated Mar. 29, 1959, attached as exhibit 14.) Subsequently, Hansen wrote a memorandum to Barr concerning the decision to remove the stabilizer bar:

"The decision to remove the front stabilizer bar on the Holden vehicle was based on the rides which took place on Tuesday, April 7 at the Proving Ground.

During this ride demonstration, the rider and other people drove the Holden [the preproduction code name for the Corvair] with and without the stabilizer bar, and in the writer's opinion it was felt that during the normal maneuver of this vehicle, it would be acceptable to remove the stabilizer bar for production. However, while testing this vehicle at higher speeds and under extreme cornering, it was not as good for recovery feel.

"Based on this experience, we have the agreement that all handling test work will be based on no stabilizer bar on this vehicle. If however during this test program it is felt that the stabilizer bar is needed, we will go ahead and reinstate it as per our agreement and that we leave the provisions in the front cross member so that it could be reinstated without modifications in production." (memo dated April 20, 1959.)

These documents demonstrate that GM's decision to remove the stabilizer bar was based on engineering test data on ride evaluations. We believe these contemporaneous documents are more probative of GM's reason for removing the stabilizer bar than Rubly's later explanation.

The evidence adduced by GM showed that the swing axle rear suspension of the Corvair was selected after evaluation of several different types. In addition to the Olley paper referred to above, the GM Engineering staff conducted model studies of four alternative rear suspensions (these studies are attached as exhibit 15). Though there was considerable doubt about the accuracy and correlation of these tests to actual vehicle performance, they showed that the Corvair rear suspension begins jacking at approximately .7g and the vehicle would overturn at 1.0g. (Later tests show these particular figures to be nearly correct.) The other suspensions studied did not show rollover at that level of lateral acceleration. The engineers who conducted and evaluated the tests recognized, however, that since their calculations did not consider the effect of the front suspension, tire characteristics and road surfaces, the results could not be used as a basis for production decisions.

The test figures were given to Cole and Hansen, but did not cause them to change the Corvair suspension. Hansen did not recall the tests, but described them as "academic studies." However Barr did remember them and said he considered this level of lateral acceleration to be quite high, much better than the VW, which was the model they used for comparison.

In retrospect, Von Polhemus, the engineer who ordered the model studies made, said the difference in performance among the four suspensions were marginal because the conditions at which they occurred were far beyond normal or "even abnormal" driving.

Zora Duntov, a Chevrolet engineer consulted in the development of the Corvair, independently reached the same conclusion as the GM engineering staff. We asked him whether a car which would overturn at about 1.0g would be safe to drive in ordinary traffic. He assured us it would be.

Nader alleges that a certain 1956 Olley patent shows the technology was available for GM to produce a more stable car than the Corvair (letter, p. 14–15). Our research disclosed that Olley's patent concerned a means for lowering the rear roll center in order to alter the roll couple distribution. James Musser, an engineer in the Chevrolet R. & D. unit, testified in the *Collins* case that he built and evaluated a Corvair with such a suspension. He said it was rejected because they found no benefit from it (Tr. 4484–88). Moreover, Olley, himself recognized the disadvantages of such a suspension and recommended against its installation on the "Cadet" car (see Cadet Studies, p. 7).

The 1960 Corvair rear suspension was an adaptation of the one used on the VW, Renault, and Fiat. Over the next 2 years, as part of the vehicle dynamics program undertaken by Chevrolet R. & D., Winchell's group built several experimental models in an effort to extend the Corvair's limit of control. Semon Knudsen, then general manager of Chevrolet, told us that in mid 1962, some critical magazine articles and the pending litigation prompted him to ask Winchell to recommend changes which would overcome the criticism. At the same time, the production engineering group. Rubly, Hansen, et cetera, were also working on a revised rear suspension. In December 1962, Knudsen accepted Winchell's proposal and ordered it to be installed on the 1964 cars. Knudsen said he considered this to be a normal product development.

Thus, we conclude on the basis of our investigation that GM did not select the Corvair suspension solely on the basis of cost or to achieve a plush ride. We believe GM attempted in good faith, after long study and testing, to select the suspension which would provide the best combination of performance, comfort, safety, and economic value for the consumer, and that these efforts continued until the 1964 and 1965 suspensions were developed and approved for production.

4. Tire Pressure and Vehicle Stability

Nader contends "it is violative of sound engineering practice to rely on tire pressure differential to give stability to a vehicle." As authority he cites statements from two automotive engineers (letter 18–19, 24–26).

Of course, vehicle stability is not solely a function of tire pressure. As we learned in our investigation, many other factors must be considered—front and rear suspension, wheel and tire size, and the specifications of the tire itself. A car may have acceptable handling with one make and model tire, and yet be unacceptable with another (see discussion below under corporate responsibility.)

We have previously indicated that we do not believe GM relied solely upon tire pressure to achieve vehicle stability. This was only one of the methods used to obtain the desired result. As evidence of this, even after the 1964 and 1965 suspension changes had altered the roll couple distribution, GM continued to recommend that tire pressures be maintained at 15 front/26 rear.

Substantial tire pressure differentials have long been common practice in the auto industry. Such differentials were standard on the other rear engine compacts of the period. The recommended tire pressure for the VW was 17 front/23 rear. For both the Renault Dauphine and the Fiat 600, it was 14/23.

Significant tire pressurre differentials are generally accepted practice in front engine vehicles which may be expected to carry heavy loads in the rear. The recommended tire pressures for the 1960 and 1961 Falcon wagon, for example, were 22 front/26 rear

with normal load, and 22 front/30 rear with full load. Some manufacturers even advised a reversal of tire pressure under full load conditions. The normal pressures on the 1960 and 1961 Rambler were 22 front/20 rear. But with full load they were changed to 22 front/30 rear. Recent model Ford, Chrysler, and American Motors wagons continue the practice of advising substantially higher rear tire pressures.

It should also be recalled that in his paper on the Corvair, referred to above, Maurice Olley specifically endorsed the tire pressure differential on the car (see p. 5).

Finally, the DOT steady turn, rough road test demonstrates that even with nearly equal tire pressure, the Corvair is a stable, understeering vehicle. In this test, the tires were inflated to 23 front/26 rear. The car was then driven at 30 mph through a .3g turn over three series of differently spaced bumps. (This is a more severe turn that a driver would be likely to encounter in everyday driving at that speed.) The test is designed to evaluate the car's ability to hold a designated path over unforeseen obstacles. The chart on page 72 of the DOT report shows that the Corvair remained in a state of stable understeer throughout the turn. Its performance compared favorably to the other cars tested. The chart on p. 69 shows that the decrease in lateral acceleration (i.e., the tendency of the car to slide off the road) between all the cars tested was less than .04g, a very small difference.

These results are consistent with tests performed by GM in 1967, in connection with the *Neilan* case in California. There, the tire pressures tested were 28 front/28 rear and 30 LF, 28 RF/28 LR and 23 RR. In both tests the transition from understeer to oversteer occurred at about .35g in a steady state turn on the skid pad. The transition point with standard 15 front/26 rear tires was .4g. In all of the tests, limit of control performance was not substantially affected by the tire pressure differentials (test results available in subcommittee files).

5. Corvair modifications

Nader claims GM suppressed information concerning changes in the shock absorbers and rebound camber angles, while trying to improve the stability of the Corvair through these detail modifications (letter, p. 21).

The results of our investigation do not support this charge. We found no effort to hide such information. In fact, Winchell's Michigan Senate statement mentioned the control arm angle in connection with the 1964 suspension changes (Tr. 1562).

Nader correctly summarizes the efforts of the Rubly group in 1962 to extend the Corvair's limit of control and so reduce its susceptibility to rollover. But the purpose of these tests was not a "cheap fix," for none of those involved thought that the car was unsafe. In fact, many of the GM engineers who worked on the Corvair bought the 1960–63 models, drove them daily and gave them to their wives and children to drive.

6. Winchell statements on the nature and purpose of the 1964 suspension changes

Nader argues that the 1964 suspension changes were not part of normal product development, but were a belated recognition of Olley's warnings and advice on how to remedy the Corvair's handling defect (letter, p. 22). As evidence, he cites a paper issued by Chevrolet R. & D. in June, 1964, stating that "shortly after" it was discovered that roll couple distribution was responsible for the Corvair's "misbehavior," a car with a single leaf transverse rear spring and front stabilizer was built and demonstrated.

Our discussion above provides a full answer to Nader's charges here, but a brief summary may be useful at this point. The 1960 Corvair suspension was developed after extensive research and testing. Various alternatives were considered and rejected by management, including the front stabilizer bar and other types of rear suspensions. Subsequently, both Chevrolet R. & D. and the production engineering group attempted to increase the limit of control and improve its resistance to rollover. In late 1962, after comparative performance tests, Knudsen chose the suspension design proposed by Winchell incorporating the stabilizer bar and leaf spring and ordered it installed on the 1964 cars. Our investigation revealed that this car was not built until just a few days before the tests in December 1962.

Nader maintains that the quotation from the vehicle dynamics paper demonstrates GM's "fraud" on the subcommittee and proves we were misled (letter, pp. 4, 5, and 22). But this statement, like all others, must be analyzed in context. The purpose of the vehicle dynamics program was "to understand more about the things influencing maximum controllability" (p. 9). Thus, the Corvair was tested and compared with racing and sports cars, such as the Corvette and Formula 1 Cooper (p. 9). Applying what they learned during the program, R. & D. designed and built three sports car versions of the Corvair (p. 10).

It was in this context that the paper referred to the Corvair's "misbehavior." Clearly, it meant the car's limit of control performance under extreme conditions, not its stability and handling in everyday driving. In short, we found no evidence showing GM made the 1964 suspension changes to remedy a safety defect.

7. Winchell Statement on the Purpose and Effect of the 1965 Suspension Changes

Nader aserts that Winchell misrepresented the purpose and effect of the 1965 suspension changes by failing to disclose that they limited the maximum rebound angle of the rear wheels to 4 degrees and by concealing his prior statement that the 1964 modifications were inadequate to make the Corvair "at least as safe as the standard Chevrolet." (Letter, pp. 22–23.)

We find no suppression in Winchell's omission of the change in the rear wheel rebound angles from his statement. Nader apparently believes that the rebound angles are related to the jacking characteristics of the swing axle (letter, p. 23). But the rebound angle has no real effect on the control characteristics of the car (see PG 15699 and 17103). The rebound angle is simply an indicator of the amount of suspension travel and the quality of the ride (higher angles mean more suspension travel and thus a smoother ride). There was no need to discuss this matter in connection with the 1965 suspension.

Nader cites an alleged 1964 Winchell to Knudsen memo as proof that the 1965 suspension change was not made "for the purpose of improving ride, while at the same time, maintaining the control characteristics and higher limits achieved in 1964," as claimed by Winchell in his Michigan statement. Nader asserts the memo shows that Winchell believed the 1964 changes were insufficient to make the car as safe as a standard Chevrolet, and hence this was the real reason for adoption of the 1965 suspension. We could find no such Winchell to Knudsen memo; GM did, however, voluntarily provide us a memo from Winchell to Ellis Premo, chief engineer of Chevrolet, dated June 21, 1963, the last sentence of which states, "If in management's judgment this car must be as safe as the conventional Chevrolet, engineering must take the position that the swing axle is inadequate." It is attached as exhibit 16.

We questioned Winchell very closely on two separate occasions about this statement. Throughout our interviews Winchell maintained that the Corvair was an improvement over earlier compact cars because it had a higher limit of control than other front or rear engine cars, and was more resistant to rollover than other rear engine cars. From the first, he acknowledged that it was easier to overturn than a standard Chevrolet once it was out of control. In his 1963 memo he was taking the position that if management wanted the Corvair to have the same rollover resistance as a standard Chevrolet, then use of the swing axle must be discontinued.

Within GM, Winchell was both constructive critic and defender of the Corvair. As head of Chevrolet R. & D., he forcefully advocated suspension charges to improve its ultimate performance. And as chief technical adviser to the product liability lawyers, he argued equally strongly for the defensibility of the Corvair in court (see discussion below under Corporate Responsibility).

We find no inherent conflict in these roles. Winchell wanted to improve the Corvair, to make it a better car, but he believed it was a safe car. The fact that Winchell owned both a 1960 and a 1962 Corvair, which his wife and daughter drove, strongly supports his repeated statements that he believed the car was safe even without either the 1964 or 1965 suspension improvements.

With regard to the 1964 suspension, the Winchell to Premo memo itself makes clear Winchell did not believe the 1964 suspension was inadequate. In the first paragraph of the memo, he states that the 1964 suspension "is absolutely satisfactory for cornering stability." It is well established that the limit of control of both the 1964 and 1965 Corvair is .7g. (See DOT Report, p. 20.)

It is important to note at this point that the management decision to install the 1965 suspension was not based either on Winchell's memo or on any finding or consensus that the Corvair was unsafe.

Semon Knudsen, general manager of the Chevrolet Division at the time the decision was made, told us that "the 1965 [suspension] was merely a further development since we were doing an entirely new car." When he asked him specifically about the effect of the Winchell memo, he replied, "I can't recall that I discussed it with him . . . I never thought it [Corvair] was a particularly unstable car . . . the 1965 Corvair [suspension] was quite similar to the Corvette suspension, there were a number of reasons for putting it on . . . we got a little rub-off [the prestige of] the Corvette. . . ."

Knudsen's description of the reasons for installing the modified Corvette suspension on the 1965 Corvair is supported by the documents we reviewed. By January 18, 1963, Chevrolet had determined to adopt the Corvette type suspension for 1965. See exhibit 17. This decision was carried forward in the Chevrolet presentation to the Engineering Policy Group on February 20, 1963. (The Engineering Policy Group is composed of the top executives of the corporation who must approve every new car program before it can be implemented for production.) The Chevrolet presentation to the Engineering Policy Group makes clear that the primary reason for the 1965 suspension, and the resulting improved handling, was not safety, but economics—to improve the competitive position of the Corvair. The document is attached as exhibit 18.

The Engineering Policy Group approved the Chevrolet presentation on February 20. Thus, the corporate decision on the 1965 rear suspension was made 5 months before Winchell's memo to Premo. It played no role in the management determination.

Later, however, some engineers questioned the necessity for adopting the 1965 suspension and it was in answer to this view that Winchell's memo was written.

We were troubled by Winchell's statement to Premo so we asked him why the Corvair buyer should not receive the same protection from rollover as the buyer of a standard Chevrolet. He responded that every automobile is a series of compromises in performance, economy, safety, and other characteristics. The Corvair achieved greater vehicle responsiveness than comparable cars at a cost of some loss of rollover resistance.

Winchell believed the car was safe for highway driving and a good overall value for the consumer. He pointed out that a similar comparison could also be made between the standard Chevrolet and the Cadillac, but this would not necessarily mean the Chevrolet was unsafe.

Winchell's statement to the Michigan Senate was directed to the technical aspects of the 1960–65 Corvair (Tr. 1559). His description of the purpose and effect of the 1965 changes is consistent with the documents referred to above and the performance characteristics of the 1965 Corvair (see PG report 20105, available in subcommittee files).

In sum, we do not believe that Winchell's statement to the Michigan Senate concerning the 1965 suspension changes misled the subcommittee.

IV. THE CORVAIR CRITICS

During our investigation we solicited the views of several individuals who were critical of the stability and handling of the Corvair or of GM's conduct in the litigation concerning it.

A. Dr. Thomas Manos

The first critic of the Corvair was Dr. Thomas Manos. At the invitation of Jerome Sonosky, then staff director and general counsel of the subcommittee, he supplied a critique of Winchell's statement before the Michigan Senate for our record (pp. 1564–70).

We need not unduly lengthen this report with a full analysis of each of Dr. Manos' 14 points. It will be sufficient here to note his basic thesis was that rear wheel tuck-under causes oversteer which results in loss of control and finally allows the wheel rim to touch the ground thereby overturning the car. This theory was disproven and rejected in the DOT report (p. 33).

B. Carl Thelin

A second critic was Carl Thelin, a former engineer in the product analysis unit at General Motors. We interviewed him in private three times at his home in Buffalo, N.Y. We did not obtain an affidavit from Thelin swearing to the truth of his testimony because he was the first person we interviewed and our policy of obtaining such affidavits was adopted later. However, he seemed open and honest during our discussion and we do not doubt his veracity.

Thelin's principal contention was that GM should have disclosed PG Reports 15699 and 17103 in the Corvair litigation (we have previously dealt with the charge that knowledge of these documents was suppressed within the corporation, *supra*). As Thelin expressed it to us, "I had the personal feeling that instead of playing split the hair [on the interrogatories], why not just give it to them anyway, just get it out in the open once and for all, and let's have it out [on the merits]. I would have liked to have seen that. But it didn't happen." Thelin objected to the strict interpretation which the lawyers gave the interrogatories, though he recognized that it was their job to interpret them and his to provide the material for answers.

Thelin also pointed out two unusual aspects of PG Report 17103. First, during his search for the document he discovered that the PG number on the Chevrolet technical test report was incorrect, an extra zero having been added so that it read "170103." (The technical test report is the notification from the Chevrolet proving ground engineer to the Chevrolet production engineer who requested the test, that it had been completed.) And second, the cover of the PG report was stamped "special security handling."

We carefully reviewed GM's actions in the court cases in which the production of PG reports 15699 and 17103 could have been required. As explained above, they were not called for in the *Anderson* and *Collins* cases.

These documents would, however, have been required to be produced in the *Franklin* case, but the plaintiff's lawyer elected to seek a contempt order and default, alleging that GM had failed to comply with the subpenas. Concurrently, GM appealed to the Illinois Supreme Court contending that the subpenas were invalid. The court sustained GM and the case was settled without further discovery in 1967. Nevertheless, the record shows that GM had produced the test work orders (the test instructions from the production engineer to the proving ground engineer) and Chevrolet technical test reports which related to PG reports 15699 and 17103. We also determined that both test reports were available for discovery. After interviewing the lawyers and engineers who worked on the case, and reviewing all the relevant facts and documents, we were unable to find fault with GM's conduct in this litigation.

The last case which requires discussion is *Porterfield* v. *G.M.* Though the events in this case occurred after March 22, 1966, and hence the subcommittee could not have been misled by anything which happened during it, we viewed this litigation as a major test of GM's good faith compliance with court orders. The interrogatories in the case clearly called for PG 15699, and it was listed in 1967, and actually produced in 1969. The lawyers and engineers assigned to the case at the time believed PG 17103 was not within the scope of the court order and accordingly did not produce it.

Three years later, however, the case having remained pending, another GM attorney took a contrary view and argued within the legal staff that PG 17103 should have been produced. He also questioned the sincerity of those who reached the earlier decision concerning the report. After a lengthy internal debate, the general counsel of GM, still believing the document was not called for, decided to produce it, "out of an abundance of caution." We closely examined all the individuals and documents involved in the case and concluded that GM's original judgment was honestly reached and justified on the merits.

Returning to Thelin's contention that 15699 and 17103 should have been disclosed in the litigation, as an engineer, he would have personally preferred to face squarely the issue of the stability and handling in the Corvair—with *all* the relevant documents before the court or jury. But this is not the way our adversary system of law functions. The defendant need not volunteer valuable information to the plaintff. He is required to provide only so much information as the plaintiff may obtain by valid discovery order. GM followed these rules. We cannot say it acted improperly in doing so. Thelin did not cite any specific cases in which PG 15699 and 17103 should have been produced but were not. We could find none.

The mystery of the extra zero in the PG number on the Chevrolet technical test report was resolved as Thelin thought it would be. During our interview he suggested that it was simply a clerical error. Subsequently, we learned that Gerald A. Kansier, a clerk in the technical data department of the Chevrolet division office at the proving ground mistyped the number. The error was discovered and corrected at an unknown date prior to November 8, 1966.

Turning to Thelin's last point, we found that the "special security handling" designation was created by Louis Lundstrom, director of the proving ground, and his assistant, George Vanator, head of the technical data department, in 1963, to provide better document control of material they considered to be valuable or sensitive to the automotive divisions. (The proving ground serves as the test center for all divisions of General Motors and rigid security is maintained to assure confidentiality of test data—for each division). The designation was not related to the conditions or circumstances under which the tests were conducted. The test for PG 15699 and PG 17103 were not performed in secret, nor was there any special urgency about them.

Lundstrom and Vanator did not consult with the automotive divisions or the legal staff in establishing this category of documents, nor did they provide specific criteria for classifying test reports. Neither of them could recall any event which caused them to initiate this classification, and we could find no connection with the Corvair litigation.

We found that there were a total of 13 proving ground reports stamped "special security handling." Only one, PG 17103 was relevant to the stability and handling of the Corvair. It was the first one designated for special security handling, but the policy establishing this category had been determined sometime previously. The category was not devised specially for this report.

When a document was stamped special security handling it was omitted from the regular proving ground indices, but listed on a separate index in Vanator's office. No copies were to be made of the report when it was sent to the division which had requested it, and the division was asked to return the report after 30 days.

However, Nelson Farley, the Chevrolet engineer who requested the test resulting in PG 17103, refused to send back the report and kept it in his files. Lundstrom and Vanator then decided to "discontinue" their file on the report. "Discontinued" files were burned. This did not mean, however, that all references to the report were eliminated from the proving ground records. The Chevrolet test work order and Chevrolet technical test report remained in a separate file in the Chevrolet installation at the proving ground and the PG report continued to be listed on the special security handling index. The only result of "discontinuing" the report was that it did not appear in certan proving ground files. However, the report was retained in the Chevrolet division files.

The special security handling classification was abandoned after about a year and a half, because the automotive divisions would not cooperate in the procedures. Later, probably in 1966, report number 17103 was restored to the chronological index, but the report was not physically replaced in the library file until recently.

We found the story of the special security handling documents a puzzling episode in our investigation. We could find no intent to suppress the test results, for no effort was made to hide the test film of the rollovers. It was filed in the normal manner. Nor was any consideration given to classifying report 15699 as a special security handling document. It remained in all the Proving Ground files and indices. Certainly, anyone wanting to prevent plaintiffs from learning of the tests would have made some attempt to conceal the films and an obviously related report. (See p. 3 of PG 17103, which specifically refers to 15699, the first half of the rollover tests).

After interviewing Lundstrom and Vanator at length, and in the absence of other evidence to the contrary, we concluded that their zeal to protect the security of proving ground data, as a general policy, led them to devise the special security handling classification. The subsequent burning of the report was a disturbing act. No harm came of it, but as a result of these disclosures GM has taken steps to assure the integrity of the proving ground filing system.

C. George Caramanna

George Caramanna was a technician in Chevrolet research and development for 13 years, from 1957 to 1970. In newspaper stories in May and June 1971, he alleged that the Corvair was unstable and that GM officials were aware of it at the time the car was introduced. (See articles from LA Times and Detroit Free Press attached as exhibit 19.)

Throughout the summer of 1971, we attempted to arrange an interview with Caramanna, but he and his attorney, Gary Sellers, declined to cooperate voluntarily, until September. During this period GM was able to take Caramanna's deposition in the *Flynn* case, thereby learning in advance much of what he was to tell us. This virtually eliminated any advantage of surprise we might have had in using his information as the basis for questioning GM employees.

We spent more time interviewing George Caramanna than any other witness in the entire investigation—the tape alone runs over 14 hours. But his testimony is difficult to evaluate for two reasons. First, he refused to correct and return the bulk of his testimony after we had transcribed it and sent it to him for correction. And second, his testimony contained numerous conflicts and inconsistencies, particularly on technical matters.

Despite this, we were able to discern six specific charges:

1. GM should not have removed the front stabilizer bar prior to public introduction of the Corvair. In support of this contention he points out that the prototype vehicle, with the stabilizer bar, rolled over the first time it was tested on the skid pad in 1958. He also claims that he and Frank Burrell, a foreman on the Corvair project, warned Kai Hansen against removal of the stabilizer bar.

2. The Corvair was not properly tested before public introduction.

3. Von Polhemus, a GM suspension engineer, told the men working on the Corvair project that the rear suspension was unsafe.

4. The main fault of the Corvair suspension was the 14-inch rear roll center. This was too high. Tests with a GM suspension test vehicle demonstrated this.

5. Experienced racing and rally drivers such as Denise McCluggage thought the car was not safe.

6. The installation of a stabilizer bar, shorter rear springs and rebound straps would have prevented the Corvair from rolling over.

We will consider these charges seriatim.

Taking up the first one, we have already demonstrated that GM tests proved that the stabilizer bar had no appreciable effect on the stability of the Covair. And in our interview, Caramanna acknowledged that the stabilizer bar alone would not remedy the Covair's alleged defect. When we questioned Burrell about Caramanna's statements, he denied telling Hansen the car was unsafe without the stabilizer bar. In fact he said all those working on the car were pleased with the way it handled. He added that he never heard Caramanna criticize the stability and handling of the Corvair.

The skid pad rollover cited by Caramanna resulted from a broken rear cross-member which was not adequately constructed and attached to the frame, Hansen told us. He showed us the blueprints for the production car incorporating strengthened parts (blueprints available in subcommittee files).

Concerning Caramanna's contention that the Corvair was not adequately tested, both Hansen and Burrell testified that the car was given all the regular preproduction tests. Emphasizing the point, Hansen said the car was test driven "more extensively than any other car I have been connected with." As an example of the testing, we were given reports of a test trip to Berea, Ky., and a 1,000-mile simultated cross-country trip made at the proving ground. (See exhibit 20.)

Polhemus denied Caramanna's charge that he thought the Corvair rear suspension was unsafe, pointing out that he owned and drove both a 1962 and a 1963. In fact, Polhemus told us that he preferred the 1960–63 car to the 1964 and 1965 models. He thought they were more "responsive."

Caramanna believed that work on the GM suspension test vehicle (STV) showed that the rear roll center of the car was too high. In 1963, Caramanna was one of those assigned to build the STV, which could be altered to simulate the suspsension of any car. They tested it for the first time in the fall of that year with the suspensions set like that of the Corvair. In this condition, Randy Beinke, the engineer in charge of the project, recorded "Ready to reset suspension to roll center height of 3½ inches from 7 inches, which is too high, causing jacking of the outside wheels at lateral accelerations in the area of lg."

At our interview, Beinke distinguished between the STV and the Corvair, noting that the STV had a narrower tread than the Corvair thus tending to make it more likely to jack at a lower level of lateral acceleration and racing-type tires which enabled it to generate much higher cornering forces than the Corvair. He said the tests were more severe than those performed on production cars and concluded that there was little analogy between the Corvair and STV tests.

More to the point, our investigation revealed that the height of the real roll center on the 1964 Corvair was also 14 inches, and everyone but Caramanna acknowledged that this is a safe handling car. From what we have said above, it is clear that the transition from understeer to oversteer of the 1960–63 Corvair was attributable to the roll couple distribution, not the height of the roll center.

Turning to Caramanna's fifth charge, he was chief mechanic for the Corvair rally cars at the 1961 Trans-Canada rally. Denise McCluggage was one of the drivers. We asked Caramanna what she thought of the cars, and he said, "very bad." This proved untrue (see below, for discussion of McCluggage's views). At the conclusion of the rally Caramanna wrote a memorandum to Duntov reporting on his experiences. He concluded, "Car height is felt to be of more importance than handling." (See exhibit 21.)

Caramanna's last argument was that the installation of certain suspension components would prevent the car from rolling over. During our interview, however, he acknowledged that this equipment did not help much in ultimate performance. This was demonstrated by test number two of PG 15699, where a car with these components rolled 180 degrees on the seventh run.

D. David Lewis

Lewis was an employee of the GM public relations department for several years before leaving to become a professor of business history at the University of Michigan. Nader and Sellers advised us that he had an interesting story to tell and urged us to call him. We did, and he related he following incident to us:

"In 1961 the son of an executive vice-president was crippled for life in a Corvair in what his father thought was an uncalled-for accident. The father ordered a full-scale investigation at the GM Tech Center. The car was torn down, thoroughly tested and found to have the faults Nader mentioned. GM lawyers and certain P.R. people were taken out to the Tech Center and shown the findings. They went away shaking their heads, but GM kept quiet about it. (Letter of March 8, 1971, and attachment in subcommittee files)."

On investigating this allegation we found that Cyrus W. Osborn, the son of Cyrus R. Osborn, executive vice president of GM in charge of the engine divisions and overseas operation, was injured in an accident while driving a Corvair on December 22, 1959. According to the report in the Detroit News, young Osborn was speeding on an expressway at 5 a.m. when the car went out of control, careened up an embankment, rolled down, struck a utility pole, spun around and turned over several times (Detroit News, December 22, 1959, p. 1).

Every GM lawyer, engineer and executive we interviewed was questioned about these events, but we learned nothing. Many of them recalled the accident, but none knew of any investigation or meeting at the Tech Center. Osborn is now deceased but Joan Marland was his secretary at the time of the accident. She said so far as she knew there was no study of the accident.

Edward Cole, whose office was next to Osborn's at the time, told us that he went to the scene of the accident that morning and found no skid marks, which would show an attempt to control the car. Hence, he concluded that young Osborn probably fell asleep at the wheel. Later, he examined the vehicle and found no parts failure which might have caused the accident.

At our request, GM conducted an internal investigation of Lewis' charges in which the following additional individuals were asked about purported events:

E. V. Gilliland—Attorney (retired).

William Hamilton—Public Relations (retired).

Alvie Smith—Industry-Government relations (formerly public relations).

Joseph Karshner—Public relations.

Thomas Groehn—Public relations.

Kenneth Brooker—see file searches.

Paul King—Chevrolet Engineering (formerly passenger car development—Chevrolet proving ground).

Charles W. Kramer—Chevrolet engineering, proving ground.

William Konopacke—Chevrolet engineering, proving ground.

George Peters—Public relations.

In addition, the following files of the corporation were specially searched:

1. Engineering staff files—Ken Brooker, secretary to engineering policy group and manager-staff operations—engineering staff.
2. Harry Barr files—1959–65.
3. E. N. Cole files—1959–65.
4. Legal Staff files.
5. Cyrus Osborn files.

All of this, we were informed, yielded nothing.

Finally, we spoke with Mrs. Osborn and her son. She told us that so far as she knew there had been no GM investigation of the accident. She recalled that her husband was "completely shattered" by the accident and "blamed himself excessively for allowing the boy to drive a car he was not familiar with. He did not want to see the car or talk to anyone about the accident," she concluded.

The son did not remember the accident, but said he had never talked to anyone at GM about it. Mrs. Osborn said that a police officer had seen the accident and told them that the car had swung around a mail truck, possibly skidded on a patch of ice, and went out of control up on the embankment.

We obtained a copy of the Detroit Police Department accident report (available in subcommittee files). It states that the Osborn vehicle was exceeding the speed limit and that the driver had been cited for reckless driving. The officer making the report found no defect in the car.

Our inability to find anyone who knew anything of these events was both puzzling and disconcerting, so we searched for other explanations of Lewis' allegations. We found that on March 22, 1960, Bruce Hancock, the son of a proving grounds employee and two other boys, were injured in an accident in a Corvair. Hancock lost control of the car at an icy spot on a road near the proving ground and hit a tree at about 50 miles an hour.

Two extensive reports on the accident were made by Paul Skeels and Richard Painter of the proving ground staff. However, neither was critical of the Corvair and Skeels concluded, "I think that the high crushability of the Corvair front end should be given full credit for keeping the severity of this accident as low as it was." (Accident reports

available in subcommittee files.) It is possible that with the passage of time there may have been some confusion and distortion of these accidents and Lewis may simply be repeating a merged, erroneous version of both of them.

There is one other plausible explanation for Lewis' charges. In July 1962, Mr. G. P. Ausburn of Stephen E. Blewett & Associates, an engineering consulting firm, requested GM to compare the performance of the Corvair and certain other cars as part of the preparation for forthcoming trials. These tests were subsequently conducted under the test work order No. 25592. The results were seemingly unfavorable to the Corvair, but it was later discovered that the tests were not properly performed and hence the data was inaccurate. It is possible that at a discussion of these test results, the name Ausburn was repeated as Osborn, and combined in some manner with the story of the accident.

Neither of these theories is a completely satisfactory explanation of Lewis' story. Some piece of the picture may still be missing. Though we could find no evidence to corroborate his statements, we could not positively disprove them. However, we found no reason to doubt his honesty and sincerity.

On balance, we are inclined not to credit Lewis' story, due to the sheer weight of the negative evidence. The police report gave Osborn no cause to be suspicious of the stability and handling of the Corvair. Moreover, those most affected by the accident, the Osborn family, did not hold the Covair responsible. Accordingly, it is improbable that GM conducted a study or investigation of young Osborn's accident.

E. Sergay, Fonda, and Smith

During our investigation, Nader submitted to us and DOT, statements by three automotive engineers, Dimitry Sergay, Albert Fonda, and Ralph Smith, concerning PG 15699, 17103, and the rollover susceptibility of the Corvair. The DOT report succinctly analyzes these statements (pp. 35–40) and concludes that they provide no basis for finding a safety defect. We accept this judgment and believe there is no further need to comment on their views.

F. The owner complaint letters

In April 1971, news stories revealed the existence of thousands of 1961, 1962, and 1963 Chevrolet owner complaint letters. GM reacquired these letters, which had been sold for scrap, and subsequently announced in June 1971, that all 77,167 microfilm records had been cataloged. Of this total, 14,700 concerned the Corvair, GM said, with 25 classified as steering control complaints. We reviewed all of them, and, while four related to stability or cross wind performance, they would not, in our view, constitute notice of a potential safety defect.

G. Harley Copp

Harley Copp is an automotive engineer with Ford Motor Co. During the late 1950's, he was one of the engineers who developed the Falcon automobile. On June 3, 1971, he wrote Senator Magnuson, chairman of the Senate Commerce Committee, challenging GM's statement that the Corvair's limit of control "is equal to or better than the limit of control of competitive cars of the same era."

He contended that the Falcon had a superior limit of control and offered three principal items of evidence in support of his claim (1) The Corvair overturned three times during Ford evaluations of the car in 1959, (2) the Corvair rear suspension caused poor handling in emergency maneuvers, and (3) 1959 films of comparative performance on the Ford test circle and road course clearly showed the Falcon to be a superior handling car. Copp's letter contained additional allegations that Maurice Olley warned against the use of the swing axle rear suspension and that the swing axle plus high rear roll center caused oversteer. These charges are dealt with elsewhere in this report and so will not be further discussed here. The full text of Copp's letter is attached as exhibit 22. We interviewed Copp twice and spoke with him several times on the telephone concerning the information he provided.

At our suggestion, Copp prepared a numerical performance rating of the Falcon and Corvair in the test film and a critique of Winchell's statement in the 1966 hearing record. The critique is attached as exhibit 23. After the publication of the DOT report, Copp discovered certain mathematical errors in his calculations and submitted an amended version of the ratings to us. They are attached as exhibit 24. Copp also provided us a critique of the DOT report, which is attached as exhibit 25. The fourth document supplied by Copp was his comments on certain Ford documents concerning efforts to establish a company handling standard. It is attached to the exhibit No. 26. The Ford documents are available in the subcommittee files.

We questioned Copp about each of the three rollovers he cited. The first was the Bill Stroppe rollover, which is discussed in a separate section below. The second occurred while a young engineer trainee was driving the car. Copp was not present and did not know the circumstances of the rollover. The third one took place in Kentucky during a competitive evaluation trip. Like the Stroppe rollover, it happened off the road when the Corvair skidded and hit a ditch.

We do not believe these rollovers demonstrate that the Corvair is unstable. The two of which Copp knew both occurred off the road. Most rollovers take place in this manner. See "Analysis of Rollover Accident Factors and Injury Causation" by Huelke, Marsh, and Sherman, attached at exhibit 27. This is because there are few roads in this country with adequate space and coefficient of friction to enable a car to overturn on the pavement. Typically, rollovers happen when a car runs off the road and strikes an object or encounters a surface which generates sufficient friction to produce a rollover. Any car can overturn in these circumstances.

Copp's statement about the performance of the Corvair under emergency conditions is not supported by the DOT drastic steer-drastic brake test results and the panel comments relating to it. The drastic steer-drastic brake test is a severe emergency maneuver in which the vehicle is turned sharply and the brakes locked up. The test is designed to induce overturning, but as stated above, the Corvair did not experience outrigger contact (that is, simulated overturning) at speeds up to 60 miles per hour when equipped with original equipment type tires in good condition. The panel also commented on the performance of the Corvair under extreme conditions. It declared that "Although the 1960–63 Corvair does oversteer from 0.4 to 0.6, it is not unstable, and the control sensitivity is superior to that of contemporary vehicles * * * the data supplied * * * showed the Corvair to be stable in the range from .0g to .6g laterally." (Panel report, p. 24) Based on this evidence, we believe the handling of the Corvair is satisfactory in emergency situations within its limit of control.

The most probative, seemingly objective, evidence submitted by Copp was the comparative handling film. However, when DOT analyzed it with a frame-by-frame projector, it found inappropriate driver conduct in several sequences which resulted in erratic vehicle performance (DOT report 40–52). Hence, DOT concluded that the film was "not a valid evaluation of the handling characteristics of the 1960 Corvair." (Id., at 52.)

We asked Ford whether its engineers had viewed the film with such a projector. Ford replied that Charles Vranian, a vehicle development engineer, had done so. We interviewed Vranian, and he told us he had viewed the film several times on or about August 1, 1972, in preparation for rerunning the 1959 circle and handling course tests. When we questioned Vranian about the driver's behavior, he told us that he, too, observed the arm and hand movements cited by the DOT, but he could provide no explanation for them. In summary, he said he could "not disagree" with the DOT conclusion and added "it reflects my experience."

Vranian told us further that he was directed to reperform the 1959 tests, by William Innes, Ford executive vice president for North American operations about July 25 or 26, 1972. In doing so, first, he acquired a 1961 Falcon and a 1961 Corvair. Then both vehicles were restored as closely as possible to original manufacturers' specifications. He obtained from Uniroyal a set of the exact tires made for the Corvair a decade ago.

The tests were run between August 1–5 by Vranian and two other engineers, John Dobbyn and Carl Wenzel. During the tests, Vranian drove both cars so that he could gauge the performance of each. Of course, the tests could not precisely duplicate the 1959 runs, since different vehicles and drivers were involved, and the surface of the track had been repaved. However, the drivers drove the cars at speeds of 20, 25, 30, 35, 40, and 45 miles per hour, so that the tests would resemble as closely as possible the 1959 runs. The tests did not exactly follow the 1959 series, since the Corvair was not driven with equal, nonstandard, tire pressures.

Vranian reported that on the test track circle, the Corvair "had a quicker response than the Falcon" and did not leave the pavement. He rated their performance as "relatively equal." On the handling road, the Corvair again showed a quicker response and did not go off the road at any time. "There was no difference in keeping either vehicle on the S curve * * *." And again he rated the performance of the cars as "relatively equal."

We asked Vranian to explain the substantially different results in 1959 and 1972. He replied he could not do so.

We next questioned him about several statements critical of the Corvair contained in an October 1, 1959, report to the Ford executive committee (Copp cites them in his film analysis). We were informed, however, that most of these statements do not appear in the document in the Ford archives. The page containing them is not included in the official record of the committee meeting. Bruce Kulp, a senior attorney on the Ford legal staff, offered the explanation that the report supplied to Ford by Copp, and then by Ford to the subcommittee, was an unofficial draft.

One important statement, however, does appear in both documents. It said, "The Corvair * * * shows marked instability under conditions of severe cornering and passing." Vranian said this did not conform to his experience.

We could not accept the markedly different results achieved in the two Ford tests without further investigation, so we asked GM whether it had conducted tests similar to those done by Ford. GM responded that it had performed the Ford tests three separate times in 1972, twice at its own proving ground, and once on the Ford test track. All the tests were instrumented and filmed. A summary of the results prepared by GM is attached as exhibit 28. We viewed the films and found the summary of them accurate. The GM results were consistent with the 1972 Ford tests and contradicted the 1959 Ford test. Thus, these tests have now been performed five times—on four occasions the Corvair handled well, and once it did not. Copp attempted to explain the first test results in terms of driver response to the transition from understeer to oversteer. He seems to argue that the driver could not be responsible for the performance of the car because he could not move the wheel with suf-

ficient speed to affect the performance of the car. Both DOT and our own consultant, Ray Caldwell, rejected this theory (see exhibits 29 and 30, respectively), and their position appears correct. First, none of the vehicles in the recent Ford and GM tests performed in this manner. Second, like DOT, we examined the film with a frame-by-frame projector and noted an apparent relationship between the driver's movements and the performance of the car. These did not seem to be normal corrective steering changes. Accordingly, we share DOT's belief that the 1959 Ford test film is not a valid measure of the stability and handling of the Corvair.

As noted above, we asked Ray Caldwell to serve as our consultant to assist us in evaluating the material provided by Copp. Caldwell was a member of the DOT advisory panel, so he was familiar with all the basic information concerning the Corvair. We found him fair and objective about the issues before us. He analyzed Copp's critique of Winchell's statement before the Michigan Senate and concluded that "Winchell's comments are reasonable given the atmosphere of that time" (letter, p. 3). In addition, he found that the Ford film did not substantiate Copp's arguments (letter, p. 7). Caldwell's letter is attached as exhibit 31.

After we received Copp's revised papers, we asked Caldwell to reconsider the statements in his letter and amend it, if necessary. He responded that, "I would make no changes or modifications in my previous statement as a result of Mr. Copp's amended views." (See exhibit 30.)

Once the Copp film has been rejected as a basis for evaluating the Corvair, much of his critique of the Winchell statement is also negated, for as Copp himself notes, "There is a direct relationship between my film analysis and my critique * * *." Further, we accept Caldwell's assessment of Copp's arguments. Based on all the evidence before us, we believe he has properly analyzed Copp's charges and that there is nothing in Winchell's statement which misled the subcommittee concerning the stability and handling of the Corvair.

One point, however, does require further discussion. Winchell stated that, "Even reversing the tire pressure differential is unrecognizable at 30 to 40 miles per hour in a Corvair. The effect becomes noticeable as the speed increases, but it does not render the car uncontrollable." (Tr. 1561.) We questioned several persons about the accuracy of this statement.

In support of Winchell's statement, GM produced three documents—two letters from Winchell to Edwin Gilliland, a lawyer on the GM legal staff, dated June 1 and 3, 1964, and a note from Winchell to Joseph Bidwell, another GM engineer, dated July 16, 1964. They are attached as Exhibit 32. The letters discuss the possible effect of the tire pressures (LF 25, RF 17, LR 21, RR 20 or 17) on the Pierini car. (The *Pierini* case was one of the early Corvair lawsuits). In the first letter, he stated, "My opinion is that the average individual could not tell whether the tires were properly inflated or inflated as claimed." In the second letter, he added, "I subsequently drove the car (a Corvair with the same tire pressures as the Pierini car) for several days, to and from work, 20 miles each way, up to 90 m.p.h. and am convinced that at 30–35 m.p.h. these pressures were in no way responsible for Mrs. Pierini's loss of control." Finally, the note to Bidwell said,, "Our tests on the Corvair have shown conclusively that at these speeds [about 40 m.p.h.] neither engineer or layman can differentiate between normal and reversed tire pressures."

Thelin told us Winchell wanted to be certain the 1966 Michigan Senate testimony was accurate, so he asked all the engineers in the product analysis unit to critique it before presentation. Thelin said that several of the engineers objected to the statement concerning tire pressures on the ground that reversing them would ruin the quality of the ride and make the front end feel "very stiff." But the difference in handling would be "relatively small," he said.

When we questioned Kai Hansen about the effect of reversing tire pressures, he said the average person would notice a difference in the riding qualities of the car and its "straight ahead stability would be poor."

Winchell's correspondence, written long before the Michigan Senate statement was prepared, plus his submission of the statement to his fellow engineers for their review is ample evidence of his good faith belief in the truth of the statements made therein. Obviously, the effects of reversing the Corvair tire pressures is a subject on which automotive engineers can, and do, differ, but we found no persuasive evidence that Winchell's statement, as written, is untrue. Accordingly, we do not believe the subcommittee was misled by it.

At the end of our second interview, we asked Copp what standard we should use in determining whether we had been misled. He replied that if the performance of the Corvair and Falcon were within 10 percent of each other, on a fair test of stability and handling, we could conclude we were not misled.

We consider the DOT tests an objective comparison of the two vehicles. In only one of the five maneuvers employed by DOT did the performance of the Corvair fall below that of the Falcon. This was on the first test, steady turn braking on a smooth road without the wheels locked. There, while the response of the two vehicles was similar, the Corvair showed a greater tendency to slide out than the Falcon, but this occurred under harder braking. However, taking all five tests as a whole, it may be said that if one had ridden as a blindfolded passenger in the Corvair and Falcon, he would have been unable to determine from the responses of the cars in which vehicle he was riding.

This conclusion is consistent with Vranian's description of the stability and handling of the Corvair and Falcon as "relatively equal."

Though Copp's contention about the handling performance of the Falcon and Corvair could not be sustained, he should be commended for speaking out on an important public issue. We believe Copp is a man of integrity and sincerity, motivated solely by loyalty to the product he helped design and a sense of responsibility to participate in the debate on a major question of vehicle safety.

V. CORVAIR SUPPORTERS

In the course of our investigation we discussed the Corvair with three independent automotive experts who expressed approval of its stability and handling. We also obtained two road test reports on the Corvair from Consumers Union, the independent product testing organization.

A. Consumer Union

In January 1960, CU tested the Corvair, Falcon, and Valiant. In commenting on the car it said:

The Corvair corners with very little sway * * * As to the Corvair's handling, and the sandstorm of controversy about understeering vs. oversteering and the advantages and disadvantages in relation to front vs. rear mounting of an engine, CU suggests that prospective buyers need not be unduly concerned. CU's Corvair did oversteer moderately (though less than a Volkswagen, for instance), but so to an extent do a million other cars now on U.S. roads.

It is probably true that the Corvair, if driven in ignorance of its oversteering tendency, or with faulty judgment, will get the driver into trouble a little more easily—and into trouble requiring somewhat more skill to get out of—than a car that understeers to a similar extent. * * *

Later that same year, in July, CU road tested six compact cars. It described the Corvair's handling qualities as "agile, accurate; feels cross winds badly; oversteers when cornering hard," but concluded "unless it is recklessly driven no unusual amount of handling skill is required; on the contrary, the Corvair in normal use controls with ease and precision and inspires confidence." (P. 376.)

These results are consistent with the performance of the Corvair in the later DOT, Ford, and GM tests.

B. Denise McCluggage

Denise McCluggage was one of the leading women race and rally drivers of the late 1950's and early 1960's. For a time she was the automobile writer for the New York Herald Tribune. She is widely respected, both as a driver and as a journalist.

General Motors employed her as a consultant on the *Collins* case, and as noted above, she was one of the Corvair drivers in the 1961 Trans-Canada rally. When George Caramanna told us that she considered the Corvair a bad car, we contacted her and asked for her views on the Corvair. We also asked her whether she had any information which would indicate that GM officials thought the Corvair unsafe.

Her answer speaks for itself and the full text of her letter is included as exhibit 33. She has had no contact with GM since 1965, and we believe the letter expresses her true opinion.

It is unnecessary to quote at length from the letter. One sentence will suffice. Summing up concerning the Corvair she said, "In short, it was not really the *best* car, but it was better than most being offered us on this side of the Atlantic at the time." (Emphasis in original.)

We investigated her statement about the alleged Phil Hill rollover and found that Hill did not roll over a Corvair.

C. Bill Stroppe

Bill Stroppe has long been associated with the racing, testing and vehicle preparation activities of the Ford Motor Co. He has had a close and continuing connection with Ford for nearly two decades. He prepared and drove Lincolns during the Mexican Road Races of the mid-fifties and recently prepared and co-drove the Bronco which won the Mexican 1,000 for the second year in a row. Stroppe has an excellent reputation as a man who knows automobiles.

During our first interview with Harley Copp, he told us that Stroppe and some of his associates had rolled a Corvair during an evaluation run at the Ford Proving Ground. We contacted Stroppe and asked him to tell us how the rollover occurred and to give us his opinion of the stability and handling of the Corvair.

His answer is included as exhibit 34. He concluded, "All members of the test crew felt the Corvair to be a very good automobile. The vehicle handled well and was stable on the track even in high wind testing."

At the end of our interview with Vranian, we read Stroppe's conclusions to him and asked if he agreed with them. He replied that he did.

In a telephone conversation, Stroppe supplemented his letter. He recalled that in the fall of 1959, he and one of his drivers were called back to Dearborn to make a second evaluation of the Corvair. Ford engineers had written a report stating that the Corvair was a dangerous, unsafe car, and Ford management asked Stroppe for an independent evaluation of the car.

Apparently based on this internal engineering report, Ford, and its advertising agency. J. Walter Thompson, prepared an advertising campaign aimed at showing the instability of the Corvair. In one sequence a Corvair was shown rolling over on the Ford test track while being passed by a Falcon.

However, after testing the Corvair again, Stroppe told Ford that the car had "good control." There were no rollovers and he

concluded that the car was "well engineered" and "handled real well." The advertising campaign was never used, but Copp asserted the decision not to implement it was unrelated to Stroppe's evaluation of the car.

D. Mauri Rose

Mauri Rose was an outstanding racing driver during the 1930's and 1940's, winning the Indianapolis 500 three times. After his retirement from racing, he worked as a test driver for Chevrolet and in this capacity tested many Corvairs. He is now retired from GM, and is teaching automotive mechanics in a Michigan high school.

At Gary Sellers' urging, we interviewed Rose on one of our trips to Detroit. Sellers told us that though Rose formerly worked for GM, he would be an unbiased, independent witness. We found this to be true.

He told us that he considered the Corvair to be a stable, safe handling vehicle. In fact, he said he tried to roll it over but could not do so.

As evidence of his faith in the car, he told us that he bought a 1961 Corvair with standard transmission for his daughter. Though her left hand was paralyzed by polio when she was a child, she controlled the car well. He then told us that one night, when she was driving the car at top speed (over 80 m.p.h.), a tire blew out, but she was able to bring the car to a safe stop. Rose seemed to feel that this was ample proof of the stability and handling of the Corvair.

VI. NONCORVAIR ISSUES

During the past 2 years, Nader, Sellers, and others have raised several issues outside the scope of our investigations into GM's testimony regarding the stability and handling of the Corvair. Nader's most significant charges were set forth in a letter to you on May 20, 1971.

A. The May 20, 1971, Letter

This letter contained three basic charges:

1. Private detective reports obtained by GM on the Locality of Mayor's Committee of Harlem, N.Y., and John Volosin, a union official and former employee, contradict Roche's statement that the Nader investigation was—

"A very uncommon occurrence in our corporation, and to my knowledge this is the first one of this kind that has ever been undertaken * * * other investigations have to do only with minor affairs, such as preemployment checks of individuals * * * perhaps internal problems we might have with employees, and perhaps problems in connection with embezzlement, and purchasing activities or other activities of the corporation." (Tr. 1385.) (Letter 4–5.)

2. In the *Collins* case, GM used a female private investigator to obtain information concerning the plaintiff's case, thus refuting Roche's statement that private investigators had been used "only in Mr. Nader's case." (Tr. 1383.) (Letter 6–7.)

3. The hearing record of the March 22, 1966, proceedings had been unlawfully altered by GM and the subcommittee staff. (Letter 7–13.)

We shall consider each of these in turn.

1. The Private Detective Reports

Nader urges that Roche be recalled by the subcommittee to explain these and other investigations of individuals conducted under GM's auspices. At our first meeting, with Nader and Sellers in 1970, following the receipt of Nader's October letter, we informed them that our investigation would be focused on the testimony concerning the Corvair. We made it plain that we would investigate all matters relating to the testimony on stability and handling, and the Corvair litigation, but we would not reconsider the GM investigation of Nader unless new information was forthcoming.

The private detective investigations cited by Nader in his letter were known to the subcommittee and Nader long before his 1971 letter. The Justice Department reviewed all the facts underlying Nader's allegations in its investigations, and found no basis for criminal action against Roche. Its investigation disclosed that private detective Gillen had conducted 26 prior investigations for GM. They were described by the Justice Department as:

". . . criminal and credit record checks of persons who were employed or under consideration for employment by General Motors or one of its dealers. A few of the investigations are similar to the Nader investigation in that surveillance was used and the subject's moral character was inquired about. Although the reason for each investigation was not always mentioned in the reports, it appears that none of them were of an intentionally harassing nature or of persons who had criticized General Motors or one of its products."

And the Department concluded:

"With regards to possible perjury stemming from Roche's testimony that the Nader investigation was the first of its kind engaged in by General Motors, it is clear from records of the hearing that the reference was to a complete background investigation of a General Motors critic. As indicated earlier, an examination of the investigations by Gillen for General Motors reveals nothing which would contradict any of the testimony. If a statement under oath is "literally true," there can be no perjury."

(Justice Department memorandum, July 19, 1968, in subcommittee files.)

2. Use of a private investigator in the Collins case

Nader asserts that in this case GM used an undercover agent in an attempt to obtain information concerning the plaintiff's evidence and theory of the case. This action and related events were the subject of a California law suit, *Ford* v. *GM*, filed only a month before the hearing on March 22, 1966. Nader believes this incident should have been disclosed in Roche's testimony.

We thoroughly investigated the events alleged by Nader. We learned that the private investigators were hired by local counsel, John Whitney, without prior approval of any GM personnel. Both David Harney, counsel for the plaintiff and John Costanzo, local counsel for GM confirmed that it was customary for them to use private investigators in cases against one another.

According to Mrs. Patricia Pola, the private investigator involved, she was instructed by her supervisor, Mr. Wilson of the Kraut & Schneider agency, to "go to the Hyatt House and keep my ears open." She understood that her mission was to find out the schedule of the plaintiff's investigators so that they would be easier to trail the next day. She was not assigned to learn the theory and details of the plaintiff's case, but decided on her own to do this.

Harney and Paul O'Shea, his expert witness, told us that from the outset they suspected Pola was a private investigator employed by the defendants. They confirmed it when they found a Kraut & Schneider timesheet in her car, while ostensibly helping her with her luggage. Harney claimed an anonymous telephone call had advised him that a woman would be used to obtain information about the case from his investigators.

After one day on the case, Harney accused Pola of being a private investigator and subpenaed her as a witness in the case. Local counsel then dismissed the investigators. Edward Adkins, the GM attorney assigned to the *Collins* case, first learned these facts on his arrival in San Jose, for the beginning of the trial.

A few days later, at a hearing before the judge in the Collins case, Whitney admitted that he had hired Pola but insisted her objective was "strictly surveillance" of the plaintiff's investigators (Collins Tr. 287). This was confirmed to us by Mr. Albert Moffat, president of Kraut & Schneider. Harney maintained that an attempt had been made to influence one of his witnesses (Collins Tr. 288). Defendants motion to quash the subpena on Pola was rejected, but she was never called to testify in the case.

Adkins did not inform his superiors at GM of these events until the following February, when the *Ford* suit was filed (the suit was later dismissed in return for an extension of time for filing an appeal in another case, thus giving some indication of a lack of substance to the Ford case). Subsequently GM informed local counsel that before undertaking background investigations or surveillance of persons involved in litigation, they must obtain the approval of the general counsel.

GM claims it had no obligation to disclose this incident in Roche's testimony because it had not authorized the employment of the investigators. Moreover, GM contends that the private detectives were not used to investigate any individual.

Though GM did not directly hire the investigators it did accept ultimate responsibility for their actions through payment for their services by its liability insurer, Royal Globe. And while the detectives did not investigate O'Shea, as they did Nader, there is at least a limited parallel in the surveillance of an adversary individual.

Roche told us he did not know of the *Ford* case at the time he testified on March 22, 1966. This was confirmed by the GM legal staff.

GM's lawyers argue they believed in good faith that the *Ford* case was unrelated to the Nader investigation. We do not doubt the sincerity of their assertion but both instances involved the use of private detectives for surveillance of individuals opposing the corporation. In part, this is what Roche apologized for on March 22, 1966.

We need not belabor the point here. The statute of limitations has run on any possible offense. Moreover, it is evident from the Justice Department memorandum that, having found no grounds for prosecution in the Locality Mayors and Volosin incidents, it would find none here. Nor do we believe the subcommittee was misled in any substantial way by Roche's failure to inform us about the *Ford* case. The outcome of the hearing would have been no different if we had known of the case. But we do believe that the judgment of GM's legal staff was faulty in this instance. The circumstances of the *Ford* case were within the ambit of the Nader investigation, and for complete candor, should have been disclosed.

3. The transcript alterations

Nader charges that the printed record of the March 22, 1966, hearing was "changed or falsified by deletions as well as additions" (letter p. 7). The changes he says, had the effect of "altering the chronology of events, covering up evidence and contradictions and removing assertions of fact" (letter p. 8). Relying on an audio transcript of the hearing, Nader cited five examples of altered testimony:

"(1) the deletion of the statement by GM President James M. Roche that the GM investigation "did not employ girls as sex lures" (p. 1381),

"(2) the deletion of the critical word "entire" from Mr. Roche's original statement that GM's "entire intent" in making their investigations were limited to finding out my "qualifications, background, expertise and association with such attorneys, . . ." (p. 1390),

"(3) the deletion of that portion of Senator Kennedy's request that Mr. Roche state if phone calls were in fact made by "representatives of GM", (p. 1391),

"(4) the deletion of that portion of Senator Harris' question regarding GM's responsibility for its "agents", (p. 1401),

"(5) the insertion of a new limiting phrase in Mr. Bridenstine's original sworn answer to an inquiry regarding the cost of the 'others (investigations)' by GM. At the hearing Mr. Bridenstine was heard to testify that as to the cost of the investigations, 'the bill up there was $120'. In the printed record, as later published, however, his answer appears differently. The two words 'in Connecticut' have been inserted. This has the obvious effect of limiting the scope of his assertion and making it cover some thing *other than* total cost."

Believing we could not legitimately investigate our own conduct, we referred this matter to the Justice Department, requesting that it reconsider its 1968 decision that there was insufficient evidence to warrant prosecution of GM officials for perjury or obstruction of justice. Concurrently, we made available to the Department copies of the original, unedited, 1966 transcript and other documents relating to Nader's charges.

After reviewing all the evidence, the Justice Department found no evidence of any misconduct and determined that "none of the matters brought to our attention merits further outside inquiry or suggests a conclusion different from that previously reached in our 1968 letter regarding perjury and obstruction of justice." (Copies of your statement, the letters to the Justice Department and its response are attached as exhibit 35.)

We considered Nader's charges extremely serious and so, in addition to the Justice Department inquiry, we conducted our own internal investigation with staff members not involved in the 1966 hearings. We found that there were indeed, many variations between Nader's tapes and the printed record. By our count the stenographer missed words or phrases 64 times in the record covered by Nader's material. Three of the deletions were changes number 2, 3, and 4 cited by Nader in his letter. We believe these omissions, as well as the others, were inadvertent. No evidence has been offered to prove otherwise.

The fifth change mentioned by Nader, the addition of the words "in Connecticut" was requested by GM. In our view, this was a minor clarification to indicate that the cost of the O'Neill investigation in Connecticut was $120, so as not to leave the misimpression that GM spent only $120 for the entire investigation of Nader.

The first change cited by Nader, the deletion of the words "did not employ girls as sex lures" is the most difficult to explain. These words were in the printed text of Roche's statement which was handed out to every reporter who attended the hearing. They were also reported the following day in the New York Times and Washington Post and were in the transcript General Motors returned to the subcommitee after making suggested corrections. The text of Roche's testimony that is still made available by the corporation today continues to include these words.

Th wide public distribution of Roche's statement and its reporting in the press made it extremely unlikely that General Motors would have been able to gain anything by engaging in some unethical or illegal conduct to have these words deleted from the transcript. No evidence of such conduct has been found.

The Justice Department specifically therefore concluded that a printer's error was the likely explanation, particularly in light of the series of clerical and printing errors made throughout the transcript. This conclusion was also reached by Thomas Whiteside in his book, "The Investigation of Ralph Nader". (See pp. 167–168.)

In considering Nader's allegations of transcript changes, it is appropriate to note that Nader made 96 changes in his own testimony. All were grammatical or minor, except one instance. In that case Nader made a substantive change in his qualifications to evaluate engineering and statistical information (Tr. 1127, record 1510). In response to Senator Kennedy's question whether he had any training as an engineer, the original transcript shows Nader answered as follows:

"Mr. Nader. I have no formal training as an engineer, Senator. I have picked up and learned through the process of self education a considerable amount of knowledge in this area as well as in statistics."

That answer was changed in the printed record to read as follows:

"Mr. Nader. I have had no formal training as an engineer, Senator. I have familiarized myself with engineering materials and have a knowledge of statistics. As an attorney I am also trained in the evaluation of evidence for sound policymaking."

We believe we should also point out that the subcommittee staff cooperated completely with Nader in his search for an original hearing transcript before he made his charges. In fact, it was our suggestion that he contact the radio–TV networks to ascertain whether they had a recording of the hearing. They did, and thus Nader was able to obtain a tape recording. This conduct is hardly consistent with an effort on our part to conceal the transcript changes.

We believe that no significant changes in the transcript were made by GM or Nader and that the reporter's omissions were insufficient to mislead the Justice Department or the general public.

B. Alleged pressure on Carl Thelin

On Monday, October 12, 1970, prior to our first interview with Thelin on November 28, he was approached by William Milliken, Jr., director of the division in which he worked at the Cornell Aeronautical Laboratory, regarding his involvement in the Corvair controversy. Milliken expressed concern that Thelin's statements might jeopardize the laboratory's confidential military and civilian contracts. During the conversation, Thelin raised the possibility that he might be required to go to Washington for an extended period during a Government investigation. Milliken responded that if he did go, it would have to be "on your own," and then added, "you might not have anything to come back to."

Later that same week, on Wednesday or Friday, Milliken again spoke with Thelin. They discussed the stability and handling of the Corvair at some length and then Milliken said that if Thelin was called to Washington for a long time, "it would be treated like jury duty."

We asked Thelin if he felt threatened by this incident. He answered, "I felt an indirect threat. The only thing he said was that if I went to Washington I would be on my own and I interpreted that [to mean] that when I came back I'd have nothing to do * * * And later on he said he didn't mean for it to be that way. And I'm sure that he doesn't mean for it to be that way. I take it from the many conversations that we've had since then that he wouldn't take a move like that."

We also met with Milliken about this episode. He assured us that he had meant no threat to Thelin. His remark that if Thelin went to Washington, it would be "on his own," simply reflected the laboratory's decision to separate Thelin's personal involvement in the Corvair matter from his position as an employee. He believed any misunderstanding about Thelin's employment status at the laboratory was quickly eliminated by their subsequent conversations.

An abbreviated version of this episode was reported later in the Washington Post on March 10, 1971 (Washington Merry-Go-Round, p. B13). The article implied that this matter should have been referred to the Justice Department for investigation. We disagree.

Title 18 U.S.C. 1505 makes it a crime to threaten any witness in connection with any congressional committee investigation. It is obvious from the above that these events took place several weeks before our first interview with Thelin. We had had no contact with him at the time they occurred. Accordingly, Thelin was not a "witness" within the meaning of the statute.

Moreover, Thelin did not raise the matter with us at either our November or December interviews, and later told us, "you're beating a dead horse * * * There was a misunderstanding between Bill and me and it probably was only a misunderstanding * * *". We believe the matter was insufficient to warrant referral to the Justice Department.

Thelin resigned from the laboratory in September 1972, to accept a position as an automobile safety engineer at Consumer Union. Thelin wrote to us, "I sought this job, not to escape any pressure at CAL, but because I believe that this assignment will be more career-like than the job-shop-like atmosphere of fighting for contracts at CAL."

C. Altered and missing documents

During our investigation Nader and Sellers alleged that certain documents submitted to the subcommittee in 1966 by GM and Gillen were altered and that other material had been withheld from us. Upon investigation, we found that the title page of the detective report on Nader had been changed before delivery to the subcommittee, the first page of Gillen's instructions to his agents had been omitted and three letters between Eileen Murphy, the GM law librarian, Richard Danner, the GM Washington lawyer, and detective Gillen were not disclosed.

Gillen acknowledges changing the title page of the detective report.

As submitted to the subcommittee in 1966, the title page read:

"This investigation was initiated to obtain detailed background information on Ralph Nader, author of the book, "Unsafe at any Speed," and of various articles. The primary objective is to fill in those periods of his life not covered in preliminary information, with emphasis on anything showing prejudice against automobiles or their manufacturers, or any subsidy involved in his writings."

At our request, GM supplied a copy of the original first page.

It read:

"This investigation into the background of the above was initiated for a client or our client, who is considering making a job offer to Nader. Client company, or organization, is impressed by Nader's apparent intelligence, talent for research and writing ability, but wish to know more about him before aproaching him. Investigation to concentrate on his prejudices, political leanings, source of income and any other area which might embarrass any employer."

In connection with the March 1966, hearing, Gillen provided the subcommittee a copy of his instructions to his agents consisting of six typewritten pages. We asked GM if any part of the document had been altered or was not furnished to the subcommittee in 1966. GM denied any knowledge of changes in it, but provided us an additional page which Gillen had not submitted in 1966. We established that GM received the page after June 16, 1967, as a part of the discovery in a law-suit by Nader against Gillen in the New York State courts. Gillen alleged in his deposition in the case that GM had participated in the alteration of the document.

The three letters referred to above were from Murphy to Danner on February 25, 1966, Danner to Gillen on February 28, and

Gillen to Danner on March 3. The letters are now in the public domain (see Whiteside, The Investigation of Ralph Nader, pp. 126–127). GM told us that the letters were not given to the subcommittee in 1966, because the investigation had terminated and hence they were not within the scope of the subcommittee's request for documents.

We did not spend much time on any of these matters during our investigation and will not devote more space to them here. None of them was ever related to the testimony on the stability and handling of the Corvair. The Justice Department memorandum makes clear that it had access to all these documents and allegations concerning them and found no basis for further action against GM. Accordingly, we consider these matters closed.

D. Vincent Gillen

Gillen was the private detective employed by GM to investigate Nader's background in 1966. In the two subsequent Justice Department investigations for the subcommittee in 1966 and 1967, he was interviewed twice by the FBI and was deposed by Nader's lawyers in Nader's civil suit against him. After reviewing the deposition and all other available relevant information, the Justice Department twice concluded that there were no grounds for prosecuting any individual in connection with the March 1966 hearing. The Department again reaffirmed this conclusion in 1971 (see exhibit 35).

During our interview with Gillen, he revealed no new information which was inconsistent with his previous statements or which materially added to the evidence presented to the Justice Department.

E. Eileen Murphy

Miss Eileen Murphy, the retired GM law librarian who played a primary role in the investigation of Nader, was the first person we attempted to see in our investigation. At Nader's urging, we called her on our initial trip to Detroit in December 1970, to arrange an interview. She declined to see us and reported our request immediately to the Corporation. GM informed us that Miss Murphy had a serious heart condition which was previously unknown to us. Accordingly, in the absence of any indication from Miss Murphy, or anyone else, that she would talk to us or could provide relevant information, we did not again seek to interview her.

However, in the summer of 1972, we learned that Thomas Whiteside had interviewed her for his book on the GM-Nader investigation. We then arranged an interview with Miss Murphy at her apartment in Detroit on October 17, 1972. She refused to allow the discussion to be tape recorded, but did agree to review the notes we took and make any additions or corrections she felt necessary. After reading our record of the conversation she asked permission for her former secretary at GM to retype portions of several pages. We agreed, advising her that, while we had not informed GM of our meeting, she was free to do so.

We need not recount the substance of our entire 2 hour interview with Miss Murphy. We believe it will suffice to list a few of the points she made which are relevant to our present inquiry or have some possible historical significance:

"(1) She was not involved in any Corvair litigation and had no knowledge of it. As she recalls, the principal concern over the Corvair cases was whether the legal staff had sufficient personnel to handle them properly.

"(2) She was not present when Daniel Boone, a GM lawyer, overturned a Corvair at the proving ground in December 1964. He did not discuss the incident with her. (Boone was the GM lawyer in charge of product liability litigation in 1964. He died in January 1965. The rollover is discussed further below.)

"(3) Bridenstine probably did not know of the initiation of the Nader investigation and she did not report to him concerning it.

"(4) The seven page so-called Murphy memorandum was "simply 'goodies' that she had been able to obtain herself from the O'Neill report and questions she had put to particular friends of hers." None of her friends had done any special investigation or questioning on her behalf but simply responded to telephone or personal inquiries of a general nature. Miss Murphy noted that most of the material in her memorandum is nothing but gossip and that in no way was the memorandum based on any other investigations other than the O'Neill report. As far as Miss Murphy knows, no other investigation was conducted but she firmly felt that someone was "trotting right after us while the investigation was going on."

"(5) She did not know whether Roche first learned of the Nader investigation on March 6, 1966, as he stated to the subcommittee."

We questioned GM about the Boone rollover and learned that it occurred during the preparations for a demonstration of the Corvair for lawyers and potential expert witnesses at the Mesa, Ariz., proving ground.

After analyzing the plaintiff's arguments, Boone had determined that the cases could be defended by proving through expert witnesses that the Corvair was not inherently unstable. This was the strategy GM used in the *Anderson* and *Collins* cases.

Charles Simmons, a GM engineer, was in the car with Boone at the time the rollover occurred and told us that it happened during a demonstration of understeer and oversteer. He explained that Boone had a tendency to slow down, as in normal driving, and so did not experience the oversteer. On his last attempt, he increased the speed of the car too greatly and it rolled over in a turn. Boone and Simmons apparently recognized the possibility that the car would overturn, because Simmons recalled they were wearing seat belts and crash helmets.

VII. CORPORATE RESPONSIBILITY

The ultimate question in the Corvair controversy extends beyond the details of the litigation and the interpretation of technical engineering data. The real issue is corporate responsibility—did GM meet its obligation to produce a car which is reasonably safe for driving on American roads and then, before ordering the Corvair defended in court, did the top management of GM fulfill their responsibility to inform themselves about its stability and handling?

We believe that the results of the DOT, recent Ford, GM and Consumers Union tests, plus the statements of McCluggage, Stroppe, and Rose require an affirmative answer to the first question. By every objective measure we have been able to find, the Corvair compares favorably in stability and handling with contemporary compact cars of that era.

One of the priority objectives of our investigation was to detemine whether the chief officers of GM were aware of the controversy over the stability and handling of the Corvair during the mid-1960's and, if so, what action they took concerning it. We believed this was vitally important because, if management was properly informed about the situation and still believed in good faith that the car was safe, it would be strong evidence that the subcommittee was not subjectively misled (i.e., that GM believed the Corvair was unsafe but testified otherwise). Further, it would tend to show that the corporation acted responsibly concerning the Corvair. Conversely, if we could not establish such facts, there would be grounds for a contrary conclusion.

We found no corroborated evidence that any engineer, lawyer or executive within GM thought the Corvair was unsafe at the time it was developed and produced.

Beyond this, our investigation disclosed that in May 1965, just prior to the trial of the *Anderson* and *Collins* cases, the top management of GM met with the Corvair lawyers and engineers to discuss the litigation. There was an offer to settle the *Anderson* case for $350,000 and Harney had offered to settle all 61 of his law suits for $5.7 million, The question was whether to accept the offers.

Those attending the meeting included Donner, chairman of the board; John Gordon, president of GM; James Goodman, executive vice president; Cole, vice president for car and truck operations; Knudsen, general manager of Chrevolet; from the legal staff, Power, Bridenstine, Rosiello, Adkins, and Frank Allen; and from the Chevrolet engineering staff, Hansen and Winchell. The lawyers had gathered together for presentation at the meeting all of the documents available at the time which might be used in an adverse manner. In discussing them, the lawyers expressed some apprehension about the outcome of the cases, but Winchell strongly maintained that the Corvair was safe and defensible. No one argued the car was unsafe. Hence, management decided to reject the settlement offers and to defend the cases.

Further, concerning corporate responsibility, GM assumed an obligation to bring to our attention all relevant information concerning the Corvair, even where it might be unfavorable to the car. We have already cited some examples of this. In addition, while preparing for the trial of a case in 1971, GM discovered that certain aftermarket tires could "adversely affect the handling of the car to a substantial degree." As a result, GM conducted laboratory and road tests on eight popular brands of aftermarket tires, size 6.50–13 in new condition, both in sets of four, and mixed with worn original equipment tires. Two models of the Corvair, and one front engine vehicle were used in the tests. GM found that the handling characteristics of the aftermarket tires tested varied considerably from each other, and from the new original equipment tires. Some of the 1971 model aftermarket tires substantially degraded the handling characteristics of all of the vehicles used in the testing. The GM tests were limited in scope and did not constitute a complete evaluation of the tires. However, they did show that under certain cornering conditions the Ward Riverside HST and General Jet tires gave the worst performance. GM informed DOT of these tests.

These test findings opened up an entirely new aspect of the stability and handling of the Corvair. They showed that when equipped with certain tires, the handling of the car is unacceptable under some driving conditions. Yet on other tires it was acceptable. But the significance of these tests goes beyond the Corvair, for GM found that the handling of the front engine car, the Chevy II, was also unacceptable with certain makes and models of tires. Clearly, this is an area which requires further research by the auto manufacturers, tire companies, and DOT. If DOT is to establish vehicle handling standards this will probably require comprehensive tire performance standards as well.

But there were some defects in GM's record of corporate responsibility. We have already pointed out that at certain places GM's testimony to the subcommittee and the Michigan Senate was imprecise. It was GM's responsibility to make its statements as clear as possible. If there were limitations on its assertions, they should have been explicitly stated, not supplied by others. We also pointed out GM should have disclosed the surveillance during the *Collins* case to the subcommittee.

In addition, GM's statement in the owner's manual concerning tire pressures was not comprehensible to the average driver. It said "Oversteer problems may also be enountered with incorrect pressures." In fact, most drivers do not understand what oversteer is and how it affects the handling of a car. At the time the Corvair was introduced, there was a widespread belief (not entirely accurate) that tire pressure differentials could sub-

stantially affect handling performance. This was not properly reflected in the owner's manual.

After talking with all the Corvair lawyers and engineers, we gained a clear impression that in the 1965–66 period, GM was not organized to respond to the demands of the Corvair litigation. Answers to interrogatories seemed to be made on an individual, ad hoc basis, documents appeared to be scattered throughout the corporation, and correlation between proving ground reports and films was very difficult.

The same lack of organization and coordination was apparent on the engineering side of the corporation. At one time or other during the development and production of the 1960–65 Corvair, Chevrolet R. & D., Chevrolet product engineering, and the GM engineering staff all worked on the Corvair rear suspension. Most of the time, one group did not seem to know what the others were doing. We understand that this situation resulted from the GM policy of decentralization and the desire of management to encourage some degree of competition among its employees, but we suspect that had the efforts of these groups been pooled, or better coordinated, the decision to alter the roll couple distribution might have been reached and implemented earlier than it was.

VIII. CONCLUSIONS

The history of the Corvair, from its early engineering development in the mid 1950's to the litigation concerning it in the mid 1960's is much like a giant jigsaw puzzle with thousands of pieces. Only when all of them are sorted out and fitted together does the entire picture of these events become understandable. We believe the foregoing sections of this report have presented the relevant evidence necessary for determination of the basic issues before you. Accordingly, based on this record, and the evidence available to us, we submit the following conclusions:

1. The Subcommittee on Executive Reorganization was not misled by the testimony of GM witnesses concerning the stability and handling of the Corvair at the hearing on March 22, 1966. As indicated above, the DOT, GM, recent Ford and Consumer Union tests support the GM contention that the handling performance of the 1960–63 Corvair compares favorably to similar contemporary cars. Furthermore, the executive level meeting of May 1965 demonstrates that the responsible officials of GM believed in good faith, with sufficient knowledge, that the Corvair was safe and defensible in court. We were unable to find any evidence that they negligently or willfully failed to consider any documents or information which would have led a reasonably prudent executive to a contrary decision.

2. GM did not engage in any fraud or deceit in its conduct of the *Anderson, Collins* and other cases we reviewed.

3. None of the other matters alleged by Nader warrant further investigation by the subcommittee or reopening of the hearings. In particular, we reaffirm the subcommittee's previous conclusion that the 1966 hearing protected the integrity of the legislative process and safeguarded the right of witnesses to testify free from harrassment or intimidation. (S. Rept. 951, 90th Cong., 2d sess., 1968, p. 33).

4. Nader's accusations against Frank Winchell are unjustified. Winchell bore the brunt of Nader's charges in the letters of October 23, 1970, and July 8, 1971, both of which were publicly released and widely reported. Accordingly, we believe it is appropriate to state for the record that we could find no factual basis for Nader's allegations. So far as we could determine, in his testimony in court and interviews with us, Winchell's statements were accurate and honest to the best of his knowledge and ability.

5. GM's record of corporate responsibility concerning the Corvair contains both pluses and minuses. The relevant facts and information have been discussed above. We do not believe any of these matters warrant further investigation or hearings by the subcommittee, or referral to Federal or State law enforcement agencies.

Necessarily, our conclusions are based only on the record before us. Though we have sought to make a thorough investigation, there may be some contrary documents and information which we have not uncovered or, which were not brought to our attention, as requested, by Nader, GM, and the people we interviewed during our 2½-year investigation. In the absence of such evidence, we have reached the judgments set forth above.

In closing our report it is important also to point out those matters on which we reached no conclusion. Though we have made a comprehensive investigation of the engineering development of the Corvair and certain litigation concerning its stability and handling, the conclusions we reach are limited by the focus of our inquiry. The basic issue before us was whether the subcommittee was misled about the safety of the Corvair. We believe our investigation has satisfactorily resolved that question. But we express no opinion on the technical questions relating to the ultimate safety of the car. Nor do we sanction every action of GM in all the cases litigated during the past decade or express any opinion on the outcome of those trials. We determined only that there was no fraud in the cases we reviewed.

EXHIBIT 1

A CRITIQUE OF THE NHTSA DEFECT INVESTIGATION OF THE 1960–63 CORVAIR HANDLING AND STABILITY

(By Carl E. Nash)

I. BACKGROUND TO THE NHTSA CORVAIR HANDLING AND STABILITY DEFECT INVESTIGATION

ORIGINS OF THE SWING AXLE CORVAIR

Maurice Olley was Chevrolet's Director of Research and Development until 1955. In 1956, he applied for a patent for a swing axle design which looks very much like the one used on the original Corvair. There is a crucial difference, however, in that Olley's design has a roll center about 35% lower than that of the Corvair. The reason for the difference was made clear in his patent, granted on November 3, 1959, in which Olley criticized the conventional swing axle such as was used on the Corvair:

"The ordinary swing axle, under severe lateral forces produced by cornering, tends to lift the rear end of the vehicle, so that both wheels assume severe positive camber positions to such an extent that the vehicle not only "oversteers" but actually tends to roll over. In addition, the effect is non-linear and increases suddenly in a severe turn, thus presenting potentially dangerous vehicle handling characteristics." [1]

Among the objects of Olley's design were "to reduced [sic] the roll couple carried by the wheels and, therefore, reduce the tendency of the vehicle to 'oversteer.'" Another object was "to provide a suspension of this stated character which is simple in construction, low in cost and efficient in operation." Olley also stated, "[t]ests have shown that by dropping the swing axis only a few inches, significantly improved results are obtained." The patent was assigned to GM indicating that these design subtleties had been explored in GM's test facilities at least three years before the first Corvair was sold to the public.

Although Olley was brought back from retirement by GM in 1959 to give his public endorsement of the Corvair design, he still had doubts about it. In a paper written in April 1961 for General Motors' internal use only, Olley said:

"It is shown that in the present Corvair the swing axle, due to lift, handles rather worse than a solid axle, but other studies have shown that this effect decreases rapidly as the roll couple carried by the swing axle is decreased." [2]

The design parameters proposed here by Olley were those eventually incorporated in the 1964 model Corvair. Designs which reduced the rear roll couple of swing axle suspensions had been incorporated on the swing axle Porsche and Mercedes Benz well before the original introduction of the Corvair. The decision to ignore these design advances on the Corvair was dictated by cost considerations, consistent with the GM policy of giving safety second priority to cost.[3] The roll couple distribution between front and rear suspension can be altered in at least two ways. The rear roll couple can be reduced by lowering the height of the rear roll center, or by directly reducing the roll resistance of the rear suspension springs.

The former would have required extensive redesign of the rear suspension springs. The former would have required extensive redesign of the rear suspension, so that for the 1964 model Corvair, a transverse leaf spring with no roll resistance was used to support part of the weight of the car, allowing a reduction in the stiffness of the rear coil springs. The total roll resistance of the vehicle was kept approximately as before by adding an anti-roll bar to the front suspension.

Assuming evidence submitted to the National Highway Traffic Safety Administration (NHTSA) for their Corvair handling and stability defect investigation [4] constitutes all relevant material from GM, tests of the 1960 model Corvair handling and stability were sparse to say the least. The first recorded GM tests of a production design Corvair in emergency maneuvers were not made until April, 1959, just before production was to begin. In a summary discussion of these tests, the GM report states:

"J Turns to the right were tried on the Military skid pad at 15, 20, and 25 m.p.h. Right rear wheel lift was noticeable at 15 and 20 mph. At 25 mph the vehicle rolled onto its top." [5]

Later Proving Ground reports on these tests, conducted in 1962 and 1963 (PG–15699 [6] and PG–17103 [7]) showed that only two changes resulted in a substantial improvement in the stability of the Corvair in J turns. First were those changes which were subsequently incorporated into the 1964 model—a redistribution of the roll couple toward the front suspension. The second change which was done strictly for recording purposes, was the addition of two high speed movie cameras to the rear of the vehicle which lowered the center of gravity 0.8 inches and moved it back 4.7 inches. The cameras increased the weight at the rear from 1,771 pounds to 1,981 pounds and increased the moment of inertia of the vehicle about all principle axes. General Motors report PG–17103 concluded:

"These tests showed that the dynamic stability of the current production 1963 Corvair was not substantially improved through practical modifications to shock absorber design and configuration. A test phase which incorporated a pair of high speed movie cameras mounted on outriggers to the rear of the car, showed that this change in the weight distribution prevented the car from overturning during these test maneuvers.

"A 1964 prototype suspension installed in the car made the dynamic stability characteristics acceptable for several different test conditions."

The importance of such loading was to become a central issue in the much later government tests of the Corvair. The GM engineers found the pre-1964 Corvair without the cameras relatively easy to roll at speeds between 25 and 40 mph even with improved

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Footnotes at end of article.

shock absorbers and shorter limits on suspension rebound travel.[8]

Consumers who owned Corvairs were also experiencing difficulties with the Corvair. Within six years of the introduction date, more than one hundred suits alleging handling instability had been filed against GM. Although most of these suits were settled for small amounts following GM's controversial success in two of the early suits, several were settled out of court for amounts on the order of $100,000 and more.[9] Up to the time of the NHTSA investigation of the Corvair, 219 such suits had been filed.

INITIAL GOVERNMENT INTEREST IN THE CORVAIR

The issue gained wide public notoriety with the publication, in late 1965, of Ralph Nader's *Unsafe at Any Speed*.[10] The first chapter of this work, "the Sporty Corvair," detailed the case against the Corvair's handling and stability as it was known at that time. The book, and the subsequent admission of General Motors' then President James Roche that his company had conducted an investigation into Nader's private life, gave impetus to the movement in Congress to pass Federal auto safety regulation legislation.[11] This legislation, which was signed into law on September 9, 1966,[12] and contained a section which authorized investigation by the Secretary of Commerce (later the Secretary of Transportation) into motor vehicle defects which might affect traffic safety, and subsequent notification of vehicle owners by the manufacturer if a defect was found.

There was considerable debate in the new safety agency over the question, not addressed by the legislation, of whether the Act covered defects in vehicles built before the passage of the Act. The debate had not been decided by April 24, 1968 when Nader wrote to Lowell K. Bridwell, Administrator of the Federal Highway Administration, under which the National Highway Safety Bureau (NHSB, precursor to the NHTSA) operated. Nader opened:

"The National Highway Safety Bureau is now entering its twentieth month under the auto safety law without having begun to exercise responsibility for achieving the recall of these defective vehicles which the manufacturers refuse to recognize. The most notorious of these defective vehicles are the 1960–1963 Corvairs, with their well-known handling instability (in addition to a catalogue of other distinctive hazards common to all Corvairs ranging from excessive fuel tank exposure, ramrodding-prone steering column and carbon monoxide leakage from the heater." [13]

A month later, Dr. William Haddon, Director of the NHSB, reacted to Nader's challenge by proposing to Bridwell the following:

"I . . . recommend that we take this [the issue of the Corvair's alleged propensity for crash involvement and lack of crash protection] to the National Academy of Engineering and request them, with whatever fiscal support they require, and within our, as you know, very limited resources, to appoint a blue-ribbon ad hoc group which would undertake to answer just as thoroughly and as objectively as possible the questions which have been raised with respect to the early Corvairs." [14]

Haddon was frustrated in his attempt despite repeated memoranda to Bridwell. His memorandum for the record dated September 17, 1968, reads simply, "No oral or other response has been received with respect to this memo [of July 24, 1968, asking for an opinion on the Corvair issue]. My position remains unchanged." [15] Beneath the typewritten memo is a later handwritten note stating that Bridwell did not want the Corvair issue opened, did not want Haddon to go to the National Academy of Engineering, and did not want a legal opinion on whether the NHSB could investigate defects on pre-September 1966 cars. By this date, however, the General Counsel of the Federal Highway Administration Howard Heffron had concluded in a memorandum that the Act covered defects in pre-1966 vehicles.

THE BEGINNING OF THE NHTSA INVESTIGATION

The Corvair issues lay dormant for two more years. Then on September 4, 1970, Nader addressed a letter to Secretary of Transportation John A. Volpe.[16] In this letter, he not only reiterated his view that the NHSB had a public responsibility to investigate the Corvair stability and heater (carbon monoxide leakage) defect issues, but charged GM officials with "collusion . . . to sequester and suppress company produced data and films proving the Corvair (1960–63 models) dangerously unstable."

The NHTSA opened what was to have been a four month arm chair investigation with a meeting between NHTSA defect office including Frank Mitchell and Robert Eaton. By the end of December 1970, the NHTSA had completed its evaluation of the evidence in its possession concerning the Corvair handling and stability, and it was rumored that the agency was prepared to find no defect in the Corvair handling and stability.

On February 23, 1971, Nader again wrote to the Secretary urging that the agency undertake its own objective testing of the Corvair.[17] He also transmitted an offer, made by a Michigan citizen of a Corvair for testing. Although the government accepted the car and kept it as a back-up vehicle, it was never used in the test program which was subsequently undertaken.

THE COMPARATIVE VEHICLE HANDLING TEST PROGRAM

The NHTSA hurriedly put together a test program based on NHTSA contract tests done at the Highway Safety Research Institute (HSRI) of the University of Michigan. Apparently the HSRI was asked, in March 1971, to perform the NHTSA's defect investigation tests on the Corvair and other contemporary cars, but declined because of the lack of a good test track. The original 1970 HSRI tests were designed to demonstrate the efficacy of input-response handling test procedures using programmed automatic driving equipment. Four vehicles had been used in the HSRI tests, a 1961 Corvair, a 1967 Ford Station Wagon, a 1969 Mercedes 250 sedan, and a 1970 Toyota 2000 GT sports coupe.[18] The Corvair was found to be comparatively unstable in some of these tests. The Corvair easily rolled against its roll limiting outriggers in a test in which "the limit response condition [condition in which the vehicle may be said to fail the test] . . . corresponds to the case where the rolling motion following release of the brake is so great as to cause the vehicle to roll over." None of the other cars in the test program reached this limit. The final report of the HSRI tests was submitted in November, 1970 to the NHTSA.

After HSRI turned down the Corvair defect test contract, Cornell Aeronautical Laboratories (CAL, now Calspan Corp.) was asked to take the contract. Vehicle purchasing was begun in Buffalo, New York (where CAL is located).[19] The CAL contract was withdrawn within about a week because of the discovery of a possible conflict of interest.

Mr. Carl Thelin, an employee of CAL at the time, had previously worked (from September, 1965 through 1966) for GM in their Product Analysis Group (a cover name for the Corvair litigation defense group). In 1970, Thelin acknowledged and confirmed some of the unethical tactics used by GM's legal defense in Corvair litigation. Because of the likelihood that GM would strenuously object to this possible conflict of interest, the contract was terminated.

On the recommendation of HSRI personnel, the Texas Transportation Institute of Texas A & M University (TTI) was hurriedly chosen as the sole source contractor to carry out the testing under the close supervision of six NHTSA engineers.

Because TTI had never carried out vehicle handling tests of the type proposed by the NHSTA, an HSRI engineer was contracted by TTI to demonstrate the use of the HSRI-developed automatic driving and test epuipment.[20] None of the six NHSTA engineers assigned to the project were recognized experts in the field of vehicle dynamics. The project engineer, Ernest Wittich, was a sixteen year veteran of GM (Buick and Oldsmobile Divisions) before joining the NHSTA in 1968.[21] Mr. Wittich doesn't hold an engineering degree, and received all of his technical training (mainly in the area of service and reliability) from the General Motors Institute. Wittich also had the potential of a direct financial conflict of intrest in that he concurrently held stock in GM while supervising the Corvair testing.[22] It was not for lack of other engineers in the NHTSA or even in the Office of defects investigation that Wittich was chosen as project engineer. There were approximately twenty other engineers in the defects office alone. The NHTSA's insensitivity to Wittich's potential conflict of interest when compared with their hypersensitivity concerning Thelin, is but one obvious example of the way in which the investigation was biased toward exoneration of the Corvair.

To assure that all interested parties agreed on the complex technical aspects of the expensive comparative tests being undertaken by the NHTSA, associates of Nader asked permission to have an observer at the sight of the tests but were turned down. They next asked for public review and comment on the agency's test conditions and procedures and were again refused. The NHTSA would agree only to receive blind comments and suggestions. Both GM and Gary Sellers, an attorney and former associate of Nader, submitted comments. Thus the agency afforded no opportunity for discussion or comment which would have helped to assure that they were fully informed of all views on the test methods and conditions.

In his letter to Rudolpho Diaz, Acting Associate Director of the NHTSA's Motor Vehicle Programs, Sellers stressed that the Corvair be tested with "the critical variables . . . at the most severe levels—those most likely to reveal the defects alleged—or the differentials in the margin of safety present." [23] Diaz replied on March 25, 1971, with the statement, "Your suggestions are good ones. I feel that our test procedures can accommodate all of the specific recommendations you offered as to test criteria, vehicles to be tested and the necessity for 24-hour supervision to assure tamper-free test results." [24] The important issue, however, was whether the critical variables were at their most severe levels.

The NHTSA subsequently deemed that the overriding consideration was expediency in carrying out the tests, and violated Diaz' commitment to Sellers in several important respects. For example, when the agency engineers found that the weight of the test equipment overloaded the smallest of their test cars, the Renault Dauphine, the decision was made to load *all* of the vehicles, including the Corvair, to their maximum recommended load rating, rather than make adjustment in each vehicle in the amount of equipment used.

The NHTSA sanctioned the heavy loading despite the fact that their engineers claimed to have carefully studied a GM proving ground report, PG–17103, which showed that the effect of loading the rear of the Corvair was to make it "very stable." In these GM tests two high speed cameras had been mounted low and behind the rear bumper of a nearly stock Corvair to film the tires

Footnotes at end of article.

and rear suspension during j-turn tests. These emergency maneuvers performed at speeds of from 27 to 36 mph resulted in no rollovers, and the test report notes, "the car looked very stable." After the cameras were removed, reducing the weight on the rear wheels by more than 200 pounds, a 30 mph j-turn was performed with the vehicle otherwise as before.

The report notes that this time, "the car rotated to the right approximately 180° and the right rear wheel lifted approximately 2 feet. High speed movies taken of this test showed that the car was very nearly in a roll condition." The NHTSA engineers ran their 1971 tests with the Corvair in a condition rather similar to that which GM had found "very stable" eight years previously.

All vehicles in the test program at TTI were fully loaded, "to match the manufacturer's maximum recommended weight with passengers and luggage." (Maximum recommended weight usually refers to six passengers and about 200 lbs. of luggage.) But it cannot be claimed that the distribution of the weight matched that of passengers and luggage. Aside from the test equipment, which was mounted low in the passenger compartment, it appears from the film of the tests that the extra weight was added primarily to the ends of the vehicle below the center of gravity. This extra weight, combined with the weight of the outrigger used to prevent overturning, significantly increased the yaw moment of inertia as well as the roll moment of inertia. The combination would make the Corvair both more resistant to drastic oversteer (spinout) and to overturning. The lowering of the center of gravity which probably also occurred (although it was not measured) would also have enhanced the vehicle's stability.

The "loading" decision was curious for at least two other reasons. First, the HSRI test equipment as used in their Michigan tests in 1970 weighed less than 350 pounds while the NHTSA had twice that amount in their cars. No explanation is given for the extra weight in the NHTSA tests, nor does it appear that they could measure any important parameters that HSRI could not. In fact, much of the equipment was the same in both tests. Second, the two comparison test vehicles which caused all of the vehicles to be fully loaded—the Volkswagen and the Renault—were small foreign vehicles whose handling qualities were known to be at least as bad as is the Corvair's.

Drivers of these small foreign sedans were well aware of the radical differences between the handling of these cars and that of typical American cars. The Corvair, on the other hand, was designed to seem as much like an American car as possible, with fairly "slow" steering and considerable understeer under moderate cornering stress. Thus, adding the Renault and VW to the tests compromised them by making it seem necessary to load all of the test cars to their limits. The performance of the Renault and VW was not pertinent to the goal of the testing and was a waste of both time and money.

Even had the NHTSA engineers not been aware of the handling and stability performance advantage given by heavily loading the Corvair, it must have become obvious to them shortly after the testing commenced that their Corvair was exceptionally stable. However, rather than re-evaluating their test conditions and procedures, the NHTSA engineers compounded their error by simply continuing their tests with the fully loaded cars.

The NHTSA personnel were further confronted with the fact that their own test results were completely at odds with all other test findings on the Corvair. Professor Leonard Segel, head of Physical Factors at Highway Safety Research Institute, and one of the authors of the HSRI vehicle handling test report in which a 1961 Corvair was tested, suggested a rationale for the outcome of the NHTSA's Corvair investigation:

"It seems patently clear that the DOT personnel, having produced negative findings in the Texas tests, reevaluated the data developed and furnished by other parties and drew conclusions which they felt to be consistent with their own test findings. On the basis of personal conversions that I had with DOT personnel associated with this program, it is my recollection that they fully expected the Corvair to roll over in the course of the test program. Since it did not (according to the official report), it appears that NHTSA staff have gone to some effort to discredit the conclusions drawn by others or to interpret the test findings of other parties in a manner so as to make their own findings look reasonable. Whether there has been any effort to twist the facts would be difficult to say. For example, I can see how NHTSA personnel and the evaluation panel, in view of their fundamental limitations in separating the "wheat from the chaff," would arrive at the position expressed in these two documents in the fact of the hard evidence produced in Texas." [25]

One must conclude that either the NHTSA and TTI personnel knew that these tests would not demonstrate the Corvair defects, or these personnel were not professionally competent to carry out a valid Corvair handling and stability test program.

The loading of the Corvair was justified by Secretary Volpe by noting that Sellers had suggested that the Corvair be tested "also with the maximum recommended load." [26] However, Sellers' overriding requirement was that critical variables be at their most severe levels. In the case of the Corvair, it is apparent that the most severe level of vehicle loading is lightly loaded—as with a driver alone or driver and passenger only.

VEHICLE DEGRADATION AND OTHER FACTORS

One issue not addressed at all in the Corvair handling and stability investigation was the effect of degradation of tires and suspension components on the stability and handling of the Corvair. Precedent was set in the other Corvair defect investigation, into the Corvair direct air heater, that normal degradation should be considered a factor in a defect investigation.

The Corvair uses air to directly cool the engine of the car. In the process, the air passes over all parts of the engine including the exhaust manifolds. The air heated by the engine is then used by the direct air heater to warm the passenger compartment. It was alleged that there was a significant likelihood that this air could become contaminated with exhaust gases containing the poisonous gas carbon monoxide from an improperly sealed cylinder head (six individual seals), or from parts of the exhaust system (which had at least twelve joints in the direct flow of the cooling air, each with the potential for leakage).

Contrary to the practice used in the handling and stability investigation, vehicles which were in consumer's hands and were in various states of degradation were tested for carbon monoxide leakage (CO) into the interior of the cars from the heating system.[27] No attempt was made to bring the cars up to the original condition before testing, or to otherwise repair them. In contrast, in the case of NHTSA's handling and stability tests, the only Corvair used was renewed to approximately original condition before any testing was performed. The factor of degradation was never even considered in the handling investigation.

The automobile safety law does not limit the definition of a safety defect or its direct potential to one which must be present at the time of a vehicle's manufacture. It is obvious from the legislative history that a safety defect can be the result of unforseen degradation.[28] Specific cases in which the NHTSA has determined a defect such as the Corvair heater case and the Chevrolet engine mount case, have set the precedent that degradation must be considered a factor in analyzing a safety defect under the law.[29]

On the basis of the NHTSA's test evidence, the 1965 model Corvair heater was declared defective by the NHTSA on October 29, 1971. Although GM denied the defect on the basis that the vehicles would have no CO leakage if kept in optimal condition, it agreed to send defect notifications to all owners of 1961–69 Corvairs. The notification did not comply with the minimum legal requirements, so that the NHTSA caused a second letter to be sent from GM to Corvair owners. GM refused, however, to pay for any repairs necessary to eliminate the defect other than their obligated warranty repairs.

The Corvair heater defect also exacerbates the effect of the Corvair's handling instability in that carbon monoxide from the Corvair heater may cause a driver's perception and reactions to become impaired. Such an impaired driver would be even less able to cope with the Corvair's unusual responses in emergency maneuvers.[30] The fact that General Motors refused to recall the Corvair for the heater defect or to recommend an adequate repair for the defect means that most Corvairs continue to have the potential for carbon monoxide leakage from their heaters.

A second allegation concerning the Corvair's stability was also never addressed in this defect investigation. Having a high proportion of weight at the rear (nearly two thirds of the total vehicle weight), the Corvair could be expected to be less stable under side wind buffetting than the more conventional front engine car. This is because the further forward the center of gravity of a vehicle, compared to the center of pressure due to a side wind, the better the vehicle's ability to hold a straight course without steering correction. A lightly loaded vehicle would be most sensitive to sidewinds.

THE ENGINEERING PANEL EVALUATION

To give the NHTSA defect investigation the approval of independent professionals before its public release a group of three outside engineers was empanelled by the NHTSA on September 15, 1971. Their charge was "to arrive at joint panel findings, conclusions and recommendations about past and future NHTSA programs for evaluations of the 1960–1963 Corvair handling and stability." [31] The panel included an auto racing specialist, an aerospace engineer, and a highway engineer. The latter, Dr. Paul H. Wright, had a potential conflict of interest in that he was currently under contract with the NHTSA to produce Multidisciplinary Accident Investigations. Should his findings have embarrassed the agency, it might well have jeopardized his contract.

The NHTSA's panel of engineers was somewhat more critical of the Corvair than was the NHTSA. The panel noted that a Corvair's lateral acceleration "might go from 0.3 g to 0.6 g in a quarter to a half second depending on the attitude and speed of the vehicle." They further noted that the difference between cornering at .4 g. on a 108 ft. radius curve and at .6 g on a smaller radius curve is only about ⅛ turn of the steering wheel, and that the vehicle approaches divergent instability at around .6 g lateral acceleration. (Lateral acceleration is the acceleration toward the center of a curve resulting from the sideward forces between the road and tires. Here it is expressed as a fraction of the acceleration due to gravity in a free fall.) The panel recommended that owners be cautioned about the "unusual handling characteristics under conditions of hard cornering," and about the need for correct tire pres-

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sures to avoid exacerbating the unusual handling.

The NHTSA issued a press release on August 12, 1972, stating that such a communication would be sent to Corvair owners. The four page proposed text of the letter was attached. The first 2½ pages summarized the NHTSA's position on the issue. The cautions concerning tire pressures and the understeer-oversteer transition recommended by the panel were buried at the bottom of the third page, written in such bland and reassuring language as to defeat the purpose of the warning. Subsequent protests from the Senate Commerce Committee and Nader caused NHTSA Director, Douglas Toms, to reconsider sending the letter. In a letter to Nader dated September 21, 1972, Toms admits "we lean toward the view that the $100,000 [the cost of sending the letter to the several hundred thousand remaining owners of early Corvairs] can be put to more productive uses." No letter of any kind was sent to Corvair owners on its handling problems.

CONCLUSIONS

The NHTSA issued its findings on the Corvair handling and stability defect investigation in a 134 page report, along with the engineering panel's 24 page report, on July 12, 1972. A detailed critique of the NHTSA report is contained in part II of the present paper.

The NHTSA will not have any vehicle handling standards for new cars anytime in the foreseeable future, according to its latest program plan. The NHTSA had assumed that by making comparisons between the Corvair and other contemporary small cars, that the issue of the validity of the tests themselves would not have been raised. However, the extremely idealized and limited conditions of the vehicles and tests make generalization of the test results completely unwarranted. It is not known, for example, if loading a conventional front engine vehicle causes an improvement or a degradation in the response of the vehicle to inputs from the HSRI tests. It is clear that the Corvair's emergency maneuvers response improves considerably when it is loaded. However, a heavily loaded Corvair will be operating much closer to its design limits and may therefore be more likely to suffer catastrophic failure of the tires or suspension components.

It had initially been hoped that the Corvair defect investigation test program would add to the general knowledge of vehicle handling standards and their compliance test procedures. In fact, little or nothing was learned which could be said to advance the understanding of the connection between vehicle handling and stability, and traffic safety.

FOOTNOTES

[1] Olley, Maurice, "Independent Rear Suspension for Vehicles," Patent number 2,911,052, application May 13, 1956, issued November, 1959.

[2] Olley, Maurice, "Corvair Steering," April, 1961, p. 11.

[3] Rubly, Charles, "Suspensions from the Ground Up," Chevrolet Motor Division, General Motors Corp., for presentation to the SAE National Automobile Week, Detroit, Mich., March 15–17, 1960. Cost was listed in this article as the primary reason for using the swing axle in the Corvair.

[4] The file for IR–279 is available from the Technical Reference Division, National Highway Traffic Safety Administration, Department of Transportation, Rm 5108 Nassif Building, Washington, D.C. 20590. General Motors claims to have supplied the NHTSA with all test materials which are relevant to the Corvair handling and stability.

[5] General Motors Proving Ground Report PG–11106, June, 1959.

[6] GM Proving Ground Report PG–15699, June 14, 1963.

[7] GM Proving Ground Report PG–17103, March 30, 1964.

[8] In PG–17103, the Corvair with 1962 and 1963 suspensions rolled in five out of 26 tests. In PG–15699, the Corvair rolled nine times in 59 runs with various modifications to the shock absorbers and springs.

[9] Nader Ralph, *Unsafe at Any Speed*, Grossman Publishers, New York, 1965, p. 9. Pierini v. GM was settled out of court for $70,000, Veatch v. GM was settled out of court for $150,000, Furr v. GM was settled for $49,000, Cantos v. GM was settled for $66,000 to be paid by both GM and a San Fernando, California auto dealer, Franklin v. GM was settled for "a very substantial amount" which could not be disclosed as a condition of settlement imposed by GM.

Many of the lawyers for the plaintiffs settled or dropped their cases because they could not sustain the financial drain imposed on them by a battery of GM attorneys and technical employees armed with cameras and other equipment for courtroom use.

[10] Ibid.

[11] Hearings before the Subcommittee on Executive Reorganization "Federal Role in Traffic Safety," Part 4, March 22, 1966.

[12] National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89–563, enacted September 9, 1966.

[13] Letter from Ralph Nader to Lowell K. Bridwell, Administrator, Federal Highway Administration, dated April 24, 1968.

[14] Memo from Dr. William Haddon, Jr., Director, National Highway Safety Bureau, to Mr. Lowell K. Bridwell, dated June 4, 1968.

[15] Memorandum for the record from Dr. Haddon dated September 17, 1968.

[16] Letter from Ralph Nader to Secretary of Transportation John Volpe dated September 4, 1970.

[17] Letter from Ralph Nader to Secretary Volpe dated February 2, 1971.

[18] Dugoff, Howard, R. D. Ervin, and Leonard Segel, *Vehicle Handling Test Procedures*, Highway Safety Research Institute, University of Michigan, Ann Arbor, Michigan, November, 1970 (prepared under contract FH–11–7297 with the National Highway Safety Bureau.)

[19] *Input Response Tests of Selected Small Passenger Cars*, Texas Transportation Institute, Texas A & M Research Foundation, College Station, Texas, November, 1971, pp. 20, 21.

[20] Ibid., p. 1.

[21] Letter from B. A. Boaz, Acting Director, Office of Consumer Affairs and Public Information, NHTSA, to Carl Nash dated August 8, 1972.

[22] October 6, 1972, deposition of Ernest Paul Wittich in Dillon v. GM, U.S.D.C. Central District of California, No. 71–2162–ALS.

[23] Letter from Gary Sellers to Rudolfo A. Diaz, Acting Associate Director, Motor Vehicle Programs, NHTSA, dated March 17, 1971. Purchase of most of the test vehicles had been completed prior to this date.

[24] Letter from Rudolfo Diaz to Gary Sellers dated March 25, 1971.

[25] Letter from Leonard Segel, Head, Physical Factors Group, Highway Safety Research Institute, University of Michigan, to Ralph Nader, dated August 17, 1972, p. 1.

[26] Letter from Secretary of Transportation John A. Volpe to Ralph Nader dated September 15, 1972.

[27] IR–249, the NHTSA defect investigation into the Corvair Direct Air Heater, was opened during September, 1970, and concluded on October 29, 1971.

[28] Testing was carried out on 292, 1961–69 Corvairs by the Automobile Club of Southern California, among which a significant number were found to have dangerous amounts of Carbon Monoxide in the passenger compartment from the heater.

[29] The Act defines a defect to include "any defect in performance, construction, components, or materials in motor vehicles or motor vehicle equipment." It gives the Secretary of Transportation the authority to investigate a defect which "relates to motor vehicle safety." The Chevrolet engine mount defect (IR–258) concerns the "possibility that separated motor mount may allow motor to lift, which may affect throttle linkage, momentarily increasing throttle opening, possibly to full throttle." The separation of the engine mount is a result of degradation of the rubber which allows it to separate from the metal plates which attach to the frame and engine of the car.

[30] Carbon Monoxide in levels as low as 50 parts per million is known to affect both the perception and motor response.

[31] *Panel Evaluation of the NHTSA Approach to the 1960–1963 Corvair Handling and Stability*, General Testing Laboratories, Inc., January 25, 1972, p. 2.

II. ANALYSIS OF THE NHTSA'S EVALUATION OF THE 1960–1963 CORVAIR HANDLING AND STABILITY

The NHTSA's *Evaluation of the 1960–1963 Corvair Handling and Stability*[1] is not an objective technical paper assessing all of the evidence and documentation concerning the handling and stability of the early Corvair. The report selectively discusses primarily the evidence which was made public before the release of the *Evaluation* in July, 1972, and then presents an abridgement of the Texas Transportation Institute report[2] on the NHTSA's tests of the handling and stability of the Corvair and five other small cars. Much of the important, but little known evidence concerning the Corvair's instability is simply ignored in the *Evaluation*.[3]

The major evidence discussed in the *Evaluation*, aside from the TTI test report, is as follows:

1. Miscellaneous items under the heading, "Analysis of General Motors Documents and Related Material." Although no attribution is given, much of this material was developed by General Motors for its defense of the Corvair, both against lawsuits and at the Michigan State Senate hearings of February 21, 1966.[4]

2. Two reports dated October and November, 1963, by John Garrett of Cornell Aeronautical Laboratory (CAL) which include rollover occurrence data in selected crashes on rural roads in Utah and New Mexico,[5,6]

3. A report, dated July, 1970, by Prof. B. J. Campbell director of the Highway Safety Research Center of the University of North Carolina.[7] The primary purpose of Campbell's report was to show injury rates in various makes and models of cars involved in standardized crash types. Campbell's data also include some statistics on the frequency distribution of involvement in various types of crashes.

4. General Motors proving ground reports PG–15699[8] and PG–17103,[9] given particular emphasis because Nader had brought them to public attention before the beginning of the NHTSA investigation. Discussion of these proving ground reports is scant, however. The NHTSA preferred to devote most of this part of its report to critiques of these reports by three independent engineers[10] which had been forwarded to the NHTSA by Nader.[11]

5. Films made by the Ford Motor Company in late 1959 which show a comparison of the handling characteristics of a 1960 Corvair and a 1960 Falcon,[12] with an analysis of the films made in 1971 by Harley Copp, a senior Ford engineer.[13]

Conspicuously missing from the NHTSA's *Evaluation* is discussion of the following relevant materials and facts:

1. The 1970 report from the Highway Safety Research Institute of the University

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of Michigan (HSRI) prepared under contract for the NHTSA concerning vehicle handling test methods.[14] The methods developed by HSRI under this contract were used by the NHTSA in its Corvair handling tests. Omitted by the NHTSA is any reference to the fact that a 1961 Corvair was one of the test vehicles used in the HSRI project, and that in the HSRI tests the Corvair rolled over a large number of times.

2. An unpublished update of the earlier week by Campbell in which the data base has been considerably expanded.[15]

3. GM proving ground report PG–11106,[16] completed in 1959, which showed that a 1960 model Corvair could be rolled in a j-turn on smooth pavement at a speed of 25 mph.

According to the NHTSA report introduction, the analysis of all documentary evidence on the Corvair handling and stability took place in less than four months at the end of 1970. (3) (Page references to the NHTSA *Evaluation* will be given in parentheses in the text.) Testing of the Corvair had not been contemplated until Nader wrote to Secretary Volpe on February 23, 1971,[17] urging that it be done. The introduction goes on to state that the testing was completed on July 15, 1971, (4) a full year before the results of the investigation were made public. No explanation is given for this 12-month delay.

CHOICE OF TEST METHODS

The discussion of the evidence considered begins with a section titled "Current State-of-the-Art." Here, the NHTSA report states that "Task Performance tests, which include the driver-vehicle interface were ruled out because of the inability to quantitatively measure the driver inputs and reactions." (7) The NHTSA concedes that the input-response tests used "had never been validated nor had they been correlated with actual driving maneuvers." (8) They were chosen primarily because they eliminated the human uncertainties and allowed "accurate repetition of a variety of steering and braking control inputs." (8) The NHTSA had contracted the development of the HSRI input-response handling test procedures and equipment as a part of its program to establish a motor vehicle safety standard for handling.

Carl Thelin, a former GM engineer, said in a recent letter to Clarence Ditlow,[18] a Nader associate:

Apparently, only HSRI and the DOT are proponents of this approach to evaluating automobile handling. Everyone else (this is probably not exactly true, but close) including me and GM do believe that the handling picture must include a normal driver and a roadway to drive upon.

Similarly, Harley Copp, Director of Engineering Technical Services Office of Ford's Product Development Group, said in testimony before the Senate Commerce Committee,[19]

The test methods employed by NHTSA are in no way representative of those used by the automotive industry for developing and measuring handling stability and controllability of our products. The point of these statements is that while it may be useful to evaluate vehicles in highly idealized tests (cars driven by machines or near perfect road surfaces) as was done by the NHTSA, an important part of any *comprehensive* vehicle handling test program should be to operate the vehicles with *drivers* on *real road conditions.*

OVERSTEER AND UNDERSTEER

The beginning of the discussion, "Control Characteristics," displays a full page drawing which purports to show the difference between oversteer and understeer. (13) Although no attribution is given, it is obviously copied directly from GM's testimony before the Michigan State Senate in 1966.[20] The illustration, and the accompanying text "an oversteering vehicle will tend to generate a smaller radius, with increasing lateral acceleration, without any change in steering angle." (12) are fundamentally misleading in indicating that an oversteering vehicle which is at the limit of control will leave the road toward the inside of a curve, with the vehicle heading in its direction of travel. The fact is that both under- and oversteering vehicles will leave a roadway with the radius of the path of the center of gravity increasing (that is, toward the outside of a curve) when they exceed their limit of control. The reason is that the centripetal forces generated by the tires are not large enough to continue to accelerate the vehicle toward the center of the curve. The terms "understeer" and "oversteer" indicate whether the front or rear tires will have greater side slip or will lose traction first. The understeering car (typical in America and considered desirable) will leave the roadway with the front of the vehicle leading. Given a sufficient unobstructed path, control can be re-established by either reducing the steering angle or the speed of the vehicle so that the front tires will regain traction.

The divergently oversteering car, on the other hand, will leave the roadway with the rear of the vehicle overtaking the front, spinning about a vertical axis. If the vehicle has rotated significantly, it will lose traction entirely, and control cannot be regained because the direction the car is heading will not coincide with the direction of the path of the vehicle.

The oversteering vehicle is also more dangerous than the understeering vehicle because of the likelihood of its turning broadside to its direction of travel. Regardless of its intrinsic propensity to overturn, the likelihood of a vehicle's overturning is considerably increased when it is traveling sideways so that the torques which would overturn it act perpendicular to the axis about which the moment of inertia is smallest. Oversteer is self-generating in that once a vehicle begins to oversteer, its lateral acceleration (which promotes the oversteer) is increased either by the fact that the curve of its path will have a smaller radius, or because the vehicle may be sliding sideways.

The Corvair was designed to understeer under most ordinary circumstances both because GM engineers believed that understeer is generally desirable and to make the normal handling qualities of the rear engine Corvair as similar to the front engine GM cars as possible. As cornering speeds or conditions become more severe the Corvair will begin to oversteer. It is the occurrence of this transition which is often blamed for the handling difficulties of the Corvair.

THE DRIVERS REACTIONS

The NHTSA report states (as did the draft of the letter to Corvair owners) that, "Drivers, though they may not be aware of their actions do correct for these phenomena [vehicle over- and understeer] in everyday usage of their vehicles."(14) No reference is given for this statement, nor is it stated under what conditions it is true. In fact, the statement is a tautology, being accurate only under the conditions in which drivers normally retain control of their vehicles. The statement has no particular value without some very careful experimental work to define the limits of its validity for drivers in a Corvair. To make that statement to Corvair owners is tantamount to guaranteeing that they will never lose control of their cars, a fact disproved daily on the highways.

The NHTSA discussion of the tolerance limits of drivers to lateral accelerations which may occur in their driving is equally simplistic. Loss of vehicle control on an incident-per-mile traveled basis is very rare, even in an early Corvair.[21] It is precisely the unexpected, though not necessarily unusual, condition—a defect in the road or vehicle, a heavy crosswind, an impaired driver, or an unusual traffic situation—which will lead to a crash. Under these conditions, the behavior of ordinary drivers under ordinary conditions simply does not apply to Corvair drivers in emergency conditions. Furthermore, the "basic research conducted by General Motors [which] has established that a driver, characteristically, when confronted with an unexpected obstacle, will not attempt evasive maneuvers which will require lateral accelerations in excess of about 0.3 g,"(14) refers to people driving conventional front engine vehicles. A driver in a Corvair may make a steering correction in an emergency condition which, if made in an ordinary vehicle, would not cause the vehicle's lateral acceleration to exceed 0.3 g, but which might cause the Corvair to go completely out of control.

The NHTSA's analysis also ignores the fact that the lateral acceleration experienced by a driver may not be directly related to the lateral forces which are generated instantaneously by the vehicle's tires. The report by the NHTSA states that "It also was observed in GM films and reported on at least one road test (Autocar, January 6, 1961) that wheel hop (patter) occurs prior to incipient vehicle breakaway, at which time the Corvair can still be controlled, indicating that discernible warning is given to the driver prior to the limit of control. (19) There is no indication in the NHTSA report that the driver is able to feel or hear the wheel "patter." The allegation that such warning is given is directly contradicted in a 1960 paper by Charles Rubly,[22] a GM engineer. Rubly's paper shows that lateral front seat frame motion induced by vertical wheel tramp in the Corvair is considerably reduced compared to other cars of the period so that the driver of a Corvair is, to a large extent, insulated from feeling the wheel motion. There is also no mention of wheel hop having occurred in the NHTSA's tests of the Corvair.

On the same subject, Mr. Copp notes:

". . . On these real world undulating roads the total vehicle lateral G forces are much lower than the transient and instantaneous lateral loads which are constantly developed between the tires and the road. Therefore, with most suspension systems running on undulating blacktop the total vehicle g loads are often very low while instantaneous G forces between the tires and road are near the critical point due to suspension system absorption of the undulations, bumps and changes in road camber." [23]

ACCIDENT DATA—THE CORVAIR IN THE REAL WORLD

The NHTSA's discussion of Corvair rollover rates is confusing because it includes three analyses of accident statistics which show two completely different aspects of the question of Corvairs handling and stability dangers.

The data in the Garrett study of rollover accidents carried out at Cornell Aeronautical Laboratory (CAL)[24] are probably a subset of the data used in Garrett's CAL Volkswagen study [25] (8749 vehicles in the former, and 45,523 in the latter). There was considerable selection in this data in that it includes only rural crashes in which there was personal injury. The rollover rate is also listed only as a percentage of these crashes, and not as a function of vehicle-miles traveled in the particular make or group. The CAL data are therefore not an indication of the effect of the Corvair's handling and stability on its likelihood of becoming involved in a crash, but rather are primarily an indication of its rollover instability when the Corvair is out of control during a crash. It is not surprising that the Corvair did not compare unfavorably in this tabulation because of its

Footnotes at end of article.

low center of gravity. Further, the dilution of the data by the inclusion of an indeterminant number of 1964 and later models, makes the data invalid for an evaluation of just the 1963 and earlier models which have a serious handling deficiency. For example, if the approximately twenty percent post-1963 Corvairs in the CAL study had a rollover rate half of that of the pre-1964 models, the overall rate of rollover for all Corvairs would be reduced by 10% from the rate for the pre-1964 Corvairs.

Rollover is not necessarily the best measure of a vehicle's handling and stability in any event. Rollover is usually preceded by a loss of control which means that the vehicle will turn at least partially sideways before overturning. North Carolina's Professor B. J. Campbell's data [26] are more directly indicative of the handling and stability problem which the Corvair and other rear-engine, swing axle cars have since it directly measures the incidence of crashes which are most likely to be due to handling defects. The NHTSA dismissed this data by noting that it included crashes in which there were blowouts, excessive speed, and impaired drivers. (32) The NHTSA's Multidisciplinary Accident Investigations have shown that virtually all crashes result from several factors including road and traffic conditions, driver error, and vehicle design. A vehicle handling defect will generally be exposed in an emergency situation brought on by other factors in which a non-defective vehicle could be kept or brought back under control. Obviously if all cars were kept in excellent condition, and all drivers were completely alert and well trained and operated their vehicles in a sensible manner, and all road conditions were reasonably good, the serious accident rate would be reduced to a very small fraction of what it is, regardless of the design of motor vehicles within fairly wide limits. What Professor Campbell's data show is that given normal range of operating conditions, the early Corvair will leave the road and crash, for whatever reason, significantly more often than typical cars of the period. Furthermore, Professor Campbell's later data (which the NHTSA failed to obtain) shows that the involvement rate in single vehicle crashes of the 1964 Corvair (with suspension improvements) is much nearer the mean for its contemporaries than is the 1963 and previous Corvairs. A similar trend is noted by Professor Campbell in the data for the Volkswagen sedan over the several years of modest improvement of its rear suspension system (1967–1969 models) which were similar to the evolution of the Corvair suspension.

GM'S PROVING GROUND TESTS

The next section of the NHTSA report is devoted to "Analysis of Documents Commented on by Engineers Cited by Mr. Nader." Cited in this section are the GM reports PG–15699 and PG–17103 (which had first been brought to the attention of the NHTSA in Nader's September 4, 1970, letter under their job numbers PG Job No. 032127 and PG Job No. 032307); [27] comments on these reports by three engineers, Ralph Smith, Albert Fonda, and Dimitry Sergay (submitted with Nader's December 15, 1970, letters); and a film from the Ford Motor Company showing Ford's comparison tests of a 1960 model Falcon and a 1960 Corvair, done in late 1959, and comments on the film by Harley Copp, sent to Senator Magnuson in 1971.

The NHTSA showed its willingness to accept GM's unsupported claims that PG–15699 and PG–17103 are not relevant to the agency's inquiry. The agency's summary states, "because of the nature and severity of these [GM] development tests which were not representative of the practical driving environment, these tests should not reasonably be interpreted to conclude that 1960–1963 Corvair is [sic] susceptible to rollover at low speeds on a flat surface in the normal driving environment." (35)

Rollovers occurred in these tests at speeds as low as 28 mph. The "practical" or "normal driving environment" is left conveniently undefined. Given the NHTSA's attitude toward the GM tests, it is curious that they chose to conduct their own tests using automatic driving equipment in input-response tests, since such tests must be even further from the "practical" and "normal driving environment" than are the GM tests.

General Motors had found, in proving ground test PG–11106 that the Corvair lacked stability in emergency maneuvers (in a 25 mph J-turn, the Corvair rolled on to its side). As a result of GM's concern for the Corvair's propensity for rollover in J-turns between 25 and 40 mph, they requested two test series be carried out at the GM proving ground, each designed to find the suspension modifications necessary to improve the Corvairs deficient roll stability. The changes in the suspension of the 1964 model Corvair "made the dynamic stability characteristics *acceptable* for several different test conditions." [emphasis added] The implication of this statement is that the "dynamic stability" of the earlier Corvair was less than "acceptable." Taken together, the three test reports constitute evidence, produced by GM itself, of serious deficiencies in the Corvair's handling stability. The fact that GM's tests showed the Corvair to have a handling instability should create a presumption of that defectiveness which the NHTSA should have directly attempted to rebut before rendering its conclusion.

In the NHTSA analysis of the GM tests, a particular point is made of the fact that "The center of gravity had been shifted upward and rearward as a result of these modifications to the vehicle [installation of a roll bar, removal of some glass and the rear seat, and minor body modifications in the GM test Corvair]." (36) The total shift of the center of gravity of the GM proving ground Corvair was about two inches. The NHTSA's real concern for the importance of the position of the center of gravity in handling tests is illustrated by the fact that it was never measured on the NHTSA's test car.[28] The NHTSA engineers made a belated effort to measure the center of gravity on their car at TTI, but failed.

The statement is made by the NHTSA that "other American vehicles can also be made to roll over on flat surfaces." (37) This statement has been shown to be true only in a very few special cases, and ignores the crucial issue: what is the severity of conditions required before a conventional car will overturn (if in fact it will roll under any set of conditions) compared with the relatively normal conditions under which a Corvair will roll? The HSRI test Corvair, for example, consistently rolled in the drastic steer-drastic brake maneuver, while none of the other vehicles in their 1970 tests (including a 1967 Ford Station Wagon) would roll under any set of conditions.[29]

GM's own tests confirm the relative lack of roll resistance of the Corvair. Their report, PG–15699, states:

"A rollover occurred in nine of the ten Corvair suspension modifications . . . Analogous to the Corvair Roll-Over Stability Evaluation Test Series, tests were performed on a production 1961 Chevrolet 4-door sedan. Eight trial runs were made with instrumentation and two more were made without the maneuverability handicap of the instrument cables and instrument van. (30)

THE FORD FILM

After devoting only one page to a direct discussion of only two of GM's many proving ground tests and five pages to rebutting the opinions of three engineers on these two reports, thirteen pages of the NHTSA report are devoted to a discussion of the single Ford Motor Company submission, the existence of which was suppressed until a Ford executive Harley Copp, revealed it in June, 1971. The film shows a handling test comparison between a 1960 Ford Falcon and a 1960 Chevrolet Corvair. In this section of the *Evaluation*, the NHTSA disputes the validity of these tests which show the inferiority of the Corvair compared to the Falcon in handling characteristics. The NHTSA claim is that the driver of the Corvair contrived to throw the Corvair out of control.

There is considerable controversy surrounding the Ford films. Intially, when asked about the films, W. A. McConnell, Director of the Product Test Operations Office, Product Development Group of Ford Motor Company, wrote to Senator Warren G. Magnuson, Chairman of the Senate Commerce Committee:

"We believe these tests were performed objectively. In this connection, we discussed the film with the drivers of both vehicles who stated that the tests were performed to the best of their ability." [31]

As a result of the NHTSA report, however, Ford purchased a used 1961 Corvair and repeated the tests. In the new test series, the driver "had no difficulty in negotiating the turns at the speeds set forth in the Safety Administration report which were apparently the speeds used in the 1959 film." [32] However, in a second letter from McConnell to Senator Magnuson, it is noted:

"The person who directed the [1959 Falcon-Corvair] test and the drivers continue to maintain that the cars were driven to the best of the drivers' ability and they deny that any improper steering in-put into the Corvair was involved." [33]

The letter goes on:

"Thus, there seems to be a discrepancy between the 1959 film and certain tests of the Corvair this year. This perhaps could be explained by the use of different cars, different track surfacing, different drivers and all the other circumstances that could vary over a 13 year period."

Ford also conducted at least two other test series which included a Corvair, in 1966 and in 1968. The ability of these lane change and obstacle avoidance tests to detect vehicles with unacceptable handling qualities was apparently checked by using the Corvair as a vehicle which was below the standards considered acceptable by the Ford engineers for vehicle handling.

The issue of the validity of the 1959 Ford tests cannot be resolved without a considerably more detailed and careful investigation, including an attempt to determine the exact condition of the test track in 1959, and an attempt to replicate more exactly the *1960* model Corvair equipped with tires built to 1959 specifications. No attention has been paid to the effect of changes in tire technology between 1959 and 1971, the year the tires used in the Corvair investigation were purchased.

It is not necessary, however, to determine the validity of the 1959 Ford tests in order to draw some conclusions as to their value in the determination of the question of defect in the early Corvair. The commentary given following the first showing of the film to Ford's Executive Committee on October 1, 1959, states:

"The lack of extreme cornering ability is not a significant product disadvantage in itself. Of much greater significance in the preceding film has been the difficulty experienced by the Corvair driver in re-establishing control over his vehicle once it had been lost. This is indicative of a lack of stability which is more likely to be encountered by the average driver under average conditions and this condition is deemed to be a significant product disadvantage.

"The Corvair with its rear heavy weight distribution shows a marked instability under conditions of severe cornering and in passing. While the driver will not encounter

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difficulty under most normal driving conditions, there are frequently encountered emergency conditions such as slippery pavement or emergency maneuvers in which the driver cannot maintain control of the vehicle.[24]

THE NHTSA'S CORVAIR TESTS AT TTI

The abridged version of the TTI test report which appears in the NHTSA's Evaluation reflects many of the deficiencies of the complete TTI report. The discussion of the test equipment used at TTI was limited to noting that the tests were of the "input-response" type, and that the "test procedures employed in this program were defined by NHTSA although they were closely related to methods previously developed and used at the HSRI."

The discussion of the modifications to the vehicles as they were brought "up to the manufacturer's specifications in accordance with its individual service manuals," is equally uninformative. For example, the total discussion of the choice of tires for use in the testing program is as follows:

"The tires used in the test program were as close to the original O.E.M. specifications (size, manufacturer, tread design, and materials) as possible. The correct tire sizes in the present-day line and materials were found for all the cars except the Renault."

Tire technology has advanced considerably since 1959. Both two and four ply tires were were used on the Corvair between 1959 and 1963, and various tread compounds and sidewall constructions were used. While it is true that most of the Covairs on the roads today will have recently built tires, the assessment of much of the evidence from the past requires a detailed understanding of the differences between the original equipment tires of the Corvair from 1959 through 1963 and the tires used in the NHTSA tests at TTI so that it can be determined whether the deficiencies in the Corvair's handling and stability have been at least partially corrected by improvements in modern tires.

CONCLUSIONS

A major deficiency in the NHTSA Corvair investigation is that it was conducted in a completely ad hoc manner. Belatedly opened at the insistence of Ralph Nader, it was even more belatedly expanded to include actual vehicle testing for the same six months later. The NHTSA engineers apparently never formulated a program for the investigation, never critically analyzed the General Motors propaganda and theses, and never developed any criteria for determining either the weight of evidence in the investigation nor the standards against which a finding would be made.

Overall, the NHTSA's Corvair *Evaluation* selectively highlights materials which support its apparently preconceived findings. Considerable weight is given to GM's Corvair submissions and explanations first publicized in the 1966 Michigan Senate hearings and to the materials prepared for GM's defense in product liability litigation. GM's internal working research, (proving ground reports PG–11106, PG–15699, and PG–17103) aimed at discovering and eliminating the handling stability deficiencies in the Corvair, showed the serious problems in the Corvair's handling and stability. But these reports were ignored or dismissed by the NHTSA as irrelevant. Similarly, the most comprehensive accident investigation work on involvement rates of particular makes and models (by B. J. Campbell of the University of North Carolina) was also ignored in favor of an older and more limited study of questionable relevance.

The NHTSA approved the HSRI study which showed significiant handling and stability problems with the Corvair by imitating its procedures in their tests at TTI but then simply ignored the dissimilar and divergent findings of the HSRI completely in its *Evaluation*.

The NHTSA had an interest in the outcome of the Corvair investigation. The NHTSA was dependent on the good will of General Motors to support the agency's passive restraint and Experimental Safety Vehicle programs. GM was the only major auto company which did not overtly oppose the NHTSA's passive occupant restraint regulation, motor vehicle safety standard 208, by not joining the other manufacturers in a suit to delay its implementation. The NHTSA was also aware that a finding of a defect in the Corvair handling and stability could require a similar finding for the Volkswagen Beetle, the Renault Dauphine, and several other vehicles. Such a finding would have led to demands for the recall of between one and two million vehicles at a cost which could approach $100 million.

There is evidence that the agency ignored serious conflicts of interest among individuals with a direct responsibility for the conduct of the investigation and its review. Yet the NHTSA was not so oblivious to potential conflict of interest to allow it when there might have been a protest from General Motors. There appears to have been a substantial gap between the level of training and competency of the NHTSA and Texas Transportation Institute engineers and technicians and the expertise required to understand the subtleties of the questions involved in the investigation. This was especially true in the fact of the massive amount of material varying widely in relevance and veracity, and the major pressures being brought to bear on the investigation from all sides. Remarkably, none of the engineers involved in the project had either specialized training in vehicle handling, nor were any of them recognized experts in the field.

As documentation for the level of care exercised in the expenditure of nearly a million dollars of public money, the NHTSA Evaluation demonstrates considerable incompetence as well as misplaced priorities. For purposes of comparison, the Highway Safety Research Institute's Vehicle Handling Test Procedures, completed in 1970, included the development of a considerable amount of test equipment as well as the test procedures. The cost of the HSRI contract was $193,065. The Texas Transportation Institute's tests did not require any significant development of equipment or procedures, was supervised by no less than six NHTSA engineers who also participated in the testing, and cost the American public $271,163.

FOOTNOTES

[1] *Evaluation of the 1960–1963 Corvair Handling and Stability*, National Highway Traffic Safety Administration, Department of Transportation, July, 1972, p. 3.

[2] *Input Response Tests of Selected Small Passenger Cars*, Texas Transportation Institute, Texas A & M Research Foundation, College Station, Texas, November, 1971.

[3] A list of GM submitted documents and films is a part of the public file for IR–279, which is available in the Technical Reference Division, NHTSA, Rm 5108 Nassif Building, 400 7th Street, SW, Washington, D.C. 20590.

[4] "Statements by General Motors Corp. before the Michigan Senate Highway Committee (Including Discussion of 1960–1963 Model Corvair)" General Motors Corp., Lansing, Michigan, February 21, 1966, p. 15.

[5] Garrett, John W., "A Study of Rollover in Rural United States Automobile Accidents," Automotive Accident Crash Injury Research, Cornell Aeronautical Laboratory, Inc., in the Twelfth Stapp Car Crash Conference, October, 1968.

[6] Garrett, John W., and Arthur Stern, "A Study of Volkswagen Accidents in the United States," ACIR, Cornell Aeronautical Laboratory, Inc., Buffalo, New York, November, 1968.

[7] Campbell, B. J., *Driver Injury in Automobile Accidents Involving Certain Car Models*, Highway Safety Research Center, University of North Carolina at Chapel Hill, July, 1970.

[8] Heurtebise, B., "Rollover Stability Evaluation of Various Corvair Suspension Systems," GM Proving Ground Report PG–15699, June 14, 1963.

[9] Culver, C. C., "Corvair Dynamic Stability Tests for Chevrolet Motor Division," GM Proving Ground Report PG–17103, March 30, 1964.

[10] Statement by Ralph Smith in response to questions from Ralph Nader about the implications of GM Proving Ground tests of the Corvair rollover propensity, PG–15699 and PG–17103. Statement by Albert G. Fonda and Dimitry Sergay, in response to questions from Ralph Nader concerning PG–15699 and PG–17103.

[11] Letter from Ralph Nader to Secretary of Transportation John A. Volpe dated December 15, 1970.

[12] "1960 Falcon-Corvair Handling Comparison (film), Ford Motor Co., October, 1959.

[13] Copp, H. F., "Falcon Vs. Corvair Handling, Film Analysis Quantification of Handling Comparisons," July 26, 1971.

[14] Dugoff, Howard, R. D. Ervin, and Leonard Segel, *Vehicle Handling Test Procedures*, Highway Safety Research Institute, University of Michigan, Ann Arbor, Michigan, November, 1970.

[15] Private communication between Prof. Campbell and the author. The data show the crash rate of various makes and models of automobiles operating in North Carolina as a function of vehicle miles traveled.

[16] General Motors Proving Ground Report PG–11106 dated June, 1959.

[17] Letter from Ralph Nader to Secretary Volpe date February 23, 1971.

[18] Letter from Carl Thelin to Clarence Ditlow dated July 31, 1972.

[19] Copp, Harley, testimony before the Committee on Commerce of the U.S. Senate, Hearings on Oversight: Auto Safety, July 25, 1972.

[20] General Motors, "Statements by General Motors Corp. before the Michigan Senate Highway Committee," p. 15.

[21] Office of Science and Technology, *Cumulative Regulatory Effects on the Cost of Automotive Transportation* (RECAT), February 28, 1972, p. II–A2. The mean time between vehicle crashes of any kind in the U.S. is about four years. No specific figures are available for the Corvair.

[22] Rubly, Charles M., "Suspensions from the Ground Up," Chevrolet Motor Division, General Motors Corp., for Presentation to the SAE National Automobile Week, Detroit, Michigan, March 15–17, 1960.

[23] Copp, Harley, Testimony before the Senate Commerce Committee, op. cit.

[24] Garrett, op. cit.

[25] Garrett and Stern, op. cit. Cornell Aeronautical Laboratory has, in its Transportation Research Section, an Accident Research Section which is under the direction of Mr. Garrett. They have only one data bank for the large scale collection of crash statistics, and the two reports were issued within a month of each other.

[26] Campbell, op. cit.

[27] Letter from Ralph Nader to Secretary Volpe dated September 4, 1970.

[28] Texas Transportation Institute, op. cit., p. 21.

[29] Dugoff, Ervin, and Segel, op. cit. The NHTSA further notes in the *Evaluation* (57), "As in the case of the Corvair, a considerable amount of effort is required to achieve rollover and it is difficult to repeat." This statement is contradicted by the HSRI *Vehicle Handling Test Procedures*, which states, "the positive identification of a single limit response point [a set of conditions under which rollover would take place] is considered adequate demonstration of the discriminatory power of this unique test procedure."

[30] GM, PG–15699, p. 2.
[31] Letter from W. A. McConnell, Director, Product Test Operations Office, Product Development Group, Ford Motor Company, to Senator Warren G. Magnuson, Chairman, Committee on Commerce dated April 26, 1972.
[32] Letter from W. A. McConnell to Senator Warren G. Magnuson dated December 22, 1972.
[33] Ibid.
[34] Copp, Harley, "Falcon Vs. Corvair Corvair Handling, . . . " p. 1.

III. A Comparison Between the HSRI and TTI Tests of the 1960–1963 Corvair Handling and Stability

The tests carried out by the Texas Transportation Institute [1] (TTI) under the direction of the National Highway Traffic Safety Administration (NHTSA) were modeled after, and used much of the same equipment that was developed by the Michigan Highway Safety Research Institute (HSRI) in their contract on *Vehicle Handling Test Procedures*.[2] The primary difference in the two tests relative to the Corvair, was that HSRI used a lightly loaded 1961 Corvair coupe, while the TTI test vehicle was heavily loaded 1963 Corvair sedan. Although there are some differences between the 1961 and 1963 model Corvairs,[3] the most important difference in the two vehicles tested was the loading.[4] GM has testified that there are no significant differences in the handling and stability of any of the 1960–1963 Corvairs. The ride rate of the Corvair rear suspension is such that adding the equivalent of six passengers and their luggage as was done at TTI will deflect the rear suspension at least two inches from its unloaded state, and will deflect the front suspension even more.[5] The result is that the rear wheels will be decambered around 5° (that is, they will lean inward at the top at an angle of 5° from the vertical), giving considerably better lateral rear wheel traction. The added weight also lowers the center of gravity, the rear roll center, and increases the lateral force required for significant lifting of the rear of the vehicle (jacking).

[Editor's Note.—The omitted here is available in subcommittee files.]

These effects are best illustrated by comparing the results of the rapid extreme steering tests carried out both at HSRI and TTI. In this test, the vehicle is driven in a straight line at 30 mph. The accelerator is released, and simultaneously, the steering wheel is turned through a predetermined angle. This produces something like a "J" turn.

In the HSRI tests, the steering wheel was initially turned through an angle of 86°, and in successive tests to greater angles in increments of 22°. According to Professor Leonard Segel, one of the investigators on the HSRI contract, between the runs with the steering wheel turned to 129° and 151°, "[n]ot only was there an abrupt change in the character of the response, there was also a marked increase in the peak value of the lateral acceleration that was achieved.[6] The HSRI data show that the peak lateral acceleration increased from .47 to .78 times the acceleration of gravity when the final steering angle increased from 120° to 151° (a small change in the position of the steering wheel in the range between a quarter and a half turn, especially at the relatively low vehicle speed of 30 mph). Professor Segel also notes that the change in turning response character is due to "the kinematic properties of the swing axle resulting in the rear end of the vehicle lifting and the rear tires inclining with respect to the road . . ." [7] He concludes, it should be emphasized that this jacking behavior of the rear axle occurs in a rather abrupt manner, causing the vehicle to spin and increase its sideslipping velocity." [8]

Footnotes at end of article.

The HSRI data can also be analyzed in the terms used by the NHTSA. The HSRI data can be presented in the same form as the NHTSA data—yaw rate (the rate of rotation about a vertical axis) times velocity versus lateral acceleration.[9] When the yaw rate times the velocity is less than the lateral acceleration, the yaw rate is less than it would be if the vehicle were cornering at a steady speed with no side slipping of the tires. This condition can be described by the term "understeer." If the yaw rate-velocity product is greater than the lateral acceleration, the vehicle can be described as oversteering. The transition between understeering and oversteering occurs in the HSRI test between maximum steering angles of 129° and 151° indicating that a significant factor in the transition is the occurrence of jacking in the rear suspension. Figure 1 shows a comparison between the lateral acceleration versus the yaw rate—velocity product for the lightly loaded and heavily loaded Corvairs in step steer tests. Note that the heavily loaded car does not spin significantly until the lateral acceleration exceeds .9g while the lightly loaded car spins considerably at between .7 and .8g with maximum steering wheel angles in excess of 151°. Apparently, the jacking of the rear end of the heavily loaded Corvair is not a serious problem. Jacking leads to high yaw rates because it places the wheel on the outside of the turn at a very unfavorable angle for maximum lateral traction.[10]

In a 1961 paper on Corvair suspension characteristics,[11] Maurice Olley, a retired General Motors suspension engineer, calculated the magnitude of the lift due to jacking which could be expected to result from the high roll center and relatively stiff roll resistance of the rear suspension of the Corvair. His paper, which appears to be the precursor of the suspension changes made in the 1964 model Corvair,[12] states:

It is shown that in the present Corvair the swing axle, due to lift, handles rather worse than a solid axle, but other studies have shown that this effect of the swing axle decreases rapidly as the roll couple carried by the swing axle is decreased.

In fact a swing axle which carries the proportion of the roll couple normally carried by a rigid axle will perform almost exactly like a rigid axle, as regards steering, and will ride better because it does not tramp.[13]

Olley's equations show further that the lift will be smaller in magnitude if the vehicle is heavily loaded.[14] The lift is proportional to the height of the roll center which is reduced by about 15% with a fully loaded Corvair. The lift is also roughly proportional to the difference in lateral force on the outside and inside rear wheels which is reduced when the vehicle's center of gravity is lowered because of the reduced weight transfer. Also important is the fact that two inches of lift of a fully loaded Corvair will only bring it back up to its unloaded height while two inches of lift of an unloaded Corvair will put the inside rear wheel at its full rebound position.

These results were graphically demonstrated in the TTI tests of the Corvair in that there was no strong discontinuity in the steering response as a function of the steering wheel angle in the rapid extreme steering tests as there had been in the HSRI tests using a lightly loaded Corvair. Further, it appears from the films of the TTI tests that in none of the Corvair tests was there sufficient lateral force developed in the fully loaded Corvair to jack the outer rear wheel to its full rebound position. While there did seem to be some jacking, it appeared only to lift the vehicle to around its unloaded height at the outside of the turn.

Concerning the HSRI tests, Segel noted that the simple "J" turns they carried out were terminated because of the fear of overturning the Corvair.

At that time we were doing the "step steer" maneuvers (J-turns with closed throttle) without outriggers and the behavior of the Corvair became sufficiently threatening as to convince the test driver that the sequencing of runs at higher steer inputs should be discontinued. I have reexamined the Corvair J-turn data and it appears that we may not have reached the "limit turning" response, as was established for the three other test vehicles. Thus, we are left with the question as to whether the Corvair would have rolled over in the J-turn maneuver, if the test procedure had not inhibited the driver from pushing the vehicle harder.[15]

It should be remembered that these manuevers were being carried out at an initial speed of only 30 mph, and that the maneuver were far less drastic than the drastic steer, drastic brake maneuvers used in both the HSRI and TTI tests. Furthermore, the important question here is not whether the HSRI vehicle would have turned over, but rather whether an average or less than average driver could control the Corvair after it had undergone the drastic transition that accompanies the jacking of the rear suspension. It is obvious that given a large enough clear flat space, and in the absence of roll over, loss of control of the Corvair would not be a problem. Where a driver would get into trouble is in the more confined spaces typical of actual roads, which have the combined dangers of objects which can be struck, and road and curb irregularities which can cause an out of control Corvair to roll over.

The other HSRI tet in which significant differences from the TTI tests were found is the drastic steer, drastic brake maneuver. With an initial speed between 47 and 48 mph, and a steering wheel angle of 324° the HSRI Corvair consistently rolled against the rollover limiting outriggers. The manuever involves steering the vehicle to a predetermined angle, and when the vehicle's yaw rate is greatest, applying the brakes for a half second.

In similar tests at TTI, with speeds of 40, 50, and 60 mph, and steering wheel angles ranging up to 400°, there was no outrigger contact in any of the 1963 Corvair tests. The differences can again be laid to the various effects of heavily loading the TTI vehicle.

General Motors engineers had discovered the effect of loading the rear axle of the Corvair eight years before the NHTSA demonstrated the same effect. While tests of rollover stability of the Corvair were being carried out at the GM Proving Ground, "Chevrolet Motor Division asked that high speed cameras be mounted on the rear of the vehicle to photograph rear wheel tire and suspension action." [16] Both J-turns and modified J-turns at 30 and 36 mph were run. The series was terminated "because the car looked very stable under the various maneuver configurations." [17]

After removing the cameras but making no other changes, a 30 mph J-turn was attempted during which, "the car rotated to the right approximately 180° and the right rear wheel lifted approximately 2 feet. High speed movies taken of this test showed that the car was very nearly in a roll condition." [18] The dramatic increase in the roll stability of the car equipped with the two cameras had resulted from an increase in the weight on the rear wheels of 210 pounds, a slight lowering of the center of gravity, and an increase in the yaw moment of inertia.

In the TTI tests, off-design tire pressures (approximately equal pressure in front and rear tires) were used in only one of the test maneuvers, steady turn on a rough road. The only explanation given was that "[b]ecause of program constraints, it was not feasible to test the vehicles under all of the suggested combinations of conditions." The HSRI report strongly indicates the need for

tests using off-design tire pressures because of the deterioration of the Corvair's handling under such conditions. In the rapid, extreme steering maneuver, the change in the character of the response (under- to oversteer) occurred in the 30 mph step steer tests between steering wheel angles of 108° and 151° rather than between steering wheel angles of 129° and 151° as in the case of recommended tire pressures.

In the drastic steer, drastic brake maneuver with off-design tire pressures, the HSRI researchers found the following:

"In the tests with off-design tire pressures, the severity of motions in response to comparable sub-limit [no outrigger contact] control inputs was uniformly greater than in the tests with nominal pressures [15 psi front and 30 psi rear]. This finding . . . demonstrates the desirability of tests with off-design service factors when evaluating motor vehicles with the drastic steer and brake maneuver." [19]

What legitimate conclusions can be drawn from the comparison between the HSRI tests with a lightly loaded Corvair and the TTI tests with a fully loaded Corvair? The stability of a Corvair in emergency maneuvers can be improved considerably by adding weight to the rear of a Corvair which is in good mechanical condition and which is equipped with good tires. This cannot be recommended for repair of the Corvair's handling instability for at least two reasons, however. First, the directional instability of the Corvair in sidewinds would be exacerbated by adding weight to the rear of the car. Second, the stress of constantly operating a ten year old car fully loaded would increase the likelihood of excessive wear or breakage of suspension components, as well as causing excessive tire wear, making the car more hazardous to drive. The NHTSA had no justification for their generalized conclusion "that the handling and stability performance of the 1960–1963 Corvair does not result in an abnormal potential for loss of control or rollover and that its handling and stability performance is at least as good as the performance of some contemporary vehicles both foreign and domestic." [20] Had the NHTSA tested a lightly loaded Corvair at TTI they would presumably have the same results as those of HSRI, and this conclusion could never have been put forth.

In his letter to Mr. Nader, Professor Segal stated in his conclusion:

"Finally, it seems rather odd that both the writers of the DOT report and the panel chose to ignore the findings produced at HSRI. We rolled the Corvair a large number of times and produced sufficient wheel-rim/road-surface contacts that the rear suspension and axle assembly finally broke loose, dropping the transmission on the test pad. We then had to repair the Corvair to complete our test program. It appears that rollovers occurring with a less than fully loaded Corvair didn't count as valid data points for the purposes of DOT's study." [21]

Whether it was an oversight or an attempt to hide the HSRI findings as damning of the NHTSA test program that caused the NHTSA to ignore the HSRI tests (which were the precursors of the TTI tests) is not known. Repeated attempts by the author to speak with the NHTSA technical staff about the TTI tests have been denied. However, it does not speak well of the quality or thoroughness of the NHTSA investigation that no attention was paid to the HSRI work. The NHTSA had, in effect, given its endorsement to the HSRI work by first accepting it in completion of its contract responsibilities, and second, in adopting, almost completely, the methodology and instrumentation of the HSRI for its own testing at TTI of smaller cars including the Corvair.

FOOTNOTES

[1] Texas A & M Research Foundation, *Input Response Tests of Selected Small Passenger Cars*, Texas Transportation Institute, College Station, Texas, November, 1971.

[2] Dugoff, Howard, R.D. Ervin, and Leonard Segel, *Vehicle Handling Test Procedures*, Highway Safety Research Institute, University of Michigan, Ann Arbor, Michigan, November, 1970.

[3] Some of the changes which are important to the handling and stability of the Corvair were to two ply tires, rear shock absorbers with revised grommets and retainers and shorter length to restrict rebound travel, a hydraulic cut-off for the rear shock absorbers, and changes in the spring rates and front suspension geometry.

[4] The HSRI vehicle was loaded with around 260 pounds of testing equipment and an 85 pound outrigger assembly. The front seats were removed, however, so that the total load was probably less than the 245 pounds. The TTI vehicle carried the "manufacturer's maximum recommended weight with passengers and luggage." Although this figure is not given in the TTI report, it is probably around 1,000 pounds.

[5] The rate of each rear spring is around 120 pounds per inch of deflection so that a load of 480 pounds on the rear of the car would depress both rear springs two inches. The wheels are mounted so that they are 22.5 inches from the pivot point of the swing axle so that a two inch deflection of the axle would rotate the axle and wheel through 5°.

[6] Letter from Professor Leonard Segel, Head of the Physical Factors Group, Highway Safety Research Institute, Ann Arbor, Michigan, to Mr. Ralph Nader, dated August 17, 1972, p. 3.

[7] Ibid.

[8] Ibid.

[9] Because the exact value of the yaw rate-velocity product at the time of the peak lateral acceleration cannot be determined from the HSRI report, the peak yaw rate and initial velocity are used. The error which results should be small.

[10] Tires develop their maximum lateral force when they are cambered somewhat away from the direction of their side slip (that is, when the top of the tire leans away from its direction of sideslip travel). Tires rapidly lose lateral traction when they are cambered in the other direction. Jacking significantly increases the rear tire slip angles because it causes the tire on the outside of the turn (which carries the greatest load) to have the wrong camber for maximum lateral traction.

Edward Heitzman, formally of Princeton University, told the author in a private communication that the forces which lead to jacking cannot be sustained after the car has jacked because of the reduced traction when the wheels become strongly cambered (this comment refers to steady state cornering). In tests which he carried out, he said that he observed this slip-stick phenomenon. Because of the effective insulation of the driver from the wheel motion, however, it is doubtful that a driver would be aware of the phenomenon.

[11] Olley, Maurice, "Corvair Steering," General Motors Corp., Written April, 1961, published December, 1961.

[12] The changes in the 1964 Corvair were to add a front anti-roll bar and a rear transverse single leaf spring which is mounted so that it supports the rear of the vehicle, but does not contribute to the roll stiffness of the rear. Lower rate rear coil springs are also included. The result is that the front suspension carried most of the Corvair's roll resistance.

[13] Olley, p. 11.

[14] Olley's equation gives the lift as:

$$h = \frac{Yh_r}{K_r t - Y}$$

where:

Y = difference in lateral force between the left and right rear tires

h_r = roll center height at rear axle

K_r = rate of each rear spring (force/deflection)

t = width of rear track

[15] Letter from L. Segal to R. Nader, p. 3.

[16] Culver, C. C., "Corvair Dynamics Stability Test for Chevrolet Motor Division," PG 17103, November 4, 1963, p. 6.

[17] Ibid, p. 7.

[18] Ibid.

[19] Dugoff, et al., p. 92.

[20] *Evaluation of the 1960–1963 Corvair Handling and Stability*, U.S. Department of Transportation, National Highway Traffic Safety Administration, Washington, D.C., July, 1972, p. 93.

[21] Letter from L. Segal to R. Nader, p. 5.

ADDENDUM TO THE REPORT ON THE CORVAIR CONCERNING SUPPRESSED DATA FROM THE TESTS OF THE CORVAIR CARRIED OUT FOR THE NHTSA AT THE TEXAS TRANSPORTATION INSTITUTE

The preceding report makes clear the primary difference between the NHTSA's 1960–1963 Corvair tests carried out at the Texas Transportation Institute (TTI tests) and most other known handling and stability tests of the Corvair. The Corvair used in the TTI tests was loaded "to the manufacturer's maximum recommended weight with passengers and luggage" while in most other tests, the Corvair was loaded with the equivalent of one or two passengers, as it would usually be found on the roads.

In previously secret test data and films recently revelaed by the NHTSA, it has been learned that the NHTSA and TTI engineers did, in fact, conduct some tests at TTI with a lightly loaded Corvair. The documents state:

It appeared [to the NHTSA engineers supervising the TTI tests] that the results were not the same as the HSRI Corvair tests, Therefore, unofficial tests were run with the load condition similar to the HSRI tests. This resulted in the Corvair being 615 pounds lighter than the fully loaded comparative tests [sic.]. (from a memo from Robert Carter, Associate Administrator for Motor Vehicle Programs, NHTSA to Douglas Toms, Adminsitrator, NHTSA, dated December 13, 1972.)

These "unofficial tests" with a lightly loaded Corvair were withheld by the NHTSA defects office engineers from the public until about a month ago. Even at that time, there was no public notice of any wind indicating that the material had been made available to the public in the NHTSA's Technical Reference Division in Washington, D.C. The agency claims that only the six engineers directly involved in the TTI tests knew about these tests and that the Administrator, the Chief Counsel Lawrence Schneider, the Associate Administrator for Motor Vehicle Programs, and the Chief of the Office of Defects Investigation Andrew Detrick, were all unaware of the documents or tests until they were inadvertently revealed by one of the six engineers. Thus, these tests were concealed not only during the investigation, but for six months after the NHTSA announced the finding that the Corvair had no "abnormal potential" for loss of control or rollover.

Since the tests of a lightly loaded Corvair at TTI were not conducted in a logical or systematic way, the results of these tests do not support any conclusion or finding. (a summary of the TTI tests of the lightly loaded Corvair is at the end of the Addendum.) The tests were all drastic steer-drastic brake maneuvers conducted at 50 and 60 mph. There were two sequences of runs, each preceded by six pre-test runs. The first sequence of eleven runs was carried out on well-used tires at General Motors' recommended tire pressures. In two of these runs, the Corvair would have overturned but for the outriggers. In the second sequence, with new tires all inflated to 28 psi, the right rear

rim contacted the pavement on one pre-test run and in one test run, but there were no cases of rollover. In none of the newly revealed test runs were the test conditions (amount of wear of the tires, tire pressures, speed, steering input, and so on) identical to either (1) the Highway Safety Research Institute's Corvair tests or (2) the TTI tests with a fully loaded Corvair. Since these tests cannot strictly be compared, no conclusions can be drawn, and the data is of little direct value.

The questions which are raised by this newly available data or which remain unanswered cast substantial doubt on the validity of the NHTSA's Corvair handling and stability defect investigation:

1. What were the reasons which led the NHTSA and TTI engineers to test any Corvairs in a lightly loaded condition?

2. Was it determined before the test series was begun what, if any, significance would be placed on the results of the test, assuming the various possible vehicle responses?

3. Once the decision was made to test the Corvair with a light load, why were the highly worn tires used in the first sequence? When the second sequence of lightly loaded Corvair tests was begun, why were non-recommended tire pressures used in view of the fact that such a condition would not allow comparison with either the earlier TTI test (with recommended tire pressures and heavy loading) or with the HSRI tests?

4. Why were none of the other vehicles which had been tested at TTI run in similar, light load tests for comparison purposes?

These questions can be answered only by the six engineers who conducted the tests and who cooperated in suppressing the lightly loaded Corvair test data. The NHTSA has refused for the second time, on February 1, 1973, the author's request to interview Mr. Wittich or Mr. Lilley. The reason cited by the Chief Counsel, Lawrence Schneider, is that the author is a potential litigant against the NHTSA, and should not have any opportunity to discover government information at this time, via personal contact with these NHTSA engineers. Mr. Schneider did offer the opportunity to meet with Andrew Detrick, the Chief of the Office of Defects Investigation. However, since Mr. Detrick was not, according to the NHTSA public information office, privy to the suppressed test data, such a meeting would have been of little value.

To understand the importance of the subtleties involved in the drastic steer-drastic brake tests, and how this may account for differences between the two TTI test series and also the HSRI tests which might have resulted from improper test parameters and procedures, consider the HSRI description of the test:

1. The vehicle, initially proceeding along a straight path at a speed of 50 mph [for example], which was subjected to a half sine wave steering wheel input [the steering wheel was turned and then straightened within about one second] which produced a yaw-roll response [the vehicle spins about a vertical axis while rolling to the side] of a characteristic form.

2. At a point in time where the vehicle's yaw rate response had just about reached a maximum [the vehicle would have rotated significantly], a severe step of brake input was applied. This input caused the vehicle's wheels to lock and perceptibly perturbed the yaw and roll response.

3. After one half second, the brake input was suddenly released. The vehicle's wheels resumed rolling. The associated sudden increments in lateral force and roll moment produced little change in yaw rate but a very substantial augmentation of the rate of rolling. (It will be noted that the relative phase of control actions and response variables is extremely significant.)

The single most crucial event in the sequence is the timing of the brake application after the initial steering input. If the brakes are applied too soon, the steering input will not be able to begin the rotation of the vehicle. (Locking the front wheels with the brakes will cause them to slide forward rather than to track in the direction of the turn.) If the timing of the brake application is too late, the vehicle may already be sliding so that the tires will not be able to regain traction after the brake is released. The HSRI report also states,

Quantitatively, this combination of control inputs simulates a real-world emergency maneuver where the driver attempts to avoid an obstacle by simultaneously steering and braking, then releases the brakes upon perceiving the skidding resulting from wheel locking. The critical juncture in the maneuver is the instant immediately following brake release, when the locked wheels suddenly spin up, and the magnitudes of the lateral tire forces increase from near zero to relatively high values. As the maneuver becomes more extreme, a motor vehicle will exhibit an increasingly severe response, possibly to the point of rollover. The character of the resulting response and the maneuver severity level at which it occurs are considered to represent performance qualities of distinct safety-relevance. So too, again, the influencing thereon of service factor variations.

It is clear, when viewing the HSRI films, how these factors interact. The response of the Corvair in the TTI tests appear qualitatively different, however. While the HSRI Corvair had rotated perceptibly before the brake was applied, in the TTI tests the braking appeared to occur sooner, before the vehicle had begun to respond significantly to the steering in both test series. Furthermore, in some of the TTI tests, the brake application did not appear sufficient to cause wheel lock-up, necessary for a successful test run.

The NHTSA claimed that "the results were the same whether the maneuver was conducted with the vehicle loaded to the manufacturer's recommended maximum limit or only partially loaded." This conclusion refers to only one factor in the tests, whether or not there was outrigger contact (equivalent to rollover). In the 31 pre-test and test runs with a lightly loaded Corvair, there was spinout in all cases except one, while in the heavily loaded Corvair test series, spinout occurred in only those cases where the speed and steering inputs were fairly severe. Even when spinout occurred with the heavily loaded Corvair, it was never much more than a quarter turn rotation. The spinouts with the lightly loaded Corvair were typically a full half turn with the car rolling backward in its original direction of travel after the maneuver.

Beyond the direct technical questions involved in the TTI tests, including the suppressed test series, is the question of the scientific standards of the whole test program. Secretary Volpe's reply to an inquiry about the Corvair investigation by Nader and the author discusses the standards of practice he expected in his department:

There are many differences in purposes of the HSRI and TTI tests. As in any scientifically based test, it is standard practice to examine the effect of the variation of a parameter by holding all other variables essentially constant and changing only the one parameter under study. This approach was utilized in the two tests in question.

. . . the purpose of the TTI tests was to compare the handling and stability characteristics of the 1960–1963 Corvair with the same characteristics of some selected contemporary vehicles. In doing this, only the vehicle model was allowed to vary. There was no variation between the vehicles' configurations since they were all restored to manufacturer's specifications, the environmental and other test conditions were held as closely as possible and each vehicle was subjected to the same input. Although these tests were conducted properly, it is not proper to attempt to draw a conclusion from the combination of the two tests [HSRI and TTI] relative to cause and effect when in fact several parameters are varying at the same time. To attempt to do so violates the experimental procedures described above and is careless, arbitrary, and capricious with the data.

The standard set by the Secretary was violated by the NHTSA's own engineers in the tests they suppressed. In these tests, they varied several parameters, condition of the tires, tire pressure, and loading simultaneously. If the standard of care demonstrated in the suppressed test series is indicative of the care taken with the remainder of the series, the NHTSA's conclusion to the Corvair handling and stability defect investigation collapses like a house of cards.

RESULTS OF TESTING A LIGHTLY LOADED 1963 CORVAIR IN THE DRASTIC STEER-DRASTIC BRAKE MANEUVER AT THE TEXAS TRANSPORTATION INSTITUTE ON JUNE 9, 1971

Run No.	Speed	Steering input (degrees)	Brake input (seconds) Time	Duration	Remarks
Pretest runs with worn tires at 18 p/in² front, 30 p/in² rear:					
1	50	200	0.7	0.5	Spinout.
2	50	300	.7	.5	Do.
3	50	350	.6	.5	Do.
4	60	200	.6	.5	Do.
5	60	300	.6	.5	Do.
6	60	350	.5	.5	Do.
Test runs with worn tires at 18 p/in² front, 30 p/in² rear:					
1	50	200	.7	.5	
2	50	300	.7	.5	R/R rim contact, rim bent outrigger contact.
3	50	350	.6	.5	Spinout.
4	50	400	.6	.5	Do.
5	50	300	.6	.5	Do.
6	50	300	.7	.5	Do.
7	60	200	.6	.5	Do.
8	60	300	.6	.5	Do.
9	60	350	.5	.5	Do.
10	60	400	.5	.5	R/R rim contact, rim bent outrigger contact.
11	60	400	.5	.5	Spinout.
Pretest runs with new tires at 28 p/in² (all tires):					
1	50	200	.7	.5	Do.
2	50	300	.7	.5	Do.
3	50	350	.6	.5	Do.
4	60	200	.7	.5	Do.
5	60	300	.6	.5	R/R rim contact, spinout.
6	60	350	.6	.5	Spinout.

Run No.	Speed	Steering input (degrees)	Brake input (seconds) Time	Duration	Remarks
Test runs with new tires at 28 p/in² (all tires):					
1	50	200	.7	.5	Do.
2	50	300	.7	.5	Do.
3	50	350	.6	.5	Do.
4	50	400	.6	.5	Do.
5	60	200	.7	.5	Do.
6	60	300	.6	.5	R/R rim contact, spinout.
7	60	350	.6	.5	Spinout.
8	60	400	.6	.5	Do.

EXHIBIT 2

U.S. DEPARTMENT OF TRANSPORTATION,
Washington, D.C., February 23, 1973.

Mr. ROBERT J. WAGER,
Staff Director and General Counsel, Subcommittee on Executive Reorganization and Government Research, U.S. Senate, Washington, D.C.

DEAR MR. WAGNER: The following information is supplied in response to your verbal request for comments on Mr. Nader's recent critique of the National Highway Traffic Safety Administration (NHTSA) handling and stability investigation of the 1960–63 Corvair.

As we have previously stated, the Corvair investigation generated a great deal of investigative information from the industry, the public, and the NHTSA comparative testing program. Upon completion of the investigation, most of this information was placed in our public files. Other miscellaneous test material and data, including the pilot test program, test data rejected because of instrumentation errors and incorrect procedures, and certain noncomparative tests not relating directly to our comparative testing were not placed in the public file at that time because our technical staff did not consider this material and data to be valid for the comparisons nor was it used for this purpose. At no time was this material intentionally withheld from the public. Once compiled and indexed, this miscellaneous material, which in no way invalidated or compromised the conclusion of NHTSA's report, was added to the public file and voluntarily forwarded to the Senate Commerce Committee.

Also, this material was not withheld from the Panel. It was always available for their review as part of the large volume of documents and films accumulated during the extensive NHTSA investigation. The Panel had a sizable task in reviewing all the material studied and work performed by NHTSA and they did not examine in detail each and every piece of information. Subsequently the Panel was contacted to determine if specifically considering the noncomparative tests would result in modification of their conclusions or report. Each of the Panel members indicated that it would not.

There were some considerable and important differences between the Highway Safety Research Institute (HSRI) tests and the Texas Transportation Institute (TTI) tests. One significant difference was the condition of the test surfaces which in both cases were former aircraft runways. The surface in the original HSRI tests, which they recognized as being in poor condition, was concrete that was spalled and cracked with marked irregularities and uneven displacement at the divider strips. The test surface at TTI on the other hand was in much better condition, with more even and uniform surface and less distortion at the divider strips. HSRI personnel aided in the selection of the TTI test site and recommended the actual area on the runway that was subsequently used. Even this test surface at TTI was too irregular and rough for HSRI's follow-on research contract; this area was resurfaced to create a smooth, high-coefficient skid pad that eliminated these irregularities.

Another significant difference was the effect of using tires that had unique and abnormal sidewall, shoulder, and tread wear patterns resulting from previous severe limit maneuvers and using tires that had been broken-in and the wear monitored to assure uniformity and repeatability in the tests.

The tires in the 18 p.s.i. (hot) front and 30 p.s.i. (hot) rear TTI noncompartive tests were tires that had the unique wear patterns from previous severe limit maneuvers similar to those believed to be on the Corvair during the HSRI drastic steer, drastic brake maneuver. The tires on the 28 p.s.i. (hot) front and rear TTI noncomparative tests were tires that had not been used in previous limit maneuvers. These tires were broken-in and the wear monitored in accordance with the procedures of the comparative test program. The wear referred to is that resulting from severe limit maneuvers, not normal highway wear.

No outrigger contact occurred during any of the TTI 28 p.s.i. (hot) front and rear tire noncomparative maneuvers. During one 50 m.p.h., 18 p.s.i. (hot) front and 30 p.s.i. (hot) rear TTI noncomparative maneuver, with the tires that had the unique sidewall, shoulder, and tread wear from previous severe limit maneuvers, outrigger contact occurred. The tires were switched so the tires with the smaller amount of wear from the limit maneuvers were placed on the outboard side of the vehicle in the turn and the tires with the greater amount of wear were on the inboard side of the turn. No outrigger contact occurred at either the same steering input or more severe steering inputs up to the limit of the equipment.

During the 60 m.p.h., 18 p.s.i. (hot) front and 30 p.s.i. (hot) rear TTI noncomparative maneuver again with tires worn from previous severe limit maneuvers, no outrigger contact occurred until the last run with the maximum (for the equipment) steering input. When the rear tires were switched left to right and right to left and the maneuver repeated at this maximum input, no outrigger contact occurred.

Another difference between the HSRI Corvair drastic steer, drastic brake maneuver and the TTI noncomparative maneuvers was that the large majority of TTI noncomparative maneuvers were conducted at more severe levels.

It is NHTSA's view that none of the miscellaneous test material and data modifies our previously announced decision that the handling and stability performance of the 1960–63 Corvair does not result in an abnormal potential for loss of control or rollover and that its handling and stability performance is at least as good as the performance of some contemporary vehicles both foreign and domestic. If anything it adds support to our decisions relative to importance of certain controls necesary for this type of testing. The variation in results on tests due to abnormal tire wear is also supported by more recent research.

Mr. Nader now attempts to deny the advice of his own experts. On March 17, 1971, Mr. Gary Sellers, Mr. Nader's expert advisor at the time, wrote a letter to Mr. Rodolfo A. Diaz stating that in his opinion the maximum vehicle load represented the *most severe* test conditions for this parameter. Contrary to "speaking for himself," as Mr. Nader states, Mr. Sellers' opening paragraph states: "Mr. Nader has asked me to follow-up on this matter. . . ." No less than 10 times in this letter he refers to Mr. Nader and himself as "we" or "our." Further, these recommended test procedures were made known by copies of Mr. Sellers' letter to Mr. Nader and two of his other engineering experts, Mr. Edward Heitzman and Mr. Albert Fonda, who never indicated any disagreement. In documentation of these facts, we quote more fully from Mr. Sellers' March 17, 1971, letter:

"In general, we suggest that the testing on these vehicles begin under conditions where the critical variables (such as high coefficient of friction, equal tire pressures, heavy weight load, etc.) are at the most severe levels—those most likely to reveal the defects alleged—or the differentials in the margin of safety present. If under these conditions, the Corvair does *not* respond in a dangerous fashion, at variance with the public's expectation of response, then the public can be content that the defects revealed in the GM proving ground reports are anomolus or mistaken. . . ."

and:

"Or more specific suggestions are: . . . 5. That the vehicle also be tested with the maximum recommended load (such as weight of four to six passengers), as might often be experienced on a Sunday drive. (Mrs. Collins had six people in her vehicle and luggage on the roof when her Corvair went out of control.) . . ."

Due to the complexity of any vehicle handling and stability tests, it is impossible to test all vehicles in all configurations and load conditions. The nature of the NHTSA input-response tests required a heavy instrumentation load and as these tests were for comparison, the full load test condition was adopted as the test configuration most compatible for all the vehicles involved. This was, of course, in keeping with the recommendations of Mr. Nader's experts as to the most severe conditions. It would appear that the Corvair critics' objections are prompted more by the results than by an objective review of the procedures.

Considering the infinite combinations of vehicles we do believe that our tests and studies have sufficiently covered the subject, including variations of configurations, to establish that the Corvair handling is not a safety related defect.

NHTSA evaluated a considerable amount of documents and films from General Motors (GM) and other sources where human drivers were operating Corvairs under extremely severe conditions as well as normal conditions. The NHTSA rationale for not using human drivers in its test program is documented on pages 6–10 of the NHTSA report. Essentially, this part of the report explains the limitations in the state-of-the-art relative to vehicle handling, the lack of definitive standards, the problems of quantifying the effects of driver-vehicle-road interface, and the reasons for NHTSA selection of input-response tests for the Corvair test program. Further, it explains the specific criteria for the selection of the maneuvers and test conditions actually used in the NHTSA tests.

Finally, the NHTSA would like to call your attention to the fact that the record is full of opinions by individual drivers, some of considerable reputation. The injection of still another human driver into the tests, with

the attendant questions of driver selection, driver skill, and definition of "normal conditions," would have yielded just another subjective opinion and resulted in prolonging the debate as long as one side or the other was not satisfield with the result.

The problem of determining the effects on vehicle control of drivers impaired by carbon monoxide, alcohol or drugs is the subject of major research by both industry and Government and is, of course, beyond the scope of the Corvair test program. With the current state of scientific knowledge on this subject it is easy to philosophize but virtually impossible to quantify this effect on the Corvair's handling and stability.

NHTSA is confident that none of the officials assigned to the Corvair handling and stability study had a conflict of interest. Mr. Ernest P. Wittich, a former employee of GM, has been accused of having a conflict of interest by Mr. Nader. While employed by GM, Mr. Wittich participated in a savings plan that resulted in the simultaneous acquisition of GM's stocks *and* Government savings bonds. At present he still retains the nominal amount of stocks and Government bonds acquired through this savings program. The modest amount of his holdings is considered to be inconsequential to affect the integrity of an employee's services in any manner in which he may act in his governmental capacity. Contrary to Mr. Nader's inferences, Mr. Wittich did not have sole control of the study or test preparation. In addition to normal supervision by his engineer supervisors, he was joined by three other engineers during the tests. Further, the test program and procedures were formulated by a larger group of engineers and Mr. Wittich had minimal input into these requirements.

The NHTSA did not accept the opinions or conclusions of either the proponents or opponents of the Corvair without question. We did solicit and accept films, data and information from various sources and read and listened to many opinions. The Administration then sifted and evaluated these inputs to arrive at our own independent conclusions. The fact that we may have arrived at the same conclusions as someone else does not mean they were adopted without question. Allegations to the contrary are simply not true.

More specifically, NHTSA's evaluation of the significance of these GM rollover tests is documented on pages 34 and 35 of the NHTSA report and the summary is quoted here for your information.

"In summary, because of the nature and severity of these development tests which were not representative of the practical driving environment, these tests should not reasonably be interpreted to conclude that 1960–1963 Corvair is susceptible to rollover at low speeds on a flat surface in the normal driving environment."

The foregoing is NHTSA's evaluation—not GM's.

In addition to GM's data on driver-vehicle interaction, NHTSA also examined other reports of such interactions and related driver-vehicle-road interface problems that are documented on pages 97–102 of the NHTSA report:

"A Study of the Relation Between Forward Velocity and Lateral Acceleration in Curves During Normal Driving. ("Human Factors," June 1968)

"Accident studies by Cornell Aeronautical Laboratories, Inc., and B. J. Campbell, University of North Carolina.

"Technical articels and consumer groups analyses of Corvair performance.

"Ford Motor Company data."

Mr. Nader also cited certain Ford Motor Company data in his accusations. As recently as May 12, 1972, in his press conference Mr. Nader used a 1959 Ford Motor Company film and an analysis of it by Mr. Harley Copp to support his contention concerning driver-vehicle-road interface actions. This material was not considered valid by NHTSA in its evaluation.

Since that time these tests on which Mr. Nader relied so heavily have been reproduced four times. Twice they were reproduced at the GM Proving Grounds by GM. The clearly documented results support the NHTSA analysis. The tests were also reproduced twice at the Ford Proving Grounds, once by GM and once by Ford Motor Company. The GM test were well documented and they again confirm NHTSA's analysis and disprove Mr. Nader's accusations. The Ford Motor Company tests were not documented as precisely as the GM tests but the results were essentially the same. In a letter to the Senate Commerce Committee the Ford Motor Company described these tests as follows:

"In an attempt to resolve the question, we purchased a used 1961 Corvair and had one of our engineers, who is not a professional driver, drive it on the same segments, of our track on which the original test was conducted. He had *no* (emphasis added) difficulty in negotiating the turns at the speeds set forth in the Safety Administration report, which were apparently the speeds used in the 1959 film. We also permitted General Motors to conduct tests of the Corvair and Falcon on this track and we understand that *neither the Corvair nor the Falcon had any difficulty negotiating the turns* (emphasis added)."

We have forwarded Mr. Nader's comments to the Panel members for their information and evaluation. Should any member feel the need to comment further or modify their conclusions, we will arrange to obtain this information also.

In summary, we believe we have completed all logical investigation of the Corvair's handling characteristics within the constraints of the resources the question warrants expending. A huge volume of data and information has been examined and an engineering test program conducted, both in an unbiased and professional manner. The Administration has spent over one-half million dollars in direct costs for less than one-half of 1 percent of the vehicles on the road and probably a considerably lower percentage of the mileage driven.

If we can be of any further assistance, please contact us.

Sincerely,

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

EXHIBIT 3

The mass moment of inertia of an object of fixed size is in direct proporation to its weight. The equation to determine the mass moment of inertia of a rectangular, homogenous body about its centroidal axis) axis through the center of gravity) is:

I equals *M* times (a^2 plus b^2) divided by 12.

M equals *W* divided by 32.2.

M equals the total mass of the object, which is equal to the weight divided by the acceleration due to gravity and A and B are the height and width of the object measured perpendicular to the axis.

The length of the Corvair is 15 feet (180 inches), the width is 5.58 feet (67 inches), and the height is 3.8 feet (45 inches measured from the floor pan to the roof). The Corvair as tested by HSRI in 1970 probably weighed about 2985 pounds (2500 pounds nominal weight, plus 350 pounds for the test equipment plus gas, oil, etc.).

Inserting these figures into the formula gives a resistance to spin (or energy for spin) of 2400 slug feet squared when the weight is 3600 pounds and 1990 slug feet squared when the weight is 2985 pounds. Similarly, the resistance to roll (or the energy for roll) is 427 slug feet squared at 3600 pounds and 354 slug feet squared when the weight is 2985 pounds.

Thus, the 600 pound weight difference made a 20.4 percent difference in the mass moment of inertia. Inertia is that property of an object which resists a change in motion. Given the same input, a more heavily laden vehicle will require a longer time to reach its full response, but will ultimately reach the same level of response. Once it does, the greater weight provides more energy to be dissipated. Thus, in the drastic steer-drastic brake maneuver, the increased weight served to resist spinout and rollover up to the time of brake application. However, once the brakes were applied, the increased weight created more energy to be expended, and hence made spinout or rollover more likely than if the vehicle had been lightly loaded.

EXHIBIT 4

Corvair accident data provided by Prof. B. J. Campbell, University of North Carolina

	Reference group (270,697 cars)	1960 Corvair (365 cars)	1961 Corvair (505 cars)	1962 Corvair (181 cars)	1963 Corvair (532 cars)	1964 Corvair (377 cars)	1965 Corvair (395 cars)	1966 Corvair (174 cars)	Corvette all years (188 cars)	1963 updated (903 total cars)	1964 updated (691 total cars)	1965 updated (810 total cars)
Offroad	16.62	26.57	27.32	29.83	30.82	22.61	17.21	19.54	38.29	28.46	18.37	15.30
Car versus fixed object	.60	.54	.19	2.20	1.8	.53	.25	1.14	1.06	.44	6.57	.37
Car versus other object	.64	1.64	1.78	.55	.93	1.06	.75	.57	0	1.32	.72	.37
Car versus car	55.40	57.80	56.03	55.24	53.19	62.06	63.54	62.06	52.12	54.37	63.53	65.06
Car versus truck	15.19	7.67	6.73	7.18	7.14	6.36	7.59	8.62	5.31	6.97	7.52	8.14
Multiple vehicle	7.73	4.10	6.53	4.97	6.76	7.16	10.12	7.47	2.65	7.30	7.67	9.38
Other	3.77	1.64	1.38	0	.93	.79	.5	.57	.53	1.10	1.59	1.35

EXHIBIT 5

SEPTEMBER 4, 1970.

Senator ABRAHAM RIBICOFF,
Chairman, Senate Subcommittee on Executive Reorganization, Senate Government Operations Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: Enclosed is a copy of a letter which I have sent to Secretary John Volpe concerning the suppression of test data and films by General Motors regarding the hazards of the Corvair.

As you recall, the only treatment of the Corvair problem before Congress was before your Subcommittee on March 22, 1966. On Page 1554 of the hearing, Mr. James Roche, President of General Motors, produced for the hearing record Exhibit 143 containing statements by Louis G. Bridenstine and Frank Winchell which were seriously misleading and consciously erroneous. It is ironic that although the National Highway Safety Bureau was established during the peak of the Corvair controversy, it never made any attempt to investigate this massive series of design hazards. It was as if the Corvair issue was

too big to deal with under the 1966 law—when just the opposite should be true.

Knowingly misleading a Congressional Committee is a grave matter. I would request that you obtain a detailed explanation of these statement's from Mr. Roche in the light of the attached information. Re-opening the inquiry to see whether the National Highway Safety Bureau can redeem its neglectful four years and act to protect the public in this truly shocking vehicle hazard would be appropriate. The Corvair is no longer being produced, but over a million are on the road with the carbon monoxide seepage and 600,000 of these vehicles with the inherent instability that leads to breakaway and rollover. The continuing Corvair casualties, particularly among the young and poor who now have many of these models, should provide the most profound reason for the small amount of attention that is respectfully requested of your Subcommittee.

Thank you.

Sincerely,

RALPH NADER.

SEPTEMBER 4, 1970.

Hon. JOHN A. VOLPE,
Secretary of Transportation, Department of Transportation, Washington, D.C.

DEAR SECRETARY VOLPE: For five years, nearly four of them under the auto safety law, the federal government has declined to become involved in the Corvair matter, notwithstanding the mass of evidence as to its hazards which has been externally collected and transmitted to the government. Now comes decisive evidence which reveals a labyrinthic and systematic intra-company collusion, involving high General Motors officials, to sequester and suppress company produced data and films proving the Corvair (1960–63 models) dangerously unstable. The Department of Transportation can no longer avoid confronting the GM–Corvair depravity and the daily carnage of innocent people injured or killed in these vehicles. Probably 600,000 of these Corvairs are still on the roads, driven increasingly by the young and the poor. Little can be done about past Corvair casualties, except as a spur to end this dismaying refusal to act by the Department. Much can be done to prevent further crash-injuries and to understand additional, serious design defects affecting all Corvairs (1960–1969 models). But first it is necessary to understand the enormity of what General Motors officials have done to their customers (and passengers), the federal government, the courts and any American who trusted the testimony and assurances of the nation's largest industrial corporation. For in a word, GM manufactured and maintained a massive lie.

The company's credibility is not at stake here. Its credibility is shattered here. It can now be reliably asserted that GM proving ground tests and films back in 1962–63 conclusively proved the Corvair to be uniquely unstable with unprecedented rollover capability unlike any other American car. (Such characteristics were known by GM engineers when the Corvair was in its design stage back in the late Fifties. But the cautions of the more concerned were over-ridden by management which refused to adopt a much safer suspension system then available.) None of this information was ever offered or disclosed in response to court orders to produce such or any other requests from federal and state officials. On the contrary, in a consistent posture of suppression and prevarication, the company declared the Corvair as safe as any other car and asserted that any claims to its lack of safety were false.

Before the Senate Subcommittee on Executive Reorganization on March 22, 1966, James M. Roche, then President, General Motors Corp. read approvingly into the hearing record a statement by GM's Assistant General Counsel, Louis H. Bridenstine and a technical account by Mr. Frank Winchell, Chief Engineer for Research and Development of Chevrolet Motor Division, which will become principal exhibits of the falsehoods and distortion utilized by the company's spokesmen. Other GM officials, including Mr. Edward Cole, now the company president and long known as the "father of the Corvair" stated what GM's own tests said was not so about the vehicle's handling.

Mr. Winchell's statement was replete with statements contradicted by GM's own, secret test data and films to which Mr. Winchell had access. For example, in words to be substantially repeated under oath before courts across the land, Mr. Winchell told the Michigan Senate Committee on Highways (February 21, 1966) that "The Corvair differs from other cars only in the arrangement of its components" and "Photographs of tire distortions with a car sliding sideways will show no significant difference between the proximity of the rim to the pavement of the Corvair and any other automobile." These statements were made by Mr. Winchell, now a special assistant to Mr. Cole, although they are contradicted by GM proving ground data and films which were completed between three and nearly four years earlier.

Despite repeated interrogatories and motions to produce in litigation involving crash victims, these data and films were secreted in a special category of "hot documents". For example, your Department should be interested in obtaining all the reports, memos and films growing out of PG Job No. 032127 beginning approximately April 11, 1962 and specifically including those portions dealing with Test run numbers 46–50, 58, 71, 75, 80, 86, 92, 99, 104; and arising out of PG Job No. 032307 beginning approximately Nov. 13, 1962 and specifically including those portions dealing with test run numbers 117, 120, 125, 126, 127–31, 134, 135–36. These films showing roll overs at speeds of 26 mph, 28 mph, and 30 mph would be enlightening repudiation of the shocking disparities articulated in courts and before legislative hearings by GM officials.

In the afore-mentioned Michigan testimony, Mr. Bridenstine, now GM's number two lawyer (after General Counsel Ross Malone) had the presumption of raising the Canons of Professional Ethics regarding the behavior of a Detroit attorney while he has been closely involved in keeping suppressed the test data and films by GM's own engineers showing the early Corvairs to be exceptionally facile roll over candidates. He maintained this stance against the regular crashes incident to Corvair rollovers week after week and against the court sanctioned interrogatories put to GM for this material. The canons may well be applied to Mr. Bridenstine's behavior.

Pertinent to this suppression of data damaging to the Corvair and the public statement and testimony that all was well with the vehicle is the company's tactics of attrition and judicial manipulation. In a major Corvair trial, GM's presentation misled the California judge, Bernard Jefferson, into writing a lengthy opinion concluding that the Corvair design was not unsafely designed. Having obtained such a decision, GM proceeded to transform it into a promotion and in an obscene gesture perhaps unheard of in corporate legal history, initiated its distribution to its Chevrolet dealers, state and federal legislators and other influential recipients including judges. Sizable settlements in Corvair litigation are associated with how close plaintiff's lawyer gets to the "hot documents" in his discovery motions. If GM's lawyers could not wear the plaintiff down by dilatory techniques, or flout the discovery orders with impunity, the company order from the top would be to "purchase the case" with a settlement. Several settlements have exceeded the $100,000 level.

The afore-mentioned test data, together with other memoranda, letters, and corroborating personnel, show conclusively that:

GM officials knew they had a safety problem involving rollover and uncontrollability before the Corvair litigation started about 1963, and dabbled with a cheap prospective technical "fix" that flopped;

GM officials consciously refused to issue warnings or recall the vehicles;

GM officials launched a policy of falsely stating that the Corvair did not behave differently than any other American car and misled members of three branches of government at both state and federal levels;

GM officials demanded or condoned unethical behavior by its lawyers and engineers which had major repercussions on the frequency of Corvair crashes and casualties;

GM officials at the highest level were responsible for the preceding policies and spared no expense to perpetuate false defense strategies in the courts and suppression of GM's own tests adverse to the Corvair;

The gravity of the situation proceeds from the personal responsibility of the Chairman of the Board, Mr. Roche, and the President, Mr. Cole. For years, they have been on notice as to the problems of the Corvair; indeed Mr. Cole took a personal role in its design. For years, thier legal duties to the public safety, not to mention their shareholders, should have required the disclosure of all company tests data, regardless of its criticality, simply because American lives are involved. For years, they actively defended the Corvair and carefully avoided true disclosure. If in the annals of corporate irresponsibility this behavior is not grounds for resignation, then the monster of corporatism has overtaken the law. They should both resign.

The situation of Mr. Ross Malone, GM's General Counsel and former President of the American Bar Association is one of a need for prompt re-appraisal. Having joined the company nearly two years ago, he is the heir, rather than the shaper of most of the Corvair legal strategy. However, his duty is to require reversal of odious practices such as placing as many private, potential Corvair expert witnesses on a monthly retainer to monopolize this "market" around the country, or requiring attorney's with whom they settle to agree not to take any more Corvair cases. More important, Mr. Malone must realize the grave impropriety of using his lawyers as a shield to hide lifesaving company test data and as a sword to defeat attempts to obtain such information under judicial procedures. One has only to read the newspapers' regular descriptions of sudden rollover Corvair crashes to realize that the proper legal advice to the corporate client is to promptly warn motorists and recall and fix the source of instability, not to camouflage the truth and mass the company's legal resources to overwhelm plaintiffs and tie up the courts. There is the added responsibility for corporate counsel to review all cases where interrogatories were not responded to truthfully and completely.

A design defect that affects all Corvair models from 1960 to 1969 permits the seepage of combustion chamber gases into the passenger compartment along with the heated air. These gases include carbon monoxide. This is a very common complaint, as many letters to the National Highway Safety Bureau and General Motors show. GM has hundreds of these complaints. Privately, both present and former engineers for the company concede the defect, but the company policy officials continue to cover it up. In the opinion of specialists, this is a most serious hazard and has been known to overwhelm or sicken the driver. Further information known to GM is forthcoming for your consideration.

Clearly, the Department of Transportation has the authority to take action to pro-

tect motorists and passengers. It can require GM to send a notification of defect(s) to all Corvair owners. Although this year GM defeated a request by the National Highway Safety Bureau to obtain congressional authority to compel recalls, the requirement to notify usually involves a recall.

The Department should also request from Mr. Roche a complete report on the Corvair design and the company's secret test and film data and relevant memoranda. It must be emphasized that the materials and other associated facts will soon be released irrespective of whether or not he takes this opportunity to assert full corporate responsibility.

While to some, the cessation of Corvair production means the vehicle is history, the fact is that Corvairs are being driven every day hundreds of thousands of miles by hundreds of thousands of drivers under latent hazards that should be considered intolerable by your Department. Your counsel has exerted authority to require defect notification on pre-1966 vehicles in the Chevrolet truck wheel defect. This range of vehicle defects for the Corvair is much more serious in volume and severity. The preposterous pretext underlying National Highway Safety Bureau inaction regarding the Corvair—namely that there is civil litigation pending—borders on malfeasance in office. Civil litigation should never block enforcement of the law.

How corporations react to crises of their own making is increasing, tending toward cataclysmic potential for many citizens, as companies become larger and their technology more complexly fraught with hazards. General Motors, thanks to outside pressures and inquiries, no longer receives uncritical deference to its alleged knowhow that was its unearned increment from society. Too many facts have been unloosed among the public in recent years about the company's suppression of pollution control technology, its profligate expenditures on profitable trivia and wasteful corporate ego trips to the detriment of attention to safety, durability, ease of repair and efficiency in vehicle operation. At the present time, GM lobbyists and lawyers are all over Washington pursuing callous drives to seriously weaken the air pollution legislation and to delay the installation of the air bag, or similar system, in motor vehicles so thousands of lives could be saved in crashes. Their collusion with other auto companies in these efforts, particularly the pollution lobbying, makes a mockery out of the consent decree which they signed last year with the Antitrust Division of the Justice Department.

Further revelations about Corvair collusion and suppression, known and condoned at the highest GM levels will open new public understandings of the extent to which this company will go to shield its defective vehicles even from its own self-indictment of them.

I look forward to your response.

Sincerely yours,

RALPH NADER.

SEPTEMBER 14, 1970.

MR. RALPH NADER,
Washington, D.C.

DEAR MR. NADER: The charges made in your letters to Secretary Volpe and me, and the response of Mr. Cole to them, raise important issues which the Subcommittee on Executive Reorganization and Government Research must seriously consider.

Your letter to me alleged that at the hearing on March 22, 1966, GM officials "knowingly misled" the Subcommittee. The letter to Secretary Volpe, charged that "GM proving ground tests and films back in 1962–63 conclusively proved the Corvair uniquely unstable with unprecedented rollover capability unlike any other American car." It cited certain GM documents and a so-called "hot-documents" file as proof of your claims.

Mr. Cole's letter to Secretary Volpe countered that the material you referred to "were reports of engineering development tests in which Corvairs, specially equipped with experimental parts, were intentionally overturned by experienced test drivers using violent maneuvers designed to overturn them." His letter offered to make available to Secretary Volpe any information or material on the Corvair relating to its safety.

Accordingly, I have requested that GM provide the Subcommittee with those documents and films referred to in your letter to Secretary Volpe plus any other significant proving ground reports concerning the handling and safety of the Corvair, and any memoranda between Mr. Bridenstine, Mr. Power, Mr. Winchell, Mr. Cole, Mr. Knudsen, and Mr. Roche or other high ranking officers concerning the safety of the Corvair. I have also asked for a memorandum explaining the alleged "hot-documents" file.

Concurrently, I request that you provide the Subcommittee with all the information in your possession concerning the Corvair.

Only by examining all the relevant evidence will the Subcommittee be able to determine a proper course of action. Accordingly, I ask that you cooperate with us in bringing this matter to a prompt conclusion.

If you have any questions, please contact me, or Robert J. Wager, General Counsel of the Subcommittee.

Sincerely,

ABE RIBICOFF,
Chairman.

[For release Sunday, October 25, 1970 A.M.]
October 23, 1970.

HON. ABRAHAM A. RIBICOFF,
Subcommittee on Executive Reorganization, Washington, D.C.

DEAR SENATOR RIBICOFF: In response to your letter of September 12, 1970, I have now compiled the following analysis of certain documents and issues concerning the safety of the Corvair automobiles manufactured and sold by General Motors from 1960 through 1969. This analysis summarizes the relationship and contradictions between documents suppressed by GM and GM's March 1966 testimony before your subcommittee. I believe the now emerging record shows that much of that GM testimony was inaccurate, dishonest or both with regard to many matters, and particularly the stability and safety of the 1960 through 1965 Corvairs.

The examples below are illustrative of this massive conspiracy:

MISREPRESENTATION NO. 1: THE CONTINUING FRAUD IN GM'S LEGAL DEFENSE OF THE CORVAIR

Background facts and GM's statements to the U.S. Senate

During your March 22, 1966 hearings in Washington, D.C. you questioned the General Counsel of GM as to the reasons for GM's investigation of me. In his response, Mr. Aloysius Power testified that GM had investigated Nader's charges of an "unsafe and inherently improper and unsafe design" since GM's "own people, engineers, have advised us that it [the Corvair] isn't unsafe."

The exact testimony, at page 1447, was:

* * * * *

Senator RIBICOFF. . . . Do you investigate everybody who writes an article about a General Motors car?

Mr. POWER. No. We don't find many people doing it on the scale that this was done, and we don't find anybody writing where they are saying that it is unsafe and inherently improper and unsafe design. That is a pretty serious charge.

Senator RIBICOFF. Well, it is.

Mr. POWER. But if someone else writes an article on that, we will check into that one, too. Now, we have got the question of whether or not we are going to stand for disparagement of a product where our own people, *engineers have advised us that it isn't safe, and they have testified in two cases already in court and a jury has accepted their testimony.* (emphasis added).

Senator RIBICOFF. Couldn't you write a book or an article saying that the Corvair was safe?

Mr. POWER. Well, I know it is—

* * * * *

In addition, the March 22, 1966 hearing record contained large amounts of material involving the safety and stability of the Corvair. Indeed, this was the underlying issue which had instigated most of the actions by all parties. I specifically brought this issue to the Committee's attention at pp. 1499–1501.

At the conclusion of my testimony, Mr. James Roche, then President of GM, asked for and received permission to insert, as part of the record at page 1554, GM's testimony by Mr. Louis H. Bridenstine, Assistant General Counsel of GM, and Mr. Frank Winchell, Chevrolet Chief Engineer for Research and Development, before the Michigan Senate Committee on Highways on February 21, 1966. This testimony ridicules court challenges by plantiffs injured in Corvairs. Mr. Bridenstine's purpose was in his own words "to assure that [the Michigan] Committee is not misled" as to the issues involved. His intent was to deter the enactment of Michigan auto safety legislation. Mr. Bridenstine purported to show that juries, with the best first-hand access to facts, had all exonerated GM after examining a complete record of Corvair driving performance. The implication of Mr. Roche's insertion in your hearing record was clear—that since all the evidence had been fairly studied and the assertions of plaintiffs had been deemed by juries to be unsubstantiated, the U.S. Senate Committee need not examine the safety of the Corvair's handling characteristics.

Mr. Bridenstine's remarks, a part of the Ribicoff Committee record at page 1555, were:

Therefore, consistent with our policy and practice, we have not included in this statement to your committee evidence establishing the safe design of the 1960–63 Corvair.

However, *to assure that your committee is not misled,* we can advise you regarding litigation already terminated. In the only two cases in which this claim that the Corvair is defectively designed has been tried and decided, the juries in both instances returned verdicts in favor of General Motors. The first case involved a trial of ten weeks in San Jose, California. The second case, in which Mr. Philo and his law firm participated, involved a six weeks' trial in Clearwater, Florida. In his statement before your committee, Mr. Philo named Dr. Thomas Manos an authority for Mr. Philos' assertions. It is interesting that Dr. Manos testified at length for the plaintiff and was cross-examined in both trials regarding his tests and conclusions on the Corvair design.

In these two trials we, of course, presented evidence and our witnesses were cross examined regarding the development, design and performance of the Corvair. *In both cases and under proper rules of procedure and evidence,* the juries disagreed with plaintiffs' counsel and agreed with our position. (emphasis added)

Effect of these misrepresentations

GM's insinuations that several litigated law suits had conclusively determined the safety of the Corvair were persuasive.

No further examination of Corvair design defects was made by the U.S. Senate. More important, the entire Congress was deceived as is evident from the auto safety legisla-

tion enacted later in 1966. Had it been realized that a vehicle marketed for six years and sold in the millions was secretly known by the manufacturer to be susceptible to rollover at low speeds under normal operating conditions, surely the Congress would not have hesitated to legislatively require mandatory recall and criminal penalties for willful neglect by the manufacturer. It is anguishing to speculate how many millions of Americans have perished or been maimed since 1966 because of the absence of these necessary deterrents in the basic auto safety law.

GM's testimony in February and March 1966 necessarily was both an assertion by GM that they had testified accurately before the Courts, and that they knew of no existing evidence which would rebut that testimony. To that extent, this testimony directly conflicted with GM's own internal documents, such as PG 17103, which were being withheld from Courts across the country, from the Michigan Senate Committee and from your U.S. Senate Subcommittee.

Details of GM's misrepresentation

Mr. Carl Thelin, a former GM engineer, has now publicly stated that at the time Mr. Power was testifying before your Subcommittee in 1966, Mr. Thelin was discovering a macabre scheme, originating inside GM before 1966, to hide from the courts and even from some of their own defense witnesses the existence and contents of reports critical of the Corvair's safety. This scheme was a deliberate frustration of an injured person's basic right, embodied in the rules of evidence of state and Federal law, to receive in a law suit the product maker's data about the safety tests of his product without having first to identify the information itself.

The suppressed documents included the now renowned PG 17103, which showed that the 1962 Corvair would, if subjected at a speed of less than 30 mph to a simple J-turn (essentially the situation any car experiences if it hits a wet patch or rough spot in the road or if it makes a sudden turn while passing another car) rollover on a level surface. Also suppressed were other test reports, such as PG 15699, where the Corvair in 9 of 10 tests rolled over while the Chevrolet sedan did not roll over under the same test conditions. These documents provide substantial evidence of the defects in the suspension system of the 1960–64 Corvairs. Mr. Thelin's statements and referenced documents make it clear that the GM conspiracy was known to, if not directed by, Mr. Power's legal staff.

The essence of the GM plan was to keep any damaging relevant information from potential witnesses, including some witnesses for GM. Thus, the testimony of these witnesses could reflect only what they knew, which was necessarily less than the complete truth or clear untruths. This scheme was therefore a deliberate, premeditated attempt first to mislead injured plaintiffs and the Courts, and then the Michigan and U.S. Senate Committees, and finally the public, as to the safety of the Corvair. Mr. Power's assertions that he knew the Corvair was a safe car could have been repeatedly contradicted by the release of the evidence requested by plaintiffs, but suppressed by Mr. Power's staff inside General Motors.

As a further example of the misrepresentation by GM as to the safety of the Corvair, the public record shows that the data which GM supplied to the courts in the two completed trials cases (*Anderson* v. *General Motors Corporation* and *Collins* v. *General Motors Corporation*) was purposefully inaccurate and incomplete. GM's boasting to the Michigan Senate and your Subcommittee about these cases compounded the fraud.

For example, in the *Anderson* case in Clearwater, Florida, GM in the person of Mr. Frank J. Winchell, then Chevrolet Chief Research and Development Engineer, was grossly misleading in its response to plaintiff's questions about whether written records were kept of the proving grounds tests on 12 to 24 Corvair automobiles of the model years 1960, 1961 and 1962.

Despite the existence of PG reports 17103, 15699 and other tests of a similar nature, pages 4802–4806 of the transcript (Law No. 17,013 shows that Mr. Winchell asserted the following under oath:

* * * * *

VOIR DIRE EXAMINATION

By Mr. MASTERSON:

Q. Mr. Winchell, were there Corvair automobiles involved in this testing?

A. Yes sir.

Q. How many?

A. Well, I tried to estimate that a moment ago. I think I—I couldn't say it very precisely, 12 to 24, in that area.

Q. Does it include 1960, '61 and 1962 models?

A. Yes sir.

Q. And were the results of your testing reduced to writing?

A. No. Our—our testing was a development, exploratory kind of work where we are seeking fundamental facts.

Q. And the results of these tests were not reduced to writing?

A. Not formal reports with—

Q. Well, was any of the data preserved?

A. Well, when you say "any of the data," I—I would be hard pressed to say. Our custom in this thing, I have to explain to you Mr. Masterson, is——

Q. Well, my question was: Is any of the data preserved?

A. I can't—I can't say positively whether there was any or not. I presume there was some.

Q. Where would it be if it was preserved?

A. Probably in our Research and Development files.

Q. Of which you are the head?

A. Yes sir.

Q. Do you know whether it was preserved or not?

A. I can't really say, Mr. Masterson. It was——

The COURT. Are you telling us that you do a great deal of research and keep no records of what you find out?

A. Well, we don't—what I said is we don't issue any formal reports. When you are—when you are in the exploratory range of this thing you are not in a position to come to any conclusions.

The COURT. But do you keep any written records of what you find out each day or do you just try to keep that in your mind?

The WITNESS. No, we do note our results, and we meet and discuss them, and they are held for some period of time, but I couldn't tell you whether they are still in existence or not.

The COURT. All right, sir.

FURTHER DIRECT EXAMINATION

By Mr. NUNEZ:

Q. Mr. Winchell, in that connection what is the—what is the usual procedure for—that is set in motion at Chevrolet—for doing something to or with an automobile that will result in a formal test report?

A. Well, the procedure is—originates with the—what we call the product engineer, the man who is responsible for releasing this component to production. He is called the Production Engineer. He writes a test order or a build order or a design order. If it is a test order, the test order goes to the laboratory head or the proving ground head. He assigns certain people to the conduct of the test, they meet and discuss what they are going to do. The test is conducted, and the produce (sic) engineer gets the—gets the facts from the test immediately, verbally, and then as a matter of record, if we think that that—that test has any use to us in future design work, or as a reference, a formal report is written by report writers under the direction of the test engineer.

The COURT. Do you keep any record of the tests that were made that you decided had no use to you so that you don't repeat that test the next month or next year?

The WITNESS. Well, our Research and Development Group, sir, is rather small, and we don't run that——

Mr. NUNEZ. Excuse me, Mr. Winchell, I think the Judge can hear you quite clearly, but I would——

The COURT. You face the Jury——

Mr. NUNEZ. Address your answers to me.

The COURT. So everyone can hear, then.

The WITNESS. We have—as I say, in this particular program I had about two engineers to start with, and I don't run the hazard of this thing being repeated by personnel.

By Mr. NUNEZ:

Q. Well, you were telling me about a particular device that makes a record on a—on a running piece of graph paper, some kind of paper.

A. Well, Mr. Masterson asked me specifically——

Mr. MASTERSON. May I ask that the witness repond to the Judge's question? The Judge asked you if you preserved data so that you don't repeat the test which was not useful to you.

The WITNESS. Well, I can't give just a yes or no answer on that. Sometimes we do, and sometimes we don't. I say, if—if, in our opinion, we think it has some influence on our future conduct we keep it for some period of time. If we don't think so, we don't keep it.

The COURT. Proceed, Mr. Nunez.

The WITNESS. Could I say something by way of explanation here?

The COURT. Yes, sir.

The WITNESS. In writing a report that is going to be useful to engineers of, say, three or four or five years hence, it has to be a very comprehensive report. Just to—to supply him with a data sheet of some measurements you've taken doesn't necessarily do him any good. And what I'm trying to say is the composition of a very comprehensive report that an engineer some five or six years hence or farther can make use of, requires a good deal of effort by the reporting engineer. And so we don't bother with things that we don't think have that kind of value in research and development.

By Mr. NUNEZ:

A. All right. Did any of the—the data that you gathered in your testing and evaluation of vehicle handling back in the 1960 through 1962 era, was any of it resulted into any sort of formal form or written form or a form which would preserve the information that you derived from those tests?

A. Not to my recollection.

* * * * *

Thus, by these untruthful answers, GM withheld significant GM proving ground test reports and records from the plaintiff which were essential to her case. Just as misleading is the fact that GM's suppressed test reports, such as PG 17103, tend to rebut and discredit the limited test results which GM did produce as evidence.

The depositions of other key GM employees were equally inaccurate as to the existence of past records of proving ground tests. The transcript of the case of *Collins* v. *General Motors Corporation* (Superior Court of the State of Calif. Santa Clara C.) partially reveals the contents of depositions of GM Vice President Harry Barr and GM Chassis Design Chief Kai Hansen.

In the questioning, the plaintiff's attorney was attempting to establish the existence of written records of proving ground and other Corvair tests. The transcript in that case, Docket No. 149317, shows at page 3264:

* * * * *

By Mr. HARNEY:

Q. As of 1962 is it correct that practically everything that had to do with testing the Corvair had been destroyed by General Motors?

A. Not to my knowledge.

Q. Have you read the deposition of Harry Barr in which he said that was true?

A. No. I did not read that.

Q. Did you read the deposition of Kai Hansen in which he said that was true?

A. I did not.

Q. You only read the portion of Kai Hansen's deposition on the subject of whether he was against the location of the engine in the rear?

A. I believe Kai Hansen had his deposition taken a number of times and I didn't read them all.

Q. Which one did you read?

A. It has been more than a year ago and I don't know which one I read, Mr. Harney.

Q. Who asked you to read the depositions?

A. I think Mr. Gilliland of our legal staff at that time asked me.

* * * * *

I believe that as your Subcommittee examines the records it will find numerous similar examples. But, this will not be easy. Recognizing the treacherousness of its activities, General Motors has, as a matter of corporate policy, attempted to destroy the public and private records of all litigation. For example, we have been told that GM has purchased the Courts' only file copy of the *Collins* transcript from the Court reporter. Luckily, parts of that transcript were previously secured by various plaintiffs. This partial transcript alone reveals the enormity of the fraud perpetrated by General Motors. In the *Collins* transcript at pages 3213–5 Mr. Winchell denied the existence of lateral acceleration tests on a 1960 Corvair, although skid pad rollover tests revealing lateral acceleration information are detailed in PG Report 11106 of 6/10/59, in PG Report 11285 of 8/25/59, and PG Report 12207 of 5/5/60, and were actually available but hidden in GM files.

* * * * *

By Mr. HARNEY:

Q. These tests that you have told the jury about were not in any way connected with the decision to put the Corvair on the American market, were they?

Mr. WHITNEY. Which tests are we referring to?

Your honor, I object to it. He said these tests. Mr. Winchell has been on the stand for time after time and he has testified to many tests.

Q. Each and every test you talked about in this case was never, ever done in connection with the original decision to put the Corvair on the market, correct?

Mr. COSTANZO. I object to that upon the ground counsel has already referred to certain tests that were shown to the jury. When he follows that up with another question about this, obviously it leaves the impression he is talking about the tests that were shown to the jury. I object to that question, your Honor.

The COURT. Will you repeat your question?

Mr. HARNEY. Yes.

Q. With respect to each and every test that you as a witness have participated in in connection with showing to the jury, each and every test was done in connection with litigation and not in connection with the decision to put the Corvair on the market?

A. The decision to put the Corvair on the market was made in 1957 or '58.

Q. Can you answer my question?

A. Are you talking about the 1960 or 1965 Corvair?

Q. I am talking about all the tests you have talked about in this trial in front of these twelve ladies and gentlemen plus the alternates.

A. Some of the tests that were run were certainly related to the 1964 and 1965 Corvair. The 1960 Corvair, no.

Q. Like this set you brought in here, did you have that set?

A. Not that particular one, but that is not a novel demonstration of lateral acceleration.

Q. Did you have such a thing to demonstrate the lateral acceleration of a 1960 Corvair?

A. No sir.

Q. No sir. How about this table here?

A. No sir.

Q. How about that chart behind you?

A. Well, this is a reproduction of a very ordinary chart that we use.

* * * * *

To reestablish the record for the benefit of your Subcommittee's review and the public file, I strongly recommend that you procure the entire Collins transcript from General Motors. We would, of course, appreciate the opportunity to study it, and to assist your Subcommittee with further comments.

The GM statement to the public on September 26, 1970 said: "Test Report 17103 has not been produced because, in the opinion of our counsel, it has not been called for."

No objective analysis can fail to discredit this statement. In fact, GM suppressed Test Report 17103 inside the company and deliberately withheld it in several court cases I have checked already—even where the plaintiff had requested all the relevant tests of the Corvair.

For example, in the *Collins* case in California on June 11, 1965, the plaintiff had requested and received a valid Superior Court order for GM to produce.

* * * * *

. . . all tests, studies, reports, movies, photographs and other documents pertaining to Milford, Michigan or Mesa, Arizona or other General Motors Proving Ground Tests of stability and handling characteristics of Corvair prototype. Corvair pre-production and 1960 Corvair automobiles and such Proving Ground tests of other rear engine cars as a comparison to or model for the design of the said Corvair automobile . . .

* * * * *

In response to this court order, GM simply never produced or acknowledged the existence of many essential proving ground tests some of which are identified in this letter. Thus, the plaintiff who requested such tests from GM in *Collins* was denied his legal rights.

Although the films GM suppressed in the *Collins* case clearly would have changed the character of the trial, the plaintiff was forced, by his own ignorance, to accept GM's statement that there was only *one* proving ground test for which film existed from all the Corvair testing up to that time. The plaintiff did subpoena that short film of a 1961 Corvair which went out of control and was allowed to show it to the jury on June 30, 1965; however, GM weakened its effect by not producing any precise details or data for the film and no films or data of existing GM comparison tests run with other U.S. cars. As a result, the test showed the jury just as little as GM had intended.

There were essential proving ground tests such as PG 11245 or August 7, 1959 and PG 11285 of August 25, 1959, which were never admitted by GM even to exist. Mr. Carl Thelin has already made a public statement that these omissions were familiar to him, were the result of a corporate policy to consciously withhold this evidence from injured parties and even to mislabel film to implement its difficult retrieval. Other GM employees will confirm this conspiracy and allow you to identify the persons responsible for the creation of this monstrous scheme.

A primary agent in the GM plot was Mr. Winchell. For example, he testified to the *Collins* jury on July 12, 1965, at the time he was serving in a key executive position with responsibilities for the legal defense of the Corvair, that he knew of no written records that were kept of the testing of the Corvair before it was released to the public in late 1959. His testimony at page 2690 was:

VOIR DIRE EXAMINATION

By Mr. HARNEY:

Q. Were you present when any stability or handling tests were done on the Corvair before it was released to the public?

A. Yes sir.

Q. Where was that, sir?

A. At the proving ground and at our Manitou proving grounds in Colorado. We have a Pike's Peak proving ground in Colorado. It was located in Manitou Springs.

Q. What year was that, sir?

A. That was '58.

Q. You were personally present?

A. Yes. I was in the car. I was not during the testing period; I was a passenger in the car.

Q. Were written reports made?

A. Not to my knowledge.

Mr. HARNEY. All right. Thank you.

The above testimony, under oath, should be compared with the contents of such PG reports such as PG 11245 of August 7, 1959 which is a tire blowout comparison at 60 mph., or PG 1110C of June 10, 1959, which was a skid pad roll test on the then soon to be released Corvair, so that the Committee can ask itself whether such test results could even possibly have been unknown to Mr. Winchell.

Two other examples illustrate the utter depravity and insolence with which GM conducted its legal defense of the Corvair in courts and before your Subcommittee. Despite the existence of over one dozen fully documented rollover test reports involving hundreds of trial runs of Corvairs, completed from 1959 through May 1965, with uncounted numbers of rollovers and other examples of instability of these cars, Mr. Winchell told the jury in the *Collins* case that "I have never seen the Corvair rolled over on the [GM] skid pad" (p. 3855).

In addition, despite the fact that GM had made at least several movies of Corvair rollovers by 1964, Mr. Winchell testified to the California Court in 1965 that the *only* skid pad test for which movies existed was the rollover test at one and one half miles per hour, a movie which had been shown to the jury there. In summary, Mr. Winchell's assertions of ignorance about the rollovers on film in PG 17103 and PG 15699 are totally implausible in light of his position at GM at that time.

Mr. Winchell's exact testimony was:

Mr. HARNEY: Q. Do you know who the man at General Motors is who developed a method of turning cars over?

[Mr. WINCHELL] A. No, sir.

Q. Do you know whether or not it is extremely difficult to make the modern car rollover except for the Corvair?

A. I wouldn't agree to that.

Q. Isn't it true that at General Motors in order to get non-Corvairs to turn over, they had to build tremendous ramps that practically turned the thing over in the air or run them into soft dirt off an embankment?

A. No, I don't think that is true.

Q. Have you ever at General Motors seen a car turned over on the skid pad except for a Corvair?

A. Yes, sir.

Q. What kind?

A. Renault.

Q. A Renault, any others?

A. Volkswagen.

Q. Any others?

A. I can't recall of any others.

Q. Each and every one was a rear engine car?

A. Those two are rear engine cars.

Q. And Corvair is a rear engine car?
A. Yes.
Q. You have seen the Corvair roll over on the skid pad?
A. I have never seen the Corvair rolled over on the skid pad.
Q. Didn't you see the movies that were presented?
A. I saw those. When you said skid pad, I thought you were referring to our skid pad.
Q. General Motors' skid pad.
A. I thought you were referring to Dr. Manos' test.
Q. No, there is another film that was shown to the jury in this case at the General Motors' skid pad where a Corvair automobile comes out from the right going to the left and the driver jerks the wheel and then he jerks it back and it rolled over.
A. I remember that. I am sorry.
Q. Who was driving the car?
A. I don't know the man's name.

* * * * *

By Mr. HARNEY:

Mr. Winchell, since you have been here in San Jose, have you seen any General Motors test on the lateral stability or the directional stability with instrumentation of the Corvair automobile?

A. Since I have been in San Jose? That would be tests conducted here in San Jose?
Q. No, the physical presence of any such report in San Jose since you have been here?
A. Yes, I think so.
Q. And you know where such test reports would be located?
A. I was shown a stack of material that I understood had been submitted to the plaintiff in this case and was asked was I familiar with these tests. I said I couldn't say. Some of them I had some familiarity with, some I did not.
A. I am asking, Mr. Winchell, about lateral stability and directional stability tests on the Corvair with instrumentation. Do you understand my question?
A. Yes sir.
Q. And you have seen such reports?
A. There were quite a few reports there. Some of this test, I seem to recall having seen several roadability tests.
Q. With instrumentation?
A. Yes sir, all the roadability tests are with instrumentation.
Q. What type of instrumentation?
A. I don't know precisely what type, but I know the data they get. What particular instruments they used in getting it, I can't testify to that.
Q. Would it be correct that the only instrumentation in any test of what you are aware of was in the one mile an hour test?
A. If I understand your question correctly, absolutely not.
Q. Then you have seen other test reports pertaining to the lateral stability and the directional stability of the Corvair with instrumentation, true?
A. If I understand your question correctly, yes, sir.
Q. You have seen it here in San Jose?
A. I saw the reports that I spoke of. I saw the data that I read to you in evidence. I saw the photographs that were submitted in evidence. I saw the film that was submitted in evidence of this one and a half mile an hour test. That is all I can recall at the moment.
Q. Any movies you have seen of any lateral stability or directional stability test is the one mile an hour test, correct?
A. I believe that's correct, yes, sir.

Mr. COSTANZO: Are you referring only to the Corvair automobile, Counsel?

Mr. HARNEY: Yes, sir.

By Mr. HARNEY:

Q. On exhibit——
A. Excuse me. Just a moment. I saw Dr. Manos' movie.
Q. I am talking about emanating from General Motors.
A. I don't believe so, Mr. Harney.

* * * * *

This testimony shows how GM has been able to obtain untold numbers of fraudulent judgments or settlements across the country. To document the size of this injustice for your Subcommittee and the public record, I urge you to request from GM a summary of the number and location of all payments made by General Motors in settlement to injured Corvair plaintiffs or potential plaintiffs, and to find out from GM what they plan to do to give justice to those people (like Mr. Anderson and Miss Collins) who have been injured at least twice by GM's avarice.

Misrepresentation No. 3: The Corvair's Instability Compared to other American Cars

Background facts and GM statements

During your 1966 Subcommittee hearings, then-GM President Roche presented the history of GM's continuous addition of safety features to GM cars since 1910. In the course of that presentation, Mr. Roche discussed the improvements made in the stability of GM cars. As proof of that assertion Mr. Roche cited the difference in rollover capacity of today's automobiles with their 1935 predecessors. Mr. Roche's exact words, at pages 660 and 661, were:

* * * * *

The center of gravity of vehicles has been lowered substantially over the years, improving vehicle stability.

Since 1935, on a regular Chevrolet the center of gravity, the point at which the car's weight will balance, has been lowered from 24.8 to 19.6. This is a reduction of over 5 inches—or more than 26 percent—in center of gravity during the past 30 years. Similar lowering of the center of gravity has been achieved on the other General Motors car lines. These changes have made our cars less top heavy and more sure footed, decreasing the possibility of rollovers.

We have film footage and data concerning earlier destructive tests run with cars on what we now call the J-turn. A 1935 car traveling at about 50 miles per hour on a grass field would roll over when put into a severe J-turn. *Today's automobile, even at higher speeds, is almost impossible to turn over in the same type of sharp turn unless the outside wheels strike an obstacle.* This J-turn test is included in the GSA specifications for testing the ability of tires to remain inflated during such a turn at 50 miles per hour on a concrete surface.

Our modern frames, which are much sturdier, have also contributed to this increased stability. New design concepts have allowed us to lower the side rails for a lower car and these rails are integrated more closely with the body than those of earlier years. This provides greater rigidity and strength for the overall body structure. [Emphasis added.]

* * * * *

Mr. Edward N. Cole, in a letter of September 7, 1970 to Secretary of Transportation John Volpe, said that the test reports to which Mr. Nader referred were "reports of engineering development tests in which Corvairs, specially equipped with experimental parts, were intentionally overturned by experienced test drivers using violent maneuvers designed to overturn them."

The conflict between GM's statements and its own Proving Ground tests

If Mr. Roche's 1935 model car rolled over at 50 mph, then "one of today's automobiles", such as a 1963 Corvair, is revealed in the suppressed PG Report 17103 (in test run #120) to have rolled over on its roof, a roll of 180°, when taken into "a simple J-turn" at 28 mph or at less than 60% of the 50 mph speed. Moreover, there were other separate test runs in PG 17103 such as the 18 test runs from 115–119 and 121–133 which indicate that the few changes made there in the shock absorber design and configuration were GM attempts to stabilize that production model system. In test runs 135 and 136, where 1962 shock absorbers were used with slight shimming to limit the rear rebound angles slightly, which would tend to increase stability the test report results in both cases said that the car "exhibit[ed] unstable characteristics."

In summary, the actual words of test run #120, as a "'63 production" vehicle totally conflict with both Mr. Cole's explanation that the only Corvairs tested were "experimental," and Mr. Roche's testimony that GM had done so much to increase the stability of its cars since 1935.

The actual text of the results and conclusions of PG Report 17103 are even more damning of the Corvair. At page 1 that document says:

"These tests showed that the dynamic stability of the current production 1963 Corvair was not substantially improved through practical modifications to the shock absorber design and configuration . . . A 1964 prototype suspension installed in the car made the dynamic stability characteristics acceptable for several different test conditions."

Conclusions

Test run No. 120 of PG 17103, together with PG 15699, illustrates that GM has clearly misrepresented the stability of the 1960–63 Corvairs both in 1966 and again in 1970. In short, GM's own proving ground reports on the performance of their Corvairs refute Mr. Roche's statements before your Subcommittee, and Mr. Cole's statements last month.

Although Mr. Roche did not define where "today's automobile" would be "almost impossible" to roll over, Mr. Roche could only have been referring either to a grass surface or to the proving ground surface.

If Mr. Roche has testified that the 1960–63 Corvairs would be "practically impossible" to roll over on a grass field at 50 mph, then he must be asked to document this to your Committee since engineering authorities appear to agree that a grass field would have (in comparison to the proving ground) several factors that would make a rollover *easier* than at the proving ground. (These factors are the variable surface and a greater likelihood of a "plowing" effect, which would probably more than offset the grass field's lower coefficient of friction).

Alternatively, if Mr. Roche had assumed or stated that the 1960, 1961, 1962 and 1963 Corvairs would be very difficult to roll over on the proving ground, while a 1935 car would not, then he has clearly told the Subcommittee a tale which is directly and specifically contradicted by his proving ground report 17103, which documents that the 1963 production model Corvair rolled over at speeds of 28 to 30 mph. Indeed, the suppressed PG Reports, particularly PG 17103, illustrate that despite improved, less roll-inducing surface of concrete, the 1960–63 Corvairs would, and did, roll over at speeds of 26, 28 and 30 mph. In fact, his 1962 PG test 17103 may suggest that if these Corvairs had a 1935 type suspension system the rollover might have been averted. In short, if Mr. Roche was saying that GM's 1966 suspension systems would prevent rollover except at speeds far above 50 mph because GM has improved them so much, the 28 mph rollover in PG 17103 indicates that he is not only totally inaccurate, but also that the 1935 suspension may actually have been more stable than the 1960–63 Corvair suspension.

The overall significance of PG 17103 is also made explicit in the text of that document.

The summary of test run 136 on page 8 of PG 17103, after the conclusion of over 24 test runs, says:

"The decision was made by the Chevrolet Motor Division engineers to discontinue testing this shock absorber and suspension system configuration since it was quite obvious that the car could be rolled."

The additional significance of this test with 1962 shock absorbers is its applicability to 1960 and 1961 Corvairs. The testimony of Chief of Chevrolet Chassis Design, Mr. Kai Hansen, in the *Anderson* court transcript at page 975, has affirmed that there is no significant difference between the 1960 through 1962 Corvairs in regard to their suspension and shock absorber systems.

MISREPRESENTATION NO. 3: THE LIKELIHOOD OF CORVAIR WHEEL RIM HITTING ROAD COMPARED TO OTHER CARS

General Motors' statements in 1966

Prior to 1966, plaintiffs' attorneys and safety engineers had all suggested that there was an unusually high likelihood that the rim of the '60–'63 Corvair wheel would hit the pavement when the Corvair went into maneuvers like the J-turn. The essence of their argument was that such a touching of the rim of the wheel was more likely in the Corvair than with other autos, and that this was additional evidence of the unusual lack of stability in the Corvair. (If the wheel rim firmly hits the pavement, even GM's experts have agreed that a rollover of the Corvair is imminent, if not inevitable; but GM has insisted that this is only an effect of a rollover already under way from other very unusual circumstances.)

Mr. F. Winchell's 1966 testimony to the Michigan State Senate, which Mr. Roche inserted in your hearing record of March 22, 1966, stated that the tire distortions of the Corvair were not significantly different from "any other automobile" in the "proximity of the rim to the pavement." This testimony was offered as the essential part of his conclusion that the Corvair was as stable as other American cars. Mr. Winchell also offered the misleading explanation that Corvairs may roll over, but that this was because rollovers occur in any car which strikes an embankment, obstacle, or goes off the road. Mr. Winchell's exact statement, at page 1561, was:

"Photographs of tire distortions with a car sliding sideways will show no significant difference between the proximity of the rim to the pavement of the Corvair and any other automobile."

The conflicting evidence in PG Report 17103

The tests for PG Report 17103 were performed at the GM proving ground in late 1962 and early 1963. Over 30 test runs were made during these tests which involved either an exact production model Corvair, Corvairs with insignificant variations from production models, or Corvairs with modifications which increased (or were intended to increase) stability over the 1960–63 production models. Indeed, Mr. Winchell acknowledged to your Senate Government Operations Subcommittee staff in September 1970 his awareness of PG Report 17103 about the time it was performed; however, both the text and the photos of PG 17103 contradict his assertions as to tire distortion given to the Ribicoff Subcommittee in 1966.

For example, in the first *12 out of 12* tests of PG 17103 (before the stabler 1964 type suspension was tried), the paint on the Corvair tires was scraped off every time at least half way up to the rim, and in five test runs *all the way up to the rim* itself (see pp. 4, 5 and 6 of PG 17103). This scraping of the tire illustrates that even in the test runs without a rollover result, a rollover was most certainly, only narrowly avoided. Moreover, the scraping was greater (was higher on the tire) on these 1962 and 1963 production Corvairs than on the Corvairs with the 1964 suspension system, which were tested in runs 137 through 146, where no tire scraping was mentioned. In test 118, the Corvair was actually described as 'quite unstable by the engineers, even where the changes in the suspension system (from production standards) were those designed to increase stability beyond that of the 1960–63 models (see pp. 4, 5 and 6 of PG 17103).[1]

[1] The use of the word "unstable" and other similar potentially damaging words probably have been removed from most now existing versions of GM proving ground reports. It was part of Mr. Thelin's job to substitute softer phrases for or totally eliminate such language.

This illustration of the instability of the Corvair was also known to GM from PG 15699. The photographs of the tires in the tests in PG 15699 also show the difference in tire scraping on the 1962 Corvair used in this test compared to the virtual absence of this phenomenon on the standard 1961 Chevrolet, even though these vehicles experienced identical maneuvers. Thus, much of the significance of the first 12 tests of PG 17103 (compared to the last five tests, where a 1965 type suspension system was used) was shown by the difference in the scraped paint phenomenon. This paint phenomenon indicates that large portions of the sides of the tires touched the road—even in the cases where the Corvair did not actually roll over.

Conclusion

Although Mr. Winchell has acknowledged that he had awareness of PG 17103 at the time of his 1966 testimony, its conclusions are omitted from his testimony. This omission is significant because those test conclusions (from 1963 tests) about Corvair tires are in direct conflict with his own proving ground reports, particularly PG 17103 and PG 15699. In particular, Mr. Winchell's 1966 testimony is rebutted by the photos and tests of the last 11 tests of PG 15699. In summary, he misled the Subcommittee into the belief that (1) no evidence existed which would illustrate the radical difference between the Corvair and other automobiles and (2) he made no mention of the significant increases in the stability of the Corvair and the reduced tire scraping when the suspension changes were adopted for the 1964 Corvair.

Final conclusion

I am sending a copy of this letter to Senator Warren Magnuson, Chairman, Senate Committee on Commerce, and Senator Vance Hartke, Chairman, Senate Commerce Subcommittee on Surface Transportation, in view of the fact that GM's conduct now clearly involves matters of great public safety for Corvair owners and thus falls within the purview of the National Traffic and Motor Vehicle Act of 1966. I would be happy to sit down with you and your staff or Senator Magnuson and his staff to discuss further or amplify any of the statements in this letter.

In view of the seriousness of the above findings, I strongly urge you or Senator Magnuson to thoroughly examine GM's conduct and to convene a public hearing to determine:

(1) Precisely who is responsible for these misrepresentations to your Subcommittee;

(2) Whether your Subcommittee should proceed to request the Department of Justice to undertake an investigation to determine the nature of possible violations of Title 18, § 1001. This section of the U.S. Code provides for the fine and imprisonment of individuals who are determined to have engaged in fraud, false statements or misrepresentations to an agency of the U.S. Government;

(3) Whether other action should be recommended to any other U.S. or State District Attorneys who were engaged in earlier litigation regarding the Corvair in which GM's representations were inaccurate and incomplete. At a minimum, I believe you or Senator Magnuson should obtain from the State records and from GM a summary of how many past cases they have defended in a manner like the *Anderson* and *Collins* cases, in the light of their General Counsel's statement to you in 1966 that there were over 106 lawsuits in 23 states attacking the design of the Corvair; and

(4) Whether to recommend to the Department of Justice that General Motors Corporation be assessed the maximum penalty under Sections 108 and 109 of the National Traffic and Motor Vehicle Safety Act of 1966 for failure to effect Safety Defect Notification to all owners of 1960–1963 Corvairs under § 113.

Sincerely,

RALPH NADER.

MAY 20, 1971.

HON. ABRAHAM RIBICOFF,
Chairman, Subcommittee on Executive Reorganization, Old Senate Office Building, Washington, D.C.

DEAR SENATOR RIBICOFF: Enclosed are copies of newly obtained materials, including some heretofore non-public documents, from which your Committee should be able to prove beyond any reasonable doubt the falsity of much of the General Motors' 1966 testimony to your Committee.

These documents are:

1. Private detective reports, ordered by GM, which show investigations into the lives of private citizens who had criticized or questioned the civil rights practices of General Motors' during the 1960's—although Mr. Roche swore to your Committee that during that period of time GM had conducted no other investigations of "critics" of the Corporation.

2. Private detective reports, ordered by GM, which show an investigation into the life of a labor union official who had left regular employment by General Motors to become one of over 200 "International Representatives" of the United Auto Workers. Mr. Roche swore to your Committee that only a "very few" investigations of any kind had been conducted by General Motors and that those which were conducted had "to do only with minor affairs such as preemployment checks of individuals who are joining us, perhaps internal problems we might have with employees, and perhaps problems with embezzlement and purchasing activities or other activities of the Corporation."

The attached investigation of the U.A.W. official does not fall into any of these categories—but instead was ordered as a general investigation with particular emphasis on "subversive or Communist activities,"—although he had been an excellent employee for over 15 years and there was not a scintilla of evidence of such activities on his part—clearly this was a cover story to justify a search for negative material of any type.

3. A complaint from the California Superior Court of February 1966 describes how the GM attorney in a 1965 Corvair court case employed a private detective agency, who in turn employed a woman spy, in a frantic effort to entice an expert witness who was testifying for plaintiffs. Mr. Roche swore to your Committee that as to the use of private detectives, that "only in Mr. Nader's case"

Footnotes at end of article.

had detectives been used to investigate "an expert witness".

4. Documentation of significant alteration of testimony given under oath at the Committee hearings of March 2, 1966. In short, the Committee Hearing record, published in July 1966 as *The Federal Role in Traffic Safety*, Part Four, does not faithfully reproduce the sworn testimony because it contains major deletions and additions in the testimony of the GM witnesses.

In summary, GM President, James Roche, has denied under oath the use of investigative procedures on "expert witnesses", "critics" of the corporation, or on other parties. His statment were inaccurate and misled the Senate and the Committee and the public. Then the 1967 Justice Department investigation of GM was based on a false record of the proceedings. Thus the public was misled once again.

The total effect of these actions has also unfortunately destroyed the validity of some of the conclusions of your Subcommittee Report of January 1968 at page 33, which said: "The purpose of the hearing was to protect the integrity of the legislative process and to safeguard the right of witnesses to testify free from harassment or intimidation. The subcommittee believes that these purposes were accomplished".

Yet the record now available, and presented here, shows how GM nullified those conclusions: GM penetrated the very heart of the legislative process by finding a way to testify inaccurately and then to later falsify the basic record of facts upon which other Senate and Justice Department decisions were made.

GM's sworn testimony denying other investigations of GM critics

The Roche testimony was:

"Senator RIBICOFF. Mr. Roche, I appreciate your forthright statement. What concerns me is this: Here you are the head of one of the largest companies in the world. I can understand your desire to find out if there is a connection between Mr. Nader and other attorneys involved in litigation. But how widespread is it, in corporations such as yours, to have people who are involved in controversies or who might make a derogatory remark about General Motors to have their entire life investigated?

"Mr. ROCHE. It is a very uncommon occurrence in our corporation, Mr. Chairman, and to my knowledge this is the first one of this kind that has ever been undertaken. On the contrary, I think that we solicit the comments and the criticism of our products. We spend a great deal of money and time through consumer research and other methods to find out what people think about our products, and what they like about them, and what they dislike about them. An episode of this kind is certainly a very rare and unusual occurrence in General Motors.

"Senator RIBICOFF. Do you know that it is rare or unusual or does this take place without you ever realizing it?

"Mr. ROCHE. No, sir; I would know about it if it did take place, and we have been making very careful checks to ascertain what other investigations have been made, and other investigations have to do only with minor affairs, such as preemployment checks of individuals who are joining us, perhaps internal problems we might have with employees, and perhaps problems in connection with embezzlement, and purchasing activities, or other activities of the corporation.

"There have been very few of them. I have had the records checked very carefully over the past years, and I can assure you that there is nothing except very minor investigations along the line that I have mentioned." (Page 1385.)

Investigations by GM which refute Mr. Roche's testimony

The attached records, which include GM correspondence, illustrate that GM's actual practice in responding to critics has been to employ investigators to probe into their private lives. For example, in 1960, the Harlem, New York, "Locality of Mayor's Committee," informed New York office of General Motors Acceptance Corp. that their Committee survey detected discriminatory hiring policies at GMAC; the Committee requested a reply to its letter. In response GM sent the usual acknowledgment of receipt of the letter, denied the existence of discrimination, but secretly instigated a thorough investigation of the letterwriter, his associates, *and his civil rights group*, the "Locality of Mayors Inc." In fact, GM used the same firm of detectives, Gillen and Associates, whose activities were examined by you in the 1966 investigation. This GM investigation (of which the resultant report is attached as appendix item "C") included sending a spy to the office of the critical civil rights group.

In order to gain entrance to the private offices of the civil rights group and its associates and to obtain a lengthy interview, the spy misrepresented himself and the purpose of the visit. The spy took extensive notes on *other* personal conversations of the civil rights leader, where he kept his records, and even induced the unsuspecting critic to offer him a job. All of this information was then formally reported back to GM. (See Appendix item "C")

This conduct, *ordered* and *paid* for by GM, is in direct conflict with Mr. Roche's pious denials (above) and his description of the investigation of GM's critics as "the first one of this kind that has ever been undertaken." Indeed, the short time lapse between (1) the July 5, 1960 and July 13, 1960 letters to GMAC, and (2) GM's initiation of this investigation, indicates that initiation of investigations may be almost routine for the GM Personnel Office in Detroit. Mr. Roche should be recalled by the Committee to enumerate how many other individuals or groups critics of GM have had their activities and those of their work associates and their businesses, subjected to GM-paid spying expeditions, simply for sending critical letters to GM—an act certainly *less public* and *less critical* than writing a widely-read book critical of a major GM product.

Another GM-ordered investigation—inconsistent with Roche's explanation—is the GM investigation of Mr. John Volosin of Linden, New Jersey.

As the attached records show (in Appendix Exhibit D) Mr. Volosin was investigated by GM within one week after leaving regular employment there to become an International Board member of the United Auto Workers. While Mr. Volosin retained some GM seniority in this new position, he was neither an employee nor within any other class of persons which GM admittedly investigates.

The investigation of Mr. Volosin is particularly serious because similar use of private agents by GM officials was condemned in U.S. Senate Hearings in 1937 as "labor espionage" when they were used to try to break the labor movement in the auto industry. At that time, GM witnesses gave their assurances to the Senate that the use of private detectives had been discontinued. (*See* Hearings, *Violations of Free Speech and Rights and Rights of Labor*, parts 6–8, Senate Education and Labor Committee, 75th Congress, 1st Session, 1937)

Another example of deception in Mr. Roche's 1966 testimony relates to his explicit and unqualified denials of similar investigations of "expert witnesses". He said: "Troubled by what appeared possibly to be a concerted effort on the part of a few trial attorneys handling most of the Corvair cases to stimulate both additional cases and the kind of sensationally adverse publicity that might influence juries against the Corvair—and troubled further by requests from shareholders as well as from both satisfied and worried Corvair buyers that the corporation counteract the harsh attacks on this product which had been continuously made outside the courtroom—our general counsel felt called upon, *first*, to ascertain whether any actions for libel of the corporation or its products or bar association, grievance procedures, based on violations of the canons of ethics, should be instituted against members of the bar (including Mr. Nader) who publicly discussed pending or anticipated litigation; *second*, to ascertain whether any witness, or author of any book or article which might be offered as evidence in any court (including Mr. Nader) who were most often said to be cited, or consulted by these attorneys, or to be publicizing their allegations, could properly be cross examined in any trial in which they might appear as expert witnesses to show bias, lack of reliability or credibility, if it were a fact that they had a self-interest in the litigation or had been attempting deliberately to influence public opinion.

"In Mr. Nader's case, and only in Mr. Nader's case, the general counsel felt that he could not ascertain the answers to these questions—and they were only questions, not charges—without using a private investigating agency to check on Mr. Nader's credibility, reliability, and qualifications as an expert witness and his ties, if any, with these attorneys." (page 1383)

Rebuttal

This testimony was prepared in 1966. At that time, GM legal officials had known since June, 1965, that an attorney for GM in a Corvair case had employed a private detective agency which in turn used a female agent in an attempt to discover information about the case and the opposing witnesses. This undercover agent told the plaintiff's chief witness that she had been deserted at a hotel near the trial location (a long way from her home) when her real purpose apparently was to ensnare the witness. Fortunately, the plaintiff's attorney uncovered the plot, on approximately June 7, 1965, and served a subpoena on her for the purpose of obtaining her testimony against GM in the forthcoming case. She assaulted him during the service of the subpoena.

The details of this sordid maneuver and GM's involvement are spelled out in the court complaint (attached hereto as Appendix E) filed against GM and its allies, on February 17, 1966, in the Superior Court of the State of California in and for the County of Los Angeles, No. 878958. In short, GM legal officials were reminded of this episode less than five weeks before they denied its existence to your Committee.

The fact that this case was eventually settled out of court by GM does not obscure the falsity of Mr. Roche's 1966 statements to the Committee. Moreover, this California episode may explain why the 1966 GM testimony to the Senate was subsequently doctored to delete Mr. Roche's denial of the use of "sex lures"—particularly since the facts of the California case appear to involve "accosting" actions which were later conceded by Mr. Roche to constitute "harassment" and thus are more than an attempt to "annoy or invade the privacy of any other critic" of GM which attempts he specifically denied. Thus, the deletion would remove the "use of sex lures" issue from further examination as to its accuracy.

The changes made in the Committee's record of the testimony

Newly discovered evidence, attached as Appendix item A, reveal a successful attempt by GM to breach the integrity of the Senate's internal processes. Testimony given under oath becomes an official Senate Record and cannot[1] be modified in any substantial way. As you know, the only "official" record of hearings held by the Senate Government Operations Subcommittee on March 22, 1966 is that version published by GPO in July 1966. Unlike the informal debates on the floor of Congress or informal Committee hearings, where substantial editing of the transcript can be made, the record of formal hearings, where witnesses are under oath, is supposed to be a complete and accurate record of what occurred. The importance of this fact is underscored in this case since the testimony involved was given by irate citizens, not members of Congress, was not on the floor of Congress, and was given under oath. I have recently been informed, however, that parts of that record have been changed or falsified by deletions and as well as additions made on the subcommittee's hearing transcript prior to its being printed in July, 1966.

To ascertain the fact, on April 15, 1971, Mr. Gary Sellers of my office called Mr. Robert Wager, now General Counsel of your Subcommittee, to discover what testimony, if any, might possibly have been changed. Mr. Wager stated that the original Committee transcripts of March, 1966 were apparently discarded quite recently (in 1971) by the Committee, so that no record was available.

Subsequent reference to an accurate record of the original testimony which I will make available to you, indisputably establishes the existence of major transcript changes. Indeed, this evidence (examples of which are presented and examined in detail in Attachment A of this letter) indicates that *major* deletions and additions in the original transcript were made. The changes to which I refer were made both in the prepared testimony read into the record and in responses by GM witnesses to cross-examination. The substantial nature of these changes demonstrates a falsification of the original transcript. They have the effect of altering the chronology of events, covering up evidence and contradictions and removing assertions of facts.

Major examples of such altered testimony are:

(1) The deletion of the statement by GM President James M. Roche that the GM investigation "did not employ girls as sex lures" (p. 1381);

(2) The deletion of the critical word "entire" from Mr. Roche's original statement that GM's "entire intent" in making their investigations were limited to finding out my "qualifications, background, expertise and association with such attorneys, . . ." (p. 1390);

(3) The deletion of that portion of Senator Kennedy's request that Mr. Roche state if phone calls were in fact made by "representatives of GM" (p. 1391);

(4) The deletion of that portion of Senator Harris' question regarding GM's responsibility for its "agents" (p. 1401); and

(5) The insertion of a new limiting phrase in Mr. Bridenstine's original sworn answer to an inquiry regarding the cost of the "others [investigations]" by GM. At the hearing Mr. Bridenstine was heard to testify that as to the cost of the investigations, "the bill up there was $120". In the printed record, as later published, however, his answer appears differently. The two words "in Connecticut" have been inserted. This has the obvious effect of limiting the scope of his assertion and making it cover something *other than* total cost.

A clear pattern shows in these major transcript manipulations. Each reduces or removes the liability of GM witnesses. No such luxury attended other witnesses as what few changes as were made, none went to the basic facts in issue before the Committee. More specifically, the testimony of Mr. Power and Mr. Roche was substantially changed in the above examples and in 10 other places—while other witnesses were allowed to make only non-substantive or the most minor editorial changes.

The existence of clear grounds for prosecution is shown by the contradiction of parts of the now-uncovered original GM testimony. The conflicts between this testimony and the details contained in the Murphy memorandum make the Senate staff's failure to recommend prosecution very puzzling. The final printed record of the hearing did contain a few selected excerpts from the Murphy memorandum; however, these excerpts only hinted at the disparity between the truth and the original GM testimony because the other much more significant contradictions of Roche and Power had been removed from the transcript and were not printed in the July version. For example, GM witnesses testified that only two investigations were made (the O'Neill investigation in November 1965 and the Gillen investigation of January, February and March of 1966). The Murphy memorandum of January 1966, however, contained at least ten new pieces of information which GM had somehow obtained in January 1966 but which GM had *not* received from the O'Neill Report. (This included information about family vacations, law school activities, family business matters, etc.) The presence of these new facts showed the existence of other investigations by General Motors, but no Justice Department action was taken since later material transcript alterations obscured this fact. Moreover, at several other points in the transcript, the GM testimony was altered to allow the insertion of language which placed the blame for certain investigative actions on "Gillen" when the facts do not support that charge (p. 1444). At another point, the GM Assistant General Counsel was asked about the cost of "the others" [investigations] besides the Gillen investigation. While Mr. Bridenstine actually said the cost of all "others" was $120, his altered testimony asserts that $120 was the cost of only the investigation up "in Connecticut". These two new words were added to his testimony.

That these alterations in the hearing transcript are vital to the import of the document is manifest. Their legal materiality is unquestionable. In your opening statement, of that hearing, you declared: "I am concerned because I know that the subcommittee will never be able to complete its work successfully if witnesses believe their personal lives might be investigated and their rights to privacy infringed by the auto industry or other interested parties.

"This situation cannot be allowed to go unchallenged. It goes to the very heart of the legislative process. If this hearing does nothing else today, it should reaffirm the right and duty of every citizen to speak his mind on matters of public interest and concern".

Thus, GM cannot argue that changes made in the record of sworn statements regarding the number of times, cost of, and degree to which GM investigated the lives and work of its critics do not go to the genesis of the 1966 Hearings.

In February 1967, when the Murphy memorandum and other facts and documents were made known to the U.S. Senate, your Committee called for and received a F.B.I. investigation into the accuracy of GM's testimony. The investigation was to cover "any violations of the criminal laws" of the United States or the District of Columbia. Now, it is clear that the F.B.I. investigation was defective from the beginning because it was based on the secretly altered hearing record rather than on the untouched original transcript. The investigation ended, not surprisingly, in August 1968 with a recommendation that no action be initiated against GM. The full record now allows the public to see the defects inherent in the Justice Department's response to your February 1967 request for an "investigation and determination of whether criminal acts have been committed under the Federal criminal statutes", in connection with the 1966 hearings. The alterations in the printed record on which the investigation was based, however, had the effect of protecting the GM witnesses from just such an investigation. That is, the record falsifications, carefully limiting the scope of several major factual assertions, clearly prevented F.B.I. detection of violations 18 U.S.C. § 1001 (relating to false statements). The changes in the record apparently also led the Department of Justice to look only for the possible commission of perjury rather than for perjury *and* false statements. This omission alone rendered the whole Justice Department study of the '66 hearings defective. (The failure to pursue the possibility of § 1001 violations was conceded by the Justice Department in response to an inquiry made within the last two weeks.)

The difference between the federal crimes of perjury (18 U.S.C. § 1621) and making false statements (18 U.S.C. § 1001) is basically that the offense of making false statements, § 1001, is far broader in scope. It is substantially easier to plead and prove than perjury. Any *complete* investigation based on the accurate hearing record would have included a study of the application of this section.

Such a study would have shown, for example, that under § 1621 only one person testifying before the Committee could be held to have perjured himself. In contrast, under § 1001 the author of a statement read before the Committee by an other can be held criminally liable. I have attached as an Appendix A a more complete discussion of the legal consequences of the application of these two sections to specific GM conduct. (See Appendix-item F.)

The major deletions and additions to the testimony of GM witnesses, which I have discussed, came at a time when the record was in the custody of the Subcommittee staff—and apparently were made without your knowledge or that of any Senator. They raise, therefore, questions regarding the personal responsibility of certain Senate employees during that period in 1966. These questions are reinforced by the fact that the Senate was simply deprived of a significant GM document at the March 22, 1966 hearing because it, the "Murphy Memorandum," was withheld by a Senate aide. In 1967 the same aide minimized the effects of his act and expressed doubt that the hearing would have been much different had the Senators on the Subcommittee seen the memo. Even in 1967, when only evidence in printed Hearings of July 26, 1966 was considered, this explanation sounded weak, albeit remotely possible. However, comparing the Murphy Memorandum with the *actual* 1966 hearing record demonstrates the significance of the memo-

[1] Lawfully.

randum, both to the U.S. Senate in 1966 and to the Justice Department in 1967. For example, it contained evidence that an investigation, in addition to those admitted by GM, had been conducted, and that the "entire" intent of the corporation could hardly have been to seek "connections with attorneys" since the memo contained no discussion relevant to that inquiry. Moreover, the "in depth" investigative technique was not simply a frolic pursued by Gillen but was really undertaken at GM's direction. In short, the suppression of the Murphy memorandum at that time kept the Senate from knowing of other investigations (plural). That suppression also concealed from the Senate GM motives different from the one disclosed in the Hearing. Also, the attached examples of the true transcript showing changes subsequently made, illustrate other contradictions in the original testimony of GM officials. Roche, Power and Bridenstine when the testimony is compared with other facts or with the Murphy memorandum.

Predictably enough, much of the transcript falsification consists of changes which serve to remove these contradictions. For example, the March 22, 1966 Senate hearing dwelt heavily on the cause of the surveillance and other invasions of privacy. GM's answer was that the Gillen investigation went too far and that the only errors of GM's legal counsel's office were in failing to act to limit the investigation once it had knowledge of its extent and in issuing a false press release. Yet the suppression of the Murphy memorandum (which clearly reveals an intent different from "pre-employment" or "Corvair litigation" which the Senate finally accepted) and the transcript deletions effectively cut off any further committee questioning or investigation of the truth of certain GM statements. For example, at p. 1401, Senator Harris stated that GM "of course has to assume responsibility for its employees and agents", and then asked Chairman Roche if GM employees knew prior to the March 9 press release that extraneous matters were regularly being investigated by detectives and "agents". Roche's actual answer admitted that GM employees knew of these methods and he accepted responsibility for their silence. Yet the doctored transcript deletes the words "and agents" from Senator Harris' question, and thus greatly limits the scope of the answer, and the scope of any subsequent inquiry.

Similarly, Mr. Roche actually denied "the use of sex lures" at p. 1381, in his prepared statement, which he read into the record. But in the official Committee version the denial is deleted. Why? At a minimum, this deletion assured Mr. Roche that he did not have to be questioned about the accuracy of this assertion either in reference to the Washington, D.C. case or to other cases as the California case. Indeed, Mr. Roche has been able for five years to say he never uttered a denial. He should certainly be required to finally to tell the truth—since the suppression of the Murphy memorandum (which reveals other investigation results and broader GM purposes) concealed the contradictions which would certainly have led the Senators to ask Mr. Roche to explain these matters.

For almost five years now General Motors officials have covered up the actual substance of their actions. The above evidence not only relates to substantive crimes but relates to GM's credibility on the safety issue. GM has resisted the U.S. Senate and perverted its public function by presenting behind closed doors its selection of evidence on safety issues. Meanwhile, over 500,000 of the 1960–63 Corvairs continue in use. These drivers are continually subjected to the risk of injury and death because they remain ignorant of facts known to General Motors for years. Apparently GM's hope is that the whole matter will be studied superficially or will simply fade away, just as the original investigation of their actions was treated and then faded away. I know you will now end this pattern. Unfortunately, I don't believe you can expect the General Motors Corporation to correct itself through self-imposed sanctions against those men in the corporation who misled the public and the Senate. Mr. Roche swore to you, for example, that he had approved the March 9th press release on the basis of assurances by his Assistant General Counsel. These assurances were later shown to be "untrue" at the hearing. Since that time, the man who wrote that misleading public statement and gave those false assurances has been promoted to Vice President of General Motors. So much for GM's capacity for self reform.

In addition, General Motors' backstage maneuvers demonstrate that public hearings are now imperative. I write to you out of a concern that despite the unquestioned integrity and good faith of your staff members and those concerned with the subject at the Department of Transportation—GM has assumed such a pervasive degree of control over the terms and conditions of the present investigation that the subjects outlined in my letters of last September and October may not be adequately examined in public.

Although Mr. Cole proclaimed to the world in September 1970 that the evidence on these charges would show that GM and its executives "have been faithful to their public trust," GM's response to these investigations reveals a continuing aversion to any public scrutiny of most of that same evidence. Unfortunately thus far they have succeeded in keeping this important information out of public view. For example, GM has monotonously reiterated the groundless statement that much of the evidence concerning this no longer produced car must be kept secret to protect its "proprietary interests". It unsupportably claims that the attorney-client privilege requires that a large amount of additional evidence be suppressed. Ross I. Malone, GM General Counsel, has apparently extracted agreements from members of the Senate staff and the Department of Transportation which have insulated critical evidence from public examination. This sequestered evidence could well answer the questions of the members of the engineering and legal professions who have been trying to sort out the needlessly secret information surrounding this matter for ten years. This pointless hide-and-seek has caused Senate employees to conduct inquiries in secret and has precluded public access even to the transcript. There is no justification to treat data on a vehicle which is no longer in production with this secrecy.

Unhappily, Mr. Malone's efforts to control the terms and conditions of these investigations did not stop with agreements requiring secrecy. His improper attempts to ingratiate himself and his employees include the provision of limousines and on-the-spot expensive secretarial services in Detroit.

By insisting that these preliminary inquiries into the charges be conducted in such a clubby atmosphere (and that GM be allowed to tell its story on the Q.T.). Mr. Malone has seriously weakened if not destroyed the credibility and moral force of any conclusions favorable to GM that might result from such a process. As Professor Lon Fuller has pointed out, belief in the disinterestedness of the judge and the opportunity for full hearing of both sides are important considerations which led moral force to an official decision.

And, naturally, a full hearing of both sides contemplates a vigorous, knowledgeable adversary-type development of the evidence. Little, if any, critical examination by parties outside the Committee staff has been made of the carefully selected secret GM evidence. This is especially significant in light of the implications of the information I have outlined. The many credible and relevant witnesses—outside and inside GM—do not have a chance to present their evidence and recollections under this type of inquiry.

Cross-examination is, as Wigmore said, "beyond any doubt the greatest legal engine ever invented for the development of the truth." But your investigators may have been unduly handicapped by the absence of meaningful cross-examination owing to the condition of secrecy. Mr. Malone apparently extracted from them. Without the opportunity to study the documents and testimony now being offered by GM, it is next to impossible for others to offer any concrete suggestions relating to the creditability of the company's presentation. The prime purpose and utility of the ability to cross-examine and present witnesses is to correct false impressions generated by self-selected expressions by the opposing party.

Your Committee's past experience with GM's deceptions in volunteered statements and sworn testimony also proves the need for a public hearing. In 1966, your Committee was given a lesson in the unreliability of General Motors' selective version of evidence. As you will recall at the time General Motors' use of detectives first came to public attention General Motors first issued a denial, and then a deceptive press release. That press release was at best misleading, because, as you said, Senator: "It is apparent, as you thumb through and read this report, that practically none of the investigation has anything to do with what you [General Motors] contended your investigation was for in your news release of March 9." (Hearings of March 22, 1966, p. 1396)

Thus, as Senator Robert F. Kennedy pointed out, "had the chairman not called a hearing, really the public and the newspapers would have been misled." (Hearings p. 1389)

Now, very substantial evidence backed by knowledgeable witnesses formerly employed by General Motors, has surfaced. The importance of the Corvair to millions of Americans who must drive or ride in them and the necessity to make truth in Congressional hearings a deterrence to future corporate deception and prevarication on other issues call for a public hearing by your Committee.

I hope that the attached documents will assist your inquiry in making such a decision shortly.

Thank you for your interest.

Sincerely,

RALPH NADER

JULY 8, 1971.

Hon. ABRAHAM RIBICOFF,
Chairman, Subcommittee on Executive Reorganization, Senate Office Building, Washington, D.C.

DEAR SENATOR RIBICOFF: Pursuant to your request for written submissions wherever possible, enclosed are copies of recently obtained materials, including some heretofore non-public documents. From these materials your Committee should now be able to prove beyond any reasonable doubt, both the hazards in the early Corvair and the falsity of much of the General Motors' sworn testimony to your Committee related to this subject. Whatever additional facts and explanations are needed can certainly be resolved by a public hearing.

These documents are:

1. A history, entitled *"Vehicle Dynamics and G.S. II Programs"* dated June 16, 1964

and prepared by Chevrolet Research and Development, which describes among other things, Chevrolet's efforts to fix the Corvair from 1960–64.

2. *"Corvair Steering"* by General Motors' legendary Maurice Olley in 1961 (which discusses the steady state performance of the 1961 Corvair), and concludes that even under very modest stresses, the differential in tire pressure is necessary to "save the life of the CORVAIR."

3. *"Notes on Suspensions"* by Maurice Olley, dated August, 1961.

4. *"Notes on Handling Stability"* by Maurice Olley, dated March 17, 1953.

5. A GM document, prepared in 1965 which is entitled *"Corvair Changes and Chassis Improvements."*

6. GM Proving Ground Reports numbered PG15699 & PG17103-tests performed in 1962 and 1963.

7. Data from Document #000907, apparently prepared in 1965, and which shows the Corvair's shock absorber changes before 1964, i.e., changes in rear suspension maximum rebound angle.

8. A GM paper entitled *Agenda* which outlines the presentation of a "Vehicle Dynamics Course" for GM personnel which occurred from June 27–29, 1966.

9. *"Vehicle Dynamics"* Course, dated January 20, 1966—in rough draft.

10. A letter from Harley Copp to Senator Magnuson of June 3, 1971.

These documents finally provide a fairly complete picture of GM's knowledge (1) of the origin of the handling deficiencies which caused, what General Motors chooses to delicately call in document #1 above, the Corvair's "misbehavior", (2) of General Motor's efforts to remedy these deficiencies, (3) of major misrepresentations General Motors has maintained in order to obscure from the public what it has known for years about the Corvair's "out of control" characteristics, and (4) of the issues that demand further exploration in light of what is now revealed.

This letter was prepared so that you and the rest of the Senate—and the American public—might have a more complete picture. Because much of that picture's contents is so shocking—we enclosed the attached documents together with an evaluation and explication of their importance.

Underlying issue: The fraud in GM's public statements

Speaking of the duty to be candid and honest with the public in these matters Senator Robert F. Kennedy said, at the Senate Investigative hearings of GM in 1966, "nobody has a greater responsibility really than General Motors." (p. 1399) The attached evidence shows exactly how General Motors has contemptuously ignored that responsibility in its public and court presentations on the Corvair.

For example, on May 5, 1966 James Roche wrote on behalf of GM and solemnly assured you, your Committee and the U.S. Senate:

"Historically we have recognized that we bear a responsibility not only for searching out actual or potential defects in our automobiles, but also for correcting these defects at no cost to the owner under our policy and warranty program. * * * Finally, when we detect a product failure which, in the opinion of the responsible engineering, manufacturing and service groups, requires a recall campaign even though the cars may have been in the hands of their owners for many months, we take steps to insure that appropriate corrections are made just as soon as it is physically possible. The moment a defect is discovered, our engineers set to work to find its cause. Next they determine the proper remedy, design any parts that may be necessary and change production techniques that may be involved. If new parts are required for the correction, they are sent to the field as soon as they can be fabricated." * * *

And, of course, since September 1966, Federal law has required notification of such defects to owners and users.

As to the more precise issue of the safety of the Corvair for the past ten years, despite widespread public clamor about the unsafe handling of the early Corvair and an ever-mounting toll in resulting injuries and deaths, General Motors has persisted in the public position that the 1960–1963 Corvair is controllable to the same extent as "all passenger cars of the same period," and that the changes made in 1964 were nothing more than "a step in the normal process of product improvement." (p. 1562) At other points GM officials have asserted that they have produced "all" the evidence for the courts, and that "they know" the Corvair was a "safe" vehicle. (p. 1558 & 1447). In summary, GM has said they know of no evidence of an unsafe quality in the Corvair, and anything they observed as a problem could not be fixed until 1964.

Those who have taken issue with GM's position have been ridiculed and fought in courts as General Motors has publicly accused them of conducting a "vendetta" and of issuing "false and vitriolic statements" with the ulterior motive of destroying the confidence of its customers and the public in GM. (GM Press Release of October 25, 1970 and Edward Cole letter of September 7, 1970).

Moreover, when a few secret GM proving ground reports first revealed to the public in the fall of 1970, the President of GM, sent a letter of September 7th to Secretary of Transportation, John A. Volpe, in which he said that such test results were hardly typical of the Corvair since the Corvairs in these tests "were especially equipped with experimental parts, [and] were intentionally overturned by * * * violent maneuvers * * *."

Facts

The above GM assertions are at complete variance with the attached GM reports and records. For example, one of the enclosed documents from General Motors' own records is *their* history of Corvair problems. This document reveals in its own words, that in *January, 1960*, a "more or less informal", in fact, undisclosed program was initiated to evaluate the "out of control" characteristics of the Corvair. The results of that clandestine program, implemented in the 1964 and 1965 model changes, constitute irrefutable proof of the fraud in General Motors' continued public refusal to acknowledge the existence of and causes for hazardous instabilities in the 1960–63 Corvairs. This secret history of General Motors' Corvair program says that: "in January 1960" a program was initiated to evaluate the "out of control" characteristics of the Corvair and that:

Experiments with roll couple distribution suspension configurations, etc., indicated that the jacking characteristics consequent to the swing axle and roll couple distribution was responsible for the misbehavior. A Corvair with a single leaf transverse rear spring and front stabilizer was built and demonstrated shortly thereafter. (p. 11)

In short, even the single leaf spring was fully developed "shortly" after 1960. Despite these facts, on March 22, 1966 Mr. Roche submitted for your Committee's record, on behalf of General Motors, a deceptive presentation prepared by his subordinates that stated that the 1964 and 1965 changes to the Corvair were made only in the "normal process of product development," and also equated the 1960–63 Corvair controllability with "all American passenger cars of that date." Since he told the Committee he had looked thoroughly into the matter before that testimony, Mr. Roche, or the authors of his presentation, must have known what one of the GM's secret records said—that *some years* before GM had concluded that the Corvair was not only different from other cars but that "the jacking characteristics consequent to the swing axle and roll couple distribution was responsible for the [Corvair's] misbehavior." (See attached *"Vehicle Dynamics"* etc.) The only other explanation for this deceptive testimony was of willful insubordination from Mr. Cole on down. For example, even though the GM engineer responsible for the Corvair suspension, Charles Rubly, had admitted in a scientific paper that in 1958–1959 the foremost consideration in deciding how to attempt to find stability for the Corvair was *cost*, not feasibility; the attached documents show the details of this decision and its effects. GM officials refused to incorporate the front stabilizer bar and transverse leaf springs (to substantially correct the Corvair's instability) even though these corrective changes were known and developed in 1959, were later offered to Corvair owners as a higher priced option (RPO 696). Moreover, the revelations of Mr. George Caramanna, a GM technician who worked on the original Corvair, substantiate the case that it was originally designed and tested with the front stabilizer bar but the bar was ordered removed from production models. Both the front stablizer bar and the transverse leaf spring were begrudgingly adopted for the 1964 model Corvair, but only after the failure of numerous lower-cost corrective attempts. Indeed, there are now witnesses such as Mr. Caramanna, who are available to say that they knew that the single leaf transverse spring (finally used in the 1964 Corvair) was actually the same development implemented *two years earlier* in the 1962 Chevy II. In part, these refusals of a few GM officials to put the 1964-type changes on the 1959 Corvair led to putting the burden on the Corvair owner to maintain 73% more pressure in the rear tires than in the front tires.

The attached documents, particularly the Research and Development paper of June 1964, and the memoranda of Maurice Olley written in 1953 and 1961, reveal that the root cause and the nature of the defect in the Corvair. The 1953 Olley memo actually suggests the precise corrective action which was eventually taken by Chevrolet over 10 years later. The second Olley memo of 1961 shows that even after the solution was clearly outlined to GM officials a second time, these few men went ahead to produce well over one-half million *more* of the 1962–63 model Corvairs, and failed to warn their customers of these well-understood dangers.

What also is now revealed is Mr. Cole's misrepresentations to the U.S. Government and to your Committee in 1970 regarding PG Reports No. 15699 and 17103. For example, in these two test reports we see the results of a series of tests run in May and June of 1962 (PG 15699) and November, 1962, March, April, May, 1963 (PG 17103). When the subject of these Corvair rollover tests arose last September, Mr. Cole told the public that:

"These were reports of engineering development tests in which Corvairs, specially equipped with experimental parts, were intentionally overturned by experienced drivers using violent maneuvers designed to overturn them. The purpose of the tests was to evaluate the experimental parts as to their effect upon the handling characteristics of the Corvair."

This flatly erroneous characterization of these reports deserves close comparison with the documents themselves. The discrepancy between what Mr. Cole described, and the actual reports offers a splendid example of the kinds of distortions that, unchallenged and not subject to cross-examination, GM engages in regularly.

The actual text of PG test report 15699 said that it involved: "A series of vehicle roll-

over tests to determine the roll stability characteristics of ten different modifications to the suspension system of a 1962 Corvair '700' series, 4-door sedan," and "Comparative tests were also conducted with a 1961 Chevrolet, 4-door sedan. This vehicle had no modification to the suspension system." (p. 2)

Tests were run on ten types of Corvair suspension modifications designed to limit the maximum rear axle movement in rebound. Nine vehicles rolled when subjected to a J-turn maneuver at speeds under 25 mph. Of the one that did not roll, the PG Report says: "The suspension system that appeared to be the most stable [Test No. 31] used production components excepting for the rear shock absorbers which were of the hydraulic rebound cut off type with 0.5 inch spacer blocks." As suspension engineers will testify, these changes were all designed by the best GM engineers to *increase* the Corvair's stability, and cannot now fairly be characterized by Mr. Cole as experimental parts which would make the Corvair less stable. As to the runs done for comparison's sake on the 1961 Chevrolet, the PG Report said: "Eight trial runs were made with instrumentation and two were made without maneuverability handicap of the instrument cables and instrument van. (Figure 14). No roll-overs were experienced in these 10 runs." (p. 5)

Mr. Cole obviously overlooked this aspect of PG 15699 and what it implies about the stability of the Corvairs that overturned in what he calls "violent maneuvers", since these same "violent maneuvers" failed to roll a standard Chevrolet. This aspect of this test also rebuts GM's 1966 testimony that the controllability of the 1960–63 Corvairs was comparable to "all American passenger cars of that date."

The text of the final report of P.G. 17103 also reveals the error of Mr. Cole's statement to the public. The text said the test purpose was: "to evaluate and determine the dynamic stability characteristics on the Chevrolet Corvair with various shock absorbers and suspension configurations." The test results were summarized by the PG Report language which itself refutes Mr. Cole's explanation that these Corvair tests were atypical because the Corvairs were "specially equipped with experimental parts" and were "intentionally overturned . . . using violent maneuvers designed to overturn them." As the test itself said in its Results and Conclusion section at page 1:

"These tests showed that the dynamic stability of the current production 1963 Corvair was not substantially improved through practical modification to shock absorber design and configuration. A test phase which incorporated a pair of high speed movie cameras mounted on outriggers to the rear of the car, showed that this change in the weight distribution prevented the car from overturning during these maneuvers.

"A 1964 *prototype* suspension installed in the car made the dynamic stability characteristics acceptable for several different test conditions. The last run of the series was an abnormally severe maneuver from a super elevated surface to a level surface and caused the car to overturn."

Thus this GM test report also disposes of Mr. Cole's September 1970 assertion that the GM tests themselves were a situation in which experimentally equipped cars "were intentionally overturned by experienced drivers using violent maneuvers designed to overturn them." Instead, you can see that the GM tests were seeking configurations with "acceptable" dynamic stability characteristics (nonrolling) in the different test conditions. Also, as the test said, the 1964 prototype suspension "made the dynamic stability characteristics acceptable for several different test runs." In fact, when the rolling of the 1964 prototype occurred in the last run, the test report explained that by stressing that "an abnormally severe maneuver," had been involved. In short, the earlier test runs were not that severe.

CONCLUSION AS TO THE CREDIBILITY OF GM'S PRESENT MANAGEMENT

Putting aside Mr. Cole's misdescription of these test reports, they (together with 1959 tests such as PG 1106 which showed rollover even then) unarguably demonstrate that GM officials recognized and knew that the Corvair was so unlike other American cars that they were spending large sums to develop a "fix" which would not clearly reveal their original error and would not involve the easily available but earlier rejected remedies of the front stabilizer bar and transverse leaf springs. These remedies—which, according to available witnesses, would have cost GM less than twenty dollars per Corvair—were apparently considered too expensive for a vehicle which was still trying to compete with the less costly Falcon and the Valiant. Thus, even twenty dollars was too great a price to correct a danger which these few men had privately described as the Corvair's "misbehavior."

We believe the clear inaccuracy of the GM assertions about the Corvair reveals how little GM thinks of the public, the Government, and the U.S. Senate. What stands revealed by these actions of a few GM executives makes a mockery of Edward N. Coles' pious protestations last fall that "GM and its executives have been faithful to their public trust." What stands revealed is a sordid story of how a very few General Motors' executives misused the vast resources of that organization to hide their mistakes and thus serve their personal interests in self-entrenchment and eventual advancement, even though this meant unjustified uses of the stockholder's money, violation of GM's acknowledged duty to the public, and most importantly, preventable injuries and fatalities to uncounted innocent people who had put their faith in the GM "Mark of Excellence."

The balance of this letter contains a chronological explication of the details of the decision-making within GM with reference to the Corvair, revealed by the attached documents.

THE YEARS 1950–1958

First Issue: Did General Motors officials learn, before the Corvair's production, of the existence of its unusual susceptibility to spin out of roll over?

Background

The preeminent engineer in the field of vehicle handling, General Motors' Maurice Olley, warned General Motors repeatedly in his public writing of the hazards in the roll couple distribution associated with rear engine designs. He also warned of the added disadvantages in rear swing axles. What has been unknown up to this time is what he said and did privately.

We now know that GM engineers, including Olley, developed a lightweight rear engine car in the late 1930's, but that it had "pronounced oversteering which was eventually balanced by creating a 16 pound tire pressure differential (19/35 psi), or by using 400 pounds of sand in the nose, or by using one inch larger rear tires. Finally, however, the car was fitted with a front anti-roll bar and de Dion rear suspension, which gave it better rear cornering power—particularly with a 23/33 psi tire pressure differential.

One of the recently acquired documents shows that at least as early as 1953, GM's Maurice Olley wrote a GM memorandum (attached as item 4) to men such as E. N. Cole, C. M. Rubly and K. Hansen, all of whom were to play prominent roles in developing the Corvair, about the hazards in the roll couple distribution that was to be expected in a rear engine vehicle.[1] Mr. Olley was the "senior stateman" at General Motors on such matters. His papers on "Suspension and Handling" date back to at least 1937. When in 1953 he wrote to other engineers that the effects of the roll couple distribution associated with a rear engine design might be alleviated by increasing the amount of roll couple carried on the front wheels by means of a *front stabilizer bar*, it should be assumed that they listened. Moreover, Mr. Harley Copp of the Ford Motor Company has recently testified that GM engineers specifically rejected, "as early as 1946–47" the "use of the swing axle type" for the rear independent suspension.

In 1953 Mr. Olley also delivered a technical paper, "*European Postwar Cars*," containing a sharp critique of rear-engine automobiles *with swing-axle suspension systems*. He called such vehicles "a poor bargain, at least in the form in which they are presently built," adding that they could not handle safely in a wind even at moderate speeds, despite tire pressure differential between front and rear.

Also, of course, in a subsequently much discussed 1956 patent application, Mr. Olley made the following statement with reference to a swing axle independent suspension:

"While this type of suspension has enjoyed a certain measure of success, particularly in the relatively small vehicles popular in Europe, it nevertheless possesses certain inherent disadvantages which have thus far prevented widespread acceptance. In particular, the ordinary swing axle, made severe lateral forces produced by cornering, tends to lift the rear end of the vehicle, so that both wheels assume severe positive camber positions to such an extent that the vehicle not only 'oversteers' but actually tends to roll over. In addition, the effect is non-linear and increases suddenly in a severe turn, thus presenting potentially dangerous vehicle handling characteristics." [2]

GM's refusal to admit knowledge—their courtroom denials

When the design of the original Corvair came under fire from injured parties, these parties attempted to show that Mr. Olley had warned GM. In response, General Motors has tried to put a great deal of distance between itself and the relevant engineering opinions of Maurice Olley, by testifying about the Olley papers and opinions as if they were interesting only as historical relics, applicable only in the days when cars were narrow, high, stiffly sprung and running on tires not as good as those available when the Corvair was designed.

Clear examples of GM's duplicity as to their early knowledge are found in their courtroom denials of knowledge of the dangers in the Corvair—and their denial in court of the existence of such memoranda, tests, or the knowledge these would have given them. For example, after the 1960–63 Corvairs were involved in accidents in which the driver experienced as "unexpected response or "loss of control" of the vehicle—(the very dangers which Mr. Olley had predicted in the above 1956 patent application for safer swing axle vehicles of this type), the victims of Corvair accidents tried repeatedly, in courts across the country, to ascertain whether Mr. Olley or GM had found (but not used) a means of correcting this control or response problem *before* or *while* it produced the 1960–63 Corvairs. In attempt-

[1] "Notes on Handling Stability" by Maurice Olley—Appendix Item No. 4.

[2] U.S. Senate Hearings, March 22, 1966, p. 1494.

ing to show GM's knowledge, the victims obtained court orders to see all relevant GM "memoranda, tests, etc." on this subject. These orders certainly should have required GM to produce some of the attended Olley papers; however, no such candor was practiced by GM.

For example, in the *Collins* v. *GM trial*, GM was required on June 11, 1965 by the Superior Court of California, Santa Clara County, to produce for the plaintiff; "any tests, studies, reports, movies, photographs, and other documents pertaining to . . . General Motors Proving Ground Tests of stability and handling characteristics of Corvair prototype, Corvair pre-production and 1960 Corvair."

The 1953 and 1961 Olley documents were *not* produced in response to that subpoena although the 1961 documents are based on stability and handling (steering) information and the *Corvair Steering* document specifically discusses the 1960 and 1961 Corvair.

The particular value to the plaintiff of Mr. Olley's 1953 paper to these GM executives would have been to show that he warned these executives of the inherent handling problems in rear engine cars and the possibility of alleviating them by increasing the roll couple carried by the front wheels. Olley had said in that paper at page 12:

"Rear engine cars, with a 35–65 weight distribution, are virtually unmanageable in a wind, unless fitted with twin tires at the rear. The same statement applies to trucks and busses with a similar weight distribution unless these are fitted with twin rear tires. This was explained on a basis of over and understeer (Figure II), *but this does not fully account for the extremely light steering feet of rear-engine cars. It appears that the handling of rear engine cars might be improved by fitting a front stabilizer so as to increase the feel of the road.* Such a stabilizer is limited however by consideration of lifting the inside front wheel off the ground on a hard turn." (Emphasis added.)

In summary, over five years *before* the Corvair was developed a few GM officials were put on notice of this danger but did not adopt these necessary precautions when they designed and produced their Corvair.

In later court cases, when plaintiffs were denied access to, or even acknowledgement of, the secret Olley documents, these Corvair victims then tried to show GM's knowledge of these dangers by referring to the *public* Olley statement (on the same general problem) which he made in his 1956 patent application and elsewhere. In reply to this evidence, GM witnesses maintained in numerous ways, that even the publicly available Olley warnings (in published papers and in patent applications) were either based on outmoded concepts, were irrelevant or inaccurate. Indeed, when asked to testify about Olley's public comments, GM witnesses were apparently confident enough of support in suppressing the secret Olley memos that they demeaned and rebutted his less damning and *less specific* public conclusions.

As an example of how some GM employees suppressed this Olley data, the case of *Collins* v. *GM* in California in 1965 reveals their basic plan and its effects. Olley's 1956 patent application (and accompanying statements) were introduced into evidence by the plaintiff in an attempt to show its relationship to the Corvair and the resulting danger therein. The head of Chevrolet Research and Development, Mr. Frank Winchell, was then asked whether he agreed with Olley's contention that:

"In particular, the ordinary swing axle under severe lateral forces produced by cornering tends to lift the rear end of the vehicle so that both wheels assume severe positive camber positions to such an extent that the vehicle not only oversteers but actually tends to roll over."

Mr. Winchell's incomplete and deceptive answer was that the Olley statement only applied to the most unusual driving circumstances. His exact words, at page 3330, were:

"Under the circumstances that he [Olley] describes, that is true; under the severe lateral acceleration, point nine, or something like that, the wheels come together and the center of gravity raises."

This testimony (by confining Olley's statements to these conditions, of "severe lateral acceleration, point nine or something like that") stressed that only extreme or grossly reckless circumstances would precipitate the oversteering danger. Contrary evidence, detailed in Olley's 1961 memorandum, was never acknowledged. This evidence concluded that both the rise in center of gravity and oversteer originate in a Corvair around 0.3g to 0.4g and that they grow rapidly after that point. Moreover, the PG tests such as PG11106 of June 1959, showed a roll over of a Corvair at 25 mph in a simple J turn. Even existence of this data, apart from the serious conclusions which can be drawn from it, was suppressed by GM. Moreover, the testimony of Mr. Winchell further explained away the Olley prediction (of oversteer followed by rollover) by producing other GM tests that showed that the Corvair was average, if not better than average in cornering performance, and then stating that Olley's predicted dangers only arose under conditions which were far beyond "the performance limit of average cars." Mr. Winchell's exact testimony, at page 3331 of the transcript was:

"Now, I would agree with Mr. Olley as I have agreed here that under severe lateral acceleration far beyond the capability of the driver, far beyond the performance limit of average cars, far beyond the standards in which highways are designed, such things [oversteer possibly followed by rollover] exist. . . ."

A similar pattern of dishonest testimony was followed in the *Anderson* v. *GM* trial in Florida in 1965. When Mr. Winchell was asked his opinion of Olley's 1956 statements about the dangers of the rear swing axle vehicles (quoted above) Mr. Winchell swiftly distinguished the Olley comments from the conditions present in the 1960 Corvair. By his precise explication of the many differences between most rear engine cars and the Corvair, the "expert" witness superficially agreed with the Olley comment, but explained away its relevance by telling the court that Olley's comments were based upon inapplicable engineering facts, and that while these facts had existed in the cars Olley had examined, they were not relevant to the 1960 Corvair.

Mr. Winchell's exact testimony denigrating the Olley patent was:

"Mr. Olley is talking about cars of the vintage of about '52 to '54 which had a very short tread compared to the Corvair, a very high center of gravity compared to the Corvair, and narrow rims, tires without the cornering power that we have now, and without the linear extension that we have now." (p. 5218).

Conclusions

The above testimony, as a partial presentation of the engineering facts, would have been misleading *even if* Mr. Olley had not written "Corvair Steering" which explicitly details the weakness of the 1961 Corvair and stated at one point that the 73% differential in tire pressure "virtually saves the life of the Corvair." Given the existence and circulation of "Corvair Steering", the 1965 courtroom testimony more fully reveals the willingness of Mr. Winchell to deceive the court.

In GM's attempt to minimize the importance of Mr. Olley or his ideas, F. Winchell, not only disputed the quality of Olley's knowledge but even denied knowledge of Olley's employment by GM after his retirement about 1956. For example, during the *Anderson* v. *GM* trial when asked to comment upon Olley's public writings and was recognized as a competent or capable person," [sic] Winchell said: "Mr. Olley has not been active or intimate with the developments since his retirement" and that "[I] don't recall Mr. Cole's statement that Mr. Olley was in consultation [for GM] through 1960." (p. 4967)

Although Olley had indeed returned to GM to prepare his damning 1961 memorandum, GM found it easiest to deny these unpleasant facts by denying Olley's presence. Thus, in the fullest tradition of vast power holders, GM made the truth teller a nonperson.

Surely this testimony, by the then head of Research and Development for Chevrolet, creates a clear presumption of malfeasance or nonfeasance of the grossest magnitude—in the absence of facts still unknown to the public today. Therefore, we request that if your review of this material comes to the same conclusion, you communicate this to Mr. James Roche or Mr. Ross Malone.

Most importantly, the above facts show that GM officials knew *before* 1958, and were told again in 1961, of the dangers in a Corvair type vehicle.

Also, the final redesign of the Corvair in 1964 and 1965 vindicated Mr. Olley to an extent that can't be muffled by General Motors' many attempts to make Olley a nonperson in the intervening years, i.e., when General Motors finally corrected the handling instabilities in the Corvair they did so by making changes recommended before production began—installing a front stabilizer bar (as Mr. Olley had recommended in the case of rear engine cars in his 1953 paper attached hereto), and then abandoning the swing axle independent rear suspension (which also had drawn Mr. Olley's criticism in various papers and patent claims during the 1950's) in favor of a four-link type of rear suspension.

In short, GM officials knew of the Corvair's danger from the Olley studies and from experiments on foreign rear engine cars. They were specifically on notice of the danger from the rollover tests of the Corvair prototype in 1958 and 1959:

Second Issue: Could GM Officials Have Implemented Safety Precautions Before Producing the 1960 Corvair?

The GM position

As GM stated to the U.S. Senate in 1966, the suspension (safety) changes for the Corvair in 1964 and 1965, were introduced in a normal process of "product development." (see p. 1452) In short GM made clear that such changes were always introduced as soon as the state of the art was developed.

The facts

The Olley patents and the information from Harley Copp, (the engineer chiefly responsible for the competing Falcon for the Ford Motor Company) show that technology for producing a Corvair (without the dangerous qualities of the 1960–1963 models) was available in 1958. Indeed, the evidence shows that the front stabilizer bar was used on the prototype Corvair in 1958–1959—was planned for the 1960 production model Corvair, but was discarded (along with the multiple leaf rear spring), apparently because of cost considerations. All this is not to say that the Corvair's designers and executive supervisors ignored such considerations when they designed the Corvair. On the contrary, there is quite conclusive evidence that they know they had a problem, that the car's designers recognized the potential for trouble in the cars roll couple distribution and the aggravation of that characteristic by the particular swing axle rear suspension they had chosen. The evidence herein further shows that they tried to control these problems by larger tires, wider rims and a recommended tire pressure differential; however, they rejected known, available alternatives for correcting the roll couple distribution primarily because

of cost and in the interest of a softer ride. In a paper delivered to the Society of Automotive Engineers in March, 1960, Charles M. Rubly, Chevrolet staff engineer in charge of the Corvair suspension system spelled it out. Pertinent excerpts follow:

"Engineering fully realized that with a weight distribution of 40% front and 60% rear there was an unusual situation with regards to handling in a conventional passenger car. * * * It was then decided that a tire of larger size, incorporating new internal construction, plus a wider rim and compatible suspension geometry were necessary to accomplish our handling objective, without compromising ride comfort, or adding undue harshness to the vehicle. * * * 15 psi (pounds per square inch) represents the Corvair front tire pressure and 26 psi represents the Corvair rear tire pressures. Note that under these tire pressures and at one passenger load the front and rear tire deflections are practically the same. The objective was to arrive at equal tire deflections front and rear under riding conditions and equal slip angles front and rear during cornering. At five passenger load the difference in tire deflection in less than .1 inch. * * * Thus, in line with our original objective, an engineering solution to lateral stability has been obtained by proper design of tires, rims, and specified inflation pressures."

* * * * * * *

Rear suspension

The swing axle independent rear suspension (Fig. 10) is one of the most interesting features of the Corvair chassis. * * * This type of swing axle suspension is, we believe, unique in its application. * * * Another interesting aspect of this particular swing axle was the roll couple distribution front to rear. * * *

It is also true that on a swing axle suspension of this type more of the roll couple is taken on the rear than on the front, and if you had equal tire pressures, front and rear, the result would be great slip angles on the rear than on the front.

Again the saving grace of the lighter front end, which allowed the Corvair to use a much lower tire pressure on the front than the rear. This in turn produced small differences between front and rear tire slip angles under cornering conditions.

One of the obvious questions is "if you wish more of the roll couple to be taken on the front wheels why did you leave the stabilizer off?"

First, we felt the slight amount of gain realized did not warrant the cost, secondly, we did not wish to pay the penalty of increased road noise and harshness that results from use of a stabilizer.

Another question that no doubt can be asked is why did we choose an independent rear suspension of this particular type? There are other swing axle rear suspension, of course, that permit transferring more of the roll couple to the front end. Our selection of this particular type of a swing axle rear suspension is based on:

1. Lower cost.
2. Ease of assembly.
3. Ease of service.
4. Simplicity of design.
5. We also wished to take advantage of coil springs * * * in order to obtain a more pleasing ride.
6. Reduction of unsprung weight results in a softer feeling vehicle and a shake reduction. * * *
7. The ability to isolate the body from distortion stresses. * * * This last point is very important in reducing transmission of road noise and engine noise into the vehicle. * * *

* * * In this paper we have attempted to take a closer look at some of the developments that made a fundamentally different approach a very practical one.[3]

Summary

It does not require an engineering degree to see, therefore, that the men who designed the Corvair considered the recommended tire pressure differential critically important in counteracting the recognized effects of the roll couple distribution, and it is also clear that the foremost reason for their rejection of available methods for transferring more of the roll couple to the front—a front stabilizer bar and a different type of rear suspension—was: COST.

Not surprisingly, in an analogy to the tactic which has seen General Motors never call Maurice Olley to testify but instead attempt to discount and discredit the opinions Mr. Olley offered GM on relevant subjects in the 1950's, Mr. Rubly and the other key men who made the crucial decisions on the design of the Corvair suspension, and who knew of its dangers, have never, as far as we know, been offered as witnesses by General Motors. And when such men have appeared as reluctant witnesses summoned by General Motors' opponents to depositions, they have suffered from atrociously poor memories.

THE YEARS 1958–60

Third Issue: What Did GM Officials Do To Protect The Public From These Special Hazards of The Corvair?

In summary, they rejected the front stabilizer bar and they recommended that a car be operated with a tire/pressure differential to save the manufacturer money but it is certainly not a reasonable substitute for designing stability into the vehicle.

The evidence will show that even when used with the recommended tire pressure differential the original Corvair does not have an acceptable degree of lateral stability. Nonetheless, since Mr. Rubly found the possibility of using a tire pressure differential to achieve stability a "saving grace" in the Corvair, it should be understood why in any case such a solution, even though it may have lessened the production cost of the automobile, was incompatible with sound engineering practice.

Derwyn Severy, nationally recognized expert in connection with questions of automobile safety and, on occasion, a witness employed by General Motors to testify on such questions, has said:

"Where the public at large is expected to maintain the tire pressure understanding, then I'd say it becomes a dangerous situation to the extent that the vehicle is sensitive to oversteer or directional instability from variations in tire pressure."

Robert N. Janeway, an engineer who has headed Chrysler's dynamic research, says:

"* * * this expedient must be considered a last resort. For, instead of stability being inherent in the vehicle design, the operator is relied upon to maintain a required pressure differential in front and rear tires. This responsibility is, in turn, passed along to service station attendants, who are notoriously unreliable in abiding by tire pressures. There is also serious doubt whether the owner or service man is fully aware of the importance of maintaining the recommended pressures."[5]

The "serious doubt" entertained by Mr. Janeway has to be followed by a firm conviction that neither owners nor service station attendants could be charged with knowledge of the importance of the recommended tire pressure differential in the Corvair. For *five consecutive years*, 1960 through 1964, Corvair Owners Manuals accompanied the prescribed tire pressures with cryptic warning:

"Oversteer problems may also be encountered with incorrect pressures. Maintain the recommended inflation pressures at all times."

But, as a judge who pursued this subject during a Corvair trial has observed:

"None of the engineers of General Motors could explain what this language meant. This is preposterous. Why was such language used? Certainly the average purchaser would have no conception of what was meant by this language in the Owner's Guide."[6]

In any case, the most persuasive evidence that it is violative of sound engineering practice to rely on a tire pressure differential to give stability to a vehicle, has to be the backpeddling GM has done and the misrepresentations it has advanced in a frantic effort to minimize the importance of the tire pressure differential since the Corvair's stability became a public issue. Certainly someone at General Motors must have seen that such misrepresentations would sooner or later be tagged as lies or as establishing a corporate position that the men to whom General Motors entrusted that aspect of the problem involving lateral stability were engineering idiots.

THE YEARS FROM 1960–62

Fourth Issue: (1) Did GM Executives Engage in a Continued Refusal from 1960–1962 to Correct the Defect? (2) Did Their Earlier Attempts to Correct the Corvair's "Misbehavior" Concentrate on Finding a Cheap "Fix"?

Both to the U.S. Senate and to courts, a few GM officials have described the 1960–1963 suspension designs as the same. For example, in the Winchell statement GM submitted to your Committee, he speaks about "the design characteristics of the 1960–1963 Corvair." (p. 1559) Similarly, this was the evidence given by GM to Judge Jefferson. Other court cases reveal the same pattern of testimony i.e., there were no significant differences in these suspensions. Also, the attached "Agenda" used by GM officials to brief their attorneys and other personnel also states that the 1960–63 suspensions were "the same."

Facts

The attached documents, originating in the Chevrolet R & D Section of GM show that there were several significant pre-1964 suspension changes. These included a limitation on rebound angle and a change in rear spring rate. Also, the results of several GM Proving Ground reports were available in 1962, which showed certain systems that appeared to be the more stable when spacer blocks and other changes were made. For example, in P.G. 15699, done in early 1962, the best results appeared when the vehicle used production components except for the rear shock absorbers which were of the hydraulic rebound cut off type with 0.5 in. spacer blocks. As in the other Chevrolet Layout L–58339 shows, [Plaintiffs' Exhibit 91 in *Franklin* v. *General Motors*], these modified shock absorbers were then incorporated in the 1963 Corvair (6/12/; ECR 47153).

In summary, the full history of the 1959–1962 efforts by Chevrolet and GM engineers to correct the Corvair's "misbehavior" is just beginning to emerge; however, apparently it involves two more or less parallel efforts, one by the men who designed the Corvair and the other initiated by Chevrolet R&D in January 1960.

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[3] *Suspensions From The Ground Up"* by Charles M. Rubly, for presentation at SAE National Automobile Week, March 15–17, 1960.

[5] *Passenger Car Design and Highway Safety*, Consumers Union, 1962, p. 45.

[6] *Drummond* v. *General Motors*, California Superior Court, Los Angeles County, No. 771 098, p. 24.

The first of these efforts, the one by the men who designed the Corvair, sought to find a cheap "fix" to tinkering with the car without altering its basic design. Although there were some early changes in the rear spring rates that may have affected the vehicle's handling characteristics, Mr. Rubly and his group apparently focused on the possibility of controlling the problem by reducing the maximum rebound or positive camber in the rear wheels. In a pre-production test it had been noted that restricting the rebound tended to improve the car's roll stability.[8] So, shortly after the car went on sale, its designers were experimenting with shims in an effort to limit rebound.[9] Further work in this direction prompted an interim revision of the shock absorbers in the middle of the 1962 model year "to restrict rebound."[10] The maximum rebound or positive camber in the rear wheels were thereby limited to 9°, as contrasted with the original 11°.

In May and June of 1962, ten different such suspension modifications—not all involving changes in the shocks but all aimed at limiting rebound—were tested for their effect on the Corvair's roll stability characteristics.[11] The suspension modification that appeared "most stable"—*i.e.*, the only one with which the car did not roll over—used rear shock absorbers of the hydraulic rebound cut-off type of 0.5 in. spacer blocks. These shock absorbers were incorporated as a change in the 1963 model "for improved ultimate stability."[12] Some General Motors' records say that they limited maximum rebound or positive camber in the rear wheels of 8°.[13] However, a proving ground test report now available says, "These shock absorbers limited the rear wheel rebound angle to 7½°."[14]

In any case, further tests of equipment to limit the maximum rebound and thus improve lateral stability led to the conclusion, according to the General Motors' report, PG 17103, "that the dynamic stability of the current production 1963 Corvair was not substantially improved through practical modifications to shock absorber design and configuration."

These tests apparently ended hopes that the "fix" could be cheap.

Summary

As far as we can tell, GM never admitted that the 1962, or mid-1962, or 1963 rear suspension was different from the 1960–1962 models. Such an admission would have raised an immediate question by the Corvair victims as to what was the nature of the difference, and the reason for the change. For GM to explain changes of this sort would, in turn, have had some critical implications concerning both their lack of effectiveness and GM's own evaluation of the original system. And, who knows, exploring the reasons for the different shock absorbers used in the 1963 model might have led the Corvair victims in turn to uncovering P.G. Reports 11543, 12207, 15699 and the P.G. 17103. As noted above, GM did not undertake that risk. Thus the attached documents prove conclusively the falsity of GM's testimony on the identity of the 1960–1963 suspensions. (See Appendix items No. 5 and 7)

It is to be expected that GM will, at this late date, attempt to excuse its false swearing on this matter by minimizing the importance of the different shock absorbers in the mid-1962 and again on the 1963 model, as it now attempts to minimize the importance of the tire pressure differential it prescribed for the early Corvairs. However, such shock absorber and rebound limitation changes were essential enough to involve substantial costs to GM and nobody familiar with GM will ever believe that it consciously spent money on a quest for meaningless non-visible vehicle modification.

Fifth Issue: The Suspension Changes in the 1964 Corvair—Were There Misrepresentations by Mr. Winchell as to the Nature of Corvair Modifications in 1964?

GM's position and testimony

The Winchell statement GM submitted to your Committee says that the 1964 modifications of the Corvair suspension system: "did not alter the full rebound control arm angle at the rear wheels. They did transfer more of the roll couple to the front wheels and, thus, transfer more cornering force to the outside front wheel. All of this was in an attempt to extend the limit of control as a step in the normal process of product improvement. The limit of control was increased to approximately 0.7g lateral acceleration with terminal neutral steer." (p. 1562)

Facts and conclusion

However, when Mr. Winchell testified that the 1964 changes "did not alter the full rebound control arm angle of the rear wheels" he neglected to state that, as the attached internal documents from Research and Development conclusively prove, the maximum rebound design angle of the Corvair had been changed in May 1962, and then again in the 1963 model. These documents also conclusively show that the length of the standard shock absorber had been reduced three times—in the 1962 model, again in May of 1962, and then again with the 1963 model. Thus this talk by Mr. Winchell about '64 control arm rebound was essentially irrelevant and misleading. The only question is whether the 1964 change in roll couple distribution was indeed part of "the process of normal product improvement".

GM's own research and their P.G. tests make it clear that GM knew of the value of the roll couple and stabilizer bar in 1953, and that all the attempted fixes that failed were in lieu of stabilizer bar and roll couple changes. Since GM knew of this need in 1953, and then was aware of the roll-overs of the Corvair in 1959, and was continually reminded of the inability of tests such as P.G. 11543 (of November 1959) to cure the problem, without a stabilizer bar, particularly in light of the 1961 Olley memorandum. Mr. Winchell's 1966 testimony which described the '64 adoption of the stabilizer bar and leaf springs as *"normal product improvement"* was totally misleading—particularly in suggesting that all this was done as rapidly as the knowledge became available. Indeed, the roll bar was on the prototype Corvair and the Vehicle Dynamics Paper of April 1964 makes the statement that "shortly after" Chevrolet R&D found out that "roll couple" distribution was largely *"responsible for the misbehavior"* of the Corvair—*"a Corvair with a single leaf transverse rear spring and front stabilizer was built and demonstrated."* (p. 13). Certainly this knowledge was driven home again to Mr. Winchell by Mr. Olley's 1961 paper, and it was reemphasized when tests were run with a stabilizer bar, and the results were studied. Yet inexplicability this alternative continued to be rejected by the Chevrolet decision makers. Thus, by Mr. Winchell's own Department's statement, the 1964 changes were developed in response to a determination of the reasons for the "misbehavior" of the early Corvair, NOT "in the normal process of product improvement."

Sixth Issue: Did GM Represent the Purpose and Effect of the 1965 Corvair Suspension Changes?

GM's position

Mr. Winchell's statement to the Senate said:

The changes made in the 1965 suspension were for the purpose of improving ride, while at the same time maintaining the control characteristics and higher limits achieved in 1964. (p. 1562).

Issue

This testimony (which equates the 1965 changes with the 1964 changes), to the extent it does, contains a puzzling failure, repeated elsewhere in court, to mention that the 1965 Corvair rear suspension also limited the maximum rebound or positive camber in the rear wheels to approximately four degrees as contrasted with the maximum rebound or positive camber of approximately eleven degrees in the 1960 Corvair, and approximately 6.8° in the 1964 model. Why this omission? Was it significant in misleading the Senate and the courts?

Conclusion

Your investigations should study Mr. Winchell's letter to Semon Knudsen, at the time General Manager of Chevrolet, which took the position that the 1964 changes were insufficient, that the full redesign of the 1965 suspension system was needed if the Corvair was to be "at least as safe as the standard Chevrolet." Thus, it is difficult, if not impossible, to understand how Mr. Winchell, of all people, could represent the 1965 changes as being merely for the "purpose of *improving ride*, while at the same time maintaining the control characteristics and higher limits achieved in 1964." (p. 1562, Senate Hearings)

While true that the ultimately important 1965 changes had made the roll couple distribution, 54% rear and 46% front in the 1965 Corvair (p. 28); however, the 1965 changes also limited maximum rebound. More significantly, in regard to the rebound limitation, Mr. Winchell's own history of the Chevrolet vehicle dynamics program rebuts Mr. Winchell's public testimony. Within GM, Mr. Winchell admits that the work on the "out of control" characteristic of the Corvair "indicated that *the jacking characteristics consequent to the swing axles and* roll couple distribution were responsible for the misbehavior." (p. 11, emphasis added)

Therefore, a summary list of the misrepresentations in the single paragraph of the Winchell statement concerned with the 1965 changes is:

1. The statement implies that the increase in control achieved by the changes did not require any alteration of the full rebound control arm angle of the rear wheels. We know that not only did the 1965 changes limit the maximum rebound in the rear wheels but that "the jacking characteristics consequent to the swing axles" had been determined by Mr. Winchell's own group as a cause of the Corvair's "misbehavior."

2. The 1965 changes "were for the purpose of improving ride, while at the same time *maintaining* the control characteristics and higher limits achieved in 1964." Mr. Winchell's own position urging adoption of the more extensive suspension changes that became the 1965 model contradicts this statement. Also, its implication that the unmentioned 1965 limitation of the maximum rebound in the rear wheels must have been for purposes of "improving ride" is contradicted by the conclusion of Mr. Winchell's own group that "the jacking characteristics consequent to the swing axle" were a cause of the Corvair's "misbehavior."

In other words, with the use of an alternative to the "swing axle" originally selected for the rear suspension, the Corvair's handling peculiarities were significantly corrected *in later models*.

But when public questions were raised from 1965 to the present moment about the handling safety of earlier models still on the road, GM indignantly replied that the upper unit of control of the Corvair is 0.6 G and

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[8] GM Test Report No. 25004–13 (1958).

[9] See data on Chart entitled *Shock Absorber & Rebound Travel.*

[10] Data from GM Chart No. 000907—Appendix item No. 7.

[11] P.G. Report No. 15699—Appendix item No. 6(a).

[12] "Corvair Changes & Chassis Improvements," p. 2.

[13] Data from GM Chart No. 000907.

[14] P.G. Report No. 17103, p. 5—Appendix item 6(b).

"this lateral acceleration is the upper limit of control ability for all passenger cars of the same period", and swore to you the changes in the 1964 and 1965 models were nothing more than "a step in the normal process of product improvement." Indeed, GM suppressed their explicit presentation to their own staff that after the 1964 changes, GM's changes to the 1965 Corvair were necessary to eliminate jacking. Nevertheless, GM testified to the U.S. Senate that "The changes made in the 1965 suspension were for the purpose of improving ride, while at the same time maintaining the control characteristic and higher limits achieved in 1964." [15]

Seventh Issue: What was GM's Duty to Protect the Public?

But this history contains an even grimmer irony. It was just about the time that GM was introducing the Corvair to the American public in the fall of 1959 that the Michigan Supreme Court was compelled to angrily spell out for GM a manufacturer's duty when it acquires knowledge of a latent defect in a product it has sold that may endanger the user. The case was *Comstock* v. *General Motors*, and the latent defect at issue involved the loss of brake fluid in certain Buicks:

"In our view, the facts in this case imposed a duty on defendant to take all reasonable means to convey effective warning to those who had purchased '53 Buicks with power brakes when the latent defect was discovered.

"* * * Prompt warning could easily have prevented this accident."

What Did GM do to Protect the Public? The Attempted Tire Pressure Fix, and GM's Refusal to Admit its Failure

As seen earlier, the only significant decision GM made to offset the instabilities resulting from the drastic roll couple distribution in the original Corvair (as seen by them in PG 11106 of June 1959) was in the adoption of a tire pressure differential, 15 psi front and 26 psi rear when cold. The technique was well known. Mr. Olley's 1953 paper had pointed out, "Decreasing front tire inflation, increases the aligning torque of the front tires and therefore the handling stability." (p. 12) And again, "Lowering the front inflation will also increase the aligning torque and road feel." (p. 13) However, P.G. 11106 of June 1959, had shown GM's Holden automobile (the GM code name for its prototype version of the Corvair) had wheel lift at 15 and 20 mph and actual rollover at 25 mph.

Thus, the tire pressure recommendation carried with it the implication that GM knew that stability was not inherent in the Corvair's design. In the Owner's Manual, GM accompanied the prescribed tire pressure differential with a cryptic warning:

"Over-steer problems may also be encountered with incorrect pressures. Maintain the recommended inflation pressures at all times."

Could this warning be considered a good faith attempt to cope with recognized instabilities in the Corvair design? It seems doubtful particularly when it was disowned in the courtroom by GM. As Judge Bernard Jefferson's opinion said of the Owner's Manual "warning":

"None of the engineers of General Motors could explain what this language meant. This is preposterous. Why was such language used? Certainly the average purchaser would have no conception of what was meant by this language in the Owner's Guide."

Judge Jefferson's question—"Why was such language used?—has never been answered by GM documents—except that the 1961 Olley memo now reveals its true value—to "save the life of the Corvair."

But on the other hand, when the Corvair came under public attack, GM evolved a corporate position that minimized any possible effect in the tire pressure differential. In the Winchell statement GM submitted to your Committee, for instance, he says:

"Tire experts would agree that failure to maintain the optimum or recommended tire pressures in *any* vehicle may result in some degree of oversteer, or some change in stability. However, *even reversing the tire pressure differential is unrecognizable at 30 to 40 mph in a Corvair.* The effect becomes noticeable as the speed increases, but it does not render the car uncontrollable. The pressures selected for the Corvair were the best choice for satisfaction and value to the customer in control, tread-life and ride."

Facts

The available evidence, much of which is attached hereto—the 1953 Olley paper, the Cornell Aeronautical Research in the 1950's, GM's resort to tire pressure differential in the effort to equalize cornering coefficients (and the revealing language in the cryptic Owner's Manual warning), the 1960 Rubly paper, etc.—all show that GM knew the inherent instabilities in the Corvair before it was put on the market, that GM knew that the corrective action indicated was to shift more of the roll couple to the front, and that GM knew of methods, other than fiddling with tire pressures, to obtain a better roll couple distribution.

Somewhere else—unless it has been destroyed—there must be technical data, minutes of meetings, some evidence from which it can be determined what other data prompted GM to prescribe the tire pressure differential that it *now* would lead the public to believe inconsequential. Their shyness on the subject is understandable. Anyone who understands this subject knows that the basis for the prescribed tire pressure differential will also evidence GM's knowledge of the instabilities in the design at a time *before* it was placed on the market. Despite GM's bad memory on this matter, there are now records which show that the date on which this 73% tire pressure differential was decided was January 21, 1959.

General conclusion

The men responsible for the production of the 1960–63 Corvair should not be heard to say that this presentation is a rejection of American business, apropos Mr. Roche's desperate repose pattern. That is too arrogant and transparent a canard. As the evidence herein demonstrates this letter is primarily a commentary on the men responsible for misusing GM's resources for a purpose unworthy of American business.

There are about 600,000 of these dangerous Corvairs still on the road. The hazard inherent in them have undoubtedly been multiplied by the ravages of age, and because of their vintages they are driven increasingly by the young and the poor—those classes of people who are probably least able to spend the money for necessary corrections in their basic mode of transportation. Thus, every passing day presents the probability of more casualities in continuing sacrifice to the careers of a group of men at GM who until now have succeeded in suppressing evidence of their callousness. As Mr. Fonda and Mr. Sergay estimated a few months ago, these 600,000 will probably be involved in over 500 more maiming roll overs if they are left on the road. Although the Corvair's past impact cannot be retrieved, these men still can help save lives and injuries in the future by coming out candidly—if they rethink their professional obligations to the public. It is now a question only of who steps forward first.

A public hearing by your Committee can assure that the new deaths and injuries do not occur in these roll over vehicles. This should not be delayed by the Department of Transportation study of whether this roll over propensity is a defect under the 1966 law. Another certain benefit of a public hearing will be to place before the public the heater defect which affects hundreds of thousands of families from the carbon monoxide leakage.

In a reflection of the reward structure within GM, the officials responsible for the Corvair debacle continue in control of the world's lagest manufacturer, enjoying the rich personal rewards they have reaped for shielding this corporate crime. Nothing suggests that they have any remorse whatsoever for the innocent human beings who have been maimed by GM's refusal to acknowledge and warn of—or correct—the hazards General Motors has secretely recognized for years under their own euphemistic label of "misbehavior."

This presentation offers to the United States Senate and the Department of Transportation—and the entire American public—documentation of this whole story from General Motors' own records. For a decade GM has refused to come clean, so such records are now our most conclusive evidence.

Mr. James M. Roche, Chairman of GM, has recently expressed distress over the present availability of large portions of GM's heretofore secret Corvair records, and has taken to public platforms to denounce those who ask employees to "blow the whistle" on corporate misbehavior seriously harmful to the public interest. Mr. Roche complains that, "however, this is labeled—industrial espionage, whistle blowing, or professional responsibility—it is another tactic for spreading disunity and creating conflict." (Speech of James M. Roche, March, 1971.) Thus his fear of public scrutiny of the manner in which GM operates leads him to argue that the public concern for truth about safety and health must be limited by the degree of disunity or conflict the truth would create. This attitude is the consummate corporate tyranny since the most dishonest areas would receive the least disclosure. Mr. Roche is saying that what cannot be disclosed is that which GM decides is in its interest, regardless of the public or consumer interest. He should read the professional canons of ethics (engineering and law) which define professional responsibility to the public as above that of the employer. Nonetheless, when at the end of that day Mr. Roche doffs his mantle as corporate spokesman and approaches things on a more ordinarily human level, even he would subscribe to the proposition that human lives and well-being are more important than the need to adhere to what Chevrolet internal memos call the "party line" in the name of a diseased sense of corporate loyalty. Certainly the forthright approach of one automobile executive engineer in the person of Mr. Harley Copp, shows that the truth is not anti-business. Rather, Mr. Copp's actions show that moral awareness and the sense of personal responsibility have not yet been stifled in all of the Detroit decision makers. Mr. Copp's testimony also shows that much of his information was shared with other auto executives, and thus it suggests that your Committee should investigate why the equivalent GM executives have never dared to speak as candidly in public about the Corvair. The interested public will be watching the degree to which Mr. Copp is treated with honesty and fairness by the Ford Motor Company for his display of professional engineering conscience.

In any case, the attached material should show the real basis for the current anger of some General Motors officials over "whistle blowing". Responsibility for one of the most scandalous episodes of corporate suppression of truth ever to reach public view can now be established, and the evidence of it, after ten years of being successfully cloaked, probably never would have seen the light of day if the consciences of a few insiders had not told them that the public interest in the truth of this matter is more important than

[15] P. 1562.

any career risks they might run in bringing that evidence forward.

In the fresh light of the new evidence and its implications contained in this letter, together with the gatherings of your staff's inquiry, the public should be able to learn, through a public hearing by your Committee, the facts and necessary admissions. Only a public hearing can set the record straight and assist the Congress in forming remedial policies so that such corporate manipulations be less likely to occur in the future. We respectfully urge you to commence such a hearing, hoping that you share the view that these materials and additional information in your Committee's possession compel such a conclusion.

Thank you for your continuing interest.

Sincerely yours,

RALPH NADER.
GARY SELLERS.

EXHIBIT 6

GM PROVING GROUND REPORT 15699

TEST REPORT—ROLLOVER STABILITY EVALUATION OF VARIOUS CORVAIR SUSPENSION SYSTEMS

FOREWORD

Mr. N. E. Farley of the Chevrolet Motor Division requested the Experimental Engineering Department to conduct a series of vehicle roll-over tests to determine the roll stability characteristics of ten different modifications to the suspension system of a 1962 Corvair "700" series, 4-door sedan.

Comparative tests were also conducted with a 1961 Chevrolet, 4-door sedan. This vehicle had no modifications to the suspension system.

These tests were performed during May and June 1962.

TEST RESULTS

The test vehicle was evaluated with ten types of suspension modifications. The suspension system that appeared to be the most stable (Test No. 3), used production components excepting for the rear shock absorbers which were of the hydraulic rebound cut off type with 0.5 in. space blocks. A .625 in. diameter front stabilizer bar was installed on the front suspension. Tables 1 and 2 are listings of the suspension systems evaluated and indicate if the vehicle rolled.

DISCUSSION

Mr. N. E. Farley of the Chevrolet Motor Division requested the Experimental Engineering Department to conduct a series of vehicle roll-overs to determine the roll stability characteristics of ten different modifications to a 1962 Corvair "700" series, 4-door sedam. The acceleration forces acting on the vehicle at the instant of incipient roll-over, as recorded by seven accelerometers located on the vehicle will be used as the criteria for determining the roll stability characteristics. A 1961 Chevrolet, 4-door sedan without suspension modifications was also included in this test series for comparison to a nontransaxle vehicle roll stability characteristics.

INSTRUMENTATION

Biaxial accelerometers to measure lateral and vertical accelerations were mounted at the front and rear bumper centers (see Figures 1 and 2). A triaxial accelerometer was mounted at the vehicle's center of gravity to measure lateral, longitudinal and vertical accelerations. The left rear control arm was equipped with a potentiometer which provided an electrical signal proportional to the vertical motion of the left rear wheel.

The signals from these instruments were recorded with an oscillograph and the resultant acceleration vectors were computed from the oscillograph data on the IBM 1620 Computer.

Vehicle preparations

As a safeguard for the driver, a set of roll bars were constructed within the body cavity. The center of gravity and moment of inertia of the test vehicle was determined by swinging the vehicle on the long and short swings located at the Proving Ground Engineering Test Department. The car as swung was equipped with roll bars, camera mount and two anthropomorphic dummies which occupied the left front and left rear seats. In addition the gasoline in the fuel tank was replaced with water. For the test runs, the water in the fuel-tank was maintained at the half-full mark. Fuel for the engine was supplied from a one-gallon safety fuel can bolted to the floor of the front luggage compartment. Before the start of all tests, except test number ten, the tire inflation was set to the recommended 15 psi front and 26 psi rear. After several trial runs, the tires would build up to 18 psi front and 30 psi rear. At no time while testing was any air bled off. In test number ten, the tires were inflated to 25 psi front and 40 psi rear.

Photographic coverage

Fixed to the left rear frame rail was a graduated sector of a circle as shown in Figure 3. A reference pointer was mounted on the axle. A 1000 frame per second "triad" camera mounted on the vehicle recorded the movement of the axle, with respect to the vehicle frame.

This series of tests were run on the level bituminous concrete Military Skid Pad. Positioned around the perimeter of the test area were a 400 frame per second "Milliken" and a 128 frame per second "Bell and Howell" cameras. Color photographs of these tests were filmed at a 24 frame per second rate by an "Arriflex" camera. These films are on file at the proving Ground under No's. A–186, A–191, and A–208.

Test procedure

The test runs were made by executing a sharp left turn, upon entering the Skid Pad, and abruptly reverse steering into a full lock right turn. This maneuver is known as a "modified J-turn". The first trial runs were started from a point just short of the Skid Pad on its access route. These first trial runs were from the level portion of the access route onto the level test pad area. The more stable suspension systems required high speeds and more violent maneuvers to produce vehicle roll-over tendency. Longer approach runs were made to allow the driver to make a gear change from first into second gear and attain speeds of 33–35 mph. The maximum speed in first gear on the short runs was approximately 28–29 mph. These speeds were as observed by the driver. As the runs were extended beyond the length of the instrument cables, it became necessary for the instrument van to "chase" the test vehicle along a short straight course parallel to the test vehicle's path.

Summary

Ten different sets of test conditions were evaluated. They consisted entirely of modifications to the suspension system. These modifications are listed in Table No. 1, in the order that they were tested. It is also noted in the Table if the vehicle rolled. Table 2 is a tabulation of the test vehicle's rear axle angular free travel in rebound for each test condition. Figures 4 through 13 are typical views of the 10 different test series. Each test series was performed by making runs at increased speed increments until the vehicle rolled or it was difficult to produce a more violent maneuver.

Test No. 1: The addition of .5 in. spacer blocks to the rear shock absorbers was the only change made to the production suspension. On the fifth trial run, the vehicle rolled 360°, (Figure 4).

Test No. 2: Test No. 2 was run with the same suspension components as Test No. 1, that is production suspension modified with .5 in. spacer blocks on the rear shocks. This test used web rebound limiting straps on the rear control arms. A. .625 in. diameter stabilizer bar was installed on the front suspension. On the seventh trial run, the vehicle rolled 180°, (Figure 5).

Test No. 3: Test No. 3 also used production components except for the rear shock absorbers which were described as "hydraulic rebound cut off type and 0.5 spacer blocks on the rear shocks". These spacer blocks were used for the first four runs and then removed. The .625 in. diameter front stabilizer bar was retained. This suspension exhibited a marked roll resistance and in six trial runs did not roll over, (Figure 6).

Test No. 4: Test No. 4 used "hydraulic rebound cut off" rear shocks with 0.5 in. rear shock spacer blocks. The remaining components were production as in Test No. 3, except for the .625 in. diameter front stabilizer bar, which was removed. Seven trial runs were made before the vehicle was rolled 90°. The vehicle was righted and two more runs were made with the spacer blocks removed from the rear shock absorbers. No more roll-overs were experienced, (Figure 7).

Test No. 5: Test No. 5 was made using production control arms and shock absorbers with the .5 in. spacers. The rear coil springs were of a reduced rate (300 lb/in.) and a transverse leaf spring was installed in the rear. The vehicle rolled 180° on the second trial run, (Figure 8).

Test No. 6: Test No. 6 used production control arms, reduced rate (300 lb/in.) rear coil springs and a transverse leaf spring. The production shock absorbers were replaced by the "hydraulic rebound cut off" type and the .5 in. shock absorber spacers were omitted. On the fifth trial run, the car made a 180° roll, (Figure 9).

Test No. 7: Test No. 7 used reduced rate (300 lb/in.) rear coil springs with "airlift" bags inside the coils. This dictated a change in shock absorber location and also in shock absorbers. The production Corvair valving was duplicated in longer shock absorbers which were mounted outside and to the rear of the coil springs. The control arms were production items and a transverse leaf spring was installed. On the sixth trial run the vehicle rolled 360°, (Figure 10).

Test No. 8: Test No. 8 followed the conditions of Test No. 7, used reduced rate (300 lb/in.) coil spring and "air lift" bags, longer shock absorbers with production valving and relocated mounting. The addition of 1.25 in. spacers to the lower ends of the shock absorbers more nearly approached rebound travel limits of the control arm in Test No. 1 and others were .5 in. spacers were used in connection with production shock absorbers. Production control arms were used on this test. On the sixth trial run the car rolled 270° and in the process the left rear axle broke at the wheel. This was attributed to a fatigue failure, (Figure 11).

Test No. 9: Test No. 9 used production components with the exception of the shock absorbers which were the "hydraulic rebound cut off" type. Again the .125 in. shock absorber spacers were used. The 4 wheels were offset outboard 1.0 in. each giving an overall tread increase of 2.0 inches. The .125 in. shock absorber spacers were removed after the sixth trial run. On the seventh run the car rolled 180°, (Figure 12).

Test No. 10: Test No. 10 was run with production suspension parts except for the shock absorbers which were the "hydraulic rebound cut off" type with .125 in. spacers. The wheels were Corvair production wheels with the rear tires inflated to 40 psi, 14 psi over normal, and the front tires with 25 psi, 10 psi above normal. After the second trial run the .125 in. spacers were removed from the shock absorbers. On the fifth run the car rolled very hard, going through 540°, (Figure 13)

Analogous to the Corvair Roll-Over Stability Evaluation Test Series, tests were performed on a production 1961 Chevrolet, 4-door sedan. Eight trial runs were made with instrumentation and two were made without

the maneuverability handicap of the instrument cables and instrument van, (Figure 14). No roll-overs were experienced in these 10 runs.

A roll-over occurred on nine of the ten Corvair suspension modifications. The resultant acceleration and direction at the center of gravity of six of these tests, prior to and at rollover are plotted in Figures 15, 16, 18, 20, 21, and 22. In each instance, a curve from the preceding run of the same suspension modification, in which no rollover occurred, appears for the sake of comparison. Similar plots of trial runs No. 62, Figure 17, and No. 73, Figure 19, which experienced no roll-over are included to show the roll stability characteristics of the more stable suspension modifications. This also is the case for trial run No. 112 of Test No. 11, Figure 23, of the 1961 production Chevrolet, 4-door sedan.

[EDITOR'S NOTE.—Figure 1 and test or work request sheet are available in subcommittee files.]

TABLE 1.—REPORT NO. PG-15699

Run Nos.—	Date	Corvair suspension modifications	Remarks
46, 47, 48, 49, and 50	May 14, 1962	Test No. 1: Production suspension components and shock absorbers. Half inch spacers installed between shock absorber lower end mountings and rear control arms to limit rebound travel.	Car rolled 360° on run No. 50.
51, 52, 53, 54, 55, 56, 57, and 58	May 15, 1962	Test No. 2: Production suspension components and shock absorbers with the half inch spacers. Web rebound limit straps on real control arms and a 0.625 in. diameter front stabilizer bar.	Car rolled 180° on run No. 58
59, 60, 61, 62, 63, and 64	May 17, 1962	Test No. 3: Production suspension with new shock absorbers described as "hydraulic rebound cutoff type". Half inch spacers were used to limit rebound travel but were removed after run No. 62. A 0.625 in. diameter front stabilizer bar was used.	Car did not roll over.
65, 66, 67, 68, 69, 70, 71, 72, and 73	May 18, 1962	Test No. 4: Production suspension with "hydraulic rebound cutoff" shock absorbers. The half inch spacers were used through test run No. 72, but were removed for test run No. 73. The front stabilizer bar was not used in this test.	Car rolled 90° on run No. 71; did not roll on run Nos. 72 and 73.
74 and 75	May 28, 1962	Test No. 5: Production control arms and shock absorbers with half inch spacers installed. Reduced rate rear coil springs (300 lb/in.) with camber compensator rear leaf spring.	Car rolled 180° on run No. 75.
76, 77, 78, 79, and 80	May 29, 1962	Test No. 6: Production control arms and the "hydraulic rebound cutoff" shock absorbers without the half inch spacers. Reduced rate rear springs and camber compensator leaf spring.	Car rolled 180° on run No. 80.
81, 82, 83, 84, 85, and 86	June 4, 1962	Test No. 7: Production control arms, reduced rate rear springs with "airlift" bags inside the coils. Camber compensator leaf spring and longer shock absorbers mounted outside and to the rear of the rear coil springs. "Airlift" bags inflated to 13 p.s.i. No rebound limits other than shock absorbers.	Car rolled 360° on run No. 86.
87, 88, 89, 90, 91, and 92	June 6, 1962	Test No. 8: Production control arms. Reduced rate rear spring with "airlift" bags inflated to 13 p.s.i. Camber compensator leaf springs and the long shock absorbers with 1.25 in. spacers to limit rebound travel.	Car rolled 270° on run No. 92.
93, 94, 95, 96, 97, 98, and 99	June 7, 1972	Test No. 9: Production suspension with "hydraulic rebound cutoff" shock absorbers and 0.125 in. spacers at lower mountings used. After run 97 the spacers were removed. Wheels with 1 in. of offset were used. Overall tread increase front and rear was 2 in.	Car rolled 180° on run No. 99.
100, 101, 102, 103, and 104	June 8, 1962	Test No. 10: Production suspension components and wheels were used. "hydraulic rebound cutoff' shock absorbers with 0.125 in. spacers. After run 101 spacers were removed. Rear tires inflated to 40 p.s.i., fronts to 25 p.s.i. Normally the tires are inflated to 26 p.s.i rear, and 15 p.s.i. front.	Car rolled 540° on run No. 104.

TABLE 2.—MAXIMUM CORVAIR REAR AXLE MOVEMENT IN REBOUND

Test No.	Condition	Free angle		Loaded angle (300 lb)		Run numbers
		Left	Right	Left	Right	
1	1963 production ½-in rebound restriction	10°18′	9°48′	10°21′	10°0′	46–49 no roll; 50 roll.
2	Nominal 5½-in. straps	5°23′	6°1′	6°17′	6°18′	51–57 no roll; 58 roll.
3	Hydraulic cutoff with .68-in external shims	5°35′	5°35′	6°20′	6°20′	59–62 no roll.
3 and 4	Hydraulic cutoff with .18-in. external shims	7°23′	7°22′	8°10′	8°0′	63–69 no roll; 72–73 no roll.
4	Hydraulic cutoff with no external shims	8°45′	8°20′	9°24′	8°55′	70 no roll; 71 roll.
5	Pro. shocks ½-in. rebound restriction 300 lb/in. coil springs camber compensator leaf	10°0′	9°50′			74 no roll; 75 roll.
6	Hydraulic cutoff with no spacers 300 lb/in. and leaf	8°50′	8°40′			76–79 no roll; 80 roll.
7	Air bag 13.5 lb psi 300 lb/in. coil. 88 shims reg. shocks	8°0′	8°0′			81–85 no roll; 86 roll.
8	Air bag 13.5 lb psi 300 lb/in. coil 1.24 lt .88 rt. shims	6°25′	8°0′			87–91 no roll; 92 roll.
9	Std suspension with hydraulic cutoff shocks—shimmed .125 in.—56.5 in. track	8°40′	8°50′			93–97 no roll.
9	Std suspension with hydraulic cutoff shocks—no shims; 56.5 in. track	9°15′	9°20′			98 no roll; 99 roll.
10	Std suspension with hydraulic cutoff shocks—.12 in. shims; 40 psi rear, 25 psi front	8°40′	8°50′			100–101 no roll.
10	Std suspension with hydraulic cutoff shocks—no shims; 40 psi rear, 25 psi front	9°15′	9°20′			102–103 no roll; 104 roll.

GENERAL MOTORS PROVING GROUND

This report must not be copied or duplicated in any manner. It is for the express use of the recipients listed on the distribution sheet and is not to be distributed further *without written approval* of the director at Chevrolet Proving Ground operations.

All copies are on loan only. They are to be returned to the GM Proving Ground Library after one month's time. File copies will be retained in a "Special Security Handling" file in the vault and will not be released to anyone *without the written approval* of the director of the proving ground.

FOREWORD

This series of tests was run to evaluate and determine the dynamic stability characteristics of the Chevrolet Corvair with various shock absorbers and suspension configurations. These tests were performed by driving a specially equipped Corvair through a series of high speed maneuvers on a flat, level, bituminous concrete surface in an attempt to overturn the car. Maneuvers and components used for each test were as directed by Mr. M. Sheean of the Chevrolet Motor Division. Personnel of the Experimental Engineering Department conducted the tests on November 13th, and 26th, 1962, and on March 18th, April 5th, 10th, 11th, and May 14th, and 17th, 1963. This work was done at the request of Mr. N. E. Farley of the Chevrolet Motor Division.

RESULTS AND CONCLUSIONS

A summary of the complete series of 33 runs is presented in Table 1.

These tests showed that the dynamic stability of the current production 1963 Corvair was not substantially improved through practical modifications to shock absorber design and configuration. A test phase which incorporated a pair of high speed movie cameras mounted on outriggers to the rear of the car, showed that this change in the weight distribution prevented the car from overturning during these test maneuvers.

A 1964 prototype suspension installed in the car made the dynamic stability characteristics acceptable for several different test conditions. The last run of the series was an abnormally severe maneuver from a super elevated surface to a level surface and caused the car to overturn.

DISCUSSION

These tests were run to assist Chevrolet Motor Division engineers in evaluating Corvair suspension modifications made to improve the car's dynamic stability. Evaluations of vehicle roll characteristics were made from observations of the tests and analysis of high speed movies of maneuvers of the test car at 25 to 40 mph on a level, bituminous concrete surface.

Vehicle preparation

Essentially all of the preparatory vehicle modifications were made to protect the driver during possible vehicle rollover conditions. These were made in regards to possible fire, vehicle deformation, driver impact against the internal surfaces of the car, and flying car components such as the seat and glass. The production gasoline tank was removed and a one gallon safety gasoline can installed for the engine fuel supply. This was installed in the front luggage compartment in a manner that would permit quick removal in case of an emergency.

A gravity "lock-in-position" switch was installed in the ignition circuit to open and hold open the ignition circuit in case of a vehicle rollover. This switch was installed for two purposes, the first being the obvious fire hazard in case of a rollover, and the second being in case of a rollover which ter-

minated with the car on its wheels and a possible dazed driver unable to quickly maneuver the car out of a hazardous condition.

A substantial rollover bar system was installed inside the car to prevent extreme vehicle deformations from injuring the driver. Also, all internal surfaces which could be impacted by the belt restrained driver were padded with ensolite material of sufficient thickness to reduce the injury potential to a satisfactory level. A rope netting was installed on the driver's door window opening to prevent the driver's left arm, and possibly his head from being thrown out through the open window and contracting the road surface or being injured between the rolling vehicle and the road surface.

All loose and unnecessary components were removed from the vehicle, this included the rear seat back and cushion, the floor mats, and other small fittings. The windshield and rear light were removed, the side windows rolled down and the front door ventipanes removed. For tests No. 115 through 126, the standard production front seat was used. For the remainder of the tests an Oldsmobile bucket type seat was installed. It was felt that this seat would give the driver an added measure of protection during rollovers. A 50th percentile dummy was securely fastened in the left rear passenger position to simulate an unfavorable load condition.

Test procedure

Prior to each test phase, suspension modifications were made to the vehicle and initial measurements and adjustments made as per Chevrolet Motor Division engineers. Tire pressures were adjusted to a hot pressure of 17 psi front, and 28 psi rear as previous runs showed these pressures to be stabilized values for these tests. A minimum amount of gasoline was maintained in the safety gasoline can and a pliable adhesive material was put over the vents of the battery caps to prevent acid spillage in case of a rollover. Immediately prior to each test, the car was positioned as shown in Figure 1. The car was driven onto the Military Skid Pad and through a predetermined maneuver while high speed movies were taken of the vehicle's actions. A rollover or significant engineering decision concerning the suspension terminated each phase of a test program.

Test site

The level bituminous concrete Skid Pad at the east end of the Military Straightaway was used for these tests. Sweeping of the Skid Pad was done as necessary to provide a clean test area; a dry road surface was a test requisite for all tests. Figure 1 shows the test area.

Photographic coverage

Documentary still photographs were taken before, during, and after each test as needed to accurately record vehicle conditions. High speed movies were taken of each test from perimeter locations. These locations were varied from one test phase to another. On tests No. 127 through 131 high speed cameras were installed on outriggers to the rear of the vehicle to photograph each rear wheel's action during the test maneuver. Typical camera positions are indicated in Figure 1. Most of the high speed movies were taken at 128 fps, however, some were made at 500 fps. Standard speed movies were also taken as requested. Copies of all movies have been given to the Chevrolet Motor Division for their analysis. The original movies have been filed at the Technical Data Department of the General Motors Proving Ground.

Driver protection

Driver safety took precedence over all other test conditions. A lap belt, two shoulder belts, and a chest belt were installed to restrain the driver. A safety helmet with plexiglas front shield was used, and the driver also wore a sport's type mouthpiece to protect his teeth. The previously mentioned padding throughout the interior of the car further prevented possible driver injury.

Test setup

Figure 2 shows the test car No. CH2702 which was used for the tests 115 through 120. The test driver is in position and the car is ready to be run on the first test. This car had been used in a previous set of tests, reported in Report No. PG–15699, which accounts for the deformed body condition. Figure 3 shows a 50th percentile dummy and its retention in the left rear seat passenger position. All dummy components were securely lashed into position to prevent them from flailing about and injuring the driver during any rollover maneuver. Following are brief descriptions and test results of each test:

Run No. 115, Date: 11–13–62, speed 28 mph

Prior to this test, Chevrolet Division personnel had installed shock absorbers on the rear suspension designated as second version 9° Delco shock absorbers. These shock absorbers restricted the rebound of the rear axles to 9° as measured relative to the body of the vehicle. These shock absorbers are also known as the hydraulic cutoff type. The front shock absorbers were standard 1963 production absorbers. All previously mentioned precautions and preparations were taken prior to the test. A simple "J Turn" to the right at approximately 28 mph caused the right rear wheel to come off the ground for approximately 50 feet of forward travel of the vehicle. A "J Turn" maneuver consists of driving the car straight ahead at a predetermined speed, turning the front wheels sharply in one direction, and giving the engine full throttle. Prior to the test the outside sidewall of the left rear tire had been painted white to indicate any scrubbing action. At the end of the test this paint showed that the tire had been scrubbed on the road surface all the way up to the rim. The car did not roll over as the result of this test.

Run No. 116, Date: 11–13–62, speed 28 mph

This test was very similar to the previous run, however, a slight maneuver was made before the simple "J" turn. This is referred to as a modified "J" turn. This modified "J" turn is executed by the driver turning to the right, then left, and again right into the "J" turn in a rather zig-zag fashion, and again as in the previous run, the right wheel was lifted for a considerable distance and the paint was scrubbed from the outside wall of the left rear tire.

Run No. 117, Date: 11–13–62, speed 28 mph

Approximately the same conditions were used for this test, except that the lateral excitation was increased by a more violent zigzag prior to the "J" turn. As a result of the maneuver, the car made two complete lateral rollovers. Figure 4 shows the car as it is about to start the first rollover. At the end of the two rollovers, the car again landed on its wheels. As shown in Figure 5, the left front wheel showed considerable misalignment. Later examination of the test vehicle showed the lower ball joint to be defective, that the tie bar on the left rear shock had been "pulled through" and that the right rear axle shaft was bent and had to be replaced. Closeups of the left rear wheel are shown in the photographs of Figure 6. Note how the paint has been scrubbed from the tire wall and the rim distorted from its contact with the road surface. The vehicle position after test is shown in Figure 7.

Run No. 118, Date: 11–26–62, speed 28 mph

The car was repaired as necessary and a set of shocks designated as third version Delco shock absorbers were installed on the rear suspension. This shock absorber limited the rebound of the rear axle to 7½°. A 28 mph simple J Turn showed the car to be quite unstable. The car did not roll over however. The high speed movies show that the right rear wheel lifted approximately 18 inches and the left rear tire had the paint scuffed from the sidewall to within 1½ inches of the rim.

Run No. 119, Date: 11–26–62, speed 28 mph

This test was an identical test to the previous run and again the car very nearly overturned. This completed the testing on this pair of shock absorbers.

Run No. 120, Date: 11–26–62, speed 28 mph

For this test, a pair of 1963 production shock absorbers were installed in the rear suspension. These shock absorbers limited the rear wheel rebound angle to 7½°. In this test, a 28 mph simple "J Turn" caused the car to roll over onto its roof. High speed movies show that the right rear wheel came off the pavement when the car had turned approximately 90°. The wheel came up about 18 inches and then the car rolled quickly over onto its roof. The left rear wheel rim dug into the pavement during the roll. This test terminated the testing activities with this car because Chevrolet Division engineers felt that the rollover tests had changed the body rigidity characteristics and that this car was no longer representative of a production vehicle.

For the following tests, No. 121 through 147, Car No. CH3905 was used. As with the previous car, roll bars were installed and all the associated safety equipment and vehicle modifications made. While the new car was being setup a test program was run on the Military Skid Pad, using the Proving Grounds coefficient of friction skid trailer to determine the coefficient of friction of the road surface being used for the rollover tests. These tests show that the coefficient of friction was between .77 and .86.

Before the test setup was made in the new car, two dummies were positioned in the vehicle and the height of the center of gravity determined. It was found to be 19.3 inches above the ground, 67.7 inches behind the centerline of the front wheels, and 2.54 inches to the left of the centerline of the car. After the roll bars and other modifications had been installed in the vehicle, the center of gravity location was found to have shifted as follows: 20.4 inches above ground, 69.9 inches behind the centerline of the front wheels, and 2.72 inches to the left of the centerline of the car. When the car was set up, the shock absorbers installed in the rear suspension were designated as the four-hole hydraulic cutoff shock absorbers. These limited the rear axle rebound to 7½°. These shock absorbers were used for tests No. 121 through 126.

Run No. 121, Date: 3-18-63, Speed 28 mph

The car as set up for test is shown in Figure 12. Figure 13 shows details of the roll bar and padding inside the vehicle. Figure 14 shows the car just prior to test No. 121. This test was a simple "J" turn at a speed of 28 mph. His speed movies of this run show that the right rear tire was picked up from the road surface and that the white paint was scrubbed from the tire on the left rear wheel approximately half way to the rim.

Run No. 122, Date: 3-18-63, Speed 28 mph

This was an identical rerun of the previous test. In this test the right rear wheel lifted a little higher from the road surface than in the previous run. However, all other conditions were practically identical.

Run No. 123, Date: 3-18-63, Speed 30 mph

In this test a simple "J" turn was made from 30 mph. This run was slightly more severe than the previous two runs. Results were the same as for the previous two runs.

Run No. 124, Date: 3-18-63, Speed 33 mph

This again was similar to the previous three runs. However, the simple "J" turn was preceded by an "S" maneuver and the test speed was increased to 33 mph. Again the movies show that the right rear wheel came up, in this test about 12 inches. The white paint was scrubbed from the wall of the left rear tire approximately half way up the side of the tire.

Run No. 125, Date: 3-18-63, Speed 40 mph

Again conditions were identical to the previous tests. However, the test speed was increased to approximately 40 mph, and again an "S" turn preceded the "J" turn. A photograph showing the car action is shown in Figure 15. This Figure also shows similar photographs for Runs No. 121 through 124. In this series of runs, it was quite obvious to the observers that the car was approaching an unstable condition.

Run No. 126, Date: 3-18-63, Speed 38 mph

Conditions were as for the five previous runs, and a speed of approximately 38 mph was used. In this test the right rear wheel came up, the left rear wheel "tucked under" its rim cut into the road surface and the car rolled one complete lateral rollover. The moment of impending roll is shown in Figure 16. Figure 17 shows the car after the rollover, and Figure 18 shows the skid marks for Runs No. 121 through 126. At the completion of this test, the vehicle was returned to the Chevrolet Motor Division garage to be repaired for future tests.

At this point in the test program, Chevrolet Motor Division asked that high speed cameras be mounted on the rear of the vehicle to photograph rear wheel tire and suspension action. Figure 19 shows the test car with the cameras installed. The camera installation changed the center of gravity location as follows: The center of gravity height became 19.6 inches and was located 72.3 inches behind the centerline of the front wheels and 2.72 inches to the left of the centerline of the vehicle. The seat was also changed at this time from the standard full bench type seat to an Oldsmobile bucket seat. The seat installation, plus the belt restraining system for the driver is shown in Figure 20.

Run No. 127, date: 4-5-63, speed 27 mph

The shock absorbers used in this test were Model XD220293 Delco shock absorbers and designated as a six-hole hydraulic cutoff shock absorber. These shock absorbers limited the left rear wheel rebound to 6° 45', and the right rear wheel rebound angle to 7° 15'. In this test, a 27 mphy "J" turn caused very little tire scuff and no noticeable lifting of the right rear wheel. Figure 21 shows the car in the most severe part of the skid.

Run No. 128, date: 4-5-63, speed 30 mph

This test was identical to the previous test. However, the test speed was increased to 30 mph. Again there was only a little scuffing on the left rear tire and the right rear wheel was not lifted appreciably.

Run No. 129, Date 4-3-63, speed 36 mph

Test conditions were identical to the previous two runs. However, the test speed was increased to 36 mph and a modified "J Turn" was executed. The car looked very stable.

Run No. 130, date: 4-5-63, speed 36 mph

Test condtions were identical to the previous run, and again the car looked very stable.

Run No. 131, Date: 4-5-63, Speed 36 mph

Conditions for this test run were identical to the previous tests. This was the last test of this phase because the car looked very stable under the various maneuver configurations. Peak lateral slides are shown for Runs 127 through 131 in Figure 21. The tire skid marks for these runs are shown in Figure 22.

Run No. 132, Date: 4-10-63, Speed 30 mph

The Model XD220293 Delco shock absorbers were retained on the rear suspension of the car for this test, however, the movie cameras were removed from the car. As a result of the 30 mph "J" turn, the car rotated to the right approximately 180° and the right rear wheel lifted approximately 2 feet. High speed movies taken on this test showed that the car was very nearly in a roll condition. The left photograph of Figure 23 shows the vehicle during the skid. Removing the cameras and accessories from the car had raised the center of gravity from 19.6 inches to 20.4 inches and had moved the center of gravity ahead from 72.3 to 67.6, also the center of gravity moved slightly to the left from 2.7 to 3.05 inches to the left of the center of the vehicle. Removing the cameras from the rear of the vehicle reduced the load on the rear axle from 1981 lbs to 1771 lbs.

Run No. 133, Date: 4-10-63, Speed 30 mph

For this test the XD220293 Delco rear shock absorbers were shimmed to limit the rebound on the left to 5°35' and on the right to 6°30'. In this test the 30 mph "J" turn caused the right wheel to lift up 2½ to 3 feet and scrub the paint from the left rear tire ½ of the way of the tire sidewall. In this test the car looked unstable.

Run No. 134, Date: 4-10-63, Speed 30 mph

Conditions for this test were identical to the previous test, however, during the "J" turn maneuver the car rolled laterally over onto its roof. Figure 24 shows the car just previous to rolling over and the car in the rollover position. The lower right hand photograph of this Figure shows a closeup of the left rear tire and wheel showing how the paint has been scrubbed from the tire and the rim has been deformed by the road surface. Following this test the car was rolled over on its wheels and taken to the Chevrolet garage for a check-over and shock absorber change.

Run No. 135, Date: 4-11-63, Speed 26 mph

For this test 1962 production shock absorbers were installed and shimmed to limit the left rear angle to 5°30' and the right rear rebound angle to 6°35'. The 26 mph "J" turn showed the car to exhibit unstable characteristics. The left photograph of Figure 25 shows the car in the lateral skid.

Run No. 136, Date: 4-11-63, Speed 26 mph

Conditions for this test were identical to the previous test. A 26 mph "J" turn again showed the vehicle to exhibit unstable characteristics. The lateral skid is shown in the right photograph of Figure 25. The decision was made by the Chevrolet Motor Division engineers to discontinue testing on this shock absorber and suspension configuration since it was quite obvious that the car could be rolled.

Run No. 137, Date: 5-14-63, Speed 28 mph

For this test a 1964 suspension configuration was installed on the car. This suspension incorporated a lateral leaf spring under the rear suspension, softer coil springs in the rear, and a 13/16" diameter roll bar on the front suspension. 1963 production shock absorbers were installed both front and rear. The rear shocks, however, were shimmed to limit the left rear wheel rebound angle to 7° 35' and the right rear wheel rebound angle to 7° 30'. The 28 mph conventional "J" turn showed the car to be very stable with very little lift of the right rear wheel.

Run No. 138, Date: 5-14-63, Speed 30 mph

This test was identical to the previous test, except that the speed was increased from 28 to 30 mph and an abbreviated "S" turn performed before the "J" turn. Again the car appeared to be very stable.

Run No. 139, Date: 5-14-63, Speed 38 mph

Conditions for this test were identical to the two previous tests, except that the speed was increased to 38 mph, a more severe "S" maneuver, and "J" maneuver were executed. Again there was very little roll or lift and the car appeared to be very stable.

Run No. 140, Date: 5-14-63, Speed 38 mph

This test was identical to the previous tests except that a more severe "S" turn, followed by the "J" turn was used and the vehicle path was such that it passed from the super-elevated section of the skid pad down into the lateral section. This caused the right rear wheel to raise approximately 12 inches. This was a severe test for this suspension configuration.

Run No. 141, date: 5-14-63, speed 38 mph

For this test the spacers were removed from the rear shock absorbers which increased the robound angle on the left rear wheel from 7°35' to 8°5'. The right rear suspension rebound angle was increased from 7°30' to 8°25'. The 38 mph combination "S" and "J" turn caused very little lift of the right rear wheel and the car looked very stable.

Run No. 142, date: 5-14-63, speed 38 mph

Conditions for this test were identical to the previous test, however, there was a slight modification in the path of the "S" and "J" turn. This caused some lift of the right rear wheel. However, the car still appeared to be quite stable.

Run No. 143, date: 5-14-63, speed 38 mph

This was an identical re-run of the previous test and the right rear wheel again lifted as in the previous test. These tests showed the car to be very stable and the Chevrolet Division engineers asked that the tests be terminated for that test condition.

Run No. 144, date: 5-17-63, speed 30 mph

The 1963 production shock absorbers were removed from the rear suspension and a pair of Delco shock absorbers No. XD-220292-1 were installed. These permitted the left rear rebound angle to be 8°15' and the right rear wheel rebound angle to be 8°40'. A 30 mph simple "J" turn caused a slight lifting of the right rear wheel, however, the car appeared stable.

Run No. 145, date: 5-17-63, speed 36 mph

The 36 mph combination "S" and "J" turn of the vehicle as equipped in the previous test caused some lifting of the right rear wheel, however, the car again looked very stable (Figure 28).

Run No. 146, Date: 5-17-63, Speed 38 mph

This was an identical re-run of the previous test except at 38 mph and the car again looked very stable (Figure 27).

Run No. 147, Date: 5-17-63, Speed 38 mph

The 38 mph combination "S" maneuver followed by a "J" turn caused the car to roll laterally 1¼ times. However, the vehicle's approach path was from the super-elevated section of the Skid Pad down into the flat section in a rather unusual maneuver, so that this test could not be considered a valid comparison with previous test runs. Figure 29 shows the car as it is about to roll up on its side during the first roll and Figure 30 shows the car at the completion of the 1¼ lateral roll. Figure 31 shows the car after it had been rolled back over on its wheels. Note that both rear tires have lost almost all of their air. Figure 32 shows that the front wheel has cut into the road surface as well as the left rear wheel. This is unusual because on previous rollovers, the left front wheel rim had not contacted the surface of the road in this manner. Figure 33 shows the 1964 suspension configuration. This test terminated the testing on this vehicle.

[EDITOR'S NOTE.—Figure 1, not printed here, is available in subcommittee files.]

TABLE 1.—TEST SUMMARY SHEET

Run No.	Date	Designation of shock absorber	Rear suspension rebound angle		Test conditions	Significant results
			Left	Right		
Corvair No. CH 2702 used for 1st series of runs:						
115	Nov. 13, 1962	2d version 9°	9°	9°	28 mi/h J-turn	
116	do	do	9°	9°	do	
117	do	do	9°	9°	do	Car rolled 2 full rollovers.
118	Nov. 26, 1962	3d version	7½°	7½°	do	Car nearly overturned.
119	do	do	7½°	7½°	do	Do.
120	do	1963 production	7½°	7½°	do	Car rolled ½ rollover.
Corvair No. CH 3905 set up and used for the following tests:						
121	Mar. 18, 1963	4-hole hydraulic cutoff	7½°	7½°	do	
122	do	do	7½°	7½°	do	
123	do	do	7½°	7½°	30 mi/h J-turn	
124	do	do	7½°	7½°	33 mi/h J-turn	
125	do	do	7½°	7½°	40 mi/h J-turn	
126	do	do	7½°	7½°	38 mi/h J-turn	Car rolled 1 full rollover.
127	Apr. 5, 1963	XD220293 6-hole hydraulic cutoff	6°45′	7°15′	27 mi/h J-turn—With cameras	
128	do	do	6°45′	7°15′	30 mi/h J-turn—With cameras	
129	do	do	6°45′	7°15′	36 mi/h moderate J-turn—With cameras	
130	do	do	6°45′	7°15′	do	
131	do	do	6°45′	7°15′	do	Car very stable.
132	Apr. 10, 1963	do	6°30′	7°	30 mi/h J-turn	
133	do	do	5°35′	6°30′	do	
134	do	do	5°35′	6°30′	do	Car rolled ½ rollover.
135	Apr. 11, 1963	1962 production	5°30′	6°35′	26 mi/h J-turn	Car looked unstable.
136	do	do	5°30′	6°35′	do	Do.
137	May 14, 1963	Production 1963 shocks—1964 suspension	7°35′	7°30′	28 mi/h moderate J-turn	
138	do	do	7°35′	7°30′	31 mi/h moderate J-turn	
139	do	do	7°35′	7°30′	38 mi/h moderate J-turn	
140	do	do	7°35′	7°30′	38 mi/h moderate J-turn and super	
141	do	do	8°5′	8°25′	38 mi/h moderate J-turn	
142	do	do	8°5′	8°25′	do	
143	do	do	8°5′	8°25′	do	Car very stable.
144	May 17, 1963	XD220292–1 1964 shocks	8°15′	8°40′	30 mi/h simple J-turn	
145	do	do	8°15′	8°40′	38 mi/h moderate J-turn	
146	do	do	8°15′	8°40′	do	
147	do	do	8°15′	8°40′	38 mi/h J-turn from super	Car rolled 1¼ rollovers.

EXHIBIT 7

[From the Washington Post, Sept. 27, 1970]

ENGINEER SAYS GM SUPPRESSED ADVERSE DATA ON CORVAIR

(By Morton Mintz)

A former General Motors engineer who played a key role in opposing lawsuits resulting from roll-over accidents involving 1960–63 Corvairs, says that GM suppressed its own adverse test reports to prevent them from surfacing in the courts.

GM, in a denial yesterday, said in Detroit that it "has identified or produced all documents which, in the opinion of its legal counsel, it was required to identify or produce."

The engineer, Carl F. Thelin, said that a superior once produced from "a back closet" a three-in stack of previously secret proving ground documents—but with a directive to Thelin not to copy them and to withhold them from GM's legal defense files and potential witnesses.

"Thus a witness could say he never heard of it," he told The Washington Post in a four-hour interview.

Thelin described the documents as "dynamite." He said that one of them, No. 17103, proved that with suspension systems such as those on later models the early Corvairs it would have been "almost impossible to roll over."

These and similar statements tended to support recent charges by Ralph Nader that GM executives possessed but concealed proving ground test data and films, unfavorable to the Corvair. Nader charged that these "conclusively proved" the early Corvairs to be "dangerously unstable."

Yet, Thelin feels that the early Corvairs, driven sensibly, are safe, especially in the hands of a public that, he believes, is by now familiar with criticisms of their handling characteristics.

In addition, he rejects—on engineering, practical and financial grounds—Nader's contention that the government should recall for correction the estimated 600,000 1960–63 Corvairs still on the roads.

Three weeks ago, GM President Edward N. Cole said that the test data and films cited by Nader were of "engineering development tests in which Corvairs, specially equipped with experimental parts, were intentionally overturned by experienced test drivers using violent maneuvers designed to overturn them."

That is correct, Thelin said. "The cars were intentionally overturned. That was the whole point, to make them less prone to roll over."

As a result, he said, GM modified the 1963 Corvairs to stop roll-overs and corrected subsequent models so that they would "neither rollover nor 'spin out.' The '65 was an all-new Corvair."

But none of this, Thelin said, means that Nader made "irresponsible and false charges," as Cole asserted on Sept. 7 in a letter to Secretary of Transportation John A. Volpe.

RECOLLECTION HAZY

Thelin said that four years have elapsed since the documents episode. Moreover, it occurred during a long, confused period of transition from one boss to another.

For these reasons, Thelin said, he is not now certain whether the superior who produced the "dynamite" documents and ordered them suppressed was R. A. Gallant or C. D. Simmons.

Gallant was staff engineer of the "Product Analysis Group" the cover name for the "Corvair defense group" in GM's Chevrolet Division, Thelin said. Simmons succeeded Gallant.

Gallant, reached in Detroit, said, "I don't remember anything about it." Simmons could not be reached.

Thelin was among the GM employees who were "entitled to have access" to the papers "as and when required in the performance of their duties," the company said yesterday.

The papers had been "in the custody of his superiors and presumably were made available to Mr. Thelin and other employes by his superiors on that basis," GM said.

Thelin, in the interview, described in detail various methods used by the Corvair defense group to frustrate plaintiff's lawyers' interrogatories—the written questionnaires which the courts require be answered.

"We felt that some of these guys were planning to screw GM just because it had billions of dollars," he said.

The defense group never used as witnesses the "old fogies who designed this car," Thelin said. "We were told that some of these guys had to be kept off the stand because they would look like fools."

That's why GM recruited the defense group, in which he was one of about a dozen engineers, Thelin said.

"Our witnesses were very knowledgeable, very expert; more than that, they had good rapport with jurors. They would avoid engineering words; talk to the jury, not past them. They were anxious to testify and had good speaking voices."

STAR WITNESS

The "most effective witness" was Frank J. Winchell. Thelin said. "He could wow that jury."

Winchell, then director of Chevrolet's research and development engineering center in Warren, Mich., and now a special assistant to GM president Cole, had recruited Thelin in September, 1965, for the Corvair defense group.

Winchell has "personal magnetism", Thelin said. "He is a good engineer and a hell of a man. He's a leader. Whatever the word 'leader' means, he's that kind."

Thelin emphasized his belief that serious design problems in the Corvair were neither inherent nor unavoidable. They resulted, rather, from engineering incompetence at middle-management levels, he said.

Young engineers, he said, could look at the car and instantly spot a needless design fault.

Thelin had first told his story to Gary B. Sellers, legal consultant to Ralph Nader. Then he told it to Frank W. Allen, a GM lawyer, and finally, to a reporter. In each case his cooperation was requested, not volunteered:

"I've got to tell the truth," he told the reporter at his home near Buffalo, N.Y.

He recalled that GM lawyers, discussing how to behave on the witness stand, had advised him, "Never attempt to lie. Just tell the truth—what you know. Then you don't have to keep track of what you've said."

"I'll always live by that," Thelin told me. "It's a good way to live. If I'm asked a question I'll go straight down the middle".

Thelin began his travels "down the middle" of the Corvair controversy when Sellers, acting for Nader, came to see him the night of Sept. 3.

This was on the eve of Nader's public charge—made in a letter to Secretary of Transportation Volpe—that GM had for about eight years suppressed adverse proving ground reports and films on the early Corvairs.

Nader had first come to prominent public attention as a Corvair critic. This was almost five years ago, when his book, "Unsafe at Any Speed," was published. Then, early in 1966, came the famed "snooping" episode. Finally, in May 1969, with sales way down, GM stopped making the car. With that, the controversy apparently faded away.

In recent months, however, secret sources have been supplying Nader and Sellers with new information and documents in which Thelin's name repeatedly cropped up, Sellers said.

Sellers undertook a search for corroborations. It was for this purpose that he went to see Thelin, who now heads the vehicle test and design section of the Cornell Aeronautical Laboratory, Inc., in Buffalo (of which GM is a client).

Five days later—after news media had carried stories on the Nader and Cole letters to Volpe—Sellers made a second visit to the Thelin home. This time, Thelin invited him to dinner.

The next day, Sept. 10, Frank Allen, the GM lawyer with whom Thelin had worked closely in the Corvair defense group, phoned. He began with a cheerful "Hi, Carl, old buddy," and then led up to the Nader and Cole letters.

In the conversation with Allen Thelin volunteered that "Nader's people" had contacted him.

Thelin said he told Allen, in "a brief resume," that he had confirmed the authenticity of materials which Sellers had brought to him. These included copies of the "dynamite" documents.

Allen said, "Oh, boy."

He proposed to see Thelin in Buffalo. Thelin agreed.

The next day at the same dining room table where Sellers had questioned Thelin, Allen interviewed the engineer for "a solid four hours without interruption."

"We remain friends," Thelin remarked.

Thelin, 40, is a graduate of the University of Wisconsin, a mechanical engineer, a "car buff," a Republican, an active Baptist layman and former head of the safety council of St. Clair Shores, Mich.

He came to GM in 1955 and became a front-wheel-drive, chassis and steering specialist on the engineering staff. His design innovations culminated in the experimental models of the Oldsmobile Toronado—"my claim to fame."

At the time, members of the American Trial Lawyers Association (ATLA) had filed the initial batch of what ultimately would become more than 300 lawsuits in behalf of persons injured or killed in Corvair roll-over accidents.

"We felt that ATLA was seeking to expand the product-liability business, and that they singled out the Corvair because of its uniqueness," Thelin said.

The Corvair was the first mass-produced American car with an engine in the rear—and an air-cooled engine at that. It entered the economy-car market in the fall of 1959.

And so Thelin went to work for Frank Winchell as if he were joining in a "French Foreign Legion" type of adventure, an enthusiast anxious to make "a sacrificial effort to defend the right of engineers to make design innovations."

In addition, Thelin felt he was aiding the cause of "fundamentalist" design engineers, who had been "low men on the totem pole," against the cause of the production engineers.

Thelin's assignment was engineering liaison with GM's legal staff, especially Frank Allen, but he had certain specific primary and secondary missions.

First of all he had to provide "engineering support for the defense of any Corvair case," such as accident investigation.

He traveled a lot to look at wrecked Corvairs and to try to figure out what had happened. Many times, at the GM proving ground in Milford, Mich., he tried to duplicate the accident site. "It was fun, man, an exciting job," Thelin said.

After a time, he also became responsible for producing 16-millimeter, widescreen sound movies to be shown to trial juries.

Thelin would make such movies after a plaintiff, in a pre-trial deposition, had described in his own words how an accident had occurred—say, on a curve on a country road.

With the plaintiff's description as a shooting script. Thelin and his colleagues would duplicate the accident—sometimes even at the original site and with competitive economy cars of the same model year as the particular Corvair.

"Everything was entirely on the up-and-up," Thelin said.

"We would show that the Corvair went through this like all the other cars," Thelin said. "Then we would show, as a clincher, how recklessly you had to drive in order to have an accident, although our skilled test drivers could prevent one.

"Our defense was principally, almost always, that you had to drive in a very reckless manner in order to take the Corvair beyond the 'limit of control,' and that limit was higher for the Corvair than for competitive models of the same year," Thelin continued.

"The camera was in the back seat, viewing over the driver's shoulder, with a wide-screen lens giving close to normal vision," he said. "The movies would knock your eye out, they were so good."

EDUCATING LAWYERS

Thelin also had a couple of continuing "background" missions.

One was "to conduct seminars on vehicle dynamics for the benefit of lawyers, who had to be given a survey course in the subject so they could question witnesses intelligently." The defense lawyers were not only those on GM's staff, but also those from law firms the company retains in every state.

A second "background" job was "to acquire, index and write critiques" of materials that might be construed to be critical of the Corvair.

Some of these materials were "internally originated," such as reports on proving ground tests and Corvair shop manuals and sets of specifications. Others were "public originated," such as the Nader book and articles in car buff magazines.

In any event, Thelin's job was to process all of these materials for the legal defense files, so that GM witnesses "could study and rebut" criticisms.

Some of the "internal" materials were "freely offered" to plaintiffs' lawyers, Thelin said.

But there was a feeling, which he shared, that "we owed them no favors, and we had to give them what the law required and no more."

In a Chicago case, the decision was to "pile on the answers, snow them, bury them under material," Thelin said. The defense group shipped out a wallful of boxes of technical materials that the plaintiff's attorney "couldn't understand" and that would leave him "glassy-eyed in two hours," he added.

GM, in its statement yesterday, said that as an engineer, Thelin "had no legal training or experience qualifying him to construe discovery questions, subpoenas and other court documents."

"DEVIL'S ADVOCATE"

As Thelin continued to search for critical material, playing the role of a selfscribed "devil's advocate," he said. "I eventually got to the point where I was looking for some material I couldn't find."

He came to believe, for example, that there must exist proving ground test reports that he hadn't seen. He persisted in making inquires about this.

"Somebody—Simmons or Gallant—finally said, 'Here they are,'" Thelin said. That was when the "dynamite" documents came out of the closet and when he was told that, above all, he must not show these papers to potential witnesses. After that, he himself was "kept out of cases where he might be called," he said.

Thelin said the documents, which, oddly, included some in the public domain, consisted of proving ground reports and films on Corvair "ski path" tests and other "runs" made as early as 1961.

These materials have "purposeful attention" to handling characteristics, particularly roll-over possibilities, with various types of equipment, he said.

Thelin said he put the documents in a binder or folder. "I'm not a counter-espionage guy," he remarked.

The binder or folder was "not identified in a provocative manner," he said. He kept it in an open bookcase in his office. A few others in GM, including his office assistant, knew of it, he said.

Thelin said that one document in particular was "damning." It was "never offered to any plaintiff's attorney," at least while he was at GM, he said. Yet, in his view, GM was obligated to produce it in response to certain interrogatories.

KEY DOCUMENT

This document was No. 17103, the one which, according to Thelin, established that the early Corvairs would have been "almost impossible to roll over" had they had different—and differently positioned—suspension equipment similar to that on 1963 and later models.

All internal GM references to the document "misidentified" it, Thelin said. Therefore, "I could say there was no 17103."

The "mis-identification" was caused by an extra zero, the origin of which is unknown to him, Thelin said.

The extra digit transformed "17103" into "170103." Ultimately, Thelin said, he discovered that it had been established at GM some time earlier—in writing—that "170103 is really 17103."

GM in its statement yesterday, said it had not produced 17103 "because in the opinion of our counsel, it has not been called for." However, GM said it has turned over this and related materials to the Department of Transportation and a Senate subcommittee.

"That's when my stomach started to churn," Thelin said. "That's when I knew I was getting into deep water. Ignorance is a wonderful thing."

He said that the gung-ho feelings he had brought to his mission at Chevrolet now were sounding "a little bit hollow."

It began to seem to him that there was a possible pattern emerging from such elements as the "dynamite" documents, the exclusion of Corvair designers as GM witnesses and the odd addition of a digit to the 17103 paper.

Another important point increasingly troubled Thelin. He believed, as his own work for GM had shown, that the Corvair was not more prone to accidents than comparable cars of the same model year. Indeed, he said, "a Corvair driver had a better chance of avoiding single-car accidents, because of better brakes and handling."

What struck him, however, was more and more evidence that when there is an accident of a kind that generates "lateral acceleration, or side force" tending to overturn the vehicle, the consequences in an early Corvair are "more severe."

He put it another way: In an emergency situation in which a driver, say, seeks to avoid an accident, there may come a point at which

certain maneuvers take a car out of control. Then it will no longer do what he wants it to do.

In such a situation, Thelin said, conventional cars tend to continue more or less straight ahead. The early Corvairs tended to "spin out to either side, but could also turn over," he said.

Thelin said that although he was "bothered" he continued to work.

In December 1966, GM settled a large number of Corvair cases brought by a Los Angeles law firm. This Thelin said, "took the pressure off, or relaxed it."

At about that time, he continued GM management "perceived an oncoming recession," with the result that it ordered a 10 per cent reduction in the work force.

THELIN QUITS

Thelin was transferred to a body drafting job at Chevrolet, "a kind of work I intensely disliked." In addition, he no longer had the use of a company car and similar prerequisites. After two months of "humiliation" he quit.

Thelin went to Uniroyal, the tire company, and stayed a year and a half. Then, in March, 1969, he grabbed a chance to move to Cornell Aeronautical, where he does automotive safety work.

Thelin was himself the owner of a Corvair, a 1962 model. He was then not yet aware of any controversy about its safety and considered it a "cute little car."

He read Nader's "Unsafe at Any Speed" early in 1966.

"My initial reaction was the straight party line," he said. "Here was a smartaleck out to make a lot of money criticizing our good little car. We thought he was paid by ATLA."

BOOST TO ENGINEERS

He feels differently today. "Ralph Nader, through his book and other activities, has enabled 'fundamentalist' engineers to have greater design responsibility for the finished car," he said.

And because Nader "helped to elevate, to free, the design engineer," Thelin said, the cars of recent vintage are much safer vehicles than those of only a few years ago.

When Nader released his letter to Volpe, a GM spokesman said, "We deny his charges and reiterate that the Corvairs are safe and effective cars to drive."

Later, GM president Cole, in his reply to the Secretary, said "I want to assure you that General Motors and its executives have been faithful to their public trust."

In March, 1966, after the "snooping" episode, the Senate Subcommittee on Executive Reorganization held a hearing. The Corvair and its safety was a central issue.

GM president (now chairman) James M. Roche, testifying under oath, put into the hearing record a highly favorable report on the Corvair which Chevrolet's Frank Winchell had previously given to a Michigan State Senate committee.

Now Nader, in his letter to Volpe, has attacked the Winchell report and has asked Sen. Abraham A. Ribicoff (D-Conn.), the subcommittee chairman, to reopen the hearing. An aide said Ribicoff has not reached a decision.

EXHIBIT 8

EXCERPT FROM TRANSCRIPT IN COLLINS v. GM, PAGES 3213–16

By Mr. HARNEY. Q. These tests that you have told the jury about were not in any way connected with the decision to put the Corvair on the American market, were they?

Mr. WHITNEY. Which tests are we referring to?

Your Honor, I object to it. He said these tests, Mr. Winchell has been on the stand for sometime and he has testified to many tests.

By Mr. HARNEY. Q. Each and every test you talked about in this case was never, ever done in connection with original decision to put the Corvair on the market, correct?

Mr. COSTANZO. I object to that upon the ground counsel has already referred to certain tests that were shown to the jury. When he follows that up with another question about this, obviously it leaves the impression he is talking about the tests that were shown to the jury. I object to the question, your Honor.

The COURT. Will you repeat your question?

Mr. HARNEY. Yes.

Q. With respect to each and every test that you as a witness have participated in in connection with showing to the jury, each and every such test was done in connection with litigation and not in connection with the decision to put the Corvair on the market?

A. The decision to put the Corvair on the market was made in 1957 or '58.

Q. Can you answer my question?

A. Are you talking about the 1960 or 1965 Corvair?

Q. I am talking about all the tests you have talked about in this trial in front of these twelve ladies and gentlemen plus the alternates.

A. Some of the tests that were ran were certainly related to the 1964 and 1965 Corvair. The 1960 Corvair, no.

Q. Like this set you brought in here, did you have that set?

A. Not that particular one but that is not a novel demonstration of lateral acceleration.

Q. Did you have such a thing to demonstrate the lateral acceleration of a 1960 Corvair?

A. No sir.

Q. No sir. How about this table here?

A. No sir.

Q. How about that chart behind you?

A. Well, this is a reproduction of a very ordinary chart that we use.

Q. In connection with the 1960 Corvair?

Mr. WHITNEY. May he finish the answer, Counsel?

The WITNESS. This is a chart, a reproduction of regular tire data. This chart was made specifically for the purpose that you see it here now.

By Mr. HARNEY. Q. Of the 1960 Corvair?

A. These tire characteristics were produced in this form to bring to this courtroom.

Q. Does it relate to a 1960 Corvair?

A. Yes, sir. There are tire characteristics for a typical 6:50–13 tire.

Q. When was that chart made up?

A. That was made in the past three or four months.

Q. There was no such chart made up for the 1960 Corvair?

A. There are many, many charts of that.

Q. Can you find one for me that was made before that car was put on the American market?

Mr. WHITNEY. There is no foundation for this question. Object to it, your Honor.

The COURT. The objection is sustained.

By Mr. HARNEY. Q. Do you have any with you that you could point out to me that were made before this car was put on the American market?

Mr. WHITNEY. Object as argumentative unless there is some foundation he has brought all the engineering data.

The COURT. The objection is overruled.

The WITNESS. I did not bring any such tire data with me.

By Mr. HARNEY. Q. What would you call such tire data?

A. Well, the tire companies and the General Motors Corporation as well as other automotive business——

Q. The only question is, what do you call it?

A. I am trying to tell you there are tire characteristics curves for all tires.

EXHIBIT 9

EXCERPT FROM TRANSCRIPT IN COLLINS v. GM, PAGES 3856–58

By Mr. HARNEY. Mr. Winchell, since you have been here in San Jose, have you seen any General Motors test on the lateral stability or the directional stability with instrumentation of the Corvair automobile?

A. Since I have been in San Jose? That would be tests conducted here in San Jose?

Q. No, the physical presence of any such report in San Jose since you have been here?

A. Yes, I think so.

Q. And you know where such test reports would be located?

A. I was shown a stack of material that I understood had been submitted to the plaintiff in this case and was asked was I familiar with these tests. I said I couldn't say. Some of them I had some familiarity with, some I did not.

Q. I am asking, Mr. Winchell, about lateral stability and directional stability tests on the Corvair with instrumentation. Do you understand my question?

A. Yes, sir.

Q. And you have seen such reports?

A. There were quite a few reports there. Some of this test, I seem to recall having seen several roadability tests.

Q. With instrumentation?

A. Yes, sir, all the roadability tests are with instrumentation.

Q. What type of instrumentation?

A. I don't know precisely what type, but I know the data they get. What particular instruments they used in getting it, I can't testify to that.

Q. Would it be correct that the only instrumentation in any test of what you are aware of was in the one mile an hour test?

A. If I understand your question correctly, absolutely not.

Q. Then you have seen other test reports pertaining to the laternal stability and the directional stability of the Corvair with instrumentation, true?

A. If I understand your question correctly, yes, sir.

Q. You have seen it here in San Jose?

A. I saw the reports that I spoke of. I saw the data that I read to you in evidence. I saw the photographs that were submitted in evidence. I saw the film that was submitted in evidence of this one and a half mile and hour test. That is all I can recall at the moment.

Q. Any moves you have seen of any lateral stability or directional stability test is the one mile an hour test correct?

A. I believe that's correct; yes, sir.

Mr. COSTANZO. Are you referring only to the Corvair automobile, Counsel?

Mr. HARNEY. Yes, sir.

EXHIBIT 10

CADET STUDIES—APRIL 16, 1957

CONCLUSIONS

From looking over our Cadet drawings again I get the general picture as follows:

Frameless car of about 2650—2800 lbs. curb wt.

Wheelbase longer than standard in relation to car length—approx. 119" w.b.

Vee 6 engine set longitudinally ahead of axle, with unit torque converter transmission back of drive gear and hollow pinion hypoid drive.

Rear swing axle with pivot at wheel center height.

Diagonal positioning of swing axle pivot centers to be kept as small as possible to avoid toe change in rear tires.

Considerable argument in favor of torsion rods.

Rear brakes in the wheels rather than central.

Swing axle of open A frame type.

Front suspension still in doubt. Wishbone (SLA) type with longitudinal torsion rods would be preferred except that unless arms are very short they interfere with trunk space. The steering linkage also interferes. The reversed Porsche has evident advantages, but we cannot claim to have produced a good design. Possibly use Porsche laminated torsion rods.

Spare wheel horizontal behind front

bumper, as on Renault Dauphine. Battery forward. Gas tank at rear beside engine.

Radiator beside engine. Air intake ahead of rear wheels. Air exit behind rear window.

Thinner seat backs needed.

Muffler transverse behind power unit.

Synchromesh box and gear shift mechanism was not studied.

In attached notes I have listed objections to rear engine but not its advantages. Perhaps these are:

(1) The least expensive construction possible.

(2) Improved accessibility.

(3) Better traction, especially in winter driving.

(4) Less roll for a given roll stiffness.

(5) Longer wheelbase giving improved handling (with front-rear weight ratio properly controlled.)

(6) A completely flat floor. Flatter than a front-drive which has to bring the exhaust back.

(7) Light steering.

(8) Better isolation of engine noise is possible.

(9) A more uniform riding quality when light and fully loaded, because more uniform ratio of front to rear deflection under all conditions.

(10) Beaming deflection reduced because torque reactions are carried directly in the power plant mass, which again is housed in the stiffest portion of the body-structure.

(11) Reduced power consumption at speed because no power lost in air turmoil under the hood.

(12) Greatly improved braking because of uniform load distribution in deceleration.

MAURICE OLLEY.

Some of the ideas are illustrated in the photostats of the Styrofoam models which have been handed to you.

As far as possible the drawings are listed in chronological order.

They cover, 7 engines, several transmission variations, front drive, rear engine, and front engine rear drive.

The engines are:

2 cycle 4 cylinder barrel.

2 cycle 4 cylinder X engine.

Flat 4 air cooled.

Flat 6 air cooled and water cooled.

Vee 6 water cooled.

Vee 8 water cooled.

Line 6 water cooled.

A variety of front suspensions is shown. Most interesting for a rear engine, frameless car is the "Reversed Porsche", since this offers an opportunity for clearing the front compartment floor to give maximum front baggage space. By using a longer lower arm, or by "splaying" the upper and lower arms, the pro-dive tendency of the pusher suspension can be avoided, and a good steering geometry can still be obtained.

A variety of rear suspensions is also shown, but, in view of our expl. work the swing axle with normal center height appears to be the only one of present interest.

Front drive

The front drive study started from the consideration of the design faults, of today's standard car, in which we go to immense expense and trouble to carry the drive from the heavy end of the car to the light end, where under moderately slippery conditions we cannot get traction.

It was shown that, given a highly unconventional engine design, it would be possible to build a front drive car with a short hood, short wheelbase, and short overall length. Mario Revell, and Styling generally, were quite in favor of a front drive car, which puts a large mass between the front wheels, and is good for controls & car heating. It offers big savings in simplified body construction.

We purchased the Hotchkiss-Gregoire car, and were then strongly reminded of the fundamental steering troubles from driving through the front wheels.

With a conventional engine the front drive car appeared to be of grotesque shape. Interest in this waned.

Rear engine

Fundamental objections were:

(1) Lack of a station wagon design.

(2) Lack of baggage space.

(3) Lack of *rear* baggage space, for emergency carrying of bulky objects.

(4) Excessive rear weight with our present engines.

(5) Increased wheelbase—considered unsightly by Styling, especially with the reduction in rear overhang which we proposed.

(6) Gas tank location.

(7) Collision risks.

(8) Lack of a considerable mass between the front wheels to control wheel fight.

(9) Heating of car.

(1) The first appears insuperable. The Fiat "Multipla" or Volkswagen delivery Van designs are not a solution because of lack of rear entrance, unsightly appearance, and collision risk.

(2) (3) Accepting this, it still appeared possible to provide at least *some* emergency baggage space at the rear of the car, plus a good baggage space in front. To do this the spare wheel could be laid down flat just behind the front bumper, the battery could be tucked into a corner of the front compartment, at a moderate increased cost in starter cable, to help the weight balance, and a deep, but short, trunk space at the rear could be contrived just back of the rear wheels (But only with considerable reduction in engine accessibility).

(7) The forward flat mounting of the spare wheel helps to reduce collision risk. The "reversed Porche" suspension also involves a transverse structure at the toe board portion of the dash which helps to strengthen the front end. But the menace of the concentrated engine mass at the rear still remains. And wherever the gas tank is placed, even high up behind the rear seat as in the Vauxhall, it is still in the path of the engine in collision. (An exception to this is the Renault Dauphine).

(4) To obtain a reasonable weight balance (which we set at 40/60) it appeared essential to mount the engine *forward* of the rear wheels. Schemes of side opening rear trunk lids, for access to engine, were sketched. (These are not in attached list of drawings).

Even when so mounted the engine will need to be of aluminum to achieve 40/60 weight distribution, with 4 passengers.

This does not impose any penalty on overall car length, provided that one accepts a greater ratio of wheelbase to overall length than we use now, and that the rear wheels will come some 10" to 12" further back than at present relative to the back of the rear seat.

For a rear engine, the dimensions in the plane of the wheel centers, appeared to work out approximately as:

	Inches
Front wheel to dash	10
Dash to rear seat back	84
Rear seat back to rear wheel	25
Wheelbase	119

This 84" body length appeared necessary to obtain comfort with a 55" roof height because of the necessarily reclined position of the passengers, but a great deal hinged on the ability to produce a thin seat back to the front & rear seats. Some notice was taken of Vauxhall & other European cars in this respect. It was also doubtful what thickness was required between passengers and engine for heat and noise insulation. Rear engine cars in Europe have a bad reputation for engine noise because of noise transmission through the large rear panel. All except the Tatra which puts a wide baggage compartment in between.

The 40/60 weight distribution was tried out by "faking" a '52 Chev., with one hundred and twenty-four inch wheelbase and 40/60 wt. distribution. This handled distinctly better than a standard car.

Power plant

The 24"–25" dimension from rear seat back to wheel center at wheel center height could not be obtained with the Vee 6 engine, because of the engine height and slope of the seat back, except by abandoning the simple swing axle and using a semi-swing independent or DeDion, with twin-jointed drive shafts. This led us into various more complex transverse arrangements all of which are best forgotten, since they were all costly and clumsy.

Giacosa has pointed out that the principal production advantage of the rear engine car is the use of a *single power plant block* connected to the rear wheels by two simple drive shafts protruding from the differential. The swing axle is therefore the only acceptable rear suspension, and the reduced load variation on the rear wheels makes the swing axle acceptable on a rear engine car without a leveling device. However, torsion rods are preferable to coil springs to allow shop adjustment of standing height to meet weight variations due to air conditioning, different body types, etc., as well as to avoid the commercial load variation of coil springs.

Some difficulty arose in the location of the radiator. In fact the preference for air cooling was not a matter of weight so much as a feeling that, if cooling air was going to be hard to get, it would be preferable to dissipate heat at a higher temperature differential than a pressure loaded radiator could give us.

Some French figures indicated that a sports car consumed a lot of power with radiator open due to the power dissipated by the impact air in passing through the radiator and hood. In contrast the Renault 4 c.v. consumed less power with the cooling system in action than blanked off. (See Menthlery push-tow tests.)

This appeared to indicate that considerable engine power might be required for pushing enough air through a rear radiator. (Our attempt at a rear baggage compartment increased our difficulties, and was later abandoned.)

Side cowls for air intake were suggested, but it was noted that Tatra now take in cooling air through a scoop at the rear of the *roof*, passing down through hollow quarter panels.

Fiat take in air from the dead air in the wake, which at least has the advantage of sucking from a spot having atmospheric pressure, but which must be extremely bad for dust. (Note the objection to rear engine school buses for this reason.) Volkswagen do the same. Perhaps the dust objection is diminishing with modern roads. The side intakes of the Renault Dauphine appealed to Styling, who made sketches on this line.

Much must depend on the body shape. For instance with a modern broken back-line, there is considerable depression back of the rear window, which makes this a desirable place to *discharge* air rather than take it in. (Incidentally an openable rear window would be impossible in this case because of fumes.)

For an engine of the size contemplated it appeared that side cowls ahead of the rear fenders, with discharge vertically upward back of the rear window, and twin radiators facing forward either side of the engine block, might be best.

Transmission

The best suggestion for a transmission and bevel drive, was a shortened torque converter back of the hypoid ring gear, with drive back from the engine through a hollow

pinion. We were helped in this by designs for a *front-drive* car, with engine back of front wheels, from Thorne's department. (We have these prints—L3–1110, dated April 16/54.)

These included the Kelley central brake which at one time we thought of using, but I now think that disc brakes in the wheels are preferable.

The trouble with the drive back through the hollow pinion is to get the two inner ends of the drive shafts close together, for maximum length of swing arm. The drawings show that, by using a form of spur differential, it is possible to get the centers of pot-and-block U–joints only 5" or 6" apart giving on a 58" track, a swing arm length of 26". 6" center distance was used in our own swing axles.

There was some question whether or not to use a common lubricant for transmission and hypoid gears. The bevel differential cannot be used without drastic shortening of swing arm length. (Several studies of this by Valukonis.)

There is a question in my own mind whether, with E.P. oil, the common DeDion pot-and-block joint (as used by Lancia & Fiat) is not as good as, and cheaper than the Chrysler type with pot and spherical roller.

There were no designs made for 3 speed synchromesh transmissions. In 1954 we seem to have assumed that by 1959 (?) the synchromesh would be dead.

The only other type of drive which is of possible interest is the U.S. Rubber toothed belt drive. Our one expl. set up where such a drive was mounted right below the front floor in a split torque-converter transmission, showed the extreme silence of this type of drive. It ran less than 400 miles, but we did not expect it to run this far. Rumor (through U.S. Rubber) is that Styling are making further developments along this line.

There is no question that, once the partial rear trunk is abandoned, the best engine accessibility is obtained with the engine back of the rear wheels. We concluded that a reasonable (40/60) weight balance was not to be had with this arrangement and our engine sizes (say a 180 c. in. Vee 6). Perhaps, we did not look at this hard enough with an aluminum engine, but I don't think so. Mounting the engine ahead of the wheels forces a 25" dimension from seat back to wheel center, and it is this dimension which provides the 40/60 weight distribution.

A side-opening hood on the rear was proposed for accessibility, but is unpractical for car-structure. A good trunk lid with a Vee 6 engine and side-radiators, will provide better accessibility than we have today.

Swing axles

We have drawings of nearly every type.

Single Joint.—Low center. The swinging rear axle casing evidently means a cost increase on a rear engine car. Besides this the single joint axle involves large joint angles, beyond the capacity of a pot-and-block joint. This was discarded.

Low Center—Two Joint.—Several drawings of this in various forms. Our tests on expl. cars shows no necessity for the low center, which has the fault of causing small misalignments of the axle shafts in the wheel bearings and therefore requiring a self-aligning bearing at the wheel. Also produces considerable slide in the U-joints (increased cost and shorter swing arm radius). Also some brake drum misalignment, and a disc brake is almost impossible.

Thus I think we can forget the low center swing axle.

Conical or parallel swing.—The open Vee arm type of swing axle such as we have built experimentally, with axle shafts running in the open, seems to be the best type for construction cost and general convenience. We have drawn parallel and conical swing types. We have built and run only the conical swing, having a "virtual radius arm" of about 45", which is too great for very much anti-lift in braking, but avoids excessive toe-change.

It is not proven that even this amount of toe change is desirable, but we think it is less than on the Volkswagen. The Mercedes has no toe change since the axle stays straight in plan view. The effect of the Volkswagen toe change on tire wear is not known.

In the original Mercedes swing axle the rear wheel forces were carried entirely by the drive casing. On the new Mercedes swing axles driving and braking forces are carried almost directly to the rocker sills. The same is true on the Volkswagen, but lateral forces are carried to the power plant, which must be stiffly mounted to receive them. Our own diagonal swing axles carried all rear wheel forces direct to the frame, and this seems true of the Fiat 600 also, so that the power plant may be mounted to carry only its external driving torque to the best advantage.

Of the various types the Fiat 600, which is almost the same as our own high center swing axle, appears the best.

I believe it would be very desirable to take another look at the swing axle with a view to using torsion rods. This may imply parallel swing, which is probably best for tire wear, although lacking brake drive compensation. Also, it carries almost all the normal road forces straight forward into the body structure, & allows height adjustment.

A compromise between parallel swing and our present design with the torsion rods slightly diagonal and anchored to the rocker sill, may be best.

Front suspension

There were several studies of "reversed Porsche" suspension.

The styrofoam model photos show one form. Probably the laminated torsion rods (packed in grease) would be appropriate. We made tests and drawing studies of these.

With this suspension it was almost essential to produce truly parallel wheel motion, which we thought desirable. We could clear the front floor almost completely.

An objection was that we could get no "frame" forward of the dash, but only a "tin box". And therefore, the holding of the front bumper worried us.

Probably we made a mistake in departing from the original Porsche design of arms, which are forged and stuck into plain bearings in the ends of round-section cross tubes, being held on to the laminated rods only by taper-pointed set screws. We tried designs which looked a little safer than these set screws.

Perhaps we should have done better with the normal trailing arm Porsche suspension, but using only one cross tube in the lower position, to clear the front trunk floor.

Also as you will see from the photos, we tried a short arm wishbone suspension with anti-dive, but got in trouble trying to keep the steering linkage clear of the floor. Perhaps such a suspension, with longitudinal torsion rods, could be combined with a low trunk floor.

As you will see from drawings and models a considerable amount of trouble was caused by our involvement with air-oil springing or Firestone (old type) bellows.

Tires

The need for tires with cornering power more nearly proportional to load seems a necessary part of rear engine development. The Europeans have been heading in this direction for years, with their long-cord tires. The American tire industry is also moving in this direction as one means to postpone the standing wave.

Although our 40/60 "faked Chevrolet" looked good, it may be desirable to urge U.S. Rubber in this direction, or to use sports car tires.

MAURICE OLLEY.

EXHIBIT 11

CORVAIR—JUNE 29, 1959

Weight balance

The typical American passenger car has an accepted place in the life of the typical American family. It has ample power, ample passenger and baggage space, a forward mounted V8 or line 6 engine, probably automatic transmission, and conventional rear axle.

It is likely to have such items as power steering, power brakes, air conditioning, and a dozen other refinements.

But, when it comes to designing the best possible *light* car, with a clean slate to start with, it seems desirable, rather than simply shrinking the dimensions of a standard car, to take a new approach.

You can say that this is simply for the sake of novelty. But it isn't. It is chiefly because of the disposition of the "payload", consisting of passengers and baggage.

Conventional cars locate the payload mostly towards the rear of the car, with a tendency therefore to establish an almost equal balance of weight on front and rear wheels, when loaded.

Consider for example a 4000-pound car with an added payload of 800 pounds, consisting of 4 passengers and 200 pounds of baggage, of which perhaps 600 pounds will fall on the rear wheels. The change in weight distribution between the light and loaded condition will not be serious on a car of this type, though the change in handling and ride is noticeable.

If the weight distribution of the empty car was 55 percent on the front wheels and 45 percent on the rear, the distribution when loaded will be equal front and rear. There is an impression that American cars are habitually running in a "nose-heavy" condition, and even that this is essential for handling stability. Actually some makes, with the heavier engines, are nose-heavy even with a normal passenger load, while others are loaded equally front and rear. The nose-heavy cars frequently call for higher inflation in the front tires than in the rear, to *avoid* excessive understeer.

The weight balance of the station wagon is radically different. In these the body is heavier on the rear wheels and carries more payload, so that the weight distribution when loaded will frequently be 40% on the front wheels and 60% on the rear.

Most drivers know that any handling difficulties in this condition can be avoided simply by increasing the inflation of the rear tires.

On a *compact* car with the conventional forward engine, weighing only say 2400 pounds empty, the addition of 800-pound load can change the weight distribution from one extreme to the other. The typical car of this type will have 55% on the *front* wheels when empty, and may have nearly 55% on the *rear* wheels loaded. When loaded the weight on the rear *springs* will increase by as much as 66 percent, so that if these springs are to have as much as 5" deflection under full load, they will have only 3" deflection when light.

With only 3" deflection one cannot expect anything but a poor ride, and, when the brakes are applied with the car lightly loaded, the rear springs are unloaded still further by the weight transfer due to braking, and may momentarily be almost completely unloaded Consequently the braking of such a car when lightly loaded may become fairly dangerous, especially on rough roads.

One has to consider how to make the lighter car comfortable to ride and steer, and safe to stop, *at all loads*, since it will certainly be used under all conditions from driver only, to all the load it will carry. We don't want it to ride with its tail high when light, or to sag down at the rear when loaded.

The evident solution is to distribute the weight of the empty car in the same pro-

portion as the average distribution of the payload. Then there will be no appreciable change in the balance of the car at any load.

A convenient average distribution of the payload is 40% front, and 60% rear, so it appears that the empty car should have the same distribution.

By building an aircooled engine of light construction just back of the rear wheels, with an integral aluminum transmission ahead of it, it is possible to concentrate all the driving mechanism in the rear of the car, and still (even with a light-weight integral body) come out with a 40/60 weight distribution, on the empty car.

Handling

The next question is—can a car with 40/60 weight distribution be designed to handle properly? Considering the existing balance of our station wagons when loaded, and of all commercial vehicles, there should be no doubts about this.

When the tires and the suspensions at each end of the vehicle are correctly adapted to their loads, the "forty sixty" will handle perfectly. And its great advantage is that it will handle in the same way at all loads.

To compare a car with an arrow is a complete fallacy. All that an arrow can do is fly straight in still air. The nearest comparison in an automobile is one in which the steering has been disconnected, so that only the rear wheels have any sense of direction.

A car must steer, and it does this by adjusting the direction of the front wheels, using the rear wheels as a point of reference or fulcrum.

There are two requirements for stable handling, and it's difficult to say which is the more important. One is that the rear tires must not be overloaded. If they are the car will wander whatever its other condition may be. The other is that the sense of direction of the rear wheels should be slightly better than the fronts. This gives the desired margin of "understeer."

A truck gets this result by fitting dual rear wheels. But a passenger car can get the same result without dual tires by simply using rear tires which have adequate cornering power for the load they carry. The contribution of the tire makers to this result is of first importance. Modern low profile, long cord tires, using Tyrex cord, and mounted on wide rims, have cornering power much more nearly proportional to load than anything which was available a few years ago. Thus there is now no need to use clumsy oversize tires on a rear engine car, or to use different tire sections front and rear.

All that is needed is to use normal inflation in rear tires of modern type and adequate size, and then to reduce the inflation of the fronts until, with the assistance of independent suspension in front and a swing axle at the rear, we have produced the desired margin of understeer.

Then we have got about the only design of light car which maintains its weight balance, and therefore, its riding, handling and braking characteristics at all loads.

We also have a number of other features—

1. We have a much improved body, excellently adapted for integral construction, since it is not weakened structurally by a central tunnel, or by being split in front to mount an engine. It can combine a low roof with ample head room, easy entrance and exit, adequate seat height, and a flat floor. The body has none of the road noise, engine noise, and shake in the front compartment so often associated with integral construction, in a light car.

(1) There are two reasons for this. One is the much better front structure due to the absence of the engine. The other is the use of large front tires with low inflation.

(2) Because of the lightly loaded front tires, the steering is light and precise, with effortless parking.

(3) A new type of power plant can be used, which would be too wide to fit between the front wheels, but which is ideal for rear mounting.

This is an extremely light air-cooled aluminum "flat-six", about half the weight of the existing Vee eights. It is in perfect balance, and forms one compact unit with the transmission and drive gears. High gear drive is "direct."

(4) Besides the saving in weight there are no water connections, water pump, radiator, no anti-freeze, and no boiling. Two minutes after starting the engine is up to temperature, the choke is off, and a great deal of the fuel normally used to heat up the cast iron of the engine, the cooling water, and the radiator is saved.

(5) Another saving is that the engine is cooled by fan only, not by the motion of the vehicle. Consequently the power usually consumed in the form of added head resistance needed to force air through the "cave of the winds" under the hood, is all saved. The fan intake is throttled by thermostat so that the power it consumes is only that needed for cooling.

(6) All parts of the power plant which require service attention are completely visible and accessible.

(7) The conventionally designed light car when carrying the driver only, is so close to unloading the rear end when braking on a dry road that little useful braking can be done with the rear wheels.

On the rear engine car front and rear brakes both do an equal amount of work, giving maximum life of the brakes and greatly improved stopping power.

The rear engine car remains almost level when braking, and there is no overloading of the front tires when brakes are applied hard.

(8) It is well known that traction in winter conditions or on soft roads is exceptionally good on a rear engine car. This is not simply because of the adequately loaded rear tires, but even more because the lightly loaded front tires pave the way for the rears. The practice of having the more lightly loaded wheels in front actually goes back to the days of horse-drawn carriages.

As compared with a 55/45 weight distribution the 40/60 actually gives an increase of 33% in the maximum acceleration without slipping the rear wheels on any paved road, wet or dry.

(9) The gas tank is protected behind the front suspension structure and housed within the structure of the vehicle. It is completely removed from the exhaust system, and immune from either front or rear collision damage.

Equally important, the entire fuel system is on the cool side of the engine. So that fuel loss by evaporation, which occurs on conventional cars in hot weather, is largely avoided, and vapor lock is unknown.

(10) Within the car a high degree of silence and coolness is secured by the absence of drive line and exhaust under the floor. For winter driving an air-flow heater is used, which gives instantaneous heat.

(11) There seems to be a belief that rear engine cars become unmanageable in a crosswind. In some of the known cases this is true. But it doesn't need to be. It comes about through going at the job the wrong way.

The cars in question appear to have started off wrong by overloading the rear tires. Then, when the vehicle has proved unstable, the designers have tried to restore "feel" to the steering wheel by using excessive caster angles, or even by putting centering springs on the steering.

Summary

Thanks to improved tires and improved supplies of aluminum, it is now possible to build a compact rear engine car with American standards of comfort and performance.

This is the only design of light car which maintains the weight balance, and therefore the required riding, handling and braking characteristics, at all loads. The weight distribution is 40% front and 60% rear.

Success of this weight distribution depends on adequate rear tires. The inflation of the front tires is then reduced till the handling of the car is correct. No excessive caster, centering springs, or other devices are used.

The results are—

An excellent body with lots of room, and a flat floor. The body is quiet and cool, without front end shake.

The fuel tank is protected, and the fuel line is cool.

The steering is light.

Braking is exceptionally good whether light or loaded.

The engine is accessible. It maintains its temperature at all times, and there is no warming-up period.

Traction in snow is immensely improved.

There's no question that the car is an outstanding success.

M. OLLEY.

(Copies of the attached sent to: H. F. Barr, E. J. Premo, R. Schilling, M. S. Rosenberger, J. L. Cutter (3), K. H. Hansen, W. R. Mackenzie, A. F. Baske.)

EXHIBIT 12

CORVAIR STEERING

(By Maurice Olley, written: April, 1961, publication date: December 1961—*GM restricted*—for Corporation use only)

PREFACE

Although the attached notes look a little technical, I have done my best to suppress all calculations and tables of figures.

The aim is to show:

(1) The fault with our swing axles today is that, because of their wide spring base and high roll center, we are carrying too much lateral weight transfer on the rear tires.

(2) When this weight transfer is made similar to that of a conventional car with a rigid rear axle, the swing axle performs just like a rigid axle (except that it should ride better).

It appears that further studies on the same lines are needed for Greenbrier, Corvair, Tempest, etc.

MAURICE OLLEY.

CORVAIR STEERING

Means have been found to predict steady-state skid pad curves with reasonable accuracy. These have been applied to independent front suspension, rear axles and swing axles. The results are based on an approximate mathematical representation of tire characteristics. They have now been applied to the Corvair.

Tire tests

To begin with, Fig. 1 and Fig. 2 represent flat-bed test curves for front and rear Corvair tires, supplied by GM Research. These indicate a friction coefficient for the tire rubber of 1.25.

We have reason to believe that this is too high for actual skid pad testing where the wheel and tire are less rigidly controlled.

Another doubtful point in the test is that the rise of cornering force at light loads with increased slip angle is shown as more rapid on the underinflated front tires than on the overinflated rears. Individual tire variations may account for this.

To obtain "synthetic" tire characteristic curves approximating to the tests, after trying various alternatives, I have adopted a friction coefficient of 1.0, and a linear decrease of cornering coefficient i.e. side force/vert. load as indicated on Figs. 1 and 2.

On the rear tires I get an accurate match with the test at 4 degrees slip angle. On the

fronts the match is not so good except at normal load of 600 lb.

It is thought that the calculated tire characteristics in Figs. 1 and 2, while they may not be strictly accurate, are a close enough representation of what actually occurs in skid pad testing to give a fair prediction of handling. My assumption of a parabolic rise of side force with slip angle probably is an understatement at light loads and small slip angles. But, since it is relatively easy to calculate and gives realistic skid pad curves, it is considered good enough for preliminary studies.

(EDITOR'S NOTE.—Figures 1 and 2, not printed here, are available in subcommittee files.)

CORVAIR (STANDARD 1961 SPRINGING)

The assumed conditions are:

W_f=1200 lb
W_r=1800 lb
W_t=3000 lb
Wheel track T_f=54 in. (4.5 ft)
T_r=55 in. (4.583 ft)
Length=108 in. (9 ft)
Ride rates K_f=88 lb/in.
K_r=122 lb/in. (PG test)
Effective deflection d_f=6.82 in. (.568 ft)
d_r=7.38 in. (0.615 ft) (Note: rear deflection 8½% greater than front)

Roll rate $R_f=\frac{88\times(54)^2}{1375}$=186.5 lb ft/deg (10690 lb ft/rad)

$R_r=\frac{122\times(55)^2}{1375}$=268.2 lb ft/deg (with tires) (15370 lb ft/rad)

R_f+R_r=26060 lb ft/rad
Height of C. G. (loaded)=21 in. (1.75 ft)
Rear roll center ht (h_r)=27.5/22.5×11.6=14.18 in.=1.18 ft
Rolling moment $Q=W_fH+W_r(H-h_r)$=1200×1.75+1800×0.57=3126 lb ft

Roll angle (P) when lateral acceleration (λ)=1,

$$P=\frac{Q}{R_f+R_r-Q}=\frac{3126}{26060-3126}=0.1363 \text{ rad } (7.8°)$$

(This is only about 68% of normal roll angle. The car is stiff in roll.)
Weight transfers (λ=1)

Front. $T_f=\frac{R_fP}{t_f}=\frac{10690\times0.1363}{4.5}$=324 lb

Rear. $T_r=\frac{R_rP+W_rh_r}{t_r}=\frac{15370\times0.1363+1800\times1.18}{4.583}$=922 lb

T_f+T_r=1246 lb

Roll couple distribution, 26% F. 74% R.

Note that, in spite of the over-soft rear springing, the rear weight transfer is still 2.85 times as great as the front.

Ackerman angle on skid pad=9/108=0.0833 rad=4.775°.

The steering characteristics are worked out by assuming the tire side forces of Figs. 1 and 2, and by first finding the slip angles and steering angles with a solid axle in the rear having the same spring base and roll center height as the swing axle.

From this preliminary calculation the side forces on the outer and inner rear tires can be figured. And, with these the lift of the rear end and the steering characteristics of the swing axle can be calculated.

The preliminary solution for a solid axle gives the following:

Lateral Acc. / g	λ=0.20	0.40	0.50	0.60	0.65
Fr. slip angle α_f	1.22°	2.70°	3.63°	4.765°	5.455°
R. slip angle α_r	1.255°	3.075°	4.56°	7.15°	9.35°
Stg. angle δ	4.74°	4.40°	3.845°	2.39°	0.88°

These are plotted in Fig. 3. The lack of curvature in the α_f line, and the upward curvature of the α_r line are an indication that the rear end is carrying too much roll couple, and that, *even with a solid axle*, there would be pronounced oversteer.

The next question is how much worse this is made by the swing axle.

To find this, we figure the side forces on outer and inner tires. These are in Fig. 4.

From this we can figure the vertical lift of the rear end of the car. This is shown in Fig. 4.

[EDITOR'S NOTE.—Figures 3, 4, and 5 are available in subcommittee files.]

SWING AXLE

R_r=roll rate
Roll center height=27.5/22.5×11.6=14.18 in. (=1.18 ft)

The axle is credited with the raised roll center O, but is thenceforth treated as a single joint swing axle.

Y_1 and Y_2 are outer and inner side forces.

These are "external," that is they don't include side force necessary to balance camber thrust.

Assuming that R_r contains the tire deflection, camber angles γ remain equal on either side of the car.

Then, since the spring base remains horizontal, the roll angle ϕ remains the same as in the case above of the solid axle. The thing that changes is the lift Δh, which occurs due to the side forces Y_1 and Y_2.

It appears reasonable to assume that the tires act like sections through the middle of a sphere, i.e. variations in track and wheel radius can be ignored.

Then.

$$\text{Lifting force}=(Y_1-Y_2)\left(\frac{h_r}{t/2}+\gamma\right)=(Y_1-Y_2)\frac{h_r+\Delta h}{t/2}$$

$$\text{Hence lift } \Delta h=\frac{(Y_1-Y_2)(h_r+\Delta h)}{\frac{W_r}{d_r}\times\frac{t}{2}} \text{ or } \Delta h=\frac{(Y_1-Y_2)h_r}{\frac{W_r}{d_r}\times\frac{t}{2}-(Y_1-Y_2)}$$

Using the side forces and calculated lifts of Fig. 4 and refiguring for the increased weight transfer due to the lift, and for the camber thrusts on the outer and inner wheels due to the camber change in the rear wheels, we get the increase in rear slip angle shown in the curve marked "Sw, Ax" in Fig. 3, and the corresponding curves for side thrust on outer and inner wheels shown in Fig. 4.

It can be seen that although, under this high roll couple, the swing axle acts somewhat worse than the solid axle, the change is not great, and Fig. 4 shows that the side forces are so much alike that there is no need to refigure the swing axle, using the revised values of Y_1 and Y_2.

(These predicted test results appear to be a bit worse than the latest actual test results. Meaning perhaps that the actual tire characteristics are better than my assumed characteristics on Figs. 1 and 2.)

It has been found in earlier studies that the departure between swing axle characteristics and those of the solid axle decreases rapidly as the roll couple carried on the rear end is decreased.

So, to simplify the figuring, it seems adequate to study how a solid axle would behave under reduced roll couple.

This is done in two stages and is shown in Fig. 5.

(1) Rear Roll Rate is decreased and Front increased until the lateral weight transfer is only 50% greater in the rear than the front i.e., F. 40%, R. 60%. At the same time the roll stiffness is slightly decreased to increase the roll angle from 3.9° to 4.3° at a lateral acceleration of 0.5g.

This results in a completely neutral steering, the front and rear slip angle curves being practically identical, as shown in Fig. 5.

(2) In this case the total roll stiffness is still further decreased to permit the vehicle to roll to a conventional roll angle of 5.73° (0.10 radian) at 0.5g lateral acceleration. This is suggested to slow down the roll frequency to match up more closely with the pitch and bounce frequencies for the sake of ride. It would be desirable at the same time to stiffen the rear ride rate so as to "flatten" the ride.

The roll rate at the rear is now decreased to an almost nominal figure of 73 lb ft/deg such as might be obtained from a substantial rubber pivot joint on a transverse leaf spring together with the rubber joints on the wheel arms.

The aim is to obtain *equal* lateral weight transfers front and rear, i.e. *50/50 F. & R.* And the result, as shown in Fig. 5, is a substantial understeer.

The comparative roll rates (with tires) are:

[In pounds feet/degrees

	Present Corvair	Case (1)	Case (2)
Front roll rate	186.5	264	254
Rear roll rate	268	155	73

The above two examples are worked out for solid rear axles. It is shown that in the present Corvair the swing axle, due to lift, handles rather worse than a solid axle, but other studies have shown that this effect of the swing axle decreases rapidly as the roll couple carried by the swing axle is decreased.

In fact a swing axle which carries the proportion of the roll couple normally carried by a rigid axle will perform almost exactly like a rigid axle, as regards steering, and will ride better because it does not tranp.

TRACTION

The angles plotted in Figs. 3 and 5 do not include traction effects. Studies in "Steering Notes" have shown the oversteering effects of rear traction, appearing chiefly at lateral accelerations above .5g. The traction effect could be expected to make the sudden oversteer of Fig. 3 considerably worse. But here, as in the case of swing axle lift, the deterioration due to traction is extremely sensitive to the roll couple carried by the rear end, so that, in case (2) of Fig. 5, it will virtually disappear.

TIRES

The other thing that appears from these studies is the extreme importance of the tire characteristics. The increased cornering power of the rear tires virtually "saves the life" of the Corvair.

NOTE: As an addition to Figs. 4 and 5, I have added the figured lift, side forces, and steering characteristics for case (2) above. These confirm that with the reduced weight transfer on the rear the lift is reduced, and the steering is almost the same for a swing axle as for a rigid axle.

EXHIBIT 13

RIDE RATE AND ROLL RATE TEST: CAR NO. 0104, CHEVROLET

General Motors Proving Ground, Milford, Michigan.
Date, March 17, 1959.
Report No. PG–10841.
Test Run For Chevrolet Motor Division, W. O. No. 806–3.
Confidential: Prepared for the use of the Chevrolet Motor Division only.
Requested By P. J. King.
Report Sent To P. J. King.
Report Prepared By P. Garthe, F. Oxford, Engineering Test Department.

DISCUSSION

This test was performed using the procedure outlined in Report No. PG–2672–10 with the following exceptions:

(1) The rear doors were removed to permit attachment of the loading equipment near the vehicle center of gravity.

(2) "Weaver" plates were placed under the rear wheels to accommodate the tread change during the test. Since the travel of these plates is limited to approximately three inches, portions of the ride rate curve on both sides of the design range have a different rate caused by the restricted tread as the "Weaver" plates reached the end of their travel. The spring rate published is that obtained through the free tread travel portion only. This free travel portion of the curve lies below the full design load but it is assumed that the spring rate would be essentially constant through the design range if free tread travel could be provided.

(EDITOR'S NOTE.—The graphs that were made a part of this exhibit are not reproduced here. However, they are available in subcommittee files.)

GENERAL MOTORS PROVING GROUND—RIDE RATE AND ROLL RATE—DESCRIPTION AND TABULATION OF RESULTS

[Report No. PG–10841—Car No. 0104]

Car, Chevrolet; year, 19—; body type, 4-door sedan; transmission, manual 3-speed; tires, Firestone; size, 6.50–13; pressure—front, 17; rear, 29; test weight (lb.) car, 2,376 plus load, 600 equals 2,976; wheelbase (in.), 106; passenger distribution, 2 front, 2 rear.
Suspension: Front—Type springs, roll stabilizer, diameter (in.), 0.5; track bar, tread (in.), 54.3. Rear, 54.3.

TEST RESULTS

	Car weight (lb)	Ride rate		Roll rate		
		Test weight (lb)	Ride rate (lb/in)	Test weight (lb)	Roll rate (lb-ft/deg)	
Left front	457	598	84	598	(1)	(2)
Right front	451	590	81	596		
Total front	908	1,188	165	1,194	239	172
Left rear	737	895	172	898		
Right rear	731	900	165	891		
Total rear	1,468	1,795	337	1,789	372	374
Total car	2,376	2,983	502	2,983	611	546
Percent front	38.2	39.8	32.9	40	39.1	31.5
Odometer	4,818	4,818	4,818		4,818	
Date	3/16/59	3/16/59	3/16/59		3/16/59	

[1] Front stabilization, conn.

[2] Front stabilization, disc.

REQUEST TO GENERAL MOTORS PROVING GROUND FOR PERFORMANCE OF TEST

Car No. 0104.
PG Job No. 20–616.
Report No. PG 10841.
Report completion date 3–17–59.
Report author Garthe & Oxford.
Date 3–13–59.
Request by Mr. P. J. King of Chevrolet Division.
Division: Test No. ——— T. R. No. ——— W.O. 806–3, Project No. ———.
Requested of Proving Ground: Engineering Test.
Send 9 copies of report to P. J. King.
Is preliminary copy of data essential? No. ———, Yes X, Send to W. L. McCollum (Ext. 341).
Desired test completion date 3–16–59.
Name of test Ride and Roll Rate.
Test objectives: Please measure Ride Rate and Roll Rate with and without the stabilizer bar.

CAR DATA (ESSENTIAL—FILL IN ALL PERTINENT BLANKS)

Car: Make ———, Model 19xx, Year ———, No. ———.
Body style 4 door, transmission ———.
Speedometer gear ratio ———, Axle ratio ———, N/V ———.
Engine ———.
Bore ———, Stroke ———, Displacement ———, Firing order ———.
Odometer at which carbon was last removed ———, nominal compression ratio ———.
Type of fuel ———, Engine oil ———.
Tires: Make ———, Size ———, Cold pressure: Front 14, Rear 26; Tread width: Front ———, Rear ———.
Test weight: Curb ———+Load ———= ——— Pounds.
(NOTE—Cars for time-distance tests to be delivered at least 550 lb. below specified test weight).
Other data required: Rim at curb plus necessary added weight for equipment.
CC: Engineering Test, P. J. King, C. L. Caswell, R. K. Hirchert, W. L. McCollum

Signed: N. E. Farley.
Position: Director.
Division: Chevrolet.

EXHIBIT 14

CHEVROLET,
March 20, 1959.

To: C. M. Rubly, Engineering Center,
From: W. L. McCullum, Proving Ground.
Subject: Stabilizer Bar H–25 Cars.
CC. M. M. Roensch, M. S. Rosenberger, K. Hansen, C. H. Fehlberg, R. C. Emig, N. E. Farley, P. J. King.

On car 0104 measurements of ride and roll rate were taken, and ride evaluations conducted with and without the stabilizer bar with the latest springs (570 lb./in. rear rate and 168 lb./in. front rate). This car with latest engine mounts is a very good handling car either with or without the stabilizer bar. Without the bar there was a slight loss in straight ahead stability and an improvement in cornering. There was no noticeable increase in roll when the bar was removed and the ride balance is improved.

The measured ride and roll rates are tabulated below:

	Wheel load	Ride rate (lb./in.)
Left front	598	84
Right front	590	81
Left rear	895	172
Right rear	900	165

	Roll rate	
	With bar	Without bar
Front	239	172
Rear	372	374
Total	611	546
Percent of front	39.1	31.5

W. L. MCCOLLUM,
Development Engineer.

EXHIBIT 15

(Rear Suspension Model Test Proposed full swing axle and others, May 13, 1958, 139–64)

ENGINEERING STAFF,
GENERAL MOTORS CORP.,
Detroit, Mich., May 13, 1958.

To: William C. McIntyre, Suspension Development.

The theoretic analysis of a proposed full swing independent rear suspension indicated that the car would roll in a severe turn instead of sliding. Therefore, Suspension Development built a ⅜ scale model of this rear suspension to determine if the theoretic reactions of the suspension geometry were correct.

The proposed full swing independent rear suspension was built as a ⅜ scale model. The swing axle pivots were at the same height as the centerline of wheels. A lateral force to simulate centrifugal force was applied at the center of gravity (C.G.) height through a spring scale. The wheels were then covered with a 40 grit emery cloth and set on a rubber slab which gave a coefficient of friction of approximately one. The force was applied at ten-pound increments and roll angle and lift of the body measured. Graphs were plotted of roll angle versus the "G" loading and lift versus "G" loading. Pictures of the model suspensions are also included in the report.

The test of the full swing independent with the inner pivots on the centerline of the wheels was followed by the testing of a four-link solid axle; a semi-swing independent with inner pivots two inches above the centerline of wheels; a full swing independent with the pivots four inches below the centerline of the wheels; a full swing independent with lateral leaf spring and roll bar and a full swing independent with interconnected flat spring.

CHARLES W. LATREILLE.

THE EFFECT OF LATERAL ACCELERATION ON ROLL ANGLE AND C. G. HEIGHT WITH FOUR EXPERIMENTAL REAR SUSPENSIONS

(By L. J. Kehoe)

REAR SUSPENSION BEHAVIOR

Summary

A series of tests were made to determine the effect of lateral acceleration on four types of rear suspensions.

Results

1. Conventional Four Link (Figure 1):

(*a*) Height of C. G. remains constant.

(*b*) Roll angle is directly proportional to lateral loading from .1 g to 1.05 g. At that point the car slides.

2. Semi-Swing Arm Independent with the Inner Pivots 2'' Above the Centerline of Wheels (Figure 2).

(*a*) Height of C. G. remains constant until about .5 g lateral loading. It then increases until car slides at .90–.95 g.

(*b*) Roll angle is negligible until about .4 g acceleration loading is reached. Roll then increases rapidly until at .90–.95 g the wheels slide.

3. Full Swing Independent with Inner Pivot 4'' Below Center-line of Wheels (Figure 3).

(*a*) Height of C. G. does not vary much, a slight fall being followed by a slight rise.

(*b*) The roll angle vs. lateral acceleration curve is practically a duplicate of that obtained with the four-link axle, essentially a straight line to 1.0 g acceleration, when the wheels slide.

4. Full Swing Independent with Inner Pivot on Center-line of Wheels (Figure 4):

(*a*) Height of the C. G. does not change until about .7 g. It then increases rapidly until at 1.0 g the car overturns.

(*b*) There is no body roll until about .6 g lateral acceleration. By 1.0 g, rolls has approached 6° and the car overturns.

Method of test

For some years past, the Structure and Suspension Development Group of General Motors Engineering Staff has been measuring the roll steer and ride steer geometry of proposed suspensions through the use of ⅜ scale models, (Figure 5). To avoid interaction, the opposite end of the model is supported on a knife edge. For preliminary studies, the scale model has almost replaced graphical analysis, due to the ease and accuracy obtained with the scale model method.

When it was decided to investigate the dynamic characteristics of certain rear suspensions under lateral acceleration, graphical analysis was rejected since observation had shown that, for example, the height of the cars C.G. is a variable, as is roll.

Figure No. 6 is a view of the equipment and methods used to obtain the data on which curves 1, 2, 3 and 4 are based. It will be noticed that the front wheels are not complete. This permits observation from the side, since the wheels do not rotate.

At the start of the program it was decided that:

1. Total weight on the wheels is to be 25 lbs.

2. Lateral load is applied at an arbitrary C.G. height, rather than the C.G. of the model.

3. Load is applied by pulling a spring scale, which is attached to a fine wire, which is, in turn attached to the chassis model. Figure No. 7 shows this attachment clearly. In order that vertical components due to angularity will be minimized, it is recommended that the wire will be at least 20 ft. long.

4. Measurements are to be taken while the tests progress and tests should be repeated several times until a consistent series of values are obtained. In this connection it is recommended that all tests be conducted by the same personnel to avoid variations in technique.

5. From previous work it has been established that wooden wheels to which coarse emery cloth has been stapled, bearing on a one inch thick pad of 70 durometer rubber will permit lateral loading of 1.0–1.05 g before sliding. This is comparable with new tires on a reasonably good concrete pavement.

6. For photographic purposes, a rod tipped with white paint is placed as a reference mark near the C.G. load application point.

The attached pictures were not made during the tests. They have been photographed with the charts as a visual aid to interpretation of the curves. In each one the arrow on the chart indicates the load applied.

(EDITOR'S NOTE.—The graphs that were made a part of this exhibit are not printed here but are available in subcommittee files.)

EXHIBIT 16

CHEVROLET,
June 21, 1963.

To: Mr. E. J. Premo, 1–328 Engineering Center.

From: Mr. F. J. Winchell, L–105 Engineering Center.

Subject: 1965 Corvair Rear Suspension.

In compliance with your request, we will assist Mr. King with his problems associated with the handling of the 1965 pretest Corvairs.

Since there appears to be some controversy at the present time over the relative merits of the 1964 and 1965 rear suspensions, I would like to reiterate the following points.

1. Assuming no extraordinary deflection steer or roll steer characteristics, the primary factor in cornering stability of this or any car of reasonable proportions is the relative rate of weight transfer from inside wheel to outside wheel in the front and rear suspensions. This is customarily referred to as roll couple distribution. The benefits of improved roll couple distribution should be independent of how it is achieved. I understand that both the 1964 and the 1965 suspensions give about 40% front and 60% rear which, in my opinion, is absolutely satisfactory for cornering stability.

2. Preliminary indications are that the improved roll couple applied to the swing axle as it has been in the 1964 suspension will prevent roll-over with the lateral force potentially available on a smooth, dry road surface. I consider this a very significant improvement over previous model Corvairs.

3. The fact remains that the swing axle geometry is capable of sufficient reduction in tread and lift of the center of gravity of the vehicle to cause roll-over under circumstances which would not result in roll-over with the 1965 suspension or with a conventional rigid rear axle; i.e., a dip in the road while cornering hard or skidding into a curb, rut or other obstruction.

4. The 1964 suspension may get some adverse publicity due to its apparent similarity to the Empi kit, while the 1965 suspension appears to be a prestige feature.

If, in management's judgement, this car must be as safe as the conventional Chevrolet, engineering must take the position that the swing axle is inadequate.

F. J. WINCHELL,
Research and Development.

EXHIBIT 17

CHEVROLET MOTOR DIVISION: PRODUCT PROGRAM—MAJOR REVISIONS

(List all revisions by UPC group.)

Model: 1965.

Series: 500, 600, 700, 900.

Last submission date: Dec. 10, 1962.

Revision date: January 18, 1963.

Revisions:

UPC 4—A new independent rear suspension design with wheel movement controlled by a 3-link articulating system at each wheel will be used for improved ride and handling. The design is similar to the type used in the 1963 Corvette except that coil springs will be used rather than the transverse leaf unit.

EXHIBIT 18

1965 CORVAIR PRESENTATION TO EPG

INTRODUCTION

The present Corvair was originally introduced in 1960 to meet the competitive threat of small foreign cars and the lower priced small domestic cars.

The Corvair is unique in many respects, not only because of its rear engine design, but also the fact that its styling cycle has proven to be of much longer duration than our other passenger car lines.

For this reason, before describing a new 1965 Corvair proposal, a brief history of the current model might be helpful, to your considerations.

Slide 1

This is a diagram of our original Corvair design as introduced for the 1960 model year.

You will note that in order to eliminate the Drive-line Tunnel Chevrolet designed a light weight, air-cooled, rear mounted engine, with a transaxle for rear wheel drive. This also gave nearly constant weight distribution under various loading conditions, good traction and braking characteristics and excellent steering and maneuverability. The body-frame integral structure gave low roof, ample headroom, adequate seat height and flat floor.

For various reasons including the inherent costs of the vehicle, it did not completely meet the requirements of its intended economy market, but instead actually created an image and a market of its own. This image was largely that of a sports car, economically priced in comparison with other sports cars, and having a certain "Foreign" flavor because of its rear engine, and low silhouette.

Slide 2

Capitalizing on this new image, we made various changes to meet this demand and at the same time pressed ahead with the Chevy II for coverage in the basic transportation area.

In January 1960, we added a club coupe and a few months later the popular Monza Coupe, the Luxury Version of this model. A high performance engine also helped enhance this image.

Other improvements followed in 1961 such as a direct air heater to replace the expensive gasoline heater; the spare tire was moved from the forward trunk compartment to the engine compartment, and a larger fuel tank was installed. A 4-speed transmission, a Monza Sedan and Air Conditioning were also added in 1961.

In 1962 we added a convertible model and introduced the Monza Spyder with Turbo-Charger.

In 1964 we will introduce the 164 cubic inch engine for better performance. Currently 75% of all Corvairs are in the Monza series, 20% in the Deluxe 700 series and only 5% in the low priced standard 500 series.

CORVAIR COMPETITIVE PRICES, 1960-63 DEALER NET

	Corvair		Falcon	
	Standard	Deluxe	Standard	With deluxe option
4-door models:[1]				
1960	1,522	$1,569	$1,477	$1,523
1961	1,475	1,522	1,477	1,532
1962	[2]	1,522	1,477	1,538
1963	[2]	1,522	1,477	1,504
2-door models:[1]				
1960	1,483	1,530	1,431	1,477
1961	1,435	1,483	1,431	1,486
1962	1,435	1,483	1,431	1,492
1963	1,435	1,483	1,431	1,458

[1] All model prices include heater.
[2] Not available.

Slide 3

The Corvair's price position with respect to the Falcon is shown here, at the dealer net level.

In 1962 Chevrolet dropped the 4-door sedan in the low price line so that our lowest priced 4-door sedan became our 700 series deluxe Corvair at $1522 with the lowest priced Falcon at $1477. While this created a disadvantage of about $45.00 with the lowest priced Falcon, the two vehicles were quite closely priced on a comparable base of deluxe equipment. In fact the Corvair at this level shows a $16 advantage when the $1522 price is compared to the Ford $1538. Ford eliminated some of their deluxe option features in 1963 in order to overcome this disadvantage.

The 2-door comparison reflects our lowest priced 2-door unit in 1963 to be $4.00 over the lowest priced Falcon and on a comparable base of deluxe equipment, these two vehicles are also quite closely priced—$1483 for the Corvair compared to $1458 for the Falcon.

In this comparison of 2-door units, however, it should be pointed out that the Corvair is actually a coupe style with limited rear compartment size while the Falcon more nearly meets the specifications of a 2-door sedan.

While we do not believe the Corvair and Falcon are necessarily reaching the same market, the prices shown here would indicate that where they do compete, they are on fairly equal terms pricewise.

PRODUCTION VOLUME (MODEL YEAR)

	Corvair	Chevy II	Falcon	Fairlane
1960	250,007		435,676	
1961	282,075		439,312	
1962	292,531	326,607	414,282	298,116
1963	[1] 260,000	[1] 355,000		
1964	[1] 200,000	[1] 600,000		
Total	1,284,613			
Average, 5 years	256,923			

[1] Index volume.

Slide 4

Volume sales of the Corvair seem to represent a continuing demand in the area of 250,000 per year.

During the 5 year period (1960 through 1964) in which the present Corvair will have been on the market, approximately 1,284,000 units will have been sold establishing the 250,000 annual sales on a firm experience basis. The Ford Falcon, during the 3 years compared on this chart has achieved a volume over 50% in excess of the Corvair, but participates largely in the basic transportation area.

Chevrolet feels that the Corvair represents an almost exclusive market segment and its sale has not reduced our sales in other lines to any appreciable extent.

With this background and with 5 years of unchanged body style, Chevrolet now proposes a new Corvair for 1965 with new fresh lines but keeping the same basic Corvair image that has found for itself a definite place in the automobile market.

Slide 5

This is the new look proposed for the 1965 Corvair. The model shown here is a Monza 4-door hardtop sedan. The sedan and coupe will be hardtop models featuring frameless curved side glass. The car will be 3.0 inches longer and about 2.0 inches wider but will retain the same 108" wheelbase and over-all height. Moreover, the design includes significant improvement in two critical areas. Improved entrance is provided and rear seat knee and leg room are increased. Chassis changes in the area of steering, braking and suspension systems will give the Corvair improved handling and maneuverability.

Slide 6

Dimensional differences in terms of 1965 advantage over the present Corvair are shown in this sketch. Door opening-to-ground is up 1.4 inches at the front and 1.2 inches at the rear. Door opening-to-seat is greater by 1.0 inch in front and 1.8 inches at the rear. By moving the rear seat rearward about one inch, we have a comparable gain in rear knee room and leg room. Other dimensions are equivalent to those of the present model.

Slide 7

A proposed new heating system which introduces a central duct, eliminates the rather complex dual rocker panel ductwork of the current car. A distributor under the front seat directs heated air to front and rear compartments. The center duct also feeds the defrosters at the base of the windshield.

The engine cooling air intake is relocated from the deck lid to the tulip panel just back of the rear window, giving a cleaner air supply and better water separation. This new design permits use of outside air, not previously available, for defogging in mild weather.

Other changes in body construction contribute to reduced cost and improved resistance to corrosion.

Slide 8

The unitized front suspension and crossmember assembly is of simplified construction. To facilitate assembly, a new cam eccentric is used to adjust camber. A link type stabilizer will be added as standard equipment.

Steering changes with reduced turning radius improve maneuverability.

Slide 9

The new 3-link coil spring independent rear suspension, similar to the 1963 Corvette, provides improved handling. The 3-link system works much like the familiar short and long arm design of the front suspension. Here the short arm is, the axle shaft which has "U" joints at each end. This enables the axle shaft to serve the dual function of driving member and upper suspension link. The strut rod is the lower link, and can pivot at both ends through relatively simple pin joints. The dual links of the 1965 design result in a more vertical wheel path, with consequent reduction in tire scrub.

Slide 10

The third link of the new design shown here in profile is a torque control arm running forward from the wheel to a pivot directly attached to the body and controls brake torque.

Wider rear brakes give a better wear balance with front units and increased braking capacity and durability.

Slide 11

The model line-up proposed for 1965 is basically unchanged from the present, as the spyder 600 line merely replaces our present spyder option. As mentioned earlier, hardtop styles replace the thin pillar 2-door coupes and 4-door sedans in the present line. One other change, in the bottom of the line, a 4-door hardtop is shown. This is in place of the 2-door club coupe which we have currently. The purpose is to provide a small sedan, if possible, at the base of our line to fill the vacancy left by the growth of the Chevy II to the larger "A" car size. Present estimates indicate that it may be feasible to have the 4-door sedan in this base line instead of the 2-door model but the decision will be reviewed later as costs to the two body styles become firmer.

Our basic concern is to have a low priced unit for competitive purposes in the 500 series, and while we would prefer a four door unit for this purpose, costs may require that we remain with the two door as our anchor in the low price field. We do not believe that the volume is sufficient to permit two body styles in this line.

1965 CORVAIR MODEL LINE

	Standard 500	Deluxe 700	Monza 900	Spyder 600
4-door hardtop sedan	×	×	×	
2-door hardtop coupe		×	×	×
2-door convertible			×	×

Slide 12

Present estimates indicate that our price cost of the new 4-door hardtop style for 1965 will approximate that of the thin pillar style in 1964. Actually a $2 net savings is currently indicated.

The net savings in the body are approximately offset by the net increase in chassis costs. The principal reason for the chassis increase is the major change to incorporate the Corvette type rear suspension. Were it not for this change, chassis costs would also be lower in total for 1965.

Both Fisher and Chevrolet are working on cost reduction programs and speaking for the chassis area, we feel we have excellent opportunities to develop further cost reductions as our designs and studies progress.

The program presented here contemplates the hardtop model as the 1965 version. Styling has also developed a thin pillar version and a pillar version with frameless door glass. The thin pillar version would further reduce the body cost shown here by $9, while the cost of the thin pillar with frameless door glass would approximate the hardtop.

Because of the greatly improved appearance of the hardtop version, we recommend that our program continue on this basis.

Slide 13

In the area of tool cost, a low volume line such as the Corvair presents particular problems. We have demonstrated that unlike our usual line of cars requiring frequent model changes and extensive face lifts, the Corvair can carry its market for an extended period of time without major changes or revisions.

The present Corvair will have run for five years by 1965 with virtually no styling change except for ornamentation. We feel the new Corvair should also be evaluated on a long term basis and would suggest a four year period for consideration of tool allocation.

This chart indicates the comparison of tool costs as experienced on the present Corvair versus the estimated costs of the 1965 Corvair if carried four years.

The present Corvair body total includes approximately nine million dollars for a station wagon model brought out in 1961 which is not contemplated in the 1965 line. Elimination of this item would reduce the body total of the present Corvair to — million in place of the — million as shown. Also a substantial foreign (approximately — million) of the chassis tooling in the present Corvair was represented by the engine which will be largely carryover in the 1965 program. Further, because of the completely new design of this vehicle in 1960, more subsequent modifications were necessary than we would anticipate with this 1965 design.

Unit tool absorption would of course depend upon the cycle used for consideration but the total tool bill, indicates a reduction of 25 million dollars in the two comparable 4 year periods. Using an annual volume of 200,000 units or 800,000 for the cycle, this would represent a savings of approximately — per unit in tool cost over the original Corvair program.

CONCLUSION

We feel that the Corvair program for 1965 has merit. It replaces a vehicle that will have

been in the market for five years and should now be restyled with fresher lines. Furthermore, with over one million Corvairs on the road receiving good public acceptance, it would be a very difficult decision to abandon this concept.

Economically, the project is at least as good as the present version if considered on a long-range basis. Variable profit, while not as good as our regular passenger car, compares favorably with the present Corvair position.

With the high proportion of Monza sales on which the profit position is better, and the option sales opportunity on this unit, the profit position on the complete project becomes much more attractive than when viewed from a base model alone.

The Corvair participates in a market that represents largely plus volume for Chevrolet because of its unusual character which makes it unique in the industry.

As a promotional activity our dealers are forming Corvair clubs much in the same manner as Corvette clubs have sprung up across the country. With the fresh new hardtop styling and improved front and rear suspensions, it is conceivable that we can actually increase our volume potential over present levels and thereby enhance our profit possibilities.

Chevrolet strongly recommends engineering policy approval to proceed with this important project.

EXHIBIT 19

[From the Los Angeles Times, May 28, 1971]

CORVAIR DEFECTS KNOWN FROM START, EX-GM TECHNICIAN SAYS

MAN WHO HELPED BUILD PROTOTYPE CLAIMS EXECUTIVES KNEW OF SAFETY QUESTIONS BEFORE CARS WENT ON SALE

(By Alexander Auerbach)

A man who helped build the first Corvair says that executives at General Motors knew before the car was put on sale that it had handling problems affecting its safety.

George Caramanna, a senior design and development technician in the Chevrolet research and development department from 1957 to 1970, also says that the first prototype built rolled over the first time it was driven.

Among those who knew of the problems, he says, are Edward Cole, now president of General Motors, and Frank Winchell, Cole's assistant who has testified in defense of the car. Winchell was put in charge of GM's engineering staff Thursday, and is in line to become a vice president of the company.

Caramanna also says that a front rod stabilizer bar, intended to make the car less likely to roll, was designed and installed on the prototype, but was removed—to save money, he was told—before the Corvair went into production in 1959.

GM STATEMENT

Asked to comment, a General Motors spokesman said "allegations of improper design of the 1960–1963 Corvair . . . have been refuted on a number of ocasions in the courtroom following the examination and cross-examination of qualified expert witnesses."

Nothing that the Department of Transportation is currently studying handling characteristics of the car, the spokesman added "We believe an in-depth analysis of the allegations by competent experts to be more reliable than the hit-run tactics of unqualified critics."

He would not comment as to whether Caramanna was an "unqualified critic."

The statement concluded that "General Motors has never denied that the 1960–63 model Corvair may be rolled over after it substantially exceeds its limit of control, which is equal to or better than the limit of control of competitive cars of the same era."

RESIGNED POST

Caramanna resigned from GM and left Detroit when his marriage broke up. He was brought to Los Angeles to help a Hollywood firm design racing cars, but the company folded soon after he arrived. Now Caramanna operates a service station in Spring Valley.

His story adds an insider's chapter to the Corvair controversy. The car became the focal point in a debate over auto safety with the publication of Ralph Nader's "Unsafe At Any Speed" in 1965.

The Corvair went out of production in 1969, but an estimated 600,000 still remain on the road.

Currently the National Highway Safety Bureau is conducting tests of the Corvair, both for handling and for suspected carbon monoxide leaks from the car's heater.

Sen. Warren B. Magnuson's Commerce Committee also is investigating the car, and according to a committee aide Caramanna is expected to be asked to testify.

Caramanna's story conflicts at some points with public statements by GM officials. In 1966 Frank Winchell told the Michigan senate that the introduction of a front stabilizer bar on the 1964 Corvair was simply "a step in the normal process of product improvement."

STABILIZER BAR

According to Caramanna, the stabilizer bar was designed for the 1960 Corvair but was not used. The early models, he adds, had a mounting spot for the bars embossed into the body three years before the "product improvement" took place.

Caramanna, 44, is not an engineer, but he gained a knowledge of suspension engineering while building and racing cars and working for four years in GM's structure and suspension division before joining Chevrolet R&D. He holds half a dozen patents on automotive devices.

While other GM employes involved with the Corvair have given information to Senate and private investigators, Caramanna is the first man who saw development of the car from its earliest stages to production and then through the company's internal reaction to the estimated 400 court cases involving the car, to speak out publicly against it.

His first job in Chevrolet R&D, says Caramanna, was preparing a pretest vehicle for the Corvair engine and rear suspension.

He and an engineer, Frank Burrell cut the engine and rear end out of a German Porsche and fitted it with Corvair components.

"It was Cole's baby," Caramanna recalls. Cole did much of the design work as chief engineer for Chevrolet, and about the time the car moved off the drawing boards Cole was named general manager of the Chevrolet division.

Cole drove the first Porsche with the Corvair engine, having been awakened long after midnight on standing orders to call him when the job was done. Caramanna says Cole was jubilant.

The first true Corvair was the prototype, made in R&D a few months later, and its initial ride was less fortunate.

The prototype had the same structure as the production Corvair, although some of the external sheet metal was different. The prototype was taken to the GM proving ground as soon as it was finished, and a driver named Gib Hofstadter, with Jack Winchell, a technician, took the car to the "skid pad," a large paved circle.

(Winchell's brother is Frank Winchell, the man who took the stand for General Motors in court battles and legislative hearings on the Corvair.)

"They went out to the skid pad and rolled the car." Caramanna says, "rolled it right into the roof." The rollover was purely accidental, not part of any test program, he says.

No one was injured.

That rollover was not the first indication trouble lay ahead for the reputation of Corvairs suspension, however.

Before moving to R&D, Caramanna worked on suspensions under a man named Von D. Polhemis. Polhemis Caramanna says, met with some of the men in charge of the Corvair project long before the car was in production, and told them he felt the suspension was unsafe. "They laughed at him and called him an idiot," Caramanna recalls.

TELLS OF MEETING

Shortly before the Corvair was to go into production in 1959, Caramanna says, he and Frank Burrell met with Kai Hansen, who was directly responsible to Cole for the project.

"Kai told us that the front roll stabilizer on the prototype would not be used on the production model, because it cost too much." A few days later he and Burrell told Hansen in Cole's presence that they felt the lack of the stabilizer bar would make the car unsafe, he says.

In a 1960 speech GM suspension engineer Charles Rubly said the roll stabilizer bar was left off because "we felt the slight amount of gain realized did not warrant the cost."

The problem with the Corvair, in Caramanna's opinion, is not that it was a rear-engine vehicle, as many laymen believe, but that it had problems with its rear suspension and swing axle.

There is a theoretical point in a car called the "roll center," he explains. When the car is in a sharp turn or when hit by a gust of wind, it tends to rotate around that point.

The Corvair's roll center was about 14 inches above the ground when fully loaded and higher with only the driver aboard. He thinks that was far too high. The theoretical point can be located near or even on the ground by using different suspension techniques, he says.

EASILY CHANGED

The standard Corvair could be readily altered to make it far more roll-resistant, Caramanna says.

Shortly after the car was put on the market, reports filtered back to GM that Corvairs were wearing out tires very quickly in races, scuffing the sidewalls.

R&D was charged with building a Corvair that would do well in racing, and Caramanna prepared three cars for the Daytona Beach races in Florida. The job was relatively easy, he says.

He put on the stabilizer bar that had been designed for the prototype Corvair, then cut the coil springs in the rear to lower the car. The shorter springs gave the car a wider rear track. The final touch was the installation of nylon straps to keep the rear wheels from "jacking" or tucking under the car.

"You just could not turn that car over the way we fixed it," Caramanna says.

PREPARING DEFENSE

As the court cases erupted early in 1960, one of R&D's main tasks became preparing the defense of the car.

As part of one defense, Caramanna had to drive a Corvair as fast as he could through a series of turns around pylons, reproducing the sharp turns that were said to cause the car to roll over.

"I had a movie camera in front and another in back, one to the side and another in a helicopter overhead," he says.

"I got the car through by keeping my foot steady on the accelerator pedal tapping the brake once with my left foot, and whipping the steering wheel from side to side.

That was vital in driving the Corvair under lateral acceleration, he says, since keeping the gas on kept the rear wheel from slipping.

Once the rear wheels began to slip, he said,

they would tend to "jack" or fold under the car, making a rollover possible.

"Now I could keep the accelerator steady, and most race drivers could, but the reaction of the ordinary driver on the street is to hit his brakes, or back off the gas," Caramanna says.

"That's the worst thing you can do, because the rear end lifts up and the rear wheels lose their grip on the road.

"If the car has any lateral acceleration when you do that, from a skid or a gust of wind or if you jerk the steering wheel, you're gonna roll that vehicle.

"It doesn't have to be at a high speed. It can happen at 30 m.p.h. or even less in a sharp turn."

[From the Detroit Free Press, June 14, 1971]

EX-GM AIDE TOLD FAMILY TO STEER CLEAR OF A CORVAIR

(By William Schmidt)

SAN DIEGO, CALIF.—In 1960, George Carmanna visited his sister Lillian Mullvihill in Southgate, and offered her some inside advice.

"Whatever you do, Lillian," said George, at the time a technician at the General Motors Tech Center in Warren, "don't buy a Corvair.

"If anyone in the family does, in fact, I'll give them a good kick in the butt."

George Caramanna was not, as he was to say later, "just speaking for my health."

At the time, Caramanna was among a handful of highly paid Chevrolet engineers and technicians who had just helped design, test and prepare the rear-engine Corvair for its late 1959 debut.

Caramanna, who now lives near San Diego, runs his own service station and no longer depends on GM for his future. became the first real insider to claim publicly what many critics have been arguing for years—that the Corvair was a poorly designed and dangerous car and General Motors knew it from the beginning.

And Caramanna has been subpenaed to appear in Washington, D.C., Wednesday and tell Sen. Abraham Ribicoff's subcommittee on executive reorganization all about the car.

The subcommittee is investigating charges that GM gave false testimony during a one-day hearing in March, 1966, at which a GM exectuive denied allegations the car was unsafe.

Caramanna received unexpected support from the Ford Motor Co., which turned over to the subcommittee private test data on the car. A Ford engineer, Harley F. Copp, had written the subcommittee on June 5 and told them that Ford test data showed the Corvair to be unsafe.

"I knew it was a lousy car and so did a lot of people I worked with," said Caramanna, 44, a short, lean auto mechanic and part-time race driver who quit GM in 1970 and headed for the West Coast.

"Even so, a lot of those same people turned right around and went out in the courtroom to defend the car.

"There are still too many Corvairs on the road today. I can't even keep a clear conscience about it anymore."

According to Caramanna, who worked on the Corvair for about seven years in Chevrolet's Research and Development (R & D) section, early models of the car produced between 1960 and 1963 suffered from a poorly designed rear suspension that caused handling problems affecting safety.

It is an old charge, first made by Ralph Nader in his 1963 book, "Unsafe At Any Speed," and repeated in lawsuits filed by former Corvair owners who blamed their accidents on the car's poor handling.

The problem with the 1960–63 Corvair is highly technical, said Caramanna, and involved a poor rear suspension which he said gives the vehicle a tendency to roll over or spin out in a sharp turn or when hit by strong gust of wind.

He said GM engineers knew about the problem early in the Corvair's development, because a prototype of the car built by Caramanna and engineer Frank Burrell rolled over the first time it was driven.

Though he had no formal engineering education, Caramanna said he later installed a stabilizer bar in the prototype to make it less dangerous.

Despite warnings from engineers and suspension experts involved in the project, however, Caramanna said GM removed the bar before the car went into production. He said he was told it was done to save money.

In 1964, after the first wave of allegations that the car was unsafe, Caramanna said the stabilizer was installed in the new models.

GM has denied Caramanna's charges, first described May 28 in a Los Angeles Times newspaper article. In a statement, GM said similar allegations already had been "refuted on a number of occasions in the court room following the examination and cross-examination of qualified expert witnesess."

But Caramanna said he already knew that.

He said he was the guy who drove the Corvair in some of the films General Motors made to use in court as evidence to prove the car handled safely.

In one of the films, Caramanna had to drive a Corvair as fast as he could through a series of turns and pylons while he was filmed by two cameras inside the car, two cameras outside and another in a helicopter overhead.

Despite the quick, sharp turns, the car didn't roll over.

"O course it didn't," said Caramanna. "I was driving the car like a racedriver—keeping a steady foot on the gas and just pedal-tapping the brake.

"Ordinary drivers wouldn't drive that way. In a sharp turn, they'd hit the brake or back off the gas, which can cause the rear end to lift up and wheels to lose grip on the road.

"The first thing you know you'll roll over or start spinning."

Caramanna knows what he is talking about when it comes to racing. He spent several years roaring around Detroit's old Motor City Speedway in a refurbished 1935 Hudson coupe, and later helped design and build the streamlined Chaparral, America's first Formula I racing car to win in Europe.

A native of New Jersey, Caramanna's family moved to Detroit when he was 13. He attended several schools, and finally dropped out in the 11th grade at Eastern High School in 1944.

He enlisted in the Navy, which trained him as a mechanic. When he left the service in 1947, he went to work in a gas station on Gratiot near E. Forest.

"I've always had a natural mechanical ability," says Caramanna. "When I'm driving along in a car, I can see in my head how the whole engine is working—pistons moving, the cam, everything."

In 1953, General Motors advertised for a suspension mechanic, and Caramanna—hoping to improve the handling of his Hudson stock car—hired on at $375 a month in GM's structure and suspension division.

In 1957, he became part of the Chevrolet R & D section launched five years earlier by Edward Cole, the Chevrolet chief engineer who is now president of GM.

The Corvair was Cole's pet project, and he used to pencil ideas for it when he managed the Cadillac Tank plant in Cleveland during the Korean War.

Caramanna said Cole was so enthused about the car that he ordered him and Burrell to call as soon as they had completed the pretest model so Cole could test drive it.

"We got him out of bed sometime after midnight for that first drive," said Caramanna. "Cole was so excited about the car that when he finished the drive he got out and actually jumped up in the air and clicked his heels."

Despite his lack of formal engineering education, Caramanna's natural ability carried him a long way. Working with the GM patent section, Caramanna patented a half-dozen different automative devices, including one he invented with Frank Winchell, the former director of Chevrolet R & D who is now a GM vice persident.

When he left GM in February 1970, Caramanna's salary had grown to $1,275 a month.

He left GM shortly after his marriage in Detroit broke up.

Caramanna traveled to North Hollywood, Cal., and hired on with actor Steve McQueen in an unsuccessful attempt at building racing cars.

Later in the year, Caramanna moved to Spring Valley, a suburb of San Diego, and opened a service station he says is already bringing him better money than he made at GM.

Caramanna said he decided to speak out about the Corvair when he heard about the Campaign GM project in Detroit last year.

Let by Nader, the project was aimed at making GM more responsive to consumer demands.

As a result, Caramanna became involved with Nader's people, and is now represented by attorney Gary Sellers, who is Nader's legal aide.

"My only regret is that I didn't speak out sooner," said Caramanna.

"In 1961 or '62, I almost wrote Sen. (Robert) Kennedy about the Corvair. But I had a wife and two kids and was a little worried about my job.

"But now it's different. I appreciate everything GM did for me, and I like the free enterprise system.

"But there is no way in the world a company should be allowed to build cars that are just going to hurt people."

EXHIBIT 20

JULY 16, 1959.

To. E. N. Cole, K. E. Staley, E. H. Kelley, H. F. Barr, D. D. Douglass, N. E. Farley, R. G. Ford, E. Gray, K. H. Hanson, E. L. Harrig, L. R. Mason, L. N. Mays, E. J. Premo, L. J. Rausch, M. S. Rosenberger, W. E. Schmidt, H. H. Schroeder, and E. S. Wellock.

From: A. W. Harris, J. E. Mackenzie, J. C. Purcell, T. O. Townsend.

Subject: Comparison of Corvairs and Chevrolets on simulated cross-country trips.

Through the cooperation of the Willow Run Plant, the Service Department was able to obtain its Corvairs for the Flat Rate and Wreck Programs two days ahead of schedule. This enabled us to make a 1000 mile, two-day run at the Proving Ground simulating a cross-country vacation trip. The two Corvairs were compared against two Impala hardtops by the above personnel.

Although we are more or less familiar with the Corvair design and performance on short test under specific conditions, none of us had an overall feel of the Corvair on long distance, vacation-type driving. We felt that a simulated test would be desirable not only to learn more about the product, but also to know what to look for when the Corvair arrives in the field, to better train our personnel, and to compare our opinions with Engineering Reports from the customers' point of view.

Consequently, on July 9 and 10, the four of us each drove a Corvair one day and a Chevrolet one day for a distance of 500 miles over an average daily running time of 9 hours, 12 minutes, and elapsed time of 11 hours, and 43 minutes. We did not change cars during a single day's run to simulate actual customer conditions. Half of the distance was driven on the ride and handling loop which consists of a series of different type asphalt and concrete pavement conditions with severe unbanked, curves and railroad tracks. Road surfaces ranged from

broken-up, poorly repaired concrete to satin-smooth asphalt with a considerable amount of corduroy, washboard, dips, pot holes, etc. The other half of the distance was driven on the truck loop which has a smooth asphalt surface but is quite hilly. Approximately five miles each day was driven on the inside shoulder of the truck loop which is extremely rough gravel permitting top speed of 25 m.p.h. to stimulate a horrible example of a detour.

The two Corvairs were both equipped with automatic transmissions. The Chevrolets they were compared against were both brand new Impala, 4-door hardtops equipped with power steering and power brakes. One had a 283, 2-barrel engine and Powerglide transmission while the other had a 348 engine with Turboglide transmission. (The objective here was to compare the top of the line luxury models with the bottom of the line economy cars.) Each of the four cars was first given a safety check only, to approximate a "hit-and-miss" type of field new car conditioning.

SUMMARY

In summary we are very favorably impressed about the capabilities of the Corvair. It is a roadable "automobile" with many features more desirable than the Impala under the conditions driven. While we are not in a position to judge its salability, it is interesting to note that when we compared our opinions, most of us were thinking of buying one for wives or teen-agers.

We did find some "bugs" during the test and know of many others. It is sincerely hoped that Management will attempt to eliminate these conditions on Corvairs stored at Milford so that we don't get into a series of "Turboglide type" campaigns in the field with resulting loss of confidence by wholesale and retail personnel.

The following are some general comments categorized into Fatigue and Comfort, Safety, etc. Attached are a narrative of road failures during the test, results of an inspection made on all four cars prior to the test, and a tabulation of speed, oil, and gasoline economy.

FATIGUE AND COMFORT

The group rate the Corvair slightly better than the Chevrolet under the conditions we drove. Individual opinions vary from a stand-off to superior. The major Corvair advantage here is in the front seat. We believe the Impala seating position is much more unnatural (low to floor). Also, the Impala seat is rated as slightly to considerably hotter than the Corvair seat due to type of trim material. Shoulder support on the Corvair front seat back rest is better. The attachment of the seat to the body seems to be much more positive with no noticeable fore and aft chucking.

The Impala requires much more effort to control on rough curves at fast speeds even though equipped with power steering and power brakes. The Corvair *really* is a "cat on a carpet."

Conversely, all of us feel the Corvair accelerator pedal effort is excessive and contributed to fatigue. We all noticed the cramped left foot position due to the wheel housing. We believe the toe-pan angle could be improved in this area for more comfort even with wheel housing limitations.

SAFETY

We are very much concerned about Corvair throttle linkage sticking in the wide-open position. This occurred twice on one car at 77 and 789 miles and once on the other car at 207 miles. Proving Ground personnel inspected both cars (one while stuck) and we believe they agree the sticking is somewhere in the tunnel and *not* in the usual places in the engine compartment. Tunnel covers on both cars were removed and no cause of sticking could be pinpointed.

Our concern is made acute because no one knows why the throttles stuck and the condition cannot be duplicated. Thus, there is at this point no fix and we know of no way to check for a potential failure. If the condition occurs in the field, it will inevitably lead to accidents and lawsuits. Engineering Center and Plant personnel have been advised.

When trying to check the stuck throttle linkage on one car, the accelerator pedal splines were stripped. It appears this pedal attachment is complex, expensive, and ineffective.

For conservative drivers, the Corvair power plant and gear ratios are quite adequate. The engine is, of course, inferior to the 283 two-barrel engine in passing ability and high speeds, and on grades.

Service brakes were rated adequate to excellent and loss of pedal during the 1000 miles was much less on both Corvairs than on both Chevrolets. The parking brake failed on one Corvair (reported as a loose fulcrum pin). This condition, of course, left the car with no method of holding the car when parked. None of us feel the pump-up type emergency brake is as safe as the present type. The release is "explosive" and rattles.

A left rear tire blew out on one Corvair at 50 m.p.h. on a railroad crossing (not due to fault of car or driver) and no difficulty whatsoever was noted controlling the car to a halt. Tire wear was much less on Corvairs than Impalas. Both right-front Impala tires were bald at the end of the test and must be replaced. (Toe-in on one car was ¼" in and the other had 1/16" toe-out, although wear was equal.)

The cornering ability of the Corvair is rated from very good to outstanding even though we drove alone with no luggage. It seems to impart a feeling of confidence that the driver can take sharp, unbanked curves much faster than in a Chevrolet. The flatter feel of the ride with lack of "float" is not as pleasant as the billowy type of Chevrolet ride except when going over railroad tracks and "roller coaster" type of bumps.

Glare and reflections in the windshield are not as severe on the Corvair but glare off the top of the lids over the instrument cluster and glove box as well as windshield wiper arms was noted. The turn signal housing and upper portion of the steering wheel reflected very visibly on the windshield.

NOISES

Our second major complaint on Corvairs concerns the cacophony of discordant buzzes, rattles, creaks, squeaks, moans, etc. Both the heaters had a singing tea kettle type of noise. Instrument panel rattles were particularly bad in the cluster area, the glove box, and ash tray. Door trim pads were noisy, one turn signal cancelling cam clicked on all turns. Rear spring type of noise was objectionable on one rear suspension and noticed on the other. Both cars had a light moaning or whooming noise at 60–65 m.p.h. Various panels buzzed when the horn was blown. The bodies appeared to have a drumming noise on rough roads at high speeds. One Corvair had a noisy speedometer cable.

None of these noises individually are perhaps serious but when heard as a whole are extremely objectionable. We recommend Engineering assign a squeak-and-rattle engineer to check twenty or thirty Corvairs on the ride-and-handling loop as they are unloaded from the haulaways. This should provide a pattern leading to the solution of most noises we heard.

One Impala (which bore a sticker saying "100% deliverable") was extremely noisy. Metal-to-metal squeaks were found in the radiator lower valance panel to left bumper support and at the left fender skirt to fender behind the wheel opening. The right front door creaked and the gearshift lever rattled excessively.

At high speeds, the Corvair engine noise is practically inaudible. At low speeds and at idle, it was rated from the driver's seat as acceptable to good. However, it is not as good as the 283 engine under these conditions.

GENERAL COMMENTS

We expected more Corvair gasoline economy than we got (18.2 average both cars) even under these hard driving conditions. However, these figures are complicated by the fact that we found early in the test both right-hand carburetor to manifold gaskets mispositioned which restricts the bore and causes an air leak (plant advised). Economy before gaskets were positioned was about 3 m.p.g. less than the rest of the test. On the other hand, the Corvair engine seems to "loosen up" much more in the first 500 miles than the V–8's.

We are afraid the public will be disillusioned if economy is given too much emphasis.

The upward opening of the front door handles and downward opening of rear door handles is confusing. We like the true Chevrolet type of door locking procedure much better than the "Ford" type on the Corvair.

Trunk space leaves much to be desired and emblem studs projected way into the trunk with possible damage to the contents. The spare tire air pressure cannot be checked easily according to present type mounting. The tire should be reversed.

A. W. HARRIS,
Manufacturing Department.
J. C. PURCELL,
Service Department.
J. E. MACKENZIE,
Service Department.
T. O. TOWNSEND,
Manufacturing Department.

Attachments.

NARRATIVE OF ROAD FAILURES

CORVAIR 00769W100017—ODOMETER AND REMARKS

28 Left rear tire blew out and wheel damaged by a loose plank at railroad crossing.

60 Engine oil suction pipe and screen assembly fell out (early design without bracket). The pipe measured 0.621" and the hole 0.623" (hot). Vacuum leak discovered at right-hand carburetor to manifold gasket. Found gasket had been turned end for end introducing a vacuum leak and restricting the passage of fuel vapor.

150 Powerglide began to run away occasionally for a few seconds during throttle upshift.

NOTE: This gradually got worse and after the test it was found that the control cable was approximately 0.100" too short at the checking dimension from the ball to the flange. This has been brought to the attention of the assembly plant. This in turn was found to be due to a poorly routed and twisted cable conduit. When straightened out, it was O.K.

207 Throttle stuck wide open.

540 Coil primary wire fell off coil.

700 Noticed a light moaning noise at 60–65 m.p.h. Sounds like an air induction noise.

995 Engine flooded out going down hill on both gravel detour loops (first type carburetors). On the second loop, it took four minutes to get the engine started.

CORVAIR 00769W100015—ODOMETER AND REMARKS

53 Parking brake became inoperative (reported as fulcrum pin came loose).

77 Throttle stuck wide open.

222 Glove box door pops open continually. Discovered vacuum leak in righthand carburetor to manifold gasket. This is an identical failure to the other Corvair.

400 Sun visor won't stay up and there is no means of tightening. What do I do now?

573 Parking brake release handle screws are loose. Had parking brake and glove box repaired.

632 A whirring hum that comes and goes at constant wide open throttle about 70

m.ph was noticed similar to a belt or fan hum.

671 Gasoline gauge drops from one-eighth full to below empty indicating an intermittent open circuit. Later it was O.K. Slight brake pinch out noted.

719. A noise similar to coil spring noise noted in rear suspension.

789 Throttle stuck wide open. Engine oil leak—LF corner When replacing accelerator pedal (splines stripped when checking stuck throttle), it was noted the Powerglide control cable was improperly routed at toe-pan, a clip was missing, and the Powerglide cable cover was cut by emergency brake cable

CHEVROLET F59F243611—ODOMETER AND REMARKS

167 Hood shake at left rear corner noted on bumpy roads.

369 Transmission groaned loudly in reverse at medium throttle.

450 Reflections and glare are objectionable.

478 Gearshift lever rattles. Knob has ½" free play and will drop of its own weight.

50 The aft end of the hood flutters noticeably above 60 m.p.h.

200 Rocker arm ball nut chirp noted.

300 Front wheel unbalance noted at approximately 80 m.p.h.

400 Left side of cowl started to creak. Later disappeared before 500 miles.

869 Made odometer check—found 2.28% fast.

PRELIMINARY INSPECTIONS—NO WATER TESTS WERE MADE

CORVAIR NO. 00769W100015

NOTE: Additional items were found, but they had been noted by Willow Run for repair. Repairs were not made at Service Department request to expedite delivery.

1. Rear window frames misaligned, low and forward. (Possibly center pillar is too far aft.)*

NOTE: An asterisk indicates the condition was noted on both cars. Items are not repeated on Corvair No. 17.

2. Trunk lid misaligned to right.

3. Roof side rail mouldings short at front lower end. (The junction of the door parts, fender, and cowl at lower corner of windshield has an objectionable appearance.)*

4. Very rough metal above and below headlights.

5. Left front corner of headlining soiled.

6. Rub-thru on forward edge of cowl louvre panel.

7. Flanges on trunk floor do not fit properly to wheel house panels.*

8. Thinner boils on both ends of instrument panel (both areas approximately 1" x 6").

9. Pinch welds under rocker panels are unsightly.*

10. No provision made to seal a large hole in engine compartment at license light, yet hood latch hole (approximately same size) is sealed.*

11. Ash tray plastic retainer loose in instrument panel.

12. Glove box bezel bellied between screws. Why have a seal on the instrument cluster bezel and not on glove box bezel? Owners will think one is missing.

13. Parking brake required 2½ strokes to lock brakes.

14. Nine points of air leakage were observed in engine compartment sealing. The smallest was ⅛" x ¼". Some are design deficiencies.*

15. (Critical) Engine air cleaner to carburetor hose clamps at all four carburetor ends were positioned partly off hose. When one hose on No. 0015 was checked for losseness, the air cleaner to hose bracket fell off. Only one of four tabs was welded and it was defective.

16. Neutral safety switch misadjusted. Engine starts between neutral and drive detents.

17. Oil leak at filler pipe connection to transmission.*

18. Both parking lights, dome light, and instrument panel lights were inoperative.

19. Heater controls were stiff.*

20. Gasoline leak at tee to heater hose.

21. Windshield washer jar cap hinge design is very flimsy.

CORVAIR NO. 007669W100017

1. Solder pits at tulip panel behind rear window.

2. Left rear door weatherstrip torn at upper front corner.

3. Both rear door trim pads were bellied out.

4. Dirt in paint at top of lock pillar interior trim panel.

5. Paint has dripped from above on deck lid and lift front fender.

6. Vacuum advance hose partially kinked at coil.

7. Transmission vacuum hose rubs on right rear lower control arm.

8. TV lever rubs edge of transmission oil pan lightly.

9. (Critical) Steering wheel to mainshaft nut had never been tightened, just started on shaft.

10. (Critical) All tie rods clamps were loose, both tie rods could be rotated easily by hand.

11. Windshield wiper blades parked too high.

12. Windshield wiper arm under dash rubs wiring.

13. Battery cable negative terminal not tight, easily removed by hand.

14. Heater air duct clamp at forward blower was missing. Why is a clamp needed here?

CHEVROLET F59F243611

1. File marks on right rear door below moulding.

2. Front seat back trim out of place on left end.

3. Dash pad material partially covers left defroster duct opening .

4. Right front door creaks.

5. Engine oil pant front gasket has a slight leak.

6. Air cleaner is loose.

7. Fuel hose is twisted and slightly kinked at fuel pump.

8. Fan belt is too loose.

9. Powerglide upper cooler pipe interferes with breather pipe bracket.

10. Gas tank vent pipe is misaligned.

11. Radiator lower valance panel interferes with bumper support bar and squeaks.

12. Spare tire and jack loose rattling.

13. Left front fender has a metal-to-metal contact with fender skirt and squeaks.

14. Speedometer seal sticks out 2½" on left end.

15. Left windshield washer stream aimed at bottom of windshield lower garnish moulding.

CHEVROLET F59F243664

1. Left rear door cocked in opening. There is an interference at the bottom rear corner.

2. Right rear door also cocked in opening being tight at the top front corner.

3. Right front door has rub-thru on lower rear edge.

4. Left rear door trim pad loose at lower front corner.

5. Right front door remote control lock rod grommet is loose.

6. Right rear door reveal moulding not in clips at rear.

7. Left rear tower window is extremely noisy when window is raised.

8. Glove box is misaligned.

9. Right rear quarter lower trim pad is missing.

10. Ash tray is misaligned.

11. Rough metal finish on right rear quarter at corner next to tail light.

12. Fan belt is loose.

13. Accelerator pedal is misaligned to operating rod.

14. Choke pipe is loose in manifold.

15. Gas tank vent pipe is misaligned.

16. Gas line hose clamp at left frame side rail interferes with toepan.

17. Horn ring is dead at 7:00.

18. Horn rattles against grille header panel.

SPEED AND ECONOMY RECORD

	Average miles per hour driving	Average miles per hour elapsed	Gasoline (miles per gallon)	Oil (miles per quart)
Corvair No. 00769W100017:				
Mackenzie	54.8	37.3	19.3	456
Townsend	54.7	43.9	18.2	375
Corvair No. 00769W100015:				
Harris	52.4	40.6	17.9	511
Purcell	54.0	40.0	17.5	500
Chevrolet "348":				
Townsend	61.2	49.7	11.7	500
Mackenzie	56.4	46.3	11.1	500
Chevrolet "283":				
Purcell	56.3	43.4	12.8	349
Harris	52.8	41.4	13.7	506

*Delayed by repairs and investigations.

JULY 20, 1959.

To: H. F. Barr, E. J. Premo, M. S. Rosenberger, H. H. Schroeder, M. M. Roensch, K. H. Jepson, N. H. McCuen, N. E. Farley, P. J. King, A. E. Kolbe, C. M. Rubly, J. W. Hakspacher, D. B. Elfes, R. D. Aldrich, E. E. Madion, J. W. Fodrea, W. W. Route.

Subject: Comments on Test Trip to Berea, Kentucky

The following comments are a result of our test trip to Berea, Kentucky involving the Corvair test cars on both the automatic and the 3-Speed transmission.

ENGINE

1. On both cars the engine oil filter tube was loose as we have previously experienced on production engines. A change must be made to correct this condition on our present design.

2. The change which was made in the exhaust ramp of the cam improve the valve noise level on Car 0500.

3. There was considerable oil fumes and seepage noticed at the oil dip stick. We should very seriously look at sealing off this with a positive fitting seal.

4. There was indications of detonation on the 3-Speed in high gear when operating at the low engine speeds. I do not consider this a very important item and plan no change in the spark advance curve to remedy this condition since in normal operation it would be shifted into second gear.

5. There was excessive air cleaner vibration noticeable in the car at about 65 mph. This is a tuning problem and should be looked into to see if we can remedy this condition.

6. Considerable driving was done on various carburetors to finalize the necessity for separate carburetors on the automatic and the 3-Speed. The conclusion which we came to after these series of changes, would be that we would accept a separate carburetor for these two transmissions and what was driven on the return trip on these two cars would be the lean limit of each carburetor. We will proceed immediately to finalize this calibration and release these carburetors for production, even though on the return trip we only gained about ½ of a mile per gallon on the 3-Speed over the automatic for highway economy.

7. There was a very definite period at the low engine speed which from our past observations, is related to muffler. This vibration is considerably worse with a cold engine. According to the Proving Ground, this condition can be remedied almost completely by the installation of flexible mounts at the rear end of the attachment of the muffler to the

engine. If this is the final fix for removing this vibration, we will move in this direction with our design.

8. From our tests, we indicate that our balance of the generator is critical for boom. We must look at a mount for the generator which is not as critical for vibration as the one that we have released for production.

9. It was felt that the engine mounts are tuned very close to the torque reaction period on the automatic transmission at engine idle. We must change our mount characteristics so that this condition will not exist in this range of engine speed.

10. There was some observation of throttle sticking at idle on the automatic transmission. Even though we had a heavy return spring on the throttle linkage, the carburetors should be checked to see if they return to the idle stops and we must be sure that this condition will not become apparent on cars when the torsional spring is removed from the carburetor cross shaft.

11. The ground strap which is connected to the throttle and does not stay in position. This is a design deficiency if this installation is up-to-date.

12 On test car 0550 there was an engine oil leak at the rear end of the engine in the vicinity of the oil cooler. This should be checked.

SUSPENSION

1. We were very much dissatisfied with the released rear shock absorbers. There was considerable pitching of the vehicle over wavy roads both on and off the main highway. This has been experienced on previous test cars on this type of operation, therefore, we took a set of experimental shock absorbers which have been worked out at the Proving Ground along on this trip. These were installed and driven over a considerable distance in the vicinity of Berea.

It was a general agreement among the various observers that this would be a definite improvement in the overall ride and handling of this car. As a result of this, we will immediately release this experimental shock absorber valving and get it into production as soon as possible. We will work with Production Engineering so as not to build shock absorbers with the present release valving. All engineering cars to be converted.

2. Mr. Cole felt that we should reduce our rebound travel of the rear suspension as much as possible both from the appearance and the general handling of the car. It was felt that the production car with the new shock absorber valving was very satisfactory for handling on these extreme roads. We will not reduce any rebound travel if it impairs our overall ride but we will eliminate all rebound travel which is not necessary for the behavior of the rear suspension.

Proving Ground will install rebound straps on the rear wish bones in conjunction with a scratch graph. This will give us an indication of how far we can go to eliminate rebound travel. Rebound travel has been reduced previously.

3. The observation of wheel fight on this test trip was quite favorable on the car which we have reduced the positive caster by 2°. We will immediately release a design for production which changes our upper front control arm to give us this new wheel alignment. We will go one step farther to minimize wheel fight, and that is to observe on several cars the new idler lever which we also had on one of the test cars. It was also felt that this new construction on the idler lever which is the same as our 1959 idler arm, is a gain. This construction should be evaluated on several cars at the Proving Ground to make sure that it is a help.

4. Spring interference was apparent and corrected on the rear suspension. This condition was remedied by bending the flange on the lower plate of the cross member. This is a production item and should be taken care of immediately with Willow Run and we should also see to it that we obtain as much clearance as possible on our production design.

5. Directional signal prongs shorts across the horn contact when the steering shaft is deflected on Car 0550. This condition observed shows a very close clearance between the canceling prongs and the horn contact. This is a design condition and should be remedied as soon as possible.

6. On both cars, very serious brake roughness was observed on practically all types of brake applications. This is a condition which has appeared on previous cars but not to the alarming degree which we observed on this test trip. A very aggressive program has been initiated to finalize and to remedy this condition on production vehicles. Mr. Rubly will work directly with the Development Group on this program to observe and also to relate any design changes which are necessary to eliminate this condition. We will investigate both the drum and the brake shoes and also the fit of the yoke in the axle to see if that is also related to this observed roughness.

7. It was observed that the 3-Speed throttle control introduced vibrations into the throttle pedal. This will be investigated to see if we have the right isolation characteristics.

GENERAL OBSERVATIONS

1. During our rides there were several criticisms of the seat cushion and back. The general conclusion which was arrived at was that we should have cushions with somewhat stiffer seats so that we did not get into an uncomfortable condition after riding over a considerable time. It was felt that the seat cushions as a whole, were too soft with insufficient dampening, and that the slope of the seat cushion should be raised at the front edge as it was installed in one of the test cars. This type of a cushion is being demonstrated in these same two cars at the Proving Ground.

2. The single speed windshield wiper was tested during the rainy weather and under very wet conditions we had 58 cycles/minute of the blade and when the windshield was slightly wet the oscillations dropped to 50 cycles/minute.

3. There was water in the luggage compartment after heavy rain on both cars.

4. The front rubber carpet on the floor was torn in several places. This could be poor material.

5. The heater controls were too tight for pleasant operation and also the knobs were not of the latest contour.

6. The defroster action kept the windshield clear during the rain.

7. A very objectionable reflection was observed from the dash in the windshield right at eye level. This will be a very serious customer complaint.

K. J. HANSEN,
Engineering Department.

EXHIBIT 21

INTER-ORGANIZATION LETTERS ONLY

CHEVROLET,
May 24, 1961.

To: Mr. Duntov.
From: Mr. G. Caramanna.
Subject: Trans Canadian Rally.

Upon arriving in Montreal, we found the Chevrolet dealership full. We then called up the G.M. training center, and were given room to work.

Mr. Trent Jarman complained about some front end oversteer; upon checking four cars, on front end machine, it was found that they were from ½" to 1" toed in.

The cars were set with full racing type suspension. The rear springs were cut off one full coil, to lower car and to get —3° camber. The front springs were left with their full length, the thought being that the added weight, of spare parts, gas, oil and other miscellaneous things would lower cars. All this was done without regard to spring rate. There were no rebound straps added to suspension to take rebound shock and relieve shocks.

The roads that the Rally traveled on, for the most part, were not the type, that were conducive to the above type of car suspension. There were many donkey backs and many rutted and very rough roads.

The time element involved in this Rally, was not of the nature to warrant very much speed, point in many instances all cars in rally, were from one half hour to two hours early at check points.

There were three production type Corvairs also in Rally. I completely checked over these cars, to compare their performance to ours.

Upon completion of Rally, it was found that the production cars had little or no damage to under side of cars, while the four we had were very bad. The controls were bent, and in one case the throttle linkage was stuck on one half throttle.

The tunnel covers were smashed beyond repair, and shift tubes had to be hammered straight for them to fully engage gear. Near completion of rally, the tires in our cars were throwing their threads. The cars also were losing standing height.

One car had frozen its transmission, and broke case. It was noticed that there were no transmission dope on the ground, it is felt, that the case was cracked when traveling a very rough road; the road was so, that drivers left the road and went on the fields rather than travel them.

One car had a bent push rod, it was noticed that push rod was installed up side down, with lube hole on the lifter side.

The production Corvairs lost a total of 4 fan belts and ours lost two. One production Corvair lost its rear axle bearing. One had a frozen front wheel bearing.

It is felt that any one of our Corvair could at any time, have been knocked out of Rally, due to the lowered height of cars. Car height is felt to be of more importance, than handling.

GEORGE CARAMANNA,
Research and Development.

EXHIBIT 22

DEARBORN, MICH., *June 3, 1971.*

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

DEAR SENATOR MAGNUSON: I am writing you this letter as an individual experienced in the design and development of motor cars and without the knowledge of my Management in the Ford Motor Company. In my attempt to affirm the source and truth of a General Motors statement that the 1960–63 Corvair was "equal to or better than the limit of control of competitive cars of the same era", I called Mr. Alexander Auerbach of the Los Angeles Times—Washington Post Service and he suggested that I provide additional copies of this letter to DOT. Because of Mr. Auerbach's interest and assistance I have also provided him a copy of this letter at his request.

The Detroit News stated on Friday, May 28, 1971, copy enclosed:

"General Motors has never denied that the 1960–63 model Corvair may be rolled over after it substantially exceeds its limit of control, which is equal to or better than the limit of control of competitive cars of the same era."

I refute the competitive implications of this statement; *"which is equal to or better than the limit of control of competitive cars of the same era"* concerning our competitor the 1960 Falcon engineered and manufactured by the Ford Motor Company.

I had the engineering responsibility on our competitive car, the 1960 Falcon. Upon joining the Ford Division as Assistant Chief

Engineer in August 1956 Mr. R. S. McNamara, Vice-President and General Manager of Ford Division, and Mr. Hans Matthias then Chief Engineer of the Ford Division assigned to be the responsibility for developing designs for an economy car. Prior to this assignment I was Chief Engineer of Lincoln and I am now Director of our Company Engineering Technical Service Office.

We began our pre-program studies on economy cars with an assessment of various vehicle configurations including reviews of a rear engine car in the 1700–2300 pound weight range. The results of these pre-program studies led to the front engine Falcon which was introduced in late 1959 as a 1960 model.

As you know, Ford Motor Company evaluates and tests competitive cars as a routine aspect of our business. Therefore, prior to introduction of the Falcon we exchanged five production Falcons for five production Corvairs with Chevrolet management. Of these five and some additional Corvairs bought through dealerships, three Corvairs rolled over during our early customer type evaluations.

None were rolled due to abusive driving, none were considered driver error and all came as surprise to the drivers and passengers. These roll-overs were a most unusual occurrence because of their frequency.

The roll-overs were:

1. Late summer 1959 on Dearborn Proving Grounds lowspeed track.

2. Late summer 1959 on Dearborn Proving Grounds while an engineer was taking a ride.

3. Late fall on a Kentucky road during a competitive product evaluation trip. Other competitive cars were on this trip.

The Corvair rear suspension was a swing axle type with a high rear roll center from 1960 until the 1965 model. Relating to this type of suspension, Mr. Maurice Olley who retired from General Motors in 1955 as Special Assistant to the Chevrolet Chief Engineer in charge of suspension development stated in his patent, No. 2,911,052, which was issued on November 3, 1959 and applied for on May 18, 1956, subject: Independent Rear Suspension for Vehicles:

"While this type of suspension has enjoyed a certain measure of success, particularly in the relatively small vehicles popular in Europe, it nevertheless possesses certain inherent disadvantages which have thus far prevented widespread acceptance. In particular, the ordinary swing axle, under severe lateral forces produced by cornering, tends to lift the rear end of the vehicle, so that both wheels assume severe positive camber positions to such an extent that the vehicle not only 'oversteers' but actually tends to roll over. In addition, the effect is nonlinear and increases suddenly in a severe turn, thus presenting potentially dangerous vehicle handling characteristics."

Apparently Mr. Olley retained some affiliation with Chevrolet after retirement because three months prior to introduction of the Corvair he was used by Chevrolet to provide "expert testimony" on the engineering characteristics of the rear engine car to 50 newsmen at the Detroit Athletic Club.

Technology existed to certify on an objective basis the superior handling characteristics and "limit of control" of the Falcon, e.g.:

1. General industry practice is to design the handling characteristics of our cars to the driving habits of our customers. Ford practice has always been to insure that the handling characteristics of the vehicle result in predictable response during an emergency maneuver. The 1960 Falcon exhibited these favorable characteristics while the Corvair did not.

2. Automotive proving grounds have as part of their facility a vehicle handling road. In this road system is a switch back wherein the vehicle makes either a left or right turn and immediately thereafter is expected to make the opposite turn. On repeated tests over our handling roads the 1960 Falcon was clearly superior in "limit of control" to the 1960 Corvair.

3. Rear engine cars, regardless of the rear suspension, exhibit borderline handling characteristics especially if the total weight of the vehicle exceeds 1,800 pounds. These borderline characteristics are particularly true on wet pavements and/or icy roads where, because the greater weight of the vehicle is behind the center of gravity, the rear end of the vehicle wants to rotate and skid in the direction of travel when cornering or braking; rear end first.

4. In the mid-1950's Ford built a front engine experimental swing axle car with a rear suspension similar to the 1960 Corvair rear suspension and this car rolled over on our proving grounds during a typical handling test.

5. Mercedes Benz had used swing axle rear suspension for a number of years with front engine configuration. In the 1950's they introduced a low pivot swing axle design which was developed to minimize the oversteer characteristics of the swing axle with its higher roll center. Among professionals it was, and is, accepted fact that conventional swing axle cars with their associated high roll center cause oversteer and tend to give a false sense of safety up to the "point of surprise"—either skid or roll over.

6. Inherent oversteer of swing axle cars can be ameliorated by use of higher rear tire pressure compared to front tire pressure. Corvair specified a 73% higher rear pressure than front with only an 11% difference in rear end curb weight over front. Falcon specified no difference in tire pressure with a minus 4% difference in rear end curb weight over front Quoting from Mr. Maurice Olley's 1953 SAE paper, No. 53–18:

"Finally, it appears impossible to make a car with heavily loaded rear tires handle safely in a wind even at moderate speeds, without fitting twin tires at the rear, which is impossible with a swing axle. The European cars of this type, even though they use up to 10 lbs. more inflation in the rear tires and up to 10 degrees caster angle, and even fit centering springs on the steering linkage, still wander badly in a high wind."

It was an established technical fact among suspension engineers in the early 1950's that the 1960 Corvair type high roll center swing axle rear suspension controverted historical industry practice of designing cars to the driving habits of our customers whereas the 1960 Falcon met these requirements and had predictable response during an emergency maneuver. As early as 1946–47, the General Motors experimental "Light Chevrolet" engineered by the late Mr. E. S. MacPherson, then of G.M. and later Vice President of Engineering at Ford, refused the use of the swing axle type in designing the rear independent suspension for the experimental "Light Chevrolet" which was built and tested at General Motors. He personally discussed and reviewed with me in 1951 the design and theory underlying his refutation of swing axle on that car.

In summary, the 1960 Falcon was superior in "limit of control" compared to the Corvair and General Motors implication that the Falcon, a competitor of the same era, was no better than the Corvair in "limit of control" is a flagrant violation of facts.

Sincerely

HARLEY F. COPP.

EXHIBIT 23

AMENDED NOVEMBER 30, 1972, CRITIQUE OF GENERAL MOTORS DISCUSSION ON DESIGN CHARACTERISTICS OF THE CORVAIR

PAGES 1559–63 IN PART IV—FEDERAL ROLE IN TRAFFIC SAFETY

(By H. F. Copp)

NOTE

Amendment: All references to speed and lateral G forces as indicated in Falcon vs. Corvair Handling Film submitted by Ford Motor Company have been removed from text.

BACKGROUND

During my discussions with Senator Ribicoff's staff on June 14, 1971 Mr. John Koskinen and Mr. Robert Wager asked me to prepare a critique of General Motors Discussion on Design Characteristics of the Corvair authored by Mr. Frank Winchell and contained in Part IV—Federal Role in Traffic Safety dated March 22, 1966, beginning 6th paragraph on Page 1559, concluding 4th paragraph on Page 1663. These statements are submitted in accordance with the "Canons of Ethics for Engineers" in the Ford Motor Company.

My first knowledge of the General Motors statement contained in Part IV was on June 13, 1971. I was unaware of the degree of controversy because I was on assignment as Director of Engineering for Ford of Britain/Ford of Europe from June 1963 to May 1968. Therefore, since learning of these statements on June 13, I have studied in detail technology available to the automotive engineer prior to and during the design of the Corvair. I have also calculated relative values of Corvair vs. Volkswagen using formulae available at that time.

I stated in my letter to Senator Magnuson dated June 3, 1971, that we considered and discarded the rear engine configuration prior to selecting the front engine arrangement as the basic design for our Falcon which was the primary Corvair competitor. I also said in my letter to Senator Magnuson, "Rear engine cars, regardless of the rear suspension, exhibit borderline handling characteristics especially if the total weight of the vehicle exceeds 1800 lbs."

DISCUSSION

G.M. begins and ends their statement with truthful representations of the manner in which we, as an industry, have developed the handling and control characteristics of our motor cars for at least 25 years. However, between their opening and closing statements I believe they sophistically misled the layman on four major issues:

1. Corvair is NO Different than Other Rear Engine Cars—Page 1560

2. Only Expert Drivers Can Handle More than .3 Lateral G—Page 1561

3. Corvair Tire Pressure Differential is of Minor Importance—Page 1561

4. Oversteer Might be Better than Understeer—Page 1562

SUMMARY OF REFUTATIONS

I. Corvair is No Different Than Other Rear Engine Cars—Page 1560

1. The Corvair was 40% heavier, larger and a greater load carrying car than the comparators. Because of the added weight and wheelbase, the Corvair's latent skidability was *twice* that of the Volkswagen. Again, because of weight and wheelbase it generated *1.8 times* the spin force once it began to skid.

2. The Corvair controverted established rear engine suspension effective roll couple distribution thereby grossly deteriorating its potential handling performance. The Volkswagen was basically an understeering vehicle whereas the Corvair was an under-oversteering vehicle. As an industry we design for understeer, avoid oversteer and consider under/oversteer a dangerous condition.

3. The films showing Falcon vs. Corvair handling submitted by Ford Motor Company clearly demonstrate the results of the above two deficiencies. Also, the Volkswagen and Renault Dauphine were run under similar circumstances in 1959 and were able to corner *higher speeds* with *less instability* than the Corvair.

4. Compared to Volkswagen, the Corvair had 38% greater power to weight ratio and acceleration performance. Therefore, for safety purposes controllability performance should have been improved by at least the same amount compared to Volkswagen. And yet,

their product showed quite the opposite results in controllability performance amounting to a gross deficit in the range of 70–90% compared to Volkswagen (38% plus a basic deficit of one-third to one-half lower controllability performance than Volkswagen).

II. Only Expert Drivers Can Handle More than .3 Lateral G—Page 1561

1. G.M. fails to mention that the conditions for which they speak are very under smooth, ideal conditions wherein G forces felt by the driver are very nearly the same G forces on the tires at the road surface. In fact, under real world conditions the G forces felt by the driver are much less than G forces at the tire/road on typical undulating blacktop/concrete public roads. Real world tire to road lateral G forces cause incipient skid or slip which the average driver does not concern. Indeed, we as an industry, attempt to disguise these forces so that the customer may experience the pleasure of a plush ride.

This was especially the case for the Corvair and was proclaimed as a virtue. The high instantaneous lateral G forces causing incipient skid were so well disguised that they stated as a result of their laboratory tests with "rear wheels in tramp motion at wheel hop frequency" (lateral forces as on rough road; 12–15 cycles per second):

"A 1957 Chevrolet (the last model Chevrolet produced with solid axle and leaf spring rear suspension) had 2.9 times more lateral axle motion, 1.4 times more lateral body/frame motion, and *six times more lateral front seat frame motion* compared to a Corvair with equal vertical wheel motions. Other presently produced vehicles with solid axles and leaf spring rear suspensions had similarly large lateral motions excited by this type of suspension." (Emphasis added.)

Therefore, a highly idealized lateral G force suspension system has no relevance if these values cannot be translated into competitive handling on public roads as stated in the last paragraph of G.M.'s discussion:

"A car having a high capability in lateral acceleration may be completely inadequate in the transitional phase of entering or leaving a curve, or in an S maneuver, or in passing, or in turning while braking or accelerating, or in low coefficient pavements."

2. Drivers encounter roads having friction coefficients as low as .10 and many times the coefficients will change from .30 to .10 or even .70 to .10 without warning. Examples are: wet leaves on wet/dry concrete; wet, oil filmed blacktop repair patches on wet/dry concrete; early morning frost patches.

3. A primary automotive engineering objective is to prevent loss of control resulting from inadequate suspension system warning and/or unpredictable suspension system response. Roll-over is only one possible result of loss of control. The use of idealized lateral G values has no relevants to the primary objective of developing real world suspension systems if the basic system is not in accord with G.M.'s opening and closing statements.

4. The films showing Falcon vs. Corvair handling and my anaylsis of these films clearly demonstrate that an expert driver was unable to control the Corvair in our comparative highway handling tests which were run on dry, slightly undulating blacktop. The films and the analysis are visual proof of the fallacy in playing "a numbers game" with lateral G. During the five highway handling sequences shown in the Ford film, the Falcon achieved a 100% rating whereas the Corvair achieved only a 10% rating and yet General Motors emphasizes that the Corvair was capable of higher lateral G than other front engine cars.

III. Corvair tire pressure differential is of minor importance—Page 1561

1. From my analysis of the Ford film comparing Falcon vs. Corvair handling, I quote:

"For non-standard tire pressure of 26–26 psi severe control problems began upon *entering* the second corner of the S curve in Phase II highway handling whereas similar control problems with standard tire pressure began on *leaving* the second corner of the S curve. This amounts to a reduction in 'on course' control of approximately 33% for 26–26 psi tire pressure."

The General Motors statement says:

"However, even reversing the tire pressure differential is unrecognizable at 30–40 mph in a Corvair."

2. G.M. publicly stated in March 1960 when discussing the development of the Corvair suspension system:

"The objective was to arrive at equal tire deflections, front and rear, under riding conditions and *equal slip angles, front and rear, during cornering*. At 5-passenger load the difference in tire deflection is less than .10 inch. (Emphasis added because slip angle induces understeer.)

"There are two things that could have been done to better this condition. One would be to lower front tire pressures to 13 psi or increase rear tire pressure to 28 psi."

Also, "Thus, in line with our original objective an engineering solution to lateral stability has been obtained by proper design of tires, rims and *specified inflation pressures*." (Emphasis added.)

3. G.M. also stated on July 1, 1959 in a pre-introduction press review:

"With the proper tire inflation and with the assistance of independent suspension in front and a swing axle at the rear, we have produced *the desired margin of understeer*." (Emphasis added.)

4. Technically, it has been calculated within ±10% at 35 mph that equalizing front and rear tire pressure causes a 60% deterioration in steady state response for an understeering rear engine car with drive only and an 80% deterioration at full passenger load. For the Volkswagen which was a much better handling vehicle than the Corvair, the affect of equalizing front and rear tire pressure caused a 60% deterioration in vehicle response at 35 mph with driver only.

IV. Oversteer might be better than understeer—page 1562

1. The General Motors statement suggests that oversteering cars might be safer because they would spin into the corner rather than into the oncoming lane. In fact, the Ford film analysis shows that when oversteer was increased on the Corvair by increasing front tire pressure the first swerve or deviation in loss of control threw the Corvair into the oncoming lane during all three test sequences and these tests were run with an expert driver.

2. The analysis of the Ford films showing Falcon vs. Corvair handling proves that in the important highway handling sequences the understeering Falcon achieved a 100% rating and the under/oversteering Corvair achieved a 10% rating.

3. The film analysis also shows that during all five sequences of the highway handling test runs the Corvair deviated into the oncoming lane during each test sequence and that complete loss of control was experienced in three of the five sequences.

4. The Ford film analysis indicates that increasing oversteer by equalizing the tire pressure on the Corvair caused an approximate 33% deterioration in controllability.

5. Historical industry practice is to design our motor cars for understeer because it is more uni-directional and provides the basis for warning and quicker response by the driver. Technical literature published by General Motors for years proves that they design for understeer to achieve favorable vehicle stability criteria. I quote from the GM press review of July 1959 on the Corvairs:

"There are two requirements for stable handling and it is difficult to say which is the more important. One is that the rear tires must not be overloaded. If they are, the car will wander whatever its other conditions might be. The other is that *the sense of direction of the rear wheels should be slightly better than the front. This gives the desired margin of understeer.*" (Emphasis added.)

6. The major reason for specifying the large tire pressure differential on the Corvair was to induce understeer as stated in their owners manual.

CONCLUSION

I conclude that apart from opening and closing statements by General Motors in their Discussion on Design Characteristics of the Corvair, their main arguments consist of incongruous artifices which mislead the layman by clever omission of published knowledge and facts known to them prior to and following introduction of the Corvair in October 1959. Application of these artifices to the design of our motor cars would result in disastrous controllability and by comparison in 1959–63 Corvair control problems would pale to insignificance. Furthermore, I believe that the four central issues contained within the G.M. statement as described above would not have been accepted, if submitted, for presentation or publication by the Society of Automotive Engineers or any other reputable automotive engineering fraternity.

Finally, I must say that in my 25 years of designing and developing motor cars I have never had submitted to me data or a technical report arguing in favor of even one of the four major issues which I have proscribed in the G.M. statement on Design Characteristics of the Corvair:

1. Larger, heavier and more powerful rear engine cars are no different than the smaller Volkswagens, Renault Dauphines.

2. Only expert drivers can handle more than .3 lateral G.

3. Tire pressure differential has little or no affect on rear engine car handling between 30 to 40 mph.

4. Oversteer might be better/safer than understeer.

EXHIBIT 24

AMENDED NOVEMBER 30, 1972, SUMMARY, ANALYSIS OF FORD FILM SHOWING FALCON VERSUS CORVAIR HANDLING

(By H. F. Copp)

NOTE

Amendment: All references to speed and lateral G forces as indicated in Falcon vs. Corvair Handling Film submitted by Ford Motor Company have been removed from text.

BACKGROUND

While preparing my letter to Senator Magnuson dated June 3, 1971, I discovered the only extant copy of a film made on the Ford Motor Company Dearborn Proving Grounds in August-September 1959 indicating the serious handling deficiencies of the 1960 Corvair. This film was made at the request of Mr. J. O. Wright then Vice President and General Manager of the Ford Division and was subsequently shown to the Ford Technical Evaluation Committee on September 23, 1959, and October 1, 1959 to the Executive Committee which was, at that time, the Corporate Operating Committee and included Mr. Henry Ford II, Mr. E. R. Breech, Group Vice Presidents, etc.

During my discussions with Senator Ribicoff's staff and specifically Mr. John Koskinen and Mr. Robert Wager, I was asked to analyze this film and quantify the relative handling characteristics of the Corvair as run in the tandem sequences with the Falcon. The attached analysis and this summary are submitted in accordance with the "Canons of Ethics for Engineers" in the Ford Motor Company.

DISCUSSION

Following my testimony to Mr. Koskinen and Mr. Wager in Washington on June 14, additional documents were discovered and submitted to the Ford Corporate Office of General Counsel from which important state-

ments relating to the film and Corvair handling evaluations as presented to the Executive Committee on October 1, 1959 are quoted below:

1. Before showing the film:

"It is necessary to emphasize at this point that these are completely objective tests and in no sense have they been contrived to show the Corvair in an unfavorable light. The drivers of both cars are equally skilled drivers from our test track area, and the Corvair driver was instructed to make every effort to keep his car under control."

2. After showing the film:

"The lack of extreme cornering ability is not a significant product disadvantage in itself. Of much greater significance in the preceding film has been the difficulty experienced by the Corvair driver in re-establishing control over his vehicle once it had been lost. This is indicative of a lack of stability which is more likely to be encountered by the average driver under average conditions and this condition is deemed to be a significant product disadvantage."

3. In the discussion on Ride and Handling:

"The Corvair with its rear heavy weight distribution shows marked instability under conditions of severe cornering and in passing. While the driver will not encounter difficulty under most normal driving conditions, there are frequently encountered emergency conditions such as slippery pavement or emergency conditions such as slippery pavement or emergency maneuvering in which the driver cannot maintain control of the vehicle. The Corvair falls considerably short of our handling standards."

Although during my investigations and subsequent searching we were unable to discover any additional film which showed the Volkswagen and Renault Dauphine running against the Falcon, it is important to note that during the Executive Committee presentation on October 1, 1959 we stated:

"For reference purposes, we have also shown the *Volkswagen* and the *Renault Dauphine* under similar circumstances at comparable speeds. These pictures show that *both of these vehicles have ability to corner at higher speeds with less instability than the Corvair.*" (Emphasis added.)

METHOD OF ANALYSIS

The film shows 10 sequences run at specified tire pressures: 5 sequences on a 150 ft. radius circle referred to as "Phase I—Comparative Breakaway"; 5 sequences (of much greater significance on an "S" curve of approximately 200 ft. radii with a 100 ft. inter-connection between the two curves referred to as "Phase II—Comparative Highway Handling". Nine additional sequences were run with the Corvair at equal tire pressure, front and rear, of 26 psi.

A numerical percentage summary has been calculated by assigning declining percentage ratings to control performance for the categories of: stable, minor, major, and lost. Each film sequence was analyzed and graded into these four categories and then translated into percentage ratings to develop an average for each of the two phases.

RESULTS AT SPECIFIED TIRE PRESSURES

1. The Corvair achieved a 35% control rating during the "Phase I—Comparative Breakaway" tests as compared to the Falcon which achieved 100%.

2. The Corvair achieved only a 10% control rating during the "Phase II—Comparative Highway Handling" tests as compared to the Falcon which achieved 100%.

3. The average of the Phase I and Phase II testing was 18% compared to the Falcon at 100%.

4. An absolute minimum acceptance standard of 60% should have been achieved for the average of the two types of tests but the Corvair achieved less than one-third of this minimum; 18% vs. 60%. Significantly, the standards of General Motors appear to be even higher as stated by Mr. Frank Winchell on Page 1560 of Part IV, Federal Role in Traffic Safety dated March 22, 1966. I quote:

"Much of our testing, therefore, is comparatively; acceptability is based on comparison with successful vehicles in use by the motorist on public road systems."

NOTE: I have also been asked to provide a critique of G.M.'s statement referenced in Point 4 above under Results. There is a direct relationship between my film analysis and my critique because, as noted above, G.M. fully understands that handling evaluation is comparative and I; therefore, reference my film analysis in the critique of G.M.'s statements.

AMENDED NOVEMBER 30, 1972, FALCON VERSUS CORVAIR HANDLING, FILM ANALYSIS QUANTIFICATION OF HANDLING COMPARISONS

NOTE

Amendment: All references to speed and lateral G forces as indicated in Falcon vs. Corvair Handling Film submitted by Ford Motor Company have been removed from text.

The film showing the Falcon vs. Corvair handling comparison submitted by the Ford Motor Company to the United States Senate has been analyzed at the request of Messrs. Koskinen and Wager. This film was made by the Ford Motor Company on the Dearborn Proving Grounds during August-September, 1959, prior to introduction of these two cars and at the request of Mr. J. O. Wright then Vice President and General Manager of the Ford Division, for the purpose of illustrating the serious Corvair handling problems which we had discovered during our early evaluations.

The film was shown to the Corporate Technical Evaluation Committee on September 23, 1959 and on October 1, 1959 to the Executive Committee of the Ford Motor Company. To my knowledge, this is the first and only time a comparative handling movie has been made to demonstrate to Corporate management a competitor's handling characteristics.

We said to the Ford Executive Committee when presenting this film:

"The Corvair has been shown attempting to maintain the same speed as the Falcon in the various maneuvers. It is necessary to emphasize at this point that these are completely objective tests and in no sense have they been contrived to show the Corvair in an unfavorable light. The drivers of both cars are equally skilled drivers from our test track area, and the Corvair driver was instructed to make every effort to keep his car under control.

For reference purposes, we have also shown the Volkswagen and the Renault Dauphine under similar circumstances at comparable speeds. These pictures show that both of these vehicles have ability to corner at higher speeds with less instability than the Corvair.

(Film)

Discussion of Handling Film

These pictures have shown only that the Corvair exhibited instability under extreme cornering conditions, under which the Falcon remained stable. The lack of extreme cornering ability is not a significant product disadvantage in itself. Of much greater significance in the preceding film has been the difficulty experienced by the Corvair driver in re-establishing control over his vehicle once it had been lost. This is indicative of a lack of stability which is more likely to be encountered by the average driver under average conditions and this condition is deemed to be a significant product disadvantage."

We also said in the same presentation:

"The handling and stability of the Falcon are excellent. The Corvair with its rear heavy weight distribution shows marked instability under conditions of severe cornering and in passing. While the driver will not encounter difficulty under most normal driving conditions, there are frequently encountered emergency conditions such as slippery pavement or emergency maneuvering in which the driver cannot maintain control of the vehicle. The Corvair falls considerably short of our handling standards."

There are innumerable methods of analyzing comparative handling characteristics shown in the film. In the final analysis, results must provide "go"- "no go" quantification of handling characteristics. In this instance, a typical method has been used to assess the control adequacy of the Corvair relative to the Falcon as shown in the Attachment; viz.

First, the severity of control deviation was defined in terms of four categories: stable, minor, major, lost (Attachment p. 1).

Second, control adequacy percentage within a range of ±10% was assigned to each of the above four severity ratings (Attachment p. 1).

Third, all test runs in the film were analyzed. Severity ratings were assigned and the sequence of control deviation was noted in terms of on-coming lane and/or adjacent shoulder (Attachment pp. 2–3).

Fourth, the percent control adequacy within a range of ±10% was assigned for each test run based on the above (Attachment pp. 2–3).

Fifth, an average performance of 60% control adequacy was established as the minimum acceptance standard.

In summary, a method has been evolved which provides quantification of control adequacy in terms of percentage relative to the Falcon but only for the conditions of dry, blacktop, slightly undulating surfaces. It should be emphasized that fully definitive comparisons would require similar tests under many more adverse conditions, such as wet blacktop, curves with changing road camber, surprise bumps on cornering which tend to throw the vehicle, ice, snow, etc.

The film analysis is summarized as follows and detailed on the Attachment, Pages 2 and 3.

CONTROL ADEQUACY COMPARISON

Film test description	Percent control adequacy ±10 percent	
	Corvair	Falcon
Standard tire pressure:		
Phase I—Comparative breakaway; 5 sequences	35	100
Phase II—Comparative highway handling; 5 sequences	10	100
Average percent, phase I and II	18	100
Percent range ±10 percent	8–28	90–100
Minimum percent acceptance standard	60	60
Nonstandard tire pressure Corvair 26–26 p.s.i.:		
Phase I—Comparative breakaway; 6 sequences	37	100
Phase II—Comparative highway handling; 3 sequences	8	100
Average percent, phase I and II	22	100
Percent range ±10 percent	12–32	90–100
Minimum acceptance standard	60	60

Based on a 60% *minimum* acceptance standard, the Corvair with standard tire pressure achieved 30% of the standard (18%/60%). Applying the maximum favorable variation of +10%, the Corvair achieved 48% of the minimum acceptance standard (28%/60%).

Additional conclusions which result from the Attachment are:

1. For non-standard tire pressure of 26–26 psi, severe control problems began upon *entering* the second corner of the S curve in Phase II highway handling whereas similar control problems with standard tire pressure began on *leaving* the second corner of the S curve. This amounts to a reduction in "on

course" control of approximately 33% for 26–26 psi tire pressure.

2. For non-standard tire pressure of 26–26 psi, in both Phase I and Phase II testing, the Corvair deviated into the oncoming lane *six* times during *nine* test runs and demonstrated complete loss of control *four* times during the *nine* test runs.

3. For standard tire pressure in both Phase I and Phase II testing, the Corvair deviated into the oncoming lane *eleven* times during the *ten comparative* tests when running with the standard tire pressure. Complete loss of control occurred *five* times during the *ten* test runs.

H. F. Copp,
(July 26, 1971, Amended November 30, 1972).

FILM ANALYSIS, FALCON VERSUS CORVAIR HANDLING—DATA SHEET

PHASE I—COMPARATIVE BREAKAWAY (15-FT RADIUS CIRCLE; DRY BLACKTOP SURFACE SLIGHTLY UNDULATING; LANE WIDTH OF 12 FT)

Test run	Corvair: Sequence of control deviations: On-coming lane	Corvair: Sequence of control deviations: Shoulder	Corvair: Severity of control development	Percent control ±10-percent adequacy: Corvair	Percent control ±10-percent adequacy: Falcon
Standard pressure 15–26 p.s.i.:					
1	1		Minor	50	100
2		1	Lost	0	100
3	1	2	do	0	100
4		1	Minor	75	100
5	2, 4	1, 3	do	50	100
Average 5 tests				35	100
Nonstandard pressure 26–26 p.s.i.:					
1	1		Minor	50	100
2		1	do	75	100
3	2	1	Major	25	100
4		1	Lost	0	100
5		1	Minor	75	100
6		1	Lost	0	100
Average 6 tests				37	100

PHASE II—COMPARATIVE HIGHWAY HANDLING

[S curve, 136° arc at 200 ft radius, 100 ft straightaway, 140° arc at 200 ft radius, 182 ft straightaway; dry blacktop surface slightly undulating; lane width of 12 ft]

Standard Pressure 15–26 p.s.i.:					
1	1st, 3d	2d, 4th	Lost	0	100
2	2d	1st	do	0	100
3	1st, 2d	-------	Major	25	100
4	1st	2d	Lost	0	100
5	2d	1st	Major	25	100
Average 5 tests				10	100
Nonstandard pressure 26–26 p.s.i.:					
1	1st	2d	Lost	0	NA
2	1st, 3d	2d	do	0	100
3	1st	2d	Major	25	100
Average 3 tests				8	100

Note: For 26–26 p.s.i., major control problems began at entering second corner compared to control problems at 15–26 p.s.i., which began on leaving the second corner.

FILM ANALYSIS—FALCON VERSUS CORVAIR HANDLING DEFINITION OF CONTROL DEVIATION SEVERITY

Severity rating	Percent control adequacy	Vehicle/driver control conditions
Stable	100	No deviations.
Minor	[1] 50–75	Minor swerve with full recovery using less than oncoming lane or adjacent shoulder.
Major	25	Major swerve which occupies oncoming lane and/or shoulder equal to car width.
Lost	0	Major swerve which occupies more than oncoming lane and/or shoulder greater than car width and results in loss of control including spinouts.

[1] Minor deviation which uses oncoming lane, 50 percent; Minor deviation which stays in lane or uses adjacent shoulder, 75 percent.

NOTES: Assigned percentage values should be assumed to be representative within a range of ±10 percent.

Minimum acceptance standard: Defined as 60 percent which allows minor deviations of 50–75 percent control adequacy but full recovery.

RELATIONSHIP BETWEEN COPP CORVAIR-FALCON FILM ANALYSIS RATING PERCENTAGES AND THE FORD "VEHICLE EVALUATION RATING SYSTEM"

(By H. F. Copp)

I have been asked whether there is any correlation of the percentage method which I used in assessing the Ford film comparing Falcon and Corvair Handling with the Ford procedure used in our "Vehicle Evaluation Rating System".

I must admit that my method was in no way related to our numerical 1 thru 10 procedure used in our "Vehicle Evaluation Rating System". My technique is shown in my Film Analysis of July 25, 1971 and amended November 30, 1972 as Attachment Page 1 and is attached hereto for ready reference.

Some 15 years ago we attempted to quantify subjective jury evaluations of control performance on all types of road surfaces by introducing a "Vehicle Evaluation Rating System". This system has been under constant refinement since its introduction but has continued with a 1 to 10 numerical scale which all evaluators apply to their assessments. As it applies to handling and controllability, the scale is:

Rating index	Acceptability	Grade	Expertise required
1	Unacceptable	Poor	All customers.
2	do	do	Average customer.
3	do	do	Do.
4	do	Customer complaint	Do.
5	Borderline	Borderline	Critical customer.
6	Acceptable	Barely acceptable	Do.
7	do	Fair	Do.
8	do	Good	Trained observer.
9	do	Very good	Do.
10	do	Excellent	Not perceptible.

Any system of handling and controllability tests and their ensuing conclusion must separate good from bad; unacceptable from borderline, and borderline from acceptable.

It would be most convenient if I could assign percentage values to each rating beginning with 1 at 10% and ending with 10 at 100%. Unfortunately, this is not the case because:

1. We rated the Falcon Handling Performance at about 7.5 whereas my Film Analysis method rated it at 90–100%.

2. A 1962 Corvair, not generally different from the 1960 Corvair, was rated at 3.4 whereas my Film Analysis rated it at a nominal 18% ±10% for a maximum of 28%.

A recently completed Ford Control Performance Project, ATMD 72–5, which has been reviewed with DOT shows correction factors of approximately ±12% for subjective ratings by 20 evaluators. As previously noted, I considered my method of rating to be representative within ±10%. I also assigned a 60% minimum acceptance standard for the Corvair because it was following the Falcon which had no relationship to the Ford Rating Index of 5 which is borderline and 6 which is barely acceptable.

If one attempts to correlate the Rating Indices with my percentage method he must first correct for the 1960 Falcon rating index of 7.5 ±12% and the 90–100% resulting from the Film Analysis.

In actual fact, we are constantly raising our standards of control performance and about the best we have recently measured as indicated in ATMD 72–5 is a corrected index of 8.30 on a 1971 Mercedes 220 4-door sedan during a rough road cornering test. It is obvious that our standards have been raised since 1959 and the 1960 Falcon index which we assessed at 7.5 in 1959 might now be assessed at only 6.5. It, therefore, follows that 1971–72 data and techniques cannot be correlated with one film showing only two types of tests on dry, blacktop roads.

As I stated on Page 2 of my Film Analysis: "There are innumerable methods of analyzing comparative handling characteristics shown in the film. In the final analysis, results must provide "go"—"no go" quantification of handling characteristics. In this instance, a typical method has been used to assess the control adequacy of the Corvair relative to the Falcon."

Also, "In summary, a method has been evolved which provides quantification of control adequacy in terms of percentage relative to the Falcon but only for the conditions of dry, blacktop, slightly undulating surfaces. It should be emphasized that fully definitive comparisons would require similar tests under many more adverse conditions, such as wet blacktop, curves with changing road camber, surprise bumps on cornering which tend to throw the vehicle, ice, snow, etc."

One might argue that I was unduly harsh in my method of assessing the Corvair and overly generous in assessing the Falcon. In defense of such argument, I submit:

1. Control performance is a relative comparison in terms of time and weight class. For example, the 1965–68 Ford was a better handling car than the 1954–57 Mercury although both cars were about the same weight, comparably equipped.

2. In 1966, a 1962 Corvair was rated unacceptable by an experienced group of development engineers. Their rating index of 3.4 was 1.6 or 32% below the index of 5, which is "borderline" minimum and 43% below the index of 6 which is graded as "barely acceptable".

3. My film analysis method defined a minor swerve with *full recovery* using less than the oncoming lane as 50% control adequacy. It is significant that had all the swerves been into the oncoming lane with *full recovery*, the Corvair would have met the minimum handling standard of 60% when applying the plus 10% tolerance. As a matter of comparison, it should be noted that a swerve with *full recovery* onto the *shoulder* rather than the oncoming lane was only penalized 25% from the 100% base, and, therefore, assigned a 75% value for control adequacy. If, for example, all the swerves had been onto the shoulder with *full recovery*, the Corvair would have exceeded the minimum handling standard by 25% without application of the plus 10% tolerance.

4. By selecting the most favorable tolerance, plus or minus, in an effort to determine the best relationship between Corvair-Falcon rating indices and my Corvair-Falcon Film Analysis, we arrive at:

[In percent]

	Corvair	Falcon	Ratio Falcon/Corvair
Rating index	3.4	7.5	-------
Selected tolerance	−12.0	+12.0	-------
Best relationship	[1] 3.0	[2] 8.4	2.8
Copp rating Ford film	18.0	100.0	-------
Selected tolerance	+10.0	−10.0	-------
Best relationship	[2] 28.0	[1] 90.0	3.2
Average of best relationship ratios			3.0

[1] Minimum. [2] Maximum.

From the above it can be seen that by selecting accepted or specified tolerances in an effort to show the closest correlation of Corvair-Falcon rating indices with my ratings of the Corvair-Falcon Handling Comparison Film, we indicate reasonable similarity in results. The average ratio of best relationships shown in the last line at a value of 3.0 is within ±7% of the individual best relationship ratios in rating indices and my Film Analysis percentages.

FILM ANALYSIS—FALCON VS. CORVAIR HANDLING, DEFINITION OF CONTROL DEVIATION SEVERITY

Vehicle/driver control conditions	Severity rating	Percent control adequacy
No deviations	Stable	100
Minor swerve with full recovery using less than oncoming lane or adjacent shoulder.	Minor	[1] 50–75
Major swerve which occupies oncoming lane and/or shoulder equal to car width.	Major	25
Major swerve which occupies more than oncoming lane and/or shoulder greater than car width and results in loss of control including spinouts.	Lost	0

[1] Minor deviation which uses oncoming lane—50 percent; minor deviation which stays in lane or uses adjacent shoulder—75 percent.

Note.—Assigned percentage values should be assumed to be representative within a range of ±10 percent. Minimum acceptance standard: Defined as 60 percent which allows minor deviations of 50–75 percent control adequacy but full recovery.

EXHIBIT 25

CRITIQUE OF DOT-NHTSA 1960–63 CORVAIR HANDLING AND STABILITY; DOT HS–820 198

(By H. F. Copp)

I. CRITICISM OF MY CALCULATED SPEEDS BY DOT IS JUSTIFIED

The DOT report much more accurately represents the speed and G forces indicated in the Ford film showing Falcon vs. Corvair Handling. My investigation of the cause for my errors resulted in learning that the projector used in my stop watch timing analysis was running at 18 frames per second whereas the film was taken at 24 frames per second (see Attachment I for detailed discussion).

II. CORVAIR RAPID TRANSITION FROM UNDERSTEER TO OVERSTEER EXCEEDS DRIVER'S REACTION TIME

From Page 6 of the *Panel Evaluation of the NHTSA Approach to the 1960–1963 Corvair Handling and Stability* (Report No. A3971):

"What is different about the 1960-through-1963 Corvair is the characteristic transition from understeer to oversteer which occurs at a lateral acceleration of 0.4 G to 0.5 G."

Also, "In the General Motors films it was observed that the lateral acceleration might go from 0.3 G to 0.6 G in a quarter to a half second depending on the attitude and speed of the vehicle."

The NHTSA report attempts to destroy the credibility of the Ford film by:

Stating that losses of control occurred in about the same location and in front of the camera.

Showing pictures of the driver's arms turning the wheel in a direction that would induce loss of control.

In examining the individual frame by frame sequences of the Ford film, I conclude that:

1. Assuming speeds to be the same in the first and second corners of the Phase II highway cornering tests, G forces in the second corner are 6% higher even though the curve radius to road centerline is the same for both corners at 200 feet. In the first corner the cars are running on the outside lane at 206 feet radius and on the second corner they are running on the inside lane at a 194 foot radius. In fact, the films show that the cars are still accelerating in the first corner.

2. The Corvair is experiencing latent control problems as it enters the second turn of the Phase II tests.

3. At standard tire pressure, the Corvair loss of control in Phase I and Phase II testing was not identical as indicated in my film analysis.

	Phase I comparative breakaway	Phase II comparative highway handling
Test sequences	5	5
Minor loss	3	0
Major loss	0	2
Complete loss	2	3

I believe that staged tests which make the Corvair look bad would have attempted to make the Corvair look bad in all sequences. This is not apparent in the Ford film.

4. At the point of loss of control the driver's corrections to the Corvair are exactly those instinctive reactions which would be made with an understeering car; i.e. turn more to the right in a right hand corner.

5. The best of measured driver reaction times are from 0.25 to 0.33 second and these times are more the result of instinctive reaction. At 24 frames per second, therefore, the very best instinctive reaction represents 6 frames in 0.25 second. The driver's arm movements to the right occur in less than 6 frames as indicated by individual frame analysis of the film.

6. As quoted earlier from the Panel Report, the Corvair:

Went from understeer to oversteer "at a lateral acceleration of 0.4 G to 0.5 G".

"Might go from 0.3 G to 0.6 G in a quarter to half second."

Interpolating these data clearly shows the Corvair problem and the driver's inability to cope with the rapid transition from understeer to oversteer.

Transition occurs at 0.4 G to 0.5 G which equals 0.1 G maximum span.

Transition from 0.3 G to 0.6 G occurs in one quarter to one-half second which amounts to a rate of 0.1 G in 0.08 to 0.17 second all of which are well below the best possible driver's instinctive reaction time of 0.25 to 0.33 second.

7. A driver's reaction time is much higher when he has to think and then react. A minimum of 0.5 second to 1.0 second is accepted criteria. On this basis, the Corvair rate of transition from understeer to oversteer exceeds human reaction time by a minimum of 0.33 second to 0.92 second. In the Ford film taken at 24 frames per second, this translates to 8 frames at the minimum and 22 frames at 0.92 second. In distance traveled at 38 mph it translates to a range of 18 to 51 feet in excess of the best known psychomotor [1] reaction time due to the change from understeer to oversteer.

8. At higher speeds the problem is made worse proportionally:

Distance traveled in feet in 1960–63 Corvair due to understeer/oversteer rate of change beyond best human psychomotor response time:

	Speed (m.p.h.)
22 to 61	45
27 to 74	55
31 to 87	65
36 to 102	75

9. Assuming a *good* driver is aware of the Corvair's transition from understeer to oversteer and that he is driving in an understeer mode but due to road conditions and/or the demand for an emergency maneuver he transverses into the oversteer mode, his best psychomotor reaction time will more nearly approach 1.0 second. Allowing for the lowest rate of change from understeer to oversteer in a 1960–63 Corvair as stated in the Panel Report and quoted earlier at 0.5 second from 0.3 G to 0.6 G, a *good* driver under the conditions mentioned above will exceed his psychomotor response capabilities in a 1960–63 Corvair by—

Distance traveled (feet):	Speed (m.p.h.)
55	45
67	55
79	65
93	75

The above is based on the optimistic assumption that upon occurrence of oversteer, a good driver corrects accordingly and the suspension system *remains* in the oversteer mode. In actual practice this is rarely the case. For example, undulations, bumps and/or changes in road camber have a marked affect on front and rear wheel movements with consequent additive transition in suspension system steer characteristics.

III. TEST METHOD USED BY NHTSA DO NOT CORRELATE WITH REAL WORLD CONDITIONS

At the top of Page 54 of the Report it says:

"The vehicle handling test procedures employed in this program were defined by NHTSA although they were closely related to methods previously developed and used at the HSRI" (Highway Safety Research Institute of the University of Michigan).

Also, on page 68:

"The road surface grade of test areas was level within 1%. The average skid number for the road surface was 79 to 30 mph and 80 to 60 mph."

It is well known that Ford uses subjective methods for rating the handling and controllability of our motor vehicles. Some 15 years ago we attempted to quantify these subjective jury evaluations on all types of road surfaces by introducing a "Vehicle Evaluation Rating System". This system has been under constant refinement since its introduction but has continued with a 1 to 10 numerical scale which all evaluators apply to their assessments. As it applies to handling and controllability, the scale is:

Rating index and acceptability	Grade	Expertise required
1 Unacceptable	Poor	All customers.
2 do	do	Average customer.
3 do	do	Do.
4 do	Customer complaint.	Do.
5 Borderline	Borderline	Critical customer
6 Acceptable	Barely acceptable	Do.
7 do	Fair	Do.
8 do	Good	Trained observer.
9 do	Very good	Do.
10 do	Excellent	Not perceptible.

Any system of handling and controllability tests such as the HSRI proposals must spring from and support the subjective real world tests which we use to separate good from bad; unacceptable from borderline, and borderline from acceptable. The HSRI tests fail completely in this regard; show excessive variability and non-correlation. Results of the Ford 14-month investigation of the HSRI procedure and our counter proposals have been reviewed with DOT as indicated in Ford Report ATMD 72–5 dated August 29, 1972.

2. Under the conditions of test, ultra level and high adhesion surfaces, it is possible to generate theoretical, non real world lateral G forces which have no relevance on the majority of our public roads which, as we all know, are not smooth. On these roads, the total vehicle lateral G forces are much lower than the transient and instantaneous lateral G loads which are constantly developed between the tires and the road. Therefore, the total vehicle G loads are often very low while instantaneous G forces between the tires and

[1] Muscular action ensuing from prior conscious mental activity.

road are near the critical point due to suspension system absorption of the undulations, bumps, and changes in road camber.

3. The test methods of "steady turn" are non real world simply because most vehicle maneuvers are a complicated system of transient dynamics or in other words a system of ever-changing conditions.

I conclude that the test methods employed by NHTSA are in no way representative of those methods used by the automotive industry for developing and measuring handling stability and controllability of our products.

IV. DOT HAS STATED THAT NO SYSTEM OF TESTS HAS YET BEEN DEVISED WHICH CAN BE USED TO RATE OR QUALIFY THE HANDLING REQUIREMENTS OF MOTOR CARS

It is public knowledge that Mr. Doug Toms, Director of DOT, has stated that unfortunately, despite great effort, DOT, HSRI, and the automotive industry have been unable to devise a series of procedures and tests which could be used to measure the control performance of motor cars. This statement should, perforce, invalidate the DOT report.

V. 1962 CORVAIR RATED UNACCEPTABLE IN 1966 FORD JURY OF DEVELOPMENT ENGINEERS

During the continuing Ford development on handling tests in an attempt to establish handling performance standards which would correlate with real world conditions and provide a more objective method of evaluation, a 1962 Corvair was rated at 3.4 by a jury of experienced development engineers. Six additional vehicles were rated including a 1966 station wagon which had been purposely modified to make it unacceptable. Ratings ranged from 7.5 for the 1966 Mustang to 3.0 for the modified station wagon.

The 1962 Corvair rating of 3.4 as applied to our Vehicle Evaluation Rating System means: Unacceptable; Poor—customer complaint; and Average—customer would discern handling problem during life of car.

The full report containing this rating is contained in an August 3, 1966 Ford Motor Company Intra Company communication addressed to Mr. R. E. Edwards, subject: Handling Tests for Safety Committee in Handling Performance Standards. This report has been submitted to the Federal Government.

VI. MY FILM ANALYSIS OF "1960 FALCON-CORVAIR HANDLING COMPARISON" GAVE DUE ALLOWANCE FOR FALCON'S ADVANTAGE AS LEAD CAR

From Page 41 of the July DOT report:

"The test was conducted so that the Falcon was always the lead car when the two cars were driven in the same scene. It was the conclusion of the analysts that this gave the Falcon a distinct advantage in the driving maneuvers on the test track."

The Falcon had to be the lead car to prevent an accident and because it was I admitted this advantage and established a minimum handling standard of 60%. Despite this 40% discount, the Corvair failed to meet even one-half the standards of 60% against the Falcon which achieved 100% at standard tire pressure.

VII. I DID NOT RATE THE CORVAIR HIGHER WITH 26/26 PSI TIRE PRESSURE THAN WITH STANDARD PRESSURE

From Page 46 of the July DOT report.

"A point to note is that Mr. Copp rated the Corvair higher with nonrecommended 26 psi front and rear tire pressures than with the manufacturer's recommended tire pressures used in test No. 1 which were inconsistent with his analysis."

The following table is summarized from my film analysis dated July 25, 1971:

Test	Percent control ±10 percent adequacy: Corvair	Falcon
Ia Comparative breakaway—standard pressure	35	100
Ib Comparative breakaway—26/26 lb/in²	37	100
IIa Comparative highway handling—standard pressure	10	100
IIb Comparative highway handling—26/25 lb/in²	8	100

I clearly indicated that any method of analysis could not be more accurate than ±10%.

From the above it can be seen that the nominal value in Test Ib is exactly 2% higher than the nominal value in Test Ia. Applying my specified tolerance of ±10% to Tests Ia and Ib the ranges are:

	Nominal percent	+10 percent	−1 percent
Standard pressure	35	45	25
26/26 lb/in²	37	47	27

Had the report acknowledged my specified tolerance, its authors would have omitted the above quote. It is most apparent that the range of accuracy in my rating system would have shown that a standard pressure rating of 45% was possible and that a nonstandard pressure at 26/26 psi of 27% was possible as indicated in the above table underlined values.

ATTACHMENT I: CRITICISM OF MY CALCULATED SPEEDS BY DOT IS JUSTIFIED

My stated speeds were based on repeated timing by a jury of three people using a standard silent film projector running at 18 frames per second. After the DOT Report was issued, I verified that the film had been taken at 24 frames per second thereby invalidating my speeds by the ratio of 24/18 which amounts to 33%. In my report I also stated the speeds to be accurate within ±10%. Because of the more sophisticated projector used by DOT, I would assume their speeds to be accurate within ±5%. Correcting for my projector error of 33% and using a tolerance of ±10% for my crude methods of timing and a ±5% for the DOT more sophisticated frame count method establishes reasonable correlation, viz.:

	Phase I comparative breakaway (mi/h)	Phase II highway cornering (mi/h)
DOT—Standard lb/in² tire pressure:		
Nominal	35	38
±5 percent tolerance	33–37	33–40
DOT—26/26 lb/in² tire pressure:		
Nominal	35	(1)
±5 percent tolerance	37–39	(1)
Copp—Standard and 26/26 lb/in² tire pressure:		
Nominal	30	31
±10 percent tolerance	27–33	28–34
Copp—Corrected:		
±10 percent tolerance	27–33	28–34
Add 33 percent (24/18)	9–11	9–11
Total	36–44	37–44

[1] Not indicated.

Note: DOT speeds at standards and 26/26 lb/in² tire pressure with tolerance of ±5 percent: 33 to 39 mi/h, phase I, 36 to 40 mi/h, phase II.

EXHIBIT 26

COMMENTS ON "REQUEST NO. 8," FORD EFFORTS IN 1966 TO ESTABLISH HANDLING PERFORMANCE STANDARDS

(By H. F. Copp)

I have prepared this statement on file "Request No. 8" forwarded to me by Mr. Robert Wager in his letter of July 19, 1972. Many of the pertinent questions in "Request No. 8" are answered in my Study "Relationship Between Copp Corvair-Falcon Film Analysis Rating Percentages and the Ford 'Vehicle Evaluation Rating System' ". Some other comments of interest concerning this 4 Document file are:

1. The tests were a concerted effort by Ford to develop a series of discplined objective tests from which we could establish Product Acceptance Handling Performance Standards. The effort was unsuccessful primarily because as stated in the last sentence of the August 3, 1966 communication to Mr. R. E. Edwards, "No efforts have been made to measure road disturbance inputs."

2. Our most recent work which does show a large measure of success has been reviewed with DOT and completely invalidates the HSRI methods used in the DOT 1960–63 Corvair Handling and Stability studies as they reported in their July DOT HS–820 198. Our report is ATMD 72–5 dated August 29, 1972.

3. The 1966 station wagon achieved a subjective rating of 6.5 on our 1–10 Rating Index as defined in Ford's "Vehicle Evaluation Rating System". By definition, the 6.5 rating is at the low end of the acceptable range and 1.5 above "borderline".

4. A similar wagon was modified to induce a high rate of change from understeer to oversteer and this modified wagon was rated at 3.0 which is unacceptable and its poor handling would be discerned by the average customer during the life of the vehicle. I should emphasize that this modified station wagon was a necessary tool for the evaluators so that they could establish a range of rating indices from 3.0 to 7.5 for test correlation purposes.

5. The 1962 Corvair used in these tests inadverently overturned during a dry run over the test course. I have personally discussed this accident with the driver and he confirms the conditions causing the roll over.

"Request No. 8" Reference Documents:

1. August 3, 1966 letter to Mr. R. E. Edwards, Subject: Handling Tests for Safety Committee on Handling Performance Standards (13 Pages) from Mr. D. H. Iacovoni

2. August 11, 1966 letter to Mr. H. C. MacDonald, Subject: Status Report-Minimum Handling Standards (9 Pages) from Mr. R. E. Edwards

3. August 17, 1966 letter to Mr. C. R. Sorensan, Subject: Handling Tests for Safety Committee on Handling Performance Standards (16 Pages) from Mr. C. Beauregard and Mr. D. J. Burkhardt

4. August 12, 1966 close-out date Vehicle Development Project Order, Subject: Development of Objective Safety signed by K. A. Wolf

EXHIBIT 27

ANALYSIS OF ROLLOVER ACCIDENT FACTORS AND INJURY CAUSATION

(By Donald F. Huelke, The University of Michigan Medical School; Joseph C. Marsh IV, The University of Michigan Highway Safety Research Institute; Harold W. Sherman, The University of Michigan Highway Safety Research Institute—Present at the 1972 Annual Conference of the American Association of Automotive Medicine.)

ABSTRACT

One of the most violent automobile accidents in terms of occupant injury exposure

is the rollover crash. In this environment the most consistently noted damaged area of the vehicle has been roof crush. Hence, it has been hypothesized that the prevention of significant roof crush will result in reduced injury severity. An analysis was made of the clinical accident investigation reports of 249 rollover crashes out of over 2,500 accident cases available. The results of the study disclosed that average occupant injuries in rollovers are at the lower end of the injury severity scale and are similar in severity to occupants in all other types of crashes. However, twice as many fatal injuries occur in rollovers than in all accidents and two-thirds of these fatalities are due to unrestrained occupant ejection. From these data it would appear that containment of occupants within the vehicle would provide a significant reduction of injury severity levels, and that reducing roof crash in rollover accidents will be of little significance in injury severity reduction.

Rollover [1] crashes can be the most violent in terms of occupant injury exposure. In these types of crashes a variety of force vectors are applied to car occupants with these vectors changing a number of times during very brief periods. On the other hand, rollovers can be as a "leaf tumbling down the roadway" and in these crashes there can be minimal force and force vector changes applied to the occupant.

Occupant containment within the vehicle is a major premise for survivability. However, in rollover collisions the potential is higher for door opening and occupant ejection than in many of the other crash configurations.

Probably one of the obvious damaged areas consistently noted about the vehicle in rollovers is roof crush. Thus, it has been suggested that preventing significant roof crush the occupant injury severity would be reduced. Likewise, with the relatively high incidence of door openings in rollovers, it has been suggested that ejection through open doors would be reduced if roof crush could be reduced to a minimum level.

In the amendment to the proposed Motor Vehicle Safety Standard 216 it states that, ". . . available data have shown that for non-ejected front seat occupants in rollover accidents, serious injuries are more frequent when the roof collapses. The roof crush standard will provide protection in rollover accidents by improving the integrity of the door, side window, and wildshield retention areas. Preserving the overall structures of the vehicle in a crash decreases the likelihood of occupant ejection, reduces the hazard of occupant interior impacts and enhances occupant agrees after the accident" (1).[2]

It is the intent of this paper to explore the distinctive factors that characterize rollover accidents, their frequency, dynamics, vehicle damage, and occupant injury severity.

METHODOLOGY AND DATA

The Highway Safety Research Institute (HSRI) at The University of Michigan has processed over 3,000 Collision Performance and Injury Reports (CPIR) (2) into computer storage and is currently providing on-line access to these data via remote computer terminals in the automobile industry. National Highway Traffic Safety Administration (NHTSA) of the Department of Transportation, and six of the NHTSA sponsored Multidisciplinary Accident Investigation (MDAI) teams. The field accident investigations and the computer processing of these cases was sponsored by the Motor Vehicle Manufacturers Association (formerly Automobile Manufacturers Association) and the Department of Transportation.

All vehicle measurements, injury descriptions, injury severities and mechanisms of injury were computerized from the field accident reports. Twenty four different clinical accident investigation teams (Table 1) submitted the *CPIR Revision 3 Long Form* reports used in this study. All data were edited by HSRI to conform to consistent definitions of rollover occurrence, damage, and injury severity.

The cases reported were selected according to various criteria established by the study teams. The population of cases in the data file are not a cross-section of the general accident population. Of over 2,500 cases available, this study was restricted to 2,336 solid top (metal) passenger cars (excluding trucks and convertibles). In this group there were 249 rollover cases of which 212 sustained roof crush (Table 2).

In what ways are rollovers different than non-rollover collisions? In order to identify the type of accident situations strongly associated with vehicle rollover, a number of two-way tables were prepared. These bivariant tables contrasted rollovers vs. non-rollovers for many accident variables, such as horizontal road alignment, driver's age, and time of day.

In order to statistically test for possibly significant factors (e.g., day and night), a one-way analysis-of-variance was performed on a number of interesting control variables (e.g., time of day) using rollover "yes/no" as a dichotomous dependent variable. The F-Ratio statistics provided a significant measure of the over-involvement of rollovers in a particular accident situation (e.g., rollovers are involved twice as often in night accidents than in day accidents). All the results presented here were significant to .01 (p less than .01).

Because the analysis-of-variance program drops cases from the individual tables in which a variable is coded "unknown," the total number of cases may vary from table to table.

In an effort to learn what induces a car to overturn and whether overturning was the first event, two hundred available hard copy cases were retrieved for tabulation. They were not selected on any other basis and should generally represent all the cases in computer storage.

The analysis of occupants and their injuries was restricted to those in the front seat, who represent approximately 84 percent of all occupants. This was done to parallel the statements in the MVSS 216 Docket 2–6 (1). Again, the one-way analysis-of-variance program was used to describe occupants in rollovers and to relate inches of roof crush to average injury severity.

ROLLOVER FREQUENCY

How many cars roll over each year? *Accident Facts* (3) of 1972 reports "Overturned in Road" as 0.6% (or 98,400 of 16,400,000 accidents). All other rollovers are not reported because overturns are only one class in the accident classifications (4). Thus, if the first event is "collision between motor vehicles" and one of the vehicles subsequently rolls over, only the first event is recorded and the rollover is not documented. In the CPIR file the question of rollover is coded separately and independently of accident configuration. Of 200 rollover cases hand sorted and reviewed in detail, only 3 per cent occurred on the roadway. Of the remaining 97 per cent, 60 per cent struck another object or vehicle before rolling over and 37 per cent ran off the road before overturning. Thus, if 97 per cent of vehicle rollovers are not indicated in police accident reporting, then the number of rollovers is much higher than the 0.6% reported in the mass accident data, perhaps on the order of 19 per cent are rollovers ($0.6 \times 97 \div 3$).

Garrett's (5) study of rural state police reported accidents indicates 13 percent as being principally rollover collisions. An earlier Automobile Crash Injury Research (ACIR) study (6) found rollovers in 25 per cent of rural injury producing accidents. The magnitude or extent of the rollover phenomena is not all clear and further resolution is required in order to evaluate the need for and impact of an rollover standards.

ROLLOVER ACCIDENT CHARACTERISTICS

Vehicle rollovers have been signaled out as unique events for the application of special countermeasures and standards, such as MVSS 216. In order to gain a fuller perspective of potentially fruitful countermeasures, those features that characterize rollovers need to be identified. By contrasting rollovers and non-rollovers, a number of CPIR variables were identified that distinctively set rollovers apart as a unique event.

Rollover accidents occur when a young impaired driver speeds around the curve of a dark rural road. Typically the small vehicle overturns, frequently ejects the occupants out a window, and sustains crush across the forward third of the roof. The following tables display these characteristics.

In Table 3, rollovers are overrepresented in rural accidents where they represent 17 percent of the crashes, while in urban accidents only 6 per cent are rollovers. The rollover type of crash is more frequent on curves than crashes on straight roads. They account for 23 percent of crashes on curved portions of the roadway, whereas only 8 percent of crashes on straight roads are rollovers (Table 4). It is also interesting to note that limited visibility is significantly related to rollover crashes. At dawn/dusk, 13 percent of crashes are rollovers and 14 percent are rollovers at night (Table 5).

As seen in Table 6, 30 percent of single vehicle crashes are rollovers whereas only 3 percent multiple car crashes are rollovers. The smaller the cars the more involved they are in rollovers (Table 7). Six percent of the standard size vehicles overturn while 16 percent of the subcompact or mini cars overturn. As indicated in Table 8, relatively few rollovers occur under 40 mph, but with higher speeds the frequency of cars overturning increases significantly.

In Table 9, we see that the young driver, 21 and under, is almost twice as involved in rollovers. Interestingly the impaired driver rolls over 17 percent of the time, while the unimpaired driver only rolls 7 percent of the time (Table 10). Driver impairment, as defined in the CPIR form, includes several categories of psychological (e.g., asleep, inattention), physiological (e.g., infirmities) and pharmacological (e.g., alcohol, drugs), which have been combined in Table 10.

Recall again that traveling speed is also highly associated with rollover involvement and many of the factors (e.g., driver age, impairment, speed, etc.) often associated with the general accident population are significantly overinvolved or overrepresented in the population of rollover accidents. This suggests that there may exist a select combination of accident prevention measures that would be uniquely effective in reducing the frequency of the rollover event.

Given that the driver becomes engaged in a rollover situation, how does his vehicle overturn? As a preventive measure, can the vehicle handling and vehicle dynamics be improved to reduce the likelihood of rollover? Vehicle rollover dynamics have been discussed adequately in the literature (7, 8). It is sufficient here to note that, while it is possible to design a vehicle suspension system that will induce rollover, cars manufactured in the USA today are designed to minimize the rise in the center of mass during severe maneuvers thereby removing the possibility of a self-induced rollover on a flat surface.

Many envision a rollover as a car merely turning on its side. However, rollovers can occur when the vehicle yaws and pitches at the same time. Combining minimal amounts of pitch and yaw with a change in coefficient

[1] Vehicle rollover or overturning is defined as at least a 90 degree vehicle rotation about any horizontal axis.

[2] Numbers in parentheses designate references at end of paper.

of friction and/or striking a low obstruction can also cause the vehicle to roll. In addition, vehicles can vault due to marked changes in horizontal surface alignment.

Of the 200 rollover cases that were hand sorted and reviewed in detail, one-hundred ninety six rolled over due to pitch and yaw and "toe stubbing" (e.g., tire hit curb, wheel dug into soft earth) or vaulting of the car over an embankment. Only in four cases was there an indication that rollover occurred without tripping or vaulting and these cases were in atypical situations, i.e., towing trailers, buffeted by passing tractor trailer units, or where the vehicle rode up a guardrail and ramped over.

The initial direction of vehicle roll is described in Table 11. Not too surprisingly, cars roll over sidewise most frequently and slightly more often towards the driver's side. Interestingly overturned cars most frequently come to rest upside down (Table 12), which can complicate extracation procedures. Further examination of the data file show that special extrication procedures (beyond simply opening the door) were used on 10.4% of the overturned cars and only 6.5% of non-rollover cars.

VEHICLE ROLLOVER DAMAGE

Rollover vehicle damage may involve any portion of the car, but our concern is with the roof and supporting structures. Table 13 displays the distribution of roof crush for the subset of solid top passenger cars that rolled over. These are measurements of direct roof crush down along a vertical axis through the point of maximum crush. This table indicates that 60 per cent of vehicles that rolled over had 6 inches or less of direct roof crush; therefore, these vehicles apparently already meet the intent of occupant protection as implied in the roof crush standard, MVSS 216.

In the Mackay and Tampen field study of 89 rollovers (9), all but ten cases had "some roof distortion and penetration of the passenger compartment. All of these ten cases were limited to 90 degree rolls. Figure 1 shows the frequency of the point of maximum collapse on the roof area. The most frequent point is immediately behind the (windshield) header region, centrally. . . ."

As expected, roof structural damage occurs most frequently in rollover crashes. Of crash cars having left side pillar damage, 79 per cent of rollover cars had damage to the left side pillars (Table 14). The statistics for the right side are similar.

Significantly it was found that a front door opened in 14 per cent of vehicle rollovers vs. only 9 per cent of non-rollover vehicles. Mackay and Tampen (9) found that in 57 per cent of their 89 rollover cases one or more doors opened. The frequency of door openings during rollovers presents the hazard of potential occupant ejections.

ROLLOVER EJECTIONS

Other studies have shown that ejection from the vehicle is one of the leading causes of serious injury and death (10, 11). This problem is particularly acute in rollover accidents. In rollovers, 21 percent of the cases had occupants who were ejected, whereas only 3 percent of non-rollover crashes had occupants ejected (Table 15). Table 16 indicates that of those ejected, 46 percent were in rollovers.

For those occupants that were ejected, the various possible portals of ejection are shown in Table 17. Of the large number of occupants not ejected in crashes, only 9 percent were in rollovers. However, rollovers involved a higher percentage of occupant ejections. Of these occupants ejected through door openings, 28 percent were in rollovers, while rollovers accounted for 50 percent of all windshield ejections and ejections through the side glass openings amounted to 61 percent in rollovers.

Of the 62 ejectees in rollover crashes, half went out of the vehicle through side window areas. Occupant ejection through the side glass has been reported previously (12). When the vehicle rolls, the unrestrained occupant moves to the down side of the car. If the window is open the occupant can be partially or completely ejected with the car then rolling over him. If the window is closed, the glass can be broken in the first quarter roll with occupant ejection through the door glass opening occurring in subsequent rollovers. Sometimes the dynamics of the crash are such that the unrestrained occupant catapults through the side glass and is partially or completely ejected. Improved roof structural integrity will not eliminate these types of ejections. Once there is significant roof crush to occlude the glass opening, occupant ejection cannot then occur through this area.

In the past, doors have opened frequently in rollovers due to either frame and body distortion, door button activation from ground contact on the outside, or by inadvertent occupant activation. Inadvertent door opening and ejection due to roof crush has not been noted in the literature or by the authors' field accident investigations. As shown in Table 18, door related ejections decrease with increase in roof crush, indicating occupant containment within the car. It appears that door ejections occur before any significant roof crush has been sustained. An open door of a crashed car with obvious roof collapse in the area of the door opening often misleads one to interpret roof crush as the causal agent. The high frequency of side window ejections related to rollovers and the lower frequency of door ejections related to overturn crashes can be explained by the improvements in the latch-striker mechanism, which maintains the integrity of the side of the car. The variety of door opening mechanisms has been presented elsewhere (13).

Finally a statistical analysis of 277 unbelted rollover occupants indicates no significant relationship between ejection and roof crush [F(4,272)—0.420].

ROLLOVER INJURY SEVERITY

The definition of injury severity in the CPIR data file is based on the American Medical Association's Abbreviated Injury Scale (AIS) as outlined in Table 19. While many may not accept the AIS as a linear scale, most researchers will agree that the AIS is an ordinal scale. The distribution of AIS for rollovers and all accidents is displayed in Table 20. This table shows that the distribution of injuries at the lower injury levels is approximately the same in rollovers as in all vehicle collisions. However, rollovers have 16 percent of occupants in the fatal category (AIS 6–9), twice that of all accidents.

In Table 21 it can be seen that for those ejected 49 per cent are in the fatal categories (AIS 6–9), whereas only 7 per cent of those not ejected in rollovers were fatally injured. The data indicate that 4 out of 6 rollover fatalities are due to ejection from the vehicle.

Figure 2 illustrates the relationship between the amount of roof crush and the average injury level of occupants not ejected. Note that up to 6 inches of roof crush the average injuries are minor to moderate in severity. From 7 to 24 inches of roof crush, the average occupant injury is in the moderate injury range. It is only when the roof is crushed downward more than two feet, thereby obliterating compartment space (in general found only in extremely severe crashes), does the average injury level approach the serious category. The T-bars in the figure show the standard deviation for injuries in each roof crush increment.

While a strong association between extent of roof crush and injury severity is displayed. *Figure 2 does not define a causal relationship.* It could be that extent of roof crush is simply an indicator of accident severity and that injury severity increases with accident severity. Figure 3 shows that increased frontal crush in rollovers is significantly associated with increased AIS. Does this mean that increased frontal crush "causes" increased injury? Or in other words, should cars have stiff noncrushable front ends? Clearly not. It should be noted that because two variables are statistically associated, this in itself does not mean a causal relationship. Because roof crush is related to injury, this does not mean that roof crush causes injury.

The comparison of roof crush and AIS for belted and unbelted occupants is fairly revealing (Fig. 4). Occupants restrained by a lap belt have a lower average overall injury level than unrestrained occupants in crashes involving roof crush. Lap belted restrained occupants have an average injury of moderate even with significant roof crush of 13–24 inches. The F–Ratio statistic (3,646) was 1.7, indicating no significant statistical relationship exists between AIS and roof crush for restrained occupants in rollovers.

The story for unrestrained occupants is not so happy. Injury is again strongly related to roof crush for the unbelted occupant. Thus, it is not clear that passive restraints would protect the rollover occupant as much as if he had worn his belt restraint system.

CONCLUSIONS

The accurate number of annual rollover crashes in the United States is not determined by police accident mass data reports. Rollovers probably occur in one out of five or eight crashes.

Rollover crashes are more often single vehicle crashes, on curves rather than on straight roads and in limited visibility (dawn/dusk or at night) and at higher traveling speeds. Smaller cars, the subcompact (minis), roll over more often than larger sized cars.

Many of the factors often associated with the general accident population, are significantly overinvolved or overrepresented in rollover crashes. The young, under 21 years, driver or those with impairments are overly involved in rollover crashes.

Most rollovers are caused by several simultaneous factors—pitch, yaw, and changes in coefficient of friction, or changes in surface alignment and seldom occur on a flat surface.

Six of ten rollover cars had zero to six inches of roof crush and these cars apparently meet the intent of occupant protection as implied in MVSS 216. Door openings during the crash sequence were significantly higher in rollovers than in all accidents.

MVSS 216 indicates that serious injuries are more frequent to the non-ejected front seat occupants in rollovers when the roof collapses. However, the results of this study indicate that minimizing roof crush by vehicle redesign would not significantly decrease occupant injury at lower amounts of roof crush. The data show that minor or moderate injuries are sustained with minimal roof crush of zero to six inches. For roof crush down as far as 24 inches, the average injury severity for non-ejected occupants is only in the moderate range. Only when roofs crush more than two feet does the average occupant injury severity approach the serious category. The data do show that there is a statistical relationship between increments of roof crush and increases in average injury levels; *however, this is not a causal relationship.* Roof crush probably is an indicator of accident severity.

In rollovers, average occupant injuries are at the lower end of the AIS and are similar in severity to occupants in all types of crashes. However, the data indicate that twice as many fatal injuries occur in rollovers than in all accidents and four out of six of these fatalities are due to occupant ejection. Ejection occurs more often through the glass areas, especially the side glass areas, and ejection takes place before significant

roof crush has been sustained. There is no significant statistical relationship between unbelted occupant ejection and the amount of roof crush and thus roof crush preventative measures would not be effective to eliminate this problem.

Lap belted occupants in rollovers have a lower average overall injury level than those who are unrestrained. No statistically significant relationship exists between lab belted injury levels and the amount of roof crush. However, the lap belt does prevent side glass, windshield and door ejections and prevents the occupants from being buffeted about inside the car. Therefore, the roof crush standard would not reduce the interior impact hazard for unbelted occupants.

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TABLE 1.—SOLID TOP CASE VEHICLE CARS BY TEAM

	Cases in file		Rollover case	
	Number	Percent	Number	Percent
Ann Arbor, HSRI–III	51	2.2	5	2.0
Baylor College of Medicine	64	2.7	4	1.6
Boston University	27	1.2	5	2.0
Cornell Aeronautical Lab–IIA	221	9.5	31	12.4
Cornell Aeronautical Lab–IIB	98	4.2	5	2.0
Georgia Institute of Technology	52	2.2	6	2.4
Highway Safety Research Institute	618	26.5	40	16.1
Indiana University	23	1.0	6	2.4
University of Miami	82	3.5	7	2.8
Maryland Medical/Legal Foundation	45	1.9	8	3.2
University of New Mexico	65	2.8	9	3.6
Oakland County, HSRI–III	207	8.9	16	6.4
Ohio State University	28	1.2	3	1.2
Research Triangle Institute	67	2.9	10	4.0
University of Rochester	41	1.8	1	.4
University of Southern California	34	1.5	1	.4
Stanford Research Institute (1)	7	.3	0	.0
Stanford University	33	1.4	1	.4
Southwest Research Institute	148	6.3	16	6.4
Trauma Research Group, UCLA	68	2.9	12	4.8
Tulane University	40	1.7	2	.8
University of California (Siegel)	41	1.8	5	2.0
University of Michigan (Huelke)	259	11.1	50	20.1
University of Utah	17	.7	6	2.4
Total	2,336	100.0	249	100.0

TABLE 2.—SOLID TOP ROOF CRUSH [1]

	Roof crush		Total number
	Percent	Number	
Non-roll-over	2	45	2,086
Rollover	85	212	249

[1] Excluding convertibles.

TABLE 3.—AREA OF ACCIDENT

	Rollovers		Total number
	Percent	Number	
Urban	6	83	1,384
Rural	17	166	955

TABLE 4.—ROAD HORIZONTAL PLANE

	Rollovers		Total number
	Percent	Number	
Straight	8	146	1,892
Curve	23	102	442

TABLE 5.—TIME OF DAY

	Rollovers		Total number
	Percent	Number	
Day	7	89	1,233
Dawn/dusk	13	19	147
Night	14	138	953

TABLE 6.—NUMBER OF VEHICLES INVOLVED

	Rollovers		Total number
	Percent	Number	
Multiple vehicle	3	53	1,681
Single vehicle	30	200	685

TABLE 7.—CASE VEHICLE MODELS

	Rollovers		Total number
	Percent	Number	
Luxury sedan	5	4	77
Standard	6	42	697
Intermediate	11	60	547
Compact	13	99	764
Mini	16	39	245

TABLE 8.—CASE VEHICLE SPEED PRIOR TO INITIAL IMPACT

Miles per hour	Rollovers		Total number
	Percent	Number	
1–10	1	4	178
11–20	1	2	157
21–30	3	9	341
31–40	9	37	405
41–50	15	55	361
51–60	21	41	195
61–70	21	33	157
71–80	24	9	38
81–90	40	10	25
91–100	60	6	10

TABLE 9.—DRIVER AGE IN ROLLOVERS

	Rollovers		Total number
	Percent	Number	
Over 21	8	110	1,372
Under 21	15	143	951

TAB L E 10.—DRIVER IMPAIRMENT

	Rollovers		Total number
	Percent	Number	
Unimpaired	7	102	1,456
Impaired	17	111	769

TABLE 11.—DIRECTION OF ROLLOVER

	Number	Percent
Over front end	3	1.2
Over right side	68	27.3
Over left side	76	30.5
Unknown	102	41.0

TABLE 12.—VEHICLE FINAL RESTING POSITION

	Number	Percent
On left side		3.2
On right side	26	10.4
Upright	79	31.7
Inverted	93	37.3
Unknown	43	17.4

TABLE 13.—ROOF CRUSH IN OVERTURNED CARS

	Number	Percen
0 inch	37	14.9
1 to 6 inches	112	45.0
7 to 12 inches	53	21.3
13 to 24 inches	31	12.4
25 or more inches	7	2.8
Unknown	9	3.6

TABLE 14.—ROLLOVER LEFT PILLAR DAMAGE

	Number	Percent
Undamaged	56	21
Damaged	196	79

TABLE 15.—EJECTEES IN ALL ACCIDENTS

	Rollovers		Nonrollovers	
	Percent	Numbers	Percent	Numbers
Not ejected	79	288	97	2,850
Ejected	21	76	3	90

TABLE 16.—EJECTEES IN ROLLOVERS

	Rollovers		Total number
	Percent	Numbers	
Not ejected	9	282	3,136
Ejected	46	75	166

TABLE 17.—AREA OF EJECTION

	Rollovers		Total number
	Percent	Numbers	
Not ejected	9	282	3,136
Door	28	21	76
Windshield	50	10	20
Side windows	61	31	51

TABLE 18.—ROLLOVER ROOF CRUSH VERSUS DOOR EJECTION

	Percent	Number
0	0	7
1 to 6 inches	64	32
7 to 12 inches	56	14
13 to 24 inches	32	8
25 or more inches		1

TABLE 19.—ABBREVIATED INJURY SCALE

No injury	0
Minor	1
Moderate	2
Severe (not life-threatening)	3
Serious (life-threatening, survival probable)	4
Critical (survival uncertain)	5
Fatal (within 24 hours)	6
Fatal plus serious or critical injuries	7
Fatal lesions in 2 body areas	8
3 or more fatal injuries or incineration	9

TABLE 20.—OVERALL OCCUPANT INJURY SEVERITY

[In percent]

AIS	Rollovers	All vehicles
0	15.3	23.9
1	44.6	46.6
2	12.8	11.9
3	7.8	6.0
4	1.4	2.0
5	2.5	1.7
6 to 9	15.6	7.9
Total	100.0	300.0

TABLE 21.—ROLLOVER INJURY SEVERITY

[In percent]

AIS	Ejected	Not ejected	Total
0	0.0	19.5	15.3
1	21.1	51.1	44.6
2	7.9	13.8	12.8
3	14.5	6.0	7.8
4	2.6	1.1	1.4
5	5.3	1.8	2.5
6 to 9	48.7	6.8	15.6
Total	100.0	100.0	100.0

(Editor's note.—Figures 1–4 are not printed here but they are available in subcommittee files.)

EXHIBIT 28

STATEMENT BY GENERAL MOTORS, DATED DECEMBER 21, 1972, REGARDING "1960 FALCON-CORVAIR HANDLING COMPARISON" FILM AND RELATED TESTS

General Motors' evaluation of the 1959 Ford film entitled "1960 Falcon-Corvair Handling Comparison" started with a careful analysis of the film itself. This was necessary because no actual measurements were available to us.

By counting the number of film frames taken while a vehicle is passing a stationary object, and knowing the length of the vehicle and the film speed in frames per second, it is possible to compute the speed of the vehicle with a reasonable degree of accuracy. The Corvair automobile is known to be designed to be exactly 15 ft. long with a wheelbase of exactly 9 ft., and a film speed of 24 frames per second (commercial photographic speed) was assumed.

The eight sequences of Phase I (circle test) were timed with the vehicles at various places on the circle. The vehicle speeds for all of the runs were computed to be 35 mph and quite constant around the circle.

The eight sequences of Phase II (S-curve test) were timed in like manner. The vehicle speeds were found to be 41 mph at entry of the first turn, and to be approximately 40 mph in front of the camera.

The lateral accelerations to which the vehicles were subjected while on course were then calculated, assuming a center of gravity path in the center of the lane. The resulting values of 0.52g for Phase I and 0.57g for Phase II were found to be within the known range of controllability of the Corvair. The film was then studied for driver-vehicle behavior, to determine the reason for the behavior of the Corvair.

In the Phase I tests, it was observed that, as the vehicles approached the camera, the Corvair began to describe a radius larger than the actual circle, bringing the outside rear tire close to, and often off of, the edge of the road. This was coupled with an abrupt left steer input in front of the camera (as observed in the front wheels), causing the vehicle to yaw left (counter clockwise). The driver's hands and arms could not be clearly seen during the steering maneuver because of the camera angle.

The Phase II test film more clearly showed driver manipulation. In six of the eight runs, the driver of the Corvair could clearly be seen to be imparting additional right steer to the Corvair as he neared the end of the right-hand (second) curve and was in front of the camera. Had he found it necessary to change his steering angle at all at that time, it should have been to *reduce* his right input for the approaching straight.

In one run (the seventh run of Phase II), the driver for some unknown reason steers to the left, approximately half-way through the right-hand curve, and naturally goes off the course to the left.

In the sixth run of Phase II (the solo run of the Corvair), the driver's actions cannot be seen. However, it can be observed that, as the Corvair enters the second turn, it is allowed to go over the centerline. The vehicle is then steered abruptly to the right, and then the front wheels are returned to the straight ahead position, so that the Corvair leaves the course straight ahead.

On May 12, 1972, Mr. Nader called a press conference and distributed copies of Mr. Copp's analysis of the Ford film, showing speeds of 30 mph (Phase I) and 31 mph (Phase II).

On May 13, 1972, the sections of the Ford handling course shown in the film were outlined with traffic cones on the Vehicle Dynamics Test Area of the General Motors Proving Grounds at Milford, Michigan. Instrumented cars were available in restored production condition. Movie cameras were placed in the cars to record measured values and driver actions. A ground camera was also used. Engineers experienced in vehicle handling evaluation were used as drivers. Runs on the Phase I course were made at 30 and 35 mph. Runs on the Phase II course were made at 31, 35, and 41 mph. No difficulty in control of either car in either phase was experienced. All runs were with the Corvair following the Falcon, and with manufacturers' recommended the pressures on both cars.

Two additional runs were made on the Phase II course at 30 mph where the driver of the Corvair deliberately drove the vehicle off the inside of the second curve. The ground camera recorded arm motions similar to those in the Ford film.

On July 20, 1972, the Ford course was again constructed on the Vehicle Dynamics Test Area at the General Motors Proving Grounds, this time with paint stripes. The same drivers and vehicles were used. The Phase I course was run at 30 and 35 mph, and the Phase II course was run at 31, 35, and 41 mph. In-car, ground and overhead cameras were used. Again, no difficulties were experienced with either vehicle. No intentional deviations from the Phase II course were run. All runs were with the Corvair following the Falcon, and with the manufacturers' recommended tire pressures on both cars.

On September 16, 1972, the sequences were re-run by General Motors drivers on the handling course at the Dearborn Proving Ground of Ford Motor Company. In-car, ground and overhead cameras were used. The same vehicles were used, but a different Corvair driver was used (also experienced). The handling course had recently been resurfaced, but was of the same dimensions except for edge stripes marking 11 ft. wide lanes. A 44 ft. speed trap was used to measure the speed of the lead vehicle.

The Phase I (circle) portion was run with the Corvair following the Falcon at 35 mph. and then with the Falcon going as fast as it could negotiate the course (36 mph). The vehicle positions were then reversed, and with the Falcon following the Corvair, the Corvair driver was instructed to negotiate the course as fast as possible. The resultant speed was 38 mph.

The Phase II (S-turn) portion was run with the Corvair following the Falcon at 41 mph, and then with the Falcon going as fast as it could negotiate the course (43 mph at entrance to second curve). The vehicle positions were then reversed, and with the Falcon following the Corvair, the Corvair went as fast is it could negotiate the course. That speed was 45 mph at the entrance to the second curve. The drivers had no difficulty in controlling either car in either phase.

A 30 mph skid stop with the Corvair was made on the Phase I portion of the course. A measured skid distance of 44 ft. 9 in. yielded a computed Skid Number of 67.3.

General Motors concluded, from an analysis of the 1959 Ford film and from its own running of the same tests, that the 1959 Ford film did not provide an objective demonstration of the Corvair's handling characteristics and that the maneuvers of the car were the result of the driver's action. In our opinion, the only conclusion that can be drawn about the relative handling characteristics of the two cars from these particular tests run by General Motors is that the steady state limit of control of the Corvair is slightly higher than that of the Falcon. The layout of the course in these tests was such that the transient limit of control of either vehicle could not be reached.

EXHIBIT 29

U.S. DEPARTMENT OF TRANSPORTATON,
Washington, D.C., January 10, 1973.

Mr. ROBERT J. WAGER,
Staff Director and General Counsel, Subcommittee on Executive Reorganization and Government Research, U.S. Senate, Washington, D.C.

DEAR MR. WAGER: In accordance with your request for NHTSA's comments on Mr. Copp's critique of the NHTSA Corvair handling report, the enclosed information is forwarded.

Sincerely,

ANDREW G. DETRICK,
Acting Director, Office of Defects Investigation, Motor Vehicles Programs.

JANUARY 10, 1973.

I. The NHTSA personnel have looked at the 1959 Ford film showing the Falcon vs.

Corvair Handling at 18 frames per second projection speed. It was determined that the speed of the Corvair would have been about 26 and 27 mph at this projection rate for Phase I Test 1 and 2 respectively.

The thing about watching the film at 18 frames per second that immediately struck the NHTSA personnel was that the film looks like slow motion. This is most evident when the Corvair is in a slide out or spin out mode. It is difficult to understand how anyone could spend very much time watching the film and not recognize the slow motion effect at 18 frames per second.

A plus or minus 10%, which Mr. Copp uses, applied to 26 mph speed gives a range of 23.4 to 28.6 mph and 24.3 to 29.7 for 27 mph.

Mr. Copp appears also to have used the center of the road for the radius in his calculations rather than the path of the vehicle. 30 mph at 150 ft. $(r) = .4g$; 30 mph at 156 ft. $(r) = .385g$.

There also appears to be an error in his appendix for Phase I Comparative Breakaway/mph, DOT—26/26 psi tire pressure: nominal, 35; ±5% tolerance, 37–39.

II. Mr. Copp quotes the "Panel" from page 6 of their report. This is in first section of their report and it contained their initial understandings. The addendum, which was written after they had been exposed to additional information concerning the transition, provides the Panel's final understanding about transition.

It is their final understanding about the transition that is most important, the same as Mr. Copp's final understanding about the vehicles' speed, etc., in the Ford film is most important.

In the Panel's June 6 addendum they state:

"The 1960–1963 Corvair, which is an initially understeering vehicle, changes from understeer to neutral steer at approximately .4g lateral acceleration. At greater lateral accelerations this condition changes to oversteer which increases with the lateral acceleration until the vehicle is no longer under control of the driver above .6g (limit of control). The time frame within which the transition occurs is a function of vehicle speed and trim, but the amount of steering wheel correction or steering change required to maintain a constant 108 foot radius is only about 50 degrees of steering wheel motion from .4g to .6g.

"By comparison, a 1967 Chevrolet sedan and 1967 Chevrolet station wagon, both of which are understeering vehicles, required approximately 175 degrees of steering wheel movement, respectively, to maintain the same steady state conditions.

"This means that the Corvair has greater control sensitivity than these vehicles as well as greater control sensitivity than contemporary vehicles." (emphasis added)

Mr. Copp quoted the Panel "What is *different* (emphasis added) about the 1960 through 1963 Corvair is the characteristic transition from understeer to oversteer which occurs at a lateral acceleration of 0.4g to 0.5g."

The *difference* does not mean that it is bad. As a matter of fact the Panel describes the difference in the end of the report as follows: "Although the 1960–1963 Corvair does oversteer from .4g to .6g *it is not unstable and the control sensitivity is superior to that of contemporary vehicles* (emphasis added) in the sense that less steering input is required for a desired maneuver."

II. (1) Mr. Copp conveniently assumes that the speed of the vehicles to be the same for both curves. There is a very good possibility that the speeds on the first curve could be higher than the second curve. The vehicles did have a longer distance to get up to speed at the first curve and they probably scuffed off some speed going around the curve. They may not have gotten up to the same speed by the second curve. There is a difference in the radius of curviture of the inside and outside of the turns, 6% as Mr. Copp states. A one mile per hour decrease in speed will make up the differences in the two radius from the first curve to the second curve—41 mph on the 206 foot radius is 0.544 gs 40 mph on the 194 ft. radius is 0.549 gs.

(2) Mr. Copp stated that "The Corvair is experiencing latent control problems as it enters the second turn of the Phase II tests."

Close examination of the Corvair as it enters the second turn clearly shows it is not experiencing any problems. It can clearly be seen that it negotiates the second turn with no problems. It is not until after the driver puts in the unexplainable steering at the end of the second curve that the car goes off the road in response to *his* input.

(3) Mr. Copp stated: "I believe that staged tests which make the Corvair look bad would have attempted to make the Corvair look bad in all sequences."—Not if they are clever!

(4) Mr. Copp states: "At the point of loss of control the driver's corrections to the Corvair are exactly those instinctive reactions which would be made with an understeering car; turn more to the right in a right hand turn."

Close examination of the driver of the Falcon in Ford film clearly shows that this is not true. The driver of the Falcon as he passed in front of the camera at the same point where the driver of the Corvair put in the unexplainable steering input the driver of the Falcon did not put in any more steering at all. He just kept the steering he had in at that point.

During constant speed—constant radius turns, once the vehicle is in the turn a driver just maintains the steering input he has established to maintain path direction. He does not put in any more steering than is needed. The driver only attempts to maintain path control. A driver only uses the steering input necessary to make the car go where he wants it to go—not any more.

If Mr. Copp's statement was true, which it isn't, it would be like saying that when a driver drives a Lincoln around a curve he puts in so many degrees of steering into the steering wheel. Then when he drives a Mustang through the same curve, which would have a more responsive steering, that the driver would put more steering in at the end of the curve with the Mustang just because he put in a higher amount when driving the Lincoln.

The driver of the Corvair had no reason to put in more steering at the end of the curve and there was no logical instinctive reason for it.

Items 5, 6, 7, 8. There does not seem to be any reason for discussing these since it is very apparent what the drivers of the Corvair and Falcon actually did in the films.

(9) If Mr. Copp had observed any driver steering motions of Corvairs during the transition from understeer through neutral steer to oversteer he would understand that little or no steering may be required during this period. Movies taken simultaneously of the suspension and a driver of a Corvair going over rises and bumps in the road on curves causing the vehicle to go through the transition ranges clearly demonstrate that these do not have any consequent additive transitions in the suspension system steer characteristics.

The Pael in their addendum state that "This means that the Corvair has greater control sensitivity than these vehicles [1967 Chevrolet sedan and 1967 Chevrolet station wagon referred to in the previous paragraph] as well as greater control sensitivity than contemporary vehicles."

III. (1) In Mr. Copp's discussion about Ford methods of evaluating vehicles he states "The results of the Ford 14 month investigation of the HSRI procedure and our counter proposals have been reviewed with DOT as indicated in Ford Report ATMD 72–5 dated August 29, 1972."

As of this time a check of the NHTSA personnel involved with the HSRI test procedures has not turned up anyone who has received the information indicated by Mr. Copp.

(2) The test conditions of a relatively smooth higher coefficient surface was selected to be able to produce the maximum lateral accelerations. The maximum transient accelerations experienced in the testing program were considerably higher than those attained during steady state conditions. The level test surface condition was selected to assure uniformity and comparability.

(3) The tests conducted by Ford in their Falcon-Corvair films were also steady turn tests. The 150 ft. radius circular track is certainly a steady turn and the two 200 ft. radius curves are also steady turns.

IV. Mr. Copp stated: "DOT has stated that no system of tests has yet been devised which can be used to rate or qualify the handling *requirements* (emphasis added) of motor cars."

The tests conducted by NHTSA were not for the purpose of determining the handling *requirements* but were for the purpose of *comparing* the characteristics of the vehicles under consideration.

The NHTSA tests did provide information and data about the inputs and responses of the vehicles and these were then compared. These were comparative tests not requirement tests.

V. Mr. W. A. McConnell, Director of Product Test Operations Office, Product Development Group, Ford Motor Company, in his April 26, 1972, letter to Senator Magnuson briefly discussed some films involving a used 1962 Corvair in poor condition. It appears from the information NHTSA has received from Ford that this is the same Corvair Mr. Copp refers to in Part V of his critique.

Mr. McConnell stated in his letter: "We have two other reels of film involving a Corvair. These films were made in 1968 and involved a used 1962 Corvair in poor condition. The tests shown in *these films were not designed to measure the handling characteristics of the Corvair* (emphasis added) and do not present a fair illustration of its handling characteristics."

Mr. McConnell and Mr. Copp apparently do not have the same opinions concerning the tests. Mr. Copp's title of Section V of his critique "1962 Corvair Rated Unacceptable in 1966 Ford Jury of Developmental Engineers" does not agree with Mr. McConnell's statements concerning the tests.

The rating of the 1962 Corvair did rate a little higher than the similar condition 1966 Ford station wagon.

VI. There is no logical reason why the Falcon *had* to be the lead car unless the results of the tests had been predetermined. Since the drivers of cars did not have any apparent protective equipment, they must have been confident nothing would occur to risk their safety.

If the driver of the Corvair was given the lead car position then he had to drive the vehicle to the best of his ability or possibly risk a crash. Also, if the Corvair had been in the lead it may have been able to go faster than the Falcon with proper driving without the unexplainable steering inputs.

VII. Mr. Copp rated the Corvair at 35 for the standard tire pressure and 37 for the 26/26 tire pressure. Plus or minus 10 percent to each one still make their ranges 25 to 45 versus 27 to 47.

Mr. Copp stated that "for the nonstandard tire pressure of 26–26 psi, *in both Phase I and Phase II testing,* (emphasis added) the Corvair deviated into the oncoming lane *six* times during *nine* runs and demonstrated complete loss of control *four* times during *nine* test runs.

26/26 psi

$\frac{6}{9}=66\%$ oncoming lane $\frac{4}{9}=44\%$ complete loss

"For standard tire pressure in both Phase I and Phase II testing, the Corvair deviated into the oncoming lane *eleven* times during the *ten* comparative tests when running the standard tire pressure. Complete loss of control occurred *five* times during *ten* test runs.

$\frac{11}{10}=110\%$ oncoming lane $\frac{5}{10}=50\%$ complete loss

Even if the tests had been valid, a 66 percent loss on control in the oncoming lane for the 26/26 psi tire pressure would be better than the 110 percent for the standard pressure. Also, a 44 percent complete loss of control for the 26/26 psi tire pressure would be better than a 50 percent loss of control for the standard pressure.

Mr. Copp, in his tabulation of his evaluation, shows that:

	Percent control adequacy
Standard tire pressure:	
Average, phase I and II	18
Range ± 10 percent	8–28
Nonstandard tire pressure, Corvair 26–26 psi:	
Average, phase I and II	22
Range ± 10 percent	12–32

EXHIBIT 30

AUTODYNAMICS INC.,
Marblehead, Mass., January 2, 1973.

ROBERT J. WAGER, Esq.,
Staff Director and General Counsel; Subcommittee on Executive Reorganization and Government Research, U.S. Senate, Washington, D.C.

DEAR BOB: Your letter of December 6, 1972. You forwarded to me the following material:

1. My letter to you dated August 16, 1972 (9 pages).

2. Comments on "Request No. 8" Ford Efforts in 1966 to Establish Handling Performance Standards, H. F. Copp, 11/30/72 (2 pages).

3. Amended November 30, 1972, Critique of General Motors Discussion on Design Characteristics of the Corvair, H. F. Copp, 11/30/72 (5 pages).

4. Critique of DOT–NHTSA 1960–63 Corvair Handling and Stability DOT HS–820 198, H. F. Copp, 11/30/72, (6 pages, 1 attachment).

5. Critique of General Motors Discussion on Design Characteristics of the Corvair, H. F. Copp, 10/22/71, (5 pages).

You asked me the following questions:

1. Has Copp changed his views? If so, how?

2. What changes or modifications would you make in your own previous statement, if any, as a result of Copp's own amended views?

3. What do you think of Copp's Critique of the DOT tests?

SUMMARY

I do not believe Mr. Copp has changed his views towards the Corvair; and Mr. Copp's Critique of DOT–NHTSA 1960–63 Corvair Handling and Stability DOT HS 820–198 has not changed my opinion of the Corvair.

Mr. Copp's Critique would have us invalidate the NHTSA report since the testing did not include driver reaction time, varying road surface, and subjective driver comment. Since no reliable tests were available to include the above, NHTSA chose a system of tests which would quantitatively evaluate the performance of the Corvair against contemporary vehicles. This was the only reasonable way of determining whether or not the Corvair should be charged with a safety defect.

Question 1. It appears that Mr. Copp has not changed his views in any way. He only seems to have slightly less substantiation for his views in that he has removed all references to speed and lateral G forces as indicated in the Falcon vs. Corvair handling film.

Question 2. I would make no changes or modifications in my previous statement as a result of Mr. Copp's amended views.

Question 3. In evaluating Mr. Copp's Critique of DOT–NHTSA 1960–63 Corvair Handling Stability DOT–HS–820 198, I will comment on each of Mr. Copp's numbered points as follows:

1. *Criticism of my calculated speeds by DOT is justified.*—Given that Mr. Copp now agrees with the DOT calculations of G loadings and speed for the Falcon vs. Corvair film. Given that Mr. Copp states that, "at the loss of control the driver's corrections to the Corvair are exactly those instinctive reactions which would be made with an understeering car." We then can predict the spin displayed by the Corvair when exiting the right hand turn since the Corvair has considerably higher control sensitivity than the Falcon. In short, if one takes the steering wheel movement required to change the direction of the Falcon at high G loadings and applies this same steering wheel movement to the oversteering Corvair one will induce a spin.

2. *Corvair rapid transition from understeer to oversteer exceeds driver's reaction time.*—Unfortunately Mr. Copp has decided to base an entire mathematical analysis on the single comment, "In the General Motors film it was observed that the lateral acceleration might go from .3 to .6 G's in a quarter to a half a second dependent on the attitude and speed of the vehicle." The observation referred to by Mr. Copp occurred during tests wherein a Falcon and a Corvair entered a 108 foot skid pad circle on a tangent at various speeds. The particular case being observed was, I believe, at the speed of 40 mph where neither car was able to make the turn onto the 108 foot circle. The Falcon plowed off the outside of the circle and the Corvair spun to the inside of the circle. This again displayed that there is a practical limit of control in both oversteering and understeering vehicles. Oversteering vehicles due to instability and understeering vehicles due to uncontrollability. It was in these tests where the Corvair was almost pitched at the 108 foot circle that the G loadings built-up in the very small time frame.

The panel only made this point in order to question the General Motors comment that the Corvair had a gentle transition from understeer to oversteer without referring to any time frame. Since in the case Copp selects, the vehicle had to be thrown into an uncontrollable mode in order to have the transition in a fraction of a second; it seems irrelevant that this particular induced activity causes a situation which exceeds driver reaction time.

If a driver is forced to execute a maneuver which temporarily throws a car out of control, then he must be instinctively ready to correct the situation. Further, the large amount of steering wheel angle required to quickly change the direction of a Falcon under emergency situations might also be impossible within driver reaction time.

3. *Test methods used by NHTSA do not correlate with real world conditions.*—In order to determine whether or not the 1960 through 1963 Corvair should be charged with a safety defect, the National Highway Traffic Safety Administration chose a series of tests which would quantitatively evaluate the Corvair relative to contemporary cars. This approach seems valid.

Everyone involved realized that surface adhesion conditions, non-level road surfaces, etc., could change the characteristics of the various automobiles tested. Also there was a realization that a series of tests should be initiated which would attempt to better evaluate the interface between the average driver and various handling characteristics of cars used on the American highways which brings us to point #4.

4. *DOT has stated that no system of tests has been devised that can be used to rate or qualify the handling requirements of motor cars.*—It is my opinion that Mr. Doug Toms, Director of DOT, when he stated that "despite great effort DOT–HSRI and the automotive industry have been unable to devise a series of procedures and tests to measure the control performance of motor cars," that he meant that there were not a series of tests that could take into consideration various conditions of road surfaces and grade that might be encountered by an automobile or take into consideration the interface between many different drivers which might attempt to drive a motor car on the United States highways. Consequently, the DOT took a standard series of tests and ran contemporary cars against the Corvair to prove quantitatively that it met or exceeded the values posted by contemporary cars. I consequently, therefore, do not believe that Doug Toms' statement per force invalidate the DOT report.

5. *1962 Corvair rated unacceptable in 1966 Ford Jury of Development Engineers.*—I believe we all gave Ford credit for attempting to relate subjective driver reactions to quantitative test results on the handling of automobiles. In fact, most of us recommended that additional work be done in this area. But it appeared at the time of the Corvair tests by the Ford engineers that the acceptability or unacceptability of the Corvair was based strictly on the subjective feelings of drivers. It appears to me that very close correlation would need to be established before this system could be used to decide whether or not particular cars have safety defects.

Part 6 and 7 seem self-explanatory in Mr. Copp's analysis.

Very truly yours,

RAY W. CALDWELL,
President.

EXHIBIT 31

AUTODYNAMICS INC.,
Marblehead, Mass., August 16, 1972.

ROBERT J. WAGER, Esq.,
General Counsel, Senate Subcommittee on Executive Reorganization and Government Research, Washington, D.C.

DEAR MR. WAGER: In your April 7, 1972 letter to me, you enclosed for my evaluation a copy of your 1966 hearings in which a statement by Frank Winchell appears on Pages 1959 through 63, H. F. Copp's critique of the Winchell statement and related movie analysis, and certain material supplied to you by the Ford Motor Company describing its efforts to establish a handling standard for its cars.

You stated that you had the following questions concerning those documents:

1. Is there anything inaccurate or misleading in Winchell's statement?

2. Is Copp's critique valid?

3. Based on your knowledge of the relative stability of the Corvair and Falcon, do you accept the results of Copp's movie analysis?

4. Are the results of the Ford tests consistent with Copp's analysis?

5. From the Ford tests, what conclusions can be drawn about the stability and handling of the various cars?

In addition to the above, I will also add my own evaluations of the 1960 through 1963 Corvair.

INTRODUCTION

Winchell, Copp, Manos, and Nader are only a few of the many people who have had opinions on the 1960 through 1963 Corvair. All seem to have some kind of axe to grind. Winchell works for General Motors, Copp works for the Ford Motor Company (and seems to be miffed because he thought someone was putting down the Falcon), Professor Manos (I don't know why) and Ralph Nader who

rose to prominence on the Corvair. The only way my comments can be of value in this controversy is if they can somehow separate fact from fiction. I have no relevant affiliation with any of the groups concerned, and have nothing to gain or lose by the outcome of the Corvair controversy.

SUMMARY

Question 1. Some of the comments in Winchell's statement need further evaluation. These comments are primarily the ones pointed out by Copp in his critique. But, taking into consideration the fact that the Corvair controversy had begun and Mr. Winchell was employed by General Motors Corporation, it appears that his comments were reasonable and prudent at the time and what one would expect from a man in his position. At least his comments are not an attack on anyone.

Question 2. Mr. H. F. Copp's critique of Mr. Winchell's statement concentrates on four points in Winchell's statement which do require clarification. To support his claims, Mr. Copp uses a very subjective analysis of an old Ford film which was recently made public by Ralph Nader. The veracity of this film is questionable in that it does not appear to agree with the tremendous amounts of information which have been collected and evaluated by the Department of Transportation. The four points upon which Mr. Copp chooses to differ with Mr. Winchell do merit discussion. But using the subjective analysis of the Ford film as the basis upon which to refute Mr. Winchell's claims actually weakens Mr. Copp's case. Also, unfortunately his critique is an attack.

Question 3. Since Mr. Copp presents a complete description of his means of subjectively evaluating the Ford film, his approach is acceptable. But, when the percentage conclusions he draws are lifted from the complete explanation and presented separately, they are very misleading. However, the problem does not lie as much in the analysis of the film as in the film itself. The film depicts the Corvair as being very substandard to the Falcon. Whereas information submitted by General Motors, Ford and exhaustive testing done by the Department of Transportation would indicate that the Corvair quantitatively meets or exceeds the standards set by contemporary cars in stability tests, cornering tests, and roll-over tests. (Ford material was that supplied to your Subcommittee). Further, members of the Department of Transportation counted film frames and timed the cars in the Ford film to get an indication of their speed and consequent G loadings. Calculations indicated that the cars were operating in the .5 to .55 lateral G area rather than in the .32 to .4 G area suggested by Copp in his analysis. In addition, visual analysis of the film shows radical steering inputs being administered to the Corvair. Considering the high G loadings and the severe driving technique, one can predict the characteristics displayed by the Corvair which has much higher control sensitivity. The film, however, in my opinion, gives little indication of the relative merit of the two cars.

Question 4. The main purpose of the Ford tests was to attempt to correlate subjective driver opinion with the characteristics exhibited by various cars. It did appear that the drivers involved preferred cars which tended towards understeer. But this is not directly relevant to the Corvair controversy which centers on whether or not the car is unsafe.

Question 5. No new information is shed on the Corvair controversy by the Ford tests, the jectively prefer oversteering or understeering other cars have been well defined. The important point to be noted is the validity of an attempt to detemine whether drivers subjectively prefer oversteering or understeering cars. If the preference trend away from the oversteering Corvair is an indication that the drivers are uncomfortable in the Corvair because they feel inadequate to cope with the oversteer, then we are back to the nub of the Corvair controversy which is: Can the average driver cope with the transition from understeer to oversteer during an emergency situation?

The Corvair appears to be a well engineered car that went through the Department of Transportation's tests in Texas with less mechanical problems than contemporary cars. The Corvair quantitatively meets or exceeds the standards set by contemporary cars. It seems, therefore, inconsistent to even consider citing the Corvair with a safety defect in the handling area. It does, however, have a transition from understeer to oversteer through the neutral steer condition which occurs at .4 lateral Gs. At .6 lateral G the Corvair is tending rapidly towards terminal oversteer. Through the entire rating from .4 to .6 lateral G the Corvair has better control sensitivity than contemporary cars in that it requires less steering wheel angle to accomplish any driving maneuver. One concludes, therefore, that the only significant feature of the Corvair which could account for the Corvair handling controversy is the transition from understeer to oversteer in the controllability range. Focus should now be drawn away from the Corvair itself and directed to the broader question of whether or not present vehicles should be built with a similar transition. This question is important since there are some current vehicles such as vans, loaded station wagons, etc. which display the same transition as the early Corvair.

Is there anything inaccurate or misleading in the Winchell statement?

Mr. Winchell's comments are reasonable given the atmosphere of that time. The Corvair controversy is coming into full bloom. He states in one place, "the design characteristics of the 1960–1963 Corvair which were claimed to be wrong," and in another place, "we were accused of ignoring elementary mechanisms alleged to eliminate the characteristics." I think it is reasonable to assume that Mr. Winchell was on the defensive during this hearing and that his remarks should be evaluated in that light.

The comments Mr. Winchell makes early in his statement relative to the characteristics of vehicles and how they effect vehicle control are quite succinct. He touches on one of the elements of the Corvair controversy which I have not seen appropriately spelled out to date. Control and stability are two different characteristics.

If one were to draw a graph with complete stability as one extreme and instability as the other extreme, how would one define those limits? I suggest that complete stability in a vehicle means that no steering input or road disturbance would have any effect on the direction the vehicle was traveling. Instability, on the other hand, must mean that any steering input or road disturbance would cause the vehicle to spin. Clearly, neither extreme is acceptable and, I'm sure you will agree, we must come away from total stability towards instability to some compromise point where the car is controllable. The reason is simply that a vehicle completely stable as to path is not controllable and as you tend across the graph towards instability the vehicle becomes more controllable.

Detractors of the Corvair are quick to point out that the Corvair at its limit of control becomes unstable and spins out. Those same detractors, however, do not point out that contemporary understeer vehicles are uncontrollable at the same lateral acceleration (continued turning of the steering wheel has no effect on the path of the vehicle). Thus, there is a practical limit of control in both oversteer and understeer vehicles, oversteer vehicles due to instability and understeer vehicles due to uncontrollability.

Winchell's comment, "Corvair differs from other cars only in the arrangement of its components," in the general sense is true. Corvair is still a car with engine, seats, transmission, four wheels, steering wheel, etc. However, the Corvair does have handling characteristics due to weight distribution and suspension characteristics which are different from most contemporary cars with the possible exception of some imports. The only important characteristic, to my way of thinking, is the transition from understeer to oversteer in the .4 to .5 lateral G area. Since I believe that quantitatively the Corvair was able to pull as many lateral Gs as contemporary cars and was controllable to the same limit, then the question becomes, how do these characteristics effect the normal American driver under conditions of stress?

The next significant point in Winchell's statement regards the number of lateral Gs drivers can cope with. Winchell's comment that General Motors' experience is that in an emergency situation few motorists have the capacity to control any cars on public roads in excess of .3G at 30 mph and .2G at 60 mph is certainly controversial. I suspect that most drivers do not enjoy high lateral acceleration and would certainly under normal conditions stay under the .3G and .2G limits. However, my opinion is that many drivers under emergency situations do, in fact, generate lateral forces considerably in excess of .3Gs and conceivably as high as .7. It is under these extreme emergency conditions that the Corvair's transition from understeer to oversteer between .4 and .5G and terminal oversteer characteristics at .6G may cause an unfamiliar driver difficulty.

Mr. Winchell's comments, "even at .75G lateral acceleration, the suspension has dropped only one degree below its position in a normal straight ahead course, does not indicate the most important factor which is the tires relationship to the road. If the car at that point has 3 to 5 degrees of roll then the roll plus one degree mentioned by Mr. Winchell would indicate that the tire may have 4 to 6 degrees of positive camber relative to the road. This figure is, therefore, 4 to 5 degrees higher than that for the normal straight axle rear suspension, and contributes to the Corvair's transition and terminal oversteer.

It is my experience that changing the tire pressures on a rear engine car (or any car for that matter) will have an effect on the handling characteristics of the car. In the case of the Corvair, the same tire pressure all around will increase oversteer and move the transition from understeer to oversteer to a lower G figure. Winchell states, "the pressure selected for the Corvair was the best choice for satisfaction and value to the customer in control, tread life, and ride." I'm sure this is the case, however, these pressures should be adhered to. One can only speculate on whether or not General Motors changes to the 1964 Corvair were indeed "a step in the normal process of development." The fact that the Corvair controversy does not surround the 1964 Corvair which still had a swing-axle is an indication that the swing-axle per se was not the problem, but rather the characteristics of the car. I also suspect the 1964 car did change in the 0 to .6G range in that the transition from understeer to oversteer was probably pushed up from the .4G range to the .6G range.

I wish someone would underline Winchell's comment, "It is desirable that a planned program for the extension of driver capability parallel the development in extended vehicle and highway capability."

Winchell's comments relative to oversteer being better than understeer may be accurate in the absolute sense. But the important factor is the reaction of the general public to the understeering and oversteering cars. This is the area where the Corvair is in question. Not whether or not it can do the things other cars can do, but more importantly,

how do drivers react to a car with these characteristics?

All the curves I have studied on steering wheel angle vs. lateral Gs on a constant radius circle do not support Winchell's contention that further turning the wheels into a turn reduce the cornering power of the front wheels causing the car to generate even a larger radius. The natural reaction of a driver in an understeering car is to steer farther towards the turn is valid, along with backing off on the gas. The tremendous angle on the front wheels would tend to slow the car down, and as the car slowed down it would tend to start turning towards the inside as originally intended. On the other hand, in an oversteering swing-axle car the driver senses his mistake, backs off the gas which transfers weight from the rear to the front wheels. This exaggerates the oversteer particularly in the case of the Corvair because as the rear of the car raises the rear tires tend to positive camber and hence the car turns sharper than originally intended.

Winchells' comments on Senate Bill No. 773 would appear reasonable.

Is Copp's Critique Valid?

In general terms, Harley Copp's critique on Frank Winchell's statement to your committee brings up some valid points. However, I think the basis for his refutations are weak.

Under background, he makes the statement that Ford evaluated rear engine cars and decided against them making the statement, "rear engine cars, regardless of the rear suspension, exhibit borderline handling characteristics especially if the total weight of the vehicle exceeds 1800 lbs." Clearly, 1880 lbs. is an arbitrary figure and rear engine cars by definition do not necessarily exhibit borderline characteristics. In fact, a Porsche 911 which is a 2500 lb. car with a very heavy rear engine exhibits quite reasonable handling characteristics.

Harley Copp's main objections are to four comments:

1. Corvair is no different than other rear engine cars.
2. Only expert drivers can handle more than .3 lateral Gs.
3. Corvair tire pressure differential is of minor importance.
4. Oversteer might be better than understeer.

Let's take one point at a time.

Copp takes, by way of refuting "the Corvair is no different than other rear engine cars", the position that since the Corvair is 40% heavier with longer wheelbase, that it has latent skid ability twice that of a Volkswagen and when it begins to skid it has 1.8 times the spin force. This has to do with the polar moment of inertia and Copp does not indicate that because of its longer wheelbase the Corvair also has a higher ability to counteract its latent skid ability and spin force. Without calculating both factors one cannot make any relevant comment.

It is possible that the Corvair controverted established rear engine suspension effective roll couple distribution, but I do not believe necessarily grossly deteriorated its potential handling performance. What it did do was put a transition from understeer to oversteer in the controllability range, and that must be evaluated in terms of how it effects average drivers.

Copp by way of supporting his position that the Corvair was different from other cars uses subjective percentages, i.e., the Corvair suffers "a controllability performance deficit amounting to 70 to 90% compared to a Volkswagen." None of the other test data available on the Corvair would indicate that the Ford film showing the Corvair following the Falcon reasonably indicates the actual performance of the two vehicles. In fact, Copp states that both the Volkswagen and Renault Dauphine were run under similar circumstances in 1959 and were able to corner at higher speeds with less instability than the Corvair. In the Department of Transportation tests the Corvair never made outrigger contact which would indicate a roll-over whereas both the Volkswagen and Renault Dauphine indicated roll-overs.

Relative to "only expert drivers can handle more than .3 lateral Gs." Copp, I believe, makes some reasonable points. The surface upon which a driver is operating his vehicle has a large amount to do with lateral Gs because the surface may be either undulating or exhibit a poor coefficient of friction. Therefore, one cannot simply state lateral Gs as an indication of handling for all circumstances.

Copp sights the film showing Corvair vs. Falcon handling as an indication that an expert driver cannot control a Corvair over the .3G figure mentioned by Winchell. However, DOT timed some of the skid pad tests on the Ford film and it appears that the cars were operating closer to the .5G range. Also, Copp gives the Corvair a 10% rating and the Falcon a 100% rating based on his subjective system. This system would tend to indicate the Falcon is ten times better than the Corvair and, as such, is misleading.

Relative to Point 3 on tire pressures, common sense would agree with Copp's challenge to the comment, "tire pressure differential is of minor importance." As tire pressures change, slip angles also change effecting oversteer/understeer performance and consequently Winchell's statement should be questioned. However, Copp's numbers game with percentages is misleading. He states that the Corvair went off the road six seconds sooner with 26/26 tire pressures than it did with standard pressures which amounts to 33% deterioration. He is comparing apples and oranges and battleships over an 18 second course. It is a 33% deterioration in time but in no way can be construed as a 33% deterioration in handling.

When Copp puts in parenthesis (emphasis added because slip angle induces understeer), it is misleading because high slip angles in rear tires induce oversteer, and high slip angles in front tires induce understeer. There is no question that the Corvair should be driven with the recommended tire pressures.

Much more information is required in order to analyze Copp's comment that "it has been calculated within plus or minus 10% at 35 mph that equalizing front and rear tire pressure causes a 60% deterioration in steady state response for an understeering rear engine car with driver only and an 80% deterioration at full passenger load.

Copp's entire refutation of Winchell's statement, "oversteer might be better than understeer," is based on the Ford film which appears to be unrepresentative.

In summary, I feel that Harley Copp does point out four reasonable areas for discussion relative to the Winchell report. (1) The Corvair is no different than other cars. (2) Only expert drivers can handle more than 3 lateral Gs. (3) Corvair tire pressure differential is of minor importance. (4) Oversteer might be better than understeer. But, I believe the Ford film used by Copp as supporting evidence is unreasonable, and does not prove his points.

Are the results of the Ford tests consistent with Copp's analysis?

In my opinion the Ford films are inconsistent with Copp's film analysis. Copp makes the comment, "The film showing Falcon vs. Corvair handling and my analysis of these films clearly demonstrates that an expert driver was unable to control the Corvair in the normal highway handling test of .32G."

The Ford Report dated November 8, 1968 and entitled "Vehicle Response Characteristics of Test Vehicle GAP No. 1" makes the following comment, "The vehicle is near neutral to about .4G lateral acceleration and then goes to an oversteer state." The evaluation of Figure 1 in the same report entitled, "Steady State Response Characteristics of GAP 1" indicates that the Corvair actually tends toward understeer at about .45Gs and would appear controllable to at least .55Gs. These figures are certainly inconsistent with Copp's .32G figure stated in the previous paragraph.

The Ford Report dated August 3, 1966 end entitled "Handling Tests for Safety Committee on Handling Performance Standards" includes Figure 3 which is a curve plotting steering wheel torque against lateral acceleration in Gs. This curve indicates a rather linear increase in steering wheel torque relative to G increase which would tend to indicate the car is neutral up to the .4G bracket. As the Gs continue to build up from .4 to .6 less steering wheel torque per unit G increase is required indicating that the car is tending towards oversteer. The important factor here is that they seem to have reasonably reliable data clear up to the .6G bracket which certainly indicates that the car is not out of control until that point. Again, it would seem that Ford's own data on the G limits of the Corvair is inconsistent with Copp's movie analysis wherein he indicates that the Corvair is out of control at .32Gs.

Earlier in my critique I indicated that timing of the movies both by counting frames and using a stop watch indicates that the G limits were considerably higher than those quoted by Mr. Copp. Since Ford's own test data on the Corvair indicates that the Corvair breaks away or becomes uncontrollable in the oversteering mode at much higher G levels than Mr. Copp indicates; it would appear that the Department of Transportation's thinking and my thinking relative to the G levels displayed in the movie are correct. Now. from all the evaluation of steering wheel angle vs. lateral G graphs we know that quick steering movements in the Corvair in the .5G range can quickly throw the Corvair into the oversteering condition shown in the Ford movie. Of particular interest is when the Corvair comes out of the right hand turn on the test rack in the Ford movie and after nearly completing the turn the test driver puts in a violent steering wheel correction to the right. We can anticipate under those conditions that the Corvair would display the behavior indicated by the movie. Similar drastic movement of the steering wheel toward the turn in the Falcon would not cause a similar reaction in that the Falcon at high G limits is tending towards its understeering limit of control and therefore is very insensitive to steering wheel movement. In short, it would appear that the Corvair vs. Falcon film although it indicates behavior that we would expect under certain types of steering wheel movement on the Corvair, does not indicate the relative merits of the Falcon vs. the Corvair.

I would like to digress briefly and say that even though the Ford tests actually have little bearing on the Corvair controversy or Copp's analysis, they are of critical importance. The reason they are of critical importance is because they do attempt to collate objective vehicle tests with subjective feelings of drivers. It is just this type of testing which would ultimately be needed if the Corvair controversy were going to be ultimately laid to rest. Because, as was stated before, we have plenty of information to evaluate the characteristics of the Corvair, but what we do not have is how the average driver reacts to this particular set of characteristics. The Ford tests are an attempt to prove how drivers 'feel' about certain vehicle characteristics.

Ford, in this series of test, states that they have little conclusive correlation between subjective driver feeling and objective vehicle tests. The Ford tests did indicate that the drivers used were both experienced and inexperienced and the drivers did appear to dislike the oversteering characteristics of the Corvair. What is critical is not whether or

not the drivers dislike the characteristics of the oversteering car, but rather was the driver able or not able to cope with the oversteering characteristics. There is no indication of this in the Ford reports.

It is my opinion that no testing should be done whether or not drivers can cope with the understeer/oversteer transition of the Corvair. What should be done, however, is to take modern vehicles, 1972 vehicles, and adjust them with different loads and different tire pressures to change the characteristics and then determine whether or not inexperienced drivers, or at least drivers unfamiliar with the tests, are able to negotiate a given course. The reason simply is that we have considerable information on the actual handling characteristics of cars but very little information on the interface between the driver and the cars with these various characteristics.

From the Ford tests, what conclusions can be drawn about stability and handling of the various cars?

With the amount of information actually available in the submitted Ford Reports, it appears that no significant evaluation can be made of each separate vehicle. Certainly tests in general indicate that the majority of the cars tested are cars that understeer. An evaluation of Ford's specially set-up station wagon which appears to have somewhat similar characteristics to the Corvair would be of interest in order to learn how much adjustment is required to change a vehicle from the basic understeering to an oversteering mode. We already know that on the '64 Corvair changing the spring rates and adding a front anti-sway bar made the car handle more like other contemporary vehicles.

In short, the Ford reports tend to indicate that Copp's G analysis is incorrect, contemporary cars do have a practical limit of control of about .6Gs, and the Corvair does oversteer more than contemporary vehicles.

AN ADDITIONAL COMMENT

As I was reading further in the book on hearings some comments by Professor Manos caught my eye. He indicates that he believes that a 1962 Chevrolet was in full control at .8Gs. We have no indication in all of the information gathered that contemporary cars were able to pull anywhere near that kind of cornering force. Further, Figure No. 1 entitled "Steady State Yawing Velocity Response" in the Ford Report dated August 3, 1966 subject "Handling Tests for Safety Committee on Handling Standards" indicated that a 1966 Ford wagon set-up in the normal fashion has a practical understeering limit of control of slightly under .6Gs.

Very truly yours,

RAY CALDWELL.

EXHIBIT 32

JUNE 1, 1964.

To Mr. E. V. GILLILAND, *G.M. Legal Staff*:

This is to confirm my views and requests regarding Pierini vs. Chevrolet.

(1) TIRE PRESSURE

Our tests of last January were conclusive in that at 30–35 miles an hour the tire pressures reported on the Pierini car were not significant in the normal driving of the car. That is, the car was not deficient in any recognizable way going straight or in cornering at these speeds. The car did not seem to drift or pull more one way than another. It is my opinion that the average individual could not tell whether the tires were properly inflated or inflated as claimed. I think that, in light of our statement in the Owners Guide regarding inflation pressures, it is going to be extremely difficult to convince a jury that my testimony is not prejudiced:

At these low speeds, the tire pressures are not significant. The Owners Guide must have, of course, considered that the car will be driven at high speed. Inflation pressures become critical as the speed increases. The centrifugal forces which are reacted by the tires varies as the square of the speed for any given displacement of the steering wheel. In other words, at a given displacement of the steering wheel, the side forces on the tires at 60 miles an hour are 4 times the forces at 30 miles an hour. At 90 miles an hour, the side forces are 9 times the forces at 30 miles an hour. At the same time, however, it must be realized that the same forces can be generated at 30 miles as can be generated at any other speed. The relationship between force and speed is as follows—

$$F = KV^2W^2 \text{ divided by } R$$

The limiting forces at any speed is equal the weight of the car times the coefficient of friction—

$$F_{max} = W\mu$$

In other words, at "any" speed, any force up to and equal to the limit of adhesion can be generated if the steering wheel is turned far enough to reduce the radius enough.

It is my opinion that, although these tire pressures could not have adversely affected Mrs. Pierini's ability to drive the car at these speeds, it would have affected to some slight degree her ability to recover control of the car once having lost it.

I feel confident that the reported tire pressures had no bearing at all on Mrs. Pierini's loss of control. To verbally convince the court of this is a difficult, if not impossible, task. It was, therefore, my recommendation that the court in some way experience the difference in the behavior of the car at these speeds and at both normal and the reported tire pressures. I am certain that the difference in tire pressures on the same car would not be recognizable at the 30–35 mile speed range *over any selected course*. I understand that it is not possible to subject the court to this experience. I would, therefore, recommend that an unbiased witness or witnesses be subjected to this variation in tire pressure. I am certain that this would be much more convincing than any verbal testimony by us or anyone else in General Motors.

(2) PATH OF MRS. PIERINI'S CAR

There seems to be some difference of opinion regarding the precise path generated by Mrs. Pierini in losing control of the car. In view of her testimony, I think it is extremely important to determine accurately the course of her car as stated in our discussions last January. I think this can be done accurately enough for us to understand the exact conditions the car was experiencing prior to its having turned over. This can be done by setting up an appropriate camera in the exact location by superimposing the original negative on the ground glass viewer and retracing the skid marks and measuring its curvature. Knowing this radius and the speed reported by Mrs. Pierini, we would be able to positively calculate the forces acting on the tires and would know if Mrs. Pierini was inside or outside controllable range of the Corvair. Furthermore, it would seem to me important to be able to state to the court that Mrs. Pierini veered across the road at 30 miles an hour generating a 2000 ft. radius or whatever it was.

In addition, it would seem important to know whether Mrs. Pierini was or was not on the pavement when she attempted to turn the vehicle right. This is pertinent in light of the testimony that spillage of air from the left rear tire contributed to the loss of control. From the present photographs, it appears that Mrs. Pierini dropped her right front wheel off the shoulder, turned the wheel to the left too far causing the car to veer in a left hand turn clear across the pavement and that she did not make a right hand correction until the left rear tire was on the soft shoulder. I believe that air was spilled from the tire when it struck the small embankment and that the car turned over at this time.

F. J. WINCHELL.

JUNE 3, 1964.

To: Mr. R. V. GILLILAND, *G.M. Legal Staff*

From Blewett's investigation of August 30th, 1961 (accident occurred on August 18th), I take the following—

[EDITOR'S NOTE.—The graph is available in subcommittee files.]

I concur with his analysis of what happened.

I also concur with Pierce Ausburn's analysis that the tire deflated when it struck the divider. Otherwise, there would have been score marks on the rim. Furthermore, we and Engineering Staff were not able to spill air from a '61 Corvair wheel and tire on an ordinary pavement, by broad sliding the car or dragging it sideways at the limit of adhesion regardless of tire pressures.

Mrs. Pierini appears to have been completely incompetent since the left radius she took across the road was approximately 210 ft. which, at the speed reported, would be almost within the normal cornering range of "any" driver in making, normal turn around a street corner. Further, the subsequent right hand correction took some 300 ft. which must have been much greater than a 200 ft. radius and at a slower speed. The fact that at no place was there evidence of her applying the brakes suggests that she may have become "unseated" by the "sudden" left turn when the steering angle finally overcame the straightening force of the edge of the pavement on the tire. I cannot think of any other reason why a competent person would not have applied the brakes.

Tire pressures were reported as—*LF* 25; *RF* 17; *LR* 21; *RR* 17.

A '61 Corvair was set up with these the pressures and driven by Simmons, Passon, Gilliland and Winchell on the test track at G. M. Tech Center.

There was no consistent drift right or left. Furthermore, at these speeds of 30–35, there was no deficiency evidence of oversteer, etc. at normal driving. I subsequently drove the car for several days, to and from work, (20 miles each way) up to 90 MPH and am convinced that at 30 or 35 MPH these pressures were in no way responsible for Mrs. Pierini's loss of control; that few people, if any, would recognize this discrepancy in pressures at 30–35 MPH, even at .3g's.

Furthermore, Simmons, Passon, Gilliland and Winchell made an evaluation of the response of this car at these pressures when dropping off a pavement edge of 4" with respect to a regular Chevrolet. The regular Chevrolet reacted more violently than this Corvair with these pressures.

The same tests were conducted with the tires—*LF* 25; *RF* 25; *LR* 17; *RR* 17.

Both Mr. Pierini and Mrs. Pierini state that on some occasions the car was normal and on others it was not. For instance, Mr. Pierini stated that he had some "sway" problem going to work but coming home it was O.K. This, of course, is unreasonable if the claim is "oversteer" due to improper inflation. Also, Mr. Pierini claims he experienced difficulty at 20 MPH.

Pierini's interrogatory; questions No. 41 and 42, answers that photos were taken at the scene immediately after the accident by Tom Halde (20 color slides), 1006 Santa Barbara Street, Santa Barbara, Calif.—we should have these pictures.

According to deposition of W. H. Harper, Horgan has all of Halde's photos.

Do we have the photos that T. Halde took of car and of tire and rim?

Only one tire mark observed by Harper. He recalls that the northbound lanes are lower than southbound. (15–18 to 22).

Harper states rollover damage was slight, car was probably going at slow speed (18–17 to 22), partially on pavement and dirt.

Page 23–17 to 22 infers dirt, debris and vegetation was in the tire.

Page 24–20 to 26 claim some slight pavement abrasions on rim.

Pages 27 and 28 are interesting in that he states that the outside bead was pulled off, either from impact or the side forces resulting from the centrifugal forces.

The fact that Mr. Harper states that car handled O.K. after the accident with the tire pressures apparently at —*LF* 25; *RF* 17, *LR* 21; *RR* 17, is certainly consistent with our observation. He also tested to 45 MPH.

F. J. WINCHELL.

To Mr. J. B. BIDWELL, *Research Laboratories*

DEAR JOE: I have read with considerable interest your report on tire pressures (Report No. 24–876).

I have been assisting the Legal Staff in the defense of lawsuits brought against the corporation related to handling characteristics and very recently to the effect of tire pressures.

In this latter instance, the plaintiff lost control of the car at *30 miles* an hour; due she claims to the fact that the dealership rotated her Corvair tires and did not change the pressures. Our tests on the Corvair have shown conclusively that *at these speeds* neither engineer or layman can differentiate betweeen normal and "reversed" tire pressures.

You report states accurately the criticalness of tire pressure. It is *assumed*, however, that the reader understands that there is a critical speed. The report could be damaging as evidence without such a qualification.

I think a separate and independent report on the relationship of speed to the critical behavior of the car would not only be helpful in future cases but would eliminate the possibility of misuse of this report.

F. J. WINCHELL.

EXHIBIT 33

THE ENEWSPAPER,

Warren, Vermont, December 13, 1971.

BOB WAGER,

Washington, D.C.

DEAR BOB: Pardon me for not getting this promised letter off sooner, but I have had some rather personal consumer problems—to or not to—so I had to get some paying assignments off first.

You asked on the phone if, during my association with GM and Corvair, did I see any evidence that would indicate that the GM people KNEW that the Corvair was less than safe. The answer is no.

I saw nor heard no evidence of GM knowing that the Corvair was "unsafe" (at whatever speed) nor was there any evidence of it actually being unsafe or even difficult as far as my personal experience was concerned. As for the GM higher-ups, I was not privy to their innermost thoughts or uppermost plots. Maybe they were sitting in their Knoll Associates offices rubbing their hands in anticipation of highway carnage caused by the Corvair. I do not know. What I do know was that the Corvair—as I drove it—was one of the sweetest handling most pleasant-to-drive production cars I had experienced.

Most of the car-buffs felt fondly toward the Corvair from the time it first appeared. Here was what we considered to be the first attempt from "Detroit" to make a car for a driver. (The Corvette in its early stages was scorned as a bit of con—a pseudo-sports car for the gullibles.) The Corvair was handsome by our standards, it was people-sized instead of one of those wheeled dirigibles, it had the engine over the drive wheels which seemed a sensible place, it was interesting from an engineering standpoint and it lent itself to all sorts of modifications. (Every piece of domestic machinery at that time required extensive modifications—stiffer suspension for a start—to make it even acceptable to a truly keen driver, but most of them were confirmed sow's ears to begin with and were ignored.)

The Corvair inspired all sorts of special equipment—John Fitch for one did clever stitchery around the basic Corvair to come up with a truly fine little car. The Corvair also inspired lots of print in the nuts-and-bolts media on how to improve the car, how to drive it etc. Ralph Nader, in his research for his first book, was obviously impressed by the existence of the proportionately large amount of type devoted to the Corvair and, I think, he not being a car-minded type, misinterpreted it. He was not aware that so much space was devoted to how to make the Corvair a better car not because the motoring journalists thought that it was a bad car but because they thought it was so much better than anything else offered to us by Detroit.

I personally was responsible for one such article—"How to Drive a Corvair", I think it was called, in a special on Corvair put out by "Car Life" magazine in California. I know that Mr. Nader saw the article because he quoted from it in "Unsafe at Any Speed" in a way which led me to suspect he didn't know much about cars. (I think a non-car person plunging into the middle of that special world of the automotive media is in for a degree of culture shock. Articles are written in a jargon and they are written for the converted. They assume a certain position on the part of the readers to begin with. (A politician making a speech to a banquet of party regulars speaks with different shadings than he does when campaigning in the bailiwick of the opposition.)

Anyway I have great admiration for Mr. Nader, but always felt that his anthropological foray into the world of car nuts was less than accurate.

I wrote in the article about the type of accident a Corvair was apt to have when pushed to the maximum and how to avoid it—the off-the-road backwards type. Now every car has its own particular accident to which it is prone, just as every junkie has his drug-of-choice. The Corvair happened to be an oversteering car in a world of extreme understeerers. Still, I would not say that it was beyond the normal ability of the average driver under average conditions to drive reasonably well. In short, it was not really the best car, but it was better than most being offered us on this side of the Atlantic at the time. And its potential was excellent.

Now, in retrospect, I think there is no question that for a little more money GM could have put an improved suspension system on the Corvair right from the start—stops on the swing axle etc.—rather than a few years later. A-little-more-money seems to be the critical matter in selling cars. That's how most Americans buy—by price. I swear if you offered them an option that for $500 more they would never have an accident they would turn it down. Whether ads, beginning with the famed "Somewhere west of Laramie" type, have trained them to buy image—at the lowest base price possible (they never seem to count in the extras), rather than cars. I don't know. Anyway, the manufacturers fiddle with pennies on each part so that they can compete, and the Corvair was already priced higher than the Falcon and the Valiant—its direct and more conventional rivals. But that is good old American free-enterprise "capitalist" thinking, isn't it? Whether it is venality is another matter. (And whether you can really separate the two is still another matter.) Did the GM decision-makers on their thick carpets within their wide paneling say: "So we kill or dismember a few people, so what? Put in the cheaper suspension."? I do not know. I am perhaps naive but I think that most of the evils of the world are by chance, not by design.

To me the greatest obvious mistake in the early Corvair was the steering ratio. I prefer quicker steering—a 16:1 ratio perhaps rather than the 19:1 I think the Corvair had. Maybe greater. Anyway, with faster steering it is easier to catch a back-end that is apparently intent on switching positions with the front. This of course assumes that the driver can tell when the car is breaking loose and what to do to catch it. A 16:1 steering ratio—which amounts maybe to 2½ turns lock to lock, I'm not sure—however makes a car hard to turn when it is being parked, for instance. Power steering was not indicated in so small a car and, thinking of the woman driver who wouldn't like straining at a wheel when she parked merely for some abstract (to her) margin of safety should one "overcook it" while pouring into a diminishing radius turn, GM opted for the easy-to-park ratio. (Whether they were thinking of the weak women of the world or were afraid that that weak soul was the strong one when it came to deciding which car to buy and would veto one that was hard to park, I couldn't say. But since they have stockholders I would guess the latter.)

I do not know what special things were done to the Corvairs I drove in the two Trans-Canada rallies, but one very obvious one—and necessary to my way of thinking for the kind of driving we would be doing—was to put three degrees of negative camber in the rear wheels. That meant that instead of standing straight up and down in relation to the ground the rear wheels were splayed out at the bottom in a knock-kneed fashion. This improved the handling under hard cornering and I loved the way it performed. The car seemed to lean hard against that tilted wheel—as if it were an outrigger—and scurry right around the bends. I entertained myself on the long Canadian runs by suckering following cars into trying to stick with me and I would accelerate around the turns watching in the mirror as they faltered, kicked up shoulder dust and fell back. Nothing in the rally could stick with the Corvair on the turns. I never drove a Corvair with camber or positive camber in the same way so I do not know how it would react. (There could well be the tendency under extreme forces for the positively cambered wheel to "camber" some more and roll under. VW's have, or had, that propensity. I've never liked them and have not driven one hard for a long time.)

The two years of the rally, almost a decade ago now, are sort of fused in my memory, but I am certain it was the second year that I had so much trouble—the sort of trouble that can plague competition no matter how well planned or well prepared the cars are. (In European rallies, such as the Liege-Sofia-Liege, some 100 cars usually start and rarely more than a dozen as much as finish.) First off 11 miles from the start the gas tank was punctured on a sharp rock masquerading as mud from a truck. That sort of thing. Then I was off the road in the fog one night while lost in Quebec and off again in some ice or snow. ("Civilian" drivers are often dismayed at the way competition driver speak so casually of, what to the ordinary driver, are disasters. But in European rallies I have known cars to have rolled several times, plunged off baby cliffs (me) and collided with timber trucks and horsecarts to carry on—and even win.)

One time on the Trans-Canada during a particularly slippery section (one driver commented that you could shoot a puck in Sault Ste. Marie and score in Port Williams) I was bombing along with a clutch of cars trailing behind like a comet's tail. It was night and the visibility was bad and since I have the sort of vision that somehow adapts well to such conditions I often develop a "following" and play pioneer. I was driving mostly without headlights—just flickering them on every now and then. (One can see better in snow or fog from the light of following cars coming under the car—low.) As I remember it was slushy in spots, the sort that tugs at wheels suddenly. And it was gusty. In short, it was a bad night for driving. Certainly for going

more than 30 miles an hour. I was probably doing 60–70. (The spur of competition moves one to do things one would not think of doing merely driving to Aunt Maud's for Thanksgiving.) Anyway, it was a touch and go matter at best keeping the car pointed straight—any car. And I lost it. I remember being somewhat sideways, near the point of no return, and my lights were off at the time so it was slightly disorienting. I did not really fight to catch it because there were many cars behind me—and headlights approaching in the distance. Not that it was a conscious decision, but anyway—whoosh—it was now uncatchable and I slithered off the road into the generous ditch on the opposite side of the road (in the classic Corvair manner, backwards, fortunately in this case.) Again fortunately the headlights I had seen turned out to be a giant tractor-trailer rig, the only thing that could maintain enough traction in the slush to pull me out. We cabled up and out I popped. Within 30 to 45 minutes I had caught and passed the other cars again (slowed considerably without my pioneering.) That's the way it is with rallying—except for the American ones that involve time-keeping and computers more than driving.

The only trouble I can remember that I had with the Corvair on those rallies that was not my own dumkopfery was the starter going out—and something with the ignition, too. I remember I had to drive for hours holding the ignition key in the start position to keep the engine running. That was tiring, and also tricky on the turns—my arm kept getting tangled with the steering wheel. I also broke a tie-rod end that trip, too. On a rock or rough British Columbia road or some such. But it did not affect the car particularly except on right hand turns and there was a noticeable shimmy around 90. After all, I was only steering one wheel.

One thing I remember about the GM big-wheels—they didn't seem to approve of the three degrees negative camber. Or at least that is my impression. At the time I assumed the reason to be because they were spending all that money on the rally team to get publicity for their standard Corvair and not some "freak" that looked as if it had a broken axle. Anyway, in all the advertising pictures—golly, I just remembered I was a full page ad for GM!—they had the wheels air-brushed to an upright position again. Now, maybe someone can make something ulterior out of that. I did not at the time.

Two other things that might be of interest to you. The first is strictly hearsay. When Australian driver and later world champion Jack Brahham was lent a new Corvair while at Sebring or some such race to use as a road car he reportedly—with four or five people with him—charged down a straight, cranked it hard into a turn and turned it over! The story goes he took it back and said "that bloody thing is dangerous!" End of legend. How you can even begin to check it out I wouldn't know.

The other story: Phil Hill, the American champion, was hired by GM after the series of Corvair trials had started to do some testing along with some other drivers. During some maneuvers Phil turned a Corvair over. He never got asked back to Warren, Mich. again!

I had involved Phil in the Corvair thing in the first place when I was asked to go to California (San Jose) for a trial involving one Paul O'Shea as an "expert" witness for the plaintiff. I suggested that they bring Phil up from LA also. We knew Paul well and Paul was making all sorts of imaginative statements about his grounds for expertise. The idea was that Phil and I would sit conspicuously in the courtroom and keep Paul "honest".

I had no particular faith at the time that GM, nor any other manufacturer, was a Seeker After Truth and a repository of the good and the beautiful. I did feel, however, that cars are all dangerous weapons and should be handled accordingly. They should be driven properly and well. I felt that the tendency in the country was to more and more restrict the use of judgment by drivers and thus allow that ability to atrophy, rendering it useless just when emergency demanded its exercise. And I felt that driving skill and the cultivation of advanced driving techniques which could give a driver a margin for safety on the highway rather than taxing his meager abilities with just everyday driving, was being neglected. I still feel that way.

But since those days I have been even more torn between my feeling that people should not be conned, gypped, bamboozled, flimflammed, defrauded or in any way "had" by the boys in the board room—nor by a street peddler with dancing skeletons for that matter. So part of me is cheering "Righton, Ralphie". But then again I feel that the delicate rights of the individual can so often be trampled in the rush to do something for-his-own-good. (Rather like shooting deer to keep them from starving.) I'm not thinking of Ed Cole's right to hoodwink, but of my right to buy a "72" Corvair if I wanted to. Something I cannot do because of Mr. Nader. My feelings are split.

Well, Bob, perhaps this is more than you bargained for. And to think I got through it all without saying "state-of-the-art" even once. Happy holidays to you and may you hit hard to the backcourt and get your first serve in throughout '72. Come to Sugarbush some time!

Best Wishes

DENISE MCCLUGGAGE.

P.S. As a consumer who spent four hours shoveling off my roof with a True Temper non-stick snow shovel please be advised that the damn thing clings to snow like a baby rhesus monkey to its mother. Fraud!

EXHIBIT 34

BILL STROPPE & ASSOCIATES,
Long Beach, Calif., January 19, 1972.

MR. ROBERT WAGER,
Hotel St. Regis
3071 W. Grand Boulevard
Detroit, Mich.

DEAR MR. WAGER: Please excuse the delay in getting this letter off to you.

The following is a brief summation of what I related to you on the telephone earlier this month. As I told you then, I am not certain of dates and times, but as my memory serves me, the Experience Run in the Falcon for Ford Motor Company was in 1960.

On this Experience Run, test drivers ran the Ford Falcons for a period of thirteen days, continuous running, at the Ford testing ground. At the completion of this Experience Run, the test drivers were given an opportunity to test a General Motors Corvair in order to compare it with the Falcon. In groups of four to six, the crews took the Corvair around the handling course for comparison with the Falcon. The third group to drive the vehicle slid on wet payment and the vehicle overturned after hitting the grassy area at the edge of the track.

A rear engine vehicle is a little more susceptible to a slide of this sort than the conventional front engine automobile. This same type of accident has happened with other rear engine vehicles, such as the Volkswagen. Drivers must be familiar with the vehicle and its characteristics to overcome difficulties which might arise when operating the automobile. Manufacturers are aware of the peculiarities of their automobiles, and make every effort to correct or minimize any problems which affect the safety and handling of the automobile.

All members of the testing crew felt the Corvair to be a very good automobile. The vehicle handled well and was stable on the track even in high wind testing. We were happy to have the opportunity to drive the Corvair immediately after testing the Falcon to compare the characteristics of the front engine versus the rear engine machine. Both vehicles had many good points and a few that were not so good, but then—this is true of all automobiles.

Again, let me say that I feel that a driver should become accustomed to the automobile to know the safety hazards relating to the handling of that particular vehicle. I have had the opportunity to test drive a wide variety of vehicles, every thing from a Ford Model T to high powered, four wheel drive race machines, and every one of the vehicles present a different handling peculiarity.

Please let me know if I can be of further assistance in this matter.

Sincerely,

BILL STROPPE.

EXHIBIT 35

Following is a statement by Senator Ribicoff on July 22, 1971, regarding the Justice Department investigation of Mr. Ralph Nader's charges of transcript alterations and other matters.

On May 20, 1971, Mr. Ralph Nader wrote me alleging that at the hearing of March 22, 1966, Mr. James Roche, Chairman of General Motors, misled the Subcommittee concerning previous investigations of individuals initiated by GM, and that subsequently the Corporation was responsible for secretly altering the hearing record of that date. The following day, I requested the Justice Department to reconsider its 1968 conclusion that there was insufficient evidence to warrant prosecution of GM officials for perjury or obstruction of justice, in the light of Mr. Nader's charges. Shortly thereafter, the Subcommittee furnished the Department with copies of the 1966 transcript and other documents relating to Mr. Nader's charges.

After reviewing all the evidence the Justice Department found no evidence of any misconduct and determined that "none of the matters brought to our attention merits further outside inquiry or suggests a conclusion different from that previously reached in our 1968 letter regarding perjury and obstruction of justice. We have also determined that none of the material brought to our attention presents a reasonable basis for prosecution under the false statement statute, 18 U.S.C. 1001."

The staff investigation of other charges by Mr. Nader relating to General Motors testimony concerning the Corvair is continuing.

The texts of my letters to the Justice Department and their reply are attached:

MAY 21, 1971.

HON. JOHN N. MITCHELL,
Attorney General, Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: On February 6, 1971, I asked Ramsey Clark, Acting Attorney General, to determine whether representatives of General Motors had committed criminal acts under the Federal Criminal statutes in connection with their appearance before the Subcommittee on March 22, 1966. It appeared from documents filed in a New York court action between Ralph Nader and General Motors that certain testimony given before the Subcommittee might have been false and certain documents submitted to the Subcommittee might have been altered. To assist the Attorney General in his investigations, I sent him a copy of the printed record, the documents submitted to me by Mr. Nader's attorneys, and other material which the Subcommittee had received during its inquiry into General Motors' investigation of Mr. Nader.

On August 16, 1968, Mr. Nathaniel E. Kossack, First Assistant, Criminal Division in the

Department of Justice, wrote me that the Department was "forced to conclude that the evidence is insufficient to support a prosecution under the criminal laws of either the District of Columbia or the United States relating to perjury and obstruction of justice." He assured me that "all documents filed in the civil suit of *Ralph Nader* v. *General Motors* have been reviewed by the Criminal Division and all relevant leads pursued."

Mr. Nader has now alleged in a letter to me of May 20, 1971, that "the FBI investigation was defective from the beginning because it was based on the secretly altered hearing record rather than on the untouched original transcript." He claims that the record falsifications prevented FBI detection of violations of 18 USC 1001 (relating to false statements) and "led the Department of Justice to look only for possible perjury rather than for perjury and false statements," in violation of 18 USC 1001.

Mr. Nader has made serious charges which the Department should consider. Accordingly, I request that the Department reconsider all material forwarded to it in 1967, together with the allegations in Mr. Nader's letter and the attachments to his letter, copies of which are enclosed, especially in the light of Section 1001 of Title 18, USC, if that was not done in 1967, as alleged by Mr. Nader.

Sincerely,

ABE RIBICOFF, *Chairman.*

JUNE 3, 1971.

Hon. JOHN N. MITCHELL,
Attorney General, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: I would appreciate it if you would have the members of your staff pursuing the questions raised in my letter to you of May 21, 1971, meet as soon as possible with Mr. John A. Koskinen, my Administrative Assistant and Mr. Robert J. Wagner, General Counsel of the Executive Reorganization Subcommittee. At that time, we will be happy to make available additional background information and documents to assist you in your investigation.

I understand there may be a question of the applicability of the statute of limitations to some aspects of your inquiry. I would appreciate it if your Department would thoroughly investigate the matters raised in my letter of May 21 and give us your conclusions without applying the statute as well as with it taken into consideration. This will assist us in assessing the need for further Congressional action.

Thank you for your cooperation.

Sincerely,

ABE RIBICOFF.

JULY 21, 1971.

Hon. ABRAHAM RIBICOFF,
U.S. Senate, Washington, D.C.

DEAR SENATOR: As requested by your letter of May 21, 1971, the Criminal Division has reconsidered the conclusions it reached some four years ago regarding the Senate Subcommittee on Executive Reorganization hearing of March 22, 1966, and subsequent matters relating thereto.

It appears the original voice tapes and original reporter's transcript of the Subcommittee hearing are presently available only from non-governmental sources. Their authenticity would no doubt be subject to challenge by persons involved and antagonistic to those supplying them.

In addition, as you are aware, more than five years has elapsed as to most of the matters discussed with your staff. On July 25, 1971, it will be five years since the official record was published. If there were any violations the statute of limitations would bar prosecution after five years. It was not practical therefore, to accomplish more than a limited evaluation during the available time. We would like to hereinafter indicate the results of this evaluation.

Our original review included the offense of perjury, 18 U.S.C. 1621, as well as other offenses, and of necessity encompassed the elements of willfulness on the part of those persons giving testimony and the element of materiality of questioned portions of the testimony. Both these elements are also critical to the false statement offense, 18 U.S.C. 1001, suggested by your staff.

Our review of the materials and matters furnished by your staff has included the list of some sixty-four differences between the volunteered voice tape and the volunteered copy of a reporter's transcript dealing with testimony in the Subcommittee hearing.

We have also made a comparison of the printed official transcript with the voice tape and volunteered transcript. It was indicated to us that suggested changes for inclusion in the printed transcript were reviewed by the staff prior to printing and at least one suggested change was rejected by the staff.

One item apparently included in the version submitted by the staff for printing did not appear in the final printing. The information furnished to us does not foreclose the occurrence of an inadvertent printing error nor does it suggest any misconduct relating to this change.

We have determined that none of the matters brought to our attention merits further outside inquiry or suggests a conclusion different from that previously reached in our 1968 letter regarding perjury and obstruction of justice. We have also determined that none of the material brought to our attention presents a reasonable basis for prosecution under the false statement statute, 18 U.S.C. 1001.

The materials recently furnished to us are being returned to your staff.

Sincerely,

WILL WILSON,
Assistant Attorney General.

ATTACHMENT II—NADER LETTER TO SENATOR RIBICOFF

MARCH 12, 1973.

Senator ABRAHAM RIBICOFF,
Chairman, Subcommittee on Executive Reorganization, Washington, D.C.

DEAR SENATOR RIBICOFF: Over the last two years, your staff, John Koskinen and Robert Wager, have been conducting a highly secret investigation of General Motors executives' statements before your Subcommittee in 1966. At the same time, GM has had highly preferential treatment in the conduct of this inquiry while the parties who brought the matter to your attention and those former GM employees who cooperated with your staff have been excluded.

As you recall, my position has always been that an open Subcommittee hearing would bring all parties in an open forum and produce the materials which all could review in evaluating any subsequent Subcommittee report. If such a course of action were taken, not only would a great amount of your staff's time have been saved, but a number of ill-advised staff procedures, which seriously flaw the effort, would have been avoided.

For example, General Motors officials have been given an opportunity to read the final draft report. Presumably, the basis for this offer was to assure the accuracy of the report and be fair to the reputation of General Motors. Why then was not the same courtesy accorded former GM employees and others deposed or interviewed by staff. They have much more to lose for their cooperation and statements to staff than the Goliath Corporation.

Further, employees of General Motors were deposed with GM counsel present in the room. It was obvious to any GM employee that his words were being closely monitored by his employer and that it would be risky indeed to make adverse statements which departed from the carefully orchestrated GM company line. Moreover, such depositions remain secret. If counsel were to be allowed, then why such secrecy? As a final indiscretion, transcripts were often typed at General Motors by company stenographers.

Third, statements taken from other witnesses not employed at GM were routinely given to GM for rebuttal but there was no opportunity afforded for such witnesses to comment on the General Motors' rebuttal or the statements of their employees affecting or allegedly contradicting the testimony of these witnesses. My own experience with the provision of numerous documents and sources of information to your staff without any opportunity to comment on the General Motors' response or allegations is but one such instance of non-parallelism. It was only recently discovered that staff had not even approached the company's 1966 detective until after they received an affidavit two weeks ago swearing to a most provocative assertion by the detective which relates to the essence of the Subcommittee's staff inquiry.

Finally, only General Motors has had access to the work product of your subcommittee's investigation. Only GM can review the materials and findings of your staff with access to their sources. Anyone else cannot make an adequate evaluation because all others have been denied all opportunity to review the depositions, GM responses, GM test reports and other data, the list of individuals interviewed and other information in the staff's possession. My disagreement with the conduct of the staff investigation has been registered before but apparently without effect. So insupportable, in my judgment, is the one-sideedness of the inquiry and its unjustifiable secrecy and denial of access to anyone outside of General Motors to the information gathered for critical analysis, that a strong presumption against objectivity emerges. It would be futile to read your staff's report under such proscribed conditions. Only a few days ago, Mr. Wager displayed a distinct disinterest in receiving our comment on the ridiculous and disgraceful reply by NHTSA Administrator Mr. Douglas Toms to Dr. Carl Nash's meticulous analysis of DOT's incompetent Corvair investigation and its admitted and crucial data suppression. Months ago, he had decided to accept the DOT report no matter what its inadequacies.

It is true that this matter has gone on for a disagreeably long time. Yet if the quest for justice in this case is not to be worn by time, the question should be conducted fairly and openly. Millions of drivers and passengers still ride in these hazardous vehicles. The Administration delayed and then whitewashed the Corvair matter (even to the extent of not publicly demanding that GM correct at its expense the carbon monoxide leakage problem in 1961–1969 Corvairs which has been conceded by the DOT and the company). Your Subcommittee remains one of the last official hopes that these motorists will receive the protection of the safety laws.

Whether you decide to publish the staff report or not, I respectfully request that this letter be printed in toto as part of the prefactory material to the report.

Thank you.

Sincerely,

RALPH NADER.

ATTACHMENT III—RIBICOFF LETTER TO NADER

WASHINGTON, D.C., *March 14, 1973.*

Mr. RALPH NADER,
Center for the Study of Responsive Law, Washington, D.C.

DEAR MR. NADER: Enclosed is the full text, including 36 exhibits, of a staff study concerning your letters to me regarding General Motors and the Corvair. I have reviewed this study and your letter of March 12, and feel the staff study was conducted in a fair and impartial manner and that there is no reason

for my Subcommittee to hold further hearings on this matter. Because of the widespread public discussion and previous *Congressional Record* inserts, I will place this study in the *Congressional Record* tomorrow.

At the same time I am urging Secretary of Transportation, Claude S. Brinegar, to convene an international conference on replacement tire safety. This is based on the discovery during the investigation that replacement tires can adversely affect vehicle handling to a substantial degree. In my view, this is one of the most significant findings of the report.

I appreciate your deep concern about automobile safety and the substantial contributions you have made in this field.

Sincerely,

ABE RIBICOFF.

MEMORANDUM

MARCH 12, 1973.

To: Senator Ribicoff.
From: Bob Wager, John Koskinen.
Subject: Response to Nader letter concerning staff report.

Ralph Nader's most recent letter is not directed to the subject of our inquiry—GM's statements and conduct concerning the stability and handling of the 1960–63 Corvair. Rather it concerns the procedures used in our investigation.

Basically, Nader claims that GM was given "highly preferential" treatment, while he and other critics of GM have been excluded from the investigation. As Nader well knows, we have spent many hours discussing the progress of our investigation with him and his staff. In fact, Nader's former associate, Mr. Gary Sellers, told us in 1971, that he had notes on more than 50 hours of conversations with us. Moreover, we spent over 25 hours interviewing the three primary public critics of GM's actions concerning the Corvair—Carl Thelin, George Caramanna and Harley Copp—and discussing GM's arguments with them.

Nader next contends that while GM was permitted to read the draft report, the persons interviewed were not allowed to do so. We asked GM, DOT and Nader to review the report to assure that technical and factual statements were accurate. No individual witness we interviewed was under personal investigation, nor are the character or integrity of any of them called into question by the report. All of the statements and conclusions in the report are based on sworn affidavits supporting the testimony given.

Our review procedures parallel those used in Nader's own Congress Project last summer. Like him, we conducted an independent investigation compiling the information relevant to a determination of the issues. Then, like him, we prepared a draft report and asked the affected parties to give us their comments on it. And, like him, we did not go back to each and every witness upon whom we relied for their approval of our conclusions. GM and DOT agreed to review the report. Nader refused.

Nader alleges that the statements of non-GM witnesses "were routinely given to GM for rebuttal, but there was no opportunity afforded for such witnesses to comment on GM's rebuttal. . ." This is simply not true. At no time was GM given access to the testimony of any person interviewed, nor was GM ever informed which non-GM witnesses we were interviewing or where and when the interviews took place. To this day, GM has never been told what information was made available to us by Nader or anyone else. The only way GM ever learned the source of any document we had was through Nader's own press releases.

In only one case was information we generated independently shared with GM. Harley Copp, at our request, prepared four lengthy technical analyses. He specifically gave us permission to show these papers to anyone we wished.

Nader asserts that only GM has had access to the work product of the investigation. This also is untrue. Throughout our inquiry we have been very careful not to disclose the contents of our files to anyone outside the Subcommittee. This was to assure that there would be no disclosure of irrelevant statements which might prejudice the reputation of an individual or adversely affect the pending Corvair litigation. During our investigation, GM supplied many documents and other information to us. To that extent, of course, GM knew what was in our files. But with respect to all other material, GM learned what evidence was in our possession only when Nader publicly announced that he was supplying certain items to us. Nothing else in our files has been revealed to GM.

Our attempts to maintain the security of our investigative files in no way will hinder the public's right to information relating to the safety of the Corvair. All relevant documents and information necessary to the determination of the issue before you or important to the safety of the Corvair are available in the public file at the Department of Transportation or are attached as exhibits to this report.

With respect to the timing of our interview with Vincent Gillen, as noted in the report, Gillen had already been interviewed twice by the FBI and deposed by Nader's lawyer in Nader's suit against Gillen before our investigation began. We reviewed these materials and determined that they were not relevant to the subject of the safety of the Corvair and contained no new information concerning the GM investigation of Nader. Accordingly, we did not initially seek to interview Gillen. As soon as Nader called us and suggested that Gillen might have new information, we immediately contacted him. On talking to him, however, we found, as stated in the report, that he had previously given all substantive information to the FBI.

Finally, Nader contents that Bob Wager showed no interest in receiving his comments on the DOT reply to Nader's critique of the DOT report. Expectedly the opposite is true. For many weeks we have earnestly sought to obtain Nader's views on the DOT report as well as his response to DOT's defense of its report. On October 25, 1972, Mr. Wager contacted Joan Claybrook concerning Nader's position on the DOT report. This was followed by a two-hour meeting with Carl Nash on November 21 to discuss Nader's arguments in detail. In the following weeks we urged Miss Claybrook and Mr. Nash to set a time to review our report so that these questions could be further pursued.

They consistently refused to do so. We have always stated that we wanted to consider Nader's views on the DOT report and every other issue. But we have made it plain that we would not discuss them piecemeal. We would cover all the issues in our report together at one time. GM and DOT agreed to this procedure, Nader would not.

In summary, Nader's letter contains no new information concerning the stability and handling of the 1960–63 Corvair. Accordingly, we adhere to the conclusions stated in our report. We do not believe these procedural matters should be allowed to obscure the merits of the issue originally raised by Nader.

ATTACHMENT IV—NADER LETTER TO SENATOR RIBICOFF

MARCH 26, 1973.

Hon. ABRAHAM RIBICOFF,
Chairman, Senate Subcommittee on Executive Reorganization, Washington, D.C.

DEAR SENATOR RIBICOFF: Thank you for the opportunity which you have provided to respond to the staff report so that, in your words, "the public now and in the future have access to other points of view at one place in the same edition of the Congressional Record." Attached is our report responding to the Wager-Koskinen compilation. I believe that this report, authored by physicist, Dr. Carl Nash, and legal specialists, Joan Claybrook and Mark Green, decisively repudiates the W-K findings and conclusions exonerating the behavior of General Motors before your Subcommittee in 1966 and gratuitously accepting the GM view of the Corvair. In spite of severe time constraints and the unjustified secrecy surrounding the W-K inquiry, the enclosed analysis shows that Wager and Koskinen did not use much evidence presumably available to them that would have resulted in a more critical evaluation of General Motors and a more heightened compassion for the safety interests of motorists.

The Nash et al response shows the staff report to be faulty in logic, unreferenced in many of its assertions, severely prejudgmental in its research methods and erroneous in its conclusions. One can legitimately wonder about the extent to which additional disclosures would reveal additional weaknesses in the staff report were the entire record of information available for public study. Since it is not, it is necessary to state that the absence of a response to any given assertion in the W-K report should not be interpreted as a recognition of its accuracy.

Before noting some pertinent points about the W–K report, it is well to keep in mind the unchallenged facts about Corvair hazards which presently expose millions of motorists to avoidable risks. First, there is a serious exposure of carbon monoxide to users of 1961–1969 Corvairs due to a defective heater exchange system. The Department of Transportation, after much evidence and prodding, has recognized this by requiring GM to send out two defect notification letters in 1971–1972. This defect alone should have led a responsible company to recall the Corvairs, but in the absence of a mandatory law it refused to do so.

Second, Wager and Koskinen revealed the finding of a still secret GM report that certain aftermarket tires could "adversely affect the handling of the car to a substantial degree." The quoted words are from the General Motors report and the "car" referred to is the early (1960–63) Corvair. Since all early Corvairs now have replacement tires, this is a conceded hazard known but unrevealed since at least 1971. Given the callousness of General Motors in not warning Corvair owners that the company considered the Corvair unsafe with certain of replacement tires (see Sec. II. Technical Issues in the attached report), what is the explanation for the low key treatment accorded this finding?

Would it have been unreasonable for Wager Koskinen to have sounded the alarm by issuing a warning to all Corvair owners in their conclusions and recommending to a neglectful NHTSA that it more formally advise these owners of such hazards? Would it have been an excess of zeal to criticize the corporate irresponsibility of General Motors in keeping such crucial safety information from its innocent customers? Instead of pressing on General Motors for withholding knowledge relevant to motorist safety, staff turned this information into a "discovery" of their own investigation. The fact that NHTSA had possession of this information from GM for almost two years and, in a gross abuse of public trust, has maintained this report and its contents in secrecy against all public requests for disclosure also escape the staff's evaluative grasp. What goes on here? Whose interests are the staff protecting?

This hazard is conceded by General Motors but the staff's only advice to you is to ask the Secretary of Transportation to convene an international tire conference. What about motorists driving every day cars with "certain aftermarket tires" adversely affecting the handling of the vehicles? Don't they merit the staff recognizing the need for NHTSA to

require a letter of advice and caution as provided for in the 1966 act you so vigorously supported? Perhaps as much as any single episode in the Corvair's history, this performance represents the contagion of indentured thinking—in this case from the company to the agency to the legislative committee staff. When asked why they are keeping this General Motors report secret, staff replied that it was proprietary. How could a tire safety report on replacement tires for a vehicle (Corvair) no longer in production be proprietary, particularly since the Subcommittee can make up its own mind on this matter? The staff is actively protecting General Motors from public criticism and legal accountability here while not helping to reduce the exposure of motorists.

There are a number of observations to make on a broader plane. As my letters over the past two and a half years have urged, an open public hearing would have been a much fairer, cheaper, quicker and a more accurate way to arrive at a sounder evaluation of General Motors' behavior than a secret staff investigation closed off from scrutiny to all interested parties except General Motors. Such a public hearing process would have permitted Subcommittee members and staff to cross-examine witnesses and cross-check materials. Obviously, this was not the course taken and the ensuing flaws and procedural inequites emerged as a result.

Starting backwards in time, your staff offered General Motors, the Department of Transportation and us an opportunity to review the draft of their report. We did not accept this invitation because (1) it was not made to other interested parties who either cooperated or whose reputations were harshly treated or both, and (2) we were not permitted to see the alleged documentation and other materials in the staff's possession. Yet General Motors not only did have access to these materials, it also extracted an agreement from the staff that they remain confidential. We believe that an investigatory draft report, where the staff acts as investigator and judge is a singularly inappropriate subject for preferential access. Open to all or open to none should have been the policy.

Why would a staff keep secret the materials from which it extracted its conclusions, refuse to disclose who it talked to, decline numerous opportunities to cross-check General Motors' partisan explanation, avoid any interviewing with key parties to court cases (such as the plaintiffs' lawyers) which they presumed to evaluate, deny even parties not connected with General Motors any copies of their own depositions, and keep from us copies of *public* transcripts in distant court cases? Because they had their minds made up that they were going to make a decision that was not subject to evaluation and scrutiny by the Corvair and General Motors critics. Fortunately this shielding did not entirely succeed.

The procedural inequity of refusing to show us and other interested cooperating parties, the materials and information submitted by General Motors for the purpose of receiving informed critiques revealed how little cooperation or assistance the staff really wanted from the critics. Clearly the staff did not have a monopoly on the ability to review the veracity and intricate orchestration of General Motors' defense. Yet they declined this source of illumination from those who stood ready to assist in their exploration for the truth.

All the forces of power, secrecy, attrition and lethargy pushed for the conclusions reached by the Wager-Koskinen Report. The Corvair victims have no organization, no teams of lawyers, no countervailing force against such an institutional bias. Even such institutional adversity, however, could have been overcome. But it was not. To have come out adverse to General Motors would have led to a series of obligations by the Subcommittee to press for a variety of law enforcement actions including the corrective recall of the early Corvair. The opposition to such moves by General Motors would have further burdened your staff.

As the attached report shows in detail, Wager and Koskinen made every effort to give General Motors the benefit of every doubt, every deception, every inhibition of witnesses, and every last response. They wrote the report as if they were held to splitting hairs of past litigation subpoenas and doing such without even questioning both sides of the particular litigation. Where was their concern with the way General Motors held back from providing the Subcommittee in 1966 with full information including the proving grounds reports on the Corvair instability? Why did it take third parties and long hours of staff questioning of General Motors to produce what the company should have volunteered to the Subcommittee if it truly cared at all about the Subcommittee's quest at that time.

It is dismaying to perceive the parallels between portions of the staff's report and the now hoary General Motors exonerations of its behavior or the uncritical acceptance of General Motors' interpretation, intent, or memory whenever they conflicted with the critics' version or even other statements by General Motors personnel on the record.

The enclosed report elaborates on, among others, these points: The pattern pursued by staff was to describe an assertion by a critic or former employee, then describe and accept the rebuttal by General Motors or its partisans as if by knee-jerk reaction. The evident bias beneath this approach is indicated by its easy avoidability through quick cross-checking with the critics or challengers. The systematic refusal of Mr. Wager to do this underscores what we have sensed since the beginning of the study to its conclusion—a prejudgment and predetermination so deeply set in his mind as to defy any explanation short of personality factors beyond our interest. Note, if you will, just one illustration of many in the Wager-Koskinen Report. It was stated that on the recommendation of Gary Sellers one Maurie Rose was interviewed. Mr. Sellers indicated that this former GM technician would be critical of the Corvair.

Wager and Koskinen scarcely conceal their delight that Mr. Rose turned out to be admiring of the Corvair when they interviewed him. An objective inquirer would have called Mr. Sellers for an explanation of this surprising reversal of expectation. I directly heard Mr. Rose expound about the hazards of the Corvair. Yet the staff was not interested in checking back. They were not interested in weighing the subtle pressure and intimidation which hovers around General Motors employees residing in the Detroit area or otherwise who are fearful of General Motors' pervasive influence. Both Title 18 and the crossexamination associated with a public congressional hearing would have helped avoid such nonobjective evaluations.

Regarding the staff's startling receptiveness to General Motors' explanations, there is the matter of General Motors' chronic history of antitrust violations, chicanery over pollution controls, dealer manipulations, automobile hazards, bumper parts and aftermarket frauds, auto finance machinations and other disreputable practices of a corporate recidivist. Such a history is deserving of stringent caution not swollen guillibility or favorable prejudgment. For example, over and over again, General Motors has stated that their cars were not defective, stalled the government and then conceded the defects and recalled millions of cars. In 1971, as an illustration, after several years of coverup, delay and denial, General Motors agreed to the recall of over 7 million Chevrolets with hazardous motormount defects.

Numerous casualties on the highways in these cars had to precede this concession. We have been involved closely with many such reliable and accurate efforts to obtain recalls including the massive Chevrolet motormount recall. Against such a background, we might have expected greater respect accorded our experience and judgment by Wager and Koskinen—especially given their self-acknowledged limitations for this inquiry. Instead they accorded a strong presumption of credibility to a company with a legendary record of deception, suppression, violations, greed and disinterest in its safety obligations. You have no further to look, Mr. Chairman, than your own disclosures of vehicle recall data in 1966 collected from very reluctant manufacturers who had kept them secret from the motorists whose lives and limbs could have been saved.

When it comes to Corvairs, too many executive careers and too many legal vulnerabilities are involved for General Motors to do anything but stand defiant. Given General Motors' own detailed proving ground tests documenting the early Corvair's instability in representative road maneuvers which drivers could expect to confront in certain highway situations, it is deplorable to observe how Wager and Koskinen disregarded these tests with a flip sentence or two.

It is also unfortunate that many persons whose work or testimony is quickly dismissed by the Wager-Koskinen Report—are not permitted any opportunity to defend their position. A congressional hearing would have provided the opportunity directly or in supplementary materials submitted for the printed record.

Senators have many priorities to consider. They rely on their staff far more than the public realizes. Often this staff system works to ameliorate a most difficult time and issue congestion. In this case, I believe your staff did you a disservice. Had their inquiry been conducted with equitable due process, balance, crossexamination and open access to all interested parties, we do not believe they could have delivered to you the findings and conclusions contained in their report. It is hoped that you will read the attached report and recognize that both fairness and auto safety requires opening the staff's files containing General Motors documents. It is understood that you have retained the ultimate judgment to release such materials. I cannot believe that once the details are brought to your attention directly, rather than by proxy, that you will continue to deny interested parties and the media the right to judge for themselves at least to the extent that an open hearing would have permitted. Inasmuch as the statute of limitations for prosecuting any violations in 1966 expired in 1971, (see introductory section of the attached March 23, 1973, staff memorandum to me) well before the leisurely release date of the Wager and Koskinen Report, the last pretense for continued withholding of such materials from public scrutiny has dissappeared.

The Corvair inquiry will continue. It is hoped that fuller disclosures and evaluations relating to the Wager and Koskinen report at a later time will be received by the Subcommittee with candid concern and consideration.

Sincerely,

RALPH NADER.

ATTACHMENT V—NADER STAFF MEMORANDUM AND EXHIBITS

MARCH 23, 1973.

MEMORANDUM TO MR. RALPH NADER

From: Carl Nash, Ph.D., Joan Claybrook, and Mark Green.

Subject: The Ribicoff Staff Report on the Corvair Stability Controversy.

The staff report to Senator Ribicoff, released March 14, 1973, responds to the documented assertions of Mr. Gary Sellers and

yourself that General Motors misled the Senate Subcommittee on Executive Reorganization about the safety of early model Corvairs. It is the report's conclusion that, despite some contrary evidence, the Subcommittee was not misled since "the performance of the 1960–63 Corvair compares favorably [in stability and handling] to similar contemporary cars."

Although staff investigators possessed an excellent opportunity to educate the public about the workings and impacts of General Motors, they have unfortunately failed in their mission—as their report is marred by faulty methodology, technical incompetence, and inaccurate assertions. But before detailing the insupportability of the report's arguments and conclusions, one should initially understand the operative context of its development. For by its approach and predisposition, it is not entirely surprising that the report reads like a GM brief.

First, little of the staff report's supporting materials have been made public, most of its investigation has been conducted in secret, and GM and DOT have reviewed a draft of the report, making suggestions and corrections, prior to its release. The staff report admits that you have operated at a disadvantage because much of the evidence they considered "was unavailable to Mr. Nader." Yet due to the decision of the Department of Transportation to illegally withhold GM documents not exempt under the Freedom of Information Act, and the refusal of the Ribicoff staff to release the 4,000 pages of depositions and other GM materials, this disadvantage continues.

Second, the staff report hardly deals with an essential component of your complaint—that private GM tests showing the defective handling of the Corvair were illegally, unethically and deceitfully withheld from Corvair court cases, as well as being denied the DOT and the Ribicoff Subcommittee prior to 1970.

Third, the report, like General Motors and the National Highway Traffic Safety Administration (NHTSA), considers irrelevant the key GM proving ground reports, PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems) and 17103 (Corvair Dynamic Stability Tests). The Corvairs GM tested in these reports are not significantly different from standard Corvairs and the maneuvers used are not unlike those performed in emergency situations on public roads. The results of these reports have particular weight because of their source (GM), their purpose (to find what changes in the Corvair suspension would improve its resistance to overturning), their contemporaneousness with the subjects being tested (1962–1963 Corvairs), and their occurrence prior to the first blossoming of the Corvair controversy.

Fourth, the report's authors, Robert Wager and John Koskinen, modestly note their technical inability to judge many issues, and say they "express no opinion on the technical questions relating to the ultimate safety of the car." But their (understandable) modesty surely takes them further than they intend, for their study obviously *does* attempt to assess "the technical questions" about the Corvair's safety; if they are inexpert for this demanding and crucial task, there is little reason to have confidence in their effort. They cannot have it both ways—doing what they are denying.

Fifth, and relatedly, this inconsistency neatly precludes any finding of fault against GM. Whether GM misled the Subcommittee ultimately turns on the stability and handling of the Corvair—which the authors assume not to be able to judge.

Sixth, they therefore depend to an extraordinary extent on the July 12, 1972 report of the National Highway Traffic Safety Administration (NHTSA). The staff endorsed the NHTSA's conclusions about the Corvair. And with good reason: uncritically accepting NHTSA's assertions because they "appear reasonable," the staff report in many key sections is little more than a reproduction of the NHTSA/DOT study. At crucial factual junctures, Wager said Koskinen merely mechanically cite that study. This recitation requires that they ignore the refutation of the unscientific and self-interested DOT tests, completed by Dr. Carl Nash on February 2, 1973 and supplied to the Ribicoff Subcommittee at that time.

Seventh, the DOT exonoration of the Corvair in 1972 is hardly germane to the claims of GM witnesses in 1966 that the safety of the Corvair was demonstrated by verdicts in two court cases.

Eighth and very important, during the course of their inquiry, the staff learned that General Motors considers the Corvair unsafe with certain brands of replacement tires. Both GM and NHTSA refuse to disclose the GM report on this finding and the staff has gone along with maintaining such unconscionable secrecy over a matter so related to human safety by keeping its copy of the GM report also secret. In addition, staff did not even recommend that a public and forceful warning be sent to Corvair owners by either GM or the NHTSA in the light of this imminent, continuing hazard to several hundred thousand Corvairs and their occupants on today's highways.

Finally, one cannot ignore the personal and institutional biases discouraging the staff from neutrally assessing whether GM had misled the Subcommittee. Personally, those close to this entire episode are aware of the obvious hostility between Mr. Wager and Mr. Sellers—it was, after all, the former who alleged without any basis in fact that the latter may have violated the law by obstructing a Senate investigation, and it was Mr. Sellers who charged that staff investigator Wager had known of GM's substantive alterations in the official Subcommittee transcript of the 1966 hearings—and this personal animosity may well have prejudiced Mr. Wager's judgment on the study. And institutionally, if the staff report had found that GM had misled the Subcommittee, as we believe it should have, Senator Ribicoff would have been burdened with considering: whether to hold public hearings to assess the significant of GM's misbehavior; whether to notify individuals, including plaintiffs in court cases, who suffered harm from GM's actions; whether to request a reopening of the NHTSA safety investigation; whether to recommend to the NHTSA that the owners of all Corvairs still on the road be notified of the Ribicoff findings; and whether the GM actions constitute criminal violations warranting referral to the Justice Department for possible prosecution.

(In fact, although your letter of October 23, 1970 alleged that GM had misled the Subcommittee about the Corvair's safety, it was not until May 21, 1971, that Senator Ribicoff asked the Justice Department to investigate. That request not only completely ignored the charges in your October 23 letter, but it effectively mooted the entire issue: for the five year statute of limitations ran out either on March 22, 1971, if it began running at the March 22, 1966 hearings, as seems likely, or on July 25, 1971, if it began running when the official record was published, which itself would have allowed the Justice Department only two months to investigate.) Given the personal subtleties and the additional work burden from a finding adverse to GM, there were substantial pressures to tilt the equities in favor of GM—which the staff report repeatedly did.

I. THE MECHANICS OF THE RIBICOFF INVESTIGATION

A. The need for a public hearing

The design of the inquiry into the issues raised in your letters of September 4 and October 23, 1970, and May 20 and July 8, 1971 was determined by the Ribicoff staff alone. The first letter sought a "re-opening of the 1966 inquiry in light of the grave matter of misleading under oath a congressional committee." As the pattern of secrecy in the investigation became more evident, the second, third and fourth letters repeat, with increasing intensity, this request for the convening of a public hearing. The letter of May 20, 1971, which requests that the evaluation process be opened up to public scrutiny, is reproduced in part below:

[Senator Ribicoff, 20 May 1971]

". . . General Motors' backstage maneuvers demonstrate that public hearings are now imperative. I write to you out of a concern that despite the unquestioned integrity and good faith of your staff members and those concerned with the subject at the Department of Transportation—GM has assumed such a pervasive degree of control over the terms and conditions of the present investigation that the subjects outlined in my letters of last September and October may not be adequately examined in public.

"Although Mr. Cole proclaimed to the world in September 1970 that the evidence on these charges would show that GM and its executives "have been faithful to their public trust", GM's response to these investigations reveals a continuing aversion to any public scrutiny of most of that same evidence. Unfortunately, thus far they have succeeded in keeping this important information out of public view. For example, GM has monotonously reiterated the groundless statement that much of the evidence concerning this no longer produced car must be kept secret to protect its "propietary interests". It unsupportably claims that the attorney-client privilege requires that a large amount of additional evidence be suppressed. Ross I. Malone, GM General Counsel, has apparently extracted agreements from members of the Senate staff and the Department of Transportation which have insulated critical evidence from public examination. This sequestered evidence could well answer the questions of the members of the engineering and legal professions who have been trying to sort out the needlessly secret information surrounding this matter for ten years. This pointless hide-and-seek has caused Senate employees to conduct inquiries in secret and has precluded public access even to the transcript. There is no justification to treat data on a vehicle which is no longer in production with this secrecy.

"Unhappily, Mr. Malone's efforts to control the terms and conditions of these investigations did not stop with agreements requiring secrecy. His improper attempts to ingratiate himself and his employees include the provision of limousines and on-the-spot expensive secretarial services in Detroit.

"By insisting that these preliminary inquiries into the charges be conducted in such a clubby atmosphere (and that GM be allowed to tell its story on the Q.T.), Mr. Malone has seriously weakened if not destroyed the credibility and moral force of any conclusions favorable to GM that might result from such a process. As Professor Lon Fuller has pointed out, belief in the disinterestedness of the judge and the opportunity for full hearing of both sides are important considerations which lend moral force to an official decision.

"And, naturally, a full hearing of both sides contemplates a vigorous, knowledgeable adversary-type development of the evidence. Little, if any, critical examination by parties outside the Committee staff has been made of the carefully selected secret GM evidence. This is especially significant in light of the implications of the information I have outlined. The many credible and relevant witnesses—outside and inside GM—do not have a chance to present their evidence and recollections under this type of inquiry.

"Cross-examination is, as Wigmore said, 'beyond any doubt the greatest legal engine ever invented for the development of the truth.' But your investigators may have been unduly handicapped by the absence of meaningful cross-examination owing to the condition of secrecy Mr. Malone apparently extracted from them. Without the opportunity to study the documents and testimony now being offered by GM, it is next to impossible for others to offer any concrete suggestions relating to the credibility of the company s presentation. The prime purpose and utility of the ability to cross-examine and present witnesses is to correct false impressions generated by self-selected expressions by the opposing party.

"Your Committee's past experience with GM's deceptions in volunteered statements and sworn testimony also proves the need for a public hearing. In 1966, your Committee was given a lesson in the unreliability of General Motors' selective version of evidence. As you will recall, at the time General Motors' use of detectives first came to public attention General Motors first issued a denial, and then a deceptive press release. That press release was at best misleading, because, as you said, Senator:

" 'It is apparent, as you thumb through and read this report, that practically none of the investigation has anything to do with what you (General Motors) contended your investigation was for in your news release of March 9.' (Hearings of March 22, 1966, p. 1396.)

"Thus, as Senator Robert F. Kennedy pointed out, 'had the chairman not called a hearing, really the public and the newspapers would have been misled.' " (Hearings p. 1389.)

"Now, very substantial evidence backed by knowledgeable witnesses formerly employed by General Motors, has surfaced. The importance of the Corvair to millions of Americans who must drive or ride in them and the necessity to make truth in Congressional hearings a deterrence to future corporate deception and prevarication on other issues call for a public hearing by your Committee."

This recommendation, as it turned out, was ignored. The report's authors opted instead for a private investigation.

B. Secret communications and preferential access

The Ribicoff staff have spent many many hours in the preparation of their report, which they proclaim is a balanced piece of work. The articulated rationale for conducting the investigation behind closed doors (doors often closed also to staff of other Subcommittee members) is that many individuals would not otherwise have been willing to speak with the staff investigators; and anyway, it was said that the staff investigation was a preliminary step to an open hearing. But having found (unilaterally) that the Subcommittee was not misled, the staff asserts there is no need for a hearing. (Catch 22.)

We disagree with this position. 18 USC 1505 provides criminal and civil penalties to protect witnesses before Congressional committees from harassment, intimidation, threats, or injury. No adequate explanation could be adduced from the staff why this statute was not sufficient to protect any witness who might be called to testify before a Congressional hearing. By conducting its interviews in secret, the staff emphasized that it was protecting witnesses who did not play a "relevant" role in the Corvair episode from being harassed by plaintiffs' counsel. But the procedures of the inquiry should not have been shaped by a gratuitous shielding of some of these people from wholly speculative interferences. Far worse is the potential of subtle GM intimidation of those interviewed. The alternative to a public hearing has been a secret staff investigation in which GM has been given highly preferential treatment because it agreed to cooperate with the Subcommittee staff on condition that all communications be held secret. You, on the other hand, refused to be bound by such restrictions and insisted on the public airing of all communications and issues raised. As a result, the flow of communications between the Subcommittee and GM was rapid and frequent, while the communications between the Subcommittee and the Corvair critics was limited.

Some examples of the preferential treatment afforded GM follow:

GM was given the opportunity to rebut statements and analyses made by various interested parties and former GM employees; but these latter individuals, who cooperated with the Ribicoff staff, were not able to comment on any GM rebuttals. Upon reading the report for the first time, for example, we discovered that GM was formally invited to respond to letters and numerous documents you sent Senator Ribicoff. Yet you were not invited to comment on GM's response and other allegations.

Despite its obvious inhibiting effect, GM was permitted to have its counsel attend and take notes at the depositions conducted by the Ribicoff staff of each GM employee. This is not unlike the much criticized actions of John Dean, III, the White House counsel, who sat in on the FBI interviews of White House staff connected with the Watergate activities.

GM was requested by the Subcommittee to provide—voluntarily and not under subpoena—a large number of documents for the investigation. The Ribicoff staff explained that the penalty for noncooperation would be an immediate public hearing, thus turning what should be a condition precedent (the public hearing) into a condition subsequent controlled sigificantly by General Motors with the Subcommittee staff's approval. In addition, the staff agreed to accept all GM documents under various conditions of nonrelease and with legal title attached. While Wager and Koskinen retained the right to release any "relevant" documents in their report or in future hearings, they promised not to release *any* materials directly to you or to any other interested parties. Thus, GM effectively kept other interested parties, including former knowledgeable GM employees, from scrutinizing the various materials on which the Subcommittee staff relied for its decisionmaking and from alerting the Subcommittee to the absence of potentially pertinent materials, inaccuracies, or contradictions.

GM and DOT officials were given the opportunity to read a final draft of the staff report, an opportunity you respectfully declined because of the one-sidedness of the inquiry, the unjustifiable secrecy, and the refusal to permit all interested parties to have equal access with GM to the staff report draft and supporting materials. Presumably, the offer to reveiw sought to assure the accuracy of the report and to be fair to the reputation of General Motors and DOT staff. But the same courtesy was not afforded former GM employees and others deposed or interviewed by the staff, participants in the process with more to lose individually than GM could lose corporately.

This lack of equal access has had an impeding impact. While we appreciate both the opportunity to have this response printed together with the staff report, and some staff responses to a number of our specific questions about the report, we must nevertheless note the following list of items requested for the purpose of preparing this memorandum and denied by the staff:

1. The transcripts in the Collins and Anderson cases for an overnight loan (they are public court documents) because they are the legal property of GM, even after we pledged not to copy any pages as a condition of the loan.

2. A list of individuals interviewed by the Ribicoff staff (listing those promised confidentiality only by affiliation).

3. A list of all materials supplied by GM to the Ribicoff staff, and of all other documents used by the staff in the preparation of the report.

4. Access to copies of various GM documents used in the preparation of the report (such as PG 11285 and the GM rebuttals) which are not publicly available and not known to us.

5. The depositions of GM and other persons deposed by the Ribicoff staff and on which the report is in part based.

C. GM's coordinated defense

The Corvair litigation represented probably the most serious judicial conflict which the company ever faced—both for its direct and precedential importance in mass volume products liability development. The challenge posed by injured plaintiffs or next of kin to General Motors in this regard elicited the most clever and loyal company advocates. Knowledge and decision-making about litigation strategy reached up into the highest levels of the company hierarchy, including the top executives. Against such a background, the portrait painted by Wager and Koskinen about the mutual isolation of different segments of Chevrolet and their disorganization over the Corvair litigation in the mid-sixties is a fantasy quietly cultivated by their company advisors. Had the plaintiffs' attorneys been asked, they might have detailed for the staff just how organized and orchestrated GM was for such litigation—with its computer printouts, "hot documents," special security handling index, Corvair schools for local defense attorneys and private detectives. (Exhibit A) The machine-like functioning of Chevrolet and GM as disciplined units over the years under various external and internal stresses belies the disarming Wager and Koskinen view that what everybody knows about GM is really not true.

The Ribicoff staff told us that their probings caused GM to unearth materials that the auto firm was surprised to find. Eureka-like, it was as if they and GM had embarked together on a journey of serendipity. Treated with exceptional deference at high corporate levels, these young lawyers became sufficiently impressionable to accept the suggestion that GM has surprised and confused enough perhaps to blunder but not to plunder the rights of injured litigants and Corvair occupants generally. Such a benignly uncritical predisposition ignores the reality of GM's tightly controlled and planned defenses.

For example, General Motors, at the height of the Corvair litigation in the mid-1960's, had its legal department draft the most candid case against the Corvair's handling defects so it could assess the worst it might expect should all the secret GM data and tests be disclosed at a later time. This detailed memorandum from GM attorney James F. Durkin to GM General Counsel Aloysius F. Power exposes the staff report's naive conjecture that GM was internally dispersed and ill-prepared to produce certain incriminating documents. Attached to the "Durkin memorandum," as it came to be known, was among the strongest evidence GM had of the Corvair's handling and stability defects. This group of Corvair proving ground reports and other documents become known within GM as the "hot documents," and indeed they were. They were too hot to be permitted to alleviate the righteous plight of the company's customers. They were withheld from public view in one of the greatest displays of internal corporate security ever. The Ribicoff staff has joined this security apparatus by not disclosing this memorandum and its complete attachments as well as many other GM materials which would fault the accuracy of their findings and conclusions.

The staff report made a point of distin-

guishing between Chevrolet Research and Development (Frank Winchell's group) and Chervolet Production Engineering to explain why the latter's tests were not known by the former when questioned by plaintiffs' attorneys and others. The absurdity of this self-serving GM tactic is noted subsequently. The point here is that the lawyers, who coordinated the testimony of all GM's technical witnesses, including Winchell, also possessed these reports. In the summer of 1965, Chevrolet's Chief Engineer, Ellis J. Premo, testified in the *Anderson* case (p. 4155 of the trial transcript) that GM's Legal Section had been provided with *all* extant and relevant Corvair materials from the Engineering department. Note the question—answer exchange:

Q. Did you sir, attempt to make available all of the reports concerning the Corvair or concerning its handling characteristics or stability?

A. Every report we had was made available.

Q. Whom did you make them available to personally?

A. To the General Motors Legal Section.

Q. OK, and as I understand it there are other reports concerning four ply tires vs. two ply tires other than the one you have in your hand.

Mr. NUNEZ. I want to object to this question on the grounds, your honor, that the Court's order of April 1, 1965, as follows, it says almost on the end "and it is hereby granted insofar as it pertains to test reports and motion pictures dealing with stability of preproduction models, prototype models and all other models through the year 1962 as being made available in the offices of the defendant corporation, General Motors building in Detroit, Michigan." I think for Mr. Lloyd to be permitted to ask Premo about other reports not related to the matters covered by the court's orders is improper.

COURT. Objection sustained.

Mr. LLOYD. Q. Am I correct then, sir, that you set out and selected all the reports having to do with the stability or handling of the Corvair and made those available?

A. Every report on the Corvair, every test report.

Q. Every test report?

A. That we have regardless of what it pertained to.

The Ribicoff staff report concludes, "We believe the foregoing sections of this report have presented the relevant evidence necessary for determination of the basic issues. . . ." But the staff report did not mention nor produce as an exhibit the "Durkin Memorandum," perhaps the one single document which best refutes many of GM's numerous misleading statements in court cases and before the Ribicoff Subcommittee. Of all the materials gathered during the Ribicoff investigation, it is the first one which should have been shared with the public.

D. Non-association of the subcommittee from the report

The Wager and Koskinen staff report on the Corvair matter is not a Subcommittee report or even a Subcommittee staff report. For, in a serious reflection of the report's stature, there were objections by the staffs of other Subcommittee members that because the investigation had been conducted in isolation they did not want to be associated with it. As a result, the report is being published in the *Congressional Record* as a staff report.

II. TECHNICAL ISSUES IN THE STAFF REPORT

Messrs. Robert Wager and John Koskinen say they "express no opinion on the technical questions relating to the ultimate safety of the car." Why? Because they "do not have the technical capability to make an independent engineering evaluation of the stability and handling of the Corvair," and because "[m]any of Nader's contentions [in the Nash critique of the NHTSA study] are technical and we do not have the capability to evaluate them fully."

These claims prove only half true, since the authors *do* go on to make technical judgments concerning the Corvair's safety and, in the process, *do* corroborate their self-assessment that they lack the technical competence to do so. And being technically insecure, they consequently and unquestioningly accept NHTSA's deficient Corvair defect investigation study and NHTSA's "response" to the Nash critique because, in their words, "Congress established the National Highway Traffic Safety Administration to make just such technical judgments." Based on our experience with Federal agencies in general, and the NHTSA in particular, we are far less sanguine about arrogating to executive agencies absolute wisdom.

For their technical consultant on this complex subject the Subcommittee staff chose Mr. Ray Caldwell. Mr. Caldwell's engineering training is confined to an undergraduate engineering program. Also, virtually all of his subsequent engineering experience has been limited to driving, and building, racing cars which operate in a completely different context than do passenger cars. The requirements for successful racing car designs would, in fact, be contrary to many of the requirements of safety in a passenger car. Caldwell's sympathies toward his subject are evident in his judgment, "Mr. Winchell's comments are reasonable given the atmosphere of the time." Thus does Caldwell seem far more the amateur sociologist than the professional engineer he is claimed to be.

Finally, and most troubling, is Caldwell's formal involvement with the NHTSA in its Corvair investigation (as a member of its evaluation panel). He was committed to a position on the safety of the Corvair before being contacted by Wager. The use of Caldwell, as well as the direct use of the NHTSA for technical advice, is yet another unfortunate example of the Congress's institutional dependency on the executive branch for information, advice and analysis. Certainly if the Subcommittee staff felt the need of a technical consultant, they could have found someone who had a reasonable knowledge of vehicle handling who was not connected with either GM or the NHTSA, and who had not prejudged the issue.

What follows is a point-by-point refutation of the technical misinterpretations and misstatements in the staff report which its authors were unable to discern. When a house of cards is seemingly built up brick-by-brick, it must be dismantled card-by-card.

A. NHTSA Corvair report

On December 13, 1972, Robert Carter, Associate Administrator for Motor Vehicle Programs in the NHTSA, admitted to NHTSA Administrator, Douglas Toms, that "some miscellaneous data" (dealing with light load tests) had been omitted from the index and file of the Corvair investigation because "it was not considered valid for the investigation." (exhibit B) Ignorance of this data led several high officials in the DOT, including Secretary Volpe, NHTSA Administrator Toms, and NHTSA Chief Counsel Lawrence Schneider to make inaccurate statements (exhibits B1, C, D) denying any testing of the Corvair with a light load at Texas Transportation Institute (TTI). (See the *Addendum* to Nash Critique, Exhibit 1 to Ribicoff staff report) Carter's memorandum characterizes the light load tests as "unofficial."

The NHTSA and the Ribicoff staff report now assume everyone has a rather short memory. Wager and Koskinen assert that the "DOT decided to conduct another series of tests on the Corvair in a lightly loaded condition." (emphasis added) The "unofficial" tests have now become official in this resurrection. NHTSA further states that "this test material was not withheld from the Panel," [the NHTSA's 3-man outside panel of so-called technical experts none of whom are specialists in vehicle handling] which is quite interesting because it was apparently withheld from Secretary Volpe, Administrator Toms, Chief Counsel Schneider, and Associate Administrator Carter.

The Nash critique of the NHTSA work goes virtually undiscussed in the staff report, while there are extensive quotations from the NHTSA's letter to Wager supposedly answering the Nash critique. Signed by Mr. Robert Carter, it is almost identical to Toms' response to a significantly different letter from Senator Warren Magnuson. (exhibit E) This boilerplate response does not respond in any detailed way to the Nash critique, which analyzes the deficiencies and deceptions in the NHTSA Corvair handling and stability investigation, and shows why the NHTSA reached its insupportable conclusion; nor does it adequately or fundamentally rebut any of his criticisms. It seems not to concern the staff authors that the agency which wrote the study they so heavily lean on simply ignores those who carefully explain its deficiencies. (exhibit F, G)

When discussing the effect of heavily loading the Corvair in the NHTSA tests, the Ribicoff staff report states:

"It is true that this weight (the 615 pounds of excess weight added to the Corvair in the NHTSA test) increased the initial resistance to spinout and rollover by about 20 percent. But after the brakes were applied in the drastic steer-drastic brake maneuver, this weight provided 20 percent *more* energy toward spinout and rollover. This is the result of the well-known flywheel effect. The added weight made it more difficult to reach the point where spinout or rollover would occur, but once that point was reached, the additional 615 pounds made it more likely that these responses would occur. (See explanation attached as exhibit 3) This is implicit in the GM recommendation that the Corvair be tested in a lightly loaded condition." [emphasis in original]

The staff report's exhibit 3 is a classic example of the kind of technical incompetence which pervades their effort. When Wagner and Koskinen were asked who authored this exhibit, they replied that it was a "staff document prepared on the basis of engineering information supplied by the DOT and GM." Here they give the "moment of inertia" of a solid uniform box (incorrectly, due to an apparent confusion between the concepts of weight and mass). They then calculate the moment of inertia for the Corvair as though it were a uniform solid rectangular box. To find the increase in the moment of inertia with an added 615 pounds, they again calculate the moment of inertia of the same uniform box as if it were now 615 pounds heavier. According to their figures, the increase in the moment of inertia (which they call the "energy of spin" in a complete confusion of the concepts of inertia and energy) is 20.4 percent. This figure is used in the above quotation to show that the heavily loaded Corvair is more unstable than a lightly loaded one. The computation completely ignores the *distribution* of mass in the vehicle.

More important, however, is the staff report's misunderstanding of the complexity of dynamical stability of vehicles. It is difficult, if not impossible, to predict on purely theoretical grounds (especially at the simplistic level of this exhibit 3) the detailed response of an automobile in a drastic handling maneuver. Thus, one must rely heavily on experimental evidence to determine the behavior of an automobile under these conditions. For the Corvair, there is evidence which strongly indicates that heavy loading—which was the way NHTSA tested their Corvairs—*increases* the car's stability. In particular, GM's PG 17103 (Corvair Dynamic Stability Tests) shows the early model Corvair less susceptible to instability and rollover when the rear end is very heavily loaded

with cameras and other equipment. Also, review of the NHTSA film of the drastic steering-drastic brake maneuver with both light and heavy loading shows the effect of loading quite clearly. The heavily loaded Corvair is more stable, never spinning out completely in any maneuver, while the lightly loaded Corvair would spin completely around in the more severe maneuvers. (This issue is discussed in detail in part III of the Nash critique of the NHTSA investigation.)

The NHTSA has constantly claimed that its decision to heavily load all test vehicles in the official portion of its Corvair testing was consistent with a suggestion made by Mr. Gary Sellers, a former consultant to you. Building on this misstatement, Wager and Koskinen go one step further to assert that NHTSA's Corvair tests "were conducted in accordance with Nader's suggestions." As a matter of fact, the primary recommendation of Sellers' letter was that "critical variables . . . [be] at the most severe levels—those most likely to reveal the defects alleged . . ." It is disingenuous for NHTSA, in a secret study where they could employ any method of their choosing, suddenly to take one of Sellers' recommendations out of context in order to justify an invalid testing standard. *The NHTSA has yet to show that it had made an independent judgment that testing the Corvair heavily loaded was justified or appropriate.* (See letter from Carl Nash to Senator Warren G. Magnuson dated March 15, 1973, exhibit H)

Wager and Koskinen also categorically accept the NHTSA position that "wheel rim contact with the pavement is not the precipitating cause of Corvair rollover, but occurs in the course of rollover." NHTSA in this case was merely repeating GM's contention at the 1966 Michigan legislative hearings, which is based on GM proving ground tests allegedly confirming that statement. In a typical overstatement of more limited results, however, the staff report would make the results universal and claim that wheel rim contact *cannot* precede a rollover. Unfortunately, the NHTSA's own suppressed tests of a lightly loaded Corvair show that this is simply not true. In two "noncomparative" tests (exhibit I) of the NHTSA's lightly loaded Corvair which did not rollover, the NHTSA engineers noted that there was right rear wheel rim contact with the pavement—in one case severe enough to damage the rim. The NHTSA's insistence that rim contact can only occur *after* the vehicle has begun to roll over (revealed to the public six months after release of their report) is thus contradicted in their own test experience.

The NHTSA's rejection of the term tuck-under is equally specious. The term "tuck-under" is not a precisely defined word, but rather indicates a condition in which one automobile wheel and tire are operating at a severe positive camber angle. Certainly if the rim were able to contact the roadway, such a condition must have existed which could be called "tuckerunder." Whether or not rim contact precedes or follows rollover is mostly a function of the tire's sidewall stiffness and inflation. In GM's tests, apparently the conditions were such that contact followed, while in the NHTSA tests, it preceded.

B. Corvair tests by GM, Ford and Consumers Union

To substantiate the results of the NHTSA investigation, the staff report cites "the GM, recent Ford, and Consumer Union [sic] tests."

1. *GM Tests.* In a self-serving ambiguity, it is not clear in the case of the "GM tests" whether the report refers to the vast body of GM proving ground tests, or to only the two late 1972 re-runs of the original 1959 Ford Falcon-Corvair circular track and s-turn comparison tests. Since the GM proving ground tests which were contemporaneous with the development and production of the Corvair (1959–1963) do not endorse the staff report's thesis and are summarily dismissed by the NHTSA report, it is a fair presumption that the reference to "GM tests" means later 1972 re-runs only.

The Ribicoff staff report merely parrots the NHTSA and GM dismissal of what is surely the major piece of evidence that the Corvair is inherently defective: viz. *GM's own proving ground tests showing the Corvair rolling over at speeds as low as 25 mph in simple j-turn (emergency obstacle avoidance) maneuvers.* NHTSA downgrades these adverse PG reports by summarily asserting that they are "not representative of the practical driving environment" and they did not involve Corvairs *identical* to production Corvairs.

This "not identical" rationale reiterates GM President Edward Cole's September 7, 1970 letter to DOT Secretary John Volpe. As viewed by Cole, small changes in the Corvairs tested on the proving grounds warranted distinguishing them as "specially equipped with experimental parts." This is clever but fatuous. If true, the NHTSA's test results at TTI could only apply to a 1963 Corvair with 1971 tires because the earlier Corvairs were, after all, different.

In fact, differences between the test cars and regular cars were insignificant—as we will try to explain in some detail since the PG reports are pivotal evidence of GM's bad faith in its court cases and before the Subcommittee. Two cars were involved in PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems) and PG 17103 (Corvair Dynamic Stability Tests), a 1962 and a 1963 model Corvair 4-door sedan. The 1962 car was the only car used in PG 15699, and it was also used for the first six runs of PG 17103. The modifications to the car bodies consisted of installing minimum devices necessary for the protection of the driver when the car overturned: a roll bar to prevent roof collapse, safety belts, a modified fuel system, nets over the windows to prevent ejection of the driver's arms or head, a gravity sensitivity ignition cut off switch to stop the engine in rollover, and interior padding. Loose items inside the vehicle were removed, and during the latter part of PG 17103, the Corvair bench seat was removed and replaced by a bucket seat from an Oldsmobile, for increased driver protection. The change in the position of the center of gravity due to these changes was no more than would have been the result of adding or subtracting passengers in the car. As a matter of fact, the change in the position of the center of gravity between a Corvair with a full tank of gasoline and an empty tank is 1.6 inches, compared with a change of less than 2.5 inches for the modifications for the Corvairs used in these PG reports.

The purpose of the tests was to determine the rollover stability of various suspension modifications to the Corvair. With one exception, the modifications to both cars were all minor changes in the shock absorbers, spring rates, rear rebound angle, and relative roll resistance of front and rear suspension (roll bars on the front, transverse leaf spring on the rear). The exception was the use of the 1964 design suspension on the last eleven runs of PG 17103. The primary changes in the shock absorbers concerned the way in which the shock absorber limited travel when they reached full compression and extension (jounce and rebound of the suspension). The device being tested was a hydraulic damper at the end of the shock absorber (hydraulic cutoff shock absorbers) which has no effect until the suspension becomes fully extended. Even when the suspension reached full rebound, the only effect of the hydraulic cutoff is to cushion the impact of the suspension reaching this limit.

The range of suspension rebound limit changes was from 5°23′ to 10°18′. Most of the tests were done with the suspension rebound within the limits of production models—6.8° to 11°. These tests found that the performance of the Corvairs was relatively insensitive to rebound angle. (It is interesting that the trend in rebound angles on the production Corvair was toward less rebound.) Yet GM claimed, and the staff report repeated, that reducing the rebound angle in the Corvair involved in run #120 of PG 17103 resulted in a 10 percent *reduction* in the rollover stability, although the change is not specifically blamed on the rebound limit. The comparison, after all, is between the test car with a driver and rear seat passenger (dummy) on the left side (outside of the turns which were being made to the right) and a comparison car with driver and passenger in the two front seats. This comparison offered by GM to the Ribicoff staff was uncritically accepted despite its misleading and unproven character. Even Wager and Koskinen agree that "the rebound angle has no real effect on the control characteristics of the car."

The addition of a roll bar on the front suspension is claimed by the staff report to have "contributed little to the car's handling." This is also borne out by the results of PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems). Also, the stability of the Corvair with a rear transverse leaf spring alone is not improved according to PG 15699. For the most part, the changes to the Corvairs in these tests were less extensive than the minor changes made on production Corvairs offered to the public from the 1960 model through the 1963 model. The production changes have been characterized by GM engineers as not significantly affecting the handling or stability of the Corvair, and the NHTSA implicitly agreed by testing a 1963 model as representative of all Corvairs. To say, then, that the proving ground Corvairs were sufficiently different from regular Corvairs to invalidate the adverse PG reports is engineering hair-splitting—with a self-interested purpose.

The proving ground tests have been characterized by Edward Cole as being "violent maneuvers designed to overturn" the cars and by the NHTSA as being severe development tests which "were not representative of the practical driving environment." There are two factors which must be considered in evaluating these assertions. First, can only tests which simulate "the practical driving environment" or which are not "violent maneuvers" be considered legitimate demonstrations of defects in vehicles? Second, are violent maneuvers part of the normal, albeit infrequent, experience on public roads? The answer to the first is obviously "no." A legitimate test must exceed the expected use of a product by a sufficient margin that guarantees adequate or safe performance of the product under the complete range of expected use, including emergency situations. The answer to the second is "yes"—accident avoidance maneuvers are often well simulated by the j-turn, which was used as the primary maneuver in PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems) and PG 17103 (Corvair Dynamic Stability Tests).

The j-turn test determines a car's response in an emergency reaction to a suddenly perceived obstacle in its path: e.g., you are driving along at 30 mph and a child suddenly emerges from a side street forcing you to swerve to avoid hitting the child. This maneuver is obviously one a typical driver may be forced to make—as studies like the NHTSA's Multidisciplinary Accident Investigations point out. It proved a maneuver which the Corvair failed: *while probably no other American cars could be overturned in such a test, a 1962 Corvair rolled over twice in a simple 28 mph j-turn in PG 17103.* Professor Leonard Segel, who heads the vehicle handling research section of the Michigan Highway Safety Research Institute, said

"I'm just flabbergasted that people [GM, NHTSA, and the Ribicoff staff] were able to say that these tests [the GM proving ground tests such as PG 15699 and PG 17103] don't prove anything."

Finally, there is the issue of the source of these reports. General Motors would have had no reason to have produced a test report which was invalidly critical of the Corvair or which showed the Corvair in such an aberrational situation, so unrelated to the actual use of the car. Regardless of the euphemism GM used to characterize their aim in running these tests or the modifications to the Corvairs tested, the tests were designed to explore ways of improving the car's rollover stability and hence its safety. Although Cole tried to characterize the Corvair tests for PG 15699 and PG 17103 as being "normal development tests," there is no evidence that GM or any other domestic auto maker carried out such tests on models other than the Corvair. These tests are central evidence revealing the defective nature of the 1960–1963 Corvair suspension design. The attempts by GM, NHTSA, Wager and Koskinen to diffuse, dissolve, and defeat the issue of the relevance of GM proving ground tests—particularly PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems) and PG 17103 (Corvair Dynamic Stability Tests)—simply does not stand up to rational analysis.

2. *Ford Tests.* The reference to the Ford tests is also ambiguous. Is the qualification "recent" intended to cover the 1966 and 1968 testing at Ford of early model Corvairs for the purpose of perfecting its vehicle handling test procedures?

In the 1966 and 1968 tests, Ford engineers apparently assumed from their previous experience with the Corvair that its handling characteristics fell below those considered acceptable at Ford. Ford engineers were probably using their Corvair to determine if their test procedures would adequately discriminate between cars with and without acceptably safe handling qualities, the latter being demonstrated by their Corvair. If the Corvair could pass one of the Ford tests, it was likely that Ford engineers considered the test too lenient.

Ford, in a letter to Senator Warren G. Magnuson, dated April 26, 1972, stated: (exhibit J)

"We have two other reels of film involving a Corvair. These films were made in 1968 and involved a used 1962 Corvair in poor condition. The tests shown in these films were not designed to measure the handling characteristics of the Corvair and do not present a fair illustration of its handling characteristics."

The tests being referred to are lane change maneuvers. Although none of the Ford products used in the tests (mostly 1968 models) had significant difficulty in the test, the Corvair would often go out of control with the rear of the car losing traction, causing it to spin. Regardless of Ford's primary purpose in the tests, the results show the instability of their used 1962 Corvair, which is typical of those which remain on the roads.

3. *Consumers Union Tests.* The reference to Consumers Union tests concerns 1960 Corvairs. The tests were part of CU's regular comparative product evaluations, published in their magazine, *Consumer Reports.* The testing for these CU reports was, in 1960, based on largely subjective driving impressions of their test cars. Because CU owns the cars they test, and sells them after the testing is completed, they try not to test the cars in ways which damage or seriously degrade them. Nonetheless, CU was unimpressed with the characteristics of the Corvair as compared to other compact cars it tested, such as the Falcon and Valiant, a fact not clearly evident in the Ribicoff staff report.

On September 27, 1972, in a letter to the NHTSA, CU's Auto Test Division Chief, Robert Knoll, said:

"Our own evaluation of the Corvair's handling originally was not too critical, but by today's stricter standards (our standards) we might rate it less satisfactory for emergency handling. You might think of it this way—if you lived twenty miles from town on a winding country road, would you like to drive this particular car to the hospital if one of your children was seriously injured? Some cars are more 'forgiving' than others." (exhibit 4)

Despite their reliance on the CU tests, Wager and Koskipen did not contact CU to inquire about the test methods or data from CU's Corvair tests. In response to our inquiry, CU made the following statement to describe both their tests of the Corvair and the misuse of their test report by the Ribicoff staff report:

"During the period before 1965 when the Corvair in question was being produced, Consumers Union had no formal, repeatable emergency vehicle handling tests. Although Consumers Union commented about the relative safety of oversteering and understeering cars, these comments were general in nature and not derived from specific, controlled tests of the Corvair. We note that the Subcommittee staff report omitted the final sentence of the quotation used from *Consumer Reports* which read: 'The easiest and safest car for a driver to handle is one with neutral handling characteristics, and the [1960] Falcon and Valiant come close to be just such.' Later in the same article it is noted 'the Valiant's handling . . . can be rated the best of the three cars by a definite margin.'

"In 1966, Consumers Union tested a 1966 model Corvair, generally accepted as representative of the Corvairs with the best handling qualities.

"By this time, CU had developed an emergency handling and stability test procedure by which to rate its test cars. Even the 1966 Corvair emergency handling was rated only fair because of oversteer and sensitivity to variations in tire pressures from those recommended. Consumers Union believes that the characterization by the Subcommittee staff of Consumers Union as a 'Corvair supporter' is both false and misleading.

CU's description of the Corvair in 1960 as being less "forgiving" than other cars, and their notation that the Corvair could "get the driver into trouble a little more easily—and into trouble requiring somewhat more skill to get out of—than a car that understeers to a similar extent," brings up another point concerning the Corvair. In September 1971, *Consumer Reports* noted that: (exhibit K)

In CU's opinion the *Corvair* heater is a defect as defined by the National Traffic and Motor Vehicle Safety Act. The construction of the heater is such that it will almost inevitably blow carbon monoxide into the *Corvair* passenger compartment should a small leak develop in the engine's gasketing or exhaust system.

A month later, on October 27, 1971, the NHTSA officially declared the 1965 Corvair heater defective, and GM sent defect notifications to owners of 1961–1969 Corvairs. GM refused, however, to recall the cars for correction, and because of the expense of the correction and its temporary nature, most of the Corvairs on the roads remain defective. The combination of the heater and handling stability defects is even more insidious than either one separately. A driver of a Corvair, drugged by the heater's carbon monoxide, must then drive a car whose handling is charitably described as being unforgiving.

It should also be pointed out that when Edward Cole, GM's president, was gratuitously given the first annual safety award by the National Motor Vehicle Safety Advisory Council (advising the NHTSA) in July 1972, Mr. Walker Sandbach, Executive Director of Consumers Union and a member of the advisory council, resigned from the council in protest. He particularly cited Cole's insensitivity to safety by noting that Cole was the "father of the Corvair."

C. The timing of production changes in the Corvair suspension

The decision to introduce the 1960 Corvair as originally designed, and to maintain virtually the same suspension system through four production years, should be viewed in light of the evidence available to GM at the time, and GM's potential for generating further evidence on which to base a production decision. It is not reasonable to argue, as do Wager and Koskinen, that GM's decision was proper because of the results of the NHTSA testing a decade later or any other recently generated information or tests.

GM President James Roche expressed one standard of care for vehicle stability at the 1965 Ribicoff Subcommittee hearings: "Today's automobile even at higher speeds [more than 50 miles per hour], is almost impossible to turn over [in a j-turn], unless the outside wheels strike an obstacle." Yet GM had evidence even before the introduction of the Corvair in 1959 that it could be overturned in a simple j-turn at half the speed cited by Roche [PG 11106 (Skid Pad Roll Test on Corvair Prototype)]. Other proving ground reports issued before and during the initial year of Corvair production also showed the Corvair's instability, even after various minor modifications were tried.

In particular, in late 1961, Chevrolet offered a factory-installed option, RPO 696, which consisted of higher rate springs, shock absorbers with greater damping, a front antiroll bar, and rear suspension rebound limiting straps. Also, RPO 696 was standard equipment on the "Spyder" model, a car designed to appeal to the sports car set—with a turbo-supercharged engine, four-speed transmission, tachometer and other gauges, and special trim. The implication of this option was that it improved the Corvair's handling to make it more like a sports car (i.e., more responsive and predictable).

The suspension option RPO 696 was tested in PG 12207 (Skid Pad Rollover Test of Corvair with Heavy Duty Suspension), which showed that the Corvair with the heavy duty suspension was also unstable in the skid pad tests. In a Summer 1970 *Automotive Quality* article, "Remember the Corvair?", Karl Ludvigsen, a former GM public relations employee, and that RPO 696 "didn't allow the Corvair to corner appreciably faster but it made it easier to drive near its limit." Thus Ludvigsen seems to be saying that the optional suspension not only did not help the safety of the car, it gave the driver a false sense of control as he approached the Corvair's disastrous limits.

If RPO 696 did not actually improve the Corvair's safety, GM was defrauding the enthusiasts who ordered this option assuming it would improve the Corvair's handling. If it did improve the handling, GM was negligently selling defective vehicles to some of its customers when it had knowledge of how to eliminate the defects.

If the results of the PG reports showing Corvairs to be unstable and susceptible to rollover in low-speed simple j-turns were not sufficient to prove that the Corvair was dangerously unstable, they were certainly sufficient to warrant further investigation of the matter. Certainly, GM has not shown a similar experience with any other recent production model, nor have they shown, using the evidence of the time, that any of the other American compact cars of the time (the Falcon, Valiant, or Rambler) were nearly as unstable as the Corvair in this maneuver. Furthermore, GM's unique experience of receiving a large volume of criticism of the Corvair's handling, simultaneously with a large number of lawsuits alleging defective Corvair handling and stability, should have

given the auto firm reason to explore the Corvair's handling and stability far more extensively than appears to have been done. Of course, in addition, GM had a basic responsibility to correct the defects and warn owners, an obligation they have consistently avoided.

One must ask why, when GM knew the important effect of tire quality on the Corvair's handling and stability, it did not fully explore the effect of tire quality on the safety of the car. Maurice Olley's engineering paper, "Corvair Steering," dated April 1961, stated—

"The other thing that appears from these studies is the extreme importance of the tire characteristics. The increased cornering power of the rear tires virtually 'saves the life' of the Corvair.'

In spite of this knowledge, and for unknown reasons, GM gave no instructions to owners about the quality of tires to replace the original tires when they were worn out. GM might reasonably have been expected to explore the effect of various qualities of tires on the Corvair's safety. That they did not, or that they ignored the results of such tests, is indicated by the results of the belated 1971 GM tests of aftermarket tires on the Corvair, revealed for the first time in the Ribicoff staff report. (Discussed subsequently.)

GM's enormous callousness in not warning Corvair owners that the company considered the Corvair unsafe does not explain the indifference of those who subsequently learned of this finding: (a) Koskinen and Wager, who, instead of indicting GM for not acting on its own past knowledge, treated the information as a discovery of their own investigation and did no more than to urge the Senator to call for an international tire safety conference, (b) the NHTSA which had possession of the information from GM well before the close of their Corvair handling and stability defect investigation and yet did not investigate this effect further and did not disclose the hazards of some aftermarket tires on the Corvair even after the close of that investigation.

Wager and Koskinen's claim that GM's choice of the suspension for the 1960 model Corvair was based on factors other than cost or ride comfort is explicitly refuted by the paper of the Society of Automotive Engineers (SAE), authored by Charles Rubly. Rubly was in charge of the development of the Corvair chassis. In his paper, Rubly lists seven reasons for the choice of the Corvair rear suspension. (Exhibit L.)

The first four reasons given by Rubly are strictly cost items concerning the cost to manufacture and service, and its reliability. The remaining three concern the quality of ride and isolation of passengers from suspension harshness and noise. Another way of making this point is to note that the reason for *not* choosing a more satisfactory suspension for the Corvair was cost.

That changes in the 1964 Corvair were to improve safety is shown by the characterization of tests of that suspension. PG 17103's (Corvair Dynamic Stability Tests) description of the tests of a prototype 1964 type suspension on the Corvair and the implied comparison with the 1963 Corvair shows that the dynamic stability (here, obviously meaning resistance to rollover) was the primary issue in the change to the 1964 suspension:

"These tests showed that the dynamic quality of the current production 1963 Corvair was not substantially improved through practical modifications to shock absorber design and configuration. . . .

"A 1964 prototype suspension installed in the car made the dynamic stability characteristics acceptable for several different test conditions. . . ."

At the time these tests were being run, the decision to adopt the 1964 suspension was about six months old and the 1964 model was virtually in production (a revealing commentary on the actual lead time—eight months—required for such a substantial change). Apparently the tests were to confirm the improvement in safety created by this change in the suspension. It is interesting to note that even with the 1964 suspension, it was possible to overturn the Corvair in PG 17103 in an "abnormally severe maneuver."

Wager and Koskinen's characterization of Winchell's role in the improvements of the Corvair suspension ("Winchell was both constructive critic and defender of the Corvair") is neither documented nor is it even referenced. As in the numerous other cases where they introduced ad hoc evidence, the gratuitous mention of Winchell's Corvair ownership is simply not relevant to the issue. A conclusion that a car is safe because automotive engineers and their families drive them is similar to concluding that cigarettes are safe because many medical doctors smoke or that seat belts are unnecessary because some NHTSA employees do not wear them. It further ignores the fact that GM engineering and executive level employees are offered significant discounts on the corporation's products, or are virtually given them, in return for engineering and other evaluations. (Exhibit M.) At least two GM families, the Osborns and the Hancocks, may have regretted giving their children Corvairs to drive. (See staff report section entitled "David Lewis") and the staff report's characterization of GM engineers as unconcerned about the handling and stability safety of the Corvair is more a comment on the indifference of the industry toward safety and the love affair of some engineers with engineering difference, almost for its own sake, regardless of the total effect on safety.

D. *Tires and the Corvair*

The Ribicoff staff report gives considerable attention to the effect of tires on the handling properties of the Corvair. For example, it quotes a 1971 GM test of tires on the Corvair as stating that the Corvair handling could become "unacceptable under some driving conditions." Since access to this GM test report has been denied, us, and since the report is also without justification, considered confidential by the Department of Transportation, we can only speculate about the exact finding and content of this potentially pivotal report.

It is evident, at the least, that the Corvair's instability in some cases and apparent stability in others could be due to the choice of differing tires as well as to vehicle loading. Professor Leonard Segel has said that for a vehicle whose handling is "on the borderline," tires can be the single most important factor in determining the level of safety of the vehicle's handling properties. But, he added, there was something of a contradiction in tire requirements for such a marginal vehicle as the Corvair: "on the one hand, you want tires with maximum traction; but for such a car, this may lead to a rollover."

When asked whether there had been any studies of aftermarket tires on the Corvair by GM before 1971, the staff authors vaguely recalled something dealing with the Corvair defense group (Product Analysis), but could not identify it. They did not probe into this issue, however, despite their asserted interest in the tire issue. Nor did they ask whether, as original equipment tires were being tested for selection in 1959, aftermarket tires were also being tested either formally or informally.

We recently talked to Mr. Arnold Brown, a former Chevrolet vehicle development and senior project engineer who had done some of the tire testing for the first Corvairs. He said that Uniroyal (then U.S. Rubber Co.) had worked most closely with GM in the development of the original 6:50 x 13 tires and that tire testing at that time was a relatively ad hoc procedure, using "seat of the pants" evaluations of tires. Normally, tires are chosen as a compromise between ride and handling qualities, but Brown said that for the Corvair, because of its handling problems, the handling characteristics of tires were considered paramount.

"I wrote many reports on unsatisfactory tires" for the Corvair, said Brown, and cited the initial rejection of both the General and Goodrich tires for the production 1960 Corvair. Brown said that he didn't think that anyone at GM had tested aftermarket tires on the Corvair, or at least it was not their regular practice. He said that the wide variety of available tires would preclude such testing. GM's attitude might have been comprehensible had the factory recommended a particular aftermarket tire, but the Corvair owner was left with no guidance and a bewildering variety of tires for the Corvair.

We asked about GM's attitude on informing owners about possible problems with after market tires. Brown answered that GM's attitude was that they "should not scare anybody." He said that GM considered it had done its duty if the car got out of the factory with safe tires. Their attitude was illustrated by a defect in the original 1960 models. He said that with worn front tires, the Corvair could develop a severe front wheel caster wobble (rather like a shimmy). But GM's attitude was that worn tires were the responsibility of the owner, and a decision was made at GM not to recall the defective cars. (This attitude toward the Corvair, particularly, has not changed. In its so-called owner notification letter about carbon monoxide leakage through 1961–1969 Corvair heaters, GM said: "It is Chevrolet's position that there is no such risk if the Corvair has been regularly inspected and maintained and is in good working order.")

Brown claimed that significant improvements were made in the Corvair tires each year as they gained experience with the Corvair's tire needs. He said "a factory fresh 1963 (Corvair) was a much safer vehicle than an early production 1960 because of its tires.'

Brown also related an incident which occurred at GM during the early days of the Corvair. He said that GM liked to play the tire companies off against each other. On one particular day, a Firestone representative was challenging the superiority of the U.S. Royal tire for the Corvair. To prove his point, he asked if the could demonstrate it in a nearby U.S. Royal shod Corvair. When he drove the car it turned over on a flat dry paved surface, Although the Firestone man had taken a significant risk, GM did not switch to Firestone for the Corvair, since it perhaps did not make any difference.

Neither did Wager and Koskinen inquire if GM had researched the question of whether owners were aware of the need for proper tire pressures, or whether Corvairs in service typically had their tires at the proper inflation levels. (Evidence from NHTSA Corvair files indicate that a significant number of Corvairs probably have tire pressures that vary considerably from GM's recommendation.)

Wager and Koskinen's insidious use of the word "solely" in their sentences "vehicle stability is not *solely* a function of tire pressure," and "we do not believe GM relied *solely* upon tire pressure to achieve vehicle stability," attacks their own straw man. They might as well have said "we do not believe that GM put tires on the car *solely* to improve its stability and handling." Their report makes no distinction between necessary and sufficient conditions. The correct tire pressures are a necessary condition for a semblance of stability in the Corvair, but are certainly not sufficient for stability. Proper choice of tires is also a necessity, but not a sufficient condition for Corvair handling stability.

Finally, in one of their more palpable and serious contradictions, Wager and Koskinen

criticize GM for failing to give adequate warning in the owner's manual about tire pressures and its effect on handling. This statement stands in flat contrast to their facile agreement with GM and the NHTSA that tire pressures are unimportant to the safety of the Corvair. We were appalled at their failure to inquire into GM's knowledge of the effect of using various after-market tires and GM's failure to warn owners of this potential hazard.

E. Campbell data

Professor B. J. Campbell completed his highly original make-model study of accidents in North Carolina in 1970. He was very interested to note the high incidence of "off-road" crashes in the early Corvairs (1960–1963 models) and the downward trend toward average performance in the 1964, 1965, and 1966 models. "My best guess is that the Corvair data probably do reflect real physical changes in the cars [between the 1960–1963 models and the later models]," he said, "but as a scientist, I am not sure that the data are sufficiently strong to infer casuality."

It appears that the only difference in Corvairs between 1960 and 1966 which would account for the improvement in their "off road" accident statistics was the change from swing axles to modified swing axles in 1964 and finally to fully articulated independent rear suspension in 1965. The weight distribution and general performance of the Corvair remained virtually identical over these years, as did the other general characteristics. The sharp reduction in off road crashes in 1964 and 1965 models, as shown in Campbell's work, correlates with the redesign of the suspension systems.

Campbell is quoted in the staff report as doubting the wisdom of recalling the Corvair. We pointed out to him, however, that the federal government had no authority to order a recall, but rather could only send defect notification to owners. When asked whether there should be defect notification on the Corvair handling and stability, he discussed with us the effectiveness of such a notice and then answered, "I don't know."

Although the staff report suggests that Campbell asserts that the consistently high ratio of off road crashes involving Corvettes cannot be blamed on the driver alone (i.e., not on the car), while the Corvair crashes are blamed on the car, Campbell made an important qualification of that statement to us. He said:

"I point out that the Corvair also had a high percentage of off road accidents. I note that on the basis of data I presently have, it would be improper to blame the Corvair suspension and the Corvette driver."

But Campbell lacked all the data he would have desired. He stated that the missing information necessary to make a more conclusive determination of the Corvair's safety consists of the relative mileage data for all cars so that the overall crash rate as a function of mileage could be computed. He attempted to do this following his initial make-model accident study, but was not able to get what he considered sufficiently valid data. He described this as one of the biggest disappointments of his professional career.

Yet his data still have significance since they are the only publicly available data which give any indication of the overall experience with the Corvair in actual use, other than the number of serious crashes which have resulted in lawsuits being filed against GM. That Campbell's data are not absolutely complete is hardly an argument for the Corvair, although that is the implication given it in the Ribicoff staff report.

F. Olley studies

One can hardly expect a long-time and loyal employee like the late Maurice Olley to publicly and directly criticize General Motors, so it is therefore noteworthy when his personal views in technical papers conflict at all with the firm's official position. The staff report, however, for some reason strains to construe his overall view as favorable to the Corvair and refuses to recognize Olley's specific skepticism about the Corvair type rear suspension in his more technical writings.

In his May 18, 1956 patent application (granted November 3, 1959), Olley was not discussing an existing GM car or a pending vehicle proposal, and was not concerned with the possible GM production of a rear engine car with swing axles—for the Corvair did not yet exist, neither in fact nor on paper. Free of institutional pressure to bend thought to corporate needs, Olley could articulate his own views on rear engine cars with high roll center swing axles.

His 1956 patent application particularly criticized ordinary swing axle equipped vehicles because of the oversteer, the tendency toward rollover, and the lift of the vehicle's rear under severe lateral forces. Olley said that such a design presented "potentially dangerous vehicle handling characteristics." He proposed in the patent a low roll center swing axle, similar to the early Corvair design except for the crucial difference that the roll center was considerably lower; this would have the effect of reducing the roll stiffness of the rear suspension. (The effect would have been similar to the effect of the 1964 Corvair suspension.)

Lowering the roll center of the rear suspension is one way of reducing its roll couple (which can then be made up by using an anti-roll bar on the front suspension). The use of a front suspension anti-roll bar alone is not sufficient to ameliorate the defects in the Corvair rear suspension; the rear roll couple must be simultaneously reduced. The 1964 Corvair rear suspension design also reduces the rear roll couple.

But the primary problem with the swing axle suspension is noted in Olley's 1956 patent application; "the effect [oversteer and rollover susceptibility] non-linear and increases suddenly in a severe turn." The non-linear character of the swing axle makes any discussion of the emergency handling in terms of steady-state behavior specious. Thus, the discussions of the under- to oversteer transition being at .4 times the acceleration of gravity (g), or the limit of control being at .6 g, are simply not germane to the question of safety in the Corvair in emergency maneuvers which generally involve highly transient behavior. For instance, the NHTSA's evaluation panel noted, "In the General Motors films it was observed that the lateral acceleration might go from 0.3 g to 0.6 g in a quarter to a half second depending on the attitude and speed of the vehicle."

The disadvantages of the Olley suspension design were demonstrably not related to the handling qualities which such a suspension would give. Olley's criticisms of this suspension were minor. He said of it in his 1957 memorandum that it "has the fault of causing small misalignments of the axle shafts in the wheel bearings and therefore requiring a self-aligning bearing [which was also needed on the actual production Corvair] at the wheel. Also produces considerable slide in the U joints (increased cost & shorter swing arm radius). Also some brake drum misalignment, and a disc brake is almost impossible [this was also a characteristic of the production Corvair, and disc brakes were never used on any production Corvair of any year, front or rear]."

Olley's 1957 and 1959 memoranda, cited by Wager and Koskinen as indicating Olley's support for the Corvair, were written in response to higher echelon requests. But they did not, as had his 1956 memorandum, address the issue of swing axle rear suspension. The 1957 memo contains almost offhand remarks about a proposed design. Everyone at Chevrolet engineering knew that the Corvair was the special project of Ed Cole, then General Manager of the Chevrolet Division, and few were prepared to confront him directly.

The 1959 Olley memo, dated shortly before the Corvair's ballyhooed introduction, reads like a press release, not an engineering paper. Nowhere in the 1959 memorandum is any mention made of the swing axle rear suspension. The only issue discussed is the Corvair's weight distribution. But in a 1961 *engineering* paper, entitled "Corvair Steering," Olley analyzes the Corvair's performance based on its then two year history. He concludes it by noting that "in the present Corvair, the swing axle, due to lift, handles rather worse than a solid axle but other studies have shown that this effect of the swing axle decreases rapidly as the roll couple carried by the swing axle is decreased." Thus, a well respected GM engineer, in his two engineering memoranda on rear suspension design as used in the Corvair, found fault with it.

G. Distinctions between the various types of GM tests

In answer to depositions and orders concerning testing done by the corporation, GM uses a shifting parlance to characterize the tests of handling and stability. Often, in a deft verbal shell game, they deploy a variety of terms so as to disclose as little as possible in any particular situation.

GM would have us believe that terms such as "rollover test," and "lateral stability," "lateral acceleration" and "roadability" are well defined and have been since before the time of the Corvair. In fact, at GM there was much internal contradiction and controversy about the meaning of such words and they were used by GM witnesses in Corvair litigation to confuse and mislead plaintiffs, juries and judges. Not even the industry dominated Society of Automotive Engineers (SAE) attempted to offer a standard terminology until 1965, and that effort is notable for its basic inarticulateness.

At least by 1963, it was clear that industry jargon on vehicle handling required reform. General Motors organized a symposium for the industry to discuss the problem, and, as a result, a committee was set up in the SAE to develop the technology. The committee was headed by GM's Joseph Bidwell (exhibit N). The lack of agreement even at this stage was evident from the SAE's first glossary, SAE J670a, "Vehicle Dynamics Terminology." Wager and Koskinen cite this document as though it contained clear descriptions of all the terms germane to the Corvair stability and handling questions. Yet the definition of stability given in J670a is a very theoretical one, similar to that given in college physics texts and not very useful in the specific Corvair context. Part of J670a which comes closest to describing the stability of an automobile is just a note (Note 8) which says that stability is a characteristic of "environment" and "trim" and must be investigated for each different set of conditions. Nowhere does J670a have any mention of the terms of "roadability," "lateral stability," "path stability," "attitude stability," or any of the other terms GM glibly employed to obstruct discovery. Virtually all of the terminology defined in J670a refers to *steady state* phenomena rather than *transient* phenomena which are involved in the maneuvers in the PG reports at issue now and which show the clear instability characteristics of the early Corvair.

The distribution that should have been made is between: (a) a test of stability and handling characteristics and (b) a test to purposely overturn the vehicle by artificial means to determine its crashworthiness.

It is obvious that GM itself made the (a) and (b) distinction internally, at least in its technical departments. PG 17103, which is called "Corvair Dynamic Stability Tests for

Chevrolet Motor Division," was to "evaluate and determine dynamic stability characteristics" of the Corvair using various suspension components "in an attempt to overturn the car." That a rollover was the expected final result is stated under "Test Procedure": "A rollover or significant engineering decision concerning the suspension terminated each phase of a test program." (p. 3) PG 15699 is called "Rollover Stability Evaluation of Various Corvair Suspension Systems," indicating the connection of the words "rollover" and "stability" at General Motors.

The SAE recommended practice for (b), in its "Rollover Tests Without Collision—SAE J857," states that "Rollover tests are conducted to evaluate vehicle structure and occupant injury potential"—or what is now called crashworthiness. The staff report, following GM's lead, considerably broadens the category of rollover test to include *any* test in which a rollover occurs, thereby merging category (a) into category (b).

Sometimes, the deception on rollover tests is overt, as in the *Collins* case where Mr. Kai Hansen, who worked extensively on the Corvair suspension at Chevrolet Research and Development as well as in production engineering, incredibly denied that GM had any test for determining a vehicle's tendency to roll over. He characterized a rollover test in the same terms as does the SAE recommended practice. (In fact, GM did have a test for "rollover stability at least as far back as 1959, and so tested Corvairs in at least four proving ground reports, PG 11106, PG 12207, PG 15699, and PG 17103, before the end of the 1963 Corvair production.)

The staff report characterizes 11106 as a rollover test, but PG 11106 was *not* designed to determine crashworthiness. The test procedure for PG 11106 states "The purpose of this test was to determine a condition necessary to roll over a Holden [code for Corvair] vehicle on a level paved surface." Rollover did not even occur in most of the test runs of PG 11106. Since "the vehicle was prepared for the test by installing a rollbar, padding and seat belts," it is obvious that the prepartions for the test precluded evaluation of "vehicle structure and occupant injury potential" on an unmodified car. Thus PG 11106 is not a rollover test as the SAE defines the term, but a rollover stability and handling test and since it involved a preproduction car should have been supplied in the *Collins* case as well as others. (See the litigation section which follows.)

Although Wager and Koskinen spell out and defend the indefensible GM distinctions between the variety of possible tests, GM prefers obfuscation as a tactic to impede understanding. For example, in the 1966 hearings before the Michigan State Senate, Mr. Frank Winchell, at the time director of Chevrolet Research and Development engineering, explained the concept of stability as follows:

Control engineers generally speak of *Stability* in two ways:

Attitude Stability and Path Stability (emphasis in original).

This statement is at best highly misleading, assuming a "control engineer" is some special engineer who uses the term stability in this way. If the term "control engineer" is to mean an automotive engineer who is concerned with the general handling and stability characteristics (as well as control) of a vehicle as is implied by Winchell, his statement is simply not true.

We were at a considerable disadvantage in determining which tests GM should have provided in litigation. The staff study notes that PG Report 2673–16 establishes the procedure for a "steady state lateral stability test." Yet this document was unavailable to us because GM conditioned its submission with an agreement of secrecy by Subcommittee staff. The NHTSA also specifically refused a Freedom of Information request for the document as well as a number of others (see exhibit 0). Wager and Koskinen said that all of the GM submissions would be accorded confidential status at GM's request, except that on specific request we were allowed to see but not copy a limited number of already public court documents.

III. CORVAIR LITIGATION

A major issue raised by your letter to Senator Ribicoff was GM's practices in withholding key documents, particularly proving ground reports from plaintiffs during Corvair product liability litigation. Without knowing the proving ground (PG) report numbers nor even whether these tests existed, plaintiff's attorneys were never able to elicit the ones which revealed the Corvair's instability characteristics and rollover tendencies in their probings of GM technical witnesses and legal counsel—who would disingenuously say that they would turn over all relevant tests if opposing counsel would only identify exactly what they allege is missing (i.e., by number). Since GM cites its litigation record to the public and the Ribicoff Subcommittee as definitive of the safety of the Corvair, it is essential to explore how GM's acts and omissions shaped that litigation outcome.

This the Ribicoff staff report does not do. Like GM, it addresses itself only to the narrowest letter of the law on the contested issues, and incorrectly resolves the matter of legality. Thus, in assessing GM's behavior, it asks whether "GM was legally obligated to produce certain documents in the court cases and failed to do so," and whether "GM had perpetrated a fraud or deceit upon the courts." Yet to all but the most rigid profit-maximization theorists, "corporate responsibility"—which the staff report aims to evaluate also—surely includes moral responsibilities as well as legal obligations.

The staff report was apparently uninterested in asking whether GM had a moral responsibility to produce certain documents, because of, *inter alia,* (a) the deception which otherwise results, (b) its superior knowledge of the existence of these documents, (c) the catastrophic human cost caused by defective cars, and (d) its superior ability to prevent such harm by manufacturing safe cars and correcting defects.

Nor does the staff report, because of its unwise adoption of the NHTSA study, adequately probe the meaning and effect of GM's suppression of its internal proving ground reports showing the Corvair's undue susceptibility to instability and rollover in the kind of emergency driving conditions normal drivers confront. Finally, Wager and Koskinen barely mention the fact that Corvair plaintiff attorneys were unconscionably harassed, delayed and misled by GM. Techniques of obstruction range from intentionally supplying thousands of irrelevant documents and films, to exhausting plaintiffs' attorneys with frivolous motions and objections, to playing word games with confusing technical terms, to arguing for a limited court order which skillfully excludes key items GM knows to exist, to hiring private investigators to probe expert witnesses. While discussion of these techniques follows, of particular interest here is a previously undisclosed GM memorandum of January 5, 1965 entitled "Hypothetical Cross-Examination of a Member of the Corvair Product Analysis Group"—which is reproduced as our exhibit P. It carefully instructs GM witnesses how to give obscure, non-responsive if not false answers during cross-examination. It makes a mockery of GM's pretense of openness and fair-dealing in its court cases. It is a blueprint for stereotyped replies developed by GM's General Counsel, Aloysius Powers, to preclude any diversity of response which may be dicated by candor and honesty.

That GM, in our view, had a moral responsibility does not of course absolve it of the legal obligation in the early model Corvair litigation to produce the proving ground reports. To the contrary, after a thorough review of all the facts known to us and a careful analysis of GM's defense as presented by Wager and Koskinen, we have no doubt that GM was legally responsible for production of at least PG 11106 (Skid Pad Roll Test on Corvair Prototype) and 12207 (Skid Pad Rollover Test of Corvair with Heavy Duty Suspension) in *Collins v. General Motors* (1960 Corvair) and, in addition, at least the complete films and other documents associated with PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension System) and 17103 (Corvair Dynamic Stability Tests) in *Anderson v. General Motors* (1962 Corvair). Since we lack access to other proving ground reports—General Motors successfully requested confidentiality for them from the NHTSA and the Ribicoff staff—we can only speculate how many other incriminating tests were similarly oppressed.

A. Frank Winchell

Perhaps the most appropriate starting point to discuss Corvair litigation is Frank Winchell, described by Wager and Koskinen as the "chief technical advisor to the product liability lawyers" and now GM's Vice President for Engineering. For as is obvious in both the Corvair litigation and the Ribicoff staff report, Winchell is a key figure. The root issue is Winchell's denial that certain written records existed for Corvair testing. As the chief technical adviser on the Corvair litigation, it should be apparent that Winchell was either seriously ill-informed about GM's formal Corvair testing or intentionally forgetful in depositions and court testimony.

The Ribicoff staff report, for some reason, contorts the facts every favorable way for Winchell: "It should be noted that Winchell's testimony did not deny the existence of PG 15699 and 17103. Those reports were the result of work done for the Chevrolet product engineering section by the GM proving ground. This was completely separate from the work performed by Winchell and his group." Thus do they deploy what can be called the "bifurcation technique," whereby responsibility is so divided in a bureaucracy that no one is seemingly responsible.

This benign view of Winchell's conveniently limited knowledge is ludicrous for a man who:

Was the "chief technical advisor to the product liability lawyers" during most of the Corvair instability litigation;

Was the chief GM witness in Corvair litigation around the country;

Had unlimited access to the test work order indexes and the GM archives; (see exhibit 16) *

Was a close advisor to Edward Cole, now the President of GM and who is often referred to as the father of the Corvair;

Tested a Corvair for handling and stability in Colorado in 1958;

Was promoted to be Director of Research and Development of Chevrolet Engineering beginning in 1960;

Remained in that position during the Corvair controversy and when work was initiated and completed for the 1964 and 1965 model corrections in the suspension systems;

Admitted in *Collins* his role in the design of the 1964 modifications to the Corvair suspension systems;

Answered affirmatively, in that case, the question, "did you actually participate in this work [the development of the 1964 and

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*Memoranda from Winchell to Aloysius Power, General Motors General Counsel, dated December 16, 1964, agreeing to supply a number of providing ground test reports (by number) for Mr. Adkins of the legal staff for a conference on litigation, and from Passom to Power dated December 18, 1964 transmitting the reports retrieved from the GM archives.

1965 Corvair suspensions] in each instance?"; and

And "[f]orcefully advocated suspension changes to improve" the "ultimate performance of the Corvair" (Ribicoff staff report).

GM tries to drape the "ignorance is bliss" insulation around its top executives; to permit association of its master sergeant-in-charge with such unawareness is the ultimate Wager-Koskinen absurdity. Thus, it is simply not possible to argue that Winchell did not know or had no reason to know about adverse proving ground tests, involving scores of GM employees, and reduced to bulky reports which demonstrated the Corvair's instability and propensity to roll over. Yet this is precisely what the staff report does strain to argue.

Had they asked the proper questions instead of accepting the well-worn Winchell bifurcation technique, their judgment might have rested on fact rather than fiction.

Another compelling refutation of Winchell's "it was in the other Division" routine is the testimony by his boss, Ellis J. Premo, Chief of all Chevrolet engineering, who told the Court in *Anderson* (tr. 4155) that he had turned over to the GM legal staff "every report on the Corvair." As GM's "chief technical advisor to the product liability lawyers," Winchell could not have been uninformed about the test reports Premo gave the lawyers. At least the excuse that he (Winchell) was in Chevrolet Research and Development and the reports were done by Chevrolet Production Engineering is completely discredited, for the GM legal staff bridges the two. Winchell and the legal staff spent many hundreds of hours together for the litigation defense alone. Their conclusion is a depressing commentary on the staff investigators' gullibility or predisposition, as later discussions of Winchell's role in the court cases will reveal.

B. Scope of court orders

The staff report, while ignoring PG reports 11106 and 12207, defends GM's non-submission of PG reports 15699 and 17103 (which tested 1962 and 1963 cars) by arguing that the court order in *Collins* applied only to *1960* and earlier models. Yet at no time in your October 23, 1970 letter did you state that PG 15699 and 17103 should have been produced in the *Collins* litigation. (At the same time, based on GM's own statement in the *Collins* trial that 1960–1963 Corvair models were virtually identical it can be reasonably argued that GM should have produced tests involving 1962 and 1963 models in a court case involving a (admittedly identical) 1960 model.)

The court order in *Anderson* required production of written reports, memoranda, studies and test data including numerous moving picture films in existence *prior* to April 19, 1963 which relate to testing of 1960, 1961, and 1962 Corvairs. While again ignoring such PG reports as 11106 and 12207, the staff report disposes of PG 15699 (issued on June 14, 1963) and PG 17103 (issued November 4, 1963), by arguing there was no requirement for GM to furnish this information. But this confuses the date the proving ground tests were issued with the date they were actually completed. In fact, since PG 15699 was run in 1962 and PG 17103 was run first in November 1962 and subsequently between March 18, 1963 and April 11, 1963, at least the films of these tests should have been produced in *Anderson*. Since GM produces films in court cases without copies of the test reports, it cannot argue here that it did not believe the films should be produced without the reports.

Also, the staff report does not mention GM's responsibility in *Anderson* to produce test work orders (i.e., the test instructions from the production engineer to the proving ground engineer) or the technical test reports which resulted in PG reports 15699 and 17103. The test work order for PG 15699 is dated April 11, 1962 and for PG 17103 is November 12, 1962, well before the *Anderson* court order cut-off date of April 19, 1963. (The Ribicoff staff report itself, in the section on Carl Thelin, claims that GM produced these items in the *Franklin* case—although the plaintiff's attorney in that case, Louis Davidson, denies ever receiving these documents; he was never interviewed by the Ribicoff staff.)

Further, even the judge in *Anderson* makes it clear that any absolute cut-off time for production of PG reports may be a bit arbitrary. In response to a question raised by GM counsel Nunez about the appropriateness in the case of referring to the 1964 Corvair, the judge answered (tr. 1188):

"I am not so sure. It is dependent upon what develops from the answers and that makes it a little difficult to rule upon the question but if it should turn out or develop that say in the 1964 or 1965 model certain substantial changes were made which made the car much more driveable, much more safe to drive and much more stable and it turned out those changes that were made they had known about in 1959 and 1960 as being available, I think the fact is that that latter part, then, would be admissible because if they did put them on in 1964 why couldn't they have put them on in 1959; if those changes they made could have been shown to be available in earlier years.

PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems) and PG 17103 (Corvair Dynamic Stability Tests) are examples of the kinds of tests to which the judge was referring. They were run for the purpose of testing various 1962 and 1963 Corvairs with various insignificant modification designed to improve their stability and handling characteristics, and specifically to improve their resistance to rollover.

C. Collins case

Your letter of October 23, 1970 sharply criticized those GM witnesses who were asked questions to which unbiased answers would have produced the key proving ground reports suppressed for so long by GM, such as PG 11106 (Skid Pad Roll Test on Corvair Prototype), 12207 (Skid Pad Rollover Test of Corvair with Heavy Duty Suspension), and 11285 (Rollover and Crash Test of 1959 Chevrolet and Corvair). All these reports pertain to the 1960 Corvair at issue in *Collins* v. *General Motors*, tried in San Jose, California in 1965.

The Ribicoff staff report extracts from your letter six examples of such GM misrepresentations and item by item purports to refute the examples presented. Our commentary on each example follows:

Your letter quoted the trial transcript where plaintiff's counsel David Harney (again, unaware of the various and crucial proving ground reports) questioned Winchell about his presence at Corvair stability and handling tests in 1958. Winchell responded that he was present and apparently a passenger in the test car at some point during such tests at GM's proving ground at Manitou Springs, Colorado, but that no written reports were made of those tests. Your letter then suggested the committee consider whether the suppressed proving ground reports of the pre-production Corvair, which Winchell failed to mention, such as PG 11106 (Skid Pad Roll Test on Corvair Prototype) and PG 11245 (Tire Blowout Comparison at 60 mph), "could even possibly have been unknown to Mr. Winchell." By omission throughout the trial transcript, and this instance is but one example, Winchell implies no knowledge of such reports.

The staff report replies that the passage in question did not call for a response concerning these proving ground reports, apparently because they were not conducted at Manitou Springs. Never answered is the obvious and key question of whether Winchell in fact knew of the existence of the critical proving ground reports.

Another example of GM obfuscation is quoted in your letter from the *Collins* trial transcript (tr. 3213–15). Plaintiff's attorney Harney is there trying to establish from Winchell whether any of the GM tests presented during the trial were other than tests prepared specifically for the litigation defense.

Q. (by Harney). I am talking about all the tests you have talked about in this trial in front of these twelve ladies and gentlemen plus the alternates.

A. Some of the tests that were run were certainly related to the 1964 and 1965 Corvair. The 1960 Corvair, no.

Winchell answers that the test evidence produced by GM in *Collins* concerning the *1960* Corvair was not limited to tests produced only for the litigation, but that it also included engineering tests done either during the development of the 1960 Corvair or during some later product evaluation. As your letter pointed out, Winchell thus admitted that GM recognized its obligation to produce pre-production Corvair tests in the *Collins* case. But not having done so—for example, PG 11106 (Skid Pad Roll Test on Corvair Prototype), 11285 (Rollover and Crash Test of 1959 Chevrolet and Corvair) and 12207 (Skid Pad Rollover Test of Corvair with Heavy Duty Suspension) were not submitted—GM by omission was effectively denying that they existed.

The Wager-Koskinen report seeks to rebut your contention by referring to the words "lateral acceleration," the terms used in your letter to describe the missing proving ground reports (which you also cited by number). Their point, presumably, is that the unproduced PG reports were *not* "lateral acceleration" tests. Thus, they conclude that the quoted testimony fails to support your point and "is rebutted by other evidence." (This "other evidence" is nowhere provided.) The term "lateral acceleration" is not an inappropriate descriptive phrase to apply to the missing reports. In particular, PG 11106 contains both steady speed runs in a circle (what Winchell refers to as a "roadability test" and what GM also appears to call a "lateral acceleration or stability test") and j-turn tests to "determine a condition necessary to roll over a Holden [Corvair prototype] vehicle on a level paved surface."

The staff report then continues to ignore the question of the missing proving ground reports and focuses instead on the narrowest construction of your point by asserting: "At no time did Winchell deny the existence of lateral acceleration tests. In fact, at page 3766 . . . he said he had run such a test on a 1960 Corvair and at page 3848–49, he acknowledged the existence of written reports on such tests."

At page 3766 Winchell is asked when he first ran a Corvair lateral acceleration test. He told the court it was run in 1960; but in response to the question whether it was recorded, he responded, "I don't think so." At pages 3848–49 we discover Winchell deliberately interpreting "lateral acceleration" and "directional stability" to describe only "roadability" tests. In the roadability test, as occasionally defined by various GM witnesses in the Corvair litigation, the car is driven at gradually increasing speeds around and around a circle with *no* change or maneuvers in the steering in order to test its reaction to lateral acceleration. This test does not measure the performance of the vehicle in typical highway situations as do the lateral stability and rollover stability tests. The intentional misleading of plaintiff's attorney by discussing only roadability tests in response to questions about lateral acceleration or directional stability is apparent:

Q. Do you have any movies or reports concerning dynamic tests done at more than one mile an hour on a Corvair to ascertain

lateral acceleration forces or directional stability?

A. Any movies or reports?

Q. Yes, sir.

A. There are reports, yes, sir.

Q. What are they called?

A. Roadability tests.

Q. Are they instrumental tests?

A. Yes, sir.

Q. When were they done?

A. That is the standard procedure—

Q. No. I am not asking about standard procedures.

A. I can't say when they were done.

Q. Have you seen them?

A. Yes, I have seen a number of roadability tests.

Q. With instrumentation.

A. Yes, sir.

Q. Wherein lateral forces were being maneuvered?

A. Yes, sir.

Q. And recorded?

A. Yes, sir.

Q. By whom?

A. By proving ground personnel. I don't know whom precisely.

Also at issue is Winchell's statement on page 3855 of the trial transcript that "I have never seen the Corvair rolled over on the [GM] skid pad." Your letter of October 23, 1970 stated: ". . . Mr. Winchell's assertions of ignorance about the rollovers on film in PG 17103 and PG 15699 are totally implausible in light of his position at GM at that time."

As we read the staff report, there are two points at issue in this statement, both involving GM's (previously noted) deployment of technical terminology to evade legal obligations. The first is whether "seen" means "seen personally" or "seen personally or in movies." Your letter clearly presumes that GM middle executives do not spend their days at the proving grounds; films of the tests, of course, were the issue. But the staff report narrowly interprets the word "seen" to mean "presence."

The second issue and second distinction is between the proving grounds and the skid pad. The report states in Winchell's defense: "The record and our investigation support Mr. Winchell's answer. He had previously testified that he personally rolled a Corvair at the proving grounds, but not on the skid pad . . ." This statement implies that Winchell's testimony cited by the staff report (pages 3360–1) distinguished for the court between proving grounds and skid pad. But actually, Winchell merely stated that his experience in the Corvair rollover had occurred at the proving grounds. To our mind any distinction after the fact between a reference in the course of a trial to the proving grounds and the skid pad (located *at* the proving grounds) is a clumsy attempt to hide the truth. But not to Wager and Koskinen. "There would be no reason for him to deny his presence at such a test. So far as we have been able to determine, this is a true statement," claims the staff report.

Unexpectedly, we have recently uncovered evidence that contradicts Winchell's claim at the 1965 trial that "I have never seen the Corvair rolled over on the skid pad." A former GM employee who was part of the technician team for PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems), Mr. Brian Heurtebise, gave a deposition on December 14, 1972, in the case of *Liebelt* v. *General Motors*. It states that Winchell did observe a Corvair immediately after it had rolled over on the *skid pad* during the tests for PG 15699—if he did not, in fact, see the rollover itself. These tests were conducted in May and June 1965. Heurtebise said that immediately after a rollover, he and his associate Mr. M. D. Sheehan would go over to a Corvair—he to look after the condition of the driver and Sheehan to direct the photography. According to Heurtebise, "I looked around and Mr. Sheehan had his hand on the top of the car and was bent down and Mr. Farley* was driving the car and Mr. Winchell was looking past Mr. Farley (toward the overturned Corvair) to see what Mr. Sheehan was saying." In the cross examination later in the deposition, Heutebise was asked, "And when you looked in that direction, was Mr. Winchell looking toward you?" He answered, "Yes." Heurtebise provided a sketch of the position of the various cars and people and reiterated his identification of Winchell.

You criticize Winchell for stating in the *Collins* trial (the earliest Corvair trial after the *Pierini* settlement) that the only GM movie of a Corvair lateral stability or directional stability test he has seen was the one shown at trial in which the Corvair rolled over at 1½ miles per hour. Plaintiff's attorney Harney was apparently attempting here to elicit from Winchell a statement specifying the scope of the evidence GM was going to produce at the San Jose trial. Just after the trial had begun, GM had handed Harney a roll of unidentified films showing a Corvair test he had never seen before; Harney, therefore, was seeking to avoid the repetition of surprises.

It is evident from the transcript that Harney's question to Winchell refers specifically to materials physically located in San Jose for the trial, and not to every test GM has ever conducted. However, since GM knew it might well have to produce the key PG reports mentioned so often in your letters, it is a fair presumption that these reports might have been physically located in San Jose. If they were, then Winchell as one of GM's chief witnesses must have purposefully been kept in the dark for his answer to Harney to have been an honest one. If the key unproduced proving ground reports and films were not in San Jose, then General Motors in premeditated fashion had no intention of submitting them on the case. (It is important to recall here that on the defective design issue there was no pretrial discovery.) The staff report ignores whatever obligations GM had to produce these reports. It looks only to the face of the question and defends Winchell saying that Harney's question concerned only the films Winchell had seen since his arrival in San Jose, and that Winchell did not deny the existence of rollover test film because he was not actually questioned about it.

To further distort reality, the Ribicoff staff report says that GM furnished motion pictures of PG 11106 (Skid Pad Roll Test on Corvair Prototype) at the trial voluntarily. Actually, there is no documentation supporting GM's claim that the film produced was in fact PG 11106, and there is no explanation why the proving ground report for 11106 was not also furnished. As to the voluntariness of its submission, the staff report apparently accepts this characteristics by GM of its actions without questioning whether it was required by the court order—a subject the staff report avoids throughout.

On receipt in the courtroom of a film in an unmarked canister, which is now alleged by GM to be PG 11106, Mr. David Harney, the plaintiff's attorney, stated: "I hate to be snide, but what General Motors has handed us will take only a couple of minutes." (tr. 1628) The next day Harney submitted the film as exhibit 48, since it lacked any identifying markings.

The first substantive question asked by Harney after the film was run in the courtroom was: "Are you familiar with the type of blow-out test [tire] which is being conducted here?" Since 11106 does not contain any tests of vehicles with blow-outs, and the film is not identified in the transcript, we think there are serious questions whether GM in fact submitted PG 11106 to Harney.

* Farley was the engineer who requested the test for PG 17103.

We asked Harney about the film and, to the best of his recollection, it was not a film of a stability rollover test.

". . . It is difficult to believe that the plaintiff was prejudiced by lack of these reports," continues the Ribicoff staff report, "since GM did furnish voluntarily, although not required by the court, the motion pictures of PG 11106, a rollover test, which were shown to the jury. Moreover, the court allowed numerous other rollover tests to be placed in evidence by Harney." Mr. Harney, on hearing this statement by telephone, pointed out that these "numerous other rollover films" were the ones *his* expert witness Paul O'Shea prepared, not GM films as might well be implied from the staff's prior discussion of only GM materials.

Harney added that he thought his plaintiff was "definitely prejudiced by not having access to the reports we now know to have existed then." He also disparaged GM's so-called generosity in providing a few minutes of film—which was hardly of value since (1) there was no accompanying report to explain the speed and other test characteristics and (2) absent any identifying marks, it is difficult at best to question GM witnesses about it. The staff report's endorsement of GM's alleged disclosure of PG 11106 was far too casual and unquestioning given the suspicious circumstances surrounding this "disclosure."

One of the questions commonly asked by plaintiffs' attorneys in product liability litigation is whether written records, including detailed testing and engineering documents, are in existence. In the case of the Corvair litigation this question was particularly pertinent since key documents consistently were not produced under court orders.

Your October 23, 1970 letter commented that higher level GM employees, in Corvair litigation depositions, had been inaccurate and misleading in suggesting that most written records of testing are routinely destroyed. If true, this might of course deter plaintiffs from demanding production of many basic documents.

As an example, you quote the questioning of Winchell by *Collins* plaintiff's attorney David Harney, who referred to the 1962 depositions (from the *Drummond* case) of Kai Hansen and Harry Barr, both management level GM engineers closely connected with the design, development and production of the Corvair.

Mr. Harney asked Winchell:

Q. As of 1962 it is correct that practically everything that had to do with testing of the Corvair had been destroyed by General Motors?

A. Not to my knowledge.

Q. Have you read the deposition of Harry Barr in which he said that was true?

A. No. I did not read that.

Q. Did you read the deposition of Kai Hansen in which he said that was true?

A. I did not.

The Ribicoff staff report states:

"We questioned Barr and Hansen closely concerning their depositions in the *Drummond* case. Both denied under oath making the statement attributed to them by the plaintiff's counsel. We also obtained copies of their depositions and reviewed them. We could find nothing in them to support the contention of Mr. Harney, plaintiff's counsel. In fact, Hansen testified that some of the engineering reports were still in existence (p. 86), and the record shows that a number of such documents were presented to the plaintiff at the deposition" (p. 87).

We looked first at pages 86 and 87 of the *Drummond* depositions to confirm the staff report description, and to our surprise found Hansen saying the following:

Q. Are those reports [professional and engineering reports] still in existence?

A. Some of them are, yes.

Q. Well, some of them are and some of them aren't?

A. Yes.

Q. What happens to those that aren't?

A. We have an incinerator. We burn them after they have served their purpose.

Q. Do you have a policy as to how long you keep a report?

A. After they are of no use to us any more. It is our personal housekeeping rules.

Q. But some might be kept. Is that right?

A. Could be, yes.

Q. Kept for posterity?

A. Like these reports you see out here on the table.

Q. These are test reports?

A. These are formal reports in our operation.

Q. Any of these your reports?

A. I read them.

Q. None of these are dictated by you?

A. No.

We also looked at the depositions, albeit it quickly and without the opportunity to question Barr and Hansen. Kai Hansen, questioned by attorney James Dumas, testified at page 98:

Q. Are any reports that you have ever written on the Corvair, from 1957, when you first heard of these small cars and the Corvair, to the present time in existence now?

A. I don't have any and I don't think so. I think that all has been done away with in the house cleaning of this operation.

Q. House cleaning of what operation?

A. We have certain facilities in this area that are only limited and we only have so many drawers in the office. When they are full, we get rid of the stuff, now that we have the history established. These are only observations that were peculiar to the very moment you would make this observation. The same observation may change tomorrow and there will be another piece of paper to supplement.

And Harry Barr, being questioned by attorney Harney, testified at page 134:

Q. To your knowledge does GM have a microfilm set up to make a permanent record of documents which are going to be destroyed, burned up, incinerated or in some other fashion disposed of?

A. Well, I think we protect our drawings and specifications in this manner somewhere in the Corporation.

Q. How about memoranda?

A. I believe not.

Q. Is memoranda periodically destroyed?

A. Yes.

Q. By memoranda I mean to include reports.

A. You mean like letters or things like that. Yes.

Q. I'm talking about reports also. Are they destroyed?

A. You have one in your hand there. That is evidence that all reports are not destroyed.

Q. Some are?

A. I believe many are.

Q. Periodically?

A. Well, the policy generally is to not keep things in your operation file more than a year.

Q. You mean after a year they are destroyed?

A. Generally.

Q. Who is in charge of that program? Is that each person's responsibility?

A. Yes, really.

Q. In other words, each executive secretary?

A. A secretary's responsible.

Q. And as far as documents and reports are concerned, when they are destroyed, to your knowledge, no microfilm is made at all or other copy preserved?

A. Not the ones around here. I can't speak for General Motors.

As seems evident, these GM witnesses clearly intended to leave the impression that many engineering and other reports and papers are disposed of once a car has been built. The staff report's flat assertion to the contrary is contradicted by this testimony. Apparently they did not read these other pages. In this case the materials were public to us, not secret as many other materials they excerpted from, and the shallowness of their research can be revealed explicitly.

As discussed, a favorite technical distinction made by GM's witnesses in Corvair litigation was between *lateral stability tests* and *rollover tests*. Where a plaintiff obtained an order for GM to produce lateral stability tests, the company, wrongly we believe, did not furnish rollover stability tests. (See Section on "Distinctions Between Various Types of GM Tests") Your October 23, 1970 letter at page 15 mentions the subpoena in the *Collins* case which required production of tests of "stability and handling characteristics of Corvair" but points out that PG 11285 (Rollover and Crash Test of 1959 Chevrolet and Corvair) was not produced by GM. The staff report explains that GM's judgment this rollover test was beyond the scope of the subpoena calling for stability and handling tests. Further, it misleadingly suggests that the court agreed to withholding the test and refused to grant a subpoena after its admissibility was fully argued to the court.

First, although GM counsel briefly referenced a *fixed steering rollover test* report on an undated film plaintiff's attorney obtained from another case, and said it was not being produced "on the theory that it is not pertinent to stability and handling characteristics," the transcript shows no explanation of this rationale—and it was far from obvious to anyone but GM. GM did not give dates, names or numbers for the few films produced in cases, thus hindering plaintiff's ability to accurately identify associated reports. In fact, after 30 pages of transcript debate over GMs failure to produce, plaintiff's attorney was still demanding handling and stability tests (having not yet received one by the opening date of the trial).

Second, the court does not refuse to grant a subpoena and exclude the test, as the Ribicoff report says. Rather, the court merely refuses to modify the subpoena (to its prior status) to include model year Corvairs other than the 1960 model like the one owned by plaintiff. At this point plaintiff's attorney indicates he will seek a new subpoena, apparently thinking GM's excuse for not producing test reports is that they perhaps do not pertain to the 1960 model. The judge's decision *not to amend* the subpoena was most likely the result of the sworn denials by a GM witness of the existence of stability and handling tests other than those already produced in the case. The decision in no way gave GM any discretion to withhold any test reports or materials other than the one test report in controversy—now known to be PG 11285 (Rollover and Crash Test of 1959 Chevrolet and Corvair). Such purposeful efforts to confuse and mislead do not offend the Ribicoff authors; they seem to consider it a necessary element of the adversary system.

Having decided that GM was not obligated to produce PG 11285 because it was a rollover test, the Ribicoff staff report indiscriminately concludes that "Based on this ruling, it seems likely that the other rollover tests cited in Nader's letter, such as 11106 and 12207, also would have been excluded by the judge." The withholding of these tests was an important part of your original complaint to Ribicoff and cannot be so easily dismissed. There is a significant distinction between PG 11285 (Rollover and Crash Test of 1959 Chevrolet and Corvair) and PG 11106 (Skid Pad Roll Test on Corvair Prototype) and 12207 (Skid Pad Rollover Test of Corvair with Heavy Duty Suspension), although all three concern rollovers. The Ribicoff staff apparently does not realize that the rollover test in PG 11285 was one designed to evaluate *vehicle structure and occupant injury potential* (see SAE J857) while PG 11106 and 12207 were *dynamic stability rollover* tests. The difference is not insubstantial. The first is designed to test crashworthiness and the second to test a type of stability. Contrary to the hasty conclusion in the staff report, there is every reason to presume that the judge would have admitted the stability type rollover tests since the issue in the case was vehicle stability.

Most assuredly the distinction would not be lost on GM, as is evident from the transcript in the *Anderson* case. There, when asked about rollover tests, Kai Hansen, who directed the work on the Corvair chassis and then moved to Chevrolet engineering, gave the following testimony in response to questions about GM's rollover testing. (*Anderson* transcript, p. 1015):

A. Our main purpose in this test is to roll physically a car, to check on the physical strength of the body, the suspension, and every conceivable part of the vehicle.

Q. You are not directing your attention at what causes it to roll? You want to see what happens when it does roll?

A. That's right.

Q. Are there any tests you conduct for the purpose of determining what causes a vehicle to roll?

A. No. Our only rollover tests are those tests which are under standard procedure.

Hansen must have known better. Several of the Corvair tests were run specifically to determine what conditions are necessary for a Corvair to roll over, or what improvements would increase its rollover stability, such as PG 11106 (Skid Pad Roll Test on Corvair Prototype), 12207 (Skid Pad Rollover Test of Corvair with Heavy Duty Suspension), 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems) and 17103 (Corvair Dynamic Stability Tests). It is significant that Hansen had extensive experience in both R&D and in production engineering; thus, he could not then feign ignorance of the procedures, record keeping, or reporting in one or the other of these seemingly totally isolated parts of the corporation.

D. Anderson case

GM's behavior in hiding information from plaintiffs in *Anderson v. General Motors* differed in one significant way from *Collins*. There was virtually no pretrail discovery in *Collins* on the design defect issue, leaving plaintiffs little time to argue and probe for the missing test reports. In *Anderson* (and in *Franklin*), GM tried the opposite technique: it flooded the plaintiffs with hundreds of irrelevant documents made available only in Detroit (*Anderson* was tried in Clearwater, Florida). Although plaintiffs attorneys in both *Anderson* and *Franklin* searched diligently for days through the mass, they never discovered PG 11106, 12207, or any of the other key reports. Given their interest in finding just such critical Corvair studies, it is safe to observe that GM, in one way or another, did not make these reports available for discovery.

Your October 23, 1970 letter brought to Senator Ribicoff's attention one specific example from *Anderson* of GM's misrepresentations to plaintiffs; it referred to a passage from pages 4802–6 of that trial transcript where Winchell denied the existence of any written reports from testing and evaluation of 1960–1962 Corvairs. The staff report defends Winchell again under the bifurcation technique—i.e., since he directed Research and Development in Chevrolet Engineering, he therefore could not discuss test reports prepared by proving ground personnel for a parallel office, Chevrolet Production Engineering, even though they concerned his specialities: suspensions, handling, and stability. But to a person now knowledgeable of the existence of the long sup-

pressed proving ground reports, Winchell's evasions and attempts to mislead are apparent (see also previous section on Frank Winchell):

Voir Dire Examination

By Mr. Masterson:

Q. Mr. Winchell, were there Corvair automobiles involved in this testing?

A. Yes sir.

Q. How many?

A. Well, I tried to estimate that a moment ago. I think I—I couldn't say it very precisely, 12 to 24, in that area.

Q. Does it include 1960, '61 and 1962 models?

A. Yes sir.

Q. And were the results of your testing reduced to writing?

A. No. Our—our testing was a development, exploratory kind of work where we are seeking fundamental facts.

Q. And the results of these tests were not reduced to writing?

A. Not formal reports with—

Q. Well, was any of the data preserved?

A. Well, when you say "any of the data," I—I would be hard pressed to say. Our custom in this thing, I have to explain to you, Mr. Masterson, is—

Q. Well, my question was: Is any of the data preserved?

A. I can't—I can't say positively whether there was any or not. I presume there was some.

Q. Where would it be if it was preserved?

A. Probably in our Research and Development files.

Q. Of which you are the head?

A. Yes sir.

Q. Do you know whether it was preserved or not?

A. I can't really say, Mr. Masterson. It was——

The COURT. Are you telling us that you do a great deal of research and keep no records of what you find out?

A. Well, we don't—what I said is we don't issue any formal reports. When you are—when you are in the exploratory range of this thing you are not in a position to come to any conclusions.

The COURT. But do you keep any written records of what you find out each day or do you just try to keep that in your mind?

The WITNESS. No, we do note our results, and we meet and discuss them, and they are held for some period of time, but I couldn't tell you whether they are still in existence or not.

The COURT. All right, sir.

Further Direct Examination

By Mr. Nunez:

Q. Mr. Winchell, in that connection what is the—what is the usual procedure for—that is set in motion at Chevrolet—for doing something to or with an automobile that will result in a formal test report?

A. Well, the procedure is—originates with the—what we call the product engineer, the man who is responsible for releasing this component to production. He is called the Production Engineer. He writes a test order or a build order or a design order. If it is a test order, the test order goes to the laboratory head or the proving ground head. He assigns certain people to the conduct of the test, they meet and discuss what they are going to do. The test is conducted, and the produce (sic) engineer gets the—gets the facts from the test immediately, verbally, and then as a matter of record, if we think that that—that test has any use to us in future design work, or as a reference, a formal report is written by report writers under the direction of the test engineer.

The COURT. Do you keep any record of the tests that were made that you decided had no use to you so that you don't repeat the test the next month or next year?

The WITNESS. Well, our Research and Development Group, sir, is rather small, and we don't run that——

Mr. NUNEZ. Excuse me, Mr. Winchell, I think the Judge can hear you quite clearly, but I would——

The COURT. You face the Jury——

Mr. NUNEZ. Address your answers to me.

The COURT. So everyone can hear, then.

The WITNESS. We have—as I say, in this particular program I had about two engineers to start with, and I don't run the hazard of this thing being repeated by that personnel.

By Mr. Nunez:

Q. Well, you were telling me about a particular device that makes a record on a—on a running piece of graph paper, some kind of paper.

A. Well, Mr. Masterson asked me specifically—

Mr. MASTERSON. May I ask that the witness respond to the Judge's question? The Judge asked you if you preserved data so that you don't repeat the test which was not useful to you.

The WITNESS. Well, I can't give just a yes or no answer on that. Sometimes we do, and sometimes we don't. I say, if—if, in our opinion, we think it has some influence on our future conduct we keep it for some period of time. If we don't think so, we don't keep it.

The COURT. Proceed, Mr. Nunez.

The WITNESS. Could I say something by way of explanation here?

The COURT. Yes, sir.

The WITNESS. In writing a report that is going to be useful to engineers of, say, three or four or five years hence, it has to be a very comprehensive report. Just to—to supply him with a data sheet of some measurements you've taken doesn't necessarily do him any good. And what I'm trying to say is the composition of a very comprehensive report that an engineer some five or six years hence or farther can make use of, requires a good deal of effort by the reporting engineer. And so we don't bother with things that we don't think have that kind of value in research and development.

By Mr. NUNEZ:

Q. All right. Did any of the—the data that you gathered in your testing and evaluation of vehicle handling back in the 1960 through 1962 era, was any of it resulted into any sort of formal form or written form or a form which would preserve the information that you derived from those tests?

A. Not to my recollection.

This exchange should help disabuse anyone of the alleged courtroom candor of Mr. Winchell.

The staff report, other than its offhanded dismissal of PG 15699 and 17103, did not ask whether GM had an obligation to submit documents, such as proving ground reports and films, which were covered by the court order in *Anderson*. Nor did the staff investigators talk with Barney J. Masterson, the plaintiff's attorney. If they had spoken with all the principals involved, their forgiving attitude toward GM might have been less facile. Mr. Masterson told us of his deep frustration in attempting to get any reasonable response from General Motors and of his many useless trips to Detroit to review the avalanche of irrelevant materials provided during discovery.

Mr. Masterson specified that on one occasion, when the trip to Detroit was particularly fruitless and frustrating, he petitioned the Florida Sixth Circuit Court to fine GM the cost of the trip for having wasted his time, and the court agreed. Masterson said that the GM counsel then asked him, as a favor, not to collect the money because it would embarrass him with his employer. Since the amount was trivial and the counsel had promised to cooperate thereafter, Masterson agreed. To his shock, after the jury found in favor of GM, Masterson ironically reports that "They [GM] tried to tax me with $80,000 in costs, which was ridiculous."

Another example of GM's avoidance techniques emerges from the interrogatories in *Anderson* dated March 23, 1965. Plaintiff asked:

"Q. 33. Did General Motors Corporation ever conduct any tests trials of the Corvair Automobile [sic] and Corvair Monza Automobile whether for evaluating performance, durability, or handling qualities of said automobiles, during which they were either deliberately or accidentally overturned or rolled over?

"A. Yes.

"Q. 34. If the answer to interrogatory No. 33 is in the affirmative, please state with particularity the details of such occurrence and General Motors Corporation explanations for such occurrences.

"A. See answer to 15 above."

Question 15 concerned support tests for the tire recommendations in the section on tire care in the Corvair Owners Manual. The answer to it stated, with an obvious absence of "particularity [and] details."

"Written reports, memoranda, studies, and test data including numerous moving picture films have been produced by General Motors Corporation for plaintiff's inspection."

E. Franklin case

Of *Franklin v. General Motors*, Wager and Koskinen say, "we are unable to find fault with GM's conduct in this litigation." We wonder if they ever read the decisions of either the Illinois Supreme Court or the Cook County Circuit Court. Contrary to the staff report's characterization of the case—that the Illinois Supreme Court sustained GM's contention that the discovery subpeonas were invalid—the plaintiff, in fact, essentially prevailed on the discovery issue.

After extended and frustrating obstructions during discovery, the plaintiff filed a motion in the Spring of 1965 to show cause why GM should not be held in contempt for failure to comply with the discovery orders. GM did not relent—an action which indicated it was willing to risk default rather than produce the test reports called for in the discovery orders. The Circuit Court held GM in contempt for failure to comply with its discovery orders and struck GM's pleadings. GM filed a petition for writ of mandamus in the Illinois Supreme Court to expunge the discovery orders. This court reversed the Circuit Court, objecting primarily to the lower court's procedural actions in striking the pleadings (including contributory negligence and damages). The Supreme Court also objected to the absence of any showing of relevance by plaintiff in the discovery orders. But on the *crucial issue* of the *breadth* of the discovery orders, the Supreme Court found only one paragraph too broad. The Illinois Supreme Court opinion also harshly criticized GM:

"It is apparent from the voluminous record in the trial court that defendant [GM] did not exhibit an understanding of the spirit of the rules and *in many instances sought to obstruct the orderly process of discovery.*" (emphasis added)

Examples of GM's obstruction of discovery, taken from the plaintiff's brief to the Illinois Supreme Court, December 1965, follow:

"Plaintiffs specifically waived seeing any documents relating to the design and operation of the Corvair engine itself or on the creation or testing of interior appointments . . . and waived seeing all records from Fisher Body Division, Turnstedt Division or from Chevrolet's various assembly plants, including its Tonawanda plant, having pointed out they were irrelevant . . . General Motors rejected such a waiver and said it would produce all such records, unless plaintiffs withdrew from any further examination of records, claiming they were required by court order.

"General Motors refused to comply with the Court's order to make available an employee to testify about the source of the records and General Motors system of filing and record keeping.

"Plaintiffs waived seeing large numers of blueprints that it had found irrelevant; General Motors insisted on producing them anyway.

"Plaintiffs waived seeing particular motion picture films; General Motors insisted either on showing them over plaintiffs' objections . . . even to running the soundtrack so that it drowned out plaintiffs statements for the record to the reporter—or on converting a waiver of specific films into a general waiver of seeing any movie films at all.

General Motors refused to make copies of examined documents at plaintiffs' expense, in its own building, even though it regularly did such work commercially for others.

"General Motors agreed to allow copies to be made of documents as inspected. . . . Then once the plaintiffs made arrangements with a commercial copier, General Motors repudiated the agreement and refused to allow any copies to be made until after all production was concluded.

"Plaintiffs' counsel repeatedly requested production of the specific documents concerning suspension systems and weight distribution, all as enumerated in the numbered paragraphs of the May 13 order and proceedings. Thus at the outset plaintiffs' counsel stated to General Motors' house counsel . . .:

" 'Mr. Davidson: I will repeat, Mr. Adkins, that we don't wish to add General Motors burden in any way here; that we would simply like to get those records that it is essential that we see in connection with our litigation, and that involves matters that, as you know, pertain to the stability of the car, the rear end, the suspension system, the camber, items of that general nature. . . .'

"General Motors, however, instead insisted upon producing every Corvair record it could find, allegedly to comply with the . . . order. . . .

"General Motors thereupon produced large volumes of documents, involving copious tests of speedometer cables, horns, generators, windshield wipers, air inlet volume, air and gasoline heaters and defrosters, generator mounts, octane tests, oil pumps, hydraulic valve lifters, fuel pumps, crankcase ventilation, camshafts, oil pan and oil leakage, heater blower switches, oil switch durability, gas tank meter accuracy, turn signals, bucket seat installation, engine noise, heater noise, exhaust emission, fly wheels, power glide transmission, headlamps and voltage regulators, compression ratios, engine temperatures and engine compartment tests, as well as numerous other engine and accessory items. . . ."

When we talked recently with Mr. Louis Davidson, the plaintiff's attorney in *Franklin*, he noted that neither Wager nor Koskinen had contacted him or any of his associates. After hearing the staff report's evaluation of the case, Davidson told us "absolutely they should have contacted me, especially before characterizing GM's conduct as being without fault in the *Franklin* case. GM's tactics were clearly obstructionist and were so recognized by the courts."

Following action by the Illinois Supreme Court, plaintiff got new discovery orders from the Circuit Court which avoided the objections relied on by GM for invalidating the prior orders and clearly called for production of PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems) and 17103 (Corvair Dynamic Stability Tests). It was only at this point, when clearly boxed in by the court rulings, that GM began to make serious overtures to settle the case. The case was not settled, as the Ribicoff staff report implies, because of a reversal of plaintiff's motions, but because GM was not willing to submit to discovery.

According to Mr. Davidson, the case was settled for "a very substantial amount" (it was about $250,000 according to other sources available to us), but *after* a figure was arrived at, GM successfully imposed two further conditions on Davidson: (1) that he never disclose the amount of the settlement and (2) that Davidson amend his complaint to eliminate any allegation or claim that the handling and stability was dangerously unsafe.*

The staff report contains the following statement about the production of PG 15699 and 17103 in the *Franklin* case:

"Almost contemporaneous with the trials [*Collins* and *Anderson*], GM *produced test reports* 15699 and 17103 for discovery in the *Franklin* case." (See discussion below) (emphasis added)

The staff report presents no evidence that these two proving ground reports were produced. And an authoritative document which indicates non-availability of these two reports is not mentioned. In its mandamus reply brief in *The People ex rel. General Motors Corporation v. Nicholas J. Bua,* Illinois Supreme Court, 1967, GM appended an extensive listing of every exhibit identified in the discovery proceedings in Detroit in the *Franklin* case. PG 15699 and 17103 were not listed.

Later in the staff report, the following statement about PG 15699 and 17103 appears:

"These documents would, however, have been required to be produced in the *Franklin* case. . . . The record shows that GM had *produced the test work orders* (the test instructions from the production engineer to the proving ground engineer) and *technical test reports which resulted* in PG 15699 and 17103. We also determined that both test reports were available for discovery." (emphasis added)

The "record" referred to in this statement is not identified, making impossible any evaluation of its accuracy. Also unexplained is why the test work orders and technical test reports which resulted in the proving ground reports—but not the proving ground reports themselves—are claimed to have been produced. Finally, Louis Davidson told us that when GM inundated him with materials, he and his engineer assistant combed the documents but never found a single rollover test report. If any of these test reports or test work orders were available in Wager and Koskinen's imagination, they were not available to a searching team of plaintiff's lawyers.

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*Amendments to the complaint to remove allegations of design and manufacturing defects as a condition of settlement is apparently a common practice at GM. In 1972 Mr. Edward Wolf, plaintiff's attorney in *Petry v. GM,* a Corvair carbon monoxide case in Philadelphia, told the Senate Commerce Committee under oath that not only was he forced to amend his complaint, but he was forced as well to turn over to GM all of his papers, including technical materials and depositions. As a result of this testimony, during which Senator Vance Hartke raised the issue as to the propriety of General Motors keeping from public view certain key depositions of GM engineers (who made significant admission as to the design of the 1961–1969 engine and heater systems and the passage of carbon monoxide into the passenger compartment), GM produced the depositions for the committee who made them public. *Subsequently, the NHTSA, which was investigating this safety defect, found the 1965 Corvair to be defective. GM then sent a safety defect notification letter to owners of all 1961–1969 Corvairs warning of the presence of carbon monoxide.*

F. Drummond case

The staff report states that you and Gary Sellers "unsuccessfully attempted . . . to prove suppression of documents and to secure a reopening of certain Corvair cases." As an example of this activity, the report states you wrote to Judge Bernard Jefferson (*Drummond* case) alleging suppression of documents and perjury at the trial several years earlier, and that "Judge Jefferson rejected the charges and refused to reopen the case, pointing out that Nader had no standing to raise such issues." These are inaccurate characterizations of your letter of July 8, 1971 to Judge Jefferson and what followed.

The letter to Judge Jefferson pointed out that (1) General Motors had widely distributed his *Drummond* opinion (in the thousands) and used it in press releases to answer charges about Corvair handling instability, (2) discussed a number of recent revelations about GM documents which contradicted GM's claims in court about the Corvair's safety, and (3) respectfully suggested that the Judge exercise his power to initiate an "investigation to determine the extent to which the proceedings before you . . . was distorted by suppression and perjury."

Your letter did not, as the Ribicoff staff report suggests, attempts to secure a reopening of the case. A proposed investigation of fraud on the court is quite distinct from a motion to reopen a case. And, it is of course the duty of any citizen, particularly a lawyer as an officer of the court, to produce information germane to any serious deception by a party in court, especially in a non-jury case where the judge rendered the decision, as in *Drummond.*

Judge Jefferson did not reply to your letter. To our knowledge he made no study or decision on the merits of the materials and references you supplied to him. Apparently, as described in the Los Angeles *Times* newspaper interview which is the sole source relied on by the staff report, Judge Jefferson construed your letter to be a request for reopening the case and on that basis commented he had no authority to do so. In that context he said that legal procedure would require the filing of documents in an adversary proceeding with both sides participating, not simply a letter from someone not directly connected with the case.

Whatever the merits of the Judge's response, it is clear that he was making a *procedural* point about *standing* and not a substantive decision on the issues. The staff report misses this obvious distinction and proceeds to mischaracterize the Judge's statements.

G. Porterfield case

Although *Porterfield v. General Motors* is a recent case and not related to GM's statements at the March 22, 1966 Ribicoff hearing, Wager and Koskinen considered this litigation "a major test of GM's good faith compliance with court orders." They admit that "[t]he interrogatories in the case clearly called for PG 15699, and it was listed in 1967, and actually produced in 1969. The lawyers and engineers assigned to the case at the time believed PG 17103 was not within the scope of the court order and accordingly did not produce it."

Based on the numerous contradictions we had found during calls to other plaintiffs' attorneys, we contacted the *Porterfield* plaintiff's counsel, Mr. Harlow Sprouse in Amarillo, Texas. After we read him the two paragraphs on *Porterfield* in the Ribicoff staff report, Sprouse complained:

"Obviously they have gotten their information on the *Porterfield* case from GM. It seems strange that nobody got the other side of the story. What angers me is how anyone could purport to study this case without looking at both sides."

Sprouse told us he never got PG 15699 or 17103 from GM. "There is nothing in any of

the papers that shows I got copies of either or them." Nor was he ever shown the films for these reports. In 1969, he said, he was allowed to look at the written report for 15699 in the office of GM's counsel but was permitted to make only handwritten notes on it. No copying machine was allowed.

Sprouse also volunteered that he has a six inch thick file of interrogatories, motions for sanctions, amended interrogatories and other materials just on discovery.

"My background, credentials—[pause] I'm to the right of Attila the Hun compared to the people in your office, but GM lied to me and used all kinds of tactics to keep me from legitimate discovery.

"I caught them in lie after lie. It is all spelled out in the motions to the court. They would supply a document one at a time, and then deny that it existed or that it was covered in an interrogatory later. They were trapped in many lies in this series of maneuvers."

The Ribicoff staff report also describes how PG 17103 came to be produced in this case.

"Three years later [following production of 15699 in 1969], however, the case having remained pending, another GM attorney took a contrary view and argued within the legal staff that PG 17103 should have been produced. He also questioned the sincerity of of those who reached the earlier decision concerning the report. After a lengthy internal debate, the general counsel of GM, still believing the document was not called for, decided to produce it, "out of an abundance of caution." We closely examined all the individuals and documents involved in the case and concluded that GM's original judgment was honestly reached and justified on the merits."

The "internal debate" referred to in the staff report was more like an explosion. Given the seriousness of the matter, the staff report dismisses it lightly on the basis that the test report was eventually produced in the case. The GM attorney blandly described as having taken a "contrary view" made known his concern with GM's prior behavior in very forceful language, as the Ribicoff staff *files* indicate but the Ribicoff staff *report* does not. In his extraordinary letter of July 1970 appealing to GM Board Chairman James Roche, the GM attorney stated:

"Evidence has come to my attention that strongly suggests that since at least April 4, 1967, employees of General Motors Corporation have been guilty of a continuing suppression of evidence that may have criminal dimensions . . . .

"On Monday, July 20, I was told by Joseph Rozek of the General Counsel's staff that answers to interrogatories sworn to and filed in the name of General Motors in the captioned cases in April 1967 were incomplete in that they failed to list the most critically sensitive Corvair rollover proving ground test report, PG 17103, although its companion, PG 15699 (which reported earlier test runs in the same series), was included.

"In Mr. Rozek's company, I promptly arranged to see Nicholas J. Rosiello . . . . Mr. Rosiello agreed that if PG 17103 was called for under the terms of the Court order a lawyer's ethical obligation would require that upon such discovery of such an omission the lawyer take prompt steps to cure it . . . .

The key to GM's defense in this matter is in distinguishing between PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems), which was made available for reading but not for copying in this case in 1969, and 17103 (Corvair Dynamic Stability Tests), which was not. Since 17103 was a continuation of 15699, the burden certainly rests on those trying to show a difference. The staff report says that GM's original judgment was "justified on the merits" but the merits are not explained. In an effort to find a distinction, we asked Harlow Sprouse his view. He told us that GM had never offered an explanation, and merely listed 17103 (only after the aforementioned GM attorney's objection to Roche) on an amended answer to his earlier interrogatory in the fall of 1970. He told us: "There is simply no rationale for distinguishing them at all."

H. Use of court cases

Lastly, we cannot overlook the staff report's claim that you and GM "have misstated the decision in *Anderson* and *Collins*" in your case because you argued "that the cases could not legitimately be mentioned at all" at the 1966 hearing. When asked for a supporting citation, Mr. Wager referred to the following from page 5 of your October 23, 1970 letter to Senator Ribicoff:

"GM's testimony in February and March 1966 ncessarily was both an assertion by GM that they had testified accurately before the courts, and that they knew of no existing evidence which would rebut that testimony. To that extent, this testimony directly conflicted with GM's own internal documents, such as PG 17103, which were being withheld from Courts across the country, from the Michigan Senate Committee and from your U.S. Senate Subcommittee.

As should be apparent from this language, you did not argue that GM could not mention these two cases. To the extent the company did so, however, it had an obligation at the same time not to ignore documented information which it failed to present in those cases and which was obviously pertinent to the safety of the Corvair—such as PG 17103. Even assuming, *arguendo*, that GM had no obligation under law to produce the key proving ground reports in the *Anderson* and *Collins* cases, it certainly had that obligation before the Senate Subcommittee when it brandished those cases to illustrate the safety of the car. Therefore, the staff report mischaracterizes your language into something you did not say, and then proceeds to attack that mischaracterization.

All the reasons cited in "III. CORVAIR LITIGATION" demonstrate that the staff report is factually wrong in its conclusion that "GM did not engage in any fraud or deceit in its conduct of the *Anderson* and *Collins* or other cases we reviewed." GM's own techniques in successfully and unjustifiably suppressing the relevant Corvair proving ground reports clearly contradict the report's generous conclusion.

IV. . . . AND OTHER MYTHS

Scattered throughout the Wager-Koskinen report are various errors of fact or interpretation which have not yet been discussed but which should be corrected for the record. A discussion of some of them follows.

Dismissal of perjury against Roche

The Ribicoff staff report dismisses any possible perjury charge against former GM President and Board Chairman James Roche for his testimony at the March 22, 1966 hearings where he denied knowledge of GM investigations other than the one they ran on you.

Wager and Koskinen cite the 1966 Justice Department perjury investigation as concluding that none of the 26 prior Gillen GM investigations of individuals were of an intentionally harassing nature or of persons who criticized GM, and then cite the 1967–68 perjury investigation which considered the GM investigations of such groups as the Locality of Mayor's Committee of Harlem, N.Y. and John Volosin, a union official and former GM employee. The Department also dismissed the charge in 1968 concluding that the Nader investigation was "a complete background investigation of a General Motors critic," while none of the other GM investigations "were of an intentionally harassing nature or of persons who had criticized General Motors or one of its products."

In the *Ford v. GM case*, which arose out of the employment of Mrs. Patricia Pola to investigate the plaintiff's expert witness Paul O'Shea in the *Collins* case, the staff report argues that "Roche told us he did not know of the *Ford* case at the time he testified on March 22, 1966," that the statute of limitations has run on any possible offense, and that "it is evident from the Justice Department memorandum that, having found no grounds for prosecution in the Locality Mayors and Volosin incidents, it would find none here. Nor do we believe the subcommittee was misled in any substantial way by Roche's failure to inform us about the *Ford* case."

The first Justice Department inquiry in 1966 was exposed as a farce when it learned that none of the principal people involved were even interviewed by the Department (see exhibit Q). In its second try, the Department stated in 1968 that none of Gillen's investigations were of "persons who had criticized GM. . . ." This is in error. The Harlem community improvement group was investigated by GM because it was critical of alleged discriminatory employment policies of the company. The formal exchange of correspondence between GM and the antipoverty group clearly shows this complaint to be the sole stimulus in GM's hiring of Gillen to infiltrate the organization. Also, GM undercover investigations of UAW officials over the years, a practice well known in the industry, contradicts the Department's conclusion (see exhibit R).

In addition, it is difficult to accept the staff report's contention that Roche knew nothing about the *Ford* case. *Ford v. General Motors* was filed one month before Roche's March 22, 1966 testimony and was publicized in the press. Furthermore, at the March 22 hearing, Senator Ribicoff and Roche had the following exchange (which the staff report deleted with ellipses):

Senator RIBICOFF. Do you know that it is rare or unusual or does this take place without you even realizing it?

Mr. ROCHE. No, sir; I would know about it if it did take place, and we have been making very careful checks to ascertain what other investigations have been made, and other investigations have to do only with minor affairs. . . .

Thus, either Roche was oddly inept at his self-assigned task (knowing about any other complete background investigations such as the one on Nader), or he considers the employment of a prostitute to "keep her ears open" as a, so to speak, "minor affair," or, as seems most logically likely, he *did* know about *Ford* and its serious implications, but did not disclose it.

The staff assumption that every case is the same—if the Justice Department found no violation in case A it would automatically find no violation in Case B—leads to the unsupported conclusion there would be no violation in Roche's failure to mention the *Ford* case at the hearing because the Justice Department found no violation in his failure to mention the Locality of Mayor's and Volosin cases.

Other errors in the discussion of the *Ford* case include the staff report's accusation that both plaintiff's attorney Harney and GM's local counsel John Costanzo "confirmed that it was customary for them to use private investigators in cases against one another." In our conversation with Harney he said this statement "simply is not true." Harney explained, "I told them we have routinely hired detectives to investigate the accident in a case, but this does not pertain to undercover detectives to investigate the opposition."

Harney also took issue with the staff report's characterization that the *Ford* suit "(. . . was later dismissed in return for an extension of time for filing an appeal in another case, thus giving some indication of a lack of substance to the *Ford* case)." He

told us that he filed a motion to dismiss the suit because Ford did not suffer any permanent physical damage. "There was no bargaining with GM involved," he said.

New excuses for an old memo

The June 21, 1963 Winchell memorandum to Premo (see Wager and Koskinen exhibit 16) states, "If, in management's judgment, this car [the Corvair] must be as safe as the conventional Chevrolet, engineering must take the position that the swing axle is inadequate." This view has been excused by GM with the explanation that the conventional Chevrolet is, in turn, less safe than the Cadillac. Such an argument may appropriately apply to the issue of crashworthiness, where a less massive vehicle, such as a Volkswagen, will inherently be less safe, all other factors being equal.

It is engineering nonsense, however, to argue that small size or low weight is disadvantageous. The handling and stability of many smaller cars is considered acceptable and certainly as safe as the handling and stability of a contemporary Cadillac. The eventual and significant improvement in the handling and stability of the 1965 Corvair, using no technology that was not known by 1957 when the Corvair was being designed, exposes the illogic of GM's attempt to explain away this newly revealed memorandum.

Roll couple, roll center height, and roll resistance

The staff report's discussion of roll center height at the end of the section on George Caramanna (part IV, C) is (again) technically flawed. The roll couple of a vehicle suspension is determined by several factors, among them the height of the roll center. A high roll center increases the roll couple of a suspension. The roll resistance of a swing axle suspension such as the Corvair can be reduced by either lowering the roll center or by coupling the wheels; then, when one is raised, a downward force is exerted on the other, as was done on the 1964 Corvair suspension, Maurice Olley's 1961 paper, "Corvair Steering," showed the advantage of lowering the roll center of a swing axle both in reducing the roll couple and reducing the nonlinearity of the response of the swing axle (which he had criticized in his 1956 patent application). The staff report's claim that "the transition from understeer to oversteer of the 1960–63 Corvair was attributable to the roll couple distribution, and not the height of the roll center, ignores the influence of roll center height on roll center.

Standard precautions for auto testing

Wager and Koskinen (section VI, E) note that both Daniel Boone (GM's attorney in charge of general litigation) and Charles Simmons (GM engineer), were wearing crash helmets and seat belts in a Corvair demonstration run for lawyers and potential witnesses. This protection supposedly shows that the occupants expected that the Corvair might roll over (which it did). Judging from the elaborate precautions taken two years before Boone's rollover in the preparations of vehicles for PG 15699 (Rollover Stability Evaluation of Various Corvair Suspension Systems) and PG 17103 (Corvair Dynamic Stability Tests), seat belts and a crash helmet alone could hardly be considered evidence that a rollover was considered a distinct possibility. In fact, the wearing of seat belts and crash helmets is standard operating procedure any time a vehicle is driven for formal or informal testing or demonstration, and does not constitute any evidence that either Boone or Simmons "recognized the possibility that the car would overturn." In "The Investigation of Ralph Nader" (Arbor House, 1972), Thomas Whiteside chronicles Eileen Murphy's conversations and friendship with Daniel Boone; she indicates that Boone was disturbed by the Corvair, and thought GM should recall them, but apparently he did not expect them to so easily misbehave. Had he had an indication that it would roll over so easily, he presumably would have insisted on far more protection than can be given simply by a lap belt and crash helmet.

"Corvair supporters"—All auto racing buffs

All of the three individual, so-called "Corvair supporters" discussed in the staff report—Denise McCluggage, Bill Stroppe, and Mauri Rose—have been extensively involved in auto racing activities (as was Ray Caldwell, the Subcommittee engineering consultant). McCluggage puts the viewpoint of these people in perspective in describing the audience for whom she writes as a journalist:

"I think a non-car person plunging into the middle of that special world of the automotive media is in for a degree of culture shock. Articles are written in a jargon and they are written for the converted. They assume a certain position on the part of the readers to begin with."

McCluggage and Stroppe reveal their disdain of those who consider the automobile simply as transportation, or who are not interested in becoming "skilled drivers":

"The Corvair happened to be an oversteering car in a world of extreme understeerers. Still, I would not say that it was beyond the normal ability of the average driver under average conditions to drive reasonably well. (McCluggage)

"I prefer quicker steering . . . with faster steering it is easier to catch a back-end that is apparently intent on switching positions with the front. This, of course, assumes that the driver can tell when the car is breaking loose and what to do to catch it. (McCluggage)

"A rear engine vehicle is a little more susceptible to a slide of this sort [which caused the rollover of a Corvair being tested by Stroppe and his associates] than the conventional front engine automobile. . . . Drivers must be familiar with the vehicle and it's [sic] characteristics to overcome difficulties which might arise when operating the automobile." (Stroppe)

Wager and Koskinen fail to recognize the subtle distinction being made by these aficionados—that these buffs consider the Corvair acceptable only for drivers who have special skill or experience with its dangerous behavior. But the average driver is not a racing car expert. For this average driver, the Corvair is a very deceptive car. When driven gently, it understeers and generally drives like a smaller conventional Chevrolet. An innocent driver who is not warned by GM of the Corvair's Jekyll-and-Hyde handling characteristics may, to his or her horror, discover them too late to learn the skill alluded to by McCluggage and Stroppe.

The staff's quotation of McCluggage on the Corvair is completely out of context. Her tastes in automobiles were based on her racing experience and her special appreciation of particularly responsive cars. Her experience was also not on a standard Corvair, but a highly modified one. Although she is not specific about most of the modifications, she notes that the rear wheels had "three degrees of negative camber in the rear wheels," which she regarded as being both necessary for the kind of driving she was doing in the ralley, and an improvement in the handling under hard cornering. McCluggage noted that she had never driven a normal Corvair in the same way so that she did not know how it would react.

McCluggage also admitted that she thought that Chevrolet could have done better with the design of the Corvair, but did not simply because of cost, refuting another myth of the Ribicoff staff reoprt.

GM misconduct case before Michigan State bar

The staff report characterization that "after review, the board dismissed the complaint" by Mr. Gary Sellers is misleading. For there was no effective review of the complaint. Sellers charged two GM attorneys with misconduct: Adkins in the matter of *Veatch v. General Motors* and Rozek in the matter of *Stetter v. General Motors*. He alleged that the two attorneys filed false answers to interrogatories by failing to produce certain microfilm records (which became public in 1971 after discovery by some junk dealers) which GM previously claimed "did not exist." In this complaint he was joined by Professor Fairfax Leary now at the University of Pennsylvania Law School. Stating that they would be bound by the Board's decision, Sellers and Leary requested that the Grievance Board ask the GM attorneys a series of questions concerning the suppressed evidence. These questions, however, were never asked of Adkins and Rozek, and the decision to dismiss the case was based solely on the presentation of the facts in the cases by the GM attorneys. Thus, while there was a review of the facts which GM presented to the courts, there was no review of the complaint itself, i.e., the facts which GM supressed from the courts.

In *Veatch v. GM*, the court did deny the plaintiff's request to impose sanctions on GM for the failure to produce the microfilm—because the only consideration which the court found relevant was whether the documents would have changed the outcome of the case. Since the case was decided in favor of the plaintiff, the court held that the withheld microfilms would not have "caused a different result to ensue," a decision which again did not speak to the issue in the Sellers-Leary complaint before the Michigan State Bar.

David Lewis on corporate knowledge of Corvair defects

The staff report deals at length with the incident related by David Lewis, a former staff member in the General Motors public relations office and now a professor of Business History at the University of Michigan. Lewis brought to our attention the Corvair accident in December 1959, three months after the Corvair was first marketed, involving Cyrus W. Osborn, the son of Cyrus R. Osborn, executive vice president of GM in charge of engine divisions and overseas operations. According to Lewis, the senior Osborn ordered a thorough investigation of the role of the Corvair in the accident in which his son was permanently crippled.

Wager and Koskinen state that, although they questioned very relevant GM lawyer, engineer and executive about these events, they learned nothing. Then, they say, "At our request, GM conducted an internal investigation of Lewis' charges . . . All of this [10 GM employees being asked about the matter and the searching of 5 different files], we were informed, yielded nothing." Two other unrelated Corvair studies, one of an accident involving the son of a proving grounds employee and another involving tests for litigation, are then mentioned by the Ribicoff staff as reports which Lewis might have remembered and mixed up with the Osborn case.

The staff report's dismissal of the leads provided by Lewis' story is symptomatic of the staff investigation's defects. First, GM was asked to conduct an investigation of itself for the Ribicoff staff, and obviously took full advantage of the opportunity to produce red herrings. Second, there was no apparent independent attempt by the Ribicoff staff to look outside GM for any corroboration of Lewis' knowledge. Third, and most important, there apparently was no inquiry into whether high level GM officers, who might not have been persuaded before, became knowledgeable after the 1961 Osborn accident about the Corvair's deficiencies. Fourth, the staff never cross-checked the GM version with Professor Lewis, thereby again letting GM define and control the limits of their inquiry.

In response to our invitation to comment

on the Ribicoff staff report, Lewis related the following. Sometime in early 1961, William Hamilton, then GM Vice President of Public Relations, reported at a meeting of the Public Relations Planning Committee (of which Lewis was Secretary) that the engineers at the GM Technical Center had discovered instability deficiencies in the Corvair similar to those later pointed out in "Unsafe At Any Speed." As Lewis recalls, these findings resulted from testing done at the GM Tech Center because of the Osborn accident. Hamilton told the PR Planning Committee that it would take approximately eighteen months to repair the defects in the Corvair, but when asked what GM was going to do about presently defective Corvairs, Hamilton, in the presence of Lewis and others, repeated the statement made to him by the GM legal staff: "We aren't going to do anything. We are going to ride this out."

We asked Lewis if he knew anything about the elusive Corvair study done at the Tech Center following the Osborn accident. He said he was told that the defects in the Corvair had been confirmed in tests done at the Tech Center. At that time the Tech Center was under the direction of Charles A. Chayne, GM Vice President in charge of Corporate Engineering.

Lewis suggested that we contact Dan Cordtz of Fortune magazine because Cordtz had become interested in the Osborn accident in the Spring of 1966 and contacted Charles Chayne about it. Cordtz told us that when he asked to see the Osborn report, Chayne said that it was a private report for Mr. Osborn. Because he could get no further information on the matter, Cordtz did not include the incident in his August 1966 Fortune article on the impacts of the auto safety debate at GM.

We also contacted Charles Chayne, but he said he "would not talk to anyone from Nader's office." He was not even contacted by the Ribicoff staff, however.

Lewis told us he was not surprised GM's internal investigation for Wager and Koskinen had yielded nothing. He said that the individuals listed by the Ribicoff staff report has having been interviewed by GM included only engineers from the engineering division of Chevrolet which is a separate division from the GM engineering staff which Chayne headed. Thus, Lewis thought they probably would not know the details of the secret Chayne study. Aside from GM's obvious disinterest in finding the Osborn study, it seems that Hamilton, one of the few people who might confirm the 1961 PR staff meeting, died sometime after GM had interviewed him for the Ribicoff investigators. Also, the only other person at that meeting who GM indicates was interviewed was Thomas Groehn. He also died shortly after his interview by GM. Notes of this meeting were taken by Lewis, in his capacity as Secretary to the PR Planning Committee; but, in keeping with the committee's policy, they were "purposely skimpy—a skeletal outline for review at the next meeting." He doubts that these notes have been retained by GM.

Lewis also was not surprised the Osborn family denied knowledge of the investigation (Mr. Osborn Senior is now dead). "Even when flesh and blood are involved," says Lewis, "the GM employee's loyalty to the organization is such that he and his family would be reluctant to say anything against the organization."

At this point in time, two years after the Ribicoff staff has alerted GM to their interest in the Osborn case, and subsequent to the deaths of several knowledgeable people, it is difficult to prove that GM personnel conducted a study of the Osborn accident. What is clear, according to Lewis, is that Hamilton reported the GM findings of Corvair defects to the PR Planning Committee in early 1961, by which time a corporate decision had been made "to ride this out." "I don't need the notoriety," adds Professor Lewis, 'but if there's no other way, and if it's necessary, I will take a lie detector test."

V. IN CONCLUSION

Based on our analysis of the serious deficiencies of the staff report, and based on additional research which corroborates the charges in your letters to Senator Ribicoff, we must conclude that (1) the staff report is a presumptuous whitewash—one sided and excessively incomplete in its investigation, biased in its approach, and simply wrong in its conclusions and on many of the technical issues and (2) GM did in fact mislead the Subcommittee about the Corvair's safety.

(a) The staff report reflects heavy dependency in its secret GM contacts and shoddy NHTSA testing. Whenever it came to a critical determination, it used any explanation plausible, to exonerate the Corvair manufacturer and the people involved in covering up the car's defects. But dependency discourages balanced investigation, as this staff report confirms. For example, we found to our dismay that key figures in this controversy were never interviewed or contacted even though they were readily available to cooperate:

B. J. Masterson (plaintiff's attorney, Anderson).

Lou Davidson (plaintiff's attorney, Franklin).

Harley Sprouse (plaintiff's attorney, Porterfield).

Judge Jefferson (Drummond).

Judge Bua (Franklin).

Charles Rubly (Staff Engineer, Corvair and Chevy II Chassis).

Charles Chayne (Vice President in charge of Corporate Engineering, ret.).

Dan Cordtz (writer for *Fortune* magazine who investigated Osborn incident in 1965–66).

Walker Sandbach (Executive Director, CU).

Robert Knoll (Head, Auto Test Division, CU).

Edward Heitzman (technical expert concerned with Corvair handling).

Ralph Smith (technical expert concerned with Corvair handling).

Albert Fonda (technical expert concerned with Corvair handling).

Dimitry Sergay (technical expert concerned with Corvair handling).

Gordon E. Freitag (Ford test driver, 1959 Ford Falcon-Corvair test).

Maurice J. Kaiser (Ford test driver, 1959 Ford Falcon-Corvair test).

Also, the staff investigators were seriously handicapped by their lack of familiarty with the technical issues involved. Thus, the staff report can simply not be taken seriously as a piece of investigative scholarship or advocacy.

(b) GM effectively told the Subcommittee that the Corvair was a safe car because two jury verdicts said that the Corvair design was not the cause of particular crash injuries. Even Wager and Koskinen call this a stretching of reality. For at the time of its development and shortly thereafter, GM conducted valid tests which clearly showed the Corvair to be a dangerous and defective product. By a variety of obstructionism and chicanery, the GM legal staff not only hid these tests from court view, but it also exerted a variety of unseemly pressures on plaintiffs' attorneys to drop or settle Corvair cases. This is clear from our references to internal GM documents and to our discussions with those who GM intimidated and deceived. Thus, far from exercising "corporate responsibility," GM violated its public trust in the most fundamental way possible: it knowingly manufactured a dangerous product and cashiered the damaging evidence.

EXHIBIT A

DECEMBER 16, 1964.

To: Mr. A. F. Power, G.M. Legal Staff.
Attention: Messrs. D. Boone, E. Adkins.
Subject: Qualification of Expert Witnesses.

Per our discussion Mr. Passon will supply twelve copies of the following material to Mr. Adkins. Items one and two will be available December 16, 1964, and item three as soon as copies can be obtained from the Proving Ground.

1. On chart of physical data, including weights and weight distribution, physical dimensions, recommended tire pressure.

2. A chart showing roll center heights and roll couple distribution.

3. The following GM Proving Ground reports:

PG 9830—Roll Rate Test. 1958 Renault and Volkswagen.

PG 13468—Static Ride and Roll Rate. 1961 Corvair.

PG 17467—Static and Dynamic Ride Rate, Static Roll Rate, Static Ride and Roll Steer, Roll Center Heights, Center of Gravity and Moment of Inertia. 1964 Corvair.

PG 18201—Static and Dynamic Ride Rate, Static Roll Rate and Steer, Roll Center Heights, Center of Gravity and Moment of Inertia. 1965 Corvair.

PG 18759—Static and Dynamic Ride Rate, Roll Rate, Roll Steer, Roll Center Heights. 1965 Chevy II.

PG 17127—Skid Pad Roadability Tests. 1963 Porsche.

PG 14737—Skid Pad Roadability Tests. 1962 Corvair.

In addition, the following cars will be ready for evaluation at the Desert Proving Ground on January 5, 1965.

1965 Chevy II.
1965 Corvair.
1964 Corvair.
1961 Corvair.
1961 Volkswagen.
1961 Renault.
1962 Fiat.
1961 Porsche.
V8 Corvair.
R & D Chevelle.

Each vehicle will be equipped with an accelerometer. I have made arrangements for Mr. R. Beinke of Chevrolet Research and Development to be in Phoenix beginning December 28, 1964, to be certain that instruments and cars are in order. The V8 Corvair has been added to the list because it demonstrates conclusively that a 70% rear weight distribution is stable. The Chevelle has been added because, with this car, disconnected alternative front and rear stabilizer bars, we can convert a good neutral steering 50–50 weight distribution to both oversteer and understeer without a change in weight distribution.

It is our recommendation that we merely release these cars to the witnesses to do with as they see fit. I do not think that we should set up any specific problems for them or do I think that we should make any demonstrations. There is no inference that I know of in any of the allegations familiar to me involved loss of control while driving the car at *normal speeds on normal roadways*. I do not think that these witnesses will voluntarily subject themselves to high lateral accelerations and incipent loss of control, and certainly think we should not urge them in this direction. It should be recognized that there is no way to *eliminate* the possibility of an accident.

I think it would be to our advantage to subject them to a blindfold test of tire pressures and front ballast.

I understand that Mr. Milliken of Cornell Aeronautical Lab will be present, and I have made arrangements for Mr. Hall to be present. Mr. Hall will do no test driving. He and Mr. Milliken will merely constitute authorities in their fields. Mr. C. Simmons and myself will also be present.

I understand that the evaluations will have been completed by January 8, 1965.

F. J. WINCHELL,
Research and Development.

CHEVROLET MOTOR DIVISION,
Detroit, Mich., December 18, 1964.

Mr. A. F. POWER,
General Counsel,
General Motors Corp.,
Detroit, Mich.
(Attention Mr. E. Adkins)

Attached are twelve (12) copies each of the following G. M. Proving Ground reports:

PG–9830. Roll Rate Test. 1958 Renault and Volkswagen.

PG–13468. Static Ride and Roll Rate. 1961 Corvair.

PG–17467. Static and Dynamic Ride Rate, Static Roll Rate, Static Ride, and Roll Steer, Roll Center, Heights, Center of Gravity, and Moment of Inertia. 1964 Corvair.

PG–18201. Static and Dynamic Ride Rate, Static Roll Rate and Steer, Roll Center Heights, Center of Gravity and Moment of Inertia. 1965 Corvair.

PG–18759. Static and Dynamic Ride Rate, Roll Rate, Roll Steel, Roll Center Heights. 1965 Chevy II.

PG–17127. Skid Pad, Roadability Tests. 1963 Porsche.

PG–14737. Skid Pad, Roadability Tests. 1962 Corvair.

These are being supplied per your request in connection with the program at the Desert Proving Ground on January 4–5, 1965. You have received all other data as an attachment to Mr. F. J. Winchell's memo to Mr. A. F. Power, dated December 16, 1964.

P. J. PASSON,
Product Analysis and Evaluation.

EXHIBIT B

DECEMBER 13, 1972.

To: National Highway Traffic Safety Administrator.
From: Associate Administrator, Motor Vehicle Program.
Subject: Corvair Handling.

At the time of release of the Corvair Handling investigation report, accompanied by a decision of no defect and the subsequent placement of backup data in the public file, there was some miscellaneous data that had not been indexed since it was not considered valid for the investigation. Typical of this data were the results of the pilot program, instrumentation errors, incorrect procedures and noncomparative tests. A summarization of this data is attached hereto. As I discussed with you earlier, it is not believed that any of the information gives cause for modification of the "Corvair Handling" decision. In fact, the decision is enhanced by some of the data. However, this letter is to better acquaint you with this information."

The pilot test program was run for the purpose of validating the test procedures. Once established, the procedures were the same for all vehicles tested. The pilot program was conducted using the 1962 Falcon to avoid any inference that the procedures were tailored to favor the Corvair. The results of the tests subsequently used on all the vehicles has already been indexed. The data from the tests not used are included in this miscellaneous data.

All of the comparative Steady Turn Braking, Smooth Road tests were made in a right turn. The initial Corvair tests were run turning to the left. The left turn series on the Corvair was completed and then rerun turning to the right for the test report. Since they were not significantly different, the left turn results are included in this miscellaneous data.

As in any test program, some of the test data generated is obviously invalid, i.e., instrumentation failure, improper test conditions, etc. The strip charts for these invalid test runs were retained and placed with the miscellaneous data.

At the conclusion of the Corvair Drastic Steer-Drastic Brake comparative tests, it appeared that the results were not the same as the HSRI Corvair tests. Therefore, unofficial tests were run with the load condition similar to the HSRI tests. This resulted in the Corvair being 615 pounds lighter than the fully loaded comparative tests. At the start tires removed from earlier tests because of wear were used since no new tires were available. The manufacturer's recommended tire pressures were used. On two tests outrigger contact was made. However, in both cases outrigger contact could not be duplicated. Attempting to better understand the results, the tire pressures were changed to 28 psi front and rear which according to some authorities could make the condition worse. Following calibration tests new tires were obtained and installed and the original tests repeated, only now with new tires and 28 psi tire pressures. No outrigger contact was experienced.

Although not originally considered part of the Corvair handling tests, the results confirm two decisions made during our investigation. First, tests run with tires worn significantly by limit maneuvers as contrasted to normal driver-highway wear yield invalid results. This was recognized in our comparative testing and is completely substantiated by reports just received of testing conducted for the Research Institute. Second, our decision to accept Mr. Nader's suggestion to conduct the tests in the fully loaded condition to obtain valid comparative information was sound. When the Corvair was tested in the same way as during the comparison tests, except for weight, the results were the same.

Throughout the tests, photographs were taken to document the various vehicle configurations including the as received condition of the Nader recommended 1963 Corvair. These photographs were among the miscellaneous data.

With your concurrence, it is our intention to continue with our plan to complete indexing all of the above miscellaneous data and placing it in the public file along with a description of the material contained.

ROBERT L. CARTER.

EXHIBIT B1

AUGUST 9, 1972.

HON. JOHN VOLPE,
Secretary of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: We have read the report of the National Highway Traffic Safety Administration (NHTSA), *Evaluation of the 1960–1963 Corvair Handling and Stability* and the *Panel Evaluation of the NHTSA Approach to the 1960–1963 Corvair Handling and Stability*. This purportedly complete and exhaustive investigation into the Corvair's handling and stability is both defective and deceptive.

The tone, wording, and approach of the report make it obvious that the investigation was not carried out with proper scientific integrity and completeness, but was rather done for its potential propaganda effect against critics of both the Corvair and the NHTSA. Thus the NHTSA expressed a preference for preserving its close relations with General Motors and its president, Edward Cole, over exercising its responsibility to the segment of the public which is endangered by the Corvair's defects.

The reports, released July 30, 1972, raise far more questions than they answer both about the subject Corvair and the NHTSA's belated and prolonged investigation into it. As you know, we have asked Senator Warren Magnuson, Chairman of the Senate Commerce Committee to conduct a thorough investigation into this matter. In the meantime, questions and comments are submitted which are suggested by the NHTSA's reports. I would appreciate a reply to these questions at the earliest convenience of your Department.

INPUT-RESPONSE TEST PROGRAM—TEXAS TRANSPORTATION INSTITUTE

1. The position of the NHTSA is apparently that the GM proving ground tests "do not represent conditions that would be experienced in the practical driving environment." a) Why did the NHTSA choose similarly non-representative conditions and maneuvers for the tests at Texas Transportation Institute? b) What was the NHTSA trying to determine with the TTI tests? c) Did the NHTSA have any objective criteria for these tests before they were begun which would have allowed the NHTSA to differentiate between defective and non-defective handling properties? d) Was the NHTSA looking primarily for rollovers as evidence of defective handling and stability?

2. The NHTSA further discounted the value of the GM proving ground tests "because the vehicles used in these tests were in various states of test modifications" (these modifications being minor changes to the shock absorbers, spring rates, rebound travel, and so on)*. a) Why was the NHTSA satisfied that the equally extensive changes between the 1960 and 1963 models were so insignificant that a 1963 Corvair could be taken as representative of all the 1960–63 Corvairs? b) Did the NHTSA determine that the differences between body styles (sedan, coupe, convertible, station wagon, and bus-van) would also not affect the handling and stability of these various vehicles?

3. The NHTSA stated that the tires used were "as close to the original O.E.M. specifications as possible." a) What does "as possible" mean? Sloth, indifference or negligence of NHTSA? b) What were the exact differences in cord materials, numbers of plies, rubber compound (such as the amount of polybutyldiene) between all types of O.E.M. tires used on the Corvair between 1959 and 1963, and the tires used in the TTI tests? c) To what extent did the NHTSA investigate the differences in the 1960, 1961, 1962, and the 1963 Corvair O.E.M. tires? d) Why was there no disclosure of this important point? What attempts were made to obtain 1959–1963 tires?

4. a) Why were the vehicles in the TTI tests tested only while fully loaded, a condition which probably gave the Corvair significantly better handling and stability? b) In the Corvair, what was the change in the position of the center of gravity with the added weight? c) Did this change in the center of gravity coinside with the change that would occur when the vehicle held six passengers and their luggage? d) Why were no tests done to determine if, in fact, the fully loaded configuration was the one most likely to show the worst handling and stability characteristics of the Corvair as seemed to be assumed by NHTSA?

5. In the report of the TTI work, it was noted that in the Drastic Brake maneuver, the following statements are made: "The sequence of inputs was that which HSRI concluded was most apt to place a vehicle in a rollover mode," and "By varying the magnitude and timing of inputs described above, an effort was made to induce rollover in each vehicle tested." The speeeds at which these tests were carried out were 40, 50, and 60 miles per hour.

It is further noted that in none of the TTI Corvair test runs was there a rollover (that is, there was no outrigger contact in any of the test maneuvers). a) In view of the fact that the Highway Safety Research Institute (HSRI) was able to easily, consistently, and violently roll their 1961 Corvair against its outriggers (a simulated rollover) with the same test equipment used by

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* Not incidently, the changes made in the Corvairs used in the GM Proving Ground tests were all designed to improve the handling and stability of the cars being tested.

TTI, wasn't this sufficient evidence that either the TTI Corvair was not typical or that the test conditions were not adequate to determine if the Corvair exhibits defective handling and stability? b) Did the NHTSA even consider this possibility before completing the TTI tests?

6. All testing and analysis referred to in the TTI report was carried out on high friction surfaces. Although such surfaces would be expected to maximize the probability of a vehicle rollover in a given maneuver, it would minimize loss of control due to directional instability caused by lateral skidding. Since loss of vehicle control without rollover is viewed as a major cause of Corvair crashes, was there any attempt to assess either the Corvair's performance on high friction surfaces and the more usual lower friction surfaces?

7. General Motors gives vehicle owners no warnings that Corvairs should be driven only with tires having more than 80 percent of their original tire tread. The NHTSA, in Motor Vehicle Safety Standard No. 109, indicates that a tire with as little as 1/16 inch of tread may be considered safe for normal use. (This is the depth of the required tread wear indicator.) Given these facts, why were the TTI tests restricted to the use of tires with more than 80% of their new tread depth?

8. How did the NHTSA determine that the shock absorbers "obtained through local dealers" were identical with the O.E.M. shock absorbers, and did not reflect either normal product improvement or differences between O.E.M. parts and replacements parts which are common in shock absorbers?

9. In the conclusions to the NHTSA Evaluation of the Corvair, it states, "For many of the tests the plotted data indicated that the Corvair performance fell between the Valiant and Falcon on one side and the Volkswagen and Renault on the other side." a) If the much more hazardous Volkswagen and Renault had not been included in the tests how much worse would the Corvair have been overall than the two remaining contemporary cars? b) Would the conclusion of the NHTSA have been different in this case? c) Why were the Volkswagen and Renault included in the tests in the first place?

PANEL EVALUATION

10. (a) What criteria were used in the selection of the Panel for the evaluation of the NHTSA Approach to the 1960–63 Corvair Handling and Stability? b) Why wasn't it considered a conflict of interest to have on the panel to evaluate the NHTSA's performance, a man who is currently under contract with the NHTSA (Dr. Wright)? c) Was consideration given to the likely biases concerning vehicle handling and driver skills of a man whose career and dedication has been to auto racing (Mr. Caldwell)?

11. (a) How many man-hours were spent by the three panel members in their evaluation of the NHTSA's approach to the Corvair handling and stability? b) What professional assistance was given the panel, and to what extent was the raw material used in the investigation summarized for the panel?

12. The charge given to the panel was to review the pertinent materials in this case, and to "Arrive at joint panel findings, conclusions and recommendations about past and future NHTSA programs for evaluation of the 1960–1963 Corvair handling and stability." a) Since the panel limited itself to recommending that no further testing be done on the Corvair, that the NHTSA develop minimum vehicle handling standards, and that better accident statistics be collected, is the NHTSA satisfied with the panel's performance? b) Further, since it was not in their official charge, by what authority did the panel findings regarding the Corvair itself? c) Why did the NHTSA require "joint panel findings" rather than allowing for possible dissenting opinions on the panel?

MAKE-MODEL VEHICLE CRASH DATA

13. In considering crash data, equal weight was given to the early rollover data of Cornell Aeronautical Laboratories (CAL) and the off-road, single vehicle crash data from the North Carolina Highway Safety Research Center (HSRC). a) Why wasn't Dr. Campbell of HSRC asked for his latest data which are considerably more up-to-date and statistically valid? b) Since rollover must be preceded by a vehicle's going out of control, why was rollover considered equally significant with single vehicle, off-road crashed which is probably a large class?

Dr. Campbell's most recent data on off road crashed for both the Corvair and the Volkswagen show clearly the higher than average incidence of such crashed in these vehicles when equipped with unmodified swing axle rear suspensions. The data contained in the Cornell Rollover study are considerably older than the HSRC data, comes from a considerably smaller data base, and does not differentiate between model years. Furthermore, the later CAL VW study (which contains data on the Corvair) contradicts the findings on the Corvair of the earlier study.

14. (a) Since the NHTSA relied, to some extent, on vehicle crash statistics from several years ago, is the NHTSA reasonably satisfied that the quantity and quality of such statistics allow them to be used to make determinations such as this one? b) If not, what is being done in the way of contracting for make-model crash studies which will allow the NHTSA to detect significantly substandard vehicles?

GENERAL

15. In the general discussions of the relations between handling and lateral "g" forces, it is apparent that these forces are the average forces felt by the driver, and not the instantaneous forces on the tires and suspension. While these forces are approximately equal when a vehicle is operated on a smooth road below the limit of adhesion, the instantaneous lateral forces may be far in excess of the average forces on a rough or undulating road. What consideration did the NHTSA give, beyond the single rough road test with an automatic pilot of the TTI sequence, to the effect of normal or typical, randomly rough or undulating roads* on the Corvair handling and stability?

16. It is noted in the addendum to the Panel Evaluation that "the Corvair has greater control sensitivity . . . than contemporary vehicles." This control sensitivity would be likely to induce a driver to operate a Corvair nearer to the "divergent instability boundry," or at least in the region of control in which the vehicle may quickly change from under- to oversteer. a) Did the NHTSA attempt to assess this factor in their investigation of the Corvair? b) Was there an attempt to assess the likelihood that a driver operating a Corvair within its limits of control could easily exceed these limits (by light application of the brakes, or by turning the steering wheel an extra quarter of a turn, for example) thus throwing the car out of control inadvertently?

17. (a) Is the NHTSA satisfied that it is possible to make a finding of no defect on the handling and stability of the Corvair when it appears that reasonable definitions of adequate handling and stability are lacking? b) Is the NHTSA satisfied with the contract performance of the Highway Safety Research Institute on vehicle handling standards when the HSRI has not been able to define such handling standards requirements?

18. In the evidence presented in the *Evaluation of the 1960–1963 Corvair Handling and Stability*, there is good evidence that the pre-1968 VW and the Renault Dauphine have considerable worse handling and stability than contemporary American cars. a) Will the NHTSA also begin investigations into the handling and stability of the Subaru 360 and the VW Microbus.

The NHTSA has done a grave disservice to the public in producing this report which allegedly absolves the Corvair of blame in thousands, of avoidable fatal and serious injury crashes. In doing so, the fundamentally subservient relationship of the NHTSA to the auto industry, and the effective abdication of a segment of the engineering profession have been once again exposed. The question raised by this debacle must not be left unanswered, and the perversion of the function of the NHTSA and the engineering profession must be corrected.

Sincerely,

RALPH NADER,
CARL NASH

AUGUST 18, 1972.

Mr. DOUGLAS TOMS,
Administrator, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C.

DEAR MR. TOMS: To save you the embarrassment of again using incorrect information about the comparison between the HSRI and TTI tests of the Corvair, I quote from page 20 of DOT publication HS–800–374, *Vehicle Handling Test Procedures*, Volume I:

The Corvair and Fords were used cars and thus required extensive overhauling before testing. New brake linings, shock absorbers, and, where necessary, ball joints and wheel bearings where provided.

The report notes that the outrigger assembly weighed 85 pounds and the controller weighed 260 pounds. It appears that the front seats were removed so that the increase in weight would be less than the 345 pounds. It is my opinion that the primary difference which accounts for HSRI's Corvair turning over the TTI's not is the loading. Otherwise, the only difference is that HSRI's was a 1961 and TTI"s was a 1963. Are you willing to admit that there was that much difference between the 1961 and 1963 models?

On the question of degradation, and the Corvair heater, let me quote from page 41 of the investigation report on IR 249:

Initial design and assembly practices seem sufficient to preclude sources of engine fumes at the time of production; however, degradation of engine components may provide sources for such fumes.

This quote contradicts what you said about the consideration of degradation in the definition of a defect. If degradation of the Corvair's suspension system causes the vehicle to have dangerous or defective handling characteristics, how is this different from degradation of the heater causing a defect? I would like to see an adequate dicussion of this point from the NHTSA.

Yours truly,

CARL NASH.

AUGUST 23, 1972.

Hon. JOHN VOLPE,
Secretary of Transportation
Washington, D.C.

DEAR MR. SECRETARY: After sending you an inquiry concerning the investigation by the National Highway Traffic Safety Administration (NHTSA) of the 1960–1963 Chevrolet Corvair handling and stability, further information came to our attention concerning the effect of suspension component degradation on the handling and stability of these vehicles. The NHTSA has set many precedents in the consideration of degradation as

*This phrase denoted roads which have irregularities that can be absorbed by typical automotive suspension systems. Such irregularities, found on most American roads, are due to faulty road construction and repair, normal or extraordinary wear and tear, or to extreme weather damage.

a factor in the determination of what constitutes a defect in motor vehicles and motor vehicle equipment. The policy which has evolved can be stated as follows: It is *not* sufficient evidence that a defect does *not* exist in a motor vehicle (or in motor vehicle equipment) to show that there is no hazard to traffic safety in the operation of the vehicle (or the use of the motor vehicle equipment) when it is new or when it conforms to all manufacturer's specifications.

The other major Corvair investigation provides a good example of this principle. In the report of the Corvair direct air heater defect investigation, it is stated:

Initial design and assembly practices seem sufficient to preclude sources of engine fumes at the time of production; however, degradation of engine components may provide sources for such fumes.[1]

The investigation proceeded to evaluate the extent to which degradation was taking place in older Corvairs by having owners bring their cars into testing stations where the carbon monoxide leakage into the passenger compartment under normal use conditions was measured. The finding that a significant number of 1965 Corvairs in use by private individuals produced carbon monoxide leakage so that the level in the passenger compartment exceeded 200 parts per million was held as sufficient evidence that a defect existed in the Corvair direct air heater system under section 113 of the National Traffic and Motor Vehicle Safety Act of 1966. Further evidence that the NHTSA found degradation to be a primary factor in this case is that they allowed General Motors to state in their defect notification to owners:

We believe that if a Corvair has been regularly inspected and properly maintained and is in good working order, it will operate without danger of exhaust fumes entering the passenger compartment through the direct air heater.[2]

The measures to be taken to repair the defect in the direct air heater, approved by the NHTSA, were an inspection to determine if the vehicle is in good condition, and to repair the vehicle to bring it back to good working order if necessary.

Degradation also plays a role in defects which may lead to catastrophic failures such as in the Ford lower control arms found to be defective by the NHTSA on police and emergency vehicles. Chevrolet engine mounts, and many others.

The NHTSA's recently completed investigation into the handling and stability of the 1960–1963 Corvair was solely a study of the vehicle when it meets the manufacturer's specifications. Although used vehicles were tested at the Texas Transportation Institute, they were given a comprehensive inspection and repaired to bring them up to an acceptable level of mechanical condition and safety. Each vehicle was brought up to the manufacturer's specifications in accordance with its individual service manuals.[3]

Similarly, the Corvairs tested in all GM proving ground tests, in the Falcon-Corvair comparison tests carried out by the Ford Motor Company, and in the Michigan Highway Safety Reseach Institute's tests were all in essentially new condition.

The apparent complete ignorance of the effects of degradation of the suspension system of the 1960–1968 Corvair on its handling and stability leave this a completely open question. The conclusions that are contained in the NHTSA's evaluation are far more broad than is warranted by the scope of their investigation.

We do not agree with the conclusions reached even for this limited investigation. Quite apart from the issue of original design defects in Corvair handling performance, we believe that the limited nature of the investigation by the NHTSA should be disclosed along with a warning about the additional hazards of degradation to the Corvair's handling and stability. If this were done, Corvair owners would not be totally misled about the lack of safety in their vehicles, especially if they do not provide unusual maintenance and upkeep for their cars.

At a minimum, the NHTSA should also carry out the following program:

1. That all information currently in the hands of the NHTSA concerning the effects of degradation of the 1960–1963 Corvair suspension system on its handling and stability, and of such degradation in other vehicles, be gathered.

2. That the NHTSA obtain from General Motors all such data in their possession, including information about the life expectance and degradation rate of Corvair shock absorbers, suspension bushings and bearings, and so on. Further, GM should be asked to produce any evidence that they instructed Corvair owners about necessary maintenance of the Corvair suspension components other than routine lubrication.

3. That the NHTSA obtain from Dr. B. J. Campbell his latest accident data from the state of North Carolina which would be relevant to the relative likelihood of Corvair loss of control (generally reflected in single vehicle accident rates), and an analysis of the Highway Safety Research Center of the relevance of this data to the question of the potential hazards of the Corvair handling and stability as Corvairs are used by the public. The NHTSA should further search for any other make/model accident data which would shed light on this question.

4. That when the warning letter is sent to owners of the 1960–1963 Corvairs, it include a warning about the possible effects of degradation on their vehicles' handling and stability (including the necessity of having tires in good condition as well as properly inflated), and that it include a questionnaire concerning their personal experiences with the Corvair (such as whether they had ever been in a crash or lost control of their Corvairs where they felt that the handling and stability of their vehicles was a factor).

5. That an analysis of the information gained from carrying out points one through four above be carried out to determine if, when degradation is taken into account, the 1960–63 Corvair handling and stability are "defective" as the NHTSA interprets that word.

Unless the NHTSA takes decisive steps to resolve the issue of the Corvair handling and stability, the credibility and competence of the NHTSA will increasingly be called into question.

Sincerely,

RALPH NADER,
CARL NASH.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C. September 15, 1972.

MR. RALPH NADER,
Washington, D.C.

DEAR MR. NADER: This is in reply to your letters of August 9 and 23, 1972, concerning the investigation of the 1960–1963 Corvair handling and stability. In addition, we have received a letter addressed to Mr. Douglas W. Toms from Dr. Carl Nash dated August 18 on the same subject. In the first portion of this letter the answers are the same number and sequence as your questions in the August 9 letter.

1. The General Motors' proving ground tests referred to are PG 15699 and PG 17103. These represent only two of the many proving ground reports and other documents and films evaluated by the National Highway Traffic Safety Administration (NHTSA).

NHTSA reviewed available test concepts including Input-Response (no driver feedback) and Task Performance (with human driver feedback control). Task Performance was ruled out because of subjective nature of human control and lack of objective measurement. Input-Response was selected because of objectivity and repeatability; these tests then evaluated vehicle response to an input independent of the driver. Input-Response using sophisticated instrumentation already developed by the University of Michigan study (NHTSA Contract FH–11–7297) was recommended by you in your letter of February 23, 1971. Further recommendations on test conditions were contained in Mr. Gary Sellers' letter of March 17, 1971, to Mr. Rodolfo A. Diaz.

The Input-Response tests were designed to provide a series of maneuvers from which quantitative data could be obtained under rigidly controlled conditions for comparing the performance of the various vehicles. These tests did not establish performance limits for safe or unsafe operation. Such limits are the subject of current vehicle handling research in both industry and Government. Rollover was the criteria in only one (Drastic Brake/Drastic Steer) of the five Input-Response tests; the other four tests resulted in responses indicating other vehicle performance parameters as well as rollover.

2. The NHTSA did not in fact discount the General Motors' tests. We considered them for what they were: controlled tests driven by a professional test driver at increasing speed increments using rapid steering movements, maximum throttle and torque inputs, and other driver actions all designed to test the various suspension modifications to the point of rollover or until it was difficult to produce a more violent maneuver. Examination of the report will also indicate other points relative to the vehicle's handling and stability performance obtained from these tests.

NHTSA evaluation of the actual model year changes from 1960–1963 showed no significant difference in the suspension components. In your letters and public statements you have consistently discussed the 1960–1963 model year Corvairs as a class that performed differently from model years 1964–1969. Obviously, in this test program, it was not possible to test all body styles. Both the Panel and NHTSA agreed no further testing was required.

3. NHTSA contacted the original equipment tire manufacturers (OEM) to obtain tires produced for use in the 1960–1963 period. The manufacturers then recommended tires (construction and size) that were currently available and closely matched the 1960–1963 OEM tires. These tires were used on all the vehicles tested with the exception of the Renault.

It is interesting to note that very few 1960–1963 Corvairs would still have their original tires. Therefore, the tires actually used in the tests were representative of tires most likely to be used on those Corvairs today.

4. All vehicles were tested in the fully loaded condition to assure uniformity and comparability in the program. While the weight of the test equipment was such as to only partially load a six-passenger vehicle, this same weight imposed a heavier, almost full, load on the smaller four-passenger cars.

The vehicles were loaded in a manner such that each wheel would have the same load

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[1] Investigation Report Intrusion of Engine Fumes Through Heater System of 1961–1969 Model Chevrolet Corvair Vehicles [IR 249], p. 41.

[2] Letter sent by the Chevrolet Division, General Motors Corporation to 1961–1969 Corvair owners dated December, 1971, p. 2.

[3] *Evaluation of the 1960–1963 Corvair Handling and Stability*, U.S. Department of Transportation, NHTSA, Washington, D.C., July, 1972, p. 57.

it would carry when the vehicle was loaded to its maximum passenger and luggage weight. Therefore, the change in the center of gravity location closely compared to that which would occur with the maximum passenger and luggage loading.

Your associate, Mr. Sellers, stated in this letter of March 17, 1971, that "the critical variables (such as high coefficient of friction, equal tire pressures, heavy loading, etc.) are the most severe levels—those most likely to reveal the defects alleged—or the differentials in the margin present. If under these conditions, the Corvair does *not* respond in a dangerous fashion . . . then the public can be content that the defects revealed in the GM proving ground reports are anomalous or mistaken."

It was not possible to test the vehicles included in the program under all the possible variables of loading, environment, maneuvers, etc.

5. The input-response tests conducted at TTI were comparative type tests. After the pilot program was completed and the testing procedures for the entire program set, it was necessary to conduct all the tests within the procedures selected to assure comparability. In the drastic steer-drastic brake maneuver, the magnitude of the brake line pressures (to achieve the four-wheel lock) had to be varied to suit each vehicle because the brake line pressures required for lock up were different for each vehicle. The timing of the point of brake application as it related to the peak yaw rate was determined for each vehicle and the brakes applied at the same point of the maximum yaw rate. This provided for uniformity in the point of the lock up.

The 1963 Corvair tested at TTI was rebuilt to the manufacturer's specifications and was therefore typical of the original equipment configuration, as were the other vehicles tested. When the Corvair was tested, two vehicles had already completed the program. One of these vehicles made outrigger contact during two of the test maneuvers. There is no reason to consider the test program inadequate.

6. All testing was conducted on high friction surfaces as one of the controlled conditions in the test procedures. There is an infinite variety of other environmental conditions that contribute to crashes, including types of pavement and pavement conditions (wet, dry, dusty, oily, etc.). Further, Mr. Sellers in his letter of March 17, 1971, to Mr. Diaz (item 4, page 3) recommended the use of a high coefficient dry surface to reveal the complete transitional response to the car most accurately.

7. The Input-Response tests were conducted under carefully controlled conditions so that comparisons of performance between vehicles could be made from quantitative data derived from testing all vehicles under the same conditions. One of the test variables is tread wear and to provide uniformity and repeatability of test results tread wear had to be controlled. It was determined that uniformity and repeatability could best be achieved when the tires were not worn more than 20 percent.

8. All the vehicles were tested with the vehicle manufacturer's shock absorbers that were available through their dealers for the particular model year tested at the time of the testing program. NHTSA did examine information regarding the specifications of the original equipment shock absorbers and the service replacement shock absorbers obtained for testing on the 1963 Corvair. There was no appreciable difference in the physical dimensions of the shocks. The extended length of the rear shocks, which determines the maximum rear wheel rebound travel, was 0.027 inch longer on the service replacement shock than for the original equipment shock. The performance specifications of the original equipment and the service replacement shock absorbers generally overlapped, within their tolerance ranges, with only a moderately higher load specification for the rebound stroke of the rear shock.

9. Our conclusion, remains the same, if the VW and Renault, the foreign vehicles, had not been included in the tests.

It is concluded that the handling and stability performance of the 1960–1963 Corvair does not result in an abnormal potential for loss of control or rollover and that its handling and stability performance is at least as good as the performance of some contemporary vehicles both foreign and *domestic* (emphasis added).

The domestic vehicles were the Valiant and the Falcon.

The purpose of the tests was to compare the handling and stability performance of contemporary vehicles with the 1960–1963 Corvair. The VW and Renault were contemporary vehicles.

10. At the time of selection, Dr. Paul H. Wright was the Project Director of the Georgia Institute of Technology multidisciplinary accident investigation team under contract to NHTSA. When selecting the Panel members, our criteria was to obtain recognized professionals with diversified backgrounds in various aspects of dynamics and vehicle performance and independent from the automotive industry.

Dr. Wright was selected for his expertise in accident investigation analysis. We do not believe a conflict of interest existed. Mr. Caldwell was selected for his expertise in design, performance, and driver handling of vehicles. We believe the Panel was competent, professional, and independent in their analysis.

11. The time charged to the Government was 15 man days per Panel member. In addition, each member contributed some uncompensated time to the Panel evaluation.

The Panel was oriented on and given access to all material reviewed, analyzed, or evaluated by NHTSA in the entire investigation. As new information was made known to NHTSA it was also brought to the attention of the Panel. Specific material examined by the Panel is documented in Section VII, References to the Panel Report.

12. We believe the Panel was competent, professional, and independent in their evaluation.

In order to determine whether any further testing by NHTSA was required, the Panel found it necessary to comment on those handling and stability characteristics that may have led, in their opinion, to additional testing. Their comments were the basis for their determination that no further testing was required. Obviously the Panel was not constrained from making any other pertinent comment they wished to offer, nor were the individual members constrained in any way from submitting dissenting opinions.

13. As stated in the report, Dr. B. J. Campbell of HSRC was contacted and the information he presented at the time was reviewed and considered. His data did not contain a category that included rollover; therefore, it could not be compared with Cornell Aeronautical Laboratories' (CAL) data.

Dr. Campbell's "ran-off-the-road" category of crashes included all vehicles that ran off the roadway, for whatever reason, such as blowouts, fell asleep at the wheel, excessive speed, etc., before striking the object. The data also had other vehicles that have the reputation of being good handling automobiles having percentage figures similar to the Corvair and Volkswagen for the "ran-off-the-road" category. A vehicle that had a higher "ran-off-the-road" category percentage had a lower multiple vehicle accident percentage. Thus, if a vehicle driver was able to maneuver his vehicle to avoid an on-the-road crash and ended up in an off-the-road crash, this affected the percentages.

Mr. Garrett of CAL was contacted regarding the model years of the vehicle in his report. He indicated that at least 80 percent of the vehicles were 1963 or earlier; therefore, the results did primarily reflect the model of concern to the analysis.

14. The data used by NHTSA was the information that was available. Data of this nature is limited and additional data is considered desirable. Therefore, the NHTSA is planning to have a data gathering program which would allow meaningful analysis, by vehicle classes, of the accident data now collected.

15. In reviewing all the material in this investigation, NHTSA evaluated many documents and films that showed the effects of transient responses when driving on randomly rough or undulating surfaces.

16. Control sensitivity is a characteristic of the vehicle; it does not induce a driver to make any steering corrections. However, if a driver has to make any steering corrections, a vehicle with greater control sensitivity requires less steering angle change to maintain a desired path than one with lesser control sensitivity. A vehicle with greater control sensitivity is considered a more maneuverable vehicle.

17. The conclusions of the NHTSA report are obvious evidence that a finding of no defect on the handling and stability of the Corvair is possible in the absence of vehicle handling and stability standards. Of course, the decision is much more difficult in this case and that is the reason for using the comparison method for testing contemporary vehicles.

The NHTSA has awarded a follow-on contract to the Highway Safety Research Institute (HSRI) University of Michigan (Contract DOT–HS–031–1–159) for further vehicle handling performance research. This contract would not have been awarded if the contract performance of HSRI was unsatisfactory. The purpose of this research is to provide the basis for handling standard requirements.

18. The tests conducted by NHTSA in Texas were comparative in nature. All the cars in the tests performed differently. The NHTSA input-response tests did not indicate that the degree of variance between the handling and stability characteristics of the Volkswagen and Renault with that of other vehicles tested was sufficient to warrant the initiation of separate investigations of the two named vehicles at this time. However, this does not preclude us from considering additional evidence or further evaluation of our test data if it becomes available with respect to these two, or any other vehicles.

Your letter of August 23, 1972, and Dr. Nash's dated August 18, 1972, center around two theses: first, the different test results of the Corvair exhibited in the HSRI and TTI tests; and, second, the effects of component degradation.

There are many differences in purposes of the HSRI and TTI tests. As in any scientifically based test, it is standard practice to examine the effect of the variation of a parameter by holding all other variables essentially constant and changing only the one parameter under study. This approach was utilized in the two tests in question. The HSRI tests were for the purposes of designing and conducting a pilot program to test procedures and equipment to measure the performance of vehicles without the effects of drivers. In doing this, it was not necessary to place the configuration of the vehicle at any specific level other than satisfactory nor to record precisely the vehicle's condition. It was necessary to insure that these factors remained constant while the effect of variations in the type and magnitude of vehicle inputs was studied. The same philosophy extends to all other conditions surrounding these tests. On the other hand, the purpose of the TTI tests was to compare the handling and stability characteristics of the

1960–1963 Corvair with the same characteristics of some selected contemporary vehicles. In doing this, only the vehicle model was allowed to vary. There was not variation between the vehicles' configurations since they were all restored to manufacturer's specifications, the environmental and other test conditions were held as closely as possible and each vehicle was subjected to the same input. Although these tests were conducted properly, it is not proper to attempt to draw a conclusion from the combination of the two tests relative to cause and effect when in fact several parameters are varying at the same time. To attempt to do so violates the experimental procedures described above and is careless, arbitrary, and capricious with the data.

Relative to the question of degradation it is a well known fact that degradation of components or systems, including those that are part of motor vehicles or motor vehicle equipment, cause some change in performance characteristics. In the case of motor vehicles, what is not known is the direction or degree of change due to degradation. For this reason, research is necessary to determine the change in performance levels. In the case of vehicle handling, certain basic research projects are underway to determine the base line performance of new vehicles under certain conditions. Studies have been and are currently being conducted to measure the effect of degraded components on vehicle handling. One such study "Effects of Steering and Suspension Component Degradation on Automobile Stability and Control" was completed by Cornell Aeronautical Laboratory, Incorporated, in January 1971 under NHTSA Contract No. FH–11–7384. Another study is in progress, "Component Degradation, Inspection Equipment: Steering and Suspension Performance," being conducted on current model vehicles by the Highway Safety Research Institute, University of Michigan, under NHTSA Contract No. DOT–HS–031–1–126. For the purposes of our test program, where we were comparing the stability and control performance of the Corvair to other contemporary vehicles, it was necessary to place the vehicles in a like condition or to the manufacturer's specifications in accordance with its individual service manuals. There is no known way of putting partially degraded vehicles in the same or like conditions. Therefore, we believe that conclusions drawn from undefinable "partly degraded" vehicles would require basing them upon speculation rather than facts.

On the other hand, the tests did provide a considerable element of degradation experience. During the tests the Corvair was subjected to approximately 250 test runs without replacement of components in question. Throughout these tests with the attendant vehicle degradation, there was no observable loss in handling and stability performance of the Corvair and certainly it was no worse than the other cars tested. These tests were very severe and the hard usage the cars were subjected to is evidenced by the fact that several of the other cars did degrade to the point of major failures during the testing.

As reference to our final investigation report will substantiate, this does not infer that degradation was not considered elsewhere. In addition to conducting the above tests, a vast amount of other tests and data were reviewed, some with the specific intent of testing degraded performance. Much of this information involved vehicles in various states of degradation. Although grossly degraded vehicles were not used in these tests, it might be noted that this agency would not, under normal circumstances, make a defect determination on the sole basis that a vehicle has been neglected or degraded by its owner. In any event, a vehicle that has survived 64 test runs and 11 rollovers can hardly be considered undegraded, no matter how many damaged parts were replaced for purposes of continuing the tests. The data on this and other similar vehicles were examined. Frame by frame analysis of the films and detailed studies of the data failed to expose any unusual performance characteristics caused by degradation.

Further, it is to be noted that two out of three of your "qualified engineers who are experts in vehicle handling" state "we believe that the degradation of the various suspension components would probably have little net effect on the rollover characteristics of the Corvair."

From the total investigation we do not find that the Corvair's loss in handling and stability performance due to degradation is any worse than that of contemporary vehicles, and it was the total investigation including all sources of information that formed the basis for our determination that the Corvair's handling and stability performance does not constitute a defect.

Sincerely,

JOHN VOLPE.

EXHIBIT C

Senator HARTKE. What year Corvair was used?

Mr. TOMS. '63.

Senator HARTKE. Why weren't earlier models, '60 and '61? After all, they were the ones that had a higher incidence of roll-over.

Mr. TOMS. No. As a matter of fact, Mr. Nader has authorized or designated a representative suggesting the '63.

Senator HARTKE. He will be here in a minute. ye will ask him.

Mr. TOMS. Please do. And as we debated this we felt that the '63 was the one that would be most characteristic for this type of testing.

Senator HARTKE. What type of tires were used on a Corvair test?

Mr. TOMS. They were the tires available in the market that were closest to the original specifications of the manufacturer.

Senator HARTKE. Did they differ substantially in the make, the tread style material from those which came with the original Corvair?

Mr. TOMS. There were differences, but my engineers had told me these differences were not significant.

Senator HARTKE. My understanding is that all——

Mr. BERNDT. With respect to the tires, Mr. Chairman, the tires were recommended by the manufacturers of each vehicle that was tested as the most nearly representative tires of those on the original models.

Senator HARTKE. I understand that all the vehicles that were tested represented the manufacturers' maximum recommended load. Is that true?

Mr. TOM. That is correct.

Senator HARTKE. Why?

Mr. TOMS. Because, number one, again, Mr. Nader's representative suggested that we test them in a fully loaded condition. Number two, the type of instrumentation on the controllers of these vehicles were heavy and in general it was close to the equivalent of a fully loaded vehicle.

Senator HARTKE. One of the people who you worked with is Mr. Sellers; is that correct?

Mr. TOMS. He was Mr. Nader's duly authorized representative at that point in time.

Senator HARTKE. Is he an engineer?

Mr. TOMS. He is not, to my knowledge.

Senator HARTKE. All right. Now, you apparently adopted——

Mr. TOMS. He did consult with and rely upon the advice given to him by engineers.

Senator HARTKE. All right.

Mr. TOMS. This is what we were led to believe.

Senator HARTKE. What I want to find out, really, from you, is did you follow the recommendations of Mr. Sellers just to appease Mr. Nader.

Mr. TOMS. No. We argued with him on a number of points and we were able to come to an agreement as to what the test program should be like.

Mr. BERNDT. Actually Mr. Sellers was very well advised of the opinion of our engineers and we understand that he had first-rate engineering advice and all of the test procedures that he suggested in his letter to us—it is in the appendix of the Corvair report—were thoroughly reviewed by our people and they concluded that it was indeed a very good recommendation.

[From the Washington Post, July 27, 1973]

GM IS GIVEN BREAK IN CORVAIR TESTS

(By Jack Anderson)

Faced with the recall of 235,000 to 400,000 old Corvairs which could cost lawsuits totaling tens of millions of dollars, General Motors has been let gently off the hook by the Transportation Department.

We have evidence, however, that the favorable report on the Corvair was not only rigged but that Doug Toms, the federal auto safety czar who issued it, never even read it before it was made public.

Instead, the report and its accompanying press release were handled in the 10th-floor offices of Transportation Secretary John Volpe. Words were even put in Toms' mouth that he never spoke.

What Toms said in private about the problem-plagued, 1960–63 Corvairs was altogether different than what the Transportation Department quoted him as saying.

"I've driven enough of these cars, and I don't like them either," Toms confided to the Corvair's nemesis, Ralph Nader. "I felt the right inside wheel jack up on the Corvair . . . I know Corvairs roll over and go out of control, and people have problems with them."

Both Toms and Nader confirmed this private conversation to my associate Les Whitten.

Yet the official press release quoted Toms as saying that "handling and stability performance of these cars is at least as good as the performance of several contemporary domestic and foreign vehicles. The Corvair performance does not result in an abnormal potential for loss of control or rollover."

This statement was manufactured for Toms, he acknowledged, and put out by Volpe's office. Toms saw it for the first time after it had been released.

TAMPERING WITH SAFETY

Not only was the publicity on the report prepared on high, but there's evidence the Transportation Department tampered with motorist safety in setting up the Corvair tests.

For instance, the 1963 Corvair was tested but not the 1960–61–62 models. Yet many of the 300 Corvair suits against GM involve fatalities in the older cars.

New tires were also used on the test cars instead of the worn tires that had figured in many fatal Corvair rollovers. And unlike GM, Ford and other tests in 1960s, which produced numerous Corvair rollovers, the new federal tests used "automatic pilots" instead of human test drivers.

These automatic pilots were designed by an institute, which was established by a $10 million grant from GM, among others, and is still funded, in part, with $1 million a year from the auto industry.

The Transportation brass were fully aware of this before they chose the Highway Safety Research Institute, University of Michigan, to participate in tests affecting its benefactor. An institute spokesman denied to us that it is in "anybody's pocket."

Finally, the test results were reviewed by three distinguished auto experts, hand-picked by the department, who had no research and testing credentials in car handling.

The tests were vital to GM, which would have been compelled to start an immensely

costly recall campaign if the Corvairs had been found unsafe. The recall also could have been used against GM in its multimillion-dollar litigation over the Corvairs.

Ralph Nader called Toms after the rigged Corvair report was issued. "There is a helluva lot of political overtones, some spoken, some unspoken, about this report. Aren't you supporting the Democrats? This is a political year, you know," Toms said to the nonpartisan Nader.

Both men agree this is what Toms said. But Toms insisted afterward that he had meant to refer only to the politics of the report's critics.

Footnote: The new report fails to mention even as a footnote that Corvairs of all years have a defective heating system design that may permit lethal carbon monoxide to leak into the passenger compartment. GM, in a letter, has admitted the fault.

EXHIBIT D

CONSUMERS UNION,
September 27, 1972.

Mr. DOUGLAS W. TOMS,
Administrator, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C.

DEAR MR. TOMS: This division performs tests and gathers data for the preparation of the Consumer Reports evaluations of automobiles. Not all of the test results and research data are used in the final published report since the editorial space is limited and the layman's appetite for all the details is probably satisfied with the highlights.

Nevertheless, when we prepare ourselves to discuss the workings of another organization, we engineers must be able to ascertain that every factor of the subject has been carefully examined before we can write an analysis critique. Consumers Union would like to do a piece on the DOT Evaluation of the 1960–63 Corvair Handling and Stability. We have had a copy of the report and the panelists' evaluation and suspect that the published report is an "executive summary" without being so defined, since there seems to be much information omitted. Perhaps you would care to share this additional information with us for the benefit of our readers.

TEST VEHICLE DATA

The report identifies the test vehicles rather sketchily. What were the body styles, engine and transmission options? What was the source of the test cars? What was the condition of the bodies (were they sound or rusted)? Exactly what components were replaced in order to put these cars into the condition that represented the original specifications? What was the brand and construction of the tires selected for each vehicle? Was it necessary to have some of the replacement parts made anew on a limited production basis by the original manufacturers? (We know from our own experience that after market and replacement parts are not always the precise duplicate of the original equipment, especially tires and shock absorbers).

MODEL CHOICE

Some criticism has already been raised concerning the DOT choice of the 1963 Corvair rather than an earlier model. Did the DOT task force have available data which substantiated their choice? Are there published data concerning the spring and shock absorber rates, the control arm travel limitation, and the suspension and steering geometry for each of the model years in question? Can the DOT share this with Consumers Union?

TEST CONDITIONS

The DOT report says that the tests were run with the cars loaded to the manufacturer's maximum recommended load. Ordinarily this would seem to be the worst-case test condition, but if the question is one of overturning stability, might not there have been some justification to running lighter loads in those cars equipped with swing axle rear suspensions? It could be argued that regardless of the effect on the height of the center of gravity, the lighter load would have allowed the car to stand higher with more positive camber in the rear suspension. This point is arguable, but we would like to know if there was some thought given to both considerations.

A similar point can be made about the requirement that the test tires be replaced when worn 20 percent. It is generally known that, on dry pavement, nearly bald tires will produce much higher side force and aligning torque than nearly new tires. If this is so, and if the potential for overturning is increased with greater tire forces then it would seen as if this stringency was wasted unless it was done only for the sake of consistency.

TEST METHOD

Because we are reporting to a non-technical readership, we tend to stress the subjective evaluation backed with objective measures. However, the choice of test techniques used in the Evaluation defy correlation to the real-world experiences of our readers. The DOT seems to have selected the HSRI Input-Response methology because it is impartial and repeatable. Has the DOT other material to provide to help us to describe what was done in the testing? There was very little description of the test courses, or the test equipment in the Evaluation—no diagrams or pictures. Someone familiar with the HSRI publications is not totally in the dark, but we would appreciate a description from the DOT.

The input-response tests are difficult to explain to a general audience because of the instrumentation and special analysis required to rank the results. It is also not easy to explain why a vehicle moving randomly on a large undefined paved surface can be evaluated better than one which is required to be driven thru some sort of pathway. The average person realizes that his car must respond to his commands to stay on the road. He can probably appreciate the significance of an experiment if the test path is defined on a large surface with two rows of traffic cones, rather than by curbing and a centerline. It is going to be hard to explain to our readers why Input-Response was chosen over Task Performance, especially, since so much of the criticism of the Corvair had to do with the alleged mis-match between the driver input and the vehicle response.

Mr. Toms, we feel obligated to report some critique of the DOT Evaluation to our readers since we feel that the Evaluation was written defensively and without concern for general understanding; and because of the apparent preoccupation with the overturning potential of the early model Corvair. We realize that these things may have been forced upon the DOT by the unrelenting pressure from the Nader group. However, our own evaluation of the Corvair's handling originally was not too critical, but by today's stricter standards (our standards) we might rate it less satisfactory for emergency handling. You might think of it this way—if you lived twenty miles from town on a winding country road, would you like to drive this particular car to the hospital with if one of your children were seriously injured? Some cars are more "forgiving" than others.

Sincerely,

ROBERT D. KNOLL,
Chief, Auto Test Division.

U.S. DEPARTMENT OF TRANSPORTATION,
Washington, D.C., November 8, 1972.

ROBERT D. KNOLL,
Chief, Auto Test Division, Consumers Union, Orange, Conn.

DEAR MR. KNOLL: This is in response to your letter of September 27, 1972, requesting further information with respect to the "DOT Evaluation" of the 1960–1963 Corvair Handling and Stability. Many of the questions raised in your letter are answered in a November 1971 report from the Texas Transportation Institute, Texas A & M Research Foundation, entitled "Input Response Tests of Selected Small Passenger Cars" (hereinafter referred to as "the TTI Report"). This report, along with the report of the specially-convened Panel of experts assembled by the NHTSA to make recommendations with respect to its testing program, as well as a great deal of manufacturer information and test reports, served as the basis for the "DOT Evaluation," which is an analysis as well as a summary of these documents and information. A xeroxed copy of the TTI Report, which is currently out of print, is enclosed for your information. Additional factual information with respect to Corvair Handling can be found in the voluminous public file concerning the Corvair Handling investigation. This file, titled Handling and Stability 1960–63 Corvair, IR–279, is available for inspection in the NHTSA Technical Reference Division, Room 5108, DOT Headquarters Building, 400 7th Street, S.W., Washington, D.C., during business hours. Material contained in the public file may be copied in accordance with our normal procedures.

While the TTI Report does answer most of your questions, I also would like to address myself to them briefly. I shall treat each of the subject areas you have raised separately.

1. TEST VEHICLE DATA

The test vehicles and backup vehicles were purchased from dealers and private owners in the Houston-Dallas-Bryant, Texas, and Buffalo, New York areas. (The Buffalo vehicles were purchased when an organization in that area was under consideration for the award of the testing contract.) Each vehicle used in the tests was brought up to the manufacturer's specifications in accordance with the service manuals. Brake systems and tires were replaced on all test vehicles; suspension system elements and other components were replaced as needed. Replacement parts were obtained from the original manufacturer's (in most instances, the dealer's) supply, they were not necessarily identical with the original equipment but were recommended and stocked as replacements by the manufacturer or dealer. No original equipment replacement parts were specially manufactured for use in the testing program. Original equipment tire manufacturers recommended currently available tires which were comparable in their specifications (construction and size) to the original equipment. These recommended tires were used for all vehicles except the Renault. Because it was not possible to obtain original equipment-size tires for the Renault before the inception of the testing program, the optional, slightly larger tires recommended by the manufacturer were substituted.

It is interesting to note that very few 1960–1963 model year vehicles are still equipped with their original tires and shock absorbers. Therefore, the tires and shock absorbers actually used in the tests were representative of the equipment most likely to be in use on such vehicles today.

2. MODEL CHOICE

Prior to selecting a specific Corvair vehicle for testing, the DOT task force consulted the service manuals for all model year Corvairs, and concluded that there was no significant difference in the suspension systems of 1960–1963 model year Corvair vehicles. (This conclusion coincided with the position of Mr. Ralph Nader and his associates, who identified the 1960–1963 model year Corvairs as a class that performed differently from 1964–1969 model year Corvairs.) Published data are available concerning shock absorber rates, control arm travel limitations and suspension

and steering geometry for each of the model years in question. This information can be found in the Corvair Handling public file.

3. TEST CONDITIONS

It was not possible to test the vehicles included in the program under all conceivable variables of loading, environment, maneuvers, etc. While the weight of the test equipment was such as to only partially load a six-passenger vehicle, this same weight imposed a heavier, almost full, load on the smaller four passenger cars. Thus, all vehicles were tested in the fully loaded condition to assure uniformity and comparability in the program. It is interesting to note that these severe test conditions were urged upon the agency by Mr. Nader.

The severe test maneuvers generated severe sidewall wear on the tires of the test vehicles. Accordingly, in order to prevent the accumulation of biased test data from worn tires, the requirement that tires be replaced when worn 20 percent was imposed. Moreover, the replaced requirement of tire replacement at a uniform level of wear ensured uniformity of test conditions with respect to each of the test vehicles, so that comparisons of performance between vehicles could be made from quantitative data. Thus, uniformity of test conditions and repeatability of test results were very important considerations underlying the tire replacement specifications in the testing program.

4. TEST METHOD

The Input-Response tests were designed to provide a series of maneuvers from which quantitative data could be obtained under rigidly controlled conditions for comparing the performance of the various vehicles. Prior to conducting the testing program, the NHTSA reviewed available test concepts, including Input-Response (no driver feedback) and Task Performance (with human driver feedback control). Task performance was ruled out because of subjective nature of human control and lack of objective measurement. Input-Response was selected because of objectivity and repeatability; these tests then evaluated vehicle response to an input independent of the driver. Input-Response testing using sophisticated instrumentation already developed by the University of Michigan study (NHTSA Contract FH–11–7929) was recommended by Mr. Nader and his associates.

In addition to the quantitative data obtained through the input-response testing program, the NHTSA studied and evaluated films, proving ground test reports, and other documents submitted by General Motors which relate to task-performance testing on the Corvair. A number of these films and documents are included in the Corvair Handling public file. It should be noted that this task-performance data revealed no mismatch between driver input and driver response, as your letter suggests.

Thorough documentation of the input-response testing program, including text, photographs, diagrams, and charts, is contained in the TTI Report.

I hope that this letter has served to increase your understanding of the Corvair handling test program, and that it will be of assistance to you in communicating with your readers.

Please let me know if I can be of further assistance.

Sincerely,

LAWRENCE R. SCHNEIDER,
Chief Counsel.

U.S. DEPARTMENT OF TRANSPORTATION,
Washington, D.C., February 23, 1973.

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

DEAR MR. CHAIRMAN: This is in reply to your letter of February 1, 1973, concerning the handling and stability of the 1960–63 Corvair. Your questions are answered seriatim.

QUESTION NO. 1

As we previously stated in our letter of December 20, 1972, the Corvair investigation generated a great deal of investigative information from the industry, the public, and the National Highway Traffic Safety Administration (NHTSA) comparative testing program. Upon completion of the investigation, most of this information was placed in our public files. Other miscellaneous test material and data, including the pilot test program, test data rejected because of instrumentation errors and incorrect procedures, and certain noncomparative tests not relating directly to our comparative testing were not placed in the public file at that time because our technical staff did not consider this material and data to be valid for the comparisons nor was it used for this purpose. At no time was this material intentionally withheld from the public. Once compiled and indexed, this miscellaneous material, which in no way invalidated or compromised the conclusions of NHTSA's report, was added to the public file and voluntary forwarded to the Committee.

Also, this material was not withheld from the Panel. It was always available for their review as part of the large volume of documents and films accumulated during the extensive NHTSA investigation. The Panel had a sizable task in reviewing all the material studied and work performed by NHTSA and they did not examine in detail each and every piece of information. Subsequently the Panel was contacted to determine if specifically considering the noncomparative tests would result in modification of their conclusions or report. Each of the Panel members indicated that it would not.

There were some considerable and important differences between the Highway Safety Research Institute (HSRI) tests and the Texas Transportation Institute (TTI) tests. One significant difference was the condition of the test surfaces which in both cases were former aircraft runways. The surface in the original HSRI tests, which they recognized as being in poor condition, was concrete that was spalled and cracked with marked irregularities and uneven displacement at the divider strips. The test surface at TTI on the other hand was in much better condition, with more even and uniform surface and less distortion at the divider strips. HSRI personnel aided in the selection of the TTI test site and recommended the actual area on the runway that was subsequently used. Even this test surface at TTI was too irregular and rough for HSRI's follow-on research contract; this area was resurfaced to create a smooth, high-coefficient skid pad that eliminated these irregularities.

Another significant difference was the effect of using tires that had unique and abnormal sidewall, shoulder, and tread wear patterns resulting from previous severe limit maneuvers and using tires that had been broken-in and the wear monitored to assure uniformity and repeatability in the tests.

The tires in the 18 p.s.i. (hot) front and 30 p.s.i. (hot) rear TTI noncomparative tests were tires that had the unique wear patterns from previous severe limit maneuvers similar to those believed to be on the Corvair during the HSRI drastic steer, drastic brake maneuver. The tires on the 28 p.s.i. (hot) front and rear TTI noncomparative tests were tires that had not been used in previous limit maneuvers. These tires were broken-in and the wear monitored in accordance with the procedures of the comparative test program. The wear referred to is that resulting from severe limit maneuvers, not normal highway wear.

No outrigger contact occurred during any of the TTI 28 p.s.i. (hot) front and rear tire noncomparative maneuvers. During one 50 m.p.h., 18 p.s.i. (hot) front and 30 p.s.i. (hot) rear TTI noncomparative maneuver, with the tires that had the unique sidewall, shoulder, and tread wear from previous severe limit maneuvers, outrigger contact occurred. The tires were switched so the tires with the smaller amount of wear from the limit maneuvers were placed on the outboard side of the vehicle in the turn and the tires with the greater amount of wear were on the inboard side of the turn. No outrigger contact occurred at either the same steering input or more severe steering inputs up to the limit of the equipment.

During the 60 m.p.h., 18 p.s.i. (hot) front and 30 p.s.i. (hot) rear TTI noncomparative maneuver again with tires worn from previous severe limit maneuvers, no outrigger contact occurred until the last run with the maximum (for the equipment) steering input. When the rear tires were switched left to right and right to left and the maneuver repeated at this maximum input, no outrigger contact occurred.

Another difference between the HSRI Corvair drastic steer, drastic brake maneuver and the TTI noncomparative maneuvers was that the large majority of TTI noncomparative maneuvers were conducted at more severe levels.

It is NHTSA's view that none of the miscellaneous test material and data modifies our previously announced decision that the handling and stability performance of the 1960–63 Corvair does not result in an abnormal potential for loss of control or rollover and that its handling and stability performance is at least as good as the performance of some contemporary vehicles both foreign and domestic. If anything it adds support to our decisions relative to importance of certain controls necessary for this type of testing. The variation in results on tests due to abnormal tire wear is also supported by more recent research.

QUESTION NO. 2

Mr. Nader now attempts to deny the advice of his own experts. On March 17, 1971, Mr. Gary Sellers, Mr. Nader's expert advisor at the time, wrote a letter to Mr. Rodolfo A. Diaz stating that in his opinion the maximum vehicle load represented the *most severe* test conditions for this parameter. Contrary to "speaking for himself," as Mr. Nader states, Mr. Sellers' opening paragraph states: "Mr. Nader has asked me to follow-up on this matter. . . ." No less than 10 times in this letter he refers to Mr. Nader and himself as "we" or "our." Further, these recommended test procedures were made known by copies of Mr. Sellers' letter to Mr. Nader and two of his other engineering experts, Mr. Edward Heitzman and Mr. Albert Fonda, who never indicated any disagreement. In documentation of these facts, we quote more fully from Mr. Sellers' March 17, 1971, letter:

"In general, we suggest that the testing on these vehicles begin under conditions where the critical variables (such as high coefficient of friction, equal tire pressures, heavy weight load, etc.) are at the most severe levels—those most likely to reveal the defects alleged—or the differentials in the margin of safety present. If under these conditions, the Corvair does *not* respond in a dangerous fashion, at variance with the public's expectation of response, then the public can be content that the defects revealed in the GM proving ground reports are anomalous or mistaken. . . ."

and:

"Our more specific suggestions are: . . . 5. That the vehicle also be tested with the maximum recommended load (such as weight of four to six passengers), as might often be experienced on a Sunday drive. (Mrs. Collins had six people in her vehicle and luggage on the roof when her Corvair went out of control.) . . ."

Due to the complexity of any vehicle handling and stability tests, it is impossible to test all vehicles in all configurations and load conditions. The nature of the NHTSA input-response tests required a heavy instrumentation load and as these tests were for comparison, the full load test condition was adopted as the test configuration most compatible for all the vehicles involved. This was, of course, in keeping with the recommendations of Mr. Nader's experts as to the most severe conditions. It would appear that the Corvair critics' objections are prompted more by the results than by an objective review of the procedures.

Considering the infinite combinations of vehicles we do believe that our tests and studies have sufficiently covered the subject, including variations of configurations, to establish that the Corvair handling is not a safety related defect.

NHTSA evaluated a considerable amount of documents and films from General Motors (GM) and other sources where human drivers were operating Corvairs under extremely severe conditions as well as normal conditions. The NHTSA rationale for not using human drivers in its test program is documented on pages 6–10 of the NHTSA report. Essentially, this part of the report explains the limitations in the state-of-the-art relative to vehicle handling, the lack of definitive standards, the problems of quantifying the effects of driver-vehicle-road interface, and the reasons for NHTSA selection of input-response tests for the Corvair test program. Further, it explains the specific criteria for the selection of the maneuvers and test conditions actually used in the NHTSA tests.

Finally, the NHTSA would like to call the Committee's attention to the fact that the record is full of opinions by individual drivers, some of considerable reputation. The injection of still another human driver into the tests, with the attendant questions of driver selection, driver skill, and definition of "normal conditions," would have yielded just another subjective opinion and resulted in prolonging the debate as long as one side or the other was not satisfied with the result.

The problem of determining the effects on vehicle control of drivers impaired by carbon monoxide, alcohol or drugs is the subject of major research by both industry and Government and is, of course, beyond the scope of the Corvair test program. With the current state of scientific knowledge on this subject it is easy to philosophize but virtually impossible to quantify this effect on the Corvair's handling and stability.

QUESTION NO. 3

NHTSA is confident that none of the officials assigned to the Corvair handling and stability study had a conflict of interest. Mr. Ernest P. Wittich, a former employee of GM, has been accused of having a conflict of interest by Mr. Nader. While employed by GM, Mr. Wittich participated in a savings plan that resulted in the simultaneous acquisition of GM's stocks *and* Government savings bonds. At present he still retains the nominal amount of stocks and Government bonds acquired through this savings program. The modest amount of his holdings is considered to be inconsequential to affect the integrity of an employee's services in any manner in which he may act in his governmental capacity. Contrary to Mr. Nader's inferences, Mr. Wittich did not have sole control of the study or test preparation. In addition to normal supervision by his engineer supervisors, he was joined by three other engineers during the tests. Further, the test program and procedures were formulated by a larger group of engineers and Mr. Wittich had minimal input into these requirements.

QUESTION NO. 4

The NHTSA did not accept the opinions or conclusions of either the proponents or opponents of the Corvair without question. We did solicit and accept films, data and information from various sources and read and listened to many opinions. The Administration then sifted and evaluated these inputs to arrive at our own independent conclusions. The fact that we may have arrived at the same conclusions as someone else does not mean they were adopted without question. Allegations to the contrary are simply not true.

More specifically, NHTSA's evaluation of the significance of these GM rollover tests is documented on pages 34 and 35 of the NHTSA report and the summary is quoted here for your information.

"In summary, because of the nature and severity of these development tests which were not representative of the practical driving environment, these tests should not reasonably be interpreted to conclude that the 1960–1963 Corvair is susceptible to rollover at low speeds on a flat surface in the normal driving environment."

The foregoing is NHTSA's evaluation—not GM's.

In addition to GM's data on driver-vehicle interaction, NHTSA also examined other reports of such interactions and related driver-vehicle-road interface problems that are documented on pages 97–102 of the NHTSA report.

"A Study of the Relation Between Forward Velocity and Lateral Acceleration in Curves During Normal Driving." ("Human Factors," June 1968)

Accident studies by Cornell Aeronautical Laboratories, Inc., and B. J. Campbell, University of North Carolina.

Technical articles and consumer groups analyses of Corvair performance.

Ford Motor Company data.

Mr. Nader also cited certain Ford Motor Company data in his accusations. As recently as May 12, 1972, in his press conference Mr. Nader used a 1959 Ford Motor Company film and an analysis of it by Mr. Harley Copp to support his contention concerning driver-vehicle-road interface actions. This material was not considered valid by NHTSA in its evaluation.

Since that time these tests on which Mr. Nader relied so heavily have been reproduced four times. Twice they were reproduced at the GM Proving Grounds by GM. The clearly documented results support the NHTSA analysis. The tests were also reproduced twice at the Ford Proving Grounds, once by GM and once by Ford Motor Company. The GM tests were well documented and they again confirm NHTSA's analysis and disprove Mr. Nader's accusations. The Ford Motor Company tests were not documented as precisely as the GM tests but the results, as expressed in the Ford Motor Company December 22, 1972, letter to your office, were essentially the same.

"In an attempt to resolve the question, we purchased a used 1961 Corvair and had one of our engineers, who is not a professional driver, drive it on the same segments, of our track on which the original test was conducted. He had *no* (emphasis added) difficulty in negotiating the turns at the speeds set forth in the Safety Administration report, which were apparently the speeds used in the 1959 film. We also permitted General Motors to conduct tests of the Corvair and Falcon on this track and we understand that *neither the Corvair nor the Falcon had any difficulty in negotiating the turns* (emphasis added)."

NHTSA's rationale for not using human drivers in the Government test program is explained in our answer to Question No. 2.

We are forwarding your letter with its enclosures to the Panel members for their information and evaluation. Should any member feel the need to comment further or modify their conclusions, we will arrange to forward this information to you at once.

In summary, Mr. Chairman, we believe we have completed all logical investigation of the Corvair's handling characteristics within the constraints of the resources the question warrants expending. A huge volume of data and information has been examined and an engineering test program conducted, both in an unbiased and professional manner. The Administration has spent over one-half million dollars in direct costs for less than one-half of 1 percent of the vehicles on the road and probably a considerably lower percentage of the mileage driven.

If we can be of any further assistance to the Committee or the members of your staff, please contact us.

Sincerely,

DOUGLAS W. TOMS,
Administrator.

EXHIBIT F

JANUARY 30, 1973.

Senator WARREN G. MAGNUSON,
Senator VANCE HARTKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON AND SENATOR HARTKE: On July 12, 1972, the National Highway Traffic Safety Administration (NHTSA) issued its final report on the safety defect investigation of the early Corvair's handling and stability. The report concluded that "the handling and stability of the 1960–1963 Corvair does not result in an abnormal potential for loss of control or rollover. . . ." A careful analysis of the technical test materials and supporting documents shows that the NHTSA had no justification for drawing this conclusion from its tests and the other evidence available to the agency.

The hard evidence of Corvair rollover presented by at least three General Motors proving ground test series contemporary with production of the early Corvair is dismissed by the NHTSA which merely adopted General Motors' unsubstantiated rationale that the tests were not fairly representative of production Corvairs in ordinary use. In fact, these internal General Motors tests first confirmed the instability problem for on the road Corvairs. Proving Ground report 11106, April 1959, produced these results:

"J turns to the right were tried on the military skid pad at 15, 20, and 25 mph. Right wheel lift was noticeable at 15 and 20 mph. At 25 mph, the vehicle rolled onto its top."

In subsequent tests General Motors attempted to find various inexpensive design modifications to correct the defect. Although some proved to be of little assistance, each modification tested by General Motors was intended to improve Corvair stability. This fact was not revealed in General Motors academic argument that any vehicle modification disqualified the proving ground tests from consideration. The NHTSA merely dittoed the General Motors company line.

The NHTSA's own Corvair test program,[1] on which the agency primarily based its no "abnormal potential" conclusion, is grossly deficient in at least three key respects:

1. The vehicles were tested *only* in their fully loaded configuration.

2. The vehicle tests were solely of the programed input-response type (using a driver simulator) under idealized conditions. No tests were carried out with human drivers under normal conditions (uneven road surfaces, reduced traction, wind, and so on).

3. The ability of a driver impaired by carbon monoxide from the Corvair heater (found defective by the NHTSA in October 1971) to safely operate a Corvair in unusual driving circumstances was completely ignored.

The placement of the maximum recommended load in the Corvair for the test

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[1] This test program was conducted at Texas Transportation Institute (TTI) in 1971.

program does not comport with scientific test procedures which presume that the test conditions bear a reasonable relationship to real life conditions. One cannot generalize the results of tests in this unusual configuration to cover vehicles lightly loaded with one or two passengers—the condition of the Corvair in most actual trips. The negligence in conducting tests only with the vehicles fully loaded is demonstrated by the fact that the agency engineers knew or should have known that internal General Motors proving ground tests of ten years ago showed that the addition of significant weight to the rear of the Corvair increased the stability in emergency maneuvers.

Tests conducted by General Motors in 1962 and 1963 demonstrated that two changes in the Corvair produced substantial improvement in the stability of the Corvair during J turns. One change was a redistribution of the roll couple toward the front suspension. Another change was the addition of two high speed movie cameras to the rear of the vehicle which lowered its center of gravity 0.8 inch and moved the center of gravity back 4.7 inches. The cameras increased the weight at the rear from 1,771 pounds to 1,981 pounds and increased the moment of inertia of the vehicle about all principle axes. The General Motors proving ground report (PG–17103)[2] concluded:

"These tests showed that the dynamic stability of the current production 1963 Corvair was not substantially improved through practical modifications to shock absorber design and configuration. A test phase which incorporated a pair of high speed movie cameras mounted on outriggers to the rear of the car, showed that this change in the weight distribution prevented the car from overturning during these test maneuvers."

By testing the Corvair for loss of control and rollover potential only while the vehicle was fully loaded, the NHTSA may have introduced an artificial stability into the Corvair in much the same way the General Motors engineers had inadvertently introduced such stability through the placement of camera outriggers on the vehicle in the 1963 tests. While such a test might be important for identifying a possible correction system for unstable Corvairs, it should been only one of at least several modes in which the Corvair was tested, especially since the vast majority of car trips carry only one or two passengers and little luggage.

There is additional evidence to suggest that the loading of the Corvair by those persons conducting the NHTSA test introduced an artificial stability. In 1970 the Michigan Highway Safety Research Institute (HSRI) conducted vehicle handling tests for the NHTSA with this newly developed driver simulator on a lightly loaded Corvair automobile. Although the same test procedures were used, the Michigan tests, conducted under Professor Leonard Segal produced drastically different results than the tests conducted by the NHTSA at TTI with a Corvair loaded to the manufacturer's maximum recommended weight for passengers and luggage. As Professor Segal explained in a letter to me:

"We rolled the Corvair a large number of times and produced sufficient wheel-rim/road-surface contacts that the rear suspension and axle assembly finally broke loose, dropping the transmission. We then had to repair the Corvair to complete our test program."

The NHTSA has offered no explanation as to why it ignored the test results of the Michigan Highway Safety Research Institute in the agency's own report. As Professor Segal observed: "It appears that rollovers occurring with a less than fully loaded Corvair didn't count as valid data points for the purposes of DOT's study."

The irony of ignoring the results of the Michigan and General Motors tests with the lightly loaded Corvair is all the greater when one realizes that the methods for testing the stability of the Corvair were borrowed by NHTSA personnel from the tests conducted by the Michigan Highway Safety Research Institute. Why would NHTSA borrow the test methods but choose to ignore the test results?

Contrary to what the agency should have produced, it conducted an inadequate and unprofessional test program which made no effort to search out the performance characteristics of the Corvair as it operates under varying conditions, including particularly its behavior when driven by humans on the highway, some of which are well surfaced, some of which are uneven or indeed bumpy, some of which are slippery or subjected to heavy winds. While the new HSRI driving simulator is an important innovation for test objectivity and repeatability, and adds flexibility to the range of handling tests which can be conducted, there is also the danger that a machine will not accurately simulate human drivers. For example, the HSRI machine has no feedback response, it does not drive the vehicle in reaction to road and other conditions, and it does not reflect a range of driving capability typical of human drivers. Once the HSRI machine is programmed, no other variables will influence the controls. Thus, the driver simulator should be treated as one important tool in a range of test experience rather than as the only alternative methodolgy.

Simultaneous with the opening of the handling and stability investigation, the NHTSA began a defect investigation into the heating system of the 1961–1969 Corvair which it found to be a source of carbon monoxide brought into the passenger compartment. The NHTSA chose to consider these as independent defects although they are intrinsically inseparable. A driver whose reactions and perceptions are impaired by carbon monoxide inhalation will pose a considerably greater hazard when driving a vehicle with unusual and unpredictable handling characteristics. Conversely, such a vehicle becomes considerably more dangerous when in the hands of an impaired driver. Although it is a unique circumstance for one safety defect to have such a direct and devastating impact on another defect in the same vehicle, it is no solution to ignore the relationship. On the contrary, even if there is only some doubt about the handling stability of a vehicle whose passengers are likely to be subjected to carbon monoxide poisoning, the agency should balance the equities in favor of the likely victims. The burden of proving the handling defect should be a lesser one in view of the confirmed existence of the carbon monoxide defect.

There is a final matter which I wish to bring to your attention concerning the handling and stability investigation of the Corvair. The NHTSA selected as its lead investigator a person who had for 16 years been employed by General Motors Corporation in the reliability and service area and who, according to a deposition taken in a recent lawsuit, continues to own stock in General Motors. The NHTSA should explain to the Committee and the public why such a person with no engineering degree or expertise in vehicle handling and stability, with a possible conflict of interest was placed in charge of the test program of this important and controversial defect investigation.

It is a national disgrace that the agency responsible for the protection of lives on the Nation's highways can spend almost one million dollars (or an amount equal to nearly half of the annual safety defect budget) investigating and reporting on a suspected defect without designing proper tests to confirm or deny the existence of such defect. In this particular case there was also a special burden on the agency because no generally recognized standard tests for auto handling and stability have been adopted either voluntarily by the industry or by the government. In view of the lack of standardization and the variation of test possibilities, the agency should have been especially alert to soliciting advice from all interested parties before spending the time and large sums involved in these tests. In fact, the agency refused my request to permit comment on their proposed test program by all interested parties and to permit observers at the test site in Texas. My concern in this matter goes beyond my own judgment that the stability and control characteristics of the Corvair are defective. At issue is not only the some 300,000 1960–1963 Corvairs still in use but also the continued vitality and credibility of the NHTSA which demonstrated shocking ineptitude in one of its central missions, namely, investigating motor vehicles for possible safety related defects.

The entire Corvair inquiry by the NHTSA has displayed the need for closer oversight by the Congress, and has reinforced the obvious need for a Consumer Protection Agency and a citizen right of intervention and action in administrative activities and litigation. In the handling and stability Corvair inquiry, a most deplorable political judgment (see enclosed article) and a desire to avoid the recall of early Corvairs which could have required similar treatment of early VWs and early Renaults, led to the engineering malpractice that is now being given a disgraceful official recognition. Hundreds of thousands of owners, passengers and other highway users continue to be jeopardized in these cars and the NHTSA's repudiation of their interests has further entrenched a system of regulator enforcement that will lead to similar evasion and casualties in the future regarding other vehicle types.

The broader and deleterious precedent set by this government Corvair test has already eroded the integrity of the agency. The auto industry will understand how even more flexible the agency can become in permitting similar outrages to suffer their innocent victims in defiance of the auto safety law which you did so much to have enacted.

Attached is a technical analysis by Dr. Carl Nash criticizing the NHTSA Corvair report which explains in more detail the issues raised in this letter.

Sincerely,

RALPH NADER.

FEBRUARY 1, 1973.

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

DEAR MR. CHAIRMAN: I would like to submit additional information which further substantiates the judgment expressed in my letter of January 30 about the rigged scope of the National Highway Traffic Safety Administration Corvair handling tests.

It now emerges that the NHTSA engineers who conducted the Corvair testing at Texas Transportation Institute (TTI) did withhold or suppress data on tests of lightly loaded Corvairs from the agency's July 1972 final report (and supporting materials in the public docket).* These tests were withheld also from the 3-man panel of review. Not only did these tests include roll over and rim contact behavior but more pertinently they reveal in sharp etching the decisive de-

[2] This PG report was never produced in product liability cases by General Motors until it was inadvertently discovered by outsiders in late 1970. General Motors claims that the report was misplaced due to a clerical typographical error.

* Since July the engineers have been ordered by their superiors to remain incommunicado to any inquiries relating to their report and their role in it.

ficiencies of the reported tests and the knowledge of these invalidations by at least those NHTSA personnel who prepared and closely reviewed the report. Moreover, the outside reviewing panel was not privy to these undisclosed test descriptions in preparing their analysis of the agency's work.

In the General Motors proving ground Corvair tests of 1963 it was shown that the test equipment laden Corvairs were more stable than those without the equipment. The Corvairs which were lightly loaded, as they would be for most Corvair trips (one or two occupants), routinely rolled over on General Motors proving grounds and during the Michigan Highway Safety Research Institute (HSRI) tests. To achieve their objectives of exonerating General Motors and pleasing their administrative superiors, the NHTSA engineers tested heavily laden Corvairs—in effect rigged to be more stable. These tests were the basis of their final report acquitting the Corvair, while the lightly loaded Corvair tests were suspended and their embarrassing preliminary findings scrapped. The explanation the NHTSA repeatedly gave for relying on heavily laden vehicles was a willful distortion of Mr. Gary Sellers letter suggesting test procedures (see Dr. Nash's report).

The disclosure of a possible conflict of interest on the part of TTI test project engineer Mr. Ernest Wittich, and the undisclosed private visit at the beginning of the inquiry to the NHTSA defect investigating staff by General Motors' Frank Winchell—a veteran participant and strategist at Corvair litigations—are not reassuring.

The role of General Motors in the course of the nearly two year long period over which the NHTSA conducted its Corvair inquiry merits closer scrutiny. What were the communications—oral and written—between General Motors or their agents and any of the engineers and other parties associated with the NHTSA investigation? The above noted disclosures make this question a timely issue.

Furthermore, the latest development over the Harley Copp matter between Ford and General Motors are disturbing and directly pertinent to your Committee. You will remember how Harley Copp, Director of Engineering, Technical Services Office for the Ford Motor Company, publicly challenged General Motors' statement in 1971 that the Corvair was as stable as the Falcon. For this exercise of independent engineering judgment and free speech, Mr. Copp has received the corporate freeze-out treatment. Mr. Henry Ford apologized by telephone to General Motors Chairman James Roche and rebuked Copp who was relieved of many of his responsibilities. Other things began to happen. Mr. and Mrs. Copp found themselves under surveillance at their home before and after Mr. Copp testified before your Committee in July 1972 to amplify his criticism of the Corvair and the NHTSA's defective Corvair report. As you know, intimidation or harassment of witnesses before Congressional hearings is a federal crime. This may explain why the FBI is presently investigating the surveillance of Mr. Copp in Michigan.

The pressure which General Motors successfully applied to Ford to subdue the challenge by Mr. Copp and past Ford tests of the Corvair to General Motors' version of the Corvair's roadway behavior is extraordinary. Ford tested early Corvairs (1960–1963) quietly at its proving grounds in 1959, 1966, and 1968. It is apparent that Ford engineers regarded the Corvair as having unacceptable handling and stability. They used it to validate the discriminatory ability of the test procedures developed in 1966 and 1968 (a test which the Corvair would not *fail* would be regarded as not valid).

After Mr. Copp's outspoken declaration, General Motors' demands on Ford, and the NHTSA July 1972 Corvair report, the following dilemma and resolution occurred. Ford had three choices—stand on its prior Corvair tests, disavow its tests, or conduct new tests. The way out of this dilemma was to avoid the first two choices and take the third. Predictably, the Corvair in the new Ford track tests did not go out of control for the Ford driver or the General Motors drivers which Ford fraternally invited over to go through the same motions.

Against the revelations of previously undisclosed NHTSA Corvair tests, the glibness of Mr. Douglas Toms appears exceptionally egregious. Shortly after the NHTSA Corvair report was released, Mr. Toms declared:

"[The decision on the Corvair handling] included the engineers who actually conducted the testing, their supervisors at higher levels in the engineering and technical area, the legal staff which thoroughly reviewed the engineering finding and recommendation, and the policy makers of the NHTSA, including myself."

Somehow, such a presumably thorough review by Mr. Toms and his associates did not result in the disclosure of the discomforting test results and procedures noted above.

On July 25, 1972, before your Senate Commerce Committee, the following exchange took place, first between Senator Vance Hartke and Mr. Toms, and second, between Senator Hartke and the NHTSA General Counsel Lawrence R. Schneider and his Assistant General Counsel, Frank A. Berndt:

Page 237: Senator HARTKE. I understand that all the vehicles that were tested represented the manufacturers' maximum recommended load. Is that true?

Mr. TOMS. That is correct.

Senator HARTKE. Why?

Mr. TOMS. Because, number one, again, Mr. Nader's representative suggested that we test them in a fully loaded condition. Number two, the type of instrumentation on the controllers of these vehicles were heavy and in general it was close to the equivalent of a fully loaded vehicle.

Pages 242–3: Mr. SCHNEIDER. It's been our policy on any investigation that the investigation is something that is totally within our prerogative and control and if you will, secret, until such time as that investigation is completed and then everything becomes public.

We have set up a public file that totally discloses what was done during the course of the investigation. It's a long-standing practice. It's a long-standing practice of any agency at least that I am aware of that has investigatory authority.

Senator HARTKE. Are those included in your report, all those documents and films?

Mr. BERT [sic]. All of the films and all of the data——

Senator HARTKE. The studies?

Mr. BERT. Publicly available except certain information that is proprietary to the manufacturers.

It is now clear that the above responses by NHTSA officials were not the truth. Moreover, repeated again is the excuse that the vehicles were tested in heavily loaded conditions because of Mr. Gary Sellers' recommendations. This is a wilful distortion of what Mr. Sellers, speaking for himself, urged. He recommended that the vehicles to be tested have all critical variables at their most severe levels (on-the-road driving, not on a flat open surface by an automatic pilot), and for the heavily loaded mode not to be excluded by the agency in its test program.

Thank you for your continuing public interest in motor vehicle safety.

Sincerely,

RALPH NADER.

FEBRUARY 1, 1973.

Mr. DOUGLAS TOMS,
Administrator, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C.

DEAR MR. TOMS: In July 1972, the National Highway Traffic Safety Administration released its long-awaited evaluation of the handling and stability of the 1960–1963 Corvair. As you know, interest in the safety of the Corvair has been widespread and it was hoped that the National Highway Traffic Safety Administration's study would conclusively settle the ongoing-controversy.

I have recently received a technical evaluation and letter from Mr. Ralph Nader challenging several aspects of testing procedure and process utilized by the National Highway Traffic Safety Administration in its analysis of the Corvair suspension system. Mr. Nader raises four major concerns:

1. Alleged Suppression of data from tests: Why was the existence of data from Corvair tests utilizing lightly loaded vehicles conducted at the Texas Transportation Institute withheld from both the public and the Panel until six months after the release of the completed NHTSA handling report (December 1972)? Does the recently revealed data invalidate the test procedures and controls described in the July report? To what do you attribute the inconsistent results of the recently revealed test data and the results obtained by the Highway Safety Research Institute? Does the NHTSA believe that the difference between the recently revealed TTI test series and the HSRI test series are due to very subtle differences in the two vehicles tested, and if so, what is your conclusion with regard to the safety of Corvair actually operating on the highways? What is the basis for NHTSA's determination that the recently revealed data was not valid for the purpose of your investigation?

2. Technical Competence of the Tests: Why were the vehicles tested in only their fully loaded configuration? Why were no tests carried out with human drivers under normal conditions (such as uneven road surfaces, reduced traction, wind, etc.)? Why didn't the NHTSA pursue the effect of carbon monoxide from the defective heater on the driver's ability to control the vehicle?

3. Potential Conflicts of Interest: Has the Administration determined to its satisfaction that no NHTSA officials assigned to the Corvair handling and stability study were in conflict of interest by the holding of stock of the General Motors Corporation?

4. Unquestioned Adoption of General Motors Test Results: Did the NHTSA merely adopt General Motors' unsubstantiated rationale that numerous GM rollover tests conducted in 1959, 1962 and 1963 were not fairly representative of production Corvairs in ordinary use? Similarly, why did the NHTSA accept General Motor's discussion of driver-vehicle interaction without substantiation for the particular case of the Corvair?

I solicit your comments and the analysis of the engineering panel on Mr. Nader's letter and evaluation of the NHTSA study and I have enclosed copies of these documents for your information. I am looking forward to your response by February 15, 1973. My purpose in seeking your comments is not to prolong the Corvair controversy. Upon receipt of your response, I will evaluate your comments to determine whether the Senate Commerce Committee should take direct action to assure timely and technically competent defect investigations by the NHTSA.

Sincerely yours,

WARREN MAGNUSON,
Chairman.

EXHIBIT G

HIGHWAY SAFETY RESEARCH INSTITUTE,
Ann Arbor, Mich., August 17, 1972.

MR. RALPH NADER,
Public Interest Research Group,
Washington, D.C.

DEAR MR. NADER: Prior to making any comments with respect to the facts and opinions set forth in the two DOT reports dealing with the "handling and stability" of the 1960–1963 Corvair, I would like to emphasize that I have not seen the mass of material (films, GM reports, etc.) that was screened by DOT personnel and the panel in the course of making their respective evaluations. What I have seen is some of the testimony that was given in various litigations involving the Corvair (although it was quite a few years ago) and the draft copy of ITT's data report on the test program performed in Texas, and, of course, I am quite familiar with the test work that was done here under my direction. Therefore, I shall try to be very careful and comment on the basis of what I know and have seen, it being understood that there is much in the record with which I am not familiar.

It seems patently clear that DOT personnel, having produced negative findings in the Texas tests, reevaluated the data developed and furnished by other parties and drew conclusions which they felt to be consistent with their own test findings. On the basis of personal conversations that I had with DOT personnel associated with this program, it is my recollection that they fully expected the Corvair to roll over in the course of the test program. Since it did not (according to the official report), it appears that NHTSA staff have gone to some effort to discredit the conclusions drawn by others or to interpret the test findings of other parties in a manner so as to make their own findings look reasonable. Whether there has been any conscious effort to twist the facts would be difficult to say. For example, I can see how NHTSA personnel and the evaluation panel, in view of their fundamental limitations in separating the "wheat from the chaff," would arrive at the position expressed in these two documents in the face of the hard evidence produced in Texas.

I must begin by stating that, in my view, the Corvair handling and stability issue has been thoroughly beclouded as the arguments have waged back and forth in the courtrooms and elsewhere during these past years. At the risk of sounding like a snobbish academician, it appears that the technical people which were involved failed to clearly define and explain the phenomena at issue. The argument presumably has been: does the Corvair present control difficulties to the average driver and, further, is it prone to roll over when emergency-like maneuvers are carried out on a flat, level surface.

As I recall, in much of the Corvair litigation there was a great deal of discussion as to whether the Corvair becomes "oversteer" under certain operating conditions and during these conditions becomes difficult for the average driver to control. A goodly amount of this same debate is to be found in the two documents under discussion and I can only say that everybody is talking about oranges when they should be talking about apples.

Let me get to the point. Under the extreme operating conditions in which Corvairs are known to roll over, the steady-state measures of equilibrium-turning performance (namely, under/oversteer) have no real meaning. All of the discussions dealing with the change in the under/oversteer characteristics of the Corvair caused by increased levels of lateral acceleration and all of the references to the under/oversteer transition are, in my opinion, irrelevant. Whereas the under/oversteer properties of a motor vehicle (as defined at low levels of lateral acceleration) serve to indicate (1) the influence of speed on the path curvature produced by steering, (2) the nature of the transient response to steering, and (3) the stability of the straight-running vehicle in the presence of disturbances, these properties do not characterize the response to steering when the steering input is sudden, transitory, and large to produce the abrupt change in vehicle trajectory often demanded in an emergency.

Test data indicate that the Corvair does *not* have a handling deficiency when drivers encounter the normal steering demands imposed by (1) roadway and traffic variables and (2) transport objectives. Further, the Corvair responds to sudden steering inputs of moderate size in a manner that is comparable to a broad spectrum of passenger vehicles. The rear swing axle and the rearward weight bias seem to be adequately compensated for in the design such that no unusual behavior is exhibited (1) in driver-controlled steady turns (up to the so-called "limit of control," which GM states is 0.6 g) and (2) in response to sudden steering inputs up to the point where the peak lateral acceleration achieved in the turn is approximately 0.5 g's. For dynamic maneuvers of increased severity, the nonlinear characteristics of the Corvair become very important, in particular the nonlinear growth of the vertical lift force deriving from the geometry of the rear swing axle.

In the tests performed at HSRI, it was observed that the Corvair was unique among the four vehicles tested in that its turning response to step steering changed character in an abrupt manner between successive runs in which the steering-wheel displacement was incremented from 129 degrees to 151 degrees. Not only was there an abrupt change in the character of the response, there was also a marked increase in the peak value of lateral acceleration that was achieved. For example, the steer displacement of 129 degrees produced a peak lateral acceleration of 0.47 g, with a steer displacement of 151 degrees producing a peak lateral acceleration of 0.78 g. This abrupt change in the character of the Corvair's response to steering is attributed primarily to the kinematic properties of the swing axle resulting in the rear end of the vehicle lifting and the rear tires inclining with respect to the road, a phenomenon that you have described in "Unsafe At Any Speed." It should be emphasized that this jacking behavior of the rear axle occurs in a rather abrupt manner, causing the vehicle to spin and to increase its sideslipping velocity.

Whether the Corvair, as tested at HSRI, would have eventually rolled over in the J-turn maneuvers that were performed here at Michigan is not known. At that time we were doing the "step-steer" maneuvers (J-turns with closed throttle) without outriggers and the behavior of the Corvair became sufficiently threatening as to convince the test driver that the sequencing of runs at higher steer inputs should be discontinued. I have reexamined the Corvair J-turn data and it appears that we may not have reached the "limit turning" response, as was established for the three other test vehicles. Thus, we are left with the question as to whether the Corvair would have rolled over in the J-turn maneuver, if the test procedure had not inhibited the driver from pushing the vehicle harder.

However, it is my view and that of HSRI staff, that the J-turns maneuver, per se, is not the maneuver most likely to induce rollover on a Corvair. Instead, a maneuver involving combined steering and braking is a more demanding test (or measure) of a motor vehicle's resistance to rollover. Further, the operational scenario is realistic. (The director of this Institute has informed me that he has personally witnessed the rollover of a Corvair on the highway in an incident in which the driver steered to change his course, applied his brakes to bring the vehicle to a stop and then released his brakes on observing the sidewise sliding that was taking place.) In the case of a Corvair, a sequence of steering and braking may produce rollover or it may not. It all depends on the control actions of the driver. If the amplitude and timing of the steering and brake inputs fall within a certain band, the dynamics of the situation will contrive to roll over a Corvair, provided that certain other operating conditions are satisfied.

Given that traffic conflicts arise whose attempted resolution can lead to steering and braking inputs that on occasion will cause a Corvair to roll over on a dry pavement, the question can be posed whether this behavior constitutes a "defect in performance." I contend that the answer to this question requires a legalistic judgment. An engineer may offer a value judgment on this matter, but he is not in a position to argue the existence of a "defect" on technical grounds. When all the facts are in, it will be evident that whereas the Corvair may be induced to roll over more easily than many other vehicles, nevertheless, other vehicles can be made to roll over on a flat, level surface. Do we conclude that any vehicle that can be made to roll over is ergo unsafe and should be removed from the vehicle population? Or do we separate "easy rollers" from "less-easy rollers" and call the former unsafe? And where does one decide at which level a vehicle passes from the "safe" category to the "unsafe" category? It is all very well for Messers Fonda and Sergay to state that "the vehicle, to meet what we believe is a reasonable standard of safety, must slide instead of rolling over on a flat road surface, with *any* combination of driver actions," but their considered opinion does not provide a technical basis for differentiating between "safe" and "unsafe" vehicles. The federal government, on the other hand, may establish such a requirement for vehicles to be sold to the general public and, if upheld, such a ruling will settle, for once and all, the argument as to what is "safe" and not "safe."

For your information, it was precisely this kind of thinking that led HSRI to propose (in response to a NHTSA request for procurement) that a test procedure be developed that would determine (in a precise, repeatable, objective manner) whether a passenger vehicle can be rolled over on a flat level surface. The NHTSA did not stipulate any such test or measure. Rather, this Institute argued that objective motor vehicle performance measurement technology is practically nonexistent and that steps should be taken to close this technology gap. It should be obvious to you that this position is not likely to obtain a favorable reaction in Detroit and consequently we are justifiably offended and grieved by your statements which imply that we are other than a fully objective research organization. It is difficult enough trying to do highway safety research for a government agency who is more attuned to political pressures and interests than it is for gathering facts, without having "safety crusaders" impugn our integrity.

Having said my piece, let me now discuss the test findings produced by NHTSA in Texas. Although I don't have hard test evidence, it appears that the request made by Mr. Sellers (Appendix IV of the DOT report) that NHTSA test the Corvair and its contemporaries in a fully loaded condition very likely served to make the Corvair more resistant to rollover whereas he anticipated otherwise. Mr. Sellers failed to understand that load, per se, is not the critical variable but rather the distribution of load. The irony is that NHTSA personnel went to great lengths to comply with Mr. Sellers' instructions and requests (as is so painstakingly pointed out in the DOT report) and presumably in so doing produced test findings that are serving to destroy your case.

There are at least two lessons to be learned here: (1) attorneys should stick to their legal practice and not practice engineering, even when it appears that engineers are reluctant to practice good engineering; (2) NHTSA technical staff should exercise independent technical judgments, once NHTSA policy makers have decided on a course of action.

Finally, it seems rather odd that both the writers of the DOT report and the panel chose to ignore the findings produced at HSRI. We rolled the Corvair a large number of times and produced sufficient wheel-rim/road-surface contacts that the rear suspension and axle assembly finally broke loose, dropping the transmission on the test pad. We then had to repair the Corvair to complete our test program. It appears that rollovers occurring with a less than fully loaded Corvair didn't count as valid data points for the purposes of DOT's study.

I trust that you will treat these remarks as an effort on my part to shed light on a long-standing controversy. Thus, this letter has been written for your personal edification and not for the purpose of aiding you in your campaign to remove the Corvair from the vehicle population. As I tried to express on the phone, the issues that you pose are not black and white, but highly confused grey.

Sincerely,

Prof. L. SEGEL,
Head, Physical Factory Group.

EXHIBIT H

PUBLIC INTEREST RESEARCH GROUP,
Washington, D.C., March 15, 1973.

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

DEAR SENATOR MAGNUSON: Thank you for responding to my request for a copy of Mr. Toms' letter of February 23, 1973 regarding Mr. Nader's inquiry concerning the NHTSA's Corvair handling and stability defect investigation. I have reviewed Mr. Toms' comments and I am not satisfied by his explanation of the way in which this investigation was carried out. Furthermore, I have reason to doubt that the investigation's conclusions are justified by the NHTSA's own data or its published analysis of the data gathered from other sources.

In order to explore the Corvair investigation on its merits, I request the following questions be explicitly answered:

1. The Loading of the Vehicles for the NHTSA's Tests at TTI:

(a) Prior to conducting the TTI tests, were the NHTSA engineers aware of the conclusion in General Motors' Proving Ground report PG–17103 which noted the particular stability of the Corvair when it carried extra weight on the rear axle and did this conclusion have any influence on the decision on loading made in the Texas tests? If not, why not?

(b) Quite aside from the question of carrying extra test equipment, did the NHTSA determine that the Corvair or any other car in the test program would perform in its most dangerous or unstable manner when fully loaded?

(c) When and how was such a determination made, if it was made at all, and what was the evidence and reasoning used in the determination?

(d) If such a determination was not made, was there any technical basis for heavily loading the test vehicles other than to carry test equipment?

(e) Was any consideration given to the fact that possible anomalous results (such as increased stability for Corvairs and reduced stability for Falcons) might obtain in tests where the vehicles were heavily loaded (contrary to the usual weight loads used in handling and stability tests)? Please explain what considerations were or were not extended to this issue.

(f) If it was possible for the NHTSA to test the Corvair in a "lightly loaded" configuration in the so-called "noncomparative" tests, why was the Corvair, or any other car, tested either fully or over-loaded in the "comparative" tests?

2. The NHTSA Test Program:

Apparently the NHTSA approached and at least tried to contract with both the Highway Safety Research Institute (HSRI) of the University of Michigan and the Cornell Aeronautical Laboratory (CAL) to carry out handling and stability tests on the Corvair. In both of these cases, the institutions had personnel who were sufficiently expert in the field of vehicle handling that the NHTSA defect staff would not have had to have become involved in the actual design and conduct of the test program.

(a) Was the NHTSA satisfied that institutions other than CAL and HSRI, outside the automotive industry itself, had the expertise to carry out such testing?

(b) Why wasn't HSRI contracted to carry out or at least oversee the conduct of the test program at TTI since neither TTI nor the NHTSA defects office had personnel with experience in this type of test program or in the use of the HSRI developed test equipment?

(c) Why was the Cornell Laboratory contract terminated?

(d) In the test program, the NHTSA attempted to restore the vehicles to original condition through replacement of many suspension components and tires. In doing so, it appears that the aim was to determine if the Corvair was defective when new. However in justifying the choice of contemporary tires (recent vintage such as 1970 tires—not new 1960–1963 tires which may be qualitatively different) for the tests, it was stated that most Corvairs on the road today would be equipped with contemporary tires. There appears to be a paradox in these two statements. Was the NHTSA's aim to determine if the Corvair, as manufactured, was defective? Or was the purpose to determine if the Corvairs in use today are defective because of errors in the original design of the vehicles?

(e) Is the NHTSA position noted in (d) above consistent with the NHTSA's position on other defect investigations such as the Corvair heater investigation?

3. Noncomparative Tests of the Corvair (Lightly Loaded):

It is apparent from the materials which were sent to you on December 20, 1972, concerning data which was belatedly placed in the NHTSA public files for the Corvair investigation, that the tests of the lightly loaded Corvair were neither authorized nor disclosed until considerably after the completion of the investigation. Since both of these factors are highly irregular, if not contrary to law, what if any action is being taken with regard to the personnel involved and what changes are being made in NHTSA procedures to avoid such a situation in the future?

4. Public Information on the Corvair Investigation:

Confidence of the public in the findings of the NHTSA requires full disclosure of the information supporting its conclusions. The NHTSA belatedly revealed previously undisclosed materials in a letter of December 20, 1972, but apparently continues to withhold materials submitted "in confidence" by General Motors. Section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 requires that the Secretary "shall not disclose any information which contains or related to a trade secret or other matters referred to in Section 1905 of title 18 of the United States Code unless he determines that it is necessary to carry out the purposes of this Act." The determination of what is a trade secret should rest with the Secretary and not with the manufacturer who is required to submit all materials requested by the NHTSA pursuant to a defect investigation—with no allowance for special conditions to be attached to the submission of that material.

Since the Corvair is no longer in production, nor is any design of vehicle suspension similar to the Corvair in production at GM, it is difficult to believe that any material submitted to the NHTSA by GM could be considered a trade secret. I would therefore like to have a list of all materials which have been so classified and withheld from the public. In addition what was the NHTSA's reason for accepting General Motors' contention that these materials be withheld from the public?

5. Impact of Corvair Investigation on Future Safety Matters:

Aside from the findings of the NHTSA concerning the Corvair directly, the public would benefit from a discussion of what was learned from the Corvair investigation which might alter future investigation procedures on technically sophisticated and controversial alleged vehicle defects? What is being done to improve the state of knowledge about vehicle handling testing?

(a) What changes would the NHTSA make in the Corvair investigation if it were done again?

(b) What is the state of rule making on vehicle handling standards?

(c) Does the NHTSA believe that handling standards are desirable or necessary for the improvement of traffic safety?

The issues that I have raised in this letter are important to resolve before any conclusion can be reached with respect to the safety of Corvair handling and stability. I hope that you will request the agency to respond to my questions.

Sincerely,

CARL E. NASH, Ph. D.

EXHIBIT I

(Work sheets for NHTSA Corvair testing drastic steer-drastic brake with a lightly loaded Corvair, carried out at the Texas Transportation Institute.)

PROJECT NO. 787—SPECIAL TEST

Vehicle C; drone operator, Zimmer; test site No. 1; date June 9, 1971.

Tire Pressure: Design —; Service —; Front, 28 (hot), Rear, 28 (hot).

1. Activate instrumentation for a 10 minute period.

2. Check instrumentation calibration and run a calibration strip record for each channel.

3. Obtain the following data before test:
Odometer, 61496.
Time, 2:45 p.m.
Ambient Temperature, 92°.
Test Surface Temperature, 120°.
Wind Velocity, 5–8.
Wind Direction (from) SE.
Barometric Pressure, unknown.
Precipitation (previous 24 hrs.) None.

4. Determine, by trial, the normalized steering wheel positions to obtain .1 g lateral acceleration increments at 40 mph vehicle speed in a left turn between .3 g through maximum steering input of 400 degrees. Record speed, steer input, maximum lateral acceleration and brake input time (yaw rate achieves 0.9 maximum value), after beginning of steer input, on the Pre-Test Steer Input Determination Data Sheet.

5. Program the Controller Function Generator for the selected control inputs to the steering system, brake, and accelerator pedals.

6. Stabilize the vehicle in a straight ahead direction at 40 mph for 5 to 10 seconds and start recording data.

7. Execute signal to Function Generator within 1 to 3 seconds after beginning data recordation (throttle is released simultaneously with the ½ sine wave steer input during interval of 0.95 to 1.05 seconds; brake input is applied with sufficient force to lock all 4 wheels for not more than 0.5 second when.

* * * * *

8. Record the test run number, speed, lateral acceleration, steer input, and time of brake input on the Drastic Steer, Drastic Brake Data Sheet.

9. Repeat items 5–8 with increased steer increments to obtain approximately 0.1 g larger steps of lateral acceleration until the vehicle attains a rollover mode.

10. Repeat items 4–9 for a vehicle speed of 30 mph if a roll-over mode is obtained for 40 mph.

11. Repeat items 4–9 for a vehicle speed of 50 mph if a roll-over mode is not obtained for 40 mph.

12. Repeat items 4–9 for a vehicle speed of 60 mph if a roll-over mode is not obtained for 50 mph.

Notes:

a. Install new test identification numbers after each test run.

b. Tires shall be frequently inspected for testing suitability and tread measurements taken periodically to ensure wear at any point has not exceeded 20% of the average tread depth after tire break-in.

c. Record identifying data (test procedure no., date, vehicle, test run no., steering wheel input, brake line pressure, and lateral acceleration) on the recorder tape after each test run.

d. Lateral acceleration (A_Y), yaw velocity (r), steering wheel rotation (δ), wheel revolutions, (roll rate (ϕ), vehicle velocity (V), brake line pressure, and brake and accelerator servo's positions shall be permanently recorded on strip charts during the test runs.

13. Record the following data after test completion:

Odometer, 61514.

Time, 5:20 pm.

Ambient Temperature, 96°.

Test Surface Temperature, 175°.

Wind Velocity, 5–10 gusts to 13.

Wind Direction (from) SE.

Barometric Pressure, Unknown.

Comments: None.

Vehicle C, Date, 6/9/71, Time 7:45 pm, Drone Operator, Zimmer.

Engineer, Wittnon-Newman; Vehicle direction, North.

4 wheel lock-up brake line pressure requirement.

PRETEST STEER INPUT DETERMINATIONS

[Tire pressure 28–28 (hot) tire set No. 8]

Vehicle speed (mi/h)	Steer input (degrees)	Lateral acceleration (gravity)	Brake input time (second)	Remarks
50	300	1.1	0.7	Spinout.
50	300	1.1	.7	Do.
50	350	1.1	.6	Do.
60	200	1.25	.7	Do.
60	300	1.25	.6	R/R rim, spin-out, R/R tire * * *.
60	350	1.13	.6	Spinout.

Vehicle C, Date June 9, 1971; Time 2:45 p.m., Drone Operator, Zimmer.

Engineer Wittnon-Newman, Vehicle Direction, North.

[Tire pressure 28–28 hot]

Run No.	Speed (miles per hour)	Lateral acceleration (gravity)	Steer input (degrees)	Brake input time (seconds)	Run OK/NG	Remarks
1	50	1.1	200	0.7	OK	Spinout, spare input 0.5 seconds overrun.
2	50	1.1	300	.7	OK	Spinout, input overrun 0.5 seconds.
3	50	1.25	350	.6	OK	Do.
4	50	1.1	400	.6	OK	Do.
5	60	1.05	200	.7	OK	Do.
6	60	1.25	300	.6	OK	Left R/R rim contact. Spinout, input overrun 0.5 seconds.
7	60	1.15	350	.6	OK	Spinout, input overrun 0.5 seconds.
8	60	1.15	400	.6	OK	Do.

Note: Tire sets used No. 9, new with 200-mile break-in. Tire on right rear swapped after run Nos 2, 4, 5 ,6, and 7.

EXHIBIT J

FORD MOTOR COMPANY,
Dearborn, Mich, April 26, 1972.

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

DEAR SENATOR MAGNUSON: I have been asked to respond to your letter of March 28 to Mr. Henry Ford II, in which you asked for information concerning "Corvair tests" made by the Company.

We assume the tests to which you refer were those involved in a 1959 film, a copy of which is enclosed, which shows a 1960 Corvair following a 1960 Falcon around a Ford test track. We believe these tests were performed objectively. In this connection, we discussed the film with the drivers of both vehicles who stated that the tests were performed to the best of their ability. Their statements are attached.

We have two other reels of film involving a Corvair. These films were made in 1968 and involved a used 1962 Corvair in poor condition. The tests shown in these films were not designed to measure the handling characteristics. We assume, therefore, that you do not want this film.

Very truly yours,

W. A. MCCONNELL.

STATEMENT

My name is Gordon E. Freitag. My address is 2951 Cornell, Dearborn, Michigan, 48124. I am a Supervisor at the Dearborn test track of Ford Motor Company and have held this position since 1957.

I have reviewed a film made of a 1960 Corvair following a 1960 Falcon around sections of the Dearborn test track. I was the driver of the Corvair. I was instructed to attempt to follow the Falcon without having the Corvair break away. Before the filming began, I had the opportunity to drive the Corvair following the Falcon on the same course used for the film. While the film was being shot, I tried to the best of my ability to maintain the same speed as the Falcon without having the Corvair I was driving break away. As the film shows, I was not able to do so.

Dated: April 13, 1972

GORDON E. FREITAG.

STATEMENT

My name is Maurice J. Kaiser. My address is 3637 Academy, Dearborn, Michigan, 48124. I am a Supervisor at the Dearborn test track of Ford Motor Company. In the fall of 1959, I was a test driver at the Dearborn test track.

I have reviewed a film made of a 1960 Corvair following a 1960 Falcon around sections of the Dearborn test track. I was the driver of the Falcon. I was instructed to drive the Falcon as fast as possible without causing it to break away. The driver of the Corvair was instructed to follow me and maintain the same speed.

The driver of the Corvair was Gordon Freitag. Both of us were given the opportunity to drive both cars in advance.

I drove the Falcon to the best of my ability in accordance with the instructions I was given.

Dated: April 13, 1972

MAURICE J. KAISER.

FORD MOTOR CO.,
Dearborn, Mich., December 22, 1972.

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

DEAR SENATOR MAGNUSON: I have been asked to respond to your letter of December 1 to Mr. Henry Ford II, which was received on December 11.

We have reviewed the report on the 1959 Corvair film by the National Highway Traffic Safety Administration. We have again also reviewed the film with the persons involved, including the drivers, Messrs. Freitag and Kaiser. The person who directed the test and the drivers continue to maintain that the cars were driven to the best of the drivers' ability and they deny that any improper steering in-put into the Corvair was involved. We have not, however, been able to make a positive identification of the person driving the Corvair during the S-curve (Mr. Freitag, while he recalls driving the Corvair around the circle, does not now recall driving the S-curve.)

In an attempt to resolve the question, we purchased a used 1961 Corvair and had one of our engineers, who is not a professional driver, drive it on the same segments of our track on which the original test was conducted. He had no difficulty in negotiating the turns at the speeds set forth in the Safety Administration report, which were apparently the speeds used in the 1959 film. We also permitted General Motors to conduct tests of the Corvair and Falcon on this track and we understand that neither the Corvair nor the Falcon had any difficulty in negotiating the turns.

Thus, there seems to be a discrepancy between the 1959 film and certain tests of the Corvair this year. This perhaps could be explained by the use of different cars, different track surfacing, different drivers and all the other circumstances that could vary over a 13-year period. Yet, since differing opinions on Corvair handling characteristics have been rendered by Ford personnel and others, including the Safety Administration, it would seem that there is some question as to whether the 1959 film presented a valid illustration of the Corvair's handling characteristics. This film, however, was not used publicly by Ford Motor Company, and since the Safety Administration has fully investigated this matter, it does not seem fruitful for us to pursue it any further.

In accordance with your request, enclosed are two films made in 1968 involving a Corvair. As I indicated in my earlier letter to you, however, these tests involved a used Corvair in poor condition and were not designed to measure the handling characteristics of a Corvair.

Very truly yours,

W. A. MCCONNELL,
Director, Product Test Operations.

EXHIBIT K

[From The Consumer Reports, September, 1971]

CARBON MONOXIDE IN THE CORVAIR

In February 1961, John P. Petry, a Pennsylvania washing-machine serviceman, bought a new 1961 *Chevrolet Corvair Greenbriar* van for his work. The van's engine was

the same air-cooled, rear-mounted design that General Motors had introduced the year before in its *Corvair* compact sedan. The original *Corvair* used a gasoline-burning heater, but starting with the 1961 models, GM switched to a direct-air heater as standard equipment in all *Corvairs*. That switch, Petry later contended, was disastrous for him.

The system was designed so that a portion of the air used to cool the engine passed directly into the passenger compartment after having been heated by the engine. GM engineers should have been aware that such a system could be hazardous. A leak in a head gasket or a failure of some component in the exhaust system might cause carbon monoxide and other noxious engine fumes to enter the passenger compartment through the heating system.

Petry later argued, in pretrial testimony found by CU in court records of a suit against General Motors, that fumes inside the van bothered him almost from the time he started driving it. Numerous attempts by Chevrolet mechanics to solve the problem came to naught. That spring, Petry was further annoyed because his *Corvair's* heater wouldn't shut off. According to Petry, a mechanic at his Chevrolet agency gave him two pieces of cardboard and advised him to block the heater's duct work with it. But Petry didn't do that; he didn't know how.

By summer, Petry testified, he began suffering from headaches, loss of appetite, dizziness and nausea, and sometimes, while driving home from work at the end of the day, he would lose his sense of direction. Unaccountably, his ability to judge distances deteriorated, he said. "For instance, making a right-hand turn around a corner, I would have a tendency to hop that corner and rub trees." In the winter of 1962, Petry said, his vision deteriorated. Neither he nor his physician associated his various physical complaints with carbon monoxide.

Meanwhile, Petry remained understandably disturbed by the apparent lemon he had bought. The fumes remained unpleasant and the heater uncomfortable in the summer. Petry retained Edward L. Wolf, a Philadelphia attorney, in an effort to force General Motors to fix his *Corvair*. After hearing his client's story, which included a recitation of his physical problems, the attorney recalled that the Federal Aviation Administration had attributed a number of aircraft accidents to pilot disorientation caused by carbon monoxide. The heaters in those small planes were sufficiently similar in design to the *Corvair's* system to raise some suspicion in the attorney's mind. Wolf had Petry undergo a blood test. It confirmed that he was suffering from carbon monoxide poisoning. Later tests showed that he had incurred permanent brain damage. Petry has been unable to work since 1962. He stumbles, suffers memory lapses, hears a constant ringing in his ears and cannot walk a city block without becoming fatigued. The Social Security Administration has classified him as totally disabled.

In the fall of 1962, Petry sued General Motors for $250,000, alleging, among other things, GM's "failure to warn . . . of the dangers of carbon monoxide which could reasonably occur by virtue of the inherent characteristics of the heater." Four years later, a few weeks before the case was to come to trial, GM settled the case out of court for $125,000. As part of the settlement, GM was allowed to purchase the *Corvair Greenbriar* van and Wolf's files in the case. By then, Ralph Nader had published, in "Unsafe At Any Speed," his charges of dangerous handling characteristics in early model *Corvairs*, and General Motors, by its unseemly behavior in assigning private detectives to pry into Nader's private life, had created the scandal that would eventually lead to direct Government intervention in auto safety. Perhaps GM hoped it could keep the story of *Corvair's* heater problems quiet. With the Petry case settled, no jury would decide whether the carbon monoxide had caused Petry's illness, nor would the public ever learn what damning evidence, if any, was impounded with Wolf's files. For, as part of the settlement, Wolf and Petry agreed not to discuss specifics of the case.

But last January, under pressure from Ralph Nader and Senator Vance Hartke, the National Highway Traffic Safety Administration reopened the subject. It issued a "special consumer protection bulletin" alerting consumers to "specific use-risk situations" involving all 1961 through 1969 *Chevrolet Corvairs*. The bulletin reported that an investigation of the *Corvair* heater "disclosed that a problem with engine fumes does exist in some of these vehicles." Not until page two of the two-page bulletin, however, was it reported that those fumes may contain carbon monoxide. According to the bulletin, a "limited sample" of *Corvairs* tested were found to admit "significant" quantities of carbon monoxide into the passenger compartment. The bulletin didn't say how much carbon monoxide was discovered in those cars, nor did it reveal the number of cars whose heaters were turning out carbon monoxide. But CU learned that one of the cars tested by the NHTSA was found to contain 60 parts per million (ppm) of carbon monoxide in the passenger compartment. According to the woman who owned that *Corvair*, the Government official who had done the test warned her that her one-year-old son, after riding in the car for eight hours, would become very ill and that her own senses would be dulled. The NHTSA's consumer alert conveyed none of those specific warnings, which may explain why the press paid it only passing attention. The alert advised *Corvair* owners who smelled exhaust fumes to seek repairs or drive with a window open at least one inch.

Good enough advice? Douglas Toms, acting director of the NHTSA, later acknowledged under prodding from Senator Hartke at hearings of the Senate Commerce Committee that the absence of an odor did not necessarily rule out the presence of carbon monoxide, which is itself odorless. Odor or no odor, Toms said, if he owned a *Corvair*, "The first thing I would do is to make sure I always operate it with my window open." Carbon monoxide could enter the *Corvair* even with the heater off, he said.

Tom's testimony expanded further on his agency's consumer-protection bulletin. The bulletin, for example, while advising troubled *Corvair* owners to seek repairs, did not suggest what repairs might be needed, nor did it estimate their cost. In his testimony before the Commerce Committee, however, Toms said the necessary repairs would cost about $170 and might have to be redone every year. He noted that there was no way for a mechanic to be certain the problem had been solved without access to a carbon-monoxide tester; yet he did not know of any Chevrolet dealer in the Washington, D.C., area with adequate test equipment.

PERILS OF CARBON MONOXIDE

Scientists disagree over how much carbon monoxide humans can tolerate, and for how long, without ill effects, and the disagreement carries over into industrial safety standards. At their most stringent, in the Soviet Union and Czechoslovakia, a factory worker's exposure is limited to 18 parts per million in the air he must breathe all day. In California the limit is 30 ppm for an eight-hour work day, an exposure which in turn is lower than the American Conference of Governmental Industrial Hygienists' recommended maximum of 50 ppm.

Limits for the intermittent kind of exposure that might be encountered in an automobile have been set by the U.S. Government's Aberdeen Proving Ground at 100 ppm for 30 to 60 minutes and at 50 ppm for more than an hour. Recent tests have shown that after exposure to a concentration of 50 ppm of carbon monoxide for three hours, many persons suffer significant impairment of nervous-system functions, including reduced coordination, judgment, vision and psychomotor performance. Those effects may come about even in the absence of any physical discomfort. Clearly, carbon monoxide should not leak into an automobile's passenger compartment. Levels too low to do permanent harm may still impair one's ability to drive.

The NHTSA put out its mild warning after it had tested 18 *Corvairs* brought to its attention by owners who noticed disagreeable odors when the heater was on. Fourteen of those *Corvairs* leaked carbon monoxide into the passenger compartment when the heater was on. Eight of the fourteen produced concentrations in excess of 50 ppm inside the passenger compartment; two of the eight, a 1963 and a 1966 model, registered 200 and 220 ppm respectively.

Those 18 *Corvairs* were not, of course, a representative sample, since the presence of objectionable fumes was what had indicated in the first place that something was wrong. There had been no testing of *Corvairs* that didn't have an odor. So the NHTSA contracted with the Automobile Association of Southern California for tests of a random sampling of 300 *Corvairs* to give the Government some idea of the percentage of all *Corvairs* that were leaking carbon monoxide into the passanger compartment. By mid-April 1971, with the California test results not yet released (and at this writing they have still not been released), CU decided to test a sampling of *Corvairs* owned by people living near our Mount Vernon, N.Y., headquarters. By letters addressed to registered owners and through newspaper and television publicity, we invited people to bring their *Corvairs* in for testing; 221 *Corvair* owners did so.

We drove each car over a three-mile course through suburban Mount Vernon, N.Y. Driving time ranged from 10 to 25 minutes, depending on traffic conditions. The test route followed local business and residential streets and a divided highway. Carbon monoxide levels were continuously monitored inside the car. At several points along the route the car was stopped, and carbon monoxide was measured in the outside air. Everyone walking or riding in those streets was breathing a certain amount of carbon monoxide most of the time (quite typically from 20 to 30 ppm), and our test was designed to discover the approximate difference between the amount outside the car and the amount inside. If we measured 50 ppm attributable to a defect in the car under test, that meant the occupants might well have been inhaling 70 to 80 ppm—considerably more carbon monoxide than is acceptable by even the more tolerant standards.

Twenty-five of the 221 *Corvairs* tested produced carbon monoxide concentrations in the passenger compartment in excess of 50 ppm above street-level concentrations when driven with the windows closed and the heater on full. Six of those 25 produced concentrations of between 100 and 200 ppm; seven others produced in excess of 220 ppm.

In 1965, General Motors redesigned the *Corvair's* head gaskets in an apparent effort to produce a tighter fit and make carbon-monoxide leaks less likely. But 16 of the 25 *Corvairs* that leaked more than 50 ppm of carbon monoxide in our tests were of 1965 vintage or later.

Is it normal for better than 10 per cent of such a sampling of automobiles to admit what we consider dangerous levels of carbon monoxide into the passenger compartment? To get some idea, CU chose 66 other cars from our employee parking lot and ran them through tests similar to those done on the *Corvairs*. Included in that sample were seven *Volkswagens*, which, like the *Corvair*

have rear-mounted air-cooled engines and forced-air heating systems. In none of those 66 cars did we measure higher concentrations of carbon monoxide inside the car than outside.

If CU's sampling of *Corvairs* is at all representative of the 900,000 *Corvairs* on the road today, then it's quite likely that some 90,000 *Corvair* owners now drive at great risk in cold or wet weather, when they're likely to shut the windows and turn on the heater. Nor do owners of *Corvairs* free of carbon monoxide leaks have any assurance that a leak won't develop tomorrow or the next day.

There are some indications that CU's test result is no fluke. The Automobile Club of Missouri recently tested 52 *Corvairs* and found 17 (nearly one-third) to have carbon-monoxide concentrations of more than 50 ppm in the passenger compartment. The club detected no excess carbon monoxide inside 100 cars other than *Corvairs* that it tested. Further, the NHTSA, although refusing to give us the results of its California study, did indicate that those results were not much different from ours.

WHAT'S TO BE DONE?

It seems evident that many thousands of people riding in *Corvairs* risk an unsafe level of carbon monoxide and that, to the extent their driving may be affected, *Corvair* owners risk injuring other motorists and pedestrians. Though no jury to CU's knowledge has yet held General Motors legally responsible for injuries or damages allegedly caused by the *Corvair* heater, owners of the cars can hardly afford to ignore the kinds of charges leveled at GM in a number of suits. GM has paid settlements not only to Petry but also to several other claimants, including a widow who contended that her husband died of a heart attack brought on by inhalation of carbon monoxide from his *Corvair*. In a case still pending, a *Corvair* owner who was paralyed by an accident injury claims to have lost control of his car because of carbon monoxide poisoning suffered while he sat in the car for 45 minutes at a drive-in restaurant with the heater on and the windows closed.

The best advice CU can give *Corvair* owners is none too satisfactory. Keeping a window open may not give protection enough in a car with high concentrations of carbon monoxide. One 1964 *Corvair* brought to us for testing was found to have concentrations of about 250 ppm with the windows closed and the heater going full blast. Later, tests were run with windows open in various combinations. Opening the side windows one inch did not lower the carbon monoxide level significantly. Opening one side window halfway and the opposite corner (vent) window 45 degrees reduced the level to 200 ppm. Opening the side window all the way dropped the concentration to 100 ppm. With both side windows rolled down, both corner windows open 45 degrees and the summer air vents also open fully, the carbon monoxide level was 60 ppm—still unsatisfactory. Only with the heater turned off did the problem disappear in that car.

There will be no practical way for most *Corvair* owners to have their cars checked for carbon monoxide levels unless GM supplies its *Chevrolet* dealers with proper test equipment. Nor has GM offered to pay the high price of replacing leaky head gaskets or exhaust system. (Head gaskets on *Corvairs* with unexpired five-year or 50,000-mile warranties are still covered by warranty, however.) Even if carbon monoxide tests were easily obtained and repairs were made free, the risk would remain of leaks developing between times. And even if you never turned the heater on, carbon monoxide might still get into the car.

As word spreads about the *Corvair* heater problem, some people will doubtless sell or trade in their cars, passing along the problem to others. If laws were written with public safety as the paramount interest, the Government would have authority to order General Motors to buy back every last *Corvair* for its original price. That principle is already established for less expensive products in the Child Protection and Toy Safety Act (CONSUMER REPORTS, March 1971).

As matters stand, the 1966 National Traffic and Motor Vehicle Safety Act requires car manufacturers to furnish notification of any defect that the manufacturer "determines, in good faith, relates to motor safety." A defect includes any defect in performance, construction, components or materials. The manufacturer is obliged to furnish notification of a defect to the original purchaser and any subsequent purchaser who is covered by the original warranty. The manufacturer, however, is not obliged to pay for the repair of such defects, nor is he required to notify all subsequent purchasers. Still, most defect-notification campaigns, generally referred to as recalls, have involved repair or replacement of the defective parts at the manufacturer's expense.

In CU's opinion the *Corvair* heater is a defect as defined by the National Traffic and Motor Vehicle Safety Act. The construction of the heater is such that it will almost inevitably blow carbon monoxide into the *Corvair* passenger compartment should a small leak develop in the engine's gasketing or exhaust system. There is evidence that suggests General Motors may have known that the direct-air heating system was dangerous when it was rushed into production for the 1961 *Corvair*. The 1961 shop manual states: "Because of the inherent characteristics of the heater, objectionable fumes in the engine compartment may be drawn into the passenger compartment and result in owner complaints." The manual went on to advise that "complaints of objectionable odors in the passenger compartment, whether the heater is on or off, should be traced immediately and promptly corrected." It then referred Chevrolet mechanics to the section of the manual dealing with "Procedures and possible locations to check for faulty engine gaskets or seals." The new head gaskets installed beginning with the 1965 *Corvair* also point to an awareness on the part of GM of the hazards of the heater. And certainly, if further notice were needed, it has been amply provided to GM in the form of complaints about odors and fumes, not to mention the court cases.

The NHTSA should use its power to require GM to issue a notice of the possible defect. With many *Corvairs* now in the hands of second and subsequent owners and with the warranty expired on most of the cars, it will be necessary to extend the defect notice far beyond what the law requires, perhaps through heavy advertising. The Government should try to persuade GM to do the advertising, to provide carbon monoxide test facilities at many locations and to make repairs at no cost to the owner. *Corvair* owners should be reminded periodically to take the car in for a recheck.

Above, all the NHTSA has an obligation to investigate the *Corvair* case from top to bottom and to give the facts to the public. It has the legal authority to obtain the records impounded by General Motors in the Petry case, particularly the testimony and the records of the GM engineers who designed and tested the heater. The question of how well or poorly this huge manufacturer exercised its corporate responsibility has fundamental bearing on the proper behavior of all corporations and on future legislation.

Each year the Chevrolet division of General Motors produces a history of the division. In 1970, the official Chevrolet history book dropped all mention of the *Corvair*. The 900,000 current owners of that ill-fated vehicle cannot forget the car so easily.

EXHIBIT L

SUSPENSIONS FROM THE GROUND UP

(By Charles M. Rubly)

INTRODUCTION

A certain amount of background information is necessary to establish a foundation on which to discuss in detail the engineering features, and situations that had to be overcome in designing suspensions for a rear engine car. A paper, "The Chevrolet Corvair," by Messers. Hansen, Benzinger, and Winchell, was presented at the National SAE Meeting in Detroit in January, 1960. That paper covered the concept and basic design of the Corvair.

Starting from the point where we will surmise that the general preliminary specifications has been laid down by Engineering Management and the decision has been made regarding length of wheelbase, the front and rear tread, that we would use a 6-cylinder opposed aluminum engine mounted in the rear in combination with a transaxle so that some type of independent rear suspension could be used.

With the engine, transmision and axle located in the rear and designed as one package, the driveline is eliminated and the tunnel disappears. Consequently there is more leg room for the center passengers, and the overall car height can be reduced for a more compact car. Seat thickness is constant across the width of the car, thereby obtaining a more comfortable seat which in itself adds to the pleasability of the ride.

The Chevrolet Engineering Management has recognized the advantages of an independent rear suspension for some time. Such a suspension is desirable because of the inherent softness when unsprung weight is reduced.

Fairly high ride rates can be used for handling benefits, yet harshness is reduced with the use of an independent rear suspension.

The independent rear suspension eliminates the shake that manifests itself through the tramping of a solid axle. It also eliminates that feeling of dragging a gun carriage under the vehicle, and we felt we could better control roll and the height of the roll center for better handling.

Engineering fully realized that with a weight distribution of 40% front and 60% rear there was an unusual situation with regards to handling in a conventional passenger car. Even though such a weight distribution is not unknown today and in fact is common in loaded station wagons.

It should be pointed out that when the handling deficiency no longer exists, the *advantages* that can be had with a 40% front and 60% rear weight distribution vehicles are many and worthwhile. Some of these are:

1. Little change in weight distribution from curb to fully loaded weight. (Fig. 1)

2. Weight transfer upon braking permits nearly equal braking effort distribution for maximum lining life and fade resistance. (Fig. 2)

3. Light steering effort with numerically lower overall steering ratio, thereby permitting fewer steering wheel turns, lock-to-lock, and no need for power steering.

4. Increased traction with same overall vehicle weight. Figure 3 shows the extra traction inherent to the Corvair as opposed to that of the same car if built with front engine. The chart is theoretical, but the figures are comparative and do indicate the traction advantage of a rear engined car over a front engined-rear drive vehicle of the same weight. Using a .2 coefficient of friction, the gain is over 40% in the case of one passenger load, and over 30% in the case of a five passenger load.

We realized at the outset, that tires and width of rims would play an important part in solving the handling situation, also that any tire then being produced *would not* be

satisfactory. The tires must be an engineered part of the suspension and not just another tire.

Based on the title, we will start from the ground and this policy will discuss:

The development of a new tire and compatible rim to help the suspensions overcome the handling deficiencies of a car that is heavier on the rear wheels than on the front, a situation that has plagued tail heavy cars in the past, plus the situation that exists with use of an independent rear suspension with regards to roll couple.

The design of the front suspension and its attachment to the integral body.

The design of the rear suspension and its attachment to the integral body.

The relative stiffness of the body to which the suspensions attach.

TIRES

In the early stages of development work, existing 13 inch tires of various makes including European tires were evaluated. One tire and rim combination investigated fully was a 6.40–13 inch tire on a 4.5 inch rim. All existing tires were found to be unsatisfactory.

Many different ideas were pulled from the suspension engineer's bag of tricks but the handling characteristics always fell short of our objective and engineering standards.

It was then decided that a tire of larger size, incorporating new internal construction, plus a wider rim and compatible suspension geometry were necessary to accomplish our handling objective, without compromising ride comfort, or adding undue harshness to the vehicle.

Design work was started in cooperation with tire companies to accomplish this. Tire construction and tire building "know-how" were explored. At the same time, evaluations were made of various rim widths and the effects of balancing out tire pressures front to rear. As a result, a tire and rim specification evolved which, when used with compatible suspension geometry, provided the desired handling characteristics.

The tire size was then established as 6.50–13 with 4-ply rating incorporating new proportions, a height to width ratio of .85 and a lower cord angle. A stiffer carcass stock and a softer tread stock were also specified to further improve stability and ride comfort. This new tire is used on a 5.5 inch rim with tire pressures of 15 psi front and 26 psi rear in order to obtain as close as possible equal slip angles under lateral acceleration.

The following graphs, of course, do not represent all the development work that was done, but do illustrate the significant factors and why we accepted the stated specification.

Figure 4 shows cornering force versus slip angle of three different tire and rim combinations:

1. The lower curve represents the old or original tire with a section height to width ratio of .92 on a 4.5" wide rim.

2. The middle curve represents the old or original tire with a section height to width ratio of .92 on a 5.5" wide rim.

The vertical difference betwen the two curves shows gain in cornering force for the same slip angles between a 4.5" rim and a 5.5" rim.

3. The upper curve represents the new tire section height to width ratio of .85, and reduced cord angle construction on a 5.5" wide rim.

The vertical difference between the upper curve and the middle curve shows gain made in cornering force for the same slip angles between a .85 and .92 height to width ratio of tire section.

The difference between the lower curve and the upper curve is the total gain experienced when using the new tire section on a 5.5" rim, for an approximate average gain of 19%.

Figure 5 shows the relation of radial tire deflection in inches in comparison with tire loading of a 6.50–13 tire, at 13, 15, 26, and 28 psi. The 15 psi represents the Corvair front tire pressure and 26 psi represents the Corvair rear tire pressures. Note that under these tire pressures and at one passenger load the front and rear tire deflections are practically the same. The objective was to arrive at equal tire deflections front and rear under riding conditions and equal slip angles front and rear during cornering. At five passenger load the difference in tire deflection is less than .1 inch.

There are two things that could have been done to better this condition, one would be to lower front tire pressures to 13 psi or increase rear tire pressure to 28 psi.

The 13 psi will support the load satisfactorily but it was found during tire roll off tests in gravel that it was possible to force gravel under the bead seat if the wheel was slid into a gravel bank. So a safety margin was set up as 15 psi cold resulting in approximately 18 psi when hot.

The 28 psi would reduce the rear tire deflection enough but we did not feel that we should compromise ride and add harshness because under hot conditions tire pressures will increase 3 to 4 psi.

The difference in deflection between the front and rear tires will be greater under hot conditions as indicated by the slope of the curves, but not substantially so, a little over .1 inch total.

Thus, in line with our original objective, an engineering solution to lateral stability has been obtained by proper design of tires, rims, and specified inflation pressures.

FRONT SUSPENSION

The front suspension (Fig. 6) was designed for simplicity, assembly ease and low cost. The suspension, in general, is much the same as used in the Chevrolet passenger car inasmuch as we still us a stamped upper and lower control arm, upper and lower ball joints except the lower ball joint is reversed, or in tension, to get inside the 13 inch rim and keep the scrub radius to a minimum. The brake attaches directly to the steering knuckle, and we maintain the antidive feature and an understeering toe change geometry.

The only signicant difference from the regular Chevrolet passenger car, is the use of the strut rod instead of the double bushed lower control arm, and the feature of unitizing the front suspension for ease of assembly at both the manufacturing and the final assembly plants.

The front suspension is assembled at the Gear and Axle Plant as a complete unitized assembly. Camber and caster are preset under a load representing the proper weight of the car on the suspension. Brake adjustment is also accomplished at this time.

Toe is partially set at the manufacturing plant with the final toe setting being made at the end of the final assembly line with the front and rear wheels on the rolls. From the manufacturing plant the complete unit is shipped to the assembly plant for installation into the vehicle.

To install the front suspension unit into the vehicle (Fig. 7), it is placed on a fixture that looks much like a single cylinder hydraulic hoist on wheels. These hoists are on a track along with a similar hoist for the rear suspension engine and transaxle unit.

The track is laid in a circular course and runs from suspension loading station to a point under the body which is carried on an overhead conveyor. The front and rear suspensions are then raised and attached to the integral body structure.

The attachment of the front suspension unit is very straightforward. It is attached by six bolts, three on each side, driven from below into nuts in the body structure as shown by the phantom lines in Figure 8.

Also note that the front suspension crossmember is attached directly to the body structure without any means of isolation.

We have found that no isolation is needed other than the bushings of the upper and lower control arms. In fact, we had a rubber grommet between the upper end of the spring and the crossmember spring seat which has since been eliminated because it was not required for isolation.

It is my opinion, that by the reduction of the front end weight and thereby being able to reduce the spring stiffness and tire pressures, plus the elimination of the engine mass on the front crossmember, we are able to have a front suspension that has low road noise transmissibility without resorting to some type of isolation between the suspension unit and the body structure.

Also note from the illustration that the strut rod is located to the rear.

We have found in laboratory and vehicle testing that the strut rod and suspension arm bushings amount to approximately 25% of the dynamic ride rate. This has also been found to be true on other makes of cars. We feel that this parasitic rate is too high a percentage of the whole. It is a rate that is normally hard to control because of hysteresis in the rubber and the tolerances of rubber compounding.

This area is one that can be greatly improved in the future. In the meantime, however, we do everything possible to control the deflection rates of the strut rod and suspension arm bushings. This is done to maintain the engineering performance and durability standards established on our test vehicles. Curves are added to our drawings showing the acceptability limits of these rubber parts.

Figure 9 illustrates representative performance required of our rubber bushings. Limits of acceptability of the strut rod bushing are shown, and note that there are two shaded areas. The top area is the requirement when new and is for quality control check.

The second or lower shaded area is the range of acceptability after the bushing has been mounted in a test fixture and stroked for 100,000 cycles per the physical requirement note on the drawing. This control plus rubber compounding specifications insures proper performance and durability.

REAR SUSPENSION

The swing axle independent rear suspension (Fig. 10) is one of the most interesting features of the Corvair chassis.

This illustration shows the general arrangement of the rear suspension, transaxle, and engine completely assembled as a unitized assembly.

Unlike the front suspension, the rear suspension is assembled at the car assembly plant and consists of a crossmember, control arm assembly, springs, shock absorbers, brakes and wheels. The transmission and axle, referred to as the transaxle is assembled to the engine. The transaxle-engine assembly is attached to the crossmember through rubber mounts and shimmed fore and aft at the mounting point to produce the correct toe setting.

The complete engine, transaxle, and rear suspension unit is then installed on a hoist fixture and lifted into place in the body at the same time as the front suspension. The rear suspension, engine, and transaxle unit is attached to the unitized body by five bolts, all cushioned in rubber.

This type of swing axle rear suspension is, we believe, unique in its application.

The control arms are mounted in a semi-

trailing attitude so that their projected pivot axes pass through their respective axle shaft universal joint centers. This arrangement limits slip at the U-joint splines and allows the use of single self-aligning bearing assemblies at each axle shaft.

However, note from the illustration that the bearing outer housing is fastened through the flange plate to the control arm. The bearing inner race is a press fit on the axle shaft which carries the brake drum.

Also note that if the transaxle and engine is properly shimmed fore and aft, and if the dimensions up and down are correct, the centerline through the control arm shaft intersects the U-joint on the inner end of the axle shaft. If such alignment existed at all times, the flange plate, brake shoes and drum would stay parallel to each other throughout the ride travel.

Due to tolerances, variations and deflections this is not very likely to happen so that a self-aligning bearing was used to accept the variations. This particular bearing was designed to accommodate a 3 degree variation between flange plate and drum.

It has been found through vehicle testing that the angular variation when driving on a relatively smooth road to be approximately ±½ degree; and on a rough road ±1 degree.

Because of this slight out of parallel condition between the brake shoes and drum, there was some apprehension whether or not we would experience poor brake performance, objectionable wear or objectionable noise.

Apparently all these things aren't what they seem on the surface, in fact, the wear rate is excellent, probably due to cooling. The wear rate is between .003 to .004 per 1000 miles of road testing, and the function of the brake is satisfactory. We feel that it is one of the best brakes that we have ever put on a vehicle.

The geometry of the suspension is such as to produce an anti-lift reaction under braking, and a toe and camber change during riding.

Due to the positioning of the control arm the rear wheels are always trailing and produce an overall toe-in condition throughout the ride travel.

Another interesting aspect of this particular swing axle was the roll couple distribution front to rear.

You will note in the schematic sketch of two chassis (Fig. 12), the top view representing the Corvair with its swing axle, and the bottom view an identical vehicle except for a solid rear axle and leaf springs.

To keep a direct comparison we have used the same wheelbase, tread, weight distribution, front and rear ride rates, and height of center of gravity.

The roll axis intersects the centerline of front wheels at the ground in both cases and assumes the correct height of roll center at the centerline of rear wheels, with the height of the roll center at the rear being higher for the swing axle than the leaf spring.

With the roll axis being higher on the swing axle than on the leaf spring and solid axle, and the height of CG same in both cases, the moment around the roll axis is less for the swing axle, reducing body roll over the leaf spring suspension as much as 40% under identical lateral accelerations.

However, due to the difference in how the load causing the roll, during lateral acceleration, is applied to the tires, a greater percentage of roll couple and overturning couple is carried on the leaf spring car than on the swing axle vehicle.

It is also true that on a swing axle suspension of this type more of the roll couple is taken on the rear than on the front, and if you had equal tire pressures, front and rear, the result would be greater slip angles on the rear than on the front.

Again the saving grace of the lighter front end, which allowed the Corvair to use a much lower tire pressure on the front than the rear. This in turn produced small differences between front and rear tire slip angles under cornering conditions.

One of the obvious questions is "If you wish more of the roll couple to be taken on the front wheels why did you leave the stabilizer off"?

First, we felt the slight amount of gain realized did not warrant the cost, secondly, we did not wish to pay the penalty of increased road noise and harshness that results from use of a stabilizer.

Another question that no doubt can be asked is why did we choose an independent rear suspension of this particular type? There are other swing axle rear suspensions, of course, that permit transferring more of the roll couple to the front end. Our selection of this particular type of a swing axle rear suspension is based on:

1. Lower cost.
2. Ease of assembly.
3. Ease of service.
4. Simplicity of design.
5. We also wished to take advantage of coil springs which in themselves have no static or breakaway friction in order to obtain a more pleasing ride, as proven on the Electronic Ride Simulator at General Motors Research.

In the illustration the upper two traces represent the front and rear road wheel deflections when negotiating a given length of pavement. The lower two traces illustrate the sprung mass vertical acceleration as influenced by friction in the suspension articulating members. The sharp increase in vertical acceleration of the sprung mass when friction is introduced in the suspension, indicates the ride comfort improvement to be made by reducing suspension friction.

6. Reduction of unsprung weight results in a softer feeling vehicle and a shake reduction.

To demonstrate the reduction in lateral shake, the chassis rolls were used with two lobe cams to excite the rear wheels in tramp motion at wheel hop frequency. Vibration pickups were installed to measure vertical wheel motion, lateral axle motion, lateral body frame motion, and lateral front seat frame motion.

A 1957 Chevrolet (the last model Chevrolet produced with a solid axle and leaf spring rear suspension) had 2.9 times more lateral axle motion, 1.4 times more lateral body frame motion, and six times more lateral front seat frame motion compared to a Corvair with equal vertical wheel motions. Other presently produced vehicles with solid axles and leaf spring rear suspensions had similarly large lateral motions excited by this type of suspension.

The 1957 Chevrolet had a resonant wheel tramp frequency of 12 cps, and a lateral resonant shake frequency of 15 cps. The Corvair has a resonant wheel tramp frequency of 14 cps, and a lateral resonant shake frequency of 25 cps. Because of the spread between the lateral resonant frequency of the vehicle and the tramp resonant frequency, the Corvairs' lateral frequency will not be excited by the wheel hop frequency.

7. The ability to isolate the body from distortion stresses. As the rear suspension cross-member, which is isolated from the body by eight large rubber cushions, supports all its suspension elements.

This last point is very important in reducing transmission of road noise and engine noise into the vehicle.

The large outer upper cushions locate the suspension to the body, help support the body weight and take most of the driving loads and part of the acceleration and braking loads.

The inner smaller cushions help support the body weight and help to stabilize the crossmember during acceleration and braking. All cushions, of course, isolate the suspension and power train from the body.

The power plant and transaxle unit in turn are supported from the crossmember by two rubber engine mounts. By this double isolation scheme much of the engine vibration and noise is prevented from transferring into the body.

A soft single rear engine mount is attached directly to the body rear crossmember.

The deflection rates of the rear suspension supporting cushions as specified on our drawings are the result of laboratory tuning and many miles of car testing.

These mounts were tuned, to prevent as much as possible, the transmitting of shake, noise and vibration especially those vibrations in the high frequency range.

We control the body mounting cushions the same as the rubber suspension bushings, by the use of deflection versus load curves as shown in the illustration.

BODY STRUCTURE

Among other factors, the body's effect on or contribution to ride was considered when the target structural values were formed. Over 60 different makes or models of cars were evaluated with respect to ride quality and structural stiffness. In that group of cars the unit torsion rate varied from a low of about 23,000 ft-lbs/deg/ft, to a high of about 100,000 ft-lbs/deg/ft.

Generally, the vehicles with numerically lower torsion rates were good with respect to ride softness, but also had notable shake characteristics.

The stiffer vehicles had greater freedom from shake but were prone to ride and road harshness.

Those findings suggest the limits of compromise, but there are other factors that must be considered. Body durability and functional quality require structural stiffness.* With a separate frame and body type construction, an adequately stiff body can be suitably mounted through rubber to a somewhat more limber chassis frame, thus permitting a torsional rate over the length of the wheelbase as desired for ride without sacrificing body quality.

With integrated frame and body construction the designers freedom is restricted. The stiffness required for body durability and performance cannot be sacrificed, so that a greater proportion of the flexibility or isolation from the road has to be designed into the suspension or its mounts. In that respect, unitized suspension systems have a clear advantage. The Corvair for example, with the chassis springs blocked out has a unit torsion rate of approximately 60,000 lbs-ft/deg/ft. But the body alone is stiffer.

The ability to isolate the rear suspension from the body through rubber cushions permitted the tailoring of torsional rigidity for ride quality without sacrificing body quality.

In other words, unitized suspension systems in combination with a frame integral body design, permit a counterpart of the flexible body mounts in a separate frame and body design, thus permitting greater latitude in the development of ride and road noise isolation.

In the case of the Corvair, which has unitized suspension systems front and rear, torsional flexibility could have been introduced at either end. However, the rear suspension always carries the greatest load, and is consequently, the greatest potential source of road noise. Also, because the rear suspension has the greatest roll couple, torsional flexibility added at that point has a more uniform effect over the entire range of vehicle suspension movements.

The Corvair rear suspension mounting permits another bonus, in that the engine and

transaxle forward mounts are suspended in rubber from the suspension cross-member. As mentioned previously, this means that the engine and transaxle are twice removed or doubly cushioned from the body in the area closest to the passenger compartment.

Further isolation of the engine from the passenger compartment (Fig. 18) is provided with a plastic-coated, one-inch-thick blanket of fiber glass. This blanket is mounted on the engne side of the body panel behind the rear seat. In all other areas, the body is conventionally treated with sound deadening and insulating materials.

CONCLUSION

In conclusion, if there were only one "best" way to design a vehicle, the value of this design could be easily measured. In fact, there would be no basis for discussion at all. In this paper we have attempted to take a closer look at some of the developments that made a fundamentally different approach a very practical one.

EXHIBIT M

CAR APPRAISAL REPORT, TEST DEPARTMENT, GENERAL MOTORS ENGINEERING STAFF

Car Make & Model ——— Car Number ———.

Driver ——— Date: From ——— To ———.

Odometer: Start ——— Finish ——— Miles Driven ———.

Type Transmission ——— Power Steering ——— Power Brakes ———.

Engine Displacement ———.

	Unsatisfactory [1] 1	Objectionable 2	Fair 3	Good 4	Excellent 5	Outstanding 6	Special note (data processing use only)
Safety							
Brakes							
Handling							
Engine							
Transmission							
Comfort							
Ride							
Noise							
Accessories							
Quality							

[1] Please review all unsatisfactory and objectionable ratings in the remarks section.

Remarks:

Type Code (Data Processing Use) ———.

Date ——— Signed ———.

EXHIBIT N

[From the SAE Journal, Feb. 1964.]

VEHICLE DIRECTIONAL CONTROL BEHAVIOR DESCRIBED IN MORE PRECISE TERMS

(By Joseph B. Bidwell, head, Engineering Mechanics Dept., GM Research Laboratories)

Leading vehicle and tire engineers are close to agreement on terminology for vehicle directional control and tire characteristics, as a result of a recent SAE-sponsored seminar. Motivated by the pressing need for definitions permitting quantitative measurements instead of subjective evaluations, they approached agreement rapidly by using a previously developed General Motors suggested terminology as a start for discussion.[1]

Elimination of inconsistencies and substitution of more precise and logical terms, the representative group envisioned, could bring such important advantages as:

Better communications between vehicle and tire engineers on their common problems.

More precise programs for computers used in vehicle dynamics studies.

Easier sharing of computer programs between companies.

Much progress toward agreement was made as top-ranking experts exchanged comments, criticism, and suggestions for improvement to the preliminary GM studies. In fact, some engineers, following the seminar, even recommended that the final proposal—already in sight—might well be the basis for an SAE Recommended Practice. It would parallel, they pointed out, the SAE RP on Ride, Vibration, and Suspension Terminology (SAE J670). (Subsequent discussions have resolved almost all of the points not settled at the seminar, such as the axis systems problem. The revised terminology, which includes all changes agreed upon up to this time, is given in the Appendix.)

In trying to make the definitions technically accurate, it was emphasized, one must not fall into the trap of tieing them down too closely to conventionally steered vehicles. Some of the past terminology is still perfectly satisfactory for them, but it is simply not general enough to take care of future possibilities. Thus, the proposed terms must be usable with such unconventional steering configurations as: rear steering, all-wheel steering, and systems with steering gear ratio as a function of velocity. Some of the subjects on which agreement was reached by the end of the day included such controversial points as definitions for the various kinds of stability and for oversteer, understeer, and neutral steer. There was also extensive discussion of the question of suitable axes. This problem has since been resolved, as mentioned earlier.

STABILITY

The original proposal contained general definitions of stability and instability, with the latter divided into two types—divergent and oscillatory, which were also defined.

F. D. Hales of MIRA pointed out that the originally proposed definition of instability, namely—

A vehicle system is said to be unstable at a prescribed trim provided that, for any small, temporary control or disturbance input, the vehicle will not return to the original steady-state conditions—

also covers neutral stability, which is certainly not a form of instability but, rather, is the boundary of a stable system.

At the meeting the GM engineers suggested a modified definition of stability, and added definitions of asymptotic stability and neutral stability. They also made slight modifications to their definitions of instability and its two types. To clarify their discussion, they used the sketches shown in Fig. 1.

These configurations apply to dynamic systems in general, but they all have practical significance for the vehicle designer, because every one of them applies to some vehicle with respect to its yaw or lateral response.

It was finally agreed that a general definition for stability was unnecessary, and that the definitions for asymptotic stability, neutral stability, divergent instability and oscillatory instability given in the Appendix should be used.

The word "trim," as used in these definitions, is defined to include both the disturbance and the response. This concept appears to be more useful and technically accurate than the normal definition, which refers simply to the condition of the vehicle. (See Appendix for complete definition of trim.)

The new definitions are of particular significance because they allow the various kinds of stability and instability to be measured with suitable tests. Thus, for example, in the study of a certain vehicle, you may find that any input to the steering wheel places the vehicle in a turn of ever-decreasing radius, unless the driver makes compensating motions of the wheel to maintain general equilibrium. This vehicle will never reach steady state; and, although it shows no oscillatory tendencies of its own, it does tend to diverge from a straight course and "spin out." This condition represents divergent instability.

THREE KINDS OF "STEER"

Neutral steer, path oversteer, and path understeer were originally defined in terms of the derivative of the steady-state turning radius with respect to vehicle velocity. If the derivative is zero for a vehicle, it is said to be in neutral steer; if it is negative, the vehicle is in path oversteer; if it is positive, the vehicle is in path understeer.

Hales of MIRA pointed out that the proposed definition of neutral steer means that all vehicles traveling in a straight line on a level road are in neutral steer. E. E. Larrabee of M.I.T. commented that the suggested definitions implied that a small speed change while cornering is essential for the detection of the understeering and oversteering phenomena. He believes that understeering and oversteering phenomena may be detected at *constant speed* and variable turn radius, including situations where the nonlinear effects of tire side force and driving tractive force must be taken into account.

These and similar comments led to the development of the definitions for reference steer angle and neutral steer, path understeer, path oversteer given in the Appendix.

From these definitions it is clear that, if the yaw velocity divided by the steer angle (that is, the yaw velocity gain) is equal to the forward velocity divided by the wheel base, the vehicle is in neutral steer. If the yaw velocity gain is greater, the velocity is in oversteer, if it is less, it is in understeer.

The real significance of the definitions is that, whether a vehicle is said to be in oversteer, understeer, or neutral steer depends strictly on the yaw gain of the vehicle, which is an easily measured quantity, since it involves the change in the rate of rotation in the earth's plane for a unit change in steering angle (see Fig. 2). Note that the curves aren't necessarily straight, and that yaw velocity gain really means the slope of the curve at any particular point (operating condition).

It must be pointed out, however, that the above definitions cover only the steady-state condition, which was the original conception of Maurice Olley 30 years ago.

Walter Bergman of Ford, and others, felt strongly that definitions to cover oversteer and understeer during the transient state should also be included in the terminology. It appeared that to define transient oversteer and understeer was not easy, and no agreement was reached at the meeting on suitable definitions.

[1] "Terminology for Vehicle Directional Control and Tire Characteristics," a proposal by R. T. Bundorf and D. L. Nordeen, Engineering Mechanics Department, GM Research Laboratories.

AXIS SYSTEMS

The proposal in regard to vehicle directional control axes simple gives some conventions in regard to direction, notation, and terminology. No restraints are placed on the number of axis systems to be used or where the origin of any of them should be. There is simply an *XYZ* axis *fixed in space* and an *xyz* axis, which is fixed at some point in the moving vehicle (*moving axis*). The idea is that the analysts should not be tied down in regard to number of axes or origin. Standardizing the directions, for example, simplifies the use of sign conventions for such items as roll steer coefficient (change in steer angle per unit change in roll), so that one can identify by sign a roll oversteer or roll understeer condition. It is impossible to tell this with the present lack of conventions in regard to general orientation of the axis systtm. (See the Appendix for the complete definition of the axis system.)

The logic of this system is explained as follows: Forward motion is chosen as positive, which orients the x-axis. This also gives positive roll motion as clockwise when viewed from the driver's position. The desirability of having positive steering wheel motions as clockwise and positive yaw velocities as clockwise rotations when viewed from the above results in a z-axis that points down. In addition, the positive lateral direction is to the driver's right and thus positive path deviation results from positive steer inputs.

TWO SMALL CHANGES

Instead of the term "camber angle," which was used in the original proposal, "inclination angle" is used for describing tire data or vehicle dynamics problems, where the sign convention is different from the SAE definition of "camber angle" (as given in the SAE RP on Ride, Vibration, and Suspension Terminology). In addition, instead of using the term "critical speed" for an understeer vehicle, where the situation is really not critical in any sense, the document now uses "characteristic speed," since this does characterize the understeer nature of this kind of vehicle.

TERMINOLOGY FOR VEHICLE DIRECTIONAL CONTROL AND TIRE CHARACTERISTICS

Section I: Vehicle directional control (handling) terminology

Vehicle Directional Control is a general term describing all aspects of the driver-vehicle control relationship that pertain to coursekeeping. It includes all types of vehicle systems, environments, and operating conditions, and may be studied both subjectively and objectively.

Vehicle directional control motions fall into certain categories, depending upon the area of study and the vehicle environment. In general, the vehicle may be regarded as a system upon which certain inputs, such as steering inputs, wind forces, or road irregularities, may be imposed. The vehicle motions resulting from these inputs are then called "responses." A method of categorizing such conditions of operation and the resulting vehicle motions is given by the following definitions, which describe the general area of vehicle response.

Vehicle Response is the vehicle motion resulting from some internal or external input to the vehicle. Response tests can be used to determine the stability and control effectiveness of a vehicle.

Vehicle Control Response is the vehicle motion resulting from an input to the control (steering) element.

Although the steering wheel is the primary directional control element, it should be recognized that traction forces at the wheels resulting from driver inputs to brakes or throttle can modify directional response.

Vehicle Disturbance Response is the vehicle motion resulting from unwanted force or displacement inputs applied to the vehicle. Examples of disturbances are wind forces or vertical road displacements.

Position Control is vehicle control with inputs or restraints upon the steering system in the form of displacements at some control point in the steering system (front wheels, Pitman arm, steering wheel), independent of the force required.

Fixed Control is vehicle control with the position of some point in the steering system (front wheels, Pitman arm, steering wheel) held fixed. This is a special case of position control.

Force Control is vehicle control with inputs or restraints upon the steering system in the form of forces, independent of the displacement required.

Free Control is vehicle control with no restraints placed upon the steering system. This is a special case of force control.

Driver Control is vehicle control using the combination of force and position inputs required to maintain the desired path. Force and position are related by the steering and vehicle system parameters and operating conditions.

Steady State exists when external forces relative to the vehicle (including ground and aerodynamic forces) are invariant in time and vehicle control inputs are constant. The motion responses in steady state are referred to as "steady-state responses." This definition does not require the vehicle to be operating in a straight line or on a level road surface. It can also be in a turn of constant radius or on a cambered road surface.

Transient State exists when the motion responses, the external forces relative to the vehicle, or the control positions are changing with time.

These responses are described by the terminology normally employed for other dynamic systems. (Some terminology is described in "Control Engineers' Handbook" edited by John G. Truxal and published by McGraw Hill.)

Trim is a steady-state condition of the vehicle defined by the steady-state vehicle responses and the control and disturbance inputs.

In handling analysis of nonlinear vehicles, trim is used as a reference point for analysis of vehicle stability. In such analysis (as in subjective analysis), it is found that vehicles vary in stability depending upon the trim.

Steady-State Response Gain is the ratio of change in the steady-state response of any motion variable with respect to change in input about a given condition of trim.

Vehicle directional control stability

Passenger vehicles are generally stable systems, but do adopt varying characteristics, depending upon environments and trim. *Environment* refers to the atmospheric and road conditions that affect *vehicle parameters*. For example, temperature may change shock absorber damping characteristics and a slippery road surface may change tire cornering properties. *Trim* has been previously defined as the vehicle *operating condition within a given environment*, and may be specified in part by steer angle, forward velocity, and lateral acceleration. Since all these factors change the vehicle behavior, the vehicle stability must be examined separately for each environment and trim.

Given a set of vehicle parameters based on a particular environment, the vehicle may be examined for each theoretically attainable trim. The conditions that most affect stability are the steady-state values of forward velocity and lateral accelerations. In practice, it is possible for a vehicle to be stable under one set of operating conditions and unstable in another.

Unfortunately, the proper definitions regarding stability do not, in themselves, define a quantitative measure of stability; they only decide whether a vehicle system is stable or unstable. This decision is based upon the ability of the vehicle to maintain a steady-state or near-steady-state condition while under the constant influence of small aerodynamic disturbances, road disturbances, and control inputs. This is, in a real sense, a decision based upon the controllability of the vehicle. Accordingly, the following definitions of stability are applicable to the motor vehicle.

Asymptotic Stability exists at a prescribed trim if, for any small, temporary change in control or disturbance input, the vehicle will approach the motion defined by the trim.

Neutral Stability exists at a prescribed trim if a temporary change in control or disturbance input can be found such that the resulting motion of the vehicle remains arbitrarily close to, but does not approach, the motion defined by the trim.

Divergent Instability exists if a small, temporary disturbance or control input causes an ever-increasing vehicle response without oscillation in the neighborhood of the trim A linear mathematical analog of a vehicle is divergently unstable when the characteristic equation has any positive real roots.

Oscillatory Instability exists if a small temporary disturbance or control input causes an oscillatory vehicle response of ever-increasing amplitude in the neighborhood of the trim. A linear mathametical analog of a vehicle is oscillatorily unstable when its characteristic equation has any complex roots with positive real parts.

Vehicle instability may be illustrated by two examples. The first is the condition of operation above critical speed in a path oversteer vehicle. Any input to the steering wheel will place the vehicle in a turn of ever decreasing radius, unless the driver makes compensating motions of the wheel to maintain general equilibrium. The vehicle with never stop trying to change its course and will never permit the driver to relax. In other words, it will never reach steady state; and although it shows no oscillatory tendencies of its own, it does tend to diverge from a straight course and "spin out." This condition represents divergent instability.

The second example concerns oscillatory instability and may be illustrated by the free control response following a pulse input of displacement or force to the steering wheel. Some vehicles will turn first in one direction, and then the other, and so on until the amplitude of the motion increases to the extent that the vehicle "spins out." In this event the vehicle does not attempt to change its general direction of motion but, on the other hand, does not achieve a steady-state condition and has an oscillatory motion.

It is, of course, conceivable that both types of instability can occur concurrently, causing a divergent motion with oscillation.

VEHICLE DIRECTIONAL CONTROL AXES

In the analysis of vehicle directional control a moving axis system is required for simple derivation of the equations. The directions are chosen for ease of interpretation and logic of the vehicle motions. This system corresponds to that used by the aircraft and marine industries. Through consideration of these points, the axis system here defined and shown in Fig. A has been developed for investigation of vehicle directional control.

Vehicle Directional Control Axis System: A handling axis system (x-y-z) is defined for the vehicle with origin 0 at some point fixed in the vehicle and such that, with the vehicle moving steadily and symmetrically in a straight line on a level road, the x-axis is horizontal and points forward and is in the longitudinal plane of symmetry. The y-axis points horizontally to the driver's right at right angles to x-axis. The z-axis points down to form with the x and y axes a right-hand set of axes. These axes remain fixed in the vehicle. Motions of the vehicle are described by motions of this set of axes relative to an axis system (X, Y, Z) fixed in inertial space.

The X and Y axes are in a horizontal plane and the Z axis is directed downward. Analysis may require the use of additional intermediate axis systems.

VEHICLE MOTION VARIABLES

The velocity of a point in a vehicle with respect to the space fixed axis system (X, Y, Z) is a vector quantity. The following motion variables are components of this vector resolved with respect to the moving axis system (x, y, z).

Longitudinal Velocity (Forward and Rearward Velocity) (u) of a point is the component of the vector velocity in the x-direction.

Lateral Velocity (Sideslip Velocity) (v) of a point is the component of the vector velocity in the y-direction.

Vertical Velocity (Bounce Velocity) (w) of a point is the component of the vector velocity in the z-direction.

The angular velocity of the vehicle with respect to the space fixed axis system (X, Y, Z) is a vector quantity. The following motion variables are components of this vector resolved with respect to the moving axis system (x, y, z). Since the axis system (x, y, z) is fixed in the vehicle these angular velocities are also the angular velocities of the axis system (x, y, z) relative to the space fixed axis system (X, Y, Z).

Roll Velocity (p) is the angular velocity about the x-axis.

Pitch Velocity (q) is the angular velocity about the y-axis.

Yaw Velocity (r) is the angular velocity about the z-axis.

There are three additional angles that are often used in vehicle handling analysis and should be defined (see Fig. B).

Heading Angle (Ψ) is the angle between the trace on the X-Y plane of the vehicle x-axis and the X-axis of the space axis system.

Sideslip Angle (Attitude Angle (β) is the angle between the traces on the X-Y plane of the vehicle x-axis and the vehicle velocity vector at some specified point in the vehicle. Sideslip angle is shown in Fig. B as a positive angle.

Course angle (γ) is the angle between the trace of the vehicle velocity vector on the X-Y plane and the X-axis of the space axis system. Positive course angle is shown in Fig. B. Course angle is the sum of heading angle and sideslip angle ($\gamma = \Psi + \beta$).

For a flat road, the radius of curvature of the vehicle path in the X-Y plane of the space axis system is the magnitude of the vehicle velocity divided by the time derivative of the course angle.

Reference Steer Angle (δ) is the steer angle of the steered wheels that would result from an input to an infinitely stiff steering system with no roll of the vehicle.

Neutral Steer, Path Understeer, Path Oversteer: A vehicle or mathematical analog of a vehicle is said to be neutral steer at a prescribed trim if the change in yaw velocity per unit change in reference steer angle is equal to the forward velocity divided by the wheelbase. If the change in yaw velocity per unit change in reference steer angle is less, the vehicle is path understeer. If the change in yaw velocity per unit change in reference steer angle is greater, the vehicle is path oversteer.

It is possible for a vehicle to be understeer for small inputs and oversteer for large inputs, (or the opposite) since it is a nonlinear system and does not have the same characteristics at all trims. Consequently, it is necessary to specify the range of inputs and velocities when making a determination of the vehicle's steer characteristics.

Roll Steer is the steering motion of the front and/or rear wheels with respect to the sprung mass that is due to the relative rolling motion of the sprung to the unsprung mass. It is called roll understeer if its influence is such as to induce path understeer, and it is called roll oversteer if its influence is such as to induce path oversteer. The roll steer coefficient is the change in steer angle per unit change in roll angle about a horizontal axis in the sprung mass plane of symmetry.

Deflection Steer (Compliance Steer) is the steering motion of the front or rear wheels with respect to the sprung mass resulting from compliance in and forces on the suspension and steering linkages. It is called "deflection understeer" if its influence is such as to induce path understeer and it is called "deflection oversteer" if its influence is such as to induce path oversteer. The deflection steer coefficient is the change in steer angle per unit change in force or moment applied to the tire at the road contact. Suspension and steering linkage deflections may be caused by forces and moments in any of the planes defined by the axis system.

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Critical Speed for a linear oversteer is that forward velocity which produces infinite yaw velocity gain. It is determined by the relation for the yaw velocity gain of a linear oversteer vehicle.

$$\frac{\text{steady-state yaw velocity}}{\text{reference steer angle}} = \frac{\text{vehicle forward velocity/wheelbase}}{1-\left(\frac{\text{vehicle forward velocity}}{\text{critical speed}}\right)^2}$$

Characteristic Speed for a linear understeer vehicle is that forward velocity which produces maximum yaw velocity gain (which is equal to one-half of the yaw velocity gain for a neutral steer vehicle of the same wheelbase). It is determined by the relation for the yaw velocity gain for a linear understeer vehicle.

$$\frac{\text{steady-state yaw velocity}}{\text{reference steer angle}} = \frac{\text{vehicle forward velocity/wheelbase}}{1+\left(\frac{\text{vehicle forward velocity}}{\text{characteristic speed}}\right)^2}$$

Neutral Steer Line is the set of points at which external lateral forces applied to the sprung mass produce no steady-state yaw velocity.

Static Margin is the horizontal distance forward from the neutral steer line to the center of gravity divided by the wheelbase.

SUBSIDIARY DEFINITIONS

Roll Camber is the camber motion of the wheels that is due to the relative rolling motion of the sprung to the unsprung mass. The roll camber coefficient is the change in wheel inclination angle per unit change in roll angle about a horizontal axis in the sprung mass plane of symmetry.

Deflection Camber (Compliance Camber) is the camber motion of the wheels resulting from compliance in the suspension linkage. The deflection camber coefficient is the change in wheel inclination angle per unit change in force or moment applied to the tire at the road contact. Suspension deflections may be caused by forces and moments in any of the planes defined by the axis system.

Roll Center is that point in the transverse vertical plane through any pair of wheel centers and equidistant from them, at which lateral forces may be applied to the sprung mass without producing an angular roll displacement of the sprung mass.

Roll Axis is the line joining the front and rear roll centers.

Roll Rate is the change in the restoring couple exerted by the suspension at either pair of wheels on sprung mass of the vehicle per unit change in roll angle of the sprung mass about a horizontal axis. Roll rate of the complete vehicle is the sum of the separate roll rates at front and rear.

Roll Rate Distribution is the percentage of total roll rate at the front and rear suspensions, respectively.

Lateral Tire Load Transfer is one-half the change in the difference from trim between the vertical loads on the two front (or rear) tires.

Total Longitudinal Tire Load Transfer is one-half the change in the difference from trim between the total vertical loads on the two front tires and the two rear tires.

Lateral Tire Load Transfer Distribution is the percentage of total lateral tire load transfer that is borne by the front and rear pairs of tires, respectively.

SECTION II: TIRE TERMINOLOGY AND AXIS SYSTEM

Wheel Plane is the central plane of the tire, normal to the spin axis of the wheel.

Wheel Center is the point at which the spin axis of the wheel intersects the wheel plane.

Center of Tire Contact is the intersection of the wheel plane and the projection of the spin axis of the wheel onto the road plane. This may not be the geometric center of the tire contact area.

Loaded Radius (R_l) is the distance from the center of tire contact to the wheel center.

Tire Axis System: The origin of the tire axis system is the center of tire contact. The X-axis is the intersection of the wheel plane and the road plane with a positive direction forward. The Z-axis is perpendicular to the road plane with a positive direction downward. The Y-axis is in the road plane, its direction being chosen to make the axis system orthogonal and right-hand.

Tractive Force (F_x) is the component of the force acting on the tire by the road in the X-direction.

Lateral Force (F_y) is the component of the force acting on the tire by the road in the Y-direction.

Normal Force (F_z) is the component of the force acting on the tire by the road in the Z-direction.

Overturning Moment (M_x) is the moment acting on the tire by the road with respect to the X-axis.

Rolling Resistance Moment (M_y) is the moment acting on the tire by the road with respect to the Y-axis.

Aligning Torque (M_z) is the moment acting on the tire by the road with respect to the Z-axis.

Vertical Load is the normal reaction of the tire on the road, which is equal to the negative of normal force.

Slip Angle (α) is the angle formed between the direction of travel of the center of tire contact and the X-axis.

Inclination Angle (γ) is the angle formed between the X-Z plane and the wheel plane. Its sign is dependent only upon the axis system and is independent of location on the vehicle.

Wheel Torque (T) is the external torque applied from the vehicle about the spin axis of the wheel. The wheel torque applied can be computed from the forces and moments acting on the tire by the road.

$$T = F_x R_l + M_y \cos\gamma + M_z \sin\gamma$$

Rolling Resistance Force (F_r) is the force that must be applied to the wheel at the wheel center with a line of action parallel to the X-axis so that its moment with respect to the Y-axis is equal to the rolling resistance moment. This force can also be computed from the forces and moments acting on the tire by the road.

$$F_r = \frac{M_y}{R_h \cos\gamma}$$

Wheel Velocity (ω) is the angular velocity of the wheel about its spin axis.

Effective Rolling Radius (R_e) is the ratio of the linear velocity of the wheel center in the X-direction to the angular velocity of the wheel.

Cornering Force is the lateral force when the inclination angle is zero.

Chamber Force (Camber Thrust) is the lateral force when the slip angle is zero.

Cornering Stiffness (Cornering Rate, Cornering Power) ($C\alpha$) is the derivative of the lateral force with respect to slip angle.

Camber Stiffness (Camber Rate, Camber Thrust Rate ($C\gamma$) is the derivative of the lateral force with respect to inclination angle.

Cornering Coefficient is the ratio of the cornering stiffness to the normal force.

EXHIBIT O

FEBRUARY 21, 1973.

DOUGLAS MR. TOMS,
Administrator, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C.

DEAR MR. TOMS: In the file of the defect investigation, IR–279, concerning the handling and stability of the 1960–1963 Corvair, there are certain materials which did not appear in the public files. These materials were considered to be confidential by General Motors and this confidentiality has been respected by the NHTSA to the detriment of the public interest.

On October 12, 1972, I made a freedom of information request for the complaints filed against GM which alleged harm from the handling and stability defects in the Corvair. The request was based on the fact that these complaints were public knowledge and could be obtained from the courts in which they had been filed and the fact that such information was not protected by the Freedom of Information Act. The NHTSA agreed to make the complaints public on November 7, 1972.

However, there still remains a considerable amount of material which is being withheld from the public file IR–279. Since we have no access to the material being withheld, we can only surmise that it is engineering and test data concerning the Corvair's handling and stability; materials prepared for the defense of the Corvair in lawsuits; and memoranda, letters, audits, and papers concerning the engineering, test, and other Corvair information. This material is not exempt from public disclosure under the Freedom of Information Act. A request for confidentiality by the party supplying the information standing by itself cannot exempt that information from public disclosure.

Beyond these reasons, the remainder of the Corvair file should be made public because of the fact that the Corvair has not been manufactured for more than 3½ years, and the Corvairs under investigation have not been produced for more than ten years. Presumably the most damning evidence against the Corvair has already been disclosed. In any event, the public has the right to the information to determine if the decision concerning the defect was correct and this outweights any reasons that can be presented by General Motors.

For these reasons, and pursuant to the Freedom of Information Act, 5 U.S.C. 552, and to the regulations of the Department of Transportation, 49 C.F.R. 7.31–185, I am requesting access to all information contained in the file, IR–279, which is not already in the public file.

In the event that you refuse this request, for purposes of further action on our part, I ask to be supplied with an index of all materials which are contained in IR–279 but which are withheld from the public file, such list to be annotated with a simple description of each item and the full reasons for each item's being considered protected from disclosure under the Freedom of Information Act. I would like to have a reply to this request within ten (10) working days.

Sincerely,

CARL E. NASH, Ph. D.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,
Washington, D.C. March 7, 1973.

CARL E. NASH, Ph. D.,
Public Interest Research Group, Washington, D.C.

DEAR DR. NASH: This is in response to your letter of February 21, 1973, requesting access to all information contained in the investigatory file relating to the handling and stability of the 1960–1969 Corvair (I.R. 279) which is not already in the public file, or, in the alternative, requesting an annotated index to materials withheld from the public file together with individualized explanations, with respect to each document, of the particular reasons for its withholding.

I regret that it is not possible to grant either of your alternative requests. The bulk of materials withheld from the public Corvair handling investigatory file constitutes information submitted by General Motors in confidence under the Departmental regulations implementing the Freedom of Information Act, (49 CFR 7.59) and accepted on that basis. The Freedom of Information Act does not require disclosure of such confidential commercial materials. 5 U.S.C. 552(b)(4). Moreover, the National Traffic and Motor Vehicle Safety Act of 1966 restricts the disclosure of confidential materials such as these (*i.e.*, material that falls within any of the categories enumerated in 18 U.S.C. 1905) (5 U.S.C. 113(d)). Thus, the withheld materials are also exempted from disclosure under Exemption 3 of the Freedom of Information Act (5 U.S.C. 552(b)(3)). Other withheld materials constitute internal memoranda of opinions, advice, recommendations and conclusions which are exempt from disclosure under 5 U.S.C. 552(b)(5) and 49 CFR 7.61.

Nor do we believe it necessary to list all of the documents or materials together with individualized explanations for withholding of particular documents or materials, since the explanation in the previous paragraph adequately characterizes the class of documents or materials involved and enumerates the exemptions relied on for their withholding.

For the foregoing reasons, I have concluded that your request must be, and hereby is, denied. If you wish, you may request reconsideration of any aspect of this decision by writing to Dana L. Scott, Associate Administrator for Administration, NHTSA. Your request should identify all reasons and arguments upon which you rely.

Sincerely,

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

PUBLIC INTEREST RESEARCH GROUP,
Washington, D.C., March 26, 1973.

DOUGLAS W. TOMS,
Administrator, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C.

DEAR MR. TOMS: On February 21, 1973, I requested access, under the Freedom of Information Act, to certain information contained in the Corvair handling and stability investigatory file, IR 279. Both this request, and my request for a listing of the materials requested, were rejected in Mr. Carter's March 7 letter.

Because I disagree with your classification of the General Motors materials as being protected as confidential commercial materials, pursuant to the Freedom of Information Act, 5 U.S.C. 552, and the regulations of the Department of Transportation, 49 C.F.R. § 7.31–7.85, I am appealing your denial of my request, with a listing of the materials which are believed to have been submitted by General Motors Corporation for the Corvair handling and stability investigation, IR 279, of the National Highway Traffic Safety Administration. These materials are as follows:

General Motors Test Work Orders:

T.W.O. 25004–5, –6, –8, –20, –22, –24, –28, –39, –85.
T.W.O. 25508–17.
T.W.O. 25510–1.
T.W.O. 25513–15 –19.
T.W.O. 25564–53, –59 (Ref. PG 14888).
T.W.O. 25592–1.
T.W.O. 29016–1.
T.W.O. 29023–14.
T.W.O. 29111–10.

General Motors Proving Ground Reports:

PG 10841, PG 11285, PG 11304.
PG 11543 (with films).
PG 11935 (with films).
PG 12207 (with films).
PG 13685 (with films) (Ref. T.W.O. 25585).
PG 14888 (with films).
PG 16146, PG 17826, PG 19445, PG 19576, PG 19577.
PG 22895 (with films).
PG 24469, PG 27195, PG 2673–16.
PG Accident Report No. 62–28.

Letters from General Motors to the NHTSA (including all attachments not listed separately in this request) identified as follows:

Date, from, to, and attachments:
9–16–70, T. A. Murphy, R. A. Diaz, no.
9–21–70, F. J. Winchell, R. A. Diaz, yes.
9–24–70, F. J. Winchell, R. A. Diaz, yes.
10–1–70, F. J. Winchell, R. A. Diaz, no.
10–13–70, F. J. Winchell, R. A. Diaz, yes.
10–14–70, F. J. Winchell, R. A. Diaz, no.
10–20–70, R. L. Malone, R. A. Diaz, no.
11–13–70, F. J. Winchell, J. H. Clark, yes.
11–25–70, F. J. Winchell, R. A. Diaz, yes.
11–4–71, R. J. Eaton, E. Wittich, yes.
11–16–71, R. W. Allen, J. H. Clark, yes.
4–7–72, R. J. Eaton, E. Wittich, yes.
4–12–72, R. J. Eaton, A. G. Detrick, yes.
4–20–72, R. J. Eaton, A. G. Detrick, yes.
7–11–72, J. C. Bates, R. L. Carter, no.

Other documents, reports, lists, films, and so on described as follows:

Rollover Report Summary.
Test Report List (including 12 sheets of revisions and 23 pages revised and added to the book of test report lists).
Summary—Corvair Dimension and Characteristics.
Falcon Rollover Report & Films.
Rambler Rollover Films.
VW Rollover Film.
Steering Wheel Angle vs. Lateral Acceleration.
1971 Vega Characteristic Speed Test.
1971 Pontiac Characteristic Speed Test.
1960 Corvair Characteristic Speed Test.
Lateral Acceleration Chart.
Comments on the Nader Letter of December 15, 1970 & Engineering Statements Attached Thereto (2–12–71).
Engineering Staff Side Pull Test Results and Procedure.
Measurement of Tire Brake Force Characteristic As Related to Wheel Slip (Anti-Lock) Control System Design (11–20–68).
Black & White and Color Films of 1962 Rambler Rollover, 1960 Falcon Rollover, 1961 Falcon Rollover, Tech Center VW Rollover.
Laboratory and Road Tests on Eight Popular Brands of Aftermarket Tires, Size 6.50 x 13, on Two Models of the Corvair and the Chevy II (see Staff Investigation Report to Senator Ribicoff, "Corvair Stability Controversy," March 14, 1973).

The materials contained in this list are, in most cases, similar to materials which are already in the public file. Most of them concern a vehicle (the Corvair) long out of production, being tested in ways which are either well-known or obsolete.

Section 112(c) of the National Traffic and Motor Vehicle Safety Act of 1966 requires that manufacturers "provide such information as

the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title . . ." The Secretary is authorized in section 113(d) to "disclose so much of the information contained in such notice or other information obtained under section 112(a) to the public as he deems will assist in carrying out the purposes of this Act, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code *unless he determines that it is necessary to carry out the purposes of this Act.* (Emphasis added.)

Under this Act, General Motors could put no preconditions on the submission of the materials for the Corvair investigation, and the NHTSA has the obligation to consider whether each document submitted is covered under an exemption of the Freedom of Information Act, independent of the opinion of the submitting manufacturer. The NHTSA has the simultaneous obligation to determine if there is an overriding public interest in auto safety which would require its disclosure.

The NHTSA has not fulfilled its public trust with regard to the public's right to know, but has rather blindly accepted GM's self-serving requests for confidentiality. I ask that you reconsider your classification of the material referred to in this request and, if you still believe that any of it requires protection from public disclosure, that you supply your reasoning for non-disclosure of each item.

Yours Truly,

CARL E. NASH, Ph. D.

EXHIBIT P

GENERAL MOTORS CORP.,
Warren, Mich., January 5, 1965.

Mr. R. A. GALLANT
Chev.—Research & Development:

Subject: Corvair Litigation.

This relates to your letter of November 18, 1965, requesting some guide lines to assist the men in the Product Analysis Group in responding under oath to proper questions by opposing counsel about their current duties at Chevrolet. Questions during cross-examination relating to an engineer's present and prior work assignments during the period he has been employed by General Motors Corporation should normally be answered generally.

In this connection, the impression made by the General Motors engineer to the court and/or jury cannot be overlooked because it is reasonable for them to expect that an engineer appearing on behalf of General Motors Corporation in important litigation will have fairly good recollection about what his more recent work assignments have been. With the foregoing in mind and upon the understanding which Mr. F. W. Allen of my staff received from you that the Product Analysis Group is assigned to the Chevrolet Research and Development Department (although this does not appear from the functional chart of the Product Analysis Studies, dated December 1, 1965), we attach hypothetical questions and answers, which could arise either upon deposition or cross-examination in court, which may assist you in this regard.

If we can be of further assistance in this regard, we will be happy to do so.

ALOYSIUS F. POWER,
General Counsel.

HYPOTHETICAL CROSS-EXAMINATION OF A MEMBER OF THE CHEVROLET PRODUCT ANALYSIS GROUP

* * * * *

(6) (Q) Are you assigned to a particular area or section in the Chevrolet Engineering Department?

(A) Yes, I am.

(7) (Q) What section or group is that?

(A) Research and Development Department.

(8) (Q) Where is the Research and Development activity located?

(A) Chevrolet Engineering Center.

(9) (Q) Is that where your office is located?

(A) Yes.

[NOTE: If pressed as to the actual location of the office, the engineer might state that the facilities have been somewhat outgrown in recent years and he is physically located in rented space across the street from the General Motors Technical Center.]

(10) (Q) Who is the head of the Research and Development Department?

(A) Frank J. Winchell.

(11) (Q) Is Mr. Winchell your immediate superior?

(A) No.

(12) (Q) Please state the name and title of your immediate superior.

(A) R. A. Gallant, Product Analysis Studies Director.

(13) (Q) Is this Product Analysis Studies a subdivision within the Research and Development Department?

(A) Yes.

(14) (Q) Well, then, you really are a member of the Product Analysis Group?

(A) Yes.

(15) (Q) What are your duties or responsibilities in the Product Analysis Group?

(A) General evaluation of the manner in which Chevrolet vehicles operating on the highways are performing.

(16) (Q) Does this activity concern itself with litigation involving Corvair cars?

(A) Yes, as well as other Chevrolet cars and trucks.

(17) (Q) Please describe in general the work performed by the Product Analysis Group.

(A) There are a number of men in the group and I am not aware of all of the activities.

(18) (Q) To your knowledge, what are some of the activities conducted by the Product Analysis Group?

(A) We conduct tests and supervise tests and otherwise evaluate the operation of vehicle parts and components and entire vehicles under both general and specific operating conditions.

(19) (Q) Does this work involve testing of vehicles and their parts and components in test laboratories or at proving grounds?

(A) Yes, tests are conducted in test laboratories and at the various General Motors vehicle test facilities.

(20) (Q) Does the Product Analysis Group analyze accidents in which a Chevrolet vehicle was involved?*

(A) We do some of that, yes, sir.

(21) (Q) Aren't you involved only in analyzing Corvair accident situations?*

(A) Not at all.

(22) (Q) What else do you yourself do besides investigate and analyze accidents involving Corvair cars?*

(A) I receive my assignments from either Mr. Gallant or Mr. C. D. Simmons, and these assignments do not necessarily relate to any one particular product.

(23) (Q) Does the Product Analysis Group's responsibilities include the design or development of future model cars?

(A) No, our efforts are directed to the vehicles which have already been produced.

(24) (Q) How long has the Product Analysis Group been in existence?

(A) I don't really know how long before I joined the group in ——.

(25) (Q) Does either the Research and Development Department or the Product Analysis Group have an organization chart?

(A) The Product Analysis Group does.

(26) (Q) Does your name appear on that chart?

(A) Yes.

(27) (Q) In what connection or capacity does your name so appear?

(A) As one of the engineers who performs technical services.

(28) (Q) Do you have a copy of the Product Analysis Group organization chart with you today?

(A) No.

(29) (Q) Do you know whether or not a copy of the chart is here in ——?

(A) I really don't know; I didn't bring one with me from Detroit.

(30) (Q) Has your work in the Product Analysis Group been confined to specific Corvair accidents?*

(A) I have been asked to do work on this case and certain other Corvair cases, but I have also had several assignments involving other Chevrolet products.

(31) (Q) Isn't it true that the Product Analysis Group was expanded in 1965 because of the large number of lawsuits alleging negligent design of the Corvair car?*

(A) I really don't know.

In preparing the foregoing, we have ignored questions relating to the engineer's work assignments and classifications within General Motors Corporation prior to the time he was assigned to the Product Analysis Group. Questions of that type would routinely be asked, and we will be glad to help any member of your department who believes he may have difficulty in framing a short, terse answer to questions respecting any particular portion of his previous employment history.

EXHIBIT Q

On June 1, 1966, Fred M. Vinson, an assistant attorney general, wrote to Senator Ribicoff:

". . . we have concluded that criminal prosecution is not warranted in this matter and that additional investigation by the department would provide no useful function. The extensive investigation by the Federal Bureau of Investigation pursued every logical and relevant lead suggested by the reported facts and allegations."

In a February 18, 1967 article in *The New Republic*, authors James Ridgeway and David Sanford report that apart from Nader and Sonosky, they found

"no other principals in this case who ever talked to the FBI. Gillen says he never talked with the FBI; neither did Ribicoff, even though it was suggested that Gillen was gathering dirt on him; Sorensen says he didn't talk with the FBI. Larry Scalise, then the attorney general of Iowa, who was so sure Nader was being followed that he ordered his own statewide investigation, was never approached by the FBI. Neither was Frederick Hughes Condon, the crippled lawyer in Concord, New Hampshire, whom Gillen had interviewed using a fictitious name. Richard Danner, the man who hired Gillen and ran the investigation for GM, said he had talked to the FBI, and it was his impression that the Justice Department had not made an investigation. Nor did the agency interview 11 other people who had talked with the detectives investigating Nader. This looks embarrassing for the Justice Department and the FBI as well. The detectives who followed Nader are all former FBI men. It would be ironic should the FBI find it necessary to expose its alumni as unscrupulous.

"Had not Nader filed his private suit, he never would have seen what was in the detective reports or known about the seven-page memorandum. There never would have been any questions raised about the commit-

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* Questions of this type would be objected to by local counsel (see Pages 958 and 959 of the trial transcript in the *Doreen Collins* case while Mr. Charles D. Simmons was testifying), and it is expected that objections will be sustained. However, the objection may be overruled and the engineer would then be required to answer the question.

tee's dealings with GM. Very probably nobody would have asked whether Justice made a real investigation. The senators, the press, and the public would have been satisfied with Roche's forthright apology."

EXHIBIT R

[From the Washington Post, Oct. 27, 1968]

UNITED STATES WON'T PROSECUTE IN NADER CASE

(By Morton Mintz)

The Justice Department says there will be no criminal prosecution as a result of the harassment of Ralph Nader by a private detective hired by General Motors.

The Department has evaluated the results of an FBI investigation and says it has been "forced. . .to conclude that the evidence is insufficient to support a prosecution . . ."

These disclosures are in a letter from Nathaniel E. Kossack, First Assistant in the Criminal Division, to Sen. Abraham A. Ribicoff (D-Conn.).

LETTER DATED AUGUST 16

Ribicoff asked for the investigation after the detective, Vincent Gillen, made statements in court papers which raised the possibility of perjury and obstruction of justice at a dramatic hearing held 2½ years ago by the Senator's Subcommittee on Executive Reorganization.

Kossack said that Justice planned to close the files on the investigation. "All persons" with relevant information have been interviewed and "all relevant leads pursued," he said.

The existence of the letter was ascertained, through inquiries, only recently, although it was dated last Aug. 16. A Department summary is expected to be given to the Subcommittee this week. An aide to Ribicoff, who is campaigning in Connecticut, said he will review the matter after Nov. 5.

MISSING TAPE RECORDING

One element in the Department's conclusion, The Washington Post has learned, involves the disappearance of a tape recording—key evidence for a sensational charge by Gillen.

At the Subcommittee hearing on March 22, 1966, a common position on why the surveillance was initiated was taken by three top GM executives, Gillen and Richard G. Danner, a Washington lawyer through whom the detective was hired.

GM, they testified, wanted to know if Nader had any connection with lawsuits involving 1960 through 1963 Corvairs. That was the "sole purpose," president (now chairman) James M. Roch said.

But several months later, Gillen said he had taped a conversation which Danner told him that GM wanted "to get something, somewhere" on Nader, "to get him out of their hair and to shut him up."

This accusation was in typed "excerpts" from the recording that were filed as an exhibit in court cases in which Nader was suing Gillen. The tape itself was not made an exhibit. Gillen now claims, it was understood, that the tape was burned when a grandchild threw it into a fireplace.

LACK CORROBORATION

The tape-recording incident was seen by Justice as an illustration of the type of problem that would be raised by efforts to prove in court that GM was motivated mainly by a desire to discredit Nader.

In addition to contradictions between what Gillen said before the Subcommittee and in the court cases, some of his charges are disputed by other persons in the case. Additional charges were known to lack strong corroboration.

Attorney Danner's contact with GM was Eileen Murphy, a GM law librarian. Replying to questions at the hearings by the late Sen. Robert F. Kennedy (D-N.Y.), Danner conceded that it was Miss Murphy who had directed him to look into Nader's personal life. Following up, Gillen told his operatives to get intimate details about Nader—"What makes him tick."

But Miss Murphy was not called to testify before the Subcommittee. And Roche—who apologized to Nader—testified that the "snooping" was "initiated, conducted and completed without my knowledge or consent . . ."

ROCHE TESTIMONY

Ribicoff inquired if it was common practice for GM to investigate the "entire life" of persons "involved in controversies or who might make a derogatory remark" about the company.

Roche replied that so far as "the first one of its kind . . ." A careful check of GM records unearthed nothing but "very minor investigations"—such things as pre-employment checks and inquiries into improprieties in purchasing, he said.

Later, when a deposition was taken in connection with a now-closed libel suit brought by Nader, Gillen produced records of 26 investigations he had made for GM.

One, in 1960, concerned a Harlem civil rights group that was penetrated by a Gillen agent posing as a "research student." The group had protested the absence of Negroes in a GM office in New York City.

In the Justice Department, this and other Gillen investigations were not seen as contradicting Roche's basic testimony—that until Nader there had not been a harassment and investigation of the entire life of a critic of GM.

Murkiness envelops much of the question whether justice was obstructed by alteration of documents before their receipt by the Subcommittee.

An example involves a letter Gillen wrote to Danner 19 days before the hearing, but which did not surface there.

In the deposition, the reason indicated by Gillen was that it was potentially embarrassing to GM. But the possibility that it was Gillen who might be embarrassed was raised by an examination of the letter. It disclosed that he had secretly taped a phone conversation with David Sanford, an associate editor of the New Republic.

The libel suit for which the deposition was made was settled when Gillen apologized in writing to Nader. The other suit is Nader's pending $26 million invasion of privacy action against GM and Gillen.

The whole affair blew open when Gillen operatives tailed Nader even into the New Senate Office Building, and GM—troubled by Nader's controversial book, "Unsafe At Any Speed"—admitted it had hired Gillen.

ATTACHMENT VI—RIBICOFF LETTER TO NADER AND STAFF MEMORANDUM IN RESPONSE

March 27, 1973.

DEAR MR. NADER: Thank you for your letter and memorandum concerning the staff report on the Corvair investigation. I have reviewed your documents and find no basis for altering my previous judgment concerning the report. As I said in my letter to you on March 14, 1973, I believe the staff study was conducted in a fair and impartial manner. I have complete confidence in the competence and integrity of my staff and concur in the decision not to release the contents of the investigative files.

Because of your longstanding interest in the Corvair, however, I was pleased to delay placing the staff report in The Record until you had sufficient time to analyze it and respond. Today I am therefore placing both the study and your memorandum in the Record so that the public will have available a full discussion of this matter.

Sincerely,

ABE RIBICOFF.

MARCH 27, 1973.

To: Senator Ribicoff.

From: Robert Wager, John Koskinen.

Re: Ralph Nader's Response to Staff Report.

Mr. Nader's response to our report, prepared by Carl Nash, Joan Claybrook, and Mark Green, and his letter to you contain nothing which alters our previous conclusions and recommendation. The basic facts and assertions in his 120 page-memorandum have been raised with us before and were considered during our investigation and the preparation of our report. The reader of our report will find our reasoning and conclusions contained therein. A few additional comments about some of Mr. Nader's major contentions may help to place these lengthy documents in their proper perspective.

CORVAIR SAFETY

Mr. Nader's staff response discusses at length technical questions regarding the safety of the Corvair and the Department of Transportation study and report on that question. As we stated in our report, and as Nader acknowledges, we claim no technical expertise sufficient to judge whether or not the Corvair is a safe automobile. But that was not the point originally raised by Nader regarding GM's 1966 testimony.

The basic question has been whether GM knew, or had reason to know, that the 1960–63 Corvair was unsafe when its representatives testified before the Subcommittee on March 22, 1966. We found the answer to that question to be "no" and nothing in the material presented since then changes that answer.

As we said in the report, "we found no corroborated evidence that any engineer, lawyer, or executive within GM thought that the Corvair was unsafe at the time it was developed and produced." Nader does not offer any evidence or argument refuting that point. Instead, he appears to argue that the Corporation clearly should have known the Corvair was unsafe even if they did not think it was. Here too, the evidence is against Nader.

Nader places great reliance on GM Proving Ground Reports 15699 and 17103, calling them the "central evidence revealing the defective nature of the 1960–63 Corvair suspension design." His memorandum claims we considered these reports "irrelevant." On the contrary, we considered these reports highly relevant and spent many hours questioning GM lawyers, engineers, and executives about them as well as numerous people outside the Corporation.

We found that none of the engineers who conducted the tests or others familiar with them were surprised by the results. Previous reports and theoretical analyses had shown that, in severe test maneuvers at high levels of lateral acceleration, (about .9g), well beyond the limit of control of the Corvair and other contemporary cars, the Corvair would overturn. There was no one within GM at that time who believed this made the Corvair an unsafe vehicle. The public debate and disagreement over whether or not the Corvair was unsafe demonstates that these test reports would not have necessarily put anyone—then or now—on clear notice that the Corvair was an unsafe automobile. Thus, we continue to believe that the Subcommittee was not misled in 1966 by GM.

It is at this point in our analysis—and only this point that the year and a half independent tests on Corvair safety done by the Department of Transportation became significant in our report. We noted that the DOT had found that the Corvair was safe and that this made it even harder to hold that GM executives should somehow have known seven years ago the car was unsafe.

In order to present both sides concerning the DOT study especially since we have no independent technical expertise with which to judge it—we included and discussed

Nader's lengthy attack on the study in our report. In addition, we did take an interest in the DOT tests while they were being conducted, and urged that the Department employ an independent panel of experts to assure that the tests were competently performed and to assist in evaluating the test results. DOT accepted our suggestion and the independent panel of automobile experts reached the same conclusions as the DOT on the technical issues. The independent panel continues to support the DOT study after analysis of Nader's criticism.

SECRECY

Nader attempts to cast doubt on the conclusions in our report by pointing out that our investigation was "conducted in secret" and that we have not released to him the transcripts of our interviews and other documents collected during our investigation. Nader has demanded access to our investigative files throughout this investigation and it is appropriate to discuss here the position we have taken with Nader, General Motors and everyone else during this period.

We strongly believe that raw and unevaluated investigative files—whether they be congressional or in the executive branch—should not be made public. Such files often contain material of questionable validity or veracity based on rumor and hearsay. In addition, we feel it unwise and unfair to subject those who cooperated with us and turned out to be irrelevant to the determination of the issues under consideration to the possibility of public or private cross-examination or harassment by revealing their conversations with us.

This same issue arose in 1966 when numerous requests were received for copies of GM's investigative report on Nader. We refused to make that report available publicly or privately even though it played a central role in the 1966 hearings because of the unrelated, undocumented material contained therein. Here, we have published every significant document and discussed every major witness so that the public would have access to the necessary materials on the questions discussed. In addition, in the interest of fairness, we did make available for inspection in our office certain public but difficult to obtain materials requested by Nader.

CORVAIR LITIGATION

Nearly half of Nader's memorandum is devoted to a discussion of the *Anderson, Collins, Franklin, Drummond,* and *Porterfield* cases. These cases are discussed at length in our report and we still believe that "GM did not engage in any fraud or deceit in its conduct of the *Anderson, Collins* and other cases we reviewed." It should be noted that, while Nader has strong views about these cases, in the two and one half years since Nader made his charges concerning these cases, and disclosed PG reports 15699 and 17103, not one plaintiff's lawyer has moved to reopen any of the five cases on the ground of fraud or deceit.

REPLACEMENT TIRE SAFETY

A substantial part of Nader's letter deals with information revealed during our investigation that "certain aftermarket tires could adversely affect the handling of the car to a substantial degree." Nader objects to the fact that we had not ourselves "sounded the alarm by issuing a warning to all Corvair owners."

As Nader knows, this issue was highlighted in our report, in your speech on the Senate floor, in your press release and in your letter to the Secretary of the Department of Transportation. Each of these documents was made available to the press a day and a half prior to their publication. In addition, as our report makes clear, the GM tests were limited in scope and did not constitute a complete evaluation of the tires." Nonetheless, we did reveal the names of those tires which gave the worst performance. This may be "low key treatment accorded this finding" in Nader's view, but was everything we felt—and continue to feel—could responsibly be done at this time.

In summary, Nader's memorandum simply repeats most of the arguments he had previously made in his letters and discussions with us. It contains no significant new facts or documents. Accordingly, we adhere to the conclusions and recommendation stated in our report.

Addendum: This memorandum was made available this morning to Mr. Nader and his staff. They have asked that we note that they stand ready to respond to any inquiries or questions relating to any of the matters raised in this memorandum.

THE PRESIDENT'S VETO OF THE VOCATIONAL REHABILITATION ACT OF 1973

Mr. FULBRIGHT. Mr. President, it is with much regret that I have just learned of the President's veto of S. 7, the Vocational Rehabilitation Act of 1973. S. 7 is the major piece of Federal legislation affecting the handicapped and is vitally needed by the millions of our citizens who are in the unfortunate position of requiring its benefits. Quite wisely, Congress made this legislation a matter of the highest priority in the 93d Congress, following the President's veto of essentially the same bill, H.R. 8395, at the close of the last Congress.

In his veto message on S. 7 President Nixon gives fiscal irresponsibility as his principal objection to this legislation, alluding to the "big spenders who sweep aside budgetary restraints." Mr. President, as I must say again, if this administration is seriously concerned about controlling spending, it should focus on the billions of dollars which we devote annually to exotic weapons systems, foreign aid, and military bases abroad, not to mention the massive outlays in Southeast Asia typified by our bombing strikes which, I understand, are still in progress.

Recently the Arkansas General Assembly overwhelmingly approved a resolution commending the Congress for its foresight in creating and passing the Vocational Rehabilitation Act Amendments of 1972, which were vetoed by the President, and urging repassage by the 93d Congress. This is a very good example of the encouragement I have received from my State about the value of the rehabilitation activities and the need for their continuance, and I ask unanimous consent that the resolution be included in the RECORD at the conclusion of my remarks.

It would be difficult, Mr. President, for me to name a legislative program more vitally needed by our people than that envisioned in S. 7, and I very much hope that my colleagues will join me in voting to override the President's ill-advised action.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE CONCURRENT RESOLUTION 16 COMMENDING THE CONGRESS OF THE UNITED STATES FOR ITS FORESIGHT IN CREATING AND PASSING THE VOCATIONAL REHABILITATION ACT AMENDMENTS OF 1972 WHICH WERE VETOED BY THE PRESIDENT AND TO URGE THE REPASSAGE THEREOF BY THE CONGRESS

Whereas, the Congress of the United States of America exhibited great foresight in creating the magnificent Vocational Rehabilitation Act Amendments of 1972 (H.R. 17 and S. 7 which were identical to H.R. 8395) which were passed unanimously by both houses of the Congress in October, 1972; and

Whereas, this legislation was vetoed by the President of the United States; and

Whereas, the Vocational Rehabilitation program in Arkansas has provided services for years that have assisted thousands of citizens in this State in overcoming their physical, mental, and vocational handicaps, and has permitted them to lead productive lives; and

Whereas, the 1972 amendments to the Vocational Rehabilitation Act, as passed by the Congress, would have been new milestone legislation to continue the outstanding progress under the original Vocational Rehabilitation Act, and in addition, would have provided comprehensive services to many severely disabled who do not now receive appropriate services, including the spinal cord injured, chronic kidney diseased, and the low-achieving deaf, whose needs require specialized centers and comprehensive programs of care; and

Whereas, for the first time, the Vocational Rehabilitation Act Amendments of 1972 would have provided funds for basic research directed toward resolving problems in the field of spinal cord injured, and would have provided vitally and critically needed funds to enable the states to continue present vocational rehabilitation programs, and to initiate the new urgently needed programs for the neglected severely handicapped;

Now, therefore, be it resolved by the House of Representatives of the Sixty-Ninth General Assembly of the State of Arkansas, the Senate concurring therein: That the Arkansas General Assembly respectfully requests the Congress of the United States to reconsider and reenact the Vocational Rehabilitation Act Amendments of 1972, and the President of the United States is urged to approve said legislation, which will continue the existing programs of vocational rehabilitation benefiting thousands of citizens of this State and Nation, and providing new programs of service and hope for the neglected severely retarded.

Be it further resolved that upon adoption of this Resolution the Secretary of State of the State of Arkansas is requested to furnish copies of this Resolution to (1) President Richard M. Nixon, Mr. Caspar Weinberger, Secretary of Health, Education, and Welfare, each of whom are urged to reconsider their position with respect to the Vocational Rehabilitation Act Amendments of 1972; and (2) each member of the Arkansas Congressional Delegation, each of whom are urged to use their influence to bring about the reenactment and ultimate approval of the Vocational Rehabilitation Act Amendments of 1972.

SENATOR RANDOLPH URGES OVERRIDE OF THE SECOND VETO BY THE PRESIDENT OF THE REHABILITATION ACT

Mr. RANDOLPH. Mr. President, President Nixon has disapproved for the second time, the Rehabilitation Act. In doing so, he has dashed the hopes of millions of handicapped Americans who urgently need the services which would be provided by this measure.

Last October the 92d Congress unanimously approved the Rehabilitation Act, recognizing its importance in the transformation of handicapped individuals, many, many of whom are welfare recipients and drains on the tax dollar, into productive, self-sustaining, taxpaying citizens able to live in dignity, with hope and purpose in their lives. The President

did not agree. He pocket vetoed the measure terming it "fiscally irresponsible."

On January 4, 1973, 19 colleagues joined me in introducing the measure again. Congress once more adopted S. 7, the Rehabilitation Act. This year, taking cognizance of the President's assertion that the act was "fiscally irresponsible," Congress reduced the level of authorizations by $900 million over a 3-year period. We were genuinely trying to present to the Chief Executive a bill he would approve. I believed that S. 7 as enacted by Congress would be such a bill. The authorization level for the first year is actually less than that of the existing Vocational Rehabilitation Act, which is narrower in scope.

I am very, very saddened by the action by the President on this vital measure, which has received the enthusiastic support and endorsement of every national group and organization working with handicapped individuals.

The President, in my opinion, has taken an ill-advised action in vetoing the measure. The vocational rehabilitation program has proven to be perhaps the most cost-beneficial effort in the Federal Government. For every dollar invested on rehabilitating a handicapped individual, at least $3, and as much as $70, is returned to the economy in reduced welfare payments, increased income, and increased tax revenues for Federal, State, and local governments.

As chairman of the Senate Subcommittee on the Handicapped, and as a citizen who is concerned with how this Nation treats its handicapped citizens, I earnestly hope that both the Senate and the House of Representatives will override President Nixon's tragic veto of this most important and urgently needed legislation.

AMENDMENT OF EMERGENCY LOAN PROGRAM UNDER CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 89, H.R. 1975.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read the bill by title, as follows:

A bill (H.R. 1975) to amend the emergency loan program under the Consolidated Farm and Rural Development Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments, on page 1, in line 5, after "repealed," insert "except as to loans made or approved, whether disbursed or not, prior to the date of enactment of this act."

And on page 3, after line 8, strike out:

SEC. 8. Notwithstanding the repeal herein of section 5 of Public Law 92-385, and notwithstanding any other provision of law, the Secretary of Agriculture shall make loans in accordance with the provisions of section 5 of Public Law 92-385 to eligible applicants in natural disaster areas determined or designated by the Secretary of Agriculture where such determination or designation had been made after January 1, 1972 and prior to December 27, 1972. The authority to accept applications for such loans shall expire 18 days after the effective date of this Act.

Mr. ROBERT C. BYRD. Mr. President, there will be no further action on this bill today. There will be no more rollcall votes today. The Senate will adjourn shortly.

ORDER OF ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock meridian tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF SENATOR GRIFFIN AND SENATOR ROBERT C. BYRD TOMORROW, FOR A PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR CONSIDERATION OF UNFINISHED BUSINESS, H.R. 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator from Alaska (Mr. STEVENS) on tomorrow, the distinguished Senator from Michigan (Mr. GRIFFIN) be recognized for not to exceed 15 minutes, to be immediately followed by the Senator from West Virginia (Mr. ROBERT C. BYRD), for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Senate resume its consideration of the unfinished business, H.R. 1975.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock meridian. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated:

Mr. STEVENS, Mr. GRIFFIN, Mr. ROBERT C. BYRD.

There will then be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes each.

At the conclusion of the period for the transaction of morning business, the Senate will resume the consideration of the unfinished business, which is Calendar Order No. 89, H.R. 1975, to amend the emergency loan program under the Consolidated Farm and Rural Development Act, and for other purposes. Yea-and-nay votes are expected thereon.

Upon the disposition of that bill, the Senate will proceed to the consideration of Calendar Order No. 82, S. 929, to amend the Par Value Modification Act. Undoubtedly amendments will be offered and votes will occur thereon.

If the Senate does not complete action on S. 929 tomorrow, that bill would be carried over until the next day, Thursday, for the resumption of consideration thereof.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until tomorrow, Wednesday, March 28, at 12 o'clock meridian.

The motion was agreed to; and, at 5:39 p.m., the Senate adjourned until tomorrow, Wednesday, March 28, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 27, 1973:

DEPARTMENT OF LABOR

Paul J. Fasser, Jr., of Virginia, to be an Assistant Secretary of Labor, vice Willie J. Usery, Jr.

William Jeffrey Kilberg, of New York, to be Solicitor for the Department of Labor, vice Richard F. Schubert, resigned.

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service officers for promotion in the Foreign Service to the classes indicated:

Foreign Service officers of class 1

Karl D. Ackerman, of Maryland.
Malcolm R. Barnebey, of Texas.
Stephen J. Campbell, of California.
Frederic L. Chapin, of New Jersey.
Dennis A. Collins, of Ohio.
John P. Condon, of Oklahoma.
Michael M. Conlin, of California.
William F. Courtney, of Michigan.
John Gunther Dean, of New York.
John R. Diggins, Jr , of Maine.
Victor H. Dikeos, of California.
William L. Eagleton, Jr., of Illinois.
Thomas O. Enders, of Connecticut.
Margaret A. Fagan, of Iowa.
Dale E. Good, of Ohio.
Herbert Gordon, of Florida.
William C. Harrop, of New Jersey.
Leamon R. Hunt, of Oklahoma.
Heyward Isham, of New York.
John L Loughran, of California.
Jack F. Matlock, Jr., of Florida.
Richard W. Murphy, of Virginia.
Ellwood M. Rabenold, Jr., of Pennsylvania.
John F. Rieger, of Florida.
William A. Stoltzfus, Jr., of New Jersey.
Donald R. Toussaint, of California.
Daniel L. Williamson, Jr., of Virginia.
Marshall Wright, of Arkansas.

Foreign Service officers of class 1 and consular officers of the United States of America

Herbert W. Baker, of Virginia.
Wendell B. Coote of Virginia.
Enoch S. Duncan, of Texas.
David H. Ernst, of Maryland.
John Warner Foley, Jr., of New Hampshire.

Alan G. James, of the District of Columbia.
Dallas L. Jones, Jr., of Maryland.
Raymond W. Laugel, of Ohio.
Fred H. Sanderson, of Virginia.

Foreign Service officers of class 2

Morton I. Abramowitz, of Massachusetts.
Anthony C. Albrecht, of Virginia.
J. Bruce Amstutz, of Massachusetts.
James H. Bahti, of Michigan.
Thomas J. Barnes, of Florida.
Earl W. Bellinger, of California.
Natale H. Bellocchi, of New York.
John T. Bennett, of California.
David A. Betts of Maine.
Charles W. Bray III, of Texas.
Marshall Brement, of the District of Columbia.
Carroll Brown, of Alabama.
Robert T. Burns, of Virginia.
Royal E. Carter, of California.
Eugene E. Champagne, Jr., of Pennsylvania.
Mary T. Chiavarini, of Connecticut.
Joseph F. Christiano, of New York.
Joan M. Clark, of New York.
Thomas F. Conlon, of Illinois.
Lois M. Day, of Ohio.
Thaddeus J. Figura, of Ohio.
Alan W. Ford, California.
Robert S. Gershenson, of Pennsylvania.
Maynard W. Glitman, of Illinois.
H. Kent Goodspeed, of California.
Henry A. Holmes, of Kansas.
Charles S. Kennedy, Jr., of Illinois.
Peter W. Lande, of New Jersey.
Lyle F. Lane, of Washington.
James N. Leaken, of California.
William H. Luers, of Illinois.
Hawthorne Q. Mills, of California.
Charles Willis Naas, of Maryland.
Roy C. Nelson, of Arizona.
James A. Parker, of Maryland.
George R. Phelan, Jr., of Florida.
Richard St. F. Post, of Connecticut.
George B. Roberts, Jr., of Maryland.
John D. Scanlan, of Hawaii.
Robert A. Senser, of Illinois.
Andrew L. Steigman, of New York.
Harry E. T. Thayer, of the District of Columbia.
Frank M. Tucker, Jr., of Pennsylvania.
Orme Wilson, Jr., of the District of Columbia.

Foreign Service officers of class 2 and consular officers of the United States of America

Paul M. Bergman, of New Jersey.
Seymour Chalfin, of New York.
Charles W. Falkner, of Oregon.
John L. Gawf, of Colorado.
Andrew I. Killgore, of Florida.
C. Thomas Mayfield, of Florida.
Thomas E. Walsh, of Rhode Island.

Foreign Service officers of class 3

Robert B. Allen, of Virginia.
G. Norman Anderson, of New York.
Paul L. Aylward, Jr., of Kansas.
Kyle D. Barnes, of Alabama.
Norman E. Barth, of Illinois.
Arthur C. Bauman, of Florida.
Craig Baxter, of Ohio.
Paul J. Bennett, of Iowa.
Alan D. Berlind, of Virginia.
Robert R. Blackburn, Jr., of California.
Stephen M. Block, of Connecticut.
A. Donald Bramante, of New York.
Thomas Stanley Brooks, of Wyoming.
Robert L. Bruce, of Virginia.
James M. Ealum, of California.
Bruce A. Flatin, of Minnesota.
Carroll L. Floyd, of California.
Samuel Edwin Fry, Jr., of New York.
Herbert Donald Gelber, of New Jersey.
Leopold Gotzlinger, of Ohio.
John B. Gwynn, of Ohio.
Herbert G. Hagerty, of New Jersey.
Robert W. Holliday, of Texas.
Richard H. Howarth, of Pennsylvania.
Alfred L. Jazynka, of Florida.
Alton L. Jenkens, of West Virginia.
C. Patricia Junk, of Ohio.
Curtis W. Kamman, of Arizona.
Bernice M. Kelly, of Texas.
Katherine Lee Kemp, of Maryland.
Moorhead C. Kennedy, Jr., of Maine.
George M. Lane, of Massachusetts.
Peter P. Lord, of the District of Columbia.
Stephen R. Lyne, of the District of Columbia.
William H. Marsh, of Pennsylvania.
Wade H. B. Matthews, of Florida.
Robert W. Maule, of Washington.
David W. McClintock, of California.
Ralph C. Meima, Jr., of Maryland.
Joseph Meresman, of New York.
Bert C. Moore, of Ohio.
Robert H. Munn, of California.
William G. Murphy, of New Hampshire.
John D. Negroponte, of New York.
Julian C. Nicholas, of the District of Columbia.
George W. Ogg, of New Jersey.
Edward L. Peck, of California.
James D. Phillips, of Kansas.
Nicholas Platt, of the District of Columbia.
Charles T. Prindeville, Jr., of Illinois.
S. Richard Rand, of Connecticut.
William E. Rau, of Missouri.
John Hall Rouse, Jr., of Maryland.
J. Stapleton Roy, of Pennsylvania.
William T. Shinn, Jr., of Maryland.
Richard J. Smith, of Connecticut.
Peter Solmssen, of Pennsylvania.
Peter Tarnoff, of New York.
Blaine C. Tueller, of Utah.
Thomas T. Turqman, of the District of Columbia.
John A. Warnock, of California.
Winifred S. Weislogel, of New Jersey.
Virginia A. Weyres, of Wisconsin.
Albert W. Whiting, of Texas.
Ronald E. Woods, of Michigan.
Donald R. Woodward, of California.
Warren Zimmermann, of the District of Columbia.

Foreign Service officer of class 3 and consular officers of the United States of America

G. Michael Bache, of New Jersey.
Hyman Bloom, of New Jersey.
Robert J. Bushnell, of Hawaii.
John R. Ferchak, of Virginia.
Robert W. Kent, Jr., of California.
Martha J. Moses, of Texas.
John G. Panos, of Illinois.
John M. Powell, of Illinois.
Muneo Sakaue, of California.
Lewis R. Townsend, of New Jersey.
Ray E. White, Jr., of Tennessee.

Foreign Service officers of class 4

Laurence Desaix Anderson, Jr., of Mississippi.
Thomas F. Barron, of California.
Don E. Bean, of Tennessee.
May A. Belair, of Massachusetts.
H. Clay Black, of Illinois.
Donald J. Bouchard, of Maine.
L. Paul Bremer III, of Connecticut.
Gordon S. Brown, of the District of Columbia.
Edith Louise Bruce, of Illinois.
James R. Bullington, of Tennessee.
Duane C. Butcher, of Oklahoma.
Martin L. Cheshes, of New York.
Daniel H. Clare III, of New York.
James L. Clunan, of Connecticut.
Michael B. Cook, of New York.
David W. Cox, of Florida.
Charles B. Cuenod, Jr., of California.
Carl C. Cundiff, of Nevada.
Michael A. Davila, of Texas.
Terrance M. Day, of Maryland.
James C. Dean, of Florida.
Richard N. Dertadian, of California.
Mark M. Easton, of Pennsylvania.
Samuel C. Fromowitz, of Virginia.
Sydney Goldsmith, of New Jersey.
Dennis C. Goodman, of Ohio.
Kathryn J. Groot, of Maryland.
Francis S. Hall, of New York.
Richard J. Harrington, of California.
Caroline M. Hasenkamp, of Florida.
James M. Hawley III, of West Virginia.
George W. Heatley, of California.
H. Kenneth Hill, of California.
Catherine M. Hurley, of Connecticut.
Richard H. Imus, of California.
Louis F. Janowski, of Illinois.
D. Lowell Jones, of Mississippi.
Ralph T. Jones, of Maryland.
Philip S. Kaplan, of California.
Peter R. Keller, of Connecticut.
Patricia P. Kemper, of Florida.
Don Roland Kienzle, of Virginia.
T. Patrick Killough, of Texas.
Richard F. King, of Louisiana.
Robert H. Knickmeyer, of Missouri.
Alphonse F. LaPorta, of New York.
James W. Lamont, of New Jersey.
Stephen L. Lande, of New York.
George H. Lane, of Illinois.
Vernard A. Lanphier, of Utah.
C. Rita Lema, of Louisiana.
Ira H. Levy, of Missouri.
Edward W. Lollis II, of Indiana.
Mark Lore, of Virginia.
George Q. Lumsden, Jr., of New Jersey.
John J. Maresca, of Connecticut.
Lois Jean Matteson, of Virginia.
Doyce R. McNaughton, of Texas.
Richard H. Milton, of West Virginia.
Franz H. Misch, of California.
Paul D. Molineaux, of the District of Columbia.
Joseph V. Montville, of New Jersey.
Glenn A. Munro, of California.
Walter M. Notheis, of California.
Joseph T. O'Brien, of Florida.
Richard M. Ogden, of Connecticut.
Walter John O'Grady, of New York.
Thomas F. O'Herron, of New York.
E. Parks Olmon, of Texas.
Marie F. O'Shea, of New York.
Irwin Pernick, of New York.
Douglas K. Ramsey, of Nevada.
James W. Reeves, of California.
Thomas R. Reynders, of Maryland.
Edward F. Richards, Jr., of Alabama.
Cecil S. Richardson, of New York.
Robert G. Richmond, of New Hampshire.
Kenneth J. Robinson, of Florida.
Bruce C. Rogers, of California.
William Frederick Rope, of New York.
Teresita S. Schaffer, of New York.
Richard C. Schenck, of New York.
William Seth Shepard, of New Hampshire.
David H. Shinn, of Washington.
Leonard G. Shurtleff, of Massachusetts.
Allan D. Silberman, of Maryland.
Manuel Silberstein, of California.
Henry Sears Sizer, of the District of Columbia.
Janina Slattery, of the District of Columbia.
Dane F. Smith, Jr., of New Mexico.
William E. Spruce, of Texas.
John W. Stahlman, of Ohio.
John P. Steinmetz, of California.
Byron R. Stephenson, of Kansas.
John Todd Stewart, of California.
Dan J. Thal, of California.
John B. Thompson, of Pennsylvania.
Victor L. Tomseth, of Oregon.
James A. Treichel, of the District of Columbia.
Theresa A. Tull, of New Jersey.
Frank Tumminia, of New York.
Caroline Marr Turtle, of New Jersey.
Thomas J. Wajda, of Ohio.
William J. Waller, of California.
John L. Washburn, of Maine.
Alexander F. Watson, of Massachusetts.
Douglas K. Watson, of California.
William A. Weingarten, of New York.
James C. Whitlock, Jr., of Virginia.
Leonard F. Willems, of Wyoming.
A. Joseph Williams, Jr., of Georgia.
Richard H. Williams, of Virginia.
Joseph A. B. Winder, of Indiana.
Edward C. Woltman, Jr., of Indiana.

Foreign Service Officers of class 4 and consular officers of the United States of America

Bernard J. Rotklein, of Minnesota.
Francis J. Tatu, of California.
Brooks Wrampelmeier, of Ohio.

Foreign Service officers of class 5

R. Maryetta Ackenbom, of the District of Columbia.
Wayne Thomas Adams, of Maine.
Joseph F. Aronhime, of Maryland.
Charles R. Baquet III, of Louisiana.
Ward Davis Barmon, of New York.
Gary S. Basek, of New York.
John A. Bastek, of Connecticut.
Bruce Anthony Beardsley, of Nevada.
Robert W. Beckham, of Florida.
Wendell L. Belew, of California.
Michele M. Bova, of Maryland.
Hugh D. Camitta, of New York.
John Eignus Clark, of Maryland.
Lewis I. Cohen, of New York.
James F. Collins, of Illinois.
Michael W. Cotter, of Wisconsin.
Jeffrey Davidow, of Minnesota.
Pasquale L. DiTanna, of New Jersey.
James F. Dobbins, Jr., of Pennsylvania.
Michael W. Donovan, of Indiana.
Herbert D. Dunhaver, of California.
Morton R. Dworken, Jr., of Ohio.
James W. Eighmie, Jr., of the District of Columbia.
Richard C. Faulk, of New Jersey.
Robert C. Felder, of New York.
Harrell Kennan Fuller, of New Mexico.
Robert A. Gehring, of Connecticut.
Robert S. Gelbard, of New York.
Thomas Humphrey Gerth, of New York.
Edward W. Gnehm, Jr., of Georgia.
Hilton L. Graham, of Oregon.
Ralph D. Griffin II, of New Hampshire.
G. Gene Griffiths, of Tennessee.
Manuel R. Guerra, of Texas.
J. Guy Gwynne, of Arkansas.
Richard G. Haegele, of Illinois.
David Crane Halsted, of Maryland.
Francis P. G. Hearne, of New Jersey.
Irvin Hicks, of Maryland.
James H. Holmes, of New York.
Richard W. Hoover, of Ohio.
Theresa A. Hunt, of New York.
David H. Hutchison, of Kansas.
Thomas C. James, of California.
Anne D. Jillson, of Connecticut.
Dolly Ann Johnson, of Missouri.
Allen L. Keiswetter, of Kansas.
Charmaine V. Keyes, of the District of Columbia.
Howard H. Lange, of Washington.
James A. S. Leach, of Iowa.
Harlan Y. M. Lee, of California.
E. Mark Linton, of California.
Duane T. Linville, of Indiana.
Roger A. Long, of Ohio.
Kenneth Longmyer, of California.
D. Thomas Longo, Jr., of the District of Columbia.
Jean E. Mackey, of Virginia.
Dorothy L. Magee, of Florida.
Bruce Malkin, of Pennsylvania.
John R. Malott, of Illinois.
Rafael L. Marin, of New York.
G. Eugene Martin, of Michigan.
Edward E. Martinez, of Texas.
Richard E. Masters, of Texas.
Carl W. McCollum, of Illinois.
Janet C. McCrory, of Missouri.
Alfred J. McGinness, Ohio.
Kevin J. McGuire, of New York.
James W. McGunnigle, of New York.
Alan R. McKee, of New Hampshire.
Gregory L. McLerran, of Texas.
Robert Bruce McMullen, of Illinois.
Mary Ann Meysenburg, of Nebraska.
Edward M. Milburn, of Illinois.
John H. Miller, of New York.
John Monioudis, of Virginia.
George E. Moose, of Colorado.
Murrow B. Morris, of Georgia.
John G. H. Muehlke, Jr., of New Hampshire.
Roberto R. Munzo, of Texas.
Francis J. Nelson, of New York.
Robert K. Nelson, of Washington.
Jeremy Nice, of the District of Columbia.
Ralph L. Nider, of Pennsylvania.
Michael P. Owens, of Texas.
David A. Pabst, of Washington.
Robert S. Pace, of Pennsylvania.
Robert E. Park, of California.
F. Coleman Parrott, of Alabama.
David R. Patterson, of Arkansas.
Alec M. Peltier, of Virginia.
Peter S. Perényi, of Connecticut.
Anthony Carson Perkins, of the District of Columbia.
Gwendolyn L. Quarterman, of Illinois.
James J. Reid, of Texas.
Robert C. Reis, Jr., of Missouri.
Craig Emerson Richardson, of Ohio.
Rudolph Lawrence Rivera, of California.
James W. Roodhouse, of Colorado.
Frederick I. Rossi, of New York.
Richard W. Ruble, Jr., of California.
Dennis A. Sandberg, of Minnesota.
Eugene L. Scassa, of Pennsylvania.
Barbara Jane Schrage, of Wisconsin.
Elaine Barbara Schunter, of Michigan.
Thomas J. Sinclair, of Maryland.
Norman A. Singer, of Illinois.
Charles H. Sisk, of Florida.
William G. Smallwood, of Washington.
Moffett R. Smith, of Texas.
E. Michael Southwick, of California.
Kenneth A. Stammerman, of Kentucky.
David H. Stebbing, of the District of Columbia.
Edward Richard Stumpf, of New York.
Randolph A. Swart, of Maryland.
Lawrence Palmer Taylor, of Ohio.
Albert A. Thibault, Jr., of Pennsylvania.
William S. Tilney, of California.
Tain Pendleton Tompkins, of the District of Columbia.
Robert A. Tsukayama, of Hawaii.
Stanislaus R. P. Valerga, of Texas.
David M. Walker, of California.
Matthew P. Ward, Jr., of Pennsylvania.
Daniel F. Waterman, of New York.
Keith L. Wauchope, of New York.
Richard L. Weeks, of New Hampshire.
Mary M. Welch, of Kentucky.
Daniel R. Welter, of Illinois.
Thomas Gary Weston, of Michigan.
Howard F. Williams, of Georgia.
Russell M. Winge, of Minnesota.
Paul R. Wisgerhof, of Colorado.
Howard S. Witmer II, of Michigan.
Bernard J. Woerz, of New Jersey.
Kenneth Yalowitz, of Virginia.
Raymond Alexander Yuhasz, of New Jersey.

Foreign Service officers of class 6

William W. Allen, of Oregon.
James P. Bell, Jr., of Maryland.
John E. Bennett, of Massachusetts.
J. Grant Burke, of Massachusetts.
Larry G. Butcher, of Oklahoma.
Suzanne S. Butcher, of Pennsylvania.
Philip Lawrence Christenson, of Virginia.
Haley D. Collums, of Tennessee.
David B. Dawson, of the District of Columbia.
George P. Fourier, of Oregon.
Ann E. Griffin, of California.
James M. Griffin, of Massachusetts.
Arthur J. Hardman, of California.
Alan Shaw Hegburg, of Florida.
Dale Roy Herspring, of California.
Hartford Jennings, of Ohio.
E. Stewart Johnston, of California.
A. Elizabeth Jones, of Maryland.
George A. Kachmar, of New Jersey.
Jerrell G. Keathley, of Texas.
Willis D. King, of Oklahoma.
George L. Knox, Jr., of Alabama.
William A. Krug, Jr., of California.
Drew Stephen May, of New Jersey.
Donald James McNally, of New Jersey.
Adriaen M. Morse, of Arkansas.
Michael A. Nayor, of New York.
Ronald Benjamin Rabens, of Illinois.
David A. Roberts, of Pennsylvania.
Thomas Lee Robinson, of Michigan.
Danny B. Root, of California.
Jack W. Ryan, of Ohio.
Jeffrey R. Siegel, of New Jersey.
James R. Smith, of West Virginia.
Richard J. Stemple, of Illinois.
Robert Taylor, of Texas.
S. Dickson Tenney, of the District of Columbia.
Marilyn Ann Train, of California.
Domonic Vallese, of Pennsylvania.
Theodore J. Villinski, of Iowa.
Xenia Vunovic, of New York.
Rhoda Weinstein, of New York.
Robert A. Windsor, of Florida.
John Stern Wolf, of Pennsylvania.

Foreign Service officers of class 7

JoAnne Arzt, of New York.
Holly Gosewisch, of Wisconsin.
Ruth Miles Henderson, of the District of Columbia.
Bruce McKenzie, of California.
Ronald J. Neitzke, of Minnesota.
John F. Tefft, of Wisconsin.

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service Information Officers for promotion in the Foreign Service to the classes indicated:

Foreign Service information officers of class 1

Robert C. Amerson, of South Dakota.
Walter M. Bastian, Jr., of Maryland.
Robert H. Behrens, of New Jersey.
Lyle D. Copmann, of Nebraska.
Robert T. Curran, of Michigan.
David J. DuBois, of the District of Columbia.
John L. Hedges, of Maryland.
Arthur S. Hoffman, of Florida.
Maurice E. Lee, of Pennsylvania.
Wallace W. Littell, of Maryland.
James Moceri, of Washington.
G. Richard Monsen, of Utah.
Harold F. Schneidman, of Pennsylvania.
Francis B. Tenny, of Virginia.
Gordon Winkler, of the District of Columbia.

Foreign Service information officers of class 2

James F. Anderson, of the District of Columbia.
William H. Anthony, of California.
Richard T. Arndt, of New Jersey.
Philip W. Carroll, of Virginia.
Bernard Casper, of California.
Robert L. Chatten, of California.
Vytautas A. Dambrava, of the District of Columbia.
Gerard A. Donohue, of Illinois.
A. T. Falkiewicz, of Florida.
Donald G. Gould, of Maine.
Ivan Izenberg, of Maryland.
Walter A. Kohl, of Washington.
Boulos A. Malik, of the District of Columbia.
William C. Mateer, of Ohio.
Edward H. Mattos, of California.
Lynn H. Noah, of Vermont.
Perry L. Peterson, of Virginia.
Douglas Pike, of North Dakota.
James M. Rentschler, of Pennsylvania.
Joseph J. Sandel, of the District of Columbia.
Neely G. Turner, of Washington.
Robert C. Voth, of California.
Robert B. Warner, of Michigan.
Hugh McL. Woodward, of Kentucky.
Douglas A. Zischke, of Florida.

Foreign Service information officers of class 3

Donald G. Besom, Jr., of Nebraska.
John T. Burns, of Florida.
John H. Corr, of Virginia.
Mary Frances Cowan, of the District of Columbia.
William T. Crocker, of Massachusetts.
Charles R. Dickerman, of Michigan.
Frazier Draper, of Florida.

Kent A. Herath, of Ohio.
Millard L. Johnson, Jr., of California.
Gerald J. Kallas, of California.
Anton N. Kasanof, of Florida.
Sean Kennedy Kelly, of Nevada.
Robert E. Knopes, of Wisconsin.
John F. Kordek, of Illinois.
Leon Lederer II, of Virginia.
Frederic S. Mabbatt III, of California.
James J. Mandros, of Pennsylvania.
Bernie T. Marquis, Jr., of Washington.
John A. Mason, Jr., of Virginia.
Robert C. McLaughlin, of the District of Columbia.
J. Richard Overturf, of the District of Columbia.
Edward T. Penney, of Illinois.
Phelon D. Peters, of California.
Paul Polakoff, of California.
Peter J. Reuss, of Florida.
Sanders F. Rosenblum, of Michigan.
Sherman H. Ross, of California.
Robert R. Ruggiero, of Rhode Island.
Andrew J. Schwartz, of New York.
Frank W. Scotton, of Massachusetts.
Ronald W. Stewart, of Illinois.
William F. Thompson, of Minnesota.
Franklin J. Tonini, of Florida.
Robert J. Wozniak, of Michigan.
William M. Zavis, of Illinois.

Foreign Service information officers of class 4

Paul B. Altemus, of New Jersey.
Sheldon H. Avenius, Jr., of New York.
Robert Bemis, of Massachusetts.
Robin A. Berrington, of Ohio.
Peter P. Cecere, of the District of Columbia.
James F. Channing, of Virginia.
Anthony B. Chillura, of Florida.
Donald B. Cofman, of Colorado.
Frances D. Cook, of Florida.
Louise Kelleher Crane, of Massachusetts.
Alfred M. Crocker, of Texas.
Tabor E. Dunman, Jr., of Virginia.
Margaret A. Eubank, of Maryland.
Thomas E. Finnerty, of Michigan.
Richard B. Fitz, of California.
Cynthia J. Fraser, of Texas.
John A. Fredenburg, of New York.
Richard J. Gilbert, of New York.
Jacob P. Gillespie, of Connecticut.
Paul L. Good, of California.
David D. Grimland, of Texas.
Anne J. Gurvin, of California.
Kenton W. Keith, of Missouri.
Terrence H. Kneebone, of Utah.
Frederick E. V. LaSor, of California.
Ernest H. Latham, Jr., of Massachusetts.
Joseph L. Marek, Jr., of Texas.
H. James Menard, of California.
Robert N. Minutillo, of Massachusetts.
Thomas E. O'Connor, of Ohio.
Ross E. Petzing, of New Jersey.
Peter L. Quasius, of Virginia.
Arnold J. Silverman, of California.
A. Stephen Telkins, Jr., of Pennsylvania.
William J. Weinhold, of Wisconsin.
John G. Wilcox, of Michigan.
Michael M. Yaki, of California.

Foreign Service information officers of class 5

John L. G. Archibald, of New York.
William J. A. Barnes, of Massachusetts.
Razvigor Bazala, of New Jersey.
Peter T. Becskehazy, of Ohio.
Arthur S. Berger, of the District of Columbia.
Brian E. Carlson, of Virginia.
Paula J. Causey, of Virginia.
James A. Edris, of Pennsylvania.
C. Roy Fleming, Jr., of Tennessee.
William Henry Graves, of California.
Thomas A. Homan, of Illinois.
J. Michael Houlahan, of Iowa.
Edward S. Ifshin, of Florida.
George C. Kinzer, of California.
Kathryn L. Koob, of Iowa.
David H. Lambert, of California.
George D. Langham, of Arizona.
Robert E. McDowell, Jr., of New York.
Eugene A. Nojek, of Illinois.
Michael F. O'Brien, of California.
Donna Marie Oglesby, of Florida.
Joanne A. Rhinehart, of Pennsylvania.
Roger S. Russell, Jr., of Pennsylvania.
Jack A. Sears, of South Dakota.
Cornelia M. Sheahan, of New York.
John A. Swenson, of Wisconsin.
Thomas W. Switzer, of Colorado.
John C. Thomson, of California.
David P. Wagner, of Florida.
John Scott Williams, of Virginia.
Leonardo M. Williams, of Minnesota.
Katherine K. Young, of the District of Columbia.

Foreign Service information officers of class 6

Sheridan W. Bell III, of Delaware.
Margaret M. Converse, of Illinois.
Betsy A. Fitzgerald, of Connecticut.
Gerald E. Huchel, of Illinois.
Victoria B. Jacqueney, of New York.
Francis William Lowrey, of New Mexico.
Robert D. Miller, of Pennsylvania.
James C. Palmer, of Utah.
M. Kathleen Schloeder, of Virginia.
Lois M. Sherman, of Tennessee.
Kenneth A. Simms, of California.
Susan Davis Todd, of Virginia.
Michael D. Zimmerman, of North Carolina.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of Title 10, United States Code, Section 3962:

To be general

Gen. Lewis Blaine Hershey, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

IN THE NAVY

The following named Reserve Officers of the United States Navy for permanent promotion to the grade of rear admiral:

LINE

John H. Pedersen
Richard Freundlich
Edwin M. Wilson, Jr.
Graham Tahler
George V. Fliflet
Eddie H. Ball
Judson L. Smith
Anthony A. Braccia
John D. Gavan
Robert A. Hobbs
Burnett H. Crawford, Jr.
Hugh R. Smith, Jr.

MEDICAL CORPS

Ben Eiseman
David B. Carmichael, Jr.

SUPPLY CORPS

Jack F. Pearse
Robert H. Spiro, Jr.
Raymond Hemming

CHAPLAIN CORPS

Mark R. Thompson

DENTAL CORPS

George J. Coleman
Roman G. Ziolkowski

IN THE MARINE CORPS

The following-named women officers of the Marine Corps Reserve for permanent appointment to the grade of colonel:

Vivian B. Bulger
Ernestine Stowell

The following named women officers of the Marine Corps Reserve for permanent appointment to the grade of lieutenant colonel:

Nannette L. Beavers
Adele A. Graham

The following named officers of the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel:

Robert J. Alfonso
Glenn E. Allen
Richard P. Althouse
James R. Arnett
Joseph C. Baldwin
Rolan E. Banks
Richard G. Bean
Robert D. Becker
Robert D. Berguin
William H. Beyer
William M. Bishop
John D. Boswell
Joe D. Bowling
Robert J. Brazil
James A. Bricker
Robert G. Brooks
George J. V. Buckner
Gary F. Burchfield
Charles W. Bushar III
Joseph B. Byrnes
Chilton S. Cabot
Edward P. Carlin
Charles W. Clarchick
Alfred I. Clayes, Jr.
Richard T. Close
Joseph W. Constantine
James E. Cooper
John C. Cooper, Jr.
Myron R. Coryell, Jr.
William J. Cover III
James A. Craige
Martin J. Crowley
Peter W. Defty
Harry R. Delkeskamp
Marvin L. Dery
Glenn V. Dill
Rocci M. Discipio
Glenn H. Downing
Wildon B. Eaddy
Gordon A. Early
Thomas J. Ebner
James C. Eddins
Bernard T. Eilerts
Edwin J. Emmet, Jr.
Richard M. Evans
Joseph Fasano
M. P. Frank III
Frederic W. Frost III
Frank Gentile
Robert A. Giovanelli
William L. Goodwin
Peter C. Greer
John W. Greiner
William S. Hamel
Todd G. Hannah
Harald R. Hansenpruss
William J. Hatcher, Jr.
Robert T. Hartmann
Kenneth A. Heimes
James A. Herbert
Peter H. Hofinga
Edwin K. Hoiles
Jon D. Hollabaugh
Robert F. Horan, Jr.
Leroy M. Jones
Donald V. Joyce
Edward A. Kelly, Jr.
Michael J. Kelly
Edwin K. Kiefner
Wayne E. Koons
John M. Kretsinger
Phillip B. Layman
Charles A. Lazzaro, Jr.
Robert E. Lee, Jr.
Paul A. Leppert
George Lindeman
Robert E. Loughridge
David R. Martin
Lawrence McCarthy
Dudley E. McFadden, Jr.
Thomas C. McGregor
John J. McLaughlin, Jr.
Harry R. McPike
Henry F. Mehlert, Jr.
George F. Meyers, Jr.
Gene A. Miller
Donald J. Miloscia
John C. Moffett
William M. Monroe
George E. Moore
Michael W. Murray
Richard D. Muzzy
Arthur L. Nardiello
John M. Norton
Lawrence E. Nugent
John E. Oates
Alan S. Painter
Robert W. Painter
Delos S. Pappas
John R. Patten
James W. Pattison
David A. Perry, Jr.
Joseph J. Pestana, Jr.
Charles G. Peterson
Eric N. Piper
Gerald M. Prizant
Hugh C. Purser
William A. Rasmussen
Howard E. Rast, Jr.
Richard L. Rattray
Robert S. Reeves
John V. Reschar
Erland Reuter
Cecil E. Rice
Wallace W. Rich
William P. Ricketts
William H. Ridings
Richard G. Rodriguez
George T. Rorrer, Jr.
Gerald J. Ryan
Thomas R. Sarver, Jr.
Arthur J. Sattolo
Ellis A. Schmidt
Charles W. Schrader
John A. Shanahan
Lawrence D. Sheridan
Carmen P. Silirie
Richard W. Singer
Thomas B. Smith
Wallace S. Smith
Paul Soby
Dale W. Spence
George T. Stevens III
Jerald C. Stoeber
Dan G. Switzer
John H. Tewksbury
Richard M. Thoreson
Charles H. Townsend
Richard P. Trotter
Barclay M. Wagner
Newton L. Wakeman
Arthur E. Walls
Richard J. Walters
William E. Wean
James R. Weinlader
James H. Westmoreland
William B. Williams
Herman W. Winter
Louis C. Wirthlin
Glennon D. Woods
Donald L. Wright
Richard J. Yevak
William D. Young, Jr.

IN THE NAVY

The following-named (naval Reserve officers training corps candidates) to be permanent ensigns in the Line or Staff Corps of the Navy, subject to the qualification therefor as provided by law:

David O. Aldrich
Alan R. Austin
Timothy J. Barnes
Bruce C. Bauer
William J. Beres
John M. Berosky
Richard N. Bradshaw
Peter S. Chmelir
Thomas C. Compitello
Bruce A. Cordes
David M. Crocker
Mark E. Denari
John H. Dickie
Christopher J. Ebert
Robert K. Eby, Jr.
James J. Ehler
James C. Ellis
Daniel H. Else III
Kip M. Farmer
Dan "J" Garner
John H. Gonsalves III
David R. Goonen
Joel L. Greenblatt
Joseph C. Greyson, Jr.
Lewis G. Halloran
Alan M. Harms
John A. Hedin
Robert V. Humphreys
Jay R. Jacobowitz
Steven C. Jansen
Harold J. Kearsley
*John A. Keenan
John M. Killey
Alan G. Kyle

David A. Lang
James R. Lundeen
John M. McCahon
James W. Mehrmann
Roger H. Morrison
George L. Neslein
James H. Norman
John R. Patterson
Darrell B. Powell
*Victor L. Rollandi
Chester W. Schwartz
*Steven D. Stalnaker
James P. Steffensen
Joe R. Stilwell, Jr.
Lawrence J. Swenson
*William A. Syverson, Jr.
*Douglas D. Thaxton
*Geoffrey W. Turner
Robert A. Uhl
William C. Wagner
David D. Weaver
Mark D. Westin
Vernon F. Wilkerson
*Jay H. Williams

The following-named (naval enlisted scientific education program candidates) to be permanent ensigns in the Line or Staff Corps of the Navy, subject to the qualifications therefor as provided by law.

David J. Acker
Henry G. Adams
Robert A. Adams
William E. Alcorn
Jack C. Allen
Harry R. Anderson III
James E. Anderson
Michael T. Anderson
John W. Arnest
Richard G. Bair
William R. Ball, Jr.
Clyde B. Balthrop
Charles W. Bassett III
Donald W. Bechtold II
Gregory J. Bennett
John A. Boito
Robert D. Bourg
Daniel A. Brady
Edward S. Branson
Jack V. Brendmoen
Russell T. Bridges
William J. Brinkley
Jimmy W. Broadus
Karl S. Brown, Jr.
*Larry W. Brown
Richard M. Brown
Larry W. Buck
Dennis W. Buller
Warren L. Bunn
Jack D. Bush
James D. Bush
Leon P. Calviero
Michael H. Carson
Leonard R. Casella
*Reuben Castaneda, Jr.
Lewis A. Causey
Myron E. Chaffee II
Robert A. Cheney
John H. Connor, Jr.
William T. Copeland
Michael R. Cooper
Philip P. M. Cooper
David W. Corel
Richard L. Cox
Marion L. Crouch
Philip H. Crowell III
Nicholas J. D'Acquisto
David E. Damin
Bruce W. Davis
Charles W. Davis
Lavern A. Davis
Victor M. Deleon
Willard J. Demo
Tim A. Dettmann
Joe D. Deweese
Henry A. Domis
James E. Downs
Michael Dubrouillet
Richard E. Duncan
William H. Dunn
Charles A. Edmunds
Kenneth M. Elliott, Jr
Lawrence E. Epley
Reginald J. Erman
George E. Escola, Jr.
Monty J. Evans
*James T. Fahey
Gary L. Farmer
Rodney G. Farrell
James H. Fenner
Robert J. Flenniken
Edward C. Flynn
Ronald D. Ford
James M. Forgy
Martin Fox
*Daniel J. Franken
Gerald S. French
Dennis P. Fusher
*William E. Gahnstrom
*Thomas G. Gailey
John R. Gersh
Ernest E. Gesell III
Quentin R. Grady
John M. Graham
Thomas A. Grassi
*Frederick E. Groenert, Jr.
Frank J. Guarino, Jr.
Raymond J. Gut
Ronald W. Haddock
Dennis G. Hale
Raymond T. Hall
Richard R. Hamm
John L. Harding
Thomas W. Harten
Robert W. Heidecker
Kenneth R. Henry
Michael D. Henry
Gregory P. Hicks
*Dennis A. Hobbs
Bart D. Hodgins
Gary D. Houge
Carl P. Howard
Edward H. Hudson
David J. Hughes
Anthony H. Iliff
Kenneth R. Ivary
Richard P. Jarrell
*Larry E. Jones
Allan J. Kamen
Charles L. Keil
James W. Kennedy
*Glenn W. Knapp
Charles E. Kohls III
Henry A. Korejwo
*Edward S. Kraft, Jr.
Daniel A. Kulig
Dennis A. Kurtz
Terry L. Lacoss
Marvin J. Langston
David J. Larocque
*Duane N. Larson
Lawrence K. Laswell
Charles W. Lefeaux
Victor J. Lepere, Jr.
John D. Liechty
Douglas C. Lindauer
Raymond A. Lion, Jr.
Rollin G. Lippert
Paul J. Loeser
James R. Louder III
*Keith E. McCallum
John P. Mabry
John E. Manning
John R. Marshall, Jr.
James P. Martin
Karl L. Masoner
*Stanley W. Mathis
Gary M. Matyas
Richard C. Medved
Albert S. Merrion
*Paul F. Miller
Leslie P. Morrow
Charles E. Morton, Jr.
Daniel G. Mulhall
Wayne E. Nash
Edward J. Nelson
James A. Nelson
John W. Orrison
*Paul A. Palmer
Edwin H. Parry, Jr.
*Michael W. Pease
*Percy W. Perkins, Jr.
John M. Perry, Jr.
Curtis R. Peterson
Michael L. Pitts
Robert W. Poirier
David R. Powell
Donald E. Powell
Greer R. Putnam
Craig S. Relan
Ronald E. Renner
Jerry K. Richardson
Charles W. Rickgauer
Bernard A. Riggs
Gregory L. Roberts
Joseph D. Roberts
Thomas R. Robinson
Wayne J. Rogalski
Lawrence A. Root
Stephen I. Ryan
William Saller
Dean O. Schaaf
Richard A. Schaeffer
Michael F. Schafer
Larry C. Shumaker
Martin S. Schwartz
Dennis R. Scott
David B. Shafer
Paul M. Shayda
Kevin P. Sheehan
Reuben H. Shirah
Robert C. Showalter
Ronald B. Simcoe
William J. Slighter
David J. Smith
David A. Sona
Michael J. Sorek
Ronald W. Spicer
John R. Stella
William J. Stevenson III
David L. Stone
Edward L. Stone
Donald J. Straka
Dennis R. Strout
David H. Sturgis
Leland H. Tanner
Roger F. Theurer
Robert J. Thomson
Terry A. Turner
James F. Valdes
Gleason H. Verduzco
Larry O. Walker
Thomas D. L. Walker
William E. West
Kent P. Whitaker
*William F. White
David G. Williams
Vernon T. Williams
Michael R. Willmore
Richard A. Wilson
Stephen J. Worcester
Peter Wynkoop
Louis E. Yoe

Lowell R. Kent (naval enlisted scientific education program candidate) to be a permanent lieutenant (junior grade) in the Line of the Navy, in lieu of ensign in the Navy, as previously nominated and confirmed to correct grade.

George P. Graf (civilian college graduate) to be a permanent captain in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Albert Weinshelbaum (civilian college graduate) to be a permanent commander in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Joshua M. Morse III (civilian college graduate) to be a temporary commander in the Judge Advocate General Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

James J. McHale, Jr., U.S. Navy officer, to be a permanent commander and a temporary captain in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

The following-named U.S. Navy officers to be temporary commanders in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Thad F. Connally, Jr.
Crayton A. Fargason
Joseph G. Gregonis
William G. Nevel
Robert N. Sawyer
Robert J. Swan
Ernest W. Wood

Patricia S. Jennings, U.S. Navy officer to be a temporary commander in the Nurse Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

The following-named Ex-USNR officers to be permanent captains in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

George A. Brennan
Harold E. Jervey, Jr.
Walter A. Tatge

Richard J. Magenheimer, Ex-USNR officer to be a permanent commander in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

James C. Meador, Jr., Ex-USNR officer to be a temporary commander in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Robert C. Maddox (civilian college graduate) to be a temporary commander in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Frank J. Mehrtens, U.S. Navy retired officer, to be reappointed from the temporary disability retired list as a permanent chief warrant officer W–2 and a temporary chief warrant officer W–3 and a temporary lieutenant in the Navy, subject to the qualification therefor as provided by law.

The following-named appointees to be permanent captains in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

*James W. Lea, Jr.
*Glenn W. Lotz

*John N. Rizzi (civilian college graduate) to be a permanent commander and a temporary captain in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

*David J. Letourneau (civilian college graduate) to be a permanent lieutenant commander and a temporary commander in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

*Ronald D. Symonds (civilian college graduate) to be a permanent lieutenant commander in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

The following-named appointees to be permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

*Mario E. Costaldi
*Alan C. Jones
*Robert B. Jones
*Lawrence H. Robinson

The following-named (Naval Reserve officers) to be permanent lieutenants in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

*James O. Armacost
*Robert W. Doebler
*Robert F. Sarlin

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

*Charles B. Brett
*Michael E. Donald
*Francis C. Gamza
*Rolf P. Gobien
*James M. Hassett, Jr.
*David L. Haworth
*James A. Hinckley
*Stephen A. Kuykendall
*Donald B. Reece, II
*John C. Reedy
*Michael D. Walker

*Robert D. Gear (civilian college graduate) to be a permanent lieutenant (junior grade) and a temporary lieutenant in the Dental Corps of the Navy in lieu of permanent lieutenant as previously nominated and confirmed to correct grade.

The following-named appointee to be permanent lieutenant and a temporary lieutenant commander in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

*Christian S. Berdy
*Ralph E. Beyersdorf
*Edward J. Billy
*Van D. Henson
Rodrigo C. Melendez
*Albert S. Mowery, Jr.
*Patrick M. Pralle
*Daniel J. Scala, Jr.
*Peter G. Sorvas
Robert H. Wright

*Gary B. Grantham (civilian college graduate) to be a permanent lieutenant in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

The following-named appointees to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

*Joseph H. Anderson
*Timothy J. Bokmeyer
*John J. Boyd, Jr.
*James E. Brown III
*Earl V. Bump, Jr.
*Henry A. Crouch, Jr.

*Phillip R. Davis
*Edward A. Funk
*Jess M. Hamilton, Jr.
*Joseph G. Innes
*Raymond J. Kielt
*Walter M. Lange, Jr.
*Daniel A. McInnis
*Gayle A. Owens
*Michael I. Potter
*Lon N. Reed III
*Edward Russo, Jr.
*Steven H. Scott
*Stuart B. Siegel
*Thomas L. Silverthorn
*Jon A. Sorensen
*Robert M. Sweet
*Mark P. Tytell
*Warren P. Waters

*Jewel T. Smith, U.S. Navy retired officer, to be reappointed from the temporary disability retired list as a permanent lieutenant and a temporary lieutenant commander in the Medical Service Corps of the Navy, subject to the qualification therefor as provided by law.

The following-named temporary chief warrant officers to be permanent chief warrant officers W–2 and temporary chief warrant officers W–3 in the Navy, subject to the qualification therefor as provided by law.

*Warren T. Armour
*William E. Bassett
*Prudencio Deniz
*Karl E. Hayes
*Joseph L. Kelleher
*Jack Kondziela
*Robert G. Lutze
*Billie J. Matthews
*Thomas H. McDonald, Jr.
*Johnny F. Meneses
*Newton R. Mitchell
*Donavon J. Pfeiffer
*Eugene N. Reynolds
*Lawrence B. Rhoden
*James P. Roe
*Leon E. Ryder
*Ray L. Snyder
*Jimmy D. Watson
*Robert H. Wilson

The following-named temporary chief warrant officers to be permanent chief warrant officers W–2 in the Navy, subject to the qualification therefor as provided by law:

*William C. Abbruzzese
*Robert T. Adelwerth
*Richard L. Alger
*Jeffrey L. Anderson
*Virgil R. Askren
*Edward T. Bartyzal
*Merle L. Beller
*Richard A. Bellinger
*Ronald P. Bence
*Louis M. Borno, Jr.
*Thomas H. Brennan
*Ralph C. Buzzell
*Vincent J. Cadora
*Russell R. Carpenter
*Howard L. Catlett
*Davey S. Chapman
*Stephen W. Cherry
*James H. Clark
*Thomas E. Clark, Jr.
*James L. Connell
*Noel T. Coward
*Frederick M. Cox
*Christopher V. Cunha
*Daniel A. Davis
*Franklin W. Devall
*Bruce R. Dickson
*James W. Dixon
*George W. Duryea
*Richard R. Eberle
*Wayne P. Erven
*George P. Evans
*Roy J. Evans
*Don J. Fenton
*Alan T. Ferdinandsen
*Richard A. Finniss
*George F. Floyd
*Lyn Frey
*William D. Gossett
*Monite R. Greene
*Roy G. Hale
*Charles R. Halman
*Delmar Hasselbacher
*Wiliam L. Hazard
*Harry N. Hicock
*Clyde K. Hightower
*William F. Hodge, Jr.
*Wiliam J. Horn
*Frank A. Huffman
*Thomas D. Hunter
*Harold B. Jackson, Jr.
*Thomas E. Jacobs
*Buck P. Jones
*Gordon W. Jones
*Phillip E. Kern
*Frederick L. Kruger
*Robert T. Lane, Jr.
*Frederick C. Langenohl
*Richard C. Lanzner
*Kenneth A. Lessard
*William T. Little, Jr.
*Howard L. Logan
*George R. Lovering
*Roger A. Lovitt
*James W. Lucey
*George R. Lucie
*Charles R. Marinacci
*Kenneth R. Martin
*Jimmy D. Mayo
*Robert A. McAllister
*Kenneth A. McGowan
*Thomas H. McKenzie
*Mason M. McLeod
*Sydney K. H. Miller
*Roger E. Mitchell
*Donald E. Mumford
*Wendel A. Murray
*John R. Neal
*George E. Nims, Jr.
*Richard C. Ohlemacher
*Bobby P. Owens
*Michael B. Page
*Robert L. Porter
*Keith E. Postel
*Robert E. Proctor
*Ronald F. Pugliese
*Richard D. Reitz
*Devereaux P. Riddlebarger
*Donald Romanek
*Carl J. Romo
*Samuel C. Rutledge III
*Mariano J. Sanchez
*Leroy Scott
*Thomas G. Shermer
*Lester C. Smith
*Johnny G. Stanford
*Alfred W. Stauffenberg, Jr.
*Robert G. Stauffer
*Robert L. Stockton
*Marshall E. Tanner, Jr.
*Stephen G. Thomas
*William T. Tucker
*Bobby H. Vinson
*William D. Warren
*John A. Wegiel
*Harold A. Wells
*Charles E. Wharton
*Allen E. White
*John N. Whitlow
*Ray B. Wood
*Randolph W. Wright
*Harold Yeatts
*David W. Young, Jr.
*Louis J. Zobb

*CWO Frederick P. Crickman, U.S. Navy, to be a temporary lieutenant (junior grade) limited duty (administration) in the Navy, subject to the qualification therefor as provided by law.

MM2 Thomas J. Harries, U.S. Navy, to be an ensign in the line (medical/osteopathic scholarship program) in the Navy, subject to the qualification therefor as provided by law.

The following-named (naval enlisted scientific education program candidates) to be permanent ensigns in the Line or Staff Corps of the Navy, subject to the qualification therefor as provided by law.

Roger L. Avant
Larry E. Beberdick
Robert R. Bliss, Jr.
Robert L. Brandhuber
Dexter T. Brengel
Robert E. Bret
Ronald R. Buckley
Gary E. Bunevitch
Richard J. Carroll, Jr.
Richard A. Chalfant
James D. Cook
Michael J. Dascenzo
Gerald W. Egeberg
James E. Essery
Frederick W. Evans
Joseph H. Fields III
Gary M. Finger
William J. Flanagan
John B. Frank, Jr.
Randall L. Goode
Stephen C. Hagge
John B. Harrell III
Ronald L. Hard
Robert S. Hart
Roger D. Helm
William C. Hess
Jeffrey M. Johnson
Glenn G. Kautt
William J. Kemp
Robert D. King
Kenneth M. Kraper
Michael R. Kupar
Michael J. Landers
Donald P. Lapan
Walter J. Mardula
Arthur F. Mehnert
Guy S. Miller
Bruce R. Moore
Dennis W. Moore
Philip A. Myers
Charles L. Nofziger
John P. O'Brien
Arthur J. Page
Arvel L. Palmer
Robert A. Parks
Paul N. Peterson
Robert K. Pierce
Edward J. Pine III
Roney L. Posvar
Gary G. Potter
John L. Rausch
Chester A. Rice
Larry D. Richardson
James C. Robbins
Thomas F. Rogers
David A. Sadler
William A. Scheetz
David W. Schreck
David G. Schwerstein
Terry W. Smith
Grafton A. Spinks
William E. Stone
Gary J. Stutt
John E. Suhr
Edmund L. Thralls
John M. Watling, Jr.
Richard O. White, Jr.
Terence L. Williams
James M. Williams
Samuel C. Worley
Lewis K. Worthing III
John K. Zollinger, Jr.

John E. Williams, Ex-USNR officer to be a temporary commander in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Carl J. Lutt (civilian college graduate) to be a permanent captain in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Charles R. Vavrin (civilian college graduate) to be a temporary commander in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Arvin T. Henderson, Ex-USNR officer to be a permanent captain in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Burton O. Leeb (Naval Reserve officer) to be a permanent lieutenant commander and a temporary commander in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

Gilbert F. Romine (civilian college graduate) to be a permanent lieutenant and a temporary lieutenant commander in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

Jack N. Hamilton
Ronald C. House
Richard A. Rothermel

Marsden S. Blois, Ex-USNR officer, to be a permanent commander in the Medical Corps in the Reserve of the Navy, subject to the qualification therefor as provided by law.

IN THE ARMY

The following-named persons for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list, under the provisions of title 10, United States Code, section 1211:

To be Lieutenant Colonel, Regular Army and Colonel, Army of the United States

Simpson, John E., xxx-xx-xxxx.

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be captain

Gentry, William O., xxx-xx-xxxx.
Gleeson, Roberta L., xxx-xx-xxxx.
Kastello, Michael D., xxx-xx-xxxx.
Marsh, Curtis N., III, xxx-xx-xxxx.

To be first lieutenant

Ankrom, Linda E., xxx-xx-xxxx.
Berryman, Carl, III, xxx-xx-xxxx.
Burch, Joy B., xxx-xx-xxxx.
Carter, Jack E., xxx-xx-xxxx.
Champlain, Robert A., xxx-xx-xxxx.
Coey, Pearl S., xxx-xx-xxxx.
Conrad, Linda S., xxx-xx-xxxx.
Horn, Carol D., xxx-xx-xxxx.
Jarmin, Joyce A., xxx-xx-xxxx.
Nesom, Judy K., xxx-xx-xxxx.
Shannon, Daniel J., xxx-xx-xxxx.

To be second lieutenant

Bradford, Barbara L., xxx-xx-xxxx.
Brown, Patricia A., xxx-xx-xxxx.

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Perkins, Cory V., xxx-xx-xxxx.
Powell, William G., xxx-xx-xxxx.

The following-named cadets, graduating class of 1973, U.S. Military Academy, for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 3283 through 4353:

Abizaid, John Phillip, xxx-xx-xxxx.
Adams, Benjamin Martin, xxx-xx-xxxx.
Adams, Jesse Baker, xxx-xx-xxxx.
Akscyn, Robert Murray, Jr., xxx-xx-xxxx.
Alden, Michael Augustine, xxx-xx-xxxx.
Aldrich, Robert Cornell, xxx-xx-xxxx.
Allen, Harry Patrick, xxx-xx-xxxx.
Allen, James Robert, xxx-xx-xxxx.
Allen, Ollie Wilbert, xxx-xx-xxxx.
Alm, Leslie Ray, xxx-xx-xxxx.
Altieri, Michael Sylvester, Jr., xxx-xx-xxxx.
Anderson, George Leander, xxx-xx-xxxx.
Anderson, John Alan, xxx-xx-xxxx.
Anderson, Mark William, xxx-xx-xxxx.
Anderson, Michael Thomas, xxx-xx-xxxx.
Andrew, Flynn Lambert, xxx-xx-xxxx.
Andrews, Albert Eugene, III, xxx-xx-xxxx.
Ankley, Steven Peter, xxx-xx-xxxx.
Arceri, Gregory Joseph, Jr., xxx-xx-xxxx.
Arison, Harold Lindsey, 3rd, xxx-xx-xxxx.
Arlund, Keith Otto, xxx-xx-xxxx.
Armstrong, William Jack, xxx-xx-xxxx.
Arras, Richard Kent, xxx-xx-xxxx.
Atha, Richard Lee, xxx-xx-xxxx.
Atkins, Charles Donald, xxx-xx-xxxx.
Babbitt, Richard Robert, xxx-xx-xxxx.
Bacon, Alan Jerome, xxx-xx-xxxx.

Bailey, Brett William, xxx-xx-xxxx.
Baker, Daniel Bradford, xxx-xx-xxxx.
Baker, Daniel Jackson, xxx-xx-xxxx.
Baker, Leon Burdett, xxx-xx-xxxx.
Bakken, Keith Wesley, xxx-xx-xxxx.
Balbi, Dieter, xxx-xx-xxxx.
Baldwin, Peter Michael, xxx-xx-xxxx.
Baldy, Paul Anthony, Jr., xxx-xx-xxxx.
Barber, David Duane, xxx-xx-xxxx.
Barker, Bradford Joseph, xxx-xx-xxxx.
Barker, William Elton, xxx-xx-xxxx.
Barry, Scott Alan, xxx-xx-xxxx.
Bartok, Louis James, xxx-xx-xxxx.
Basten, Michael Francis, xxx-xx-xxxx.
Bauer, Richard Paul, xxx-xx-xxxx.
Bauer, Thomas Alan, xxx-xx-xxxx.
Baugh, James Addison, xxx-xx-xxxx.
Bavaro, Lee Terrell Wagener, xxx-xx-xxxx.
Beatty, Timothy Jon, xxx-xx-xxxx.
Beaty, Paul Scott, xxx-xx-xxxx.
Beck, Martin Robert, Jr., xxx-xx-xxxx.
Beck, Rex Gregory, xxx-xx-xxxx.
Belford, Matthew Jack, xxx-xx-xxxx.
Bell, Richard, Jr., xxx-xx-xxxx.
Belnap, Douglas Paul, xxx-xx-xxxx.
Bemis, John Howard, xxx-xx-xxxx.
Bender, Douglas Charles, xxx-xx-xxxx.
Bendler, Walter King, Jr., xxx-xx-xxxx.
Benoit, Paul Frederick, xxx-xx-xxxx.
Beresky, Charles Eugene, xxx-xx-xxxx.
Bergeret, Gregory Fred, xxx-xx-xxxx.
Berlin, Charles Henry, III, xxx-xx-xxxx.
Berry, Michael Adair, xxx-xx-xxxx.
Bessler, James Edward, xxx-xx-xxxx.
Bice, William Stanley, Jr., xxx-xx-xxxx.
Bickford, Charles Dana, xxx-xx-xxxx.
Bivens, Courtland Clouis, III, xxx-xx-xxxx.
Blackerby, David Coleman, xxx-xx-xxxx.
Blane, Donald Joseph, xxx-xx-xxxx.
Blevins, Bruce Wayne, xxx-xx-xxxx.
Boerth, William Edwin, xxx-xx-xxxx.
Boevers, Bruce Eugene, xxx-xx-xxxx.
Bogosian, Stephen Paul, xxx-xx-xxxx.
Bohlender, Hugh Darrow, xxx-xx-xxxx.
Bollinger, Michael David Andrew, xxx-xx-xxxx.
Bond, Kevin William, xxx-xx-xxxx.
Bonner, Garland Charles, xxx-xx-xxxx.
Bossieux, Terry Allen, xxx-xx-xxxx.
Bothe, Steven Edward, xxx-xx-xxxx.
Bowen, Gary Wayne, xxx-xx-xxxx.
Boyd, Robert David, xxx-xx-xxxx.
Brady, William Kim, xxx-xx-xxxx.
Branham, James Milton, xxx-xx-xxxx.
Bratton, Joseph Key, Jr., xxx-xx-xxxx.
Braun, Daniel George, xxx-xx-xxxx.
Briggs, David Edward, xxx-xx-xxxx.
Brigham, Mark Durward, xxx-xx-xxxx.
Brinkley, Melvin Warren, xxx-xx-xxxx.
Bronstein, Lawrence Greg, xxx-xx-xxxx.
Brooks, Frederick Marshall, xxx-xx-xxxx.
Brooks, Godfrey Warren, xxx-xx-xxxx.
Brown, Arthur John, xxx-xx-xxxx.
Brown, Cedric Carson, xxx-xx-xxxx.
Brown, Donald Edward, xxx-xx-xxxx.
Brown, Michael Lawrence, xxx-xx-xxxx.
Brown, Robert Alan, xxx-xx-xxxx.
Brown, Robert Gordon, xxx-xx-xxxx.
Brown, Steven F., xxx-xx-xxxx.
Brown, Thomas Howard, xxx-xx-xxxx.
Brown, William Redfield, xxx-xx-xxxx.
Bruley, Roger Lee, xxx-xx-xxxx.
Bryan, James Lamar, xxx-xx-xxxx.
Bubb, David Lee, xxx-xx-xxxx.
Burd, James Miles, xxx-xx-xxxx.
Burke, James Richard, xxx-xx-xxxx.
Burke, James William, Jr., xxx-xx-xxxx.
Burton, Michael Andrew, xxx-xx-xxxx.
Bustamante, Elias Castro, Jr., xxx-xx-xxxx.
Butts, Kent Hughes, xxx-xx-xxxx.
Cabell, Ben Ransom, xxx-xx-xxxx.
Cadow, Robert Edward, xxx-xx-xxxx.
Campbell, Harry Franklin J., Jr., xxx-xx-xxxx.
Canciglia, Henry Richard, xxx-xx-xxxx.
Caras, Mark Everett, xxx-xx-xxxx.
Carlson, Steven Geoffrey, xxx-xx-xxxx.
Carr, Regis John, xxx-xx-xxxx.
Carriere, Glenn Dee, xxx-xx-xxxx.
Carter, Richard Murrell, xxx-xx-xxxx.
Cartwright, Jeffrey Paul, xxx-xx-xxxx.
Carville, Charles Lester, Jr., xxx-xx-xxxx.
Casey, Timothy Joseph, xxx-xx-xxxx.
Cassidy, Richard Burton, II, xxx-xx-xxxx.
Cathcart, Creston Mark, xxx-xx-xxxx.
Cerny, John Anthony, xxx-xx-xxxx.
Cerososimo, James Michael, Jr., xxx-xx-xxxx.
Ceurvels, Michael Joseph, xxx-xx-xxxx.
Chadick, William Gary, xxx-xx-xxxx.
Chancellor, William Edward, Jr., xxx-xx-xxxx.
Chandler, Bruce Denison, xxx-xx-xxxx.
Chobany, George Christopher, xxx-xx-xxxx.
Christian, James Leslie, Jr., xxx-xx-xxxx.
Christopher, Clyde John, xxx-xx-xxxx.
Church, Steven Douglas, xxx-xx-xxxx.
Chychota, Michael Thomas, xxx-xx-xxxx.
Ciccotti, William Joseph, xxx-xx-xxxx.
Clare, Ralph Barton, Jr., xxx-xx-xxxx.
Clark, Melvin Eugene, xxx-xx-xxxx.
Clark, Terry Dee, xxx-xx-xxxx.
Clouse, Mark Alan, xxx-xx-xxxx.
Coats, Charles Smith, Jr., xxx-xx-xxxx.
Coats, Stephen Dennis, xxx-xx-xxxx.
Colbert, Malcolm Nicodemus, II, xxx-xx-xxxx.
Colbert, Michael William, xxx-xx-xxxx.
Coleman, Frederick David, xxx-xx-xxxx.
Collier, Mark Charles, xxx-xx-xxxx.
Combs, Nicholas Thomas, xxx-xx-xxxx.
Condit, Howard Ross Frederick, xxx-xx-xxxx.
Conley, Adrian Craig, xxx-xx-xxxx.
Conover, Gregory Bruce, xxx-xx-xxxx.
Conway, Robert Lee, xxx-xx-xxxx.
Cook, Ambrose Francis, Jr., xxx-xx-xxxx.
Cook, John de Nooyer, xxx-xx-xxxx.
Cooke, James Christopher, xxx-xx-xxxx.
Cooke, James Robert, xxx-xx-xxxx.
Cooper, Earl Alonzo, III, xxx-xx-xxxx.
Coover, Donald Paul, xxx-xx-xxxx.
Correa, Peter Christopher, xxx-xx-xxxx.
Costantine, Alfred Guy, xxx-xx-xxxx.
Cotton, John Robert, xxx-xx-xxxx.
Cottrell, Scott Barber, xxx-xx-xxxx.
Coumbe, Arthur Thomas, xxx-xx-xxxx.
Cozza, Frank Doulgas, xxx-xx-xxxx.
Crabtree, Brent Allen, xxx-xx-xxxx.
Craig, Dean Emerson, xxx-xx-xxxx.
Craig, Kevin Cameron, xxx-xx-xxxx.
Craig, Sidney Keith, xxx-xx-xxxx.
Cram, Richard Lloyd, xxx-xx-xxxx.
Crandall, Raymund Victor, xxx-xx-xxxx.
Crenshaw, Charles Truett, III, xxx-xx-xxxx.
Crisp, William Ira, xxx-xx-xxxx.
Crockatt, George Wesley, III, xxx-xx-xxxx.
Crossett, Edward Donald, xxx-xx-xxxx.
Crowell, Jon Bower, xxx-xx-xxxx.
Crowley, Brendan Joseph, xxx-xx-xxxx.
Culclasure, Charles Frank, xxx-xx-xxxx.
Cullinan, Daniel Leo, xxx-xx-xxxx.
Curasi, Vincent Bennett, xxx-xx-xxxx.
Cusimano, Thomas Patrick, xxx-xx-xxxx.
Cyr, Joseph Paul, xxx-xx-xxxx.
Daigle, Steven Louis, xxx-xx-xxxx.
Dailey, Grover Hugar, Jr., xxx-xx-xxxx.
Dakin, Richard Earnest, xxx-xx-xxxx.
Dallaire, Richard Michael, xxx-xx-xxxx.
Daly, John Harold, Jr., xxx-xx-xxxx.
Damas, Nage Lee, xxx-xx-xxxx.
Danhof, Ronald Frank, xxx-xx-xxxx.
Daum, James Francis Xavier, xxx-xx-xxxx.
Davis, Daniel Jay, xxx-xx-xxxx.
Davis, Joe Benton, xxx-xx-xxxx.
Davis, Robert William, xxx-xx-xxxx.
Davis, Russell Alan, xxx-xx-xxxx.
Daxon, Eric George, xxx-xx-xxxx.
Days, Douglas Lee, xxx-xx-xxxx.
Daze, Thomas Joseph, xxx-xx-xxxx.
De Bow, Michael John, xxx-xx-xxxx.
De Broux, James Frederick, xxx-xx-xxxx.
Deatherage, William Newton, xxx-xx-xxxx.
Dembowski, Richard Kenneth, xxx-xx-xxxx.
Denton, Michael Edward, xxx-xx-xxxx.
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EXTENSIONS OF REMARKS

"THE CRISIS WON'T WAIT FOR THEM," SENATOR JACKSON ASSERTS; ENERGY PROBLEMS GROW WORSE WITH WHITE HOUSE DELAYS AND INDECISIVENESS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 27, 1973

Mr. RANDOLPH. Mr. President, our able colleague from the State of Washington, Senator HENRY M. JACKSON, chairman of the Committee on Interior and Insular Affairs, is a leader in our national fuels and energy policy study. He spoke with accuracy at the National Press Club on March 22, 1973 when he asserted that the administration is caught in a paralysis in coping with the energy crisis.

This Senator, who cosponsored the Senate resolution (S. Res. 45, 92d Congress) with Senator JACKSON to provide the basic authority for the fuels and energy policy study, is in full accord with the Interior Committee chairman. His declaration that "this Nation must move forward immediately to deal with a critical shortage in our strategic reserve and to avert gasoline shortages this summer," is a solid fact.

Mr. President, I believe, as does Senator JACKSON, that emergency action by the White House within the next 4 weeks on a wide range of measures will be necessary to avert critical shortages of gasoline and other fuels this summer and next winter."

Calling attention last Thursday to the fact that "The White House has time and again put off forwarding an energy message—to Congress," Senator JACKSON emphasized: "We cannot find a piece of paper from downtown to indicate where they stand," and he made the timely declaration: "The crisis will not wait for them."

As to the urgency of the energy crisis and the need for prompt actions to roll back its consequences, this Senator is in full agreement with the knowledgeable Senator from Washington. And I stand side-by-side with him in support of the actions he recommended—actions which must be taken if we are to avert a domestic disaster.

It is my belief that the Interior Committee chairman is thinking and acting with foresight in the preparation of legislation to establsh a National Emergency Energy Board which, he said,

> Would be granted extraordinary powers over Federal agency programs and the energy industries.

It is granted that such an action would be an extraordinary one and, under less critical conditions, should not be necessary. But, as Senator JACKSON said:

> If early action is not taken by the Administration to deal with the critical questions inherent in the energy crisis, the Congress will act.

He added that the powers he has in mind for the proposed National Emergency Energy Board would be built upon the precedent of the War Production Board of World War II and other major Federal interventions into the realm of private enterprise in times of emergency.

Indeed, Mr. Presdent, our colleague's speech was a significant development in the war that must be waged against the eroding effects of the energy crisis. I take it to mean that we now see hopeful signs that the battle against the energy crisis is about to be joined from the ramparts of Capitol Hill if it is not soon joined by the man with very real powers of leadership at the White House.

I am ready and willing to work aggressively and diligently with both the leadership of the executive branch and the leadership of the Congress to bring the energy crisis under control—and to an ending, at the earliest time possible. But, like Senator JACKSON, I have little patience remaining for the procrastination, indecisiveness, and delay in the executive branch with respect to the worsening energy situation. If the Congress must strike without any solid recommendations from the Executive, I stand ready to join with Senator JACKSON and his colleagues of the Interior Committee and those of us who are ex-officio members for the national fuels and energy study in taking positive and decisive actions of the nature so capably conceived and enunciated by the committee chairman last week.

Mr. President, I request unanimous consent to have printed in the RECORD excerpts from Senator JACKSON's address before the National Press Club on March 22, 1973—excerpts released by his office.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM ADDRESS BY SENATOR HENRY M. JACKSON

If there are any lingering doubts about the kind of energy problems we face, consider these facts:

Between 1940 and 1965, the consumption of energy in the United States doubled. If present trends continue, consumption could double again by 1980. The rate of energy consumption increased twice as fast in 1972 as it did in 1971.

In 1965 we consumed nearly 12 million barrels of oil a day; in 1972 we consumed more than 16 million barrels a day. In 1965 we had three million barrels a day spare producing capacity; in 1972 we had none.

In 1972 we imported some 30 percent of our oil requirements. That figure will double by 1980.

At a time when energy demand is greater than ever, there is not one single new refinery under construction in the United States.

At a time when our need to develop domestic oil and gas is greater than ever, we have seen a sharp decline in all kinds of drilling. For example, the number of natural gas wells drilled declined from a high of 5,459 in 1961 to 3,225 in 1970.

The greatest potential for new oil and gas discoveries is on the Outer Continental Shelf. But less than two percent of the OCS to the