

FEDERAL ROLE IN TRAFFIC SAFETY

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
EXECUTIVE REORGANIZATION
OF THE
COMMITTEE ON
GOVERNMENT OPERATIONS
UNITED STATES SENATE
EIGHTY-NINTH CONGRESS
SECOND SESSION

TRAFFIC SAFETY: EXAMINATION AND REVIEW
OF EFFICIENCY, ECONOMY, AND COORDINATION
OF PUBLIC AND PRIVATE AGENCIES' ACTIVITIES
AND THE ROLE OF THE FEDERAL GOVERNMENT

MARCH 22, 1966

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FEDERAL ROLE IN TRAFFIC SAFETY

(Pursuant to S. Res. 186, 89th Cong.)

TUESDAY, MARCH 22, 1966

U.S. SENATE,
SUBCOMMITTEE ON EXECUTIVE REORGANIZATION,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 1318, New State Office Building, Senator Abraham Ribicoff (chairman) presiding.

Present: Senators Ribicoff, Kennedy of New York, Jackson, Harris, and Simpson.

Also present: Jerome Sonosky, staff director and general counsel; Philip Cook, professional staff member; Robert Wager, assistant counsel; and Esther Newberg, chief clerk.

STATEMENT OF HON. ABRAHAM RIBICOFF, U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator RIBICOFF. The committee will be in order.

When the Subcommittee on Executive Reorganization began its inquiry into the Federal role in traffic safety exactly a year ago today, we were aware that we were dealing with a controversial topic. The safety of motor vehicle travel is a matter of vital concern to the American people as a whole, as well as to the millions whose livelihoods depend upon our transportation system and automotive industry.

As a matter of fact, currently there are 91 million registered motor vehicles in the United States, and 98 million licensed drivers.

Soon after the hearings began it was clear that the controversy was likely to become more heated as old theories were subjected to scrutiny and established positions came under attack.

I think our inquiry has been helpful. It has shed light on important matters that have long been only dimly understood. It has shown us areas of controversy where we must look further for the right answers. At the same time, the hearings have quickened the determination of experts in many quarters to make highway travel as safe as possible, as soon as possible.

The hearings have resulted in the introduction of a variety of new safety features on our new automobiles without the passage of any specific legislation. Further, it has led to a national highway safety bill, forwarded to this Congress by the President.

Much of the subcommittee's success has resulted from the willingness of experts in this important field to express their views vigorously

and frankly. This right to testify freely without fear or intimidation is one of the cornerstones of a free and democratic society. Any attempt to jeopardize this right is a serious matter.

I have called this special meeting today to look into the circumstances surrounding what appeared to be an attempt by General Motors Corp. to discredit Mr. Ralph Nader, a recent witness before the subcommittee. This large company whose principal executive officers appeared before this same subcommittee last July, has admitted responsibility for undertaking a determined and exhaustive investigation of a private citizen who has criticized the auto industry verbally and in print.

There is no law which bars a corporation from hiring detectives to investigate a private citizen, however distasteful the idea may seem to some of us. There is a law, however, which makes it a crime to harass or intimidate a witness before a congressional committee. One of our purposes here today is to inquire into the purposes and effects of the action initiated by General Motors.

Personally, I don't like to see anyone subjected to harassment, intimidation, or character assassination. But I am particularly disturbed when this sort of activity is injected into the efforts of a legislative body to deal with a vital public issue, like traffic safety.

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.

Would you, Senator Simpson, or Senator Harris, like to make any comment?

Senator SIMPSON. I haven't anything.

Senator HARRIS. I have no opening statement. Thank you, Mr. Chairman.

Senator RIBICOFF. The first witness is Ralph Nader. We will stand in recess until the witness comes.

(Short recess.)

Senator RIBICOFF. The committee will be in order.

It had been my intention to call Mr. Nader as our first witness, but Mr. Nader has not arrived, and it is now 10:15. Would you object, Mr. Roche, to giving your statement at this time?

Mr. ROCHE. I will be very happy to give my statement, Mr. Chairman.

Senator RIBICOFF. Mr. Roche, as a matter of formality, in keeping with the rules of the committee, may I ask you if you would be willing to take an oath, please?

Will you raise your right hand?

You do solemnly swear that the testimony you shall give before this Senate subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ROCHE. I do.

Senator RIBICOFF. For the purposes of committee procedure, we will allow each witness to give his entire statement without interrup-

tion. After the witness has given his statement, each member of the committee in turn will be confined to asking questions for a period of 10 minutes. After every member of the committee has had an opportunity to ask questions, then those members of the committee who may have other questions may proceed beyond the 10-minute period.

Thank you, Mr. Roche. You may proceed.

TESTIMONY OF JAMES M. ROCHE, PRESIDENT, GENERAL MOTORS CORP.; ACCOMPANIED BY THEODORE C. SORENSEN, COUNSEL

Mr. ROCHE. Thank you, Mr. Chairman.

For the record, my name is James M. Roche and I am president of General Motors Corp., Detroit, Mich. I am here today at the chairman's invitation issued in conjunction with his March 10 statement to the Senate. That statement ordered hearings concerning this corporation's responsibility for a private investigation of Mr. Ralph Nader, a witness before this subcommittee who has been critical of the automobile industry's efforts on traffic safety and particularly the GM Corvair. I immediately stated our intention to cooperate with this subcommittee in every possible way.

Let me make clear at the outset that I deplore the kind of harassment to which Mr. Nader has apparently been subjected. I am just as shocked and outraged by some of the incidents which Mr. Nader has reported as the members of this subcommittee.

As president of General Motors, I hold myself fully responsible for any action authorized or initiated by any officer of the corporation which may have had any bearing on the incidents related to our investigation of Mr. Nader. I did not know of the investigation when it was initiated and I did not approve it.

APOLOGY TO SUBCOMMITTEE AND NADER

While there can be no disagreement over General Motors' legal right to ascertain necessary facts preparatory to litigation, as I shall discuss in a moment, I am not here to excuse, condone, or justify in any way our investigating Mr. Nader. To the extent that General Motors bears responsibility, I want to apologize here and now to the members of this subcommittee and Mr. Nader. I sincerely hope that these apologies will be accepted. Certainly I bear Mr. Nader no ill will.

To the best of my knowledge—and I have made every effort to obtain all the facts since learning about this some 2 weeks ago—the investigation initiated by General Motors, contrary to some speculation, did *not* employ detectives giving false names, did *not* employ Allied Investigation, Inc., did *not* use recording devices during interviews, did *not* follow Mr. Nader in Iowa and Pennsylvania, did *not* have him under surveillance during the day he testified before this subcommittee, did *not* follow him in any private place, and did *not* constantly ring his private telephone number late at night with false statements or anonymous warnings.

At the time the investigation was initiated last November, Mr. Nader's book had not yet been published, he had *not* appeared nor was he scheduled to appear as a witness before this subcommittee and

he was *not* regarded to anyone's knowledge as a consultant to this subcommittee. In short, this investigation was wholly unrelated to the proceedings of this subcommittee and Mr. Nader's connections with them.

There has been no attempt by, and it has at no time been the intention of, General Motors Corp., or any of its officers or employees to annoy, harass, embarrass, threaten, injure or intimidate Mr. Nader, to invade his privacy, to defame his character, or to hinder, impugn, coerce, or prevent his testimony before this or any other legislative body. Nor was any attempt made along those lines with respect to any other critic of General Motors.

I personally have no interest whatsoever in knowing Mr. Nader's political beliefs, his religious beliefs and attitudes, his credit rating or his personal habits regarding sex, alcohol, or any other subject. Nor for the record was any derogatory information of any kind along any of these lines turned up in this investigation.

While I do not personally know Mr. Nader, I am informed that he is an articulate attorney and citizen who is deeply interested in traffic safety and has written and spoken extensively on the subject.

We in General Motors certainly would not want any private citizen to think for one moment that he was not free to criticize our corporation or products, before this subcommittee or anyone else, without fear of retaliation or harassment of any kind. While we do not agree with many of the opinions and allegations Mr. Nader has put forward, General Motors has responded to his public criticisms not by responding in kind or ignoring the problems but by inviting him to meet with us to discuss those questions of safety which concern us all. Mr. Nader spent a day at the GM Technical Center, Warren, Mich., early in January visiting with GM executives and engineers. We hope we will have the opportunity to meet with him again in the future.

CORVAIR CASES PROMPTED INVESTIGATION

Under the circumstances, I believe we owe this subcommittee an explanation of exactly what happened and why it happened, as best as I have been able to ascertain. As of November 1 of last year, General Motors Corp. was a defendant in over 100 lawsuits involving potentially about \$40 million in damage claims relating to the design of Corvair cars of the 1960 through 1963 models. Although the only two cases actually tried and decided on the basis of the Corvair's design resulted in verdicts in our favor, both State and National legislative bodies have respected our wish not to discuss in public any issues involved in pending litigation. While I am not a lawyer, I am certain that the learned lawyers on this subcommittee understand that practice in keeping with the canons of ethics. As the U.S. Supreme Court has aptly put it, "it is impermissible to litigate by day and castigate by night." (In *Re Sawyer*, 360 U.S. 622, 635.)

Suffice it to say that the general counsel of our corporation has a responsibility to the stockholders to defend all such suits with all his strength and ability and with every proper method and measure. I understand that both State and Federal courts have consistently held that most lawsuits, and particularly product liability cases of this kind, necessarily and customarily require considerable investiga-

tion—investigation of the accident, the damages, the parties, the witnesses, the qualifications of experts and related facts.¹

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) was entitled to the legal definition of "expert"; and *third*, to ascertain whether any of the individuals (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.²

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. A brief inquiry in Mr. Nader's hometown in Connecticut revealed nothing. Inasmuch as he gave a Washington address on a brief filed against General Motors in a product liability case, but could not be found in any Washington telephone or legal directory, the general counsel requested a Washington attorney, Mr. Richard Danner, to secure an investigation of the facts needed. At that time Mr. Nader had not yet been announced as a witness before this subcommittee; and the general counsel, treating this like all other investigations of fact related solely to pending and anticipated litigation, did not consider it necessary to inform the other officers of the corporation.

ROCHE DID NOT KNOW OF INVESTIGATION

This investigation was initiated, conducted, and completed without my knowledge or consent, and without the knowledge or consent of any member of our governing committees. To say that I wish I had known about it earlier is an understatement—and I intend to make

¹ *Miller v. United States* (192 F. Supp. 218, 222): "The weight and value of the testimony of the expert witness depends largely upon the qualifications (of) such expert, and these qualifications may be the subject of intensive investigation by the opposing counsel."

Hare v. McGue (174 Pac. 633, 664): in upholding propriety of man threatened with lawsuit employing a detective to shadow, investigate, and otherwise check on the other party and potential witnesses: "Anyone has a right, when threatened with litigation, or desiring himself to sue, to employ assistance with a view of ascertaining facts as they exist. * * *"

² In *Hatch v. Ooms* (69 F. Supp. 788, aff'd. 338 U.S. 318), for example, investigation revealed that an article by a supposedly disinterested person had actually been arranged by the attorneys for one side.

certain that we are informed of similar problems of this magnitude in the future.

Mr. Danner secured the services of Vincent Gillen Associates, an investigation agency in New York City, a decision which was not ratified by or made known to me. Nor was I informed of the preemployment investigative methods which would be employed by Mr. Gillen and his associates. Most of the information gathered in this effort, which was terminated last month, was, not surprisingly, irrelevant for the very narrow purposes which our general counsel had originally intended.

When I first read in the press on March 6 that Mr. Nader was apparently being shadowed and investigated, and his friends questioned about his beliefs, I was just as surprised and disturbed as all of you must have been. Two days later, in the process of ordering a formal statement denying our involvement, I discovered to my dismay that we were indeed involved. I immediately ordered an investigation and release of the facts as we then knew them.

We earnestly hope, Mr. Chairman, that you will not interpret this episode as reflecting GM's response to the issues raised by your subcommittee and by others concerned with traffic safety. We deeply share that concern. We want to consider all complaints and suggestions on their merits, not on the basis of personalities. We know that any automobile is subject to accident and that we must be constantly devising and improving ways to protect the occupants and others. If our concern for safety has not always come through with sufficient clarity and vigor in previous statements, including our statement before this subcommittee last summer, then I can assure you that we regret that failure.

Without straying too far from the purposes of today's hearing, I do want to stress that General Motors is expanding its research, engineering and testing in all areas of safety, including that of the second collision and the causes of both accidents and injuries. We are stressing safety in our advertisements and consumer contacts, and adding new safety features to our cars as fast as they can be effectively developed, carefully tested, and thoroughly proven to be practical. We are in every other way devoting more time, imagination, attention, manpower, and statistical studies than ever before to this all important safety factor. We are, in short, in all our plans and calculations, giving safety a priority second to none. And we consider this to be our duty.

In every endeavor at General Motors, we are always striving to do better, and this includes safety. But we take great pride, Mr. Chairman, in your recent comments on GM's leadership in introducing the collapsible (energy absorbing) steering column and in providing for dual braking systems on all cars. Other safety features which need not be detailed now are also being provided as standard, as well as optional, equipment for 1966 and 1967 cars.

The traffic toll, of course, is still tragically high. As the President has pointed out, the car, the driver, and the highway environment all have a role in accidents, and all must be improved. Automotive design is our responsibility. I am urging our engineers and experts on to greater heights, to be pioneers in automotive safety. But in this broad effort the entire automobile and insurance industries, the uni-

versities and research centers, the various voluntary organizations, and the State and Federal Governments all have important roles to play. General Motors will cooperate fully in all these endeavors, including the support of constructive State and Federal legislation. It is in that spirit of cooperation that I have come before you today not only to report on this unhappy episode, but also to pledge our continuing effort to work with all those concerned with improving traffic safety.

FREQUENCY OF PERSONAL INVESTIGATION BY GM

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, 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 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, 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 few years, and I can assure you that there is nothing except very minor investigations along the lines that I have mentioned.

POLICY DETERMINATION IN GENERAL MOTORS ON INVESTIGATIONS

Senator RIBICOFF. How many employees does General Motors have?

Mr. ROCHE. Worldwide we have approximately 740,000 employees and of that, approximately 540,000 are in the United States.

Senator RIBICOFF. Who is responsible for policy to determine whether an individual is to be investigated, whether he is within your corporation or someone outside the corporate employ? Who makes that decision?

Mr. ROCHE. The primary responsibility for making that decision depending on the nature of the case would be the general counsel.

Under ordinary circumstances the decision would be made in consultation with other executives of the corporation who may be familiar with the particular problem involved. But were it a serious enough matter, then it would be called to the attention of other officials in the corporation, or perhaps some of our top committees.

Senator RIBICOFF. How do you explain the lack of communication or the communication gap, so to speak, between whoever ordered this investigation and the detectives who were doing it? The reports were being sent back to General Motors as fast as the investigators were making them, showing up the invasion of Mr. Nader's personal life, the question of what his sexual behavior may be, whether or not he was anti-Semitic, what his grades were in high school, what his grades were in college, what his employment activities were, and all throughout the investigation, very little was showing up concerning his connection with other lawyers involved in litigation with the Corvair.

POSSIBLE NADER LINK WITH CORVAIR LITIGATION

Mr. ROCHE. I am familiar with that now, Mr. Chairman, and I understand that very, very little was indicated. The investigation was undertaken by the general counsel in the belief that Mr. Nader did have some connection, did have a possible connection with the Corvair litigation.

He had been identified through the ATLA Group as a Corvair expert and it had been stated through the ATLA organization, that anybody having an interest in Corvair should contact Mr. Ralph Nader. I think this happened back in the summer of 1965. Subsequently, Mr. Nader's book, or previews of his book, appeared in publications. One I think was in the Nation and the other was in the Charleston Gazette, in which the chapter he devoted to the Corvair was commented upon very extensively. Back in November the general counsel's office believed that it was necessary to try to determine what connection, if any, or interest in the litigation Mr. Nader might have. They first went to his hometown which was in Winsted, Conn., and they were unable to find him in Winsted. They were told at that time that possibly he was in Washington, and made the usual checks through Washington through legal directories as I indicated in the statement, and were unable to find out anything about him. It was after that search had proved fruitless, Mr. Nader's comments, press interviews, TV appearances, and so forth, continued to be very critical of the Corvair, and I think that our general counsel felt that it was his responsibility and duty to attempt to determine whether or not there was any association between Mr. Nader and the Corvair litigation. It was on that basis that the investigation was undertaken.

Senator RIBICOFF. Is your general counsel in this room with you today?

Mr. ROCHE. Yes; he is, Mr. Chairman.

Senator RIBICOFF. So he will be available for questioning as we go along?

Mr. ROCHE. Yes.

RIBICOFF INVESTIGATED

Senator RIBICOFF. By the way, were you aware, Mr. Roche, that the investigators that were hired, when I stated when Mr. Nader appeared

before our subcommittee on February 10 that the first time I had ever seen Mr. Nader was when he walked in to the committee room, was also subject to investigation, as to whether the chairman was telling the truth when he said that he had never seen Nader before?

Mr. ROCHE. I am not aware of that, Mr. Chairman. I am aware of the remarks that you made at your hearing, but I did not know of the other circumstance; no, sir.

IN RE SAWYER CITATION

Senator RIBICOFF. You mentioned on page 3, and I think it is important, the case of: *In re Sawyer* (360 U.S. 622). I do not suppose you are a legal authority and that your counsel must have put in the quote from that case:

It is impermissible to litigate by day and castigate by night.

Let me read what Justice Brennan, speaking for the Court, really said:

The verbalization is that it is impermissible to litigate by day and castigate by night. * * * but to us it seems totally to ignore the charges made and the findings. (360 U.S. 622, 635-636.)

Then the Court concludes:

But it hardly needs elaboration to make it clear that the question of the total insufficiency of the evidence to sustain a serious charge of professional misconduct against the backdrop of the claimed constitutional rights of an attorney to speak freely as any other citizen is not one which can be subsumed under the headings of local practice, customs or law (360 U.S. 622, 640).

Now I think what the court had in mind in the 1959 *Sawyer* case, Mr. Roche, was what Louis Brandeis once said:

We hear much of the corporation lawyer and far too little of the people's lawyer. The great opportunity of the American Bar is and will be to stand again as it did in the past ready to protect also the interests of the people.

Now the question that you raise in *General Motors* of your desire not to have your products discussed in public during the course of litigation fails to take into account that the American people do have a right to know, to have discussed, any product or any issue which may affect their lives, their well-being and their health, and Mr. Nader, whether he be a lawyer, a newspaperman, or just any individual, certainly does have the right to write articles, to write a book, to testify before a committee, or to get on a soapbox in the middle of a public park to make a speech about a matter that he believes concerns the well-being of our country. And I do not want you to feel, or want the country to feel, the Supreme Court has laid down a rule that a member of the bar, once he is involved in litigation, is foreclosed from discussing matters of public policy that might be involved in litigation.

Mr. ROCHE. I am sure that is right, Mr. Chairman, and I think that the purpose of this in the mind of our general counsel, and he will be glad to speak for himself when the proper time comes, was simply to determine whether or not Mr. Nader had any interest beyond acting as an impartial critic of our product. Canon 20 of the Canons of Ethics states that "Precluding newspaper discussion of pending litigation applies not only to discussion in newspapers but to any discussion in a magazine including legal magazines or other publications intended or calculated to influence the decision in a pending case in which the

writer is counsel, and would also include by implication similar radio and TV broadcasts."

Senator RIBICOFF. Yes, but there was no evidence that you gathered that Mr. Nader was counsel in any Corvair litigation, was there?

Mr. ROCHE. Not at any Corvair litigation as I mentioned earlier. The American Trial Lawyer's Association's publications were referring to Mr. Nader as an expert in Corvair affairs, and were suggesting that anybody who had an interest in Corvair litigation contact Mr. Nader and gave his address as I recall it at Winsted, Conn. I think that was the primary reason for our general counsel's feeling that there was a possibility of Mr. Nader having an interest in the Corvair litigation.

Senator RIBICOFF. I have taken up 10 minutes. The rules apply to the chairman, as well as to the members of the committee. I will have some other questions later.

Senator Simpson, do you have any questions?

ROCHE COMMENDED

Senator SIMPSON. Mr. Chairman, I want to join with you and associate myself with the remarks made by this testimony of Mr. Roche's. He has been very forthright and helpful. This committee tries so hard to find from the facts and investigation that leads to constructive laws with respect to the United States of America transportation, and it is a little difficult to have to be called outside to trace a side issue down like this. I hope when we have this behind us that we get on with our constructive work.

Mr. Roche, are you still conducting the traffic safety investigation at your various plants that you testified to?

Mr. ROCHE. The traffic safety activities?

Senator SIMPSON. The research.

Mr. ROCHE. Yes; we are engaged in very extensive research, Senator Simpson.

Senator SIMPSON. That is all I have.

Mr. ROCHE. At our proving grounds, and through our engineering and research activities; yes, sir.

Senator SIMPSON. That is all I have, Mr. Chairman.

Senator RIBICOFF. Senator Kennedy?

Senator KENNEDY. First, Mr. Roche, let me commend you on your statement.

Mr. ROCHE. Thank you.

Senator KENNEDY. I agree with Senator Simpson and the chairman, it is a most forthright statement.

Mr. ROCHE. Thank you, Senator.

Senator KENNEDY. It is very helpful to the committee. I am sure it was difficult to make, and therefore all the more commendable.

Mr. ROCHE. Thank you, sir.

Senator KENNEDY. I extend my appreciation to you for your efforts to come before the committee and give us all of the facts in connection with this matter, and I commend your candor and your honesty in doing so.

Mr. ROCHE. Thank you, sir.

GENERAL MOTORS STATEMENT OF MARCH 9, 1966

Senator KENNEDY. There are a few questions that I would like to ask. First, going back to the General Motors statement that was made originally, that is a matter of some concern to me. At the time this investigation originally was written about in the newspaper, a statement was put out I believe by you. Would you agree that the statement that was put out on, I guess, March 9, 1966, a statement issued by General Motors, was misleading about the facts in connection with this matter?

EXHIBIT 116

STATEMENT OF GENERAL MOTORS CORPORATION

General Motors said today that following the publication of Mr. Ralph Nader's criticisms of the Corvair in writings and public appearances in support of his book "Unsafe at Any Speed," the office of its general counsel initiated a routine investigation through a reputable law firm to determine whether Ralph Nader was acting on behalf of litigants or their attorneys in Corvair design cases pending against General Motors. The investigation was prompted by Mr. Nader's extreme criticism of the Corvair in his writings, press conferences, TV and other public appearances. Mr. Nader's statements coincided with similar publicity by some attorneys handling such litigation.

It is a well known and accepted practice in the legal profession to investigate claims and persons making claims in the product liability field, such as in the pending Corvair design cases.

The investigation was limited only to Mr. Nader's qualifications, background, expertise and association with such attorneys. It did not include any of the alleged harassment or intimidation recently reported in the press. If Mr. Nader has been subjected to any of the incidents and harassment mentioned by him in newspaper stories, such incidents were in no way associated with General Motors' legitimate investigation of his interest in pending litigation.

At General Motors' invitation, Mr. Nader spent a day at the GM Technical Center, Warren, Michigan, early in January visiting with General Motors executives and engineers. He was shown a number of engineering and research testing and development programs in the field of automotive safety. A number of the accusations in his book were discussed at length, and a presentation was made of the evidence used in the successful defense of the only two Corvair lawsuits tried.

Mr. Nader expressed appreciation for the courtesy in providing him with detailed information, but he nevertheless continued the same line of attack on the design of the Corvair in a number of subsequent press conferences, TV and other appearances. This behavior lends support to General Motors' belief that there is a connection between Mr. Nader and plaintiffs' counsel in pending Corvair design litigation.

Mr. ROCHE. I suppose, Senator Kennedy, that had I known or had we known at the time what I know now, I suspect that the wording of the statement might have been somewhat different.

Senator KENNEDY. My point is that if we just take this statement, that had been made by General Motors, and take the newspaper articles which first brought this matter to light, then taking the statement had the chairman not called a hearing, really the public and the newspapers would have been misled. Mr. Nader's honesty and integrity would have been seriously questioned, if we had not gone on with this hearing, and if you had not made this frank and forthright statement which you have made before this committee. There would have been serious questions raised about not only the newspaper articles and the individuals who wrote those articles, but also Mr. Nader's integrity. Do you agree with that?

GENERAL INTENT OF INVESTIGATION

Mr. ROCHE. Possibly that interpretation could be placed upon that, Senator. However, I think the statement represented the general intent of the investigation at that time.

Now, since then, I have learned that in the approach to the investigation, there had to be some basis for making the investigation. It was the judgment of the people who were arranging the investigation that a preemployment type investigation would be made, and that is the kind of an investigation that was undertaken. In the course of that investigation, apparently some areas were probed in a very unfortunate way as it turns out. To that extent I would say that had we known and had I seen the reports at all at the time this was made, the full detail of all the reports of the investigation, that possibly this wording could have been changed to—

Senator KENNEDY. Can I just give you—for instance—what was said and what was put in the Congressional Record, and what was broadcast all over the country. It states that:

General Motors said today that following the publication of Mr. Ralph Nader's criticisms of the Corvair in writings and public appearances in support of his book "Unsafe at Any Speed," the office of its general counsel initiated a routine investigation through a reputable law firm to determine whether Ralph Nader was acting on behalf of litigants or their attorneys in Corvair design cases pending against General Motors.

It was certainly an investigation that went quite beyond that.

Mr. ROCHE. Well, as I have indicated, Senator Kennedy, to our knowledge many of the items of harassment which had been alleged did not occur as a result of any investigation that was made by—

NOT A ROUTINE INVESTIGATION

Senator KENNEDY. Would you say now that this was a routine investigation to determine whether Mr. Nader was acting on behalf of litigants or their attorneys?

Mr. ROCHE. I would say, Senator Kennedy, that it is not a routine investigation insofar as General Motors is concerned, but it is my understanding that this is considered a routine investigation of potential witnesses in connection with litigation that may be of interest to a defendant.

Senator KENNEDY. There is some inconsistency, it seems to me, if you say in this statement that it was a routine investigation on behalf of litigants or their attorneys in Corvair design cases pending against General Motors, and then in your statement today admit that there was a good deal of harassment, and that the investigation went beyond what you had thought should take place, and apologize to Mr. Nader.

Mr. ROCHE. That is right.

Senator KENNEDY. This statement is inconsistent with that?

Mr. ROCHE. I think that it is inconsistent to that extent; yes, sir.

Senator KENNEDY. Then your release states:

The investigation was limited only to Mr. Nader's qualifications, background, expertise and association with such attorneys.

That statement really as it turns out is not accurate.

Mr. ROCHE. That was the intent of the statement, and the intent of the investigation.