

# **FURTHER MATTERS RELATING TO THE NOMINATION OF G. WILLIAM MILLER**

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## **HEARING BEFORE THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE NINETY-SIXTH CONGRESS SECOND SESSION ON THE NOMINATION OF G. WILLIAM MILLER TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

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### **PART I TESTIMONY BEFORE THE COMMITTEE**

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**FEBRUARY 8, 1980**

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Printed for the use of the  
Committee on Banking, Housing, and Urban Affairs



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## FURTHER MATTERS RELATING TO THE NOMINATION OF G. WILLIAM MILLER

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FRIDAY, FEBRUARY 8, 1980

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
*Washington, D.C.*

The committee met at 10:05 a.m., in room 5302, Dirksen Senate Office Building, Senator William Proxmire (chairman of the committee) presiding.

Present: Senators Proxmire, Cranston, Stevenson, Riegle, Sarbanes, Tsongas, Garn, Heinz, and Lugar.

The CHAIRMAN. Mr. Secretary, would you rise and raise your right hand? Do you swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Secretary MILLER. I do.

### OPENING STATEMENT OF CHAIRMAN PROXMIRE

The CHAIRMAN. Thank you, sir. Be seated.

This morning the committee meets to hear the Secretary of the Treasury answer questions with respect to the recent complaint by the SEC against the Textron Corp. which the Secretary headed during the period on which the complaint is based.

The purpose of the hearing is to permit the committee to make a more complete and accurate record than we were able to establish at the time of the consideration of Mr. Miller's nomination as Chairman of the Federal Reserve Board in early 1978.

Mr. Miller is no longer Chairman of the Federal Reserve Board. He is now Secretary of the Treasury. The complaint is based on a July 1979 staff report of the SEC. At the time Mr. Miller was confirmed as Secretary of the Treasury by the Senate in August of 1979, I spoke at length on the floor of the Senate in opposition to Mr. Miller and based my speech largely on the staff report.

But the complaint is something new. It is not a conclusion of the SEC staff. It is the considered charge of the Commission itself, and that Commission is perhaps the most respected and independent agency of the Federal Government.

The SEC complaint was a public complaint. It has raised some serious public concerns expressed in the press. The New York Times, for example, in a lead editorial, called for a congressional inquiry and specifically called on this committee to make it. Senator Cranston, a member of this committee, called for this committee to recall and question Mr. Miller.

The New York Times and Senator Cranston were right. Mr. Miller occupies a high office in this Government. The principal

record made by the Senate with respect to Mr. Miller was made by this committee's investigation some 2 years ago.

Now it is true, as we know, that Mr. Miller had a press conference to respond to questions on this matter. But in my judgment, the SEC complaint is sufficiently serious to warrant a thorough, comprehensive inquiry to secure from Secretary Miller answers to each item of the complaints made by the Securities and Exchange Commission, so the record is more complete and clear.

This committee faces a difficult challenge in this inquiry. It is obvious that a man's integrity is at stake. It is also true that to a very considerable extent the integrity of the administration is at stake. That means to me that we should show Mr. Miller every consideration and give him every opportunity to respond. Mr. Miller is in an extraordinarily difficult position. It's difficult for his family. I think we are all aware of that and we should be.

At the same time, this committee, as I see it, has a duty to pursue these matters fully and vigorously and to demand answers, and I intend to do that.

Let me say first and most emphatically that nothing in the record—not the investigation by the committee staff, and it was a thorough investigation, not the staff investigation by the SEC, not the investigation by the independent directors of Textron—has uncovered any testimony or document linking Secretary Miller to any foreign bribe or the destruction of any record or any other improper activity relating to foreign bribes.

What then is there for the committee to investigate? The committee needs to seek from Mr. Miller his explanation of how he, as president of Textron from 1960 to 1974 and chairman of the board from 1974 until he retired in 1978 to enter the Government, failed to know about and prevent payments by the corporation he headed which totaled at least \$5,400,000 when the SEC alleges that Textron knew or had reason to know that payments would be shared by foreign government officials and others in connection with the use of their influence to secure business for Textron.

The committee needs to find out from Mr. Miller how he, as the chief executive officer of Textron, failed to know about and prevent these payments to be made through Textron's sales agent and the corporation facilitating such payments by transmitting "commissions" of sales agents to bank accounts and third parties outside the sales territory of the sales agents.

The committee needs to know how Secretary Miller explains the complaint of the SEC that at the 1976 annual meeting of the Textron shareholders Mr. Miller, as chairman of Textron, made the statement that "there have been no payments that are illegal or any payments that are improper, anywhere throughout the company." In the words of the SEC complaint, this statement was made without Secretary Miller "having a reasonable basis and was erroneous and misleading \* \* \*"

The committee needs to know why Mr. Miller, as head of one of the companies that had a major share of our aerospace export market, failed to come forward as did 500 other corporations, many of them much smaller than Textron at the suggestion of SEC and make the kind of investigation by independent directors that would have disclosed this bribery and other improper activities.

The committee needs to know Mr. Miller's response to the SEC charge that while he was chairman or president of Textron, the corporation made false and misleading representations to the U.S. Government.

The committee needs to know Mr. Miller's explanation of how he failed to know or prevent its employees from falsely altering documents or concealing documents regarding improper payments on at least two separate occasions.

The committee needs to know why Mr. Miller failed to know about or prevent Textron filing reports with the SEC that the Commission charged were false and misleading regarding expenses incurred in entertaining employees of the U.S. Defense Department.

The committee needs to know why Secretary Miller, as the head of the Textron Corp., failed to know or prevent Textron from filing false and misleading reports regarding the practice of at least six Textron divisions of overbilling foreign purchasers of their products. And why Mr. Miller failed to know or prevent the corporation from filing false export declarations with the U.S. Department of Commerce.

To sum up, Mr. Secretary, what is new in all of this is the totality of it, the totality of what went on. There were at least 14 bribes or improper payments in 10 different companies over 8 years when you were in charge. The company used Swiss or Luxembourg accounts to hide payments on at least five occasions.

Key information and/or documents were destroyed or altered on two occasions.

Routine overbillings amounting to at least \$1.3 million were made over a period of years.

Five, perhaps more, senior officials either knew of questionable payments or that foreign government officials owned a piece of Bell's agencies abroad.

In four countries the local commercial companies through which Bell did business was either owned, were fronts for, or closely associated with high government officials.

Eleven officials of the company took the fifth amendment concerning these questionable activities in the SEC investigation, including at least two senior officials, three who worked with senior officials, your major agent in Indonesia, an official of your accounting department, and two major agents who had contacts with your senior officials.

There were repeated occasions when you had an opportunity to investigate these matters in which the investigation either did not take place or was done in the most cursory manner.

These facts brought out both in the SEC complaint and report of your own company's outside directors' report certainly appear to contradict your assertions that Textron can do business without improper payments.

They appear to contradict your repeated statements that senior officials were unaware of improper payments or bribes.

They appear to contradict your own statement that you were too much involved in the details of the company.

What these facts do is to challenge our credulity that a person of your ability, your energy, your sophistication, could be so unaware

of what went on and we therefore believe it's necessary to ask you about it.

Secretary GARN.

Senator GARN. I just changed from a Senator to a Secretary. The CHAIRMAN. Pardon the demotion.

Secretary MILLER. Yes, it may be a demotion.

#### OPENING STATEMENT OF SENATOR GARN

Senator GARN. Thank you, Mr. Chairman.

Secretary Miller, this hearing concerns the integrity of earlier confirmation hearings held by this committee regarding your nomination to be Chairman of the Federal Reserve Board. Our hearing 2 years ago included extensive questioning and research with respect to possible improper payments made by the Bell Division of Textron. At that time we found no evidence that Mr. Miller, as chairman of Textron, knew of or sanctioned improper payments by his company.

Last week the Securities and Exchange Commission filed a complaint against Textron regarding \$5.4 million in improper payments and questionable expenditures made by several divisions of Textron. The company, without admitting or denying any of the allegations in the complaint, consented to the injunctive order requested by the SEC, which generally requires Textron not to violate the securities laws in the future. While the complaint indicates that Secretary Miller was aware of certain questionable book-keeping procedures regarding Textron entertainment expenditures and did not use reasonable care in some remarks made to Textron shareholders concerning such expenditures, there is no statement alleging that he knew of or directed any improper payments.

Because of the issues raised by the SEC complaint, the committee decided to conduct this hearing, and I believe properly so, to review with Mr. Miller his testimony before the committee 2 years ago.

While the SEC investigative report and a Textron audit report, both completed this past July, showed that the committee was not provided all of the information it requested from Textron 2 years ago concerning improper payments, we have no knowledge at this time that what Mr. Miller told us during our earlier hearings was untrue. Thus, I want to emphasize that I am not here today to charge Secretary Miller with any wrongdoing but to participate in and help provide an opportunity for a fair discussion of all of these issues that the chairman has outlined and hopefully to settle them one way or another and put this issue to bed once and for all.

I thank you for your willingness to appear, Mr. Secretary. It is difficult for you, but I much appreciated your answers in the past and I'm sure you will be responsive to our questions today.

The CHAIRMAN. Senator Cranston.

#### OPENING STATEMENT OF SENATOR CRANSTON

Senator CRANSTON. Thank you very much, Mr. Chairman.

Mr. Secretary, the Securities and Exchange Commission report referred to by Chairman Proxmire and by Senator Garn has only recently come to the attention of this committee. It raises new questions about your conduct while chairman of Textron, Inc., and

about the completeness of your testimony before this committee at your confirmation hearing 2 years ago.

You have categorically denied all allegations of wrongdoing to the press. Making a public statement through the media was a perfectly proper step for you to take, but it's not, in my judgment, sufficient to make these denials only to the press.

To try to set the matter totally to rest, as Senator Garn suggested, it seems to me most advisable that you clear the air and the record by making your statement directly to the U.S. Senate which confirmed your appointment to the Federal Reserve Board and specifically to this committee which recommended your confirmation.

By the same token, this committee has a responsibility to consider the serious allegations made against you subsequent to your confirmation and to explore fully new evidence not available prior to your confirmation.

Under our constitutional separation of powers we have the responsibility to pursue these matters, irrespective of whatever actions may or may not be taken by other branches of the Government. That is why I suggested to the chairman that you be asked to reappear before this committee.

This is not intended as a challenge. It's intended as an opportunity. At a time when our Nation faces not only but two international crises, when we are trying to deal with persistent and perplexing economic and social problems at home, the people must have confidence in their men and women who are running the Government. Rumor and innuendo can be more damaging than the facts. Those who are under suspicion have a right to have rumor and innuendo dispelled, if they can be dispelled, and the American people have a right to the facts.

I, for one, am not necessarily doubting your word or your integrity. I do feel, however, that both you and the administration owe the Senate an explanation inasmuch as the SEC complaint raises questions concerning your testimony before this committee during our confirmation hearings on your appointment as Chairman of the Federal Reserve. You may be subjected to some hard questioning. That, too, would be altogether proper. A number of hard questions have not yet been answered. It would be a disservice to you and to the President and to the Nation if they were left unanswered. I wait eagerly your reply. I thank you.

The CHAIRMAN. Senator Heinz.

#### OPENING STATEMENT OF SENATOR HEINZ

Senator HEINZ. Thank you, Mr. Chairman.

Mr. Secretary, I think the reason for this hearing can be stated in one word: credibility. Since the last time you appeared before this committee there's been, as you know, an SEC staff report followed by an SEC complaint. The information set forth in those documents obviously raise questions as to how you as the chief executive officer might not have known or did not know about many of the things identified in those complaints and investigations.

I think it's the committee's obligation to get to the bottom of those concerns and troubling questions.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Stevenson.

Senator STEVENSON. Thank you, Mr. Chairman.

If I have any comments, I will make them after we have had an opportunity to hear from the Secretary.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. I have no comment.

The CHAIRMAN. Senator Riegle.

#### OPENING STATEMENT OF SENATOR RIEGLE

Senator RIEGLE. Mr. Chairman, just a brief comment.

First, I want to welcome the Secretary and say that I, for one, appreciate the work that he's done both at the Federal Reserve and lately at the Treasury Department.

My staff and I have gone through all of our previous testimony and I remember it quite clearly, apart from having just reviewed it, and I have not been able to find anything that is new in terms of the items that have been discussed more recently in the press in terms of laying it beside the ground that we covered during our hearings some 2 years ago. I know the professional staff of this committee has been involved at some length in examining all these items and it may well be that if they have anything new to add that we will learn that today. I am not aware of anything that falls into that category, but perhaps we will find out if there is anything new as the hearing proceeds.

I think that really is the critical issue, whether or not we're here covering the same ground we covered before or whether in fact there is new information, new facts that have to be considered, and so I would preserve any further comment myself until we have all had the chance to discuss these matters.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. I am prepared to hear from the Secretary.

The CHAIRMAN. Senator Tsongas.

Senator TSONGAS. Nothing.

The CHAIRMAN. Mr. Secretary, it's all yours.

#### STATEMENT OF G. WILLIAM MILLER, SECRETARY, DEPARTMENT OF THE TREASURY

Secretary MILLER. Mr. Chairman and distinguished members of the committee, let me thank you for inviting me to appear here. I do appreciate this opportunity to clear up the questions that have arisen as a result of the Textron investigations and I agree wholeheartedly with Senator Cranston that this is an appropriate forum in which the procedures are appropriate for trying to accomplish this.

After my confirmation hearings before this committee 2 years ago, Textron's board of directors did commence its own extensive investigation under the direction of a special committee of outside independent directors. That special committee retained Frank Wheat, who's a former SEC Commissioner, and his law firm to assist in their investigation.

That special committee's work was completed in July 1979 after more than 1 year, and its report was filed with the SEC and was made available to the public. I understand that copies were made



available to the appropriate Senate committees and were available to the Senate prior to my confirmation as Secretary. I have a copy of the report here. I'm sure you all have read it.

The SEC's investigation of this matter began while our hearings were going on in 1978 that began in February and it too was completed in July, as I understand it, of 1979. Because my nomination was pending at that time, the SEC provided a confidential copy of its nonpublic investigative report to the chairman of this committee and the chairman of the Senate Finance Committee and I understand that members of the committees and their staffs and members of the Senate had access to the SEC report in connection with my nomination to Treasury. I wasn't provided with a copy of the report at that time. A copy was furnished to me last Tuesday and I read it for the first time that evening.

Eleven days ago, on January 28, as a result of a settlement agreement, SEC filed a civil complaint in the Textron matter and Textron simultaneously filed a consent judgment. This SEC complaint set forth a series of allegations. I think you know I was not involved in the SEC action or settlement, so we should be here concerned by the broader matters in the complaint.

The SEC complaint and the special committee report include information on improper payments made in connection with foreign sales. While I did not know of any of these and while such payments were contrary to Textron policy and what I believe to be Textron practice, these disclosures have greatly disturbed me and have caused me to reassess my broader responsibilities as chairman of Textron.

Mr. Chairman, I think you are correct, the big issue is my stewardship at Textron. During my tenure, Textron had about 65,000 employees, 25 to 30 divisions, operating some 180 plants throughout the United States and around the world with annual sales of about \$2 billion, plus or minus. We had extensive managerial and financial controls to administer such a widespread enterprise.

The basic policies and procedures were set forth in the Textron management guide. Among other subjects, the management guide included a section on standards of conduct which explicitly set forth not only the requirement for all personnel to comply with the letter and the spirit of all laws, but also to conform to the highest standards of conduct and ethics. The policy also imposed the requirement for all personnel to disclose any circumstances which might be alleged to violate company policy.

The subject of standards of conduct was covered over the years in memos, management meetings, business reviews, seminars and the like, which included both corporate and divisional personnel and management.

While audits, reviews, and disclosure requirements provided a means of checking on compliance, we did from time to time endeavor to strengthen our procedures. Starting with the annual audit of 1976 we required all key employees to furnish affirmative statements that they were not aware of any illegal, improper, or questionable payments. These statements were signed by over 1,000 key corporate and divisional executives and did not disclose any of the improper foreign payments.

Yet the payments did occur.

In fairness to the Textron divisional people involved, I would like to call your attention to a statement made by the Textron Special Committee. I'd like to quote it:

The committee is satisfied on the basis of its investigation that no officer of Textron or any of its divisions sought or obtained any personal financial gain in the course of any of the transactions described in this Report. Where employees were involved in questionable activities, the evidence is that they genuinely, albeit mistakenly, believed their activities to be in Textron's best interest.

In retrospect, Mr. Chairman and members of the committee, I could have and I should have done much more to assure that Textron policy was widely understood in its divisions from the corporate office without relying so heavily on divisional management, and I could have and should have done much more to check affirmatively from the corporate office to be sure that there was full compliance.

One of the very important things I could have done to improve the situation was to recommend a special Textron investigation at the time that improper payments began to surface as a general problem for American corporations. I did not do so because I honestly felt that we were conscientious in our efforts to maintain high standards and because such an investigation would have been disruptive and expensive. In hindsight, I should have proposed an investigation.

Both the SEC and the special committee reports refer to the expenses of the Bell Helicopter and Bell Aerospace Divisions of Textron in entertaining Department of Defense employees, generally through the provision of meals.

This matter first came under my close scrutiny in late 1975 when Senator Proxmire wrote to me as part of a survey of defense contractors.

Prior to that time, I was aware that the Bell divisions did provide hospitality to DOD personnel, which I understood to be in the nature of normal courtesies.

During the SEC and special committee investigations it was called to my attention that in 1969 and in 1971 I had received a memorandum from the Textron tax department discussing tax audit adjustments and indicating that expenses for entertainment of Government personnel were not documented and had been disallowed as tax deductions. When these were shown to me I didn't recall the items. That's probably because the particular matters were agreed to by our tax department and not in dispute and were relatively small compared to the other proposed adjustments. The tax returns and tax adjustments at Textron were always reviewed by Textron's outside auditors and outside counsel, so it was my usual practice to concentrate on larger items that were in dispute which required some sort of decision.

The matter of these entertainment expenses did come to my specific attention when Senator Proxmire wrote to me and to other defense contractors on October 31, 1975, in his capacity as vice chairman of the Joint Committee on Defense Production. The committee was making a review of defense contractors and the letter requested certain information, including information on expenses for entertainment of Government personnel from the period 1971 through 1975. I was out of the country when the letter arrived, but

I replied on November 24 that I had commenced a survey to obtain the information which I would supply when available.

On December 2, 1975, Deputy Secretary of Defense William P. Clements, Jr., wrote to me and to other defense contractors calling attention to a DOD directive with respect to acceptance of any gratuity by the Department of Defense personnel. He asked cooperation from defense contractors in informing personnel who dealt with DOD representatives about the DOD requirement. I responded to Secretary Clements on December 9, indicating that I would be pleased to inform Textron personnel as he requested.

Senator Tower, a member of the Joint Committee on Defense Production, wrote to the same defense contractors on January 2, 1976, advising of certain modifications of the request from Senator Proxmire. Senator Tower noted that the committee was aware that for many sorts of activities, such as provision of meals, hospitality suites, or tickets to sporting or cultural events, the amount of effort to produce full details would be prohibitive and unnecessary. However, information was requested for expenses which exceeded \$100 per guest. It was also requested that responses be sent by March 1.

On January 20, I replied to Senator Tower letting him know that our survey was proceeding and that I hoped to be able to meet the March 1 date.

On that same day, by coincidence, on January 20, 1976, after having obtained copies of the DOD directive, I wrote to the presidents of all Textron divisions directing that full cooperation be given with Secretary Clements' request and that there be full compliance with DOD policy. A copy of Secretary Clements' letter to me was enclosed and I required an affirmative response that all appropriate personnel had been advised.

The reply to Senator Proxmire's survey was sent on March 1. The nature of entertainment and hospitality was described. I pointed out that the individual courtesies and hospitalities extended were limited and were not intended to be and could not have been of such scope or value as to influence the standards of conduct and ethics of Government personnel. I reported that we had not been able to find any instance where the cost could have been as much as \$100 per guest.

In September 1977, the Joint Committee on Defense Production published its report on this matter. It was noted that the purchase of meals by defense contractors for Government personnel was a widespread practice but that it was not clear to what extent this was permissible under DOD regulations. The committee reported that the annual average meal expenses for those companies who provided figures was about \$125,000 and that some contractors excluded the names of Federal employees from company expense documentation.

The Textron Special Committee report notes that in testimony before the Joint Committee in 1976, Secretary Clements conceded that DOD regulations had not been adequately circulated to DOD employees and that they were ambiguous.

The investigative reports of the SEC and of the Textron Committee do cover the accounting procedures of the Bell divisions for these expenses. In each case, the expense items were properly

entered in the books of the division. These were not kept off the books. They were right there on the record.

After my memo of January 20, 1976, requesting compliance with Secretary Clements' request, the amount of these expenses dropped substantially and were later discontinued altogether.

This matter was discussed on the floor of the Senate last August 2 by Senator Proxmire in connection with my nomination.

Let me now turn to references in the SEC complaint about statements made by me at the 1976 and 1977 shareholders' meetings of Textron.

In 1976, I said, " \* \* \* so far as we know, there have been no payments that are illegal, or any payments that are improper, anywhere throughout the company."

I believed this to be correct at the time.

At the annual Textron management meeting in February 1976, before the shareholders' meeting, I had made an extensive presentation on standards of conduct. I had, among other things, specifically pointed out that fees and commissions to third parties were not to be used to disguise improper payments and I particularly called attention to the responsibility for voluntary disclosure of information needed to maintain compliance.

The absence of discovery or employee disclosure made it seem reasonable to me to report that so far as I knew there were no improper payments.

At the 1977 shareholders' meeting, during the discussion period, I made a similar statement to the effect that we did not know of any illegal or improper payments. I noted that over 1,000 employees had signed an affirmative statement in this regard in 1976 and I went on to say that I could not assure that there had been no unethical conduct but that we had found none, none had been authorized, and none would be condoned.

The signed statements of the 1,000 key people seemed to me to provide further assurance and, of course, at that time I added a caveat that I could not guarantee that there was not something that we were not aware of.

Mr. Chairman, members of the committee, my statements were made in good faith. I believed it was correct and reasonable for me to say that I knew of no improper payments.

But, of course, the investigations have disclosed that there were improper payments. It turned out that I was incorrect.

I was distressed to learn that there had been improper payments and I very much regret that my personal efforts fell short.

Mr. Chairman and members, I thank you for your attention and I will be pleased to try to answer any of your questions.

The CHAIRMAN. Thank you very much, Mr. Secretary.

Mr. Secretary, we are going to run a 10-minute time on each of us because there's so many of us here; otherwise, we won't get a chance to share the question period.

Will you identify the gentlemen who are with you at the table for the record on your left?

Secretary MILLER. This is Mr. Michael Klein, who is representing me. He's a member of the firm of Wilmer & Pickering; and this is Mr. Steven Kidder of the same firm.

The CHAIRMAN. Very good.

First, I want to congratulate you on your opening statement. I think that was very, very helpful and I appreciate your doing something that few people are willing to do: Conceding a mistake and an important mistake in not calling for further investigation, and I think that was a key point in this whole situation. You were also wise I think to point to putting this in context that this wasn't a little company with a few hundred employees. It was an enormous company with many divisions with far-flung employees in many parts of the country—in fact, in the world; and therefore, it was difficult for any person to know everything that was going on. I think those are perfectly legitimate and proper points and I think we should keep those in perspective in questioning you on these matters.

You were also, I thought, most helpful to us in going into detail on the new allegations that's in the SEC report with respect to entertainment of Defense Department employees by Textron. I have some questions on that later on, but first, let me get to something that we questioned you on before but I think the SEC complaint and the SEC staff report raises some new issues.

Let me read from the SEC report with respect to the \$2.95 million payment. In 1973 through 1975, Textron-Bell paid approximately \$2,950,000 to Air Taxi Co., Textron-Bell's sales agent in Iran, in connection with a contract, secured in or around June 1973, pursuant to which the Iranian Army agreed to purchase 489 Bell helicopters for approximately \$500 million. During this period, Gen. Mohammed Khatami, commander in chief of the Iranian Air Force, had a financial interest in Air Taxi, and in fact received at least \$500,000 of the \$2,950,000 paid to Air Taxi. Textron-Bell knew or had reason to know of Khatami's interest in Air Taxi, through one or more of its senior officials, although those persons responsible for negotiating the payment to Air Taxi deny having any knowledge or belief of such interest.

Now that was in the complaint<sup>1</sup> on page 4. You previously testified before this committee that you would be surprised to find that Khatami, an Iranian general, owned Air Taxi, Textron-Bell's dealer in Iran, and recipient of the \$2.95 million fee. You said you did not believe Khatami owned Air Taxi and that it should not reasonably be expected to discover that Khatami owned Air Taxi.

The question is this: The SEC report found that Textron-Bell knew or had reason to know of Khatami's interest in Air Taxi. In one Textron memo in 1971 reviewed by Dukayet and Atkins it stated that Khatami was the real influence behind Air Taxi.

Wouldn't you agree that Textron's own files showed that Khatami had an interest in Air Taxi, at least such as to warrant an inquiry into the ownership at the time of the \$2.95 million payment?

Secretary MILLER. Mr. Chairman, I would like to point out just one thing. When you read that particular paragraph, the words "Textron-Bell" means Bell Helicopter Division. It does not mean corporate I think the way the SEC defined it. Both the special committee and the SEC concluded that Khatami did have an interest, either ownership interest or financial interest, in commissions, that he had received money from Air Taxi, and there is evidence

<sup>1</sup> Printed in the appendix, part II of this hearing.

that some people in the divisions knew or should have known. I only say that I did not know. Whether I should have done more, you will have to judge in the context of the time. It may have been a shortcoming of mine not to have gone further, but I didn't.

The CHAIRMAN. Wasn't it true that the top Bell officials reported directly to you?

Secretary MILLER. Yes. Mr. Chairman, the top Bell officials who reported to me continue to state under oath that they did not know of it and the report—even the complaint goes out of its way to point out these officers deny it. So while you know that could be a litigative point, they deny under oath that they knew of it, and so I can't respond to whether that further indicates something I should have known, but I did not know of it.

The CHAIRMAN. In your testimony on page 77 before our committee 2 years ago, you said, "Bell Helicopter Division is an operating company and I have a complete responsibility for the policies of the company." In your confirmation hearing you said you dealt with Mr. Atkins in the Air Taxi matter and there was no suggestion that Mr. Atkins knew of Khatami's ownership of Air Taxi. You then said that if Khatami did have an undisclosed interest in Air Taxi, "then Mr. Atkins and I have been deceived."

According to the SEC report, Atkins and Ducayet attended a meeting in 1971 in which a memo was discussed stating that the real influence behind Air Taxi is Khatami and one Textron employee testified that the language confirmed his understanding that Khatami had a financial interest in all Iranian aerospace companies, including Air Taxi. Should the memo have raised a flag to Atkins on the ownership of Air Taxi or are you suggesting that Atkins may have deceived you?

Secretary MILLER. I would not come to that conclusion because I think in fairness that would be improper for me to do. If you will recall, Mr. Chairman, before I made my statement on February 28, as I recall that you just read, Mr. Atkins had testified before this committee and had testified to you that he did not know that. I made my statement on the basis of that record.

The CHAIRMAN. You see, Mr. Secretary, in view of your strong involvement in Bell and the fact that this was a very, very important sale—\$500 million—and that the amount of the payment was substantial, nearly \$3 million; and in view of what the State Department tell us was common knowledge that Khatami owned Air Taxi, that the public records in Iran supplied to Textron referred to Khatami as the chairman of the board of Air Taxi and that French officials told high Textron officials that Khatami owned Air Taxi, that the Commerce World Trade report stated that Khatami had a financial interest in Air Taxi, and that a Textron employee recommended hiring of Air Taxi understanding that Khatami had an ownership interest in Air Taxi, and the internal Bell memo stating that the real ownership interest was General Khatami—in view of all that, I wonder why Textron, which was of course the controlling corporation over Bell Helicopter, didn't know what everybody else seemed to know.

Secretary MILLER. I think some of the things you're citing were way back in the 1960's when there was virtually no business in Iran. Not very much attention was paid to the Iranian market

pertaining to sales and Air Taxi occurred in the late 1960's and it was not until the early 1970's—

The CHAIRMAN. You're correct. In 1965 or 1966 the Shah issued an edict saying his people should not have ownership in companies like Air Taxi that were procuring weapon systems or what not for Iran. However, the State Department position stated this was common knowledge in 1974 and the Commerce World Trade report was, as I understand it, after that, and the memorandum was, as I pointed out, in 1971.

Secretary MILLER. Once again, I want to say it did not surface to my attention. If I should have done more, I failed to do so.

The CHAIRMAN. Now in 1973, again I'm reading now from page 4 of the complaint:

Textron-Bell paid approximately \$155,000 to an official of the Mexican Air Force, in connection with a contract pursuant to which the Mexican Air Force agreed to purchase 10 helicopters and related spare parts for \$3,500,000.

That's a statement in the complaint. Do you have any knowledge of that?

Secretary MILLER. I have no personal knowledge of that at all.

The CHAIRMAN. All right. The next charge is that: In or around February 1975, Textron-Bell paid approximately \$200,000 to its dealer for the United Arab Emirates knowing or having reason to know that this sum would be transferred to an entity owned by a senior official of the Government of Oman, in connection with a contract, secured in or around January 1974, pursuant to which the Oman Department of Defense agreed to purchase five model 205 helicopters and related spare parts for approximately \$3.5 million. Do you have any knowledge of that?

Secretary MILLER. No, sir.

The CHAIRMAN. In 1976 Textron-Bell paid approximately \$275,000 to its dealer for the UAE knowing or havng reason to know that this sum would be transferred to a close relative and personal assistant on diplomatic affairs of the Sultan of Oman, in connection with a contract, secured in or around October 1974, pursuant to which the Oman Department of Defense agreed to purchase five model 214 helicopters and related spare parts for approximately \$8,700,000. Do you have any knowledge of that?

Secretary MILLER. No, sir.

The CHAIRMAN. I have some others I'm going to follow up on, but my time is just about to expire, so I yield to Senator Garn.

Senator GARN. Thank you, Mr. Chairman.

Mr. Secretary, after reviewing our committee's 1978 hearing record and your assertions that you knew of no improper payments by Textron at that time and that you were kept fully informed of ethical questions regarding foreign sales, the subsequent disclosures in the SEC report cause me to wonder about the effectiveness of Textron's managerial controls. I recognize it's a decentralized company with a lot of divisions and a lot of employees, but I don't think this means that you couldn't insure that proper corporate policies, such as your insistence on high standards of moral and ethical conduct, were properly disseminated and that there were some controls.

So the first question I would like to ask is, how were your directives regarding questionable payments disseminated to your staff and employees?

Secretary MILLER. Senator Garn, the fundamental start of that was in the management guide of the company which laid out this policy. That management guide—I don't know if we even have a copy of it here, but it was a document that was published in a notebook and covered a whole series of policies which included standards of conduct and conflict of interest, but also included many, many others. It was the key document for setting forth the policies and procedures for the corporation divisions. It was printed, as I recall, in several thousand copies and was distributed to divisions and was to be made available to all key officials so they would understand the policies and be able to comply with them. That was not enough, obviously, and I have checked back and I find that over the period we are talking about that there were very frequent discussions of these sort of matters of standards of conduct at management meetings. We always had an annual management meeting of top people. Through most of this period I visited every division about once a year and often brought the subject up. We had it discussed at annual meetings of our comptrollers throughout the company who had a special responsibility to watch this sort of thing. We had some different kinds of seminars occasionally with salespeople.

It is clear to me in hindsight that the memos, the discussions, only touched the top people and that I was delinquent in not carrying this deeper into the company and from the corporate office running seminars or programs and making sure it was understood. I think I did not go deep enough. I was relying on the top layer getting it on down and apparently it didn't work.

Senator GARN. Did you ever make any checks with key employees, in other words, just to ask them, "Do you understand the policies?"

Secretary MILLER. I did that in spades with the people I dealt with and, as I say, the 1976 annual meeting—I happen to have the text because I rarely wrote the text but in that case I happened to have written the text because I thought the subject deserved it.

Senator GARN. Were the salesmen who were actually in the frontlines ever asked the question?

Secretary MILLER. Salesmen, I never did. Occasionally I was at a sales conference. I think our legal department would have gone to the sales meeting where the problems were mainly making sure they understood our whole kind of policies and procedures and pricing and compliance with law, and those were done fairly frequently, but obviously we did not get down to the sales department in Bell Helicopter.

Senator GARN. Wouldn't it have seemed logical, though, that no matter how much you disseminate at the top level, the people actually out making the contacts with the foreign governments would have been the ones who should have understood the policy more than anybody else?

Secretary MILLER. Yes; and when we required affirmative statements declaring and signed "I know of no such case," we got, I think, 1,100 key people. Now we didn't get, you know, the several



thousands there, and in retrospect, perhaps we didn't therefore smoke it out—I thought 1,100 key people would have to know what's going on. Of course, I realize there are those who think I should have known what was going on, but I think the others should have known.

Senator GARN. I realize this is hindsight, but my own policy when I had a sales force was that those people making the contacts were more important than those people in the offices who are not out actually dealing with the people with whom the sales were being made and, in Textron's case, to whom eventually some of the questionable payments and bribes were made.

Secretary MILLER. Senator, we shouldn't be too hard on Bell Helicopter people, the salesmen. We have no case of their being involved. These were done at a fairly decent level in management. These weren't the salesmen selling an individual helicopter. Those sales have shown no such deals. So the individual salesmen we shouldn't mix them up.

Senator GARN. I understand what you're saying, but the SEC report did indicate that there were several salesmen who were aware of questionable practices but were not aware of the company policy.

Secretary MILLER. Correct; but a vast number of salesmen for Bell Helicopter were out doing their job selling helicopters directly and did not get involved.

Senator GARN. Since the committee's hearing 2 years ago, it's been established by both Textron's special audit committee and the SEC that in 1971 Bell officers and employees were involved in a \$1.6 million sale which also included payment of \$300,000 to an official of the Ghanaian Government. During our earlier hearings you were questioned about the sale and you assured the committee that you would look into the matter and you reported back that the sale appeared to be an overpayment without mentioning that it was an improper payment. You did state that the structure of the transaction appeared unusual and if known by you in 1971 it would not have been accomplished in that manner.

Subsequently, we have found out that 1 day after Senator Proxmire requested information from you about the Ghana sale a Bell employee destroyed a memo describing the need to make a payoff in order to consummate the sale. This action thwarting the committee's review of the matter is but one such action detailed in the SEC investigative report. Specifically, I'd like to know what review you did make of the Ghanaian transaction?

Secretary MILLER. After our hearings on January 24 or thereabouts when this subject came to my attention for the first time, as I recall, I asked my associates in Textron who were involved with this to get me as much information as they could. I find that what happened was about three parallel investigations unfolded in response to that. I didn't know at the time the details, but the record is now quite complete. There was an immediate start of an inquiry by the lawyer for Bell Helicopter. There was immediately started a review of this by outside counsel brought in especially to do it, and there was a start of a review by the internal auditors. So three different tracks were started, as I read the record. I don't have personal knowledge of this. This all led up to providing me with

what I believe I indicated to this committee was preliminary information, that I informed you—I think I said at the hearing that from what I had found out so far I didn't know enough to know what was the real reason behind it, but it obviously looked bad to me and I assume—and I was correct—that with the SEC investigation going forward that it would be dug into, and it was dug into. I have no explanation. I think it was very unfortunate that anyone would destroy a document and I don't know why or how it happened. I did not know about the Ghana sale, as you know, and it's distressing to me. It should never have taken place in the first place the way it was done and certainly should have been disclosed without any tampering when this committee was interested.

Senator GARN. With whom did you speak specifically at Bell about the sale?

Secretary MILLER. It's a long time back, but I think I talked to the group vice president of Textron and I believe our counsel was here and I believe that I spoke directly with the president of Bell about it, and they were gathering this information. I think we met here in Washington maybe the night before I testified, and they filled me in with what they had. They didn't tell me it was all over because they still had the investigation going forward, but they told me they knew enough about it that it looked like a bad transaction and I tried to report that to this committee. I believe I was very clear, trying not to hide from you that it appeared to be improper.

Senator GARN. I think one of the questions that arises with me, going back to our hearings 2 years ago and reviewing that hearing record, I don't think there's any doubt that the directives went out as you have described and that that was corporate policy. But the fact that there were so many people that didn't seem to know about them and some who did, and in reading through the testimony and the SEC report I wonder if they thought it was window dressing. Despite all that was done in trying to warn them, do you think a lot of the employees did not take such policies seriously, that they felt it was window dressing as a cover and they would go right ahead with these illegal payments?

Secretary MILLER. I spent many a night worrying about that. Let me see if I can give you some insight. I don't know if it's correct or not. As I read this record—and I read it only Tuesday—there was only one division besides Bell Helicopter that had improper payments. So it seemed to be concentrated in foreign sales of Bell Helicopter and I take seriously the special committee's finding that no one did this for personal gain. They really thought they were doing it for the company. I believe that what existed was a general attitude and way of doing business in international markets in aerospace that led these folks to believe that that's the way you had to do it or that's the way you did it and it would help the company and that they would conceal it and do it and think they were doing a good thing for the company. They weren't, but I believe that's what they thought. I don't believe they didn't know of the policy personally. I think they merely thought if you want to sell airplanes out in that world everybody else is doing this and if you want to meet the competition you have to do it. I think that

was absolutely wrong, but I believe that's the background of why this happened.

Senator GARN. Well, my time is up, but just one followup.

Secretary MILLER. I don't know if I'm correct on that. I have worried about it. It didn't happen in other divisions of Textron. Why here?

Senator GARN. Wasn't there some personal gain, though, just in that they would receive commissions on the sales?

Secretary MILLER. Not the individual employees, no.

Senator GARN. The salesmen didn't receive individual commissions?

Secretary MILLER. They did not.

Senator GARN. They were all salaried?

Secretary MILLER. They were salaried and they participated in the growth and wealth and advancement of their division, but they didn't get specific commissions.

Senator GARN. Thank you, Mr. Secretary.

The CHAIRMAN. Senator Cranston.

Senator CRANSTON. Following up on that, they would presumably receive promotions if they made sales.

Secretary MILLER. Yes; they had personal gains in the sense—that's a good point. They would have advanced their careers, that's correct. That's correct.

Senator CRANSTON. I would congratulate you on your opening statement. It was very candid. In effect, you said, "I was wrong. I could have done better and should have and I apologize, but I acted in good faith and I was honest." You said that you should have recommended a special Textron investigation but you did not do so because you felt that "we were conscientious in our endeavors to maintain high standards and because such an investigation would have been disruptive and expensive. In hindsight, I should have proposed an investigation."

It was widely known, even notorious, as you have recognized today, that bribery was a widespread practice in military sales. Bell was successful in competitive sales. Didn't you have any doubts about whether you were maintaining those high standards?

Secretary MILLER. Senator Cranston, in hindsight, there's no excuse for it. I just must have been too confident or too assured that people were listening and paying attention. During that period I did begin to take a series of steps that I thought were assuring me that we didn't have any smoke, and therefore, there must not be a fire. I did begin to require specific provisions in dealer agreements, for example, that made the dealer accountable for guaranteeing that there would be no diversions of funds, and I thought everybody seeing me doing this and knowing what I was trying to accomplish would have surfaced any problems.

But you're correct. I was either too optimistic or too self-confident, and I was wrong. I should have proceeded. It would have cost \$1 million and I'm tight with money, I admit, which is a good thing in the Treasury Department I suppose, but in hindsight, there was no excuse. I should have done it.

Senator CRANSTON. Any thorough investigation would be disruptive and expensive.

Secretary MILLER. Surely.

Senator CRANSTON. Wasn't an investigation really necessary—and I think you have recognized this—so that you would know in fact you were maintaining the standards that you wanted?

Secretary MILLER. I should have done it, no question.

Senator CRANSTON. Were you concerned at all about what an investigation would reveal?

Secretary MILLER. No, that didn't concern me. I mean, I would have rather—you know I have the capacity to face things. I wouldn't have minded fighting it out. It was, as I say, I just had a mistaken judgment that we were better than other companies. Perhaps it's because it had been such a hard track of building the company that I felt I knew it so well.

Senator CRANSTON. My concern, and I think our concern, is the discrepancy between your obvious dedication to high standards and the obvious defects in management at Textron to insure that those standards were being met, particularly in the area of fraud, with the danger of fraud as in military sales to foreign countries.

Can you help us further with that?

Secretary MILLER. Well, I can only—you know, everything I say will be defensive because the truth is I should have thought otherwise. As I said, what I was doing is I was observing this problem as it evolved in American industry and I was taking affirmative steps to tighten up. I was beginning to require these things like the statements that I mentioned. I was beginning to change contracts and put in better controls. And perhaps I in some way or another felt that since we had been in international business such a short time—see, our company did very little international business until the 1970's. Maybe that was one of my mistakes, too. Since we were new, I wouldn't have thought we would have imitated these—about 10 percent of our business was in international business in 1969 and when I left the company a third of it was international and I guess I built it up too fast and didn't put in adequate controls.

Senator CRANSTON. Part of the policy of the growth of Textron was to take over a company, buy a company and keep its management pretty much intact, leave them running affairs as they were running them?

Secretary MILLER. Yes, and when they first came in—we had a philosophy that good companies would join us and they felt they would have a good deal of autonomy. In the early days they were left to their own devices. That's not true in the 1970's. I can't excuse myself on that one. In the 1960's that would have been true, but in the 1970's it was moving from founders to professional management and I should have done better.

Senator CRANSTON. At your press conference on the SEC complaint you said:

I was not personally involved in any way, directly or indirectly, with any illegal payments to Government officials in any place in the world, and even after 2 years of extensive inquiry this is the fundamental outcome of the issues that were involved.

In view of your statement this morning, I gather it's obvious that you accept responsibility for what occurred and at least to that extent you were involved, were you not?

Secretary MILLER. Yes, and I would say to you that I made that statement before I had seen the SEC report and read all the

details, which I have now had the chance to read, which disclosed more to me than I thought existed even at that point.

Senator CRANSTON. I went into these matters with you—

Secretary MILLER. I'm not sure I made that clear. It was only after that press conference that I received the SEC report and was able to get the details. I had seen the complaint which only has conclusions.

Senator CRANSTON. I went into these matters with you at the time of your confirmation hearing before this committee and I'd like to read just a little bit of our dialog.

I asked you:

I understand that you have a policy in your concern not to engage in improper payments.

Mr. MILLER. That is absolutely correct.

Senator CRANSTON. I understand you have found it possible also to do business without making improper payments.

Mr. MILLER. We have taken the view that the way to do business in the world is to have superior products, to represent them thoroughly, sell them as hard as we can, service them well, and win on the merit of our product. We have lost business where business could be obtained in other ways, but we do not consider that to be a detriment. We believe in the long run a company prospers better by making itself competitive enough to win on its merit.

Will you explain or give examples of business you lost which you could have obtained in other ways?

Secretary MILLER. Let me—at the time I had a list of them. I'm not sure I can drum some up. One time in a foreign country showing the controls occasionally worked, an official who was in the chain of decisionmaking had suggested that he needed a sum of money in order to look favorably upon our proposal. That's a case where that problem was brought to me. So occasionally people did understand this. And I declined absolutely to do so. I think we were unable to get some of the business that we might have gotten in that case, for example. I believe, but I'm not sure, that I had been told that in some military sales that we had lost out where apparently people did understand that there was to be no hanky-panky and I can't remember the countries, but I believe I was told in several we had lost out because we wouldn't pick up a certain agent or deal with a certain group.

Senator, I would say that that philosophy that I expressed there I would reaffirm today. You will recall that after the Air Taxi incident, the termination of Air Taxi, that we did have an opportunity to bid on a much larger program in Iran and that I went to Iran and negotiated personally, and it was the biggest contract we ever entered into and we had no agents. We had nobody involved and we sold it ourselves. So I believed you could do that. I believed you could do it. Some of my associates may have been correct that you couldn't in certain instances, but I believe you can. I believe it today. I believe it's the proper thing for a company. If you try to do it some other way, you're liable to not do the proper thing to develop your products and you're liable to begin to become weak.

Senator CRANSTON. Do you think it was widely known in your company in these instances that business had been turned down because of the impropriety of the environment?

Secretary MILLER. It was known in the corporate office but I couldn't say it was known in a lot of divisions because many of the commercial divisions that dealt in consumer products weren't in-

volved in this kind of business at all where you would be tempted because normally it was distribution of products in normal channels.

Senator CRANSTON. Why do you think the information trickled up to you in those cases where nothing was done?

Secretary MILLER. Different channel, different division, different people, and when it came to the corporate office it came to me, so it's just—I guess one has to say that there was centered in Bell Helicopter in a part of its international sales department an attitude that this was either desirable or acceptable. It didn't seem to surface elsewhere.

Senator CRANSTON. Thank you. My time has expired.

The CHAIRMAN. Senator Heinz.

Senator HEINZ. Thank you, Mr. Chairman.

Mr. Miller, could you please turn to that part of your opening statement where you dealt with the Internal Revenue Service disallowances of meals and entertainment for DOD officials and read that part again, the paragraph or several sentences?

Secretary MILLER. Yes. I said that during the investigation, that is the SEC and Textron's special committee investigations, it was called to my attention that in 1969 and in 1971 I had received a memorandum in each of those years, a memorandum from the Textron tax department discussing tax audit adjustments which indicated that expenses for entertainment of Government personnel were not documented and had been disallowed as tax deductions.

My recollection of that was that—well, I'll go on with the statement. As I said, I did not recall these items. This was probably because the particular matters were agreed to by our tax department and not in dispute, and were relatively small compared to other proposed adjustments. Tax returns and tax adjustments were always reviewed by Textron's outside auditors and outside tax counsel, so it was my usual practice to concentrate on larger items that were in dispute and which, therefore, required some decision. I think I have copies of those memos here actually. There are several pages.

Senator HEINZ. Mr. Miller, is that your handwriting on the front of the memo?

Secretary MILLER. Yes; and the handwriting on the top was for people that I said I agree we should disagree. I was looking at the places where we were in disagreement. Unfortunately, we'll have to go to conference.

The CHAIRMAN. Would the Senator yield so these documents could be put in the record?

Senator HEINZ. Yes.

Secretary MILLER. Fine. I would be happy to put them in. My handwriting is on these memos. I received them. There's no question.

[The following memos were subsequently submitted on the record:]

Mr. J. B. Collinson

Mr. J. F. Reardon

August 8, 1969

Bell Aerospace Corporation  
1966 Federal Income Tax Audit

The Internal Revenue Service has completed the examination of the 1966 Federal income tax return of Bell Aerospace Corporation. The changes proposed serve to increase taxable income by \$18,873,557 and result in a deficiency assessment of \$9,074,054.

The primary changes proposed by the Revenue Service are:

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 UNDER 5 USC § 552(b) (4)

- (4) Capitalizations of expenses claimed in the amount of \$1,704,142.

Attached are two schedules analyzing (1) the agents proposed income changes and (2) the computation of the deficiency assessment.

The adjustments proposed by the Revenue Agents are discussed below:

Capitalizations

The IRS capitalized a total of \$1,704,142 claimed as deductible expenses in the 1966 tax return. Of this amount, \$1,150,072 represented items of equipment expensed by the divisions in accordance with Textron's Accounting Policy #204, that is the \$200 and \$500 minimum capitalization limits.

The balance of the capitalizations included expenses in the general

12

JBE  
JFR

8/13

Joe-Jack:  
 I agree we show  
 changes. Unfortunately  
 we will have to  
 go to conference  
 and settle  
 serve for  
 high level  
 decisions  
 get more  
 evidence  
 above  
 reasonable  
 audit?  
 Bill

Helicopter

Mr. J. B. Collinso.

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nature of movable partitions, air conditioners, steel shelving, parking lot extensions and improvements, tools and architect and engineering fees incurred relative to the construction and remodeling of new and old buildings, respectively.

Legal and Professional

This adjustment (\$492) represents legal fees expended in registering trade marks in foreign countries.

Royalty and License Amortization

In reviewing the Agreement the Revenue Agent held that inasmuch as the Agreement could not be cancelled until September 30, 1971, its useful life exceeded seven years and adjusted the amortization claimed accordingly. As indicated on the attached schedule, the disallowance amounts to \$116,710.63, which will be recovered in later years.

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UNDER 5 USC §§ 552(b) (4)



Mr. J. E. Collins.

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Reserve for Refunds Redeterminable

This reserve is similar to the Helicopter reserve discussed above. In 1966, the reserve changes were as follows:

Balance January 1, 1966	\$ 18,700.65
Additions	47,954.91
Transfer - Ledeen, Inc.	24,783.37
Deductions	(1,669.19)
Balance December 31, 1966	\$ <u>89,769.74</u>

Due to their similarity, the possible course of action comments made with respect to the Helicopter reserve also apply in this case.

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#### Reserve for Inventory Adjustment

In 1966 Helicopter credited to its reserve for inventory adjustment \$125,918 in order to write-down the value of its Model 47 completed parts and its spare parts inventories. The write-down consisted of a revaluation of transmission parts and a percentage write-down of the Model 47 inventories. Since the provision was based on estimates, the Agent disallowed the total amount.

It is interesting to note that, in this one case, the year end balance in the reserve account (\$288,930) did not represent the proposed adjustment.

#### Reserve for Commercial Financing

Helicopter established this reserve in 1966 to cover its contingent liability as a guarantor of notes held by Dorrance Financial Corp.

The Revenue Agent arbitrarily disallowed the entire amount of the reserve balance or \$89,769.74.

#### Depreciation

By extending the lives assigned to data processing equipment and leasehold improvements at Bell Aerosystems and Helicopter, the IRS has disallowed depreciation of \$717,684 claimed on the 1966 return. In 1965 and 1966 Aerosystems purchased IBM data processing equipment which had been previously leased. This equipment was being depreciated over the remaining life established by IBM at the date of the lease. Whereas, IBM usually assigns a life of 50 months to its data processing equipment,

Mr. J. B. Collinson.

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the Agent assigned a life of ten years from the original date of lease and disallowed \$395,600 of depreciation claimed.

The Bell divisions depreciate leasehold improvements over the balance of the initial term of the lease. Since these leases provide for renewal options the Agents challenged this practice and assigned lives to individual improvements based on IRS guidelines and an engineer's recommendations. Depreciation claimed on leasehold improvements has been disallowed in the amount of \$322,064.

We believe that the life assigned to the data processing equipment by IBM of 50 months is reasonable due to the high degree of obsolescence of this equipment. Further it is our belief that the Revenue Agents when changing lives assigned to leasehold improvements failed to consider other pertinent and important factors which would justify a much shorter life than that proposed.

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#### Moving Expenses

In 1966 Bell Helicopter's new transmission facility 5A at Grand Prairie, Texas, was completed. This facility was built under a "Turn Key" type contract where the prime contractor was to build and equip a facility that would be completely operational upon completion. A study of the contract cost was made by American Appraisal Company and Helicopter engineers in order to properly allocate the cost of this facility between land improvements, buildings, machinery and equipment, moving expenses, and other costs. The Agent during his examination disallowed the moving expense deduction claimed in the amount of \$272,789 due to lack of substantiation.

It should be noted that the Agent agreed that the amount disallowed was included in the contract price paid by Helicopter and also that he was provided with the data resulting from the studies establishing the amount of the moving expense deduction.

#### Entertainment Expenses

Of the total \$35,162 disallowed \$34,662 represents entertainment costs expended by Bell Helicopter with respect to government employees. For obvious reasons, no substantiation was retained.

#### Sick Benefit Accrual

A deduction of \$31,616 was taken on the return representing the increase in Helicopter's sick pay accrual. Due to Helicopter's policy concerning payment of sick pay, the Agent contends that this represents deferred compensation and, as such, is deductible when paid.

Reserve for Disposal of Leased Equipment

The field Agent added to income a gain of \$6,061 realized by Aero-systems on the sale of leased equipment which they credited to reserve for disposal of leased equipment.

Equipment Rental

The IRS disallowed \$1,200 of 1966 rental expense as applying to the month of January, 1967.

Tax Penalty

A deduction of \$68 was taken on the return for an unemployment tax penalty paid in 1966. The IRS has disallowed this, as tax penalties are not deductible.

Net Operating Loss Deduction - Ledeen

In May 1966, Ledeen, Inc. was liquidated into Bell and Bell's taxable income was offset by Ledeen's claimed net operating loss carryover in the amount of \$273,987.63. In examining Ledeen's final return for the period January, 1966 to May, 1966, the IRS disallowed \$24,993.56 of various items of equipment and leasehold improvements expensed and allowed additional depreciation in the amount of \$4,641.06. The resulting reduction in Ledeen's NOLD of \$20,352.50 serves to increase Bell's 1966 taxable income.

State Taxes

In 1966 Bell claimed a deduction for state and local taxes totaling \$845,636. Consistent with prior practice, the Agent disallowed \$36,017 of the deduction claimed which represents the excess of state and local taxes accrued over that paid.

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Royalty Income

As in prior years the IRS has denied capital gains treatment on the proceeds received under three of the agreements for which such treatment was claimed. The disallowance is based on the Agent's contention that substantially all of the rights under the patent had not been sold.

It is believed that Bell is entitled to treat a substantial portion of this income as capital gain.

Contributions

On the 1966 return a deduction of \$178 was claimed for the fair market value of property contributed. The IRS has disallowed this deduction.

Depreciation Deductions

The depreciation deductions allowed with respect to current year

Mr. J. B. Collinson

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capitalizations were computed by the several examining agents. As settlements are negotiated at Appellate with respect to amounts properly capital, this allowance will be recomputed. At the same time, Bell will claim accelerated depreciation as a substitute for the straight line method used by the Agents, where applicable.

The depreciation allowance on prior RAR capitalizations is proper.

#### Investment Tax Credit

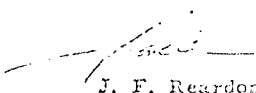
With respect to Section 38 property capitalizations, the IRS has allowed an additional credit of \$88,500.81, which is approximately correct. This adjustment will, of course, change as the proper capitalizations are determined.

#### Comments

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#### Recommendation

Due to the magnitude of the proposed deficiency and the arbitrary nature of many of the adjustments, it is my earnest recommendation that we disagree with the proposed changes practically across the board.

  
J. F. Reardon

10.02 07 00

JFR:krt

cc: G. William Miller

A. M. Cohen

PROVIDENCE **textron** RHODE ISLAND

To G. William Miller From J. F. Reardon  
Location Corporate Office Date September 23, 1971

Subject: Bell Aerospace Corporation  
1967 Federal Income Tax Examination

The Internal Revenue Service has completed the examination of the 1967 Federal Income Tax Return of Bell Aerospace Corporation. The changes proposed serve to increase taxable income by \$4,164,738.63 and result in a deficiency assessment of \$1,913,198.04.

The primary changes proposed by the Revenue Service are:

- (1) Capitalization of claimed expenses totalling \$998,441.27.
- (2) Reduction of amortization claimed on costs incurred under the Westland Aircraft license agreement in the amount of \$542,588.71.

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UNDER 5 USC §§ 552(b) (4)

Attached are two schedules indicating (1) the Agent's total proposed change to each division and (2) the computation of the deficiency assessment.

The adjustments proposed by the Revenue Agent are discussed below:

ADJUSTMENTS AFFECTING TAXABLE INCOME

Capitalization of Expenses - \$998,441.27

To avoid repetition, the Agent's proposed capitalization of claimed expenses totalling \$998,441.27 relative to all Bell divisions are discussed on a combined basis. Of the total proposed capitalization, \$369,996.61 represents items which were expensed in accordance with the then prevailing Textron Accounting Manual Policy #204 (\$200 and \$500 capitalization limits relative to furniture and plant and equipment, respectively). The Agent's proposed capitalization of items expensed under the former Textron policy appears proper, inasmuch as his determination is based upon the following two agreements reached with the IRS:

- (1) In accordance with the 1966 Appellate Settlement, property, plant and equipment with a cost between \$400 and \$500 are to be capitalized.

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(2) Bulk purchases of items with an individual cost below the agreed capitalization limits of \$200 and \$400 are to be capitalized where the bulk purchase involves the installation of a new facility or the significant refurbishing of an area or facility. However, bulk purchases of such items which involve normal procurement practice are deemed properly deductible.

The remainder of the proposed disallowance reflects the capitalization of architect and engineering fees incurred in the construction or remodeling of buildings (\$155,402.70), movable partitions and steel shelving (\$218,800.75), repairs properly deemed capital improvements (\$162,388.90), sales taxes (\$44,650.51), relocation expenses properly capitalized as leasehold improvements (\$13,679.88), and sundry other expenses of minor amounts.

The Agent's determination appears proper with only the capitalization of sales taxes in the amount of \$44,650.51 necessitating further explanation. Inasmuch as the California sales tax is imposed on the dealer, the tax, if separately stated, is only deductible by the consumer if the item taxed is not used in the consumer's trade or business. Therefore, the Agent properly capitalized the California sales tax imposed upon items capitalized by H.R.&M. in 1967.

The adjustments proposed by the Revenue Agent pertaining to each Bell division are discussed below:

Corporate Division - \$101,543.87

State Taxes - \$117,828.87

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In 1967 Bell claimed a deduction for state and local taxes totalling \$946,473.88. Consistent with prior practice, the Agent has disallowed the excess of the deduction claimed over actual taxes paid in the amount of \$117,828.87.

Royalty Income - \$55,777.50  
Capital Gain - \$(55,777.50)

In accordance with the 1966 Appellate settlement, the IRS has denied capital gain treatment on certain proceeds received under two of the agreements for which such treatment was claimed. Capital gains treatment was denied on royalties received relative to sales to countries where the licensee had only acquired non-exclusive rights and allowed on royalties received pertaining to sales made in countries where the licensee had exclusive rights. The conversion from capital gain to ordinary (royalty) income in the amount of \$55,777.50 is proper, inasmuch as the conveyance of non-exclusive rights does not meet the required capital gain test which necessitates the sale of substantially all patent rights.

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Incentive Compensation - (\$16,285.00)

The Agent has allowed an additional deduction for incentive compensation in the amount of \$16,285.00. The proposed adjustment is proper for it represents incentive compensation paid, but not deducted, in 1968 which was properly deductible in 1967.

Hydraulic Research Division - \$415,804.67

Inventory - Costing of Ending Work-in-Process - \$248,279.92

At the end of 1967 H.R. & M reviewed certain fixed price contracts and determined that several would result in losses. In view of the forecasted losses, it was determined that the related work-in-process inventories, stated at cost, were overvalued, therefore necessitating inventory write-downs in order to reflect proper market value at December 30, 1967.

The Revenue Agent examining H.R. & M disallowed these write-downs under the premise that they did not conform to Section 471 of the 1954 Code, since they allegedly did not conform to the best accounting practice of the trade or business, did not clearly reflect income, and did not match income with expense.

We take exception with the Agent's contention that H.R. & M.'s method lacks conformity with the best accounting practice and did not clearly reflect income. Our position is supported by the Agent's own explanation of H.R. & M.'s method of determining market value, for his explanation accurately describes the classic example set forth in the American Institute of Certified Public Accountants' statement concerning the proper valuation of inventory at market.

The Agent states in his report that H.R. & M. computes the lower of cost or market on work-in-process inventories involving loss jobs as follows:

- (a) The estimated cost to complete is subtracted from the contract value.
- (b) The remainder is then compared to work-in-process: if the work-in-process is greater than the remainder, the work-in-process is written down to this remaining value.

By comparison, the A.I.C.P.A.'s statement in Accounting Principles bulletin #43 relative to the determination of market value indicates that "Market should not exceed the net realizable value (i.e. estimated selling price (contract value) in the ordinary course of business less reasonably predictable cost of completion and disposal).



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We also dispute the Agent's contention that H.R. & M's method does not match income with expense since it is generally accepted that the lower of cost or market method by valuing inventory is an exception to the matching of income with expense rule. If the Treasury had intended that the use of inventories should reflect a proper matching of income with expense, the regulations under Section 471 would have allowed only cost as an acceptable method of valuing inventory, since only the cost method properly matches income with expenses.

The Revenue Agent also contends that Regulation 1.165-1(d) supports his disallowance of H.R. & M's inventory write-downs. This regulation states that the year of deduction shall be the taxable year in which the loss is sustained, whereby such loss is evidenced by a closed and completed transaction. Here again, the Agent's contention conflicts with the use of the lower of cost or market method of valuing inventory, which allows a taxpayer to recognize loss in inventory before the loss is actually realized. Furthermore, the taxpayer's right to value inventory at market in order to recognize losses prior to actual realization through the sale of inventory has been settled by the courts in at least two cases: *Space Controls v. Commissioner* and *Bliss Co. v. U. S.*

Inventory-Reserve for Bell Audit Claim - \$143,158.92

In 1967 H.R. & M. set up this reserve as a contingency against a possible claim for excess profits upon the audit of Helicopter relative to a job done under government contract. Inasmuch as this liability is entirely contingent upon a possible future claim, the Agent's determination that this is a contingency reserve, and therefore unallowable, is proper.

Construction Work-in-Progress - Sales Tax - \$5,703.51

See capitalization summary.

Capitalize Leasehold Improvements (Moving Expenses) - \$13,679.88

See capitalization summary.

Membership Dues - Hidden Valley Ranch - \$500.00

The Agent has disallowed membership dues in the amount of \$500.00 for lack of business purpose. Inasmuch as the business purpose could not be substantiated, the Agent's determination appears proper.

Capitalized Sales Tax - \$38,947.00

See capitalization summary.

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Reserve for Refunds Redeterminable - (\$17,803.07)

In 1966 the Agent determined that H.R.&M's Reserve for Refunds Redeterminable was a contingency reserve. In accordance with the 1966 Appellate settlement; the Agent has allowed an additional deduction totalling \$17,803.07, representing the addition to income of 1/10 of the opening 1966 reserve balance in the amount of \$1,870.06 and an additional deduction of \$19,673.13 relative to the net 1967 reserve decrease.

Depreciation - (\$16,661.49)

The Agent's computation of additional allowable depreciation totalling \$16,661.49 relative to 1967 and prior year RAR capitalizations is correct and proper.

Bell Aerosystems Division - \$1,000,561.71

Reserve for Disposal of Leased Equipment - \$6,556.81

The Agent added to income a gain of \$6,556.81 realized by Aerosystems on the sale of leased equipment which was credited to the reserve for disposal of leased equipment. This adjustment is consistent with prior years.

Royalties and Licenses - \$542,588.71

Upon reviewing the agreement, the Revenue Agent determined that, inasmuch as the agreement could not be cancelled until September 30, 1971, the costs incurred by Aerosystems should properly be amortized over a period ending on the earliest date of contract cancellation. The resulting amortization disallowance of \$542,588.71 appears proper and will be recovered in later years.

Capitalization of Expenses - \$520,975.21

The Agent has proposed capitalizing expenses claimed by Aerosystems in the amount of \$520,975.21, consisting of the following:

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Capitalization of Expenses - \$520,975.21 (continued)

Manufacturing supplies	\$1,230.00
Portable tools	10,219.65
Departmental equipment	81,083.61
Office equipment	202,118.57
Professional fees	155,402.70
Maintenance and repairs	70,920.68
 Total	 \$520,975.21

See the capitalization summary for a discussion of the propriety of the above-mentioned adjustments.

Entertainment Expense - \$29,525.48

The Agent has disallowed claimed entertainment expenses totally \$29,525.48 for lack of substantiation. Inasmuch as the major portion of the proposed disallowance represents entertainment costs expended by Aero-systems with respect to government employees, for obvious reasons no substantiation was retained.

Depreciation - \$172,586.14

The Agent has proposed a net disallowance of depreciation totalling \$172,586.14, reflecting the following depreciation adjustments:

(1) Additional depreciation re 1966 RAR capitalizations	\$(28,825.55)
(2) Additional depreciation re 1967 RAR capitalizations	(38,421.76)
(3) Disallowance of depreciation resulting from the extension of asset lives on 1966 and 1967 audits	<u>239,833.45</u>
Net disallowance of depreciation	<u>\$172,586.14</u>

The Agent's computation of additional allowable depreciation totalling \$28,825.55 pertaining to 1966 RAR capitalizations is correct.

Included in the additional depreciation allowed on 1967 RAR capitalizations is amortization of \$362.67 pertaining to capitalized architect fees incurred in the construction of improvements at the Ball Test Center. Although the capitalization of these fees is proper, we disagree with the amortization allowed thereon for the lives assigned to the test center im-

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provements by the Agent are excessive. The remaining depreciation allowed on 1967 RAR capitalizations totalling \$38,058.89 is proper.

Of the Agent's total disallowance of depreciation in the amount of \$239,833.45 relative to the extension of lives, the disallowance of \$1,314.73, pertaining to lives extended on the 1966 audit, and \$28,176.60 pertaining to a proper extension of the lives of improvements constructed at the Wheatfield plant in 1967, is proper. However, we disagree with the remainder of the disallowance totalling \$190,342.12, which represents the extension of the lives of improvements constructed at the Bell Test Center in 1967.

The Agent rejected our contention that test center improvements should properly be amortized over the life of the longest existing government contract involving the use of the test center, even though our contention was upheld at Appellate in connection with the 1966 audit. Our position is based upon the premise that the life of the longest existing contract most accurately reflects the useful life of test center improvements, inasmuch as Bell only has the contractual right to use the Bell Test Center until completion of said contract, and, therefore, may be required to leave the center and abandon its improvements upon termination of the contract. I feel that Aerosystems' use of the longest existing contract in determining useful life was proper and recommend rejection of the proposed disallowance.

Rental-Xerox Machine - (\$1,200.00)

The IRS has allowed an additional deduction for rent expense of \$1,200.00 relative to an item disallowed in 1966 as being properly deductible in 1967.

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Bell Helicopter Division - \$2,646,828.36

Capitalization of Expenses - \$419,135.67

See capitalization summary.

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G. William Miller

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Entertainment Expenses - \$54,642.51

The Agent has disallowed claimed entertainment expenses totalling \$54,642.51 for lack of substantiation. Inasmuch as the major portion of the proposed disallowance represents entertainment costs expended by Helicopter with respect to government employees, for obvious reasons no substantiation was retained.

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Reserve for Inventory Adjustment - \$224,362.46

In 1966 the Agent determined that this was a contingency reserve, inasmuch as the write-down of inventory was computed on a percentage of inventory on hand basis, without the establishment of actual loss. Consistent with the 1966 determination, the Agent disallowed the net 1967 reserve increase of \$224,362.46.

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Reserve for Commercial Financing - \$34,386.81

Helicopter established this reserve in 1966 to cover its contingent liability as guarantor of notes held by Dorrance Financial. In 1966 a settlement was reached whereby that portion of the reserve pertaining to pre-1966 notes was deemed contingent and that portion pertaining to 1966 notes was allowed.

In 1967 Helicopter booked a provision of \$78,043.52, reflecting a bad debt rate of 2% for notes guaranteed in 1967. In accordance with the 1966 Appellate settlement, the Agent allowed a deduction of \$43,656.71, representing 2% of the combined net increase in outstanding 1966 and 1967 notes, and disallowed the remainder of the provision in the amount of \$34,386.81.

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Amortization - (\$221,743.23)

The Agent has allowed amortization in the amount of \$221,743.23 relative to the previously discussed certification costs. The basis for our disagreement with this adjustment was previously enumerated.

Depreciation - (\$893,444.86)

The Agent's computation of additional allowable depreciation totaling \$893,444.86, representing (1) additional depreciation of \$375,535.82 relative to 1967 RAR capitalizations, (2) additional depreciation totalling \$504,134.72 relative to 1966 RAR capitalizations, and (3) additional depreciation of \$13,772.32 relative to the extension of asset lives, is proper.

Although the allowance of additional depreciation relative to the extension of asset lives is an apparent contradiction, it is a proper adjustment. In 1967 Helicopter, per agreement with the DCAA, extended the lives of certain assets, which had been extended on the 1966 audit. The book extension was accomplished by reversing prior year depreciation excesses, thereby creating an additional tax deduction on the 1967 audit.

TAX ADJUSTMENTS

Investment Tax Credit - (\$98,705.32)

With respect to Section 38 property capitalized, the Agent has allowed an additional investment tax credit of \$98,705.32. The Agent's computation of the additional credit is proper.

RECOMMENDATION

With respect to the adjustments proposed by the IRS, I recommend rejection of the following:

(1) The disallowance of claimed FAA certification costs charged to Helicopter's Reserve for Product Development.

(2) The Agent's method of amortizing improvements at the Bell Test Center, resulting in the disallowance of claimed depreciation totalling \$190,342.12.

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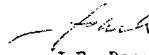
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Recommendation - (continued)

(3) The disallowance of inventory write-downs below contract value relative to H.R. & M's use of the percentage of completion method.

(4) The disallowance of good costs included in Helicopter's provision for estimated disallowed costs under CFF contracts.

As indicated previously, I feel that the remainder of the adjustments are proper and recommend their acceptance.

  
J.F. Reardon



CVJ/em  
enclosures  
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cc: Messrs: J. B. Collinson  
J. B. Henderson  
K. J. O'Brien  
C. Harnick

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Senator HEINZ. And there were two memos, one 1969 and one 1971?

Secretary MILLER. No question.

Senator HEINZ. And as I understand it, in both memos, which are very similar, the author, Mr. Reardon, explained that inasmuch, and I quote:

Inasmuch as the major portions of the proposed disallowances—

That is, by the IRS—

represents entertainment costs expended by the Bell Division with respect to Government employees, for obvious reasons, no substantiation was retained.

Is that not in the memo, more particularly the phrase, “for obvious reasons, no substantiation was retained?”

Secretary MILLER. Yes. Let me read you both of them. Maybe you don't want me to read them.

Senator HEINZ. Will you put the memo in the record?

Secretary MILLER. Yes. There's such language in one of them. The other one is differently worded. Both of them say “for obvious reasons.”

Senator HEINZ. Here is what is happening as I understand it. You have received two memos. You have written on them. The memos say that Government employees are being entertained, that there are expenses, that the documentation is not being kept for obvious reasons. The IRS is disallowing these deductions because there's no documentation. The numbers are large. They are up in the hundreds of thousands of dollars, and the question I would come to is, why is it not a reasonable supposition of your employees or of anybody else that you're condoning what was a practice that went on not just in 1969 and in 1970 but went on right through 1978 after you had written and distributed in 1976 I think it was a very comprehensive management guide that said this kind of thing is out of the question; don't do it? Is it not true that IRS was disallowing these payments right on up through 1978 and in the case of Bell Aerospace that that was at the level of several hundred thousand dollars a year through 1978?

Secretary MILLER. The amounts that were involved in 1969 was \$35,000 for one division and \$34,000 for another. In the memo I have here in 1971 it says “\$29,000.” So they weren't up in the hundreds of thousands, but they were in those numbers. As I say, these were old memos and as I say, when they were shown to me it was clear I had received them. It was not clear to me—and these items didn't ring a bell—as I said, I was generally aware of the entertainment. I was aware that we were not—that they were not being charged—a defense contractor would not be allowed these as a cost on Government contracts, so they were identified so they would be excluded from any charge on the Government contract.

Senator HEINZ. But you have said now—and I think you said in the past on many occasions, including as far back as before December 1972, that this kind of entertainment expense was wrong. Why would you not take action on something that you apparently knew about and was wrong, whether or not it was \$10,000, \$100,000, or some other figure?

Secretary MILLER. The policy of being wrong has to do with lavish and extravagant. Entertainment takes place all the time.

I'm sure in your business it does too. The policy was no one should be involved with any gifts or gratuities or hospitality that was lavish or extravagant.

The research found here there was no item that was as much as \$100 and that, in my opinion, furnishing of meals and—incidentally, DOD regulations were ambiguous and did allow visitors to take meals under certain circumstances, but they were not lavish entertainments.

Senator HEINZ. Whether or not anybody may or may not believe that taking a Defense Department official out for a sandwich in the cafeteria is wrong doesn't seem to me to be the issue. The issue, it seems to me, is why were you condoning the destruction of these vouchers? My understanding is this was unique; you didn't destroy vouchers for less than \$100 in other parts of Bell or Textron; you wanted your income tax deductions on all expenses.

These vouchers were being destroyed. Why, in this instance? You knew, apparently; according to these memorandums, you knew about it. You must have thought, I assume, either something was funny or something was wrong, to condone the destruction of these vouchers.

Secretary MILLER. Senator Heinz, let me be very clear.

Until these investigations, until this was disclosed to me in the investigations, I did not know that the vouchers had not been retained. I knew that there was limited documentation. I did not know until this investigation. I learned—I didn't focus on these earlier memos; I didn't recall them.

I would repeat to you that may have been a fault of mine, but I didn't focus on them.

Senator HEINZ. Mr. Miller, your handwriting is all over them, and I will be perfectly—I will leave it up to posterity to judge what that means. You obviously read them; your handwriting is on them; they've explained what was happening.

Let's go to another subject. I understand what you're saying for the record is you didn't focus on them. And I am not going to quarrel with that assertion. I will let the facts stand on the record.

Secretary MILLER. But, Senator, I must point out, so I do not get misunderstood, the procedures at one of the divisions, was apparently—I learned this after the investigation; it's in the report—that the individual who had taken someone either to lunch or dinner was on an expense account like everybody else and had the documentation submitted.

Once it was approved, it would be returned to him; and it was up to him, since it was not going to be claimed as a cost, for him to decide whether it was a matter that he might be charged for income and might have to justify his deduction.

In the other division, the same clearance was done, and then the vouchers were discarded. That was true, and I did not know that. One of them, they were kept by the employee. The other one, they were discarded. And I did not know of either procedure.

Senator HEINZ. Mr. Chairman, I would like to request unanimous consent that page 59 of volume II of the Textron internal audit be introduced in the record.

The CHAIRMAN. Without objection (see p. 311).

Senator HEINZ. Page 59 states as follows, and I quote:

Mr. Miller and Mr. Collins told the committee—that is, the audit committee—that they were generally aware of the practice of not retaining full substantiation for such hospitality expenses, that they did not have specific discussions on the subject. Both noted that the amounts involved were relatively small.

Mr. Chairman, Mr. Secretary, one other question. My time has expired. I will return to it.

The CHAIRMAN. Senator Stevenson.

Senator STEVENSON. Thank you, Mr. Chairman.

Much of this hearing has been devoted to matters that are familiar to the committee and also to the public about questionable payments to certain officials of countries in the Persian Gulf and Southwest Asia. I have some question as to whether public discussion of those payments will add anything to our knowledge or the public's of your conduct, Mr. Miller, and whatever is added is at some risk of disserving the interests of the United States in a vital and unstable region.

So, I, for one, hope that what more needs to be heard by this committee, if anything—we've been through it before, the Finance Committee has been through it—can be done by other and more effective means.

Senator Heinz broached some new material—at least new to me. I would like to continue where I believe he left off—with a discussion of the payments by Textron for entertainment of Defense Department employees.

First, can you tell us what the full amount of these expenditures were for this period, from 1971 through 1978, inclusive?

Secretary MILLER. I do not have personal knowledge of that. In the SEC report, as I understand it, it was quoted as \$490,000. I have no reason to dispute that.

Senator STEVENSON. Have you the means by which to provide the committee, if not now, later, with those figures, broken down per year?

Secretary MILLER. We can request it from the company. I know of no reason why they wouldn't supply it to you.

Senator STEVENSON. Thank you.

Did I understand you a moment ago to indicate that while you did have general knowledge of these expenditures, you did not believe that they violated Department of Defense regulations?

Secretary MILLER. I understood at the time that these were meals and courtesies in connection with visitations, regular business sessions, information that we reported to the Senate, or, rather, excuse me, the Joint Committee on Defense Production, and that they were not illegal.

Senator STEVENSON. I didn't say illegal.

Secretary MILLER. Or improper.

Senator STEVENSON. It was your opinion that they did not violate the Department of Defense regulations, nor that the recipients were violating the Department of Defense regulations?

Secretary MILLER. To the extent I had any focus on it—which I really didn't—it was my understanding that we were not violating the regulations, but they were.

Senator STEVENSON. To what extent did you focus on or have knowledge of these?

Secretary MILLER. In 1975, when Senator Proxmire wrote me, I focused on it very thoroughly. As I say, I put out a very strong

directive that we would inform everyone. I think Secretary Clements was correct; he suggested we all get everyone informed and we make sure. I think at that time the regulations were revised and tightened, so we even had to change the rules. After the rules were tightened, the practice in Textron disappeared over a couple of years.

Senator STEVENSON. Over a couple of years. They continued through 1978.

Secretary MILLER. They wound down and even under the existing regulations—I don't know them today, but I am still told that there are instances where there are—where it is appropriate to receive meals. But I am not an expert on the regs.

Senator STEVENSON. Was it your feeling during this period that such expenditures were a general practice and justified, as such?

Secretary MILLER. I understood them to be general practice in the industry. I understood that the nature of the environment of the industry, it was expected of defense contractors to provide lunches and meals by those people who were in business.

Senator STEVENSON. Were these expenditures in the aggregate amount of \$490,000 solely for the benefit of officials in the Department of Defense, or were officials in other departments involved?

Secretary MILLER. The inquiry of Senator Proxmire went into NASA and DOD, as I recall. And I am not sure whether Senator Tower's letter suggested a broader definition of Federal. When we say "Department of Defense personnel," here, we don't mean generals and admirals, particularly; we mean the people who are constantly in the process of monitoring, visiting, auditing, dealing with defense contracts. Large numbers of military and civilian personnel are involved.

I don't recall that this went beyond DOD and NASA. And I don't believe the accounts in those two divisions would likely include anyone other than those branches of government. There would not be many occasions to deal with the other branches.

Senator STEVENSON. Were you yourself, as the chairman of Textron, the beneficiary of such expenditures as, say, you authorized or attend social events which were financed by Textron from these funds?

Secretary MILLER. There were no funds. The question was did I have—

Senator STEVENSON. Did you make any such expenditures or have knowledge of such expenditures by Textron for events at which you were present?

Secretary MILLER. No. I might say—I would like to make it very clear because there have been misunderstandings—there were no funds here. This was a case of on-the-book transactions where the employee brought in a voucher; it was reimbursed and it was reported on the books. There were no funds over on the side.

Senator STEVENSON. No funds, but there were expenditures.

Secretary MILLER. Well, people talk about funds as if it's, you know, something off the books and kept in a clandestine way. These were overt, on-the-books—I am sorry, I lifted my hand and the shutters nearly drowned us out. [Laughter.]

When I get a hard question, I will lift my hands. [Laughter.]

The CHAIRMAN. The way we're going, you won't have to lift your hand very much. [Laughter.]

Senator STEVENSON. Now, Mr. Secretary, did you approve the filings with the SEC under the Exchange Act of 1934 during this period on review them before submission?

Secretary MILLER. Yes. As you know, these filings are extensive documents. They include certificates by lawyers, by accountants; and they are required to be signed by a majority of the directors, the chief financial officer, and the chief executive. They were reviewed by all the experts, and I signed them or authorized those signatures.

Senator STEVENSON. Does the same answer apply to the annual reports of the corporation?

Secretary MILLER. The annual reports that are published for shareholders would also include a letter from the chairman and the president, and would include the financial statements certified by the independent auditors. Those were not normally SEC filings, although that would be part of SEC filings as a corporation.

Senator STEVENSON. You reviewed the annual reports and the SEC filings with the annual reports.

Secretary MILLER. Yes, sir.

Senator STEVENSON. You were, therefore, aware that they did not disclose these expenditures; were you not?

Secretary MILLER. Yes, I was.

Senator STEVENSON. Could you explain to the committee why it is that, with such awareness, you did not take any action to assure full disclosure in compliance with the requirements of the SEC?

Secretary MILLER. Senator Stevenson, there are several reasons. One is that these were considered by me to be normal courtesies and hospitalities that are proper. They were considered by me to be minor in size, in relation to the size of the company. They were considered, when we had fully disclosed them to the Senate and House Joint Committee and the public document had been published and general awareness existed throughout the country that this was done, not to be an unusual or unique situation or one that would have required disclosure.

Today, I am still hard-pressed to know, if this was a widespread practice, well known and publicized, why it now decided that there should have been some other kind of disclosure. I am still not up to speed on that one.

Senator STEVENSON. Was it discussed with your attorneys or other experts at the time? And if so, were you advised not to make such disclosures?

Secretary MILLER. It was not discussed.

I must point out that all of our tax returns and the audit reports and the tax adjustment reports were reviewed by outside auditors and outside accountants far more expert than me. I never had a suggestion from them that any of these items required special attention.

Senator STEVENSON. Thank you.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. Mr. Chairman, I would like to raise a question, first of all, of you with regard to the purpose of these hearings and what steps, if any, could come from them. Could you outline the

potential scope of actions that the committee could take? Is our purpose simply to air the questions so that others might make some judgments? Or are we going to make a judgment, or what sort of action do you contemplate?

The CHAIRMAN. That's a good question. I thought I spoke to some extent to that in my opening remarks. But it's proper for us to focus on what is going to come out of this. I indicated I thought we ought to clear the record; we did not have a complete record of the SEC complaint, which is new, and it represents a position by highly respected agencies of a whole series of payments we didn't know about before. They not old; they're new.

And I would like to ask Senator Riegle or Senator Stevenson to point out—and I will go into this—anything after about page 4 on the record here in the complaint that's old; we didn't go into any of these before, and I think we ought to know about them.

No. 2, I think that we should have an understanding of whether or not it would be necessary to go further. I hope not. I think this is the kind of inquiry that should, I hope, terminate today—maybe late today—but I hope we can terminate it today. It shouldn't drag on.

We all know we come back a week from Monday and we couldn't have another hearing until then, and I think it would be unfortunate to have the Secretary of the Treasury waiting to testify again or to have other witnesses to testify. We may decide, however, that's necessary. I don't think we ought to hesitate to call other witnesses if we feel we have to do so after this is over. It's up to the committee.

Frankly, I am also concerned about the possibility of an independent special prosecutor. I have talked to a number of Senators not on this committee who are concerned about that, and I think we ought to decide whether or not to do that. I think that's something that I would decide for myself, at least, whether I would support that position based on the testimony we have today and on the whole record.

I think that's what we have to do, No. 1, to get the record as clear as we possibly can; No. 2—and this is new information—No. 2, to decide whether we should have further witnesses so that we have an even more comprehensive record, which I hope we won't have to go into; No. 3, to determine whether or not there should be an independent special prosecutor.

#### STATEMENT OF SENATOR LUGAR

Senator LUGAR. Thank you very much, Mr. Chairman.

One reason that I asked that question is that apparently in an action or in a statement last week the Attorney General of the United States simply dismissed the idea of a special prosecutor. This is obviously long before this committee had an opportunity to take a look at the new evidence. I found that step extraordinary, to say the least.

If, in fact, one of the things that we may be discussing here is an action step, that action step could be the appointment of a special prosecutor.

Mr. Chairman, let me just say at the outset that at the time of the original hearings, when Mr. Miller came before us for the

Federal Reserve Board chairmanship, I think that a number of us—but without associating anybody else, I will just say it for myself, I took the position that the President ought to have a lot of latitude.

Second, it appeared to me that, as Mr. Miller has stated today, business practices in foreign sales, with entertainment of defense contractors, a case could be made that a good number of companies in America were doing things that are improper. Now, that may have been remedied subsequently, but at least my disposition was not go into ex post facto law with regard to changes that have been considerable, however disastrous they are perceived now.

What I believe I am hearing, as I listen to the answers that Mr. Miller is giving to the questions today, is what might be called a “containment strategy,” containment in the sense that Mr. Miller could indicate that, as he looks back over these situations, they were improper and he should have known more and should have been more diligent.

And it seems to me that those admissions can be made without coming to the heart of the matter, which is essentially a term used in another inquiry, “What did he know, and when did he know it?” And I am in doubt about that, I must say.

I simply find one potential course of action that could have been taken is that Mr. Miller might have said:

Indeed, there were some things that went on in my company, and, indeed, as an astute manager, I was aware of a good number of things. The raised questions didn’t come out the way we want to.

But I must say, as I listen to this new testimony, read the new reports, I simply find it doubtful that Mr. Miller could have served throughout this period of time without being aware of some of these matters.

The action, you know, that you take in these sorts of situations—and that’s my procedural question, to begin with, whether I have any doubt or not; I suppose it’s just simply 1 Senator out of 100 and this is not a court of law—specifically, there is no way that I know that we’re going to get to the testimony of the 11 Textron employees—who might shed some light—who have taken the fifth amendment during the SEC inquiry.

Our staff is not empowered to offer due process in a way that might be appropriate in this case, and I say this mindful of the considerations that I think were important in the initial inquiry and likewise during the confirmation of the Secretary of the Treasury.

That is, that William Miller’s service, I believe, has been outstanding in both of his positions, and he’s of very great value to the President of the United States. And these are difficult times for having this sort of confusion and continuing inquiry.

I think that sort of stymies a lot of our persistence. As a practical matter, life must go on. In essence, the Government must function.

But let me just say, Mr. Chairman, for the record, I have no questions this morning of Mr. Miller. I am inclined to listen with favor to suggestions that are being made in our body for the appointment of a special prosecutor. I have no way of knowing personally anything more from this inquiry from reading the testi-

mony, I think, that would lead me to any further belief or disbelief, until we really have it on the record through the regular procedures.

And the Attorney General of the United States already precluded this, I think, in a rather peremptory move. At the same time, maybe the ballgame isn't over in that respect. Maybe this is something that we ought to discuss on the floor of the Senate or encourage our colleagues on the Judiciary Commission to ask the Attorney General to show cause why a special prosecutor should not be appointed. And I say that advisedly, appreciating the disruption it will cause.

But at the same time, Mr. Chairman, I'm not going to persist, really in the questioning on areas where I think we shall not get to the facts without really having the proper authority that can help us in that respect.

Senator STEVENSON. Mr. Chairman, might I just mention——

The CHAIRMAN. Senator Riegle, would you permit us to encroach on your time?

Senator RIEGLE. Not on my time.

The CHAIRMAN. I ask unanimous consent that Senator Stevenson be allowed to continue.

Secretary MILLER. I just had some information I thought Senator Lugar would like to know.

The CHAIRMAN. Go right ahead.

Secretary MILLER. I think there may be a little misunderstanding, because the Department of Justice—and I have not discussed this with the Attorney General. He was at a Cabinet meeting. But I have not discussed it with him. But you should know that the Department of Justice had a parallel investigation over more than a year and has had all this information, and settled their case with Textron last July.

I think it may be a little unfair to the Attorney General to indicate that there's some mass of information he now has and that he made a peremptory judgment. I don't know what he said, but the Department of Justice was fully involved over a long period of time. So it isn't that they're coming in looking over someone else's shoulder. They had a whole independent inquiry. I was not a party to that.

They did not interview me, but I read in the paper and I know it is notoriously known that they ended up coming to a settlement with Textron and as far as criminal cases, discharging as to any individual, so that they have no individual under investigation. They filed in court in the District of Columbia here, so it's very hard to see if they investigated and decided they had no case as to any individual and so agreed in court. So it actually binds them.

But you might not have had that information, that's all.

Senator LUGAR. I appreciate that.

Mr. Chairman, may I have just a moment?

The CHAIRMAN. I think you still have time left.

Senator LUGAR. All right.

Mr. Miller, I appreciate what you're saying and I'm not certain whether the Department of Justice would have covered all of the same material as the SEC. Perhaps they have, perhaps they have not. But it seems to me that the problem here is one in which you



could, as a corporate official coming before this committee for confirmation to begin with, have pled that you were in fact a good steward of your company, that the company had prospered, but that as these allegations were made, in fact, there were some problems out there in the field.

During those days it was a pretty tough ballgame in foreign sales, and I think in essence you could have asked the committee to say, judge me on the basis relative with a lot of other chief executives who were dealing with these tough problems.

You could have said at that point, I don't pose as one who really came through this thing unscathed; there are a lot of problems and there are some barnacles still hanging on. But that was not the tack which you took, nor is it today.

Really, in essence, you're saying these things did go on in America and in foreign sales and in other companies and in Textron too, but you simply did not know about them. If you conclude that you should have been more diligent—but that's a very high standard.

Now, that's the problem, it seems to me, that we have in terms of the credibility of the situation. And it needs to be a high standard, I presume, to be Secretary of the Treasury, somebody at the heart of the Government of the United States. That's why I'm in doubt about how we should proceed until we really finally get full testimony and have a better determination really of what did you know and when you knew it.

The CHAIRMAN. Do you want to go on further, Mr. Secretary?  
Secretary MILLER. No.

The CHAIRMAN. Senator Stevenson is recognized, and it's not out of the Senator's time.

Senator STEVENSON. Thank you, Mr. Chairman.

I just want to respond to what you had said and make sure I am not misunderstood. I tried to indicate that large parts of this matter have been reviewed earlier by this committee, by at least one other committee and by other agencies. If there remained matters to be investigated, there were more appropriate ways of doing so. And by that I mean not only with some attention to Mr. Miller's interests and also the necessities of justice, but also with some attention to the foreign policy interests of the United States in a critical and unstable region.

Now, the possibility of a special prosecutor has been raised. If you, Mr. Chairman, or other members are serious about a special prosecutor, then this meeting should never have been held. We should be conducting an investigation through a more appropriate agency.

I'm not aware of any basis for a special prosecutor because I'm not aware of any allegations, let alone evidence, of criminal conduct, unless, Mr. Chairman, you and perhaps others are suggesting that the Secretary has perjured himself before this committee. And if that is what you are suggesting, then let's get it out on the table. Otherwise, there is, so far as I know—correct me if I'm wrong—no allegation or any evidence of anything criminal. And with no such evidence or any allegation, there is no basis for the appointment of a special prosecutor, with the one qualification I mentioned.

The CHAIRMAN. Well, in response to Senator Stevenson—this will not count on Senator Riegle's time. I'll be as brief as I can. I apologize to other members who have not had a chance to inquire.

I have a letter from the Deputy Assistant Attorney General John Keeney. He said:

This letter is in response to your request in October 1979 for a status report on the Textron/Bell Helicopter investigation. The investigation concerns possible obstruction of justice and perjury violations which may have occurred in the Banking Committee's hearing on the nomination of G. William Miller to be a member of the Board of Governors of the Federal Reserve.

The investigation is continuing. Any possible obstruction of justice during the Committee's inquiry into Bell Helicopter was begun in 1971. We are approaching the final stages of our investigation—

This was January 14, 2 weeks ago, 3 weeks ago—

with respect to the Committee's inquiry in Iran and possible perjury which may have occurred during this inquiry, certain international investigative steps have been taken. Another remains pending the approval of the foreign country involved. As you may have noticed, the international investigative steps take several months to complete and there are no guarantees for success. Consequently, it may be several more months before the investigation would be concluded.

As soon as these remaining investigative steps have been completed, the Department of Justice will be in a position to evaluate the merits of the case.

Meanwhile, as Senator Stevenson knows, the Attorney General has made a statement that in his judgment that clears the Secretary of any knowledge and indicated that there is no, as I understand it, that he doesn't contemplate any kind of prosecution with respect to Mr. Miller, and on the basis of what he said a special prosecutor would not be considered by him.

Now, I feel, and I'm sure you must recognize, that I can't think of a more colossal conflict of interest. Here you have the Attorney General, who sits on the Cabinet next to Mr. Miller, both appointed by the President of the United States. You have a situation here where the consequences of an investigation of Mr. Miller could have very, very adverse consequences for the administration as well as for Mr. Miller. And no matter what the findings of such an investigation, having this persist for some time, as we have to, would be a very serious political problem for the administration.

Conflict of interest couldn't be more blatant or clear under those circumstances. It seems to me that on the basis of the inquiry which this committee is making with respect to the hearings that we've had before, which were incomplete and on which the SEC complaint provides a great deal more information on, it seems to me as I, as one Senator— perhaps Senator Lugar or other Senators can come to their own conclusion, could decide whether or not they want to, as a citizen, as any citizen can, as you know, under the law request the Attorney General to appoint a special prosecutor.

It's my understanding that there are a number of Senators on the Judiciary Committee who have been discussing this and considering the possibility of asking for a special prosecutor. And it seems to me that since this committee has had by far the preponderance of Senate testimony on this matter, that we are certainly in a strong position to make our own decisions on this.

If Senator Stevenson doesn't want to take part in that or is strongly opposed to it, you have every right, of course, to oppose it. But I don't see that, A, it compromises our inquiry this morning,

or, B, should prevent us from making whatever recommendations we want to make.

Senator STEVENSON. Mr. Chairman, I can't make myself much clearer. I will try once more.

If perjury is the offense which you have in mind, then this meeting should not be held. Then the committee should conduct an investigation. That was the point. And I have not challenged that possibility. If there is a basis for making a recommendation on the appointment of a special prosecutor——

The CHAIRMAN. Senator, I'm not trying to build a record on the prosecutor.

Senator STEVENSON. We ought to investigate it.

The CHAIRMAN. It is to clear the record as far as this committee is concerned. We acted and recommended to the Senate that we confirm Mr. Miller. We have a duty, it seems to me, to clear the record in view of this much more recent information.

Senator Garn and I think Senator Tsongas would like to speak to this.

Senator GARN. Mr. Chairman, just a brief comment on this. Let me be very candid about it. I talked to Secretary Miller yesterday and told him that I wondered very much where these hearings were going to go and what we could accomplish, what expertise our staff had, particularly in relation to the 11 who took the fifth amendment. There are no procedures to require their testimony, offer immunity like a special prosecutor.

So if I feel that a special prosecutor might do the job, it certainly, as I explained to you yesterday, Mr. Secretary, is not with any preconceived notions that you or anyone else are guilty of anything, but to try and settle it once and for all, for your sake and for ours and the public, because it's gone on for more than 2 years, up and down, like a roller coaster.

Maybe, Senator Stevenson, the only way to settle it once and for all, not for our sakes, not for the public's alone, but for Mr. Miller, so it can be put to bed one way or another, would be to prove what he knows, what he didn't know, and clear him or not. It may be the only way to do it, to have an independent view apart from any politics whatsoever, in the best interests of everyone.

The CHAIRMAN. Senator Cranston?

Senator CRANSTON. I'd like to speak to the matter of the special prosecutor. I'd like to state for the record that I am thoroughly convinced that this matter does not warrant the appointment of a special prosecutor. I concur entirely with the decision of the Attorney General.

The Department of Justice had full access to the SEC investigation and an even more comprehensive investigation by the special committee of the board of directors of Textron. That's this report, made exhaustively by an independent group of directors of Textron. I talked this morning to Frank Wheat, a former member of the SEC, a man of outstanding legal ability and known for his integrity, who did much of the work on this. He's a California attorney. And I'm convinced, based upon my knowledge of what's in this report and his statement of the comprehensiveness of this study—and this is quite apart from any conclusion of the Department of Justice—that there's nothing in any of these investigations

that would warrant any criminal charge against Secretary Miller or the appointment of a special prosecutor.

If you want to have long time and expense again—time and expense may be necessary in some cases. I think it is not needed here. Nothing new, I believe, would be found that is not covered in this very comprehensive report by a totally independent, objective group of outstanding attorneys.

Let me say one thing. The chairman spoke and I am concerned about the responsibility of this committee in the confirmation process. I'm concerned about the impact on the administration.

But I'm far more concerned about the impact on the American public at a time of international crisis, at a time of questioning about the integrity of people in government, to have an ongoing, long, dragged-out examination of a matter that has been thoroughly examined, when that examination would only prolong and increase these doubts and I think do severe damage to our country and the fate of our people and our institutions.

I'm convinced that the end result, if we went through the special prosecutor, would be to find nothing that is not set forth in this report.

The CHAIRMAN. Senator Riegle has been very, very patient. I think Senator Tsongas and Senator Heinz just want to speak.

Senator RIEGLE. Mr. Chairman, if I may, I think those of us who have not had a chance yet have been extremely patient and appropriately so. But I think, with three of us who have yet to be involved at all, I think we ought to have that chance. And then we can debate for the rest of the day, because we all have thoughts and theories about it. So if I may, I'd like to proceed with my 10 minutes at this time. And I'd like to pick up exactly where I think the discussion is at the moment, that is, that it's sort of the nature of the time and circumstance that are here that this kind of a setting becomes some kind of a trial.

It is a type of trial, in my view. And I think Senator Stevenson is not far off the mark when he uses the word "theater" as to what can happen in a situation like this, and we're all part of it—certainly all the members of the press, who are jammed in here like sardines. Mary McGrory, when she came in, couldn't find a seat and finally found one.

This is not the kind of situation that is particularly conducive to any careful examination of issues or protection of rights. We each have 10 minutes. Sometimes the witness in this case has an opportunity to respond; sometimes not. And I am concerned. I'm concerned about our capacity to do a thorough job, both for the Senate, for the committee, for the issues, for Secretary Miller, for the country. And I think this kind of process, as it moves in the direction, without necessarily anybody's intention, but as it moves in the direction of the kind of trial situation, we're on very sensitive matters.

I think it probably serves no good purpose and no good interest, as I can see. Having said that, I think it's entirely appropriate that these matters be looked at, examined, discussed, honed thoroughly. We have a professional staff on this committee that is not small, is highly competent, highly trained. They have spent literally, I am sure, countless hours—I won't say hundreds of hours, but I know in

the past, in our hearings 2 years ago, they traveled to ascertain information and facts as it was appropriate to do.

And so we come today with a lot of background information and background record and history.

I would ask that my own remarks in the record of years ago, as they related to an examination of the Iranian contract that was discussed earlier by the chairman be made part of this record, at or near the point at which that item was earlier discussed (see pp. 76 and 104).

Let me, if I may, just take two items here that have come up earlier today, because this is very easy in a 10-minute period for us to skip so quickly by information that it may seem to have a meaning that it may in fact not have. And I refer, for example, to the two letters that were the subject of the colloquy between Senator Heinz and Secretary Miller.

On one of the two memos, the one of August 8, it is correct that Secretary Miller has written some notes on the front of this particular document which runs seven pages. I find no other notations by him on any of the other pages. I certainly find none on page 5 at the bottom, wherein three lines, we have an item which relates to the entertainment expense item that we were discussing earlier, an item of about \$30,000 to \$40,000 out of a package of items covered in this entire letter.

Well, there are two figures cited: \$18 million and \$9 million, so that's the range and the scope of everything that's contained in this letter.

The other memorandum in which there's a very brief notation at the top, the word "agreed: sign bill," no other notations anywhere else in this memo, which runs 11 pages, the expense item here that was the subject of the discussion an hour or so ago occurs on page 6 under the heading, "Entertainment Expense." The figure is \$29,000—\$29,500—whereas the sum total of items covered in this runs two figures. Cited are \$4 million and then a figure of \$1.9 million.

So just for the sake of trying to get some kind of useful context around what we're discussing here, we are not discussing documents, at least insofar as I can judge, where either it's fair to characterize the Secretary's comments as "all over the documents", which I believe I heard, or second, that they are the principal items in these documents.

This is not to say at the same time that they're not important. I assume every item in the document is important and ought to be looked at in terms of what importance it does have.

Now, Mr. Chairman, I said earlier, and I'd like to repeat now that I have yet to hear any new information today that alleges any illegal conduct by the Secretary at any time, that the items which have been are, in fact, all items that have been discussed before, and have been in the news. I have heard nothing new here, and perhaps there will be still something new that is forthcoming. That is not to say that it isn't entirely appropriate to chew over matters that have been looked at previously.

I think that certainly is appropriate if there is some compelling justification for it. It seems to me that Secretary Miller—there are two ways you could judge this situation: One is that there were

improper activities, illegal activities, that he knew about and concealed, and he has claimed that that is not the case. And there hasn't been a shred of evidence offered by anybody that disputes that.

And on the one hand, we have to come down with an assessment as to whether he is truthful. I'm prepared to assume that he is, particularly on the basis of having nothing to the contrary to suggest that he is not.

The second item has to do with the question of whether his exercise of his executive responsibilities for Textron fell short of the mark in terms of managing better to prevent any kind of improper activities from going on within that corporation. I think he said as plainly as words allow one to say today that he wishes he had done more, that he has regret about anything of the sort that has been talked about here today happening in his period of stewardship at that corporation.

I'm frank to say that I doubt that there's any defense contracting company in the United States that would not have some degree of this kind of problem in their ranks, over the period of time regardless of who may have been sitting in the front office. That doesn't excuse it. It doesn't ease the pain that I'm sure the Secretary feels, wishing that he had somehow found a way to do some things differently so that this might have been prevented.

But let me just, if I may, share with you a personal revelation which I just came across by sheer chance. An administrative assistant in my office—a fellow named Jim Arbury, seated behind me here—joined me in the last year but has been out in the private sector for many years. Back in 1971, he was interviewed by Secretary Miller for a job as a division comptroller for one of the divisions of Textron. In the course of the interview which lasted nearly an hour, the one thing that Jim remembered most clearly about that interview was how forceful Secretary Miller, then chief executive of Textron, was about saying how important it was that all of the accounting procedures be handled with great care and propriety within that company, and that among other interviews he had had, his recollection was that his stress and the emphasis on making sure that the greatest care and pressure and the highest standards were brought to that kind of work was more than he had experienced in his conversations with other chief executives.

It's interesting that that would happen in terms of some of the implied rather than direct charges, some of the implied suggestions about Mr. Miller that surfaced 2 years ago and have surfaced here today. So I would hope that unless we are able, Mr. Chairman, to generate information that shows some reason to believe that illegal activities have taken place that concern Mr. Miller or some other new matter arises other than the matters which have been discussed before at great length, that I'm not sure that I see what constructive purpose we serve.

That's just my view, and others here are certainly entitled to a different view, but I do think that everybody who takes part has some responsibility for what we accomplish. Certainly, the press has that responsibility. Each of us as Senators have it, whether as chairman, subcommittee chairman, or just members of the committee.

And in the kind of atmosphere that exists today, I think we're all well advised to proceed with great care and great deliberateness in deciding when charges are made, and how they are made, how they're substantiated. As everyone here knows, whatever the ultimate truth is—and it's often very hard for the truth to catch up with whatever the assertions or the allegations or any of the innuendos that might be made at the outset—I would hope that if there's any serious thought of proceeding with some kind of a criminal investigation, I'd certainly like to know on what basis that would be done in terms of new, factual information. Like Senator Cranston, I'm not aware of it.

But I would hope that we would do it in a manner that's far more careful in terms of both the need to find the truth and to put it on the record than we're able to manage in a setting like this one.

The CHAIRMAN. Senator Sarbanes?

Senator HEINZ. Mr. Chairman, if you would, Senator Riegle mentioned my name while I was out of the room——

The CHAIRMAN. Would Senator Sarbanes yield part of his time?

Senator RIEGLE. Let me say exactly how I mentioned his name because——

The CHAIRMAN. Your time has expired, Senator Riegle. Senator Sarbanes, I want to impose on him. He has the time and Senator Tsongas also. I'd like to ask both those gentlemen if they would yield a minute to the Senator from Pennsylvania. Is that all right—on his time? Unanimous consent without being taken out of your time?

[No response.]

The CHAIRMAN. Without objection, go ahead.

Senator HEINZ. Mr. Chairman, I understand that Senator Riegle indicated that the 1969 and 1971 memos condoning the destruction of records involved—the proposed records only involved de minimus amounts. I think we ought to be all very clear that whether the amount was \$1 or \$100,000, that is not the point.

The point is that documentation was being destroyed. Someone wasn't being careless; someone was being careful that records didn't exist.

Senator RIEGLE. Senator Heinz, that is not what I said.

Senator HEINZ. I don't yield.

These deductions which were taken were then disallowed quite properly by the IRS because there was no documentation, and Mr. Miller has indicated and has the document there that his handwriting was all over the documentation that condoned, indeed explained why the documentation was being destroyed.

That explanation was for obvious reasons. I thank my colleagues for yielding.

Senator RIEGLE. Mr. Chairman?

The CHAIRMAN. Senator Sarbanes and Senator Tsongas, would you object to a short response by Senator Riegle?

Senator RIEGLE. I won't ask for additional time. I'll be very brief about it. That is that—Senator Heinz, you did not quote me correctly, and I would appreciate it because the matter is sensitive enough that if you are going to attempt to quote me, that you do so by referring directly to the record and not on the basis of some-

body's recollection of what I said when you were out of the room. It was not my intention to engage in a debate with you on this matter, but I feel very strongly that I resent and reject any attempt by you to characterize my remarks when you are not able to hear them. And I would appreciate it if you'd examine the record before you do that.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. Thank you, Mr. Chairman.

Secretary Miller, I have some questions I wish to ask of you. I would simply say preliminarily, Mr. Chairman, in response to the discussion which has just taken place, that the statute with respect to the Special Prosecutor has been rather carefully worked out. There's a very detailed procedure to be followed. It's not a matter to be treated lightly, and it involves important judgments about criminal conduct.

I just underscore that aspect of the discussion. Mr. Miller, you said in response to a question of Senator Cranston's that there were instances in which attempts to get business through improper activities were brought to your attention, and you rejected those and said that the company does not engage in that practice.

Is that correct?

Secretary MILLER. I mentioned one that did come to my attention. I said I had heard of cases where perhaps the division had lost business because we were unwilling to make a special arrangement.

Senator SARBANES. Did any of these instances involve the Bell Helicopter Division of Textron, to your recollection?

Secretary MILLER. Not the one that came to my attention. That was another division.

Senator SARBANES. And in others where you heard about business being lost, would they have involved Bell Helicopter?

Secretary MILLER. I was told by one of the Bell Helicopter officers of a couple of cases. I believe one was in the Philippines, as I recall. That was a long time ago. They'd been told they had to appoint a certain—this is very third-hand information. My memory may be fuzzy. I think the Philippines was mentioned in this case.

Senator SARBANES. Why do you think those instances reached your attention and the others did not, coming out of the Bell Helicopter Division?

Secretary MILLER. The one that reached my attention was not in helicopters, I think, because our procedure was working. The one I mentioned to you in the helicopters did not come to my attention. I was told this as an anecdotal matter in connection with my hearings 2 years ago.

Senator SARBANES. Now, in 1976, you made a statement at the shareholders' meeting that you quote in your statement here on page 7, was that the first time that you had been prompted to make such a statement as a shareholders' meeting?

Secretary MILLER. Senator Sarbanes, I don't recall. I think this investigation by the SEC looked at the transcript, I think, of all shareholders' meetings. I assume that they have cited the only cases. They were in 1976 and 1977. There was a brief comment, extemporaneous, and the one in 1977. I looked at the transcript,



and it was in the context of a discussion period in response to some questions about our business.

Senator SARBANES. Now, were you prompted to make that statement in 1976, do you assume, by the publicity and attention that were being given to this issue?

Secretary MILLER. Well, if I can just for a second look, I think the transcript would indicate that I was more or less indicating some of the priorities of the company. I indicated that we gave—priority No. 1 was to develop people. We also had to be sure that we had high standards of conduct, and I went on to give a few other comments in that regard. I think it was just more or less sort of a general rundown of items cited.

I'm sorry. Excuse me. I'll come back to the other question in just a moment. I'm reminded of the Textron committee report covering this question of loss of business, and they do report that they found some instances. I just couldn't remember. Excuse me.

Senator SARBANES. Did you have a basis in 1976 for making the assertion, other than no such improper payments had been brought to your attention? There had been no significant affirmative action to enable you to check, to enable you to make that statement in 1976?

Secretary MILLER. I would say the only event that may have been on my mind at the time is that about a month prior to the shareholders' meeting, we had our annual management meetings including all the directors, all the corporate and senior officers, and division presidents. And because of what was being disclosed around the country, I made a very sensitive presentation on the question of standards of conduct, and I particularly called attention to the responsibility of everyone in that room to advise us if they knew of any violations.

I guess that was sort of on my mind. Other than that, I think it was the continuation year after year of trying to emphasize the controls and procedures. In 1977, of course, as I mentioned, the use of the questionnaire signed by over 1,000 employees—that was the next year.

Senator SARBANES. That's the next subject I wanted to go to. In 1977, you made a similar assertion. At that time you had the 1,100 questionnaires. Is it now clear that some of the 1,100 people lied with respect to their questionnaire?

Secretary MILLER. I cannot answer that because some of them—I just would say that some of the names that surfaced in the two investigations, it looks to me like the possibility that there could have been an overlap with the questionnaire, but I'm not sure.

One thousand one hundred people were chosen in 25 or 30 divisions among the senior-most corporate personnel. It was a special memo from me pointing out that everyone should sign it who had direct involvement in senior management, who had involvement in purchasing which is always a sensitive area, in major sales responsibility, and it was spread out based on the function.

And I suspect that there could have been some possibility of an overlap.

Senator SARBANES. Well, now, you helped to shape the questionnaire and the decision as to whom it would go to. Is that correct?

Secretary MILLER. Well the draft originally came from our auditors, and I think I edited it, and I sent it out with the memo initially to introduce it as a new procedure that I felt was very necessary to broaden affirmative responses to whether there were any such events.

Senator SARBANES. And did you determine who should respond to the questionnaire?

Secretary MILLER. I think it would be helpful—I don't want to read it here—but I have a copy of my memo in this regard, and let me just glance at it a moment. Then I'd be happy to submit it to you.

In each Textron division or subsidiary, a statement should be signed by the president and comptroller and also by such other key personnel throughout the division, including its U.S. and non-U.S. locations, as the president considers appropriate. Having had some other comments prior to this statement because of the nature of the disclosures, statements should be obtained from those in sales, purchasing, accounting, finance, cash management, contract administration, international operations, public relations, or general management who might have reason to know of matters——

Senator SARBANES. Did the questionnaire reach deep enough into the Bell Helicopter Division of Textron that employees there—who it is now clear, or is as clear as the record before us can make it, were engaged in these payments—responded to the questionnaire and indicated that no such payments had taken place?

Secretary MILLER. I would say in hindsight that it did not go deep enough, even though I listed a pretty broad list of people.

Senator SARBANES. I see counsel is counseling with you.

Secretary MILLER. Counsel was just reminding me as far as the names of people who have been involved, you know, the names of actual individuals involved, I have only seen the SEC report last Tuesday that was pointed out today. So I obviously haven't had that much time to do the name comparisons because that is the first time that I had seen names of people who had been involved, other than what we have in the record here.

Senator SARBANES. Do you feel that you had reached down and tried to ascertain this and someone had misinformed you as to the practice, and therefore that as a managing officer you have failed to reach the area in which these activities were taking place; or had you, exercising some degree of care and concern, reached down there but then been given an erroneous answer, which you accepted at the time as being descriptive of the situation?

Secretary MILLER. I would consider it a complete breach to have falsified the statements, and I instructed in this memo that each division require these statements to be submitted to our independent auditors and to the corporate comptroller so that they could be reviewed both by outside auditing and by our corporate accounting people who had no axe to grind and were independent as far as looking over the shoulder of people in the divisions. I would have considered it, you know, a very serious, matter indeed had someone not given correct information.

Senator SARBANES. Do you think that's what happened?

Secretary MILLER. The names, I just would not want to implicate anyone. As I said, the possibility exists, I have not—I don't have

the forms myself; they were not filed with me. They were filed with our auditors, and they were made available to the audit committee, as I recall.

The CHAIRMAN. Senator Tsongas.

Senator TSONGAS. Secretary Miller, do you think that illegal foreign payments are still practiced in international trade?

Secretary MILLER. I would say "Yes." I would say it is very unlikely to be practiced by American corporations, but it is very much a practice in the world.

Senator TSONGAS. That view is, I would think, shared generally by most officials in corporate America; would you not agree?

Secretary MILLER. I think that's correct. And most people recognize that this is widely done in international activities. I have always felt it's not good business practice regardless. People tend to sell for their own reasons and develop a basis for their own reasons. But I don't think it's good practice.

Senator TSONGAS. That would be a consensus position of all your colleagues in various other corporations?

Secretary MILLER. I would think so. I mean, I have not done a survey, obviously. But I always hear the talk about exports of the United States. I always hear people saying, "Yeah, we've got a few people who use different techniques."

Senator TSONGAS. Did the same consensus exist as to how one entertains the Pentagon?

Secretary MILLER. Looking back at that incident, which, I say, I got into in 1975-76, I would say that there was a widespread feeling that visitors from the Department of Defense would be given the courtesies of lunches and meals as a routine matter. I say, that was a widespread attitude.

Senator TSONGAS. Isn't it also the case that people competing with companies from other countries that are less queasy than we are, perhaps, about these kinds of practices often express a frustration about the inability to compete and about restrictive U.S. laws and so forth?

Secretary MILLER. Yes. Some of our restrictions go quite beyond even the private payments and bind us up even in other ways. The degree of responsibility an American corporation has today, not only for their own conduct but verifying the conduct of the other side, is so extensive as to make it difficult, yes.

Senator TSONGAS. It's your view that illegal foreign payments is perhaps, or was perhaps, the rule rather than the exception. Is that a recent view?

Secretary MILLER. I have not really had any view on this until the improper-payment issue began to surface in the 1970's, and because of the number of instances, I think we all came during that period to believe that it was a widespread practice.

If you had asked me in the early 1970's, I would have had either no opinion or believed that that isn't the way that American corporations behaved. Our attitude was we shouldn't be doing it. So, I guess I assumed that it wasn't being done.

I don't remember what the time—I think it was toward the mid-1970's, perhaps after 1973-75, in there, when this began to surface, it became apparent to me or anyone else who saw the large numbers of disclosures that there was a practice, undoubtedly.

My efforts to tighten up our procedures were not enough. I should have gone further and done surveys myself.

Senator TSONGAS. That response from someone who has a lesser reputation than you do for personal integrity, I would find to be incredible. You know, it's a tough world out there. You compete with the French, the Germans, and the British and others, companies with a great deal of money being thrown around, they need to compete to survive. Could one conclude that that willingness to perhaps live with the morality of the time was accepted in the business community.

Secretary MILLER. I think so. But I must confess that my ambitions in business were slightly different, not from the point of view of improper payments, but I have always felt that if one goes to differentiated products in higher technology to things that are differentiated, that you can sell them on their merits. That was a fundamental objective of our company, not to sell commodities, but to sell highly differentiated products in which you didn't even have to worry about the norms of the community, because you had a market, because you had something to sell.

So, I think, you know, that the more you were in an undifferentiated product, the more likely that you would be drawn into the norms of the time.

Senator TSONGAS. Since I represent a State that is highly involved with high-technology equipment, I must say that your view is not shared totally by many of your colleagues.

I guess what it comes down to is a question of what one ends up believing. I hate to bring up technology but—I watched Congressman Kelley the other night. It really came down to the question of do you believe this person, and your decision is based on what you know about the person's background, the same way we make a decision about your testimony, because there is some strain of credibility.

I have the greatest respect for your background, and I have checked into your background. A lot of people thought you were a good person. Everything that has come back has been quite favorable. This committee hasn't really laid a glove on you, in my opinion, but in many respects, that's almost irrelevant.

And let me go into a subject that I wish someone else had raised, but it's left to me.

Do you feel that this whole process—I was here Monday; Senator Riegle had a hearing on inflation; there were three people in the audience, on the witness list, and you look at the response today—do you believe that the process that we're now engaged in has so compromised you that you cannot continue effectively as Secretary of the Treasury?

Secretary MILLER. No, I do not.

Senator TSONGAS. Are you committed to seeing this process through?

Secretary MILLER. Yes, I am.

Senator TSONGAS. Do you think that this country has incorporated a dual standard for the average citizen, on the one hand, and those in public life, on the other, and that perhaps people in public life have to accept the inevitability of that dual standard?

Secretary MILLER. I don't know if it's so much of a dual standard as it is that the opportunity for visibility and drama is higher. Maybe there are dual standards elsewhere, but the opportunity for high drama is certainly greater in public life. Therefore, the degree to which there is exaggeration and magnification can be better seen.

The other side is that while this is a painful period for me, all my family and friends, and so forth, there is always a good thing to learn, and that is that so many people have volunteered to offer their encouragement and support that that offsets my worry about my being undermined by this.

Senator TSONGAS. Given your strong feelings expressed that you feel that you are innocent and that perhaps you feel in your heart that this process is basically unfair, is there still not a thought in your mind that this is a result of a political judgment, this is indeed an election year involving the President of the United States, that there may be circumstances, perhaps, under which, irrespective of innocence and irrespective of fairness, that one must contemplate perhaps an alternative that knows no restriction on innocence or fairness?

Secretary MILLER. Senator Tsongas, when this investigation started in 1978, I think everyone expected that it would be completed in 6 months. The length of it is because of the pressures to do more and more and more to leave no stone unturned. And it's by coincidence that the SEC report comes out, you know, in an election year. I don't think the SEC intended that. Therefore, I don't think the timing was that way.

So, I can only answer your question if I know what happens today, if this committee addresses this, finds an allegation, then they should go in a certain direction. If they address it and find no such allegation and continue to persecute me, then I would think we would have to judge whether it is for some other reason than the facts.

Senator TSONGAS. My question really went to a different consideration. There are obviously people in the White House who are concerned, and not only with the question of your innocence or guilt and the question of fairness or unfairness, but also the political implications. You saw the Herblock cartoon this morning in the Washington Post. That goes across the country. That kind of a thing, if that kind of drumbeat continues, has a political price.

Secretary MILLER. Perhaps it does. It has a political price, yes.

Senator TSONGAS. You don't have to answer this if you don't want to. But have you had any discussions with people in the White House about the implications of this, irrespective of the substantive issues?

Secretary MILLER. I have not.

Senator TSONGAS. No one has approached you?

Secretary MILLER. No, sir.

Senator TSONGAS. Well, I would say that, for myself, I don't think we can ever get a handle on this issue, perhaps, in interviewing the other people at Bell. Your reputation is such that my inclination is to believe what you say. I find some of it difficult because of what I know is the practice in the international trade community. But absent the capacity of this committee to cross-

examine those other people at Bell, I don't think we will ever know what indeed the real facts were. And I don't think we should proceed until we have that capability.

I for one, given what's happened in Congress the last few weeks, have some hesitation about perhaps pursuing this, although I recognize that perhaps that's the way it has to be and we should accept it.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Secretary, when I was last questioning you, I was reading from the Complaint. A Senator has raised the question that in discussing payments, particularly in the Middle East, that this might have an upsetting effect on our foreign policy.

This is absolutely beyond me, in view of the fact that the Complaint is public record, widely publicized. And I simply read from the record and ask for your response. If this has an adverse effect on our foreign policy, it's beyond my imagination to understand how.

When I questioned you, I asked you about payments by Textron/Bell, of \$155,000 to an official in the Mexican Air Force by Textron/Bell, \$200,000 to its dealer in the United Arab Emirates, \$275,000 by Textron/Bell to Oman. In each case, they were questionable payments, in which it is said that Textron/Bell knew or had reason to know that these would go into the hands of foreign officials who could use their influence to get the sale for Textron/Bell.

So, let me persist in this. Let me ask you about the Complaint 14.

In 1973 and 1974, Textron/Bell paid approximately—

This is from the SEC report—

\$40,000 to a sales agent for Ceylon, knowing or having reason to know that all or part of the sum would be transferred to an official of the Government of Ceylon in connection with the contract secured in or around February 1972, under which Ceylon would receive under the grant-in-aid program of the United States Government, four helicopters and related spare parts, totaling about \$460,000.

Did you know about that?

Secretary MILLER. No, sir.

The CHAIRMAN. The next charge is that—

In 1974 Textron/Bell paid \$100,000 to a sales agent from Morocco, knowing or having reason to know that all or part of that sum would be transferred to Moroccan military officials. The payment was made in connection with a \$1,700,000 contract between Textron/Bell and the United States Government which was promoted by senior Textron/Bell officials—

Secretary MILLER. That's the divisional officials.

The CHAIRMAN [continues reading]:

Who knew or had reason to know, as early as 1971, that payments to the sales agents would be shared with Moroccan military officials and result in the Government of Morocco receiving two helicopters and related parts.

As you point out, this is the Bell senior officials, and you did not know of it.

Secretary MILLER. No, sir, I didn't know. The word "Textron/Bell" means Bell Helicopter Division of Textron. It's important to remember that.

The CHAIRMAN. I think that's a good point, but I am reading from the text.

Secretary MILLER. Yes.

The CHAIRMAN. The next charge is that—

From 1971 to 1975, Textron/Bell paid about \$400,000 to its dealer for the United Arab Emirates in connection with contracts pursuant to the Dubai Police Air Wing of the United Arab Emirates defense force, agreed to purchase helicopters for about \$4,600,000, knowing or having reason to know that senior officials of the DPAW and the private secretary to the UAE minister of defense had a financial and management interest in Textron/Bell's UAE dealer.

As early as 1975-76, Textron/Bell officials, in addition to Textron/Bell personnel, were aware that foreign military officials continued to promote further sale of helicopters to the UAE through this dealer from 1977 to 1978.

Do you know about that?

Secretary MILLER. No, sir.

The CHAIRMAN. Of course, in each case, they say that Textron/Bell did know, that your officials did know. That's the charge.

Secretary MILLER. Yes. And behind this, you can look at the names of various people and judge their level of management. The SEC report, which you have, of course, backs this up.

The CHAIRMAN. I am going to continue, but I think that we should keep in mind that these were substantial sums: \$50,000, \$100,000, \$150,000, substantial sums, certainly, as bribes go; and that it is the allegation by the SEC that officials—in some cases, senior officials—of Bell Helicopter knew about it, but somehow did not disclose it to you.

Now, the next charge is that—

In 1972, Textron/Bell paid \$50,000 to an aviation adviser in an agency of the Government of Indonesia, Pertamina, knowing or having reason to know that the aviation adviser would transfer part of this sum to other Pertamina officials in connection with the dealer's resale of the helicopters to Pertamina at an inflated price. This payment was made contrary to Textron/Bell's longstanding operating procedures, as an advance against the dealers commission account.

Do you know about that?

Secretary MILLER. No, sir.

The CHAIRMAN. The next charge is that—

In or around August 1973, Textron/Bell paid about \$196,000 to its dealer for the Government of Colombia, knowing or having reason to know that all or part of the sum would be transferred to Colombian military officials; and paid about \$30,000 to an intermediary, knowing or having reason to know that all or part of the sum would be transferred to a Colombian military official in Washington, D.C., in connection with the contract pursuant to which the Government of Colombia agreed to buy six model helicopters for about \$2,900,000.

Do you know about that?

Secretary MILLER. No, sir.

The CHAIRMAN. The next charge is that—

In or around December 1976, Textron/Bell paid the Colombia dealer about \$250,000, knowing or having reason to know that all or part of the sum would be transferred to a Colombian military official in connection with a contract pursuant to which the Government of Colombia agreed to buy seven helicopters for about \$6,400,000.

Do you know about that?

Secretary MILLER. No, sir.

The CHAIRMAN. The next charge is that—

In 1977, Textron/Bell paid about \$60,000 to or for the benefit of one or more military officials of the Dominican Republic armed forces in connection with the contract secured in or around September, 1976, pursuant to which the Dominican Republic agreed to buy two helicopters and related spare parts for about \$1.4 million.

Do you know about that?

Secretary MILLER. No, sir.

The CHAIRMAN. The next allegation by the SEC is that—

In 1971 Textron/Bell remitted to Tropical Aircraft Sales through its Ghanaian sales agent about \$300,000 in proceeds through the sale of two helicopters to the Ghana Air Force, in addition to a commission of about \$60,000, knowing or having reason to know that a \$300,000 payment would be transferred to a senior official of the Ghanaian Air Force in connection with the purchase by the Ghana Air Force of two helicopters through Tropical at an inflated price.

Do you know about that?

Secretary MILLER. Senator, this is the transaction you brought to my attention, I think, on January 24, 1978. I had preliminary information on it and reported on February 28 telling you that what I'd learned at that time was incomplete and indicating I believed it to be an improper transaction. That's all I know about it, except what I've learned in the reports since.

The CHAIRMAN. What I might point out is that everyone of the payments that is talked about were not known by the committee, were not discussed—

Secretary MILLER. Except the Air Taxi.

The CHAIRMAN. Except Air Taxi and Ghana. That's right.

All the rest of these were new. So this isn't old stuff.

Between 1973 and 1977, the Fafnir Division of Textron, which manufactures ball and roller bearings, paid about \$465,000 to its Iraqi sales agent's commissions. The allegation by the SEC is that Textron/Bell knew or had reason to know that these funds would be transferred in whole or in part to officials of the Government of Iraq in connection with sales to the General Automobile Co., an agency of the Iraqi Government, totaling over \$3 million.

In one instance, Textron/Fafnir knew or had reason to know that its agent had inflated an order from \$20,000 to \$600,000 in order to receive excess commissions. Textron/Fafnir was informed, prior to paying the agent a significant amount of commissions, that it was illegal under the Iraqi law for the agent to receive such money.

Do you know about that?

Secretary MILLER. No, I do not.

The CHAIRMAN. The next charge is that Textron in connection with at least four of the above foreign payments directed payments to banks outside the home countries of the recipients.

I think this is significant, because this isn't simply a matter of bribes being paid. It's a matter of having the structure so built and constructed and fabricated that it could be concealed.

In 1974, at the request of its sales agent, Textron/Bell, says the SEC report, transmitted about \$100,000 in commissions to a Swiss bank account of a principal of its Moroccan agent, knowing or having reason to know that all or part of this sum would be transferred to Moroccan military officials.

Do you know about that?

Secretary MILLER. That's the same transaction we've just gone over.

The CHAIRMAN. It's the same transaction, but the fact that you used a Swiss bank or Textron/Bell used a Swiss bank account, you didn't know they used the bank? Not for that purpose?

Secretary MILLER. No, sir.



The CHAIRMAN. In 1975, at the request of its dealer, Textron/Bell—and again, this is something which we've discussed as far as the instant bribe is concerned but not as far as the Swiss bank account—in 1975, at the request of the dealer, Textron/Bell transferred about \$200,000 to a Swiss bank account to a principal of its United Arab Emirates sales agent, knowing or having reason to know that this sum would be transferred to an entity owned by a senior official of the Government of Oman.

Do you know about that?

Secretary MILLER. No, sir.

The CHAIRMAN. In 1976, at the request of its dealer, Textron/Bell transferred about \$275,000 to a Swiss bank account of a principal of its United Arab Emirate dealer, knowing or having reason to know that this sum would be transferred to an official of the Sultanate of Oman.

Do you know about that bank account transaction?

Secretary MILLER. No, sir.

The CHAIRMAN. Then from 1971 through 1975, at the request of its dealer, Textron/Bell transferred a substantial portion of the commissions ostensibly paid to your UAE dealer to a Swiss bank account of an official of the Dubai Police Air Wing, who also served as managing director of Textron/Bell's UAE dealer, and from 1971 through 1977, at the request of a sales agent of Textron/Fafnir, transferred a substantial portion of the commissions ostensibly paid to Textron/Fafnir's Iraqi sales agent to a Luxembourg bank account, knowing or having reason to know that all or part of the commissions would be transferred to Iraqi officials.

Did you know about that?

Secretary MILLER. No, sir.

The CHAIRMAN. Could you tell the committee about Fafnir and its supporting relationship to Textron during this period? I understand Fafnir is a division not separately incorporated.

Secretary MILLER. Yes. The normal operation, except in foreign countries, was operated through divisions which were incorporated designations of business units within a single corporation. Usually all of the operations of the divisions—Fafnir was a substantial company in precision ball bearings and was organized in our company similar to all other divisions, reporting to a group vice president in the corporate office, who then reported to the President.

The relationship was the same as exists for the other divisions.

The CHAIRMAN. My time is up.

Secretary MILLER. Fafnir had one incident, so it appears to be an aberration rather than a pattern.

The CHAIRMAN. My time is up, but I hope Senator Heinz, who has a reception that's very important from the Pittsburgh Steelers downstairs—it can't be more important; they're winners—would permit me simply to ask, do you have any explanation for the fact that here we've gone through a whole series of payments—admittedly the total amount of sales was relatively small compared to your total sales. The bribes, while enormous by any usual judgment, were perhaps not unusual for a very large corporation. And yet you had no knowledge—although in some cases, senior officials of your subsidiary were said to have knowledge or had reason to know.

Secretary MILLER. Senator, this is the whole subject we've been about for 2 years. These were uncovered after 2 years of investigation. While it was discovered in that process that there were these transactions with payments, I think, over a period of 7½ years and an aggregate sum of \$2.5 million which were either through inadvertence or through deliberate action, I did not know about them.

And for the reasons I mentioned, I should have perhaps been more forceful.

The CHAIRMAN. Senator Heinz.

Senator HEINZ. Thank you, Mr. Chairman.

Mr. Miller, one of your answers to one of my colleagues about why you did not investigate further or in greater detail some of the wrongdoing or questionable practices that have been identified in the SEC report, you said, I think, to paraphrase you in any event, had you seen smoke, you would have investigated further.

Now on August 16, 1976, you did put forth a memorandum on standards of conduct, a policy as to representatives, agents, consultants, dealers, or distributors. That memorandum is, I believe, a part of the record. You subsequently followed up a year later with a second memorandum of May 12, 1977, and it dealt with a related issue of overbillings or accommodation payments in which you say, quite properly, that overbillings and accommodation payments are not acceptable.

Well, that's well and good. But shortly after that in the summer of that year, 1977, according to page 81—excuse me, page 82 of the SEC staff report—your associate who reports directly to you, Mr. James Atkins, comes and he has a request that a commission be transmitted to a bank account maintained by a dealer in the United States—in other words, an accommodation payment.

Now you quite properly tell him that that's wrong, and your general counsel also tells him that's wrong. Yet here is a man who has come to you after he has received a memorandum a month or two previously, and he proposes to make an accommodation payment in violation of the policy.

The question is, Did you ever think to ask him why he would propose something that was wrong or illegal or improper—to borrow some of the words from your 1976 and 1977 documents? It seems to me that this is smoke. Here is the next highest officer to you in this area, proposing an accommodation payment.

It would seem logical that you would ask why such a kind of a payment would be proposed, not only that it would be wrong to do it. Did you ask him why such a payment was made?

Further, I would ask, Mr. Atkins later on apparently did consummate an arrangement which involved a payment that was described as follows :

On June 17, 1977, a \$430,000 check was given to the Korean Kai Yu Rim at Fort Worth. The check was made payable to Rim rather than the Bell dealer, United Industries International.

This absolutely contradicts your policy on accommodation payments.

And I would really like to know how it's possible that this check could have been issued after the conversation you had with Mr. Atkins? I'd like to know what you said to Mr. Atkins and whether

you inquired why he first proposed making accommodation payments in addition to your saying it was wrong.

Secretary MILLER. Senator, you've asked a large number of things. I don't know if you intend for me to start back with the first memo you called attention to or not.

Senator HEINZ. I'm particularly interested in the meeting you had with Mr. Atkins.

Secretary MILLER. But you put it in such a large context I've got to sort out what you said and why you think—let me try to answer you.

Senator HEINZ. Let me concentrate it for you.

Secretary MILLER. Let me answer, please. Please let me try to, because you're asking me to give, you know, an answer without quite having had to put this in context. Obviously, I didn't want and opposed what you call accommodation payments.

It had surfaced to my attention that some divisions had made payments of this kind of nature were not illegal. I had discussed this in my hearings in 1978. While they may not be illegal, I don't think they're good practice. I wanted to make sure everyone understood that.

I'll have to read the memo, but I think it pointed out that you had a series of things to consider. I think the fact that Mr. Atkins, who was not the next senior to me—he reported to me through a group vice president, so he was a layer below—took the trouble to check with the corporate office of counsel for an interpretation of that policy would have not indicated that there was smoke, but indicated that I put out a policy people wanted to make sure they understood. They were asking, well, this is the kind of thing—can we do this or can't we?

We said no. He said fine. And apparently he didn't do it. That's all I know about it, and it did not occur to me that because a man comes and says, "Look, I want to know if this is the kind of thing I can't do," and I say, "That's a thing you can't do," that doesn't mean to me that he has been out violating rules.

You asked me about another transaction that I have no knowledge of, and I could not and would not implicate him, because I don't know if he was involved. You'd have to look at the SEC report. I don't know.

Senator HEINZ. Then when Mr. Atkins came to you and he said, "I would like to make an accommodation payment,"—

Secretary MILLER. Let me add, I don't recall him coming to me. I'm sure he did, and I'm sure that's what I would have said, but you know—

Senator HEINZ. You recall nothing about the meeting?

Secretary MILLER. I don't happen to recall it. This is one of these things like a million other things that come by. I know what he would have asked. I would have said no. But it must be an accurate report.

Senator HEINZ. Mr. Chairman, what concerns me—and many have asked this question—is what the committee really has in mind, having this hearing. I think it's been clearly stated there are at least two reasons for having the hearing. There are questions of fact. One is that there's been a lot of new information put on the record by the SEC since the committee last held hearings. The

second is that the Justice Department, if I understand the Attorney General's statements correctly, has terminated any investigation of you that they have.

Those two facts indicate a wide possibility of problems. Some people have asked if the committee is looking for perjury. It need not necessarily look only for perjury. It can look for a pattern of concealment, what at least one member has described as containment. There are questions of impropriety. There are questions of the appearance of impropriety.

I would have to say it appears very improper for the Secretary of the Treasury to be investigated by the Attorney General, as has earlier been stated by the Chairman of the committee. That, at best, is an appearance of impropriety, when the Attorney General issues a clean bill of health, and I would remind the committee that Mr. Civiletti was at the Justice Department, if my recollection serves me right, during the probe of the Bert Lance affair. And I would have to characterize the initial response of the Justice Department to that particular probe, which has now led to numerous indictments, as anything but straightforward and lacking in propriety until finally a Special Prosecutor was at least in one instance appointed.

I think, therefore, we've got to be very clear that a lot of various people's credibility is involved. It focuses not on one individual particularly or necessarily at all, but on many people. And questions have arisen.

And, I believe, unless the committee does its job—and I think Mr. Miller appreciates this—questions that have arisen and remain unanswered will continue to arise.

Mr. Miller, you are the Secretary of the Treasury. You are entitled to the respect of this Nation. You are entitled to be credible. Indeed, we don't want you any other way.

And it's very important, it seems to me, that our committee lay out on the record any concerns of the various members so that they may be properly dealt with by us or by others, and that remains to be seen.

My time has expired.

Secretary MILLER. May I just make an observation, Senator Heinz. I listened carefully to what you said. I had thought in 1978 in February that this committee had said that there is an agency that can investigate this situation thoroughly and independently and we can rely upon it, and that's the SEC. And I thought that had been done.

And I hear today the sort of comments, "Well, why don't we do another investigation?" I thought we'd spent 2 years—you know, I wonder is there enough? Am I ever to be free?

Senator HEINZ. Mr. Miller, if I may respond, Mr. Chairman, although my time has expired—Mr. Chairman, may I respond?

The CHAIRMAN. Yes.

Senator HEINZ. Mr. Miller, I don't think anybody—you or me—likes the idea of having more investigations. They take time. I don't think anybody in this committee has reached the conclusion as to the appropriate next step. But if the new facts on the record warrant it, if the investigation of the Justice Department warrants,

or if the hearing record we develop today warrants it, there will have to be a continued inquiry into this matter.

I am not prepared to make that judgment at this time.

The CHAIRMAN. Would Senator Cranston yield to me for just 1 minute? I'd appreciate it very much.

In the first place, let me just say that the Justice Department says, as I pointed out, on January 14, through a continuing investigation of Textron separate and apart from that, the Attorney General has said there is nothing to connect the Secretary of the Treasury with any kind of improper payment or any other kind of improper activity.

The problem here is that the SEC cannot make an investigation leading to any kind of action with respect to obstruction of justice. Only the Justice Department can do that.

I have the highest respect for Attorney General Civiletti. I think he is a man of great integrity. He's tough. He's honest. And I'm sure he'd do a good job in every respect.

However, I simply pointed out that Mr. Civiletti has as complete a conflict of interest here as anyone I can imagine. And I think whether one believes that Mr. Civiletti's statement, there's going to be a great lack of credibility in the country as a whole—they can see it's the Attorney General who is making this judgment, and it would be astonishing if he made the other judgment. And it may well be that the finding that he's made clears the Secretary of the Treasury.

But you have the problem here of the SEC not being qualified to investigate an obstruction of justice, No. 1. Isn't that right?

Secretary MILLER. Mr. Chairman, that is not correct. The SEC has full power to take a case and refer it to the Department of Justice, I understand, for prosecution. I think you must realize that.

I think you also, it seems to me, are getting on strange ground. I think Congress enacts the laws of the land. I think Congress has decided that the Attorney General would decide upon these matters. To say now that we have found out that if he decides not to investigate it is a conflict of interest—it means Congress has passed a law they don't like, so change it.

I don't think it should suddenly color our thinking about this.

The CHAIRMAN. Mr. Secretary, it's my understanding, and I think it's correct, the SEC cannot look into an obstruction of justice.

Secretary MILLER. May I have my counsel speak, please?

Mr. KLEIN. Your Honor—excuse me. [Laughter.]

The CHAIRMAN. I think you should repeat that. [Laughter.]

Mr. KLEIN. That's right, I'm quite sure. I'm quite sure. [Laughter.]

Senator Proxmire, as you probably are aware from reviewing the SEC's budget annually, every statute of the Commission includes the specific authority of the SEC to make references to the Department of Justice of any evidence indicating the commission of any offense. You'll find that. You can look at section 21 of the 1933 act, and I believe 22 of the 1934 act.

It was my understanding, moreover, that the agency has, in the last 6 to 9 months, clarified this policy so as to make that an

informally continuing practice of the staff's and that we not go formally through the agency and the Commission itself.

It is further my understanding that the Department of Justice was involved with the Securities and Exchange Commission throughout its investigation, and the Department of Justice had an opportunity to review extensively the documentation and testimony gathered. In fact, with respect to certain of the people who in the SEC reports have pled the fifth, certain of those people were immunized, as I understand it, by the Department of Justice so that they would go ahead and testify.

The CHAIRMAN. I'm going to ask our lawyer to respond to your lawyer. [Laughter.]

The CHAIRMAN. Mr. Marinaccio?

Mr. MARINACCIO. I would like to point out, Mr. Chairman, that on May 10, 1978, you asked the then Attorney General Griffin Bell to make inquiry into the matter of a possible obstruction of justice of this committee's function, to wit, the requirement under the committee's subpoena that all documents relative to the Ghana alleged payment be supplied to the committee. The committee found out subsequently, after Mr. Miller was confirmed, that during the course of looking into the Ghana situation a document was destroyed by a Textron-Bell employee.

It was that situation that caused a reference from the chairman of this committee to the Attorney General to look into the possible obstruction of justice of this committee's function under title 18 of the United States Code.

The SEC has no jurisdiction to enforce title 18 of the United States Code. The SEC is limited to jurisdiction under the securities laws. And the reference from the chairman of this committee to the Justice Department was separate and apart from any alleged violation of the Securities and Exchange Commission laws.

Mr. KLEIN. I don't mean to debate with you at all. The three statements you've made—the second one I believe is incorrect. The agency has the power, if not the responsibility, to refer whatever information comes to its attention to the Department of Justice. It says so in the statute and we can resolve the matter by looking at the books.

You could also inquire directly, it seems to me, of the Department of Justice to find out, in fact, what happened here with respect to the communication between it and the agency.

I do not know the answer to that question.

Mr. MARINACCIO. The SEC, if I may respond finally, the SEC certainly, as any other agency of the U.S. Government does have and indeed has the responsibility to forward to the Justice Department any allegation that it uncovers relating to a crime that may have been committed or possibly may have been committed.

The SEC has no jurisdiction to prosecute the crimes. It has no original authority to have referenced to it a violation or a possible violation of the title 18 obstruction of justice statute.

Mr. KLEIN. We agree.

The CHAIRMAN. The hour of 1 o'clock having arrived, I am going to suggest that the committee stand in recess until 2:30, when we will resume the hearings.

[Whereupon, at 1 p.m., the hearing was recessed, to reconvene at 2:30 p.m. the same day.]

#### AFTERNOON SESSION

The CHAIRMAN. When we finished, Senator Cranston was next up. Senator Cranston, go ahead.

Senator CRANSTON. Thank you very much, Mr. Chairman.

Mr. Secretary, I thank you for appearing under what I know are very difficult circumstances for you. I suggested this hearing, and I think it's performed a constructive public service. It has given us the opportunity to consider all appropriate matters and new evidence since your confirmation hearing before this committee.

I think you have made a clarifying opening statement that is a commendable acceptance of responsibility for your stewardship at Textron and an admission of some significant failures in corporate management. But there appears little question that your successes and your capabilities in business and government far outweigh these failures and limitations.

I also believe that your testimony, your responses to questions, constitute a vindication of your integrity, your good faith, and your good intentions. Certainly, there is absolutely no evidence of any kind that any criminal conduct or intent is involved. And your testimony today is in marked contrast to your position of adamant purity and perfection before this committee last time and in your recent press conference.

Therefore, at this point, I do not have any further questions. I hope this hearing and the whole matter will come to a conclusion with reasonable dispatch, and you now have my vote of confidence.

But in casting that vote, Mr. Secretary, I must express one caveat, as did Senator Tsongas. As demonstrated by my prior questions, it's very difficult to understand the gap between your standards of behavior and your failure to investigate or to find out about the conduct involving foreign military sales which occurred while you were chief executive officer at Textron.

Your answers to these questions and your opening statement are taken as true because of your known and long-established integrity and because there is absolutely no evidence arising from the several investigations to the contrary. Indeed, the call for a special prosecutor, as I stated this morning, is, in my opinion, totally without factual or legal basis.

But the lingering doubt remains and is one from which you may never be free, that perhaps you did not really want to know, or you would have ordered an investigation. If you had known, you then would have had to take painful corrective action or become a participant in the concealment—not a pleasant alternative to face. And the doubt persists.

When you left business to enter Government, you realized that a problem of confirmation existed and perhaps only adamant purity and stonewall perfection would suffice for confirmation. Therefore, your prior testimony before this committee and in response to my questions at the time of your confirmation was not as candid as it could and should have been.

But, Mr. Secretary, we are a government of people, not of saints. And this hearing has convinced me that these matters should be

resolved in your favor. I wish the resolution could be 100 percent, but nothing in life is that certain.

I, as a U.S. Senator, however, am satisfied that you are a good, highly competent person and deserving of the high posts you hold and have held. I hope that whatever lingering doubts I and others still have will never become realities, and, again, I thank you for your appearance here.

The CHAIRMAN. Mr. Secretary, would you like to respond?

Secretary MILLER. I appreciate both the words and certainly, Senator Cranston, shall endeavor to overcome whatever shortcomings there may be.

Senator CRANSTON. Thank you.

The CHAIRMAN. Senator Riegle?

Senator RIEGLE. Thank you, Mr. Chairman.

I, too, would just offer a brief summary comment. I think today has been an instructive day in terms of how best to deal with a matter of this kind. I would just like to make this observation.

I think that in the future, if we run into a situation where after previous investigation and debate and analysis we think there may be some additional questions that have to be answered, that a more effective way to do that would be to meet in executive session as a committee, with all the members present, and to invite the Secretary, in this case or whoever it might be in other cases, together with their counsel—and also, for that matter, include the Justice Department if there is a concern that there might be an illegal action or prosecutable action that needs to be looked at—and to examine that in executive session fully with counsel present on both sides. It would take 2 hours, 2 days, 2 weeks, or whatever it might take.

In the case of a sitting Cabinet officer or anybody else, for that matter, I think our purview is such that we ought to be involved in that fashion, but with a very careful and deliberate finding of fact, to pin down exactly what the situation is. If there is a judgment that some offense has occurred that requires prosecution or a serious effort by the Justice Department, that would then be the appointed recommendation.

At that point, it seems to me, all facts ought to be laid on the public record. And then I think it's entirely appropriate—in fact, necessary—that there be a public side to that effort and to share those facts in the broadest possible way.

What I am suggesting is not in any way an effort to not get the facts out and on the record for the public. I think it's essential that they be put there. What I'm talking about is the most appropriate process for doing that. What are the steps that ought to be taken to enable that to happen?

The reason I make the point is because I think today—not that it was anybody's intention that it should evolve in this fashion—but it has become something of a show trial. And it's perhaps best illustrated at one point when the counsel addressed the chairman here as his honor, thinking he was in court, because it does take on the character and the trappings of a court procedure, but without any of the safeguards and any of the care that any court procedure ought to have.



Whether you're talking about examining a Cabinet Secretary or whether you're talking about examining a citizen off the street, the reason we have a court system with an elaborate set of constitutional safeguards is to get the truth and get it in a fashion that protects rights and the integrity of the search for truth.

And we lose a lot of that in this kind of a setting. Everybody that's been here today knows that. That's part of what goes with the kind of process that we've been following.

So I would hope that if there is any suggestion of new information that would imply or lead to suspicion of criminal misconduct, that that ought to be taken up in that appropriate fashion.

Like Senator Cranston, I've heard none of that today. I have attended all of the hearings up until the present time, and I've yet to hear anything that I consider to be new in terms of the charge of illegal conduct that can be laid at the witness' door.

I think that in your statement, Mr. Secretary, you made it clear that you feel regret and sorrow at things that you did not do that you might have done and wish now that you had done in your discharge of responsibilities as the chief executive officer of the Textron Corp. I infer from that that those are painful lessons, and I take what you say at face value that those are things which have caused you to reflect deeply, and they are things that you reflect upon with some personal pain.

I would also infer from that that in the future, wherever your work takes you, in or out of government, that those lessons would be valuable ones in terms of how they would be applied to your own future decisions and conduct, as they will be for all of us as they relate to things that we sometimes have the benefit of knowing from hindsight but not necessarily from foresight.

So I would hope, too, that we could resolve the matter. I would hope that we could resolve them today, and I would say to the chairman and my fellow committee members that if anything new is developed that has not as yet been disclosed, if committee staff work finds any significant item of new information that has to be considered with respect to direct responsibility tying to the Secretary, I would hope that we could reconvene. I would think it most appropriate that we would go into executive session first, deliberate with counsel and the Justice Department if necessary, and have it out, and then when that is done, share it fully in the public sense if there is something to share.

With that, Mr. Chairman, I would reserve the balance of my time until later.

The CHAIRMAN. Thank you, Senator Riegle.

Well, let me just respond very quickly. I wholly disagree that we should have had an executive session today.

I think it's been healthy and proper that we had an open session. The fact is that Mr. Miller has been before us before in open session. I can't imagine that we would have had a closed session when he first came before us.

The fact is that when we have an executive session, there are always leaks. There are always charges and allegations. The press finds out one way or the other. I think having this in open session is much better. I know of nothing that's been said here today or is likely to be said that would in any way seriously change the

attitude one might have with respect to Mr. Miller. I think it's right that he comes before us openly, and Senator Cranston, of course, did not ask for a closed session. He asked for a session of the committee.

We can only poll the committee under unusual circumstances. We can vote formally and on the record. Here's one circumstance. Who would vote against this? It has to be a rare and unusual occasion that we have an executive session, certainly not in a matter of such great public importance, and when we already have on the record so much public material that affects the witness.

Mr. Secretary, let me proceed with the complaint. The 24th item in the complaint is that in connection with and in furtherance of the course of business described in the paragraphs I've gone through—18 through 23.

Textron/Bell—and, as you say, that's Bell Helicopter—attempted to pay directly or indirectly officials of at least two foreign governments—I understand those were the Philippines and Nigeria—in connection with prospective contracts. Those contracts were not secured and payments were not made, but the attempt apparently is charged by the SEC.

Do you know about that?

Secretary MILLER. So far as I know, I have no recollection of these items. This, of course, doesn't name the countries. I have read the SEC report, and I was not familiar with those cases.

The CHAIRMAN. All right, sir.

Secretary MILLER. The complaint itself doesn't name any one, so I'm saying—

The CHAIRMAN. That's right. I understand they were the Philippines and Nigeria.

Then the next allegation is that Textron filed with the Commission a current report on form 8K for the month of May, 1978—the May 8K report to supplement the representation Textron had made in early 1978 with respect to Textron/Bell's Ghanaian transaction in connection with the nomination of G. William Miller, then chairman of Textron, to the Board of Governors of the Federal Reserve System. The representations were false and misleading. Exposure in the May 8K report is deficient in that it (a) fails to state the two senior officers of Textron/Bell. These were senior officers—and I understand they were Mr. Sylvester, who is vice president of international marketing for Bell, and Mr. Treff, who is treasurer of Bell—knew as early as 1971 that the transaction would be structured to facilitate a payment to an official of the Government of Ghana.

Did you know—these were senior men. Did they communicate with you in any way?

Secretary MILLER. Mr. Chairman, I would only point out, this filing took place after I left Textron. I was not involved in it.

The CHAIRMAN. Yes. I should have made that clear. That was May of 1978. You left in January.

Secretary MILLER. So I had nothing to do with this filing, but no, I had no communication from these two people.

The CHAIRMAN. But the allegation is that they knew as early as 1971.

Secretary MILLER. Yes. I have no knowledge of that. I did know—and I repeat, I knew when I was confirmed that the Ghana transaction appeared to be an improper transaction. I did not know who the individuals were who knew about it as early as 1971.

The CHAIRMAN. It further goes on to say that Textron failed to state that Textron/Bell's then executive vice president, Mr. Atkins, also obviously a senior executive, had reason to know prior to the consummation of the sale that the transaction had been restructured indirectly.

Secretary MILLER. I had no knowledge of that.

The CHAIRMAN. Mr. Miller, at your press conference and in the hearings, you made the repeated point, and I quote, that "employees of the company were involved but senior officers and the officers on whom I relied had no knowledge of any improper payments."

In view of the fact that seven senior officials of Bell or Textron either knew of questionable payments or that foreign government officials owned or were associated with Bell's agencies abroad, were those statements not incorrect, false statements?

Secretary MILLER. Mr. Chairman, I'm sorry. I was listening to another comment. But the statement at my press conference—

The CHAIRMAN. Yes, sir. I'll repeat the question. At your press conference and the hearings, you made the point, and I quote, that "employees of the company were involved." You conceded that. But you said "senior officers and the officers on whom I relied had no knowledge of any improper payments."

My question is, In view of the fact that seven senior officers at Bell or Textron either knew of questionable payments or that foreign government officials owned or were associated with Bell's agencies abroad, was that initial statement that senior officers on whom you relied had no knowledge—was that not a false and incorrect statement?

Secretary MILLER. I don't believe it's false and incorrect. I believe it was false in the sense that, to the best of my knowledge still today, I don't know of any senior—I may be wrong, maybe I haven't read this complaint properly—but I don't recall any Textron, any senior Textron people who have been alleged to have knowledge of these improper payments. This indicates that a very senior officer of Bell Helicopter was involved, and I think I was less than complete in the statement in the press conference.

I had not read, as I mentioned, the SEC report at that time, and I was less than complete in not making clear that I would certainly have to count that person as a senior official.

To that degree, I was incorrect. There may be others in here.

The CHAIRMAN. Let me follow up on that, because I think I have some officials that we may want to discuss specifically as to whether or not you would regard them as senior, and why you wouldn't, if you didn't.

The allegation on page 10 goes on to say:

In fact, during the Senate committee inquiry, relevant and material information about Textron/Bell's Ghanaian transaction was known to and not revealed by certain Textron/Bell officers and employees aware of the Senate committee inquiry. Such information was not disclosed to the Senate committee, the Commission, or the public."

It goes on to say:

Textron, through its then chairman at the 1976 annual meeting, informed Textron shareholders that there had been no payments that are illegal or any payments that are improper anywhere throughout the company.

That statement was made by the Chairman. It says in the SEC, "without his having a reasonable basis in light of the course of business described in paragraphs 8 through 23 above, was erroneous and misleading."

Do you agree that that's correct?

Secretary MILLER. This is the subject, Mr. Chairman, I addressed this morning. In the SEC report itself, it has some important words that are left out in the complaint. The words from the transcript are that so far as we know, there have been no payments. I think that's a different kind of statement to say there have been no payments and to say, on the other hand, that so far as we know there have been none. I addressed this this morning. I will express again my personal regret and disappointment that my statement at the shareholders' meeting in 1976 has turned out on the facts to be incorrect.

I believe I was reasonable in saying that as far as I knew, there were no such payments.

The CHAIRMAN. In 1977, again—not 1976, but 1977—the following year, at the annual meeting of Textron shareholders, you informed Textron shareholders, and this is a quotation: "We know of no case in Textron"—"We know of no case where there has been any improper payment, illegal payments."

Again, they say the statement made by the chairman without his having a reasonable basis, in light of the course of business, described in paragraphs 8 through 23 above, was erroneous and misleading.

Do you agree with that?

Secretary MILLER. I addressed this this morning, also.

Let me read you in the quote from the transcript that is in the SEC report, the final sentence of the report:

We cannot assure that there is no person in our company who does not have bad standards, who might try to steal from the company or do something else. But we have found none. None is authorized, and none is condoned by management, in any sense.

Again, I pointed that out this morning. I do say again that I believe, in the light of the reviews that had been made and the review that we had made at the annual management meeting, that it was reasonable for me to feel that we knew of no such improper payments. The facts have proved me to be incorrect. And I regret that.

The CHAIRMAN. Now, let's go through the officials, and these were officials who knew about payments in the United Arab Emirates, in Morocco, Ghana, or in Sri Lanka. In one of those four instances. These were: Edwin Ducayet—what's Mr. Ducayet's position?

Secretary MILLER. He was president of Bell Helicopter for a number of years; in a transition, management change, served as chairman for a while. His successor in the transition succeeded him.

The CHAIRMAN. He was also on the board of directors of Textron.

Secretary MILLER. Yes. After he left Bell Helicopter, not during that time. After he retired as an employee of the company, he became a member of the board.

The CHAIRMAN. Because on page 26 of the SEC report, it says:

Beginning in 1971, certain Bell officials, including Bell's president, senior vice president, vice president for international marketing, participated in promoting a foreign military sale to the Moroccan Government, knowing that the commissions paid to its Moroccan agent would be shared in whole or in part with Moroccan Government officials.

Wasn't Mr. Ducayet a senior official named in the report?

Secretary MILLER. Absolutely. I repeat that when I was at the press conference, I had not seen this report or these names. But you're absolutely correct: He was a senior official.

The CHAIRMAN. What do you say about it now?

Secretary MILLER. I think I was incorrect.

The CHAIRMAN. My time is up. I have got some more questions.

Senator RIEGLE. Why don't you continue, Mr. Chairman?

The CHAIRMAN. Let me just tell my colleagues, because my time is up, anytime they want to come in, I will, of course, yield to them for 10 minutes or any other amount of time they would like to, to make that up.

Now, as I understand it, Mr. Secretary—and you have testified to this this morning—you told your board of directors that it was unnecessary to have an investigation suggested by the SEC; it would be disruptive and expensive. And you'd indicated that you would rather that decision, if you had to do it over again, you would have done it differently, but that was the decision made at that time.

Secretary MILLER. That's correct.

The CHAIRMAN. However, your board of directors, in the investigation they finally conducted after you left the corporation, made the following finding, and I quote—this goes with what Senator Garn was talking about, but I think it has the force of coming from your own directors. They said: "No specific policy directives as to questionable payments were issued prior to 1976."

So, during all of this time when these payments were being made, there were no specific policy directives, according to the board of directors investigation.

Secretary MILLER. I am sorry, where is that?

The CHAIRMAN. Regarding questionable payments.

Secretary MILLER. Could you point out where that is, Mr. Chairman?

The CHAIRMAN. It was in the report. I think it's on page 46; 46, 47, or 48, volume 1.

Secretary MILLER. I would like to read that.

The CHAIRMAN. It's on page 45. I beg your pardon. It's in the italics, about halfway down that paragraph. It says: "However, no specific policy directives as to questionable payments were issued prior to 1976."

Secretary MILLER. I, of course, cannot know what other people read or intended. This is a finding of this special committee, I understand. Is this correct? This is what—

The CHAIRMAN. This is the report of the special committee of the board of directors of Textron.

Secretary MILLER. All right. The point is that, as distinguished from the management guide that laid out the entire policy, which included the quotes that I have made this morning, that I indicated this morning, that there was to be full compliance with the letter and the spirit of the law, that beyond that we were to live up to the high standards of ethics.

I will have to read the words, to include it with this paragraph: "It's important to emphasize that this list is by no means inclusive, because there are many other possible situations for prior cognizance of Textron cooperation officers"—I am sorry, I am reading the wrong thing, I think.

Here it is. It said: "Textron's policy in this regard is broader and more encompassing than the mere statement that the laws must be observed." This is from the policy of the company. "It includes the responsibility and loyalty as measured by principles or standards of behavior which, although not codified, represent the ethical sense of the community."

Now, there was a general policy. This conclusion seems to say that there were not specific ones. I just don't know if I can answer.

The CHAIRMAN. You see, the problem I have is that here you have directors of the corporation who, of course, are responsible for a very extensive and vital investigation. Their conclusion was that there were no policy directives.

Secretary MILLER. There were no specific ones.

The CHAIRMAN. You're right: no specific policy directives.

Secretary MILLER. That's what I was trying to point out. Apparently, they felt that the general statement that you had to do these things, plus the discussions that I could show you here that have taken place, did not represent specific statements.

And I think that's true. The "Ten Commandments" undoubtedly do lay down a certain code of conduct, but no doubt we would add to that interpretation and specifics, to a great extent, over time. And it is true that our statements were ones of general compliance, and we did not have specific lists of "Thou shalt not do this, that, and the other thing," until this began to surface and we began to put out additional memos to say, "Take care of this specific problem—this specific problem."

Senator RIEGLE. Mr. Chairman, excuse me. Would you yield at that point, on this matter?

The CHAIRMAN. Yes.

Senator RIEGLE. I appreciate your yielding.

In the hearings of 2 years ago, on page 32, we got into this very matter with Mr. Ducayet, the fellow you were just referring to, a member of the board of directors. There is a very relevant exchange that goes right to this particular issue, and I would like to quote it here. It will just take a minute.

I posed a question at that time to Mr. Ducayet, and to the other man who was at the table, whose name was Mr. Yost, I believe. I asked this question— and I am quoting the record:

Is there, do you remember, do you recall getting any indication from Mr. Miller, either at the time he was chief operating officer of the company or whether he would be in a lower level than that, any indication as to his feelings about bribes or push money or any of these kinds or sorts of under-the-table arrangements with people in foreign countries?

Did he ever express himself in writing to give you some clear sense of how he felt about that kind of activity and what his predisposition toward it would be? I might say, parenthetically, this addresses the period presumably before the time that there were written procedures here.

Mr. Ducayet replies, and I quote him:

I am sure that Mr. Miller at various time and many times probably has made it quite clear that he will not tolerate, and Textron will not tolerate, any under-the-table dealings, any shady dealings, any coverup. We were expected to be the high-quality company that they procured. We had good policies at that time.

Senator RIEGLE. Let me just stop here. I don't think it's enough to say that you think he said that. In other words, do you know for a fact he said that? Can you recall either a combination of times and ways in which it was said that this—or is this now a presumption on your part?

Mr. DUCAYET. No, I do not recall specifically what was said. But I am quite sure that more than one time Mr. Miller has made it quite clear that the policies of Textron would not tolerate such actions.

Senator RIEGLE. Well, do you think to the extent that you got that tone from him, did you think you got the tone when he was saying it one way but he was sort of winking at the same time to let you know that, "Well, that was part of the spoken code, but that you know over and beyond that, if it took a little bit of wheeling and dealing to get the contract, that that was okay."

Mr. DUCAYET. No. It was exactly the reverse of that.

Senator RIEGLE. What was his reputation within the company? Was it as a hard-nosed, straight-line, sort of straight-arrow type? Or was it that he was a flexible sort of a guy, where just about anything that had to go would go?

Mr. DUCAYET. No. Mr. Miller was straight-nosed—he turned this into straight-nosed—if you want to call it that. He would never tolerate deviations or any dealings that were other than the policy of the company.

Senator RIEGLE. Do you know of any situations where he personally or through his involvement turned down a sales opportunity someplace where there was some kind of an underhanded component to it? Do you know of any?

Mr. DUCAYET. I know of no such question ever having been brought to him or of his having turned it down.

And it goes on in this vein. I just thought it would be helpful to put that in the record at this point. Also for others who want to follow this thoroughly there is a very long, exhaustive committee record from 2 years ago that bears on everything that's been talked about today.

And I thank the chairman for yielding.

Secretary MILLER. Mr. Chairman, may I just take a second?

The CHAIRMAN. Yes, of course.

Secretary MILLER. The reason I was being careful in how I responded to your question is, I wanted to see specifically how this referred to it, you know, in this whole area that developed. There are special words of art. The terms "illegal, improper, and questionable payments" became the way in which this was identified.

That's why I was hesitating, because I think what they're saying here, there were no specifics about that kind of "questionable payment" that we're dealing with, in this sense. There were many other specific directives about not receiving kickbacks or gratuities.

But in terms of this sort of thing, I suspect this committee is right. I don't know of any case where we've set it out specifically as distinguished from general guidelines.

I just wanted to be sure I interpreted that correctly.

The CHAIRMAN. Let me pursue that, because they go on to say—this was in 1976—that "Even after that, the next words are," Textron did not have an effective monitoring program to insure "that specific policies were communicated and complied with within the divisions."

Now, Mr. Secretary, you, I think, highly competent, and you a seasoned manager now and you were a seasoned manager then. You weren't a babe in the woods. You'd been president of this corporation since 1960, and you brought it along very vigorously and you knew what was going on.

How could you expect a no-bribery policy to be effective if, as your directors found, you issued no directives on bribery until 1976, and even then you established no monitoring system, according to their findings—this isn't my conclusion—to see that it was working and that your dealers out in the field understood it?

Did they have any basis at all for complying with the so-called no-bribery policy?

Secretary MILLER. Mr. Chairman, you've now changed "questionable payments" to the word "bribery." You use the word "bribery" then you're talking about violation of law. And we had very explicit rules that laws would not be violated.

The CHAIRMAN. Let me just interrupt for a minute there. It was not a violation of the law until we passed our bill, which I authored last year.

Secretary MILLER. Payments overseas to certain countries may not have been illegal, but bribery is the payment of funds to induce action which is illegal.

The CHAIRMAN. I am talking about foreign bribery, which was not illegal.

Secretary MILLER. I know we get into semantics, but if you go back to "questionable payments" and put it into context, you're absolutely correct. And as I said this morning, in hindsight, my decision to rely upon the talking and working through levels of management that included principally corporate officers and division presidents, turned out to be inadequate.

This conclusion that it wasn't getting down the line is true, and it is what I mentioned this morning, in which I said, in hindsight, I should have done more and could have done more to make sure that the corporate office did carry it out.

The CHAIRMAN. I appreciate that, Mr. Secretary, but it appears that you did very little.

Let me just quote again, page 4 of the SEC staff report:

The evidence gathered by the staff showed that several salesmen traveled overseas and were aware of questionable activities, but were unaware of any such policy statement and that there was no formal mechanism for distributing the memorandum to Textron employees at all levels.

That was the memorandum you promulgated in August of 1976, entitled "Standards of Conduct: Policies for Representatives, Agents, Consultants, or Distributors." This is page 4 of the SEC report, where they say that there was no formal mechanism for doing anything about it. It looks like it was boardroom rhetoric.

Secretary MILLER. I don't think we're talking about the same issue. There was a procedure. There was a communication. But when you read the words—I am going to have to find where you are now. "Distribute at all levels," that is true, as I mentioned this morning. We had a method of distributing very large numbers of these policy directives. We had a system that put very high responsibility on division presidents to disseminate information within their divisions. And it was inadequate.



It's the same point, though; it's a repeat of the same thing. The CHAIRMAN. That may well be. But it appears, then, that this policy, even though enunciated in 1976 in your August 1976 memorandum, was not distributed to the men in the field who would be a part of this payment, would be involved in it. They didn't know you had that policy.

Secretary MILLER. Let's look at the August—I guess we're talking about the same directive. The August 1976 directive required that every new agreement with a sales representative, agent, or consultant, and any renewal of existing agreements, would require a certain clause where we would bind up by contract a representation on the other side that none of the commissions would be diverted or used for any improper purposes.

Now, that isn't for a salesman to do; that is for those who approve and enter into dealer agreements. So that particular memo was requiring top management to get these clauses into the contract. The salesmen work only after the contracts were in existence.

I do admit—and I do not want to either underdo or overdo the restatement of what I said this morning—the system was not adequate to get it down to all levels. And I agree with that.

The CHAIRMAN. Well, what happened was, as you've indicated, in case after case after case—in 14 cases—these bribes were paid, and it would appear that the people involved in some of these cases did not know that that was against the policy of the corporation. They were swimming in a sea that was polluted, as you pointed out. This was something which was done by many other firms at the same time. So, I would think it would be an assumption that, absent a positive, clear-cut enunciated policy that people in the field thoroughly understood, that this kind of activity was going to go on.

Secretary MILLER. I believe at the time that it didn't take any special instruction for people to know that it was wrong to bribe.

The CHAIRMAN. On page 11 of the complaint, it's asserted by the SEC that in the course of business that they describe there was failure to disclose by Textron in connection with—at least Textron/Bell, I should say—in connection with at three contracts Textron/Bell made false and misleading representations to the U.S. Government, as follows:

“Textron/Bell falsely and misleadingly represented to the U.S. Government that no payments were being made in connection with the Ceylon transaction.”

Do you know anything about——

Secretary MILLER. That's the same transaction.

The CHAIRMAN. It's the same transaction commented on. I am talking about something different now. I am talking about falsely representing to the United States that no payments were ever made.

Secretary MILLER. Apparently—I don't know anything about it—but apparently, not only did the improper payment get made, which I think was disguised and hidden from the U.S. Government—this was probably foreign military sales, as I recall, in which case it would have required not only that it be handled properly, but that it be disclosed to the U.S. Government.

The CHAIRMAN. The next example says Textron/Bell falsely represented to the U.S. Department of Defense the nature of its agreement with its Moroccan sales agent in connection with the Moroccan sales transaction.

Secretary MILLER. I did not know about that. I read the report and it appears to be improper handling and paying back agreements, all of which were improper and contrary to policy at the time.

The CHAIRMAN. The next instance was Textron/Bell falsely represented to the U.S. Export-Import Bank that there was no discount allowance, rebate, commission, fee, or other payment in connection with the Ghanaian transaction.

Secretary MILLER. That's the same one we've gone over.

The CHAIRMAN. Here was a case where the Export-Import Bank, they should have accurate representations. They didn't have it.

Secretary MILLER. That 300,000 being diverted was very, very bad, sir.

The CHAIRMAN. Now, it is not only a matter of the payments with respect to Colombia. The next allegation is that Textron/Bell's employees altered documents in Textron/Bell's Colombia files in an attempt to conceal and falsely document the improper nature of the Colombian payments.

Did you ever know about that? Was that ever called to your attention?

Secretary MILLER. No, sir, it looks like these transactions are broken down into two or three components and they're repeated and it looks like that transaction not only had an improper payment, but then some effort to cover.

The CHAIRMAN. Then there was false recording and false documentation with respect to the Dominican Republic payments or commissions to a sales agent who had no involvement in the underlying sale. Any knowledge of that?

Secretary MILLER. I had no knowledge of that.

The CHAIRMAN. Then Textron either false reported or did not make and keep books, records and accounts which actually reflected the true nature and disposition of most or all of the commissions paid by Textron, and Textron/Bell false recorded the payments to the sales agent for Ceylon as paid pursuant to a consultant agreement, under which no services were performed.

Secretary MILLER. I had no knowledge of that, sir.

The CHAIRMAN. On page 13 of the complaint, item 36, it says that, although reports filed by Textron purported to accurately describe the operations and the financial conditions of Textron and its subsidiaries, the reports were false and misleading and omitted to state material facts necessary to make the statements made therein not misleading regarding the practices of at least six Textron divisions of overbilling foreign purchases or their products whereby Textron adjusted inflated invoices and omitted the amounts overpaid to the purchaser or applied the amount overpaid against the purchaser's account with the division.

Were you aware of that?

Secretary MILLER. I'm going to have to elaborate on this. I'll have to check each of the six, because you'll remember, Mr. Chairman, that this subject came up in my hearings in 1978.

The CHAIRMAN. It did indeed. I was going to ask a question relating to that.

Secretary MILLER. What happened at that time, as I recall, is that in connection with these affirmative statements that we required, a number of divisions had indicated questions about certain of their practices which I felt were bad practices. So I issued a directive that these kinds of overbillings should not be followed.

We discovered as a result of that directive several cases where they had been done. They were corrected. And I believe I outlined, I thought, five at the time I was before this committee. My information about them was obviously obtained as the result of those hearings, and some of them were still in investigation by our auditors. I don't know if there have been one or two discovered since. But it would be the same class. It would be ones in which I had issued instructions that it not be done. And I think that there were a number of them that were being surfaced and cleaned up as the result of my directive in 1977.

The CHAIRMAN. Let me go back to that hearing. During your confirmation hearings, you indicated that the practice of overbilling of accommodation payments, and I quote—this is on page 211 of the hearings—“is perfectly proper.” You said you did not consider them improper, illegal or questionable.

Now, let's examine the overbillings first. The SEC found testimony from your officials and your records that Textron overbilled customers and agents \$1.3 million over 8 years. The SEC says that Textron recognized the purpose of these overbillings was to evade taxes and currency regulations in many cases.

So that, first, let me again—you may have responded to this one, but let me make sure that you did. When did the practice of overbilling by Textron first come to your attention? Was it in the hearings or was it before that?

Secretary MILLER. The overbilling?

The CHAIRMAN. Yes, sir.

Secretary MILLER. No; some of them had come to my attention before because of the process I had already started.

May I take your time, Mr. Chairman, to call your attention to the directive I issued in May 1977 that said that these practices were not proper for Textron, even if legal or allowable, and pointed out that even if they were legal, they could be used to avoid taxes or exchange controls, and I thought it was unwise to have that possibility open.

So I had raised that issue directly in the company. I'll have to go back and look at page 211 and read the context in which we were talking. I think my context at that time was to point out that there may be cases where overbilling is legal and proper, there may be cases where they can have these abuses which I had in my memo to the company; but regardless of whether they were legal or proper, I think my testimony says that I do not like the practice, I do not condone it, I would not want it to be used at Textron. Therefore, we were in the process of making sure that this was not done.

So we'd already surfaced this.

The CHAIRMAN. My problem, Mr. Secretary, I think is a matter of timing. When you appeared first in February was when I be-

lieve, or during that period, when you indicated that the combination payments were perfectly proper. Later, on May 12, 1977, you made that statement against overbilling, as I recall.

At any rate, when did the practice of overbilling by Textron first come to your attention?

Secretary MILLER. Oh, it would have been on the basis of just my recollection, and I'm not absolutely sure of this. My memo was issued in May 1977, and I think it followed fairly promptly, after first coming to my attention.

I responded by taking this action to require that these practices be eliminated or avoided.

The CHAIRMAN. And when did you become aware, either in theory or practice, that overbillings could be used to evade taxes and currency regulations?

Secretary MILLER. That was my own general knowledge of how the world works, because obviously an overbilling means that a foreigner, in this case foreign or domestic, is being charged more than the normal price.

The CHAIRMAN. That's what I have so much trouble with, that statement on page 211 that you made that they were perfectly proper, overbillings and accommodation payments were perfectly proper.

Secretary MILLER. Yes. I was going to say, you have to read the whole thing in context. It says: "Is it a clearly unethical practice? No, sir, it's often, in an international transaction, for the convenience of maintaining credit balance."

That's true, there are perfectly legal forms of it. I think the problem is to take one sentence. I think if you read the whole thing, I was pointing out there are cases where it's legal and there are cases where it can be abused. But whether it's legal or illegal, we were not going to do it under the new policy I had issued.

The CHAIRMAN. Did you ever personally conduct an investigation into overbillings or request that such an investigation should be made?

You made the statement, and you made it very clear, in May of 1977 that they were wrong.

Secretary MILLER. Let me tell you what. Let me just review my recollection. You recall that we talked this morning that in connection with the audit of the 1976 accounts we required affirmative statements from some 1,100 employees as to the absence of certain kinds of transactions.

In the course of that audit, as I recall, two or maybe three situations arose where the divisions asked whether this kind of transaction—and I can't remember whether they were overbillings or accommodation payments—were proper. Our response was, at least my response and the company's response was, well, whether legal or not, we don't want to do it. And we issued a directive to make it clear to everyone.

And then there was a followup investigation of all transactions, and there was a followup investigation in the following year of some others, and we were endeavoring, through the statements of the policy, to surface any such things and to investigate them and put them on the right track. That's the context I think in which this should be put.

The CHAIRMAN. Mr. Secretary, one of the most troublesome aspects of this whole investigation and one of the reasons why there's still such a serious credibility problem is the fact that 11 officials of Textron invoked the fifth amendment and refused to testify about matters important to the SEC investigation of Textron. Until we know the full story on that fifth amendment procedure, it's hard to know who communicated what to whom and who knew about what was going on and who didn't know.

So let me go over each of the individuals and see if we can make some progress in this direction. These individuals are Jack Reardon, Frank Sylvester, Ormond Moore, Robert Fitzsimmons, Rex Marion, Gene Autry, Robert Caster, Mr. K-u-y R-i-m—I guess that's Kuy Rim—Brian Werford, Andrew Bogle, and David Einhorn.

Let me ask you specifically, did Jack Reardon ever discuss any of the bribes of foreign officials with you?

Secretary MILLER. No.

The CHAIRMAN. Any information about the bribes or questionable payments?

Secretary MILLER. He was head of the tax department in Providence. I can't imagine why he would be involved in any way in those.

The CHAIRMAN. Did he ever discuss destruction of documents with you?

Secretary MILLER. No. Destruction of documents; you mean deliberately? Documents—if you're going back to the failure to retain documents in the DOD entertainment——

The CHAIRMAN. Did he discuss that?

Secretary MILLER. I don't remember him discussing it. But everybody talks about that as destruction. That's not destruction. That's just failure to retain.

The CHAIRMAN. Did he write you a memorandum on that subject?

Secretary MILLER. It was a memorandum that we talked about this morning and put in the record. And I had commented on those.

The CHAIRMAN. Did Frank Sylvester ever discuss any of the bribes of foreign officials with you or give you any information about the bribes?

Secretary MILLER. No; he did not.

The CHAIRMAN. And Mr. Sylvester, his title?

Secretary MILLER. He was vice president for international sales of Bell Helicopter.

The CHAIRMAN. Bell Helicopter?

Secretary MILLER. Yes.

The CHAIRMAN. What matters did Mr. Sylvester discuss with you?

Secretary MILLER. Mr. Sylvester would not normally be in my reporting chain. But when I went to Bell Helicopter several times a year for business reviews, I would say probably twice a year, he would have been in briefings where he would brief on the outlook for international markets, where sales were going, what models were required, and discussion.

I may have seen him also, perhaps if I attended sales conferences, which I did from time to time, or attended the Paris Air Show every other year, I would see him.

The CHAIRMAN. What were Mr. Sylvester's responsibilities?

Secretary MILLER. He had responsibility for international sales at Bell Helicopter.

The CHAIRMAN. Would he be in a position to know more about this than most would?

Secretary MILLER. I said his area of responsibilities—I have no personal knowledge that he knew.

The CHAIRMAN. Why wouldn't it have been very vital for him of all people to be most fully aware, in conversations with you, of your policy on questionable payments?

Secretary MILLER. I can tell you categorically that he must have known about these policies, because I discussed them before those management groups frequently. He had to know of them.

The CHAIRMAN. Did you discuss it with him specifically?

Secretary MILLER. I discussed it with the management group at Bell Helicopter. In my opinion, he would have to know the policies, and he also would have to have a copy of the management guide, unless somebody just completely failed to distribute that, as he was one of the persons who would have to sign the kind of statements.

The CHAIRMAN. Who did Mr. Sylvester report to?

Secretary MILLER. He would have reported to probably—from different times, there may have been different assignments. But I would think probably to Mr. Weichsel, who was the senior vice president.

The CHAIRMAN. The next individual is Mr. Ormond K. Moore. What was his responsibility?

Secretary MILLER. The name I have is Alfred O.K. Moore. That's the same one. I think I have met him. He's listed as being in the international sales area. I am sure I have met him, but I am really not well acquainted with him.

The CHAIRMAN. He also took the fifth amendment. Did he ever discuss any of the bribes with foreign officials with you or give you any information about them?

Secretary MILLER. No. If I ever spent any time with him, it would be infrequently.

The CHAIRMAN. Robert Fitzsimmons. Do you know him?

Secretary MILLER. I don't know him that I can remember.

The CHAIRMAN. You don't know him?

Secretary MILLER. As far as I know, the name doesn't ring a bell.

The CHAIRMAN. He was the regional sales manager for Europe.

Secretary MILLER. I don't recall him.

The CHAIRMAN. He took the fifth amendment. Did he ever discuss any of these bribes of foreign officials with you or give you any information about the bribes?

Secretary MILLER. No, he did not.

The CHAIRMAN. Specifically, did Rex Marion ever discuss any of the bribes of foreign officials with you or give you any information about the bribes and questionable payments?

Secretary MILLER. Mr. Chairman, the name I have listed is Roy Marion. I don't have a recollection of knowing him, and he did not discuss anything with me.

The CHAIRMAN. Mr. Marion was the man who saw the document on Ghana that was destroyed the day after I had requested it.

Secretary MILLER. That still means nothing to me and was news to me when it happened, when I found out about it, as you did, later.

The CHAIRMAN. The next is Gene Autry. I take it that's not the cowboy?

Secretary MILLER. If he's the cowboy, I don't know that he would need any foreign payoffs. He'd have enough money. [Laughter.]

Secretary MILLER. But I do not recall knowing him. He did not discuss with me any such matters.

The CHAIRMAN. I understand that Mr. Robert Caster was commissioned payments at Bell. Did he ever discuss any of the bribes of foreign officials or give you any information about the bribes?

Secretary MILLER. Mr. Robert Caster, if he's the correct person, I believe worked in our corporate office for a time as group comptroller, as I recall it. He moved down. I believe he was a person I did know. He never discussed any such things with me. But I did know him.

The CHAIRMAN. You say Mr. Caster worked with you?

Secretary MILLER. He worked in the Providence office as a group comptroller, underneath the corporate comptroller.

The CHAIRMAN. Did he have any direct responsibility to you?

Secretary MILLER. No, it was not direct responsibility. Group comptrollers work closely—when he was in Providence, he was a resource for group vice presidents in working with their divisions, and when we went on business reviews group comptrollers usually accompanied us and we had discussions on matters involving their divisions. They usually went with us. So there was frequent contact. But he was not reporting to me.

The CHAIRMAN. Our information may be wrong.

Secretary MILLER. Maybe it's the wrong person.

The CHAIRMAN. It is that he disbursed commission payments.

Secretary MILLER. I'm sorry. He was first in the corporate office and transferred to Bell Helicopter, if I'm thinking of the same person. And then you describe a duty that he had in Bell Helicopter, and that could be.

My point of pointing out to you his former corporate assignment was so that you know that I did know him and had many, many contacts with him. I did not know he'd taken the fifth. He's not even on my list. And he's never discussed foreign payments or disbursements with me that would be improper.

The CHAIRMAN. The next employee who took the fifth amendment was Mr. Kuy Rim, K-u-y R-i-m. I understand he wasn't an employee, he was a Korean agent. Did you know him at all?

Secretary MILLER. I don't know him at all and I don't even have him on my list. He took the fifth amendment and I don't believe he was an employee.

The CHAIRMAN. At any rate, you never discussed any of the payments with him?

Secretary MILLER. No, sir, I did not.

The CHAIRMAN. The next man I have here who took the fifth amendment was Brian Werford, a Bell dealer in Indonesia, where a questionable payment was made.

Secretary MILLER. The name I had was Brian Woodford. I do know him. When I traveled around the world developing our international business about 1970, I went through Singapore, where he was the manager of the Bell Helicopter dealers. It's part of a larger British corporation. He was a local manager and I met him.

So I had discussions with him. That would have been in 1970.

The CHAIRMAN. When you met him, was it simply a brief meeting? Did you have any opportunity to have a discussion with him at all on business?

Secretary MILLER. My reason for being in Singapore was to begin to explore the possibility of Far Eastern operations for other operations in Textron. He was about the only person in Singapore who had contacts, and he was just a resource to show me around Singapore and tell me where the industrial sites were. So I spent a day.

The CHAIRMAN. Did you discuss any questionable payments with him?

Secretary MILLER. No, I did not. I probably had dinner with him. On that occasion, I think I was in Singapore 2 days.

The CHAIRMAN. The next person to take the fifth amendment in the investigation was Andrew Bogle, B-o-g-l-e, is the way I have it spelled. That was Bell's agent in Jamaica.

Secretary MILLER. That I have no knowledge of and have never discussed anything with him. As far as I know, I've never met him.

The CHAIRMAN. The next is David Einhorn. I guess he's the last one. He was the intermediary in Colombia.

Secretary MILLER. As far as I know, I don't know him and never discussed any such payments with him.

The CHAIRMAN. Now, according to the SEC report, during 1971-77, Textron's accommodation payments totaled \$13 million. Accommodation payments, as I understand it, are payments or dealer commissions made to accounts in countries other than where the dealer does business. And the accommodation payments can assist the dealer in tax fraud in the country of residence.

Indeed, Mr. Rim, a Korean Bell dealer, was assisted in this respect by Bell because Rim did not want a commission confirmation sent to Korea, as this would better enable Korea to audit it.

Why did Textron, under your leadership, as a policy until 1977 make accommodation payments?

Secretary MILLER. I think, Mr. Chairman, I tried to indicate that accommodation payments were not known to me to exist. When they began to be possibilities as a result of our affirmative action to obtain statements, I directed that they not be utilized and that they were not acceptable practice. Therefore, we began a process to make sure that our auditors and our comptrollers and our personnel do this.

And we did not carry out business in that form.

I think accommodation payments are also like overbillings. They can be legal or they can be abused. But in either case, I did not want the temptation, so I did not want us to do them.

The CHAIRMAN. Then in 1977, as you have testified, you promulgated a policy to prohibit accommodation payments.

Secretary MILLER. Yes, sir.



The CHAIRMAN. But you excluded payments made by check at Bell offices. Thus, after the new policy, Rim was paid \$430,000 by check at Bell and assisted by Bell in opening a checking account at a Texas bank.

Is that indicated even under your new policy, your new policy that tax fraud in foreign countries was accommodated?

Secretary MILLER. My policy continued to allow—I don't recall that; I am trying to find that in the memorandum.

The CHAIRMAN. Page 83 in the SEC report.

Secretary MILLER. Page 83?

The CHAIRMAN. Yes, sir.

Secretary MILLER. I will try to track it in my memo because I don't recall there was an exception like that. Maybe there was.

The CHAIRMAN. Footnote 1.

Secretary MILLER. Footnote 1.

The CHAIRMAN. The top of the page.

Secretary MILLER. Oh, I am sorry. Yes.

The CHAIRMAN. In an August 26, 1977, letter to dealers, Bell retained as one permissible means of payment the issuance of checks.

Secretary MILLER. I think that was not my policy, Mr. Chairman. It says at the top that when Bell ultimately took steps to implement my directive, they retained as one permissible means of payment the issuance of checks. That was not my policy. They decided to implement it that way, as I read this.

The CHAIRMAN. It was a policy, then, that could be violated.

Secretary MILLER. It wasn't a policy that could be violated. I mean, any policy can be violated. But it was certainly not my intention, as I recall, to have such an exception. And I would be happy to stop, if you would like, and read through the whole, but just read—I don't mean read aloud, but just read through the whole memo myself and see if I can find any such words. But I don't remember any such exception.

The CHAIRMAN. What steps did you take to make sure that your policy was carried out?

Secretary MILLER. As I said, we were starting then not only to make everyone aware of this, but we continued the process of requiring affirmative statements. It seems to me that no such policies could have been established at Bell without it being a fairly responsible official.

The CHAIRMAN. Does that indicate a failure to follow up on your policies?

Secretary MILLER. I don't know. If this was done immediately, we may not have had a cycle where we could have caught it. One cycle of affirmative action to catch these policy matters.

To implement a policy, if someone doesn't do it just right, you have to go through a cycle of disclosure before you pick it up directly.

The CHAIRMAN. Let's examine the practice of accommodation payments. During your confirmation hearings—oh, I beg your pardon. Did you want to finish anything?

Secretary MILLER. I hope you were satisfied with that, because, you know, you will instantaneously collect things and you'll go through a cycle of payments.

The CHAIRMAN. Let's examine the practice of accommodation payments. During your confirmation hearings I asked about secret Swiss bank accounts. You responded there were no secret accounts but that there were Swiss accounts because, as you said,

When you operate a business in Switzerland, Senator, you deposit your money in Swiss banks. If you have subsidiaries, you sell products and carry on business in Switzerland.

In that respect, Mr. Miller, wasn't that a naive or misleading response to my question, considering that Textron paid off foreign officials in three countries—Morocco, Oman, and Iraq—on five occasions between 1971 and 1977, amounts averaging \$100,000 or more, each by transmitting these payments directly to Swiss accounts, which, contrary to your assertions, were not open accounts—private personal accounts of the Government officials involved.

Please also consider in your response that SEC testimony indicates that Textron officials knew or had reason to know that these sums would end up in the hands of Government officials.

Secretary MILLER. I hope that in my prior testimony I did not—and I certainly didn't intend—to mislead you, Mr. Chairman. I repeat today: I do not know today of any secret Textron bank accounts in Switzerland. It is apparently true, from the evidence, that disbursements were made to bank accounts of other people, and I do not gather, from what you have told me, that they were secret, but, you know, merely disbursements to accounts of other people.

That should not have been done. I wouldn't for a moment defend them under our policy. But you have to distinguish the bank accounts of third parties to whom we paid money, which, in this case, was improperly disbursed to them, as from Textron. And I do not believe—and I don't believe it is true your investigation has disclosed any secret bank account of Textron, unnumbered bank account. I may be incorrect and there may be something in this record I haven't found, but I am not aware today of such a secret account.

The CHAIRMAN. These were accommodation payments to agents in third countries.

Secretary MILLER. But they weren't secret accounts. You were reading from the prior testimony where I said that Textron had no secret bank accounts.

The CHAIRMAN. When I asked about it, you said that there were no secret accounts.

Secretary MILLER. Of Textron.

The CHAIRMAN. The payments were made to secret accounts.

Secretary MILLER. No, they weren't secret; were they?

The CHAIRMAN. They were private personal accounts. If you tried to find out about them, they won't tell you.

Secretary MILLER. If we paid disbursements, due to Senator Proxmire, in his account, that isn't secret. It has his name on it, and it's in the bank.

The secret account is when you have a number; you don't disclose the name of who owns it and it's hidden from—

The CHAIRMAN. If an agent is in let's take Morocco.

Secretary MILLER. And you pay him in Switzerland.

The CHAIRMAN. What's the purpose of paying him in Switzerland, except it goes to a private personal account?

Secretary MILLER. Payment outside Morocco is perfectly wrong. Perfectly wrong.

The CHAIRMAN. That was what was done on three occasions.

Secretary MILLER. It was paid into a named account. I don't mean to quibble with you, but it's a wrong payment but it's wrong for the reason that it shouldn't have been paid in Switzerland. It wasn't wrong in that it was secret. It was secret in Morocco, but not in Switzerland.

It was wrong. Let's be sure we understand that.

The CHAIRMAN. Now, in this testimony, there are reasons for both sides, of course, but there is a feeling that on no occasion—and this has been repeated by me and by others—did the SEC find or the independent directors find or the committee find that you had knowledge of payments.

Now, there is one where you had knowledge, but it was a different kind of a thing. I understand in the SEC reports that Mr. Atkins assisted a General Toufanian's son, who was having difficulty in obtaining a medical residency in Texas, which he did in November 1973. Atkins said he discussed the matter with you directly. He also is said to have discussed a contribution by Textron to the hospital with you. According to the report, Textron contributed \$100,000 to the hospital in April of 1974.

And then subsequently, General Toufanian's son was admitted. General Toufanian, for those who aren't aware of who he was, was the minister of war in Iran, and, of course, he had immense authority and he had some influence, along with others, as to the purchase of helicopters.

At any rate, can you explain this situation? Textron's contribution to this hospital appears to have arisen solely because of General Toufanian's son's admission, with Mr. Atkins help and your knowledge.

Secretary MILLER. Mr. Chairman, I will tell you what I know about the situation. It's fairly well spelled out in the SEC report.

General Toufanian's son was—what?—an intern, I believe, a medical student in the Dallas area. I was aware he was there because I had attended a dinner when General Toufanian was visiting and his son was present. And Mr. Atkins, I cautioned him to be sure that we did not do anything other than normal courtesies for friends' children who were in the area, so that we would never have a chance of being misunderstood.

That is why I believe he told me that he was serving as a reference for Dr. Toufanian to get into residency. It also shows in the record that two of my associates seemed to have been present at a later time, at a disassociated time, when Mr. Atkins mentioned to me that he was being asked to contribute for the company, to make a contribution to the medical foundation in the Dallas area that included this hospital that you're talking about.

It's reported that my reply was that any such matter should be taken up separately and on its merits and that's the only way it could be considered. I don't recall having said that, but it would be self-serving for me to remember saying it.

So, I just point out that their impression was that I said that if there was going to be any contribution to anybody it would have to be solely on the merits.

Mr. Chairman, I want to go ahead and fill in and tell you about charitable contributions because it's one of the areas which, many years ago, was an administrative problem, because what happens in corporations I suppose happens in your family. Everybody knocks on your door wanting charitable contributions. All your friends want you to give to their colleges, their schools, their hospitals. That's true of corporations as well as individuals.

And so, to avoid the pressures on senior management to always be looking at these kind of things, we set up a rather complete procedure with a separate charitable contribution committee with personnel who were staffed with a permanent administrator so that we could review the many, many applications we received so we could review the budgets that were submitted to the divisions each year and so we could keep separate from pressure on senior officers or directors the constant claims upon the budgets of the corporation for charitable giving.

This record shows that in due course Mr. Atkins did make a recommendation for a contribution, as you say, of \$100,000 over 3 years to this medical foundation. It shows that it came through the vice president; he approved it and pushed it and forwarded it to the charitable contributions committee whose job it was to check every such contribution, make sure that the organization was meritorious, that it was sound, that it was approved, that it was in good standing, and that it served a charitable purpose that was consistent with our policy, which was mainly to help organizations that were in areas where we had employees. This all happened.

The next administrative step was to bring it from the charitable—incidentally, I was not involved in any of that—it came to the administrative committee, which was made up of senior officers and it was on the agenda. I attended that, and it was approved. Then it went to the board of directors, to the executive committee, and was approved.

So, it went through a jillion hurdles, and, as far as I know, in all those hurdles, it was treated—and incidentally, that foundation covers a number of very important medical facilities in the Dallas area which serve a large number of Federal employees. So, it seemed to be a meritorious situation. It was unrelated to any reference that Mr. Atkins may have given for Dr. Toufanian, and I don't see how that could have had any effect on the institution.

I have often given references to friends' children to go to universities, and whether or not I give contributions to the universities is certainly unrelated.

The CHAIRMAN. All right, sir, let me read from the record, and then let me briefly specify the facts that make it a problem. This is on page 94:

On or about December 17 and 18, 1973, Miller and Robert Ames visited the Bell plant with other Textron executives to participate in a two-day Textron review of Bell's operations. During this visit, Atkins took Ames and Miller aside to inform them that a decision had not been rendered by the medical school on Toufanian's application and that some time in the future, we, Bell, might want to consider making a contribution to the Southwest Medical Foundation, because I had learned a little bit about it and thought it was a worthy cause.

According to Atkins, Miller replied that "A contribution is something we should consider at the appropriate time on its own merits." The discussion ended.

In his appearance before the staff, Miller did not recall this conversation.

He goes on to say the medical school approved Dr. Toufanian's application by the end of December 1973. The contribution was then made in April of 1974 by the corporation. Atkins learned of Dr. Toufanian's admission. He telephoned Atkins to thank him for his help.

That certainly seems to be—perhaps it's not a coincidence. How many contributions of this size did the corporation make to medical schools?

Secretary MILLER. We made very few of that size, and we never do it in 1 year. Notice this one was spread over 3 years, because we wouldn't make that size contribution in 1 year.

Mr. Chairman, the only thing I would say about this is this has been looked at by both these investigations. The Textron special committee found no impropriety, and the SEC did not include it in its Complaint, which would indicate to me that both these investigations concluded that this was not a situation that involved any impropriety.

The CHAIRMAN. These things are always a matter of judgment.

Secretary MILLER. We have two independent ones looking at it, in this case.

The CHAIRMAN. I asked you was there any other contribution by Textron or by Bell to a medical hospital of this size during this period or in the preceding 3 or 4 years or the following 3 or 4 years?

Secretary MILLER. Let me tell you about Textron's philosophy on charitable giving. The highest priority was given to United Way programs in the communities where we had employees and where we had the most employees got the most contributions.

Second, there was support for education, mainly through scholarships for children of employees and especially for minority children and matching contributions to encourage employees to give to educational institutions.

There was always a look to balanced support for cultural activities, for medical activities, where you were more likely to see large capital kinds of contributions than in annual giving. Over the years we had a large number of contributions to hospitals and medical systems, usually very erratic. The building program in Connecticut, we give one there; there would be a program somewhere else.

There were some divisions who gave \$1,000 or \$2,000 a year to local hospitals, but mostly medical facilities were periodic capital funds, sometimes multiyear contributions, as I recall.

I could go on down the list, but those were some of the kinds of priorities we looked at. And our staff had the duty to make sure we were getting balance and to make an analysis each year to see what percent of our contributions were going to what kind of activity to make sure we were not distorting our purpose of charitable support.

The CHAIRMAN. Was there any previous contribution to this medical school?

Secretary MILLER. I believe this was the first one.

The CHAIRMAN. Was there anyone subsequently?

Secretary MILLER. Well, I had left before this one was completed, I think. Let's see. This one started in what year? 1974—

The CHAIRMAN. 1974 was the first contribution. 1974, 1975, 1976?

Secretary MILLER. I don't know of any contributions since then. That would be consistent with the periodic kind of gifts we give.

The CHAIRMAN. It just seems to me that this is a very interesting coincidence, that the only contribution to this particular medical school was when the son of the head of the armed forces of Iran was applying for admission. As soon as he gets it, apparently that matter was discussed and called to your attention and within 3 or 4 months after he got admission, the first payment of a \$100,000 payment to the medical school was made.

Secretary MILLER. I don't think it's so unusual. I doubt that anybody had noticed Mr. Atkins as a potential donor until this happened, and I think he found out that it was a very worthwhile hospital and several others, a teaching facility, he probably found it to be meritorious. Undoubtedly, he was encouraged to make a contribution to someone who solicited, I guess.

The CHAIRMAN. The medical school didn't come to Mr. Atkins' attention until after Toufanian's son applied for admission.

Secretary MILLER. I think he found out about it, but I don't think that was the reason for the contribution.

Incidentally, may I say that I understand when that conversation took place, nobody had accepted anyone. I also understand—I have been told; I don't know if this is a fact—that there was no chance of Dr. Toufanian's being accepted, but someone who'd been accepted decided not to come, and he was just fortuitously put into the slot.

My understanding was they had already turned him down and that his appointment was only because another person—I have heard that; I don't know if it's true.

The CHAIRMAN. I'd like to focus on a payment of \$310,000 that was made to a senior military official in Ghana in connection with a \$1.6 million sale of two Bell helicopters to the Ghanaian Air Force in 1976.

We discussed that, but I'd like to get into some real detail on it.

As you recall, the committee was concerned that questionable payments were made and I asked you in the January 24 hearing to report back the details—I am quoting now—"as fully as you can on the transaction and the activities of Bell sales agents in that deal."

You assured the committee that you personally looked into the Ghana sale and that no Bell Helicopter officer knew of it. "Bell Helicopter officers themselves had rejected it," you said.

Now the SEC report and the report of the Textron special committee presents evidence in testimony that shows that the report provided to the committee was neither complete, nor accurate.

The SEC report shows that Bell structured a \$300,000 bribe to a senior military official of the Ghanaian Government in connection with the sale of a \$1.6 million helicopter.

Why didn't you insure that the committee was made aware of the Ghana bribe at the time, especially since the committee specifically asked you about the Ghana transaction?

Secretary MILLER. Mr. Chairman, I'd like to turn, if you'd just bear with me a moment, to my testimony at that time.

Let me once again say that following the January hearings, my associates did, as I understood it, put together information for me on this subject.

I also believe at the time I came back in February, that I reported what I had learned, which was obviously second-hand. And I believe the context in which I reported to this committee was one in which the information was incomplete and that it obviously, therefore, needed investigation, which I assumed would go forward because several investigations had already started.

I gave the following statement, I think, in response to a question from Senator Brooke.

Senator, I learned of that situation in the hearing on the 24th when I looked into the story, which is as follows. I outlined what I then knew.

At the end of that I said, in my opinion, that was not handled properly. To my mind, it should have been surfaced through the top management of Bell and should have come to my attention.

I don't know at this point that anything wrong was done. It was a strange transaction.

I think it was wrong and I would not approve it. I did not know of it. I regret and apologize to you that we didn't find that incident and surface it. We should have.

Going on, on the surface, I don't like it at all. I don't see that Bell Helicopter people got any benefit from it. But I don't know why, after we've already rejected the order, they had it rebilled and accepted.

So I'm saying I don't know yet the answers. But to me, it looks like it's wrong. And I think that that was the context in which I was reporting.

But I hope that that was the way that it was understood because, as I understood it, I could not have in that time have run down the payment. As I say, outside counsel was still proceeding, as I understood it, to make a deeper investigation.

I did not have all the answers. I was disturbed by it. I apologize to the committee for not having known about it.

The CHAIRMAN. The SEC report shows that James Atkins, Bell's president, and Frank Sylvester, Bell's vice president for international marketing, and Theodore Treff, Bell's treasurer, certainly all senior officers of Bell, all were aware that the Ghana transaction was eventually approved by Bell and was structured to facilitate a payment to a foreign government official.

You testified earlier that had a questionable payment to a government official been made, and I quote, "That should have been surfaced through top management of Bell and should have come to my attention."

Secretary MILLER. Absolutely.

The CHAIRMAN. How do you explain the fact that senior officials of Bell who reported to you did not bring your attention to the Ghana bribe?

Secretary MILLER. I don't think that I was given a candid and full report at the time that I reported to this committee. And I'm disappointed by it and surprised.

The CHAIRMAN. Why didn't you make sure that the committee was given full information?

Secretary MILLER. Senator, the purpose, as I saw, of the committee was to examine my credentials. I was absolutely clear and was able to state to you under oath, as I do now, that I did not know of that transaction. I was able to state to you that, in my opinion, it was not properly handled.

I was able to state to you that I did not know why, and it should have been handled differently.

So I don't know that I ever undertook to do an SEC-type review, or a special committee type review. I intended to inform you what I discovered was what I thought you needed to know, that we had an improper transaction for which further investigation would have to be put forward to find out who, what, and why.

The CHAIRMAN. When you testified on the Ghana transaction January 24, 1978, you were requested to report on the Ghana transaction. And the next day, January 25, a Textron employee destroyed a document called for by me which showed that a bribe had to be paid in Ghana to make a sale.

The SEC report says that you did not make any personal inquiry into the Ghanaian transaction referred to at the hearing.

Your testimony before the SEC was that you were too busy winding up your office as chairman of the conference board and chairman of the Polish-U.S. Trading Council.

In light of the subsequent facts that we now know about the Textron bribe in Ghana, how would you rate your response to the committee's request for information, then?

Secretary MILLER. This one, Mr. Chairman, I just have to disagree. If I had gone to Fort Worth personally and started pulling out file cabinets, I don't think I could have gotten any more information.

We had three different inquiries going forward: One by the internal auditors of Bell; one by the chief counsel of Bell; and one by outside lawyers.

And I don't believe my going forth personally and trying to interview people would have surfaced any more.

The CHAIRMAN. Why couldn't you pick up the phone and talk to these people?

Secretary MILLER. I did talk to them and ask them to get the information for me. The names of people that I did not know were involved, it would be hard for me to talk with because only now do I know these people had any knowledge of it.

I did not know at that time who had knowledge of this.

The CHAIRMAN. Well, the logical person would be the president of Bell or the vice president of Bell.

Secretary MILLER. I did talk with them and they were the ones getting this information.

You'll find in this record of the SEC, Mr. Atkins got back to Fort Worth. He called me.

The CHAIRMAN. Here we have the assertion by the SEC that this man you talked to, Atkins and Sylvester, these two men you talked to, as well as Treff, all were aware that the Ghana transaction was eventually approved by Bell and was structured to facilitate payment to a foreign government official.

They knew it.



Secretary MILLER. Senator, I'm not sure, you know, what the implications are because I had no personal resources to carry on an investigation of my own, personally. I had no responsibility.

The CHAIRMAN. What I'm getting at is whether or not these people deceived me?

Secretary MILLER. Yes, I think I did not get a candid report.

The CHAIRMAN. You asked them and they told you something that was not true?

Secretary MILLER. I don't think that I got a full and candid report at the time my report was made. I did not think it was false because my clear indication to the committee was that this was not yet resolved.

The CHAIRMAN. But it seems to me very puzzling as to why these people didn't give you a candid report. After all, when your nomination was pending, a vital part of your life, and these people were your top officials in one of your principal subsidiaries, they should have been responsible to you to tell you the truth, under those circumstances, especially.

Secretary MILLER. Perhaps they were embarrassed by the situation. Perhaps they were falsely thinking that wasn't relevant to me because I wasn't involved in it.

I don't know.

I mean, I was not involved in the Ghana transactions. Perhaps they were just feeling that it wasn't the highest priority for them.

I cannot explain it. I would mislead you if I thought I could give you the answer.

The CHAIRMAN. According to the SEC report, Williard R. Gallagher, who was Textron vice president for international—that's Textron—testified to the SEC that he had reported directly to Textron's executive vice president frequently discussed business matters with you.

Mr. Gallagher said that he knew in 1975 that Bell sales agency for the United Arab Emirates was owned by Dubai's secretary of defense.

Mr. Gallagher also sent in 1975 a copy of the letter about the ownership of sales agent, Robert Ames, who was Textron's vice president overseas for Bell Helicopter and reported directly to you.

Mr. Ames testified that he was concerned in late 1977 about Bell's United Arab Emirates dealer and possible violation of the Foreign Corrupt Practices Act.

The SEC report said that Mr. Ames also testified that he told Tom Soutter, Textron's general counsel, of his concerns. The issue was raised by Mr. Suiter by other Textron officials in late February 1978.

James Atkins, president of Bell Helicopter, told the SEC that he was also aware of the problem with the UAE sales agent in February of 1978.

Between 1971 and 1975, about \$400,000 in commissions were paid by Bell to its agents there. It's clear from the SEC report and testimony that those officials were in close contact with you, did have knowledge or were informed of the likelihood that the commissions paid on United Arab Emirates sales were going to foreign government officials.

So let me ask you: Did you ever ask any of those officials whether they knew of payments being made in the United Arab Emirates or any other country by Textron?

Secretary MILLER. The question specifically is did I ask them about UAE? I certainly don't recall it. I'm quite certain that they did not inform me of any such knowledge.

It appears from the record that this became something they became aware of and began to look into.

They did so, I gather, mostly after I left the company, as I read this.

Is this correct?

The CHAIRMAN. Ames and Soutter were senior officials, were they not?

Secretary MILLER. Yes, no question.

The CHAIRMAN. Well, they didn't seem to look into it.

Secretary MILLER. I was just looking for the dates when they found out about this, whether I was with the company or not.

The CHAIRMAN. December 1977. That was after.

Secretary MILLER. The dates I'd have to check, but they did not discuss it with me. They were senior people. They apparently were concerned and beginning to look at it, but they did not discuss it with me.

The CHAIRMAN. How do you account for the fact that these top people with this knowledge, Textron people didn't discuss that with you?

Secretary MILLER. I'm not sure that I should speculate because I don't know why. I suppose either because they expected to take it up in their own channels and correct it, or find out about it, or clarify it.

I don't know.

It's foolish for me to speculate. I just don't know.

The CHAIRMAN. You see, that doesn't seem to square with your standards that you testified when you appeared before us as follows: "I have insisted that I be fully informed about any question of ethics that comes up in these matters. I suppose that my associates would say that I have on occasion been too much involved with details of the business because I consider it essential to be vigilant. I do not seek to be protected; I seek to be involved so that I can guide our officers in a way that will protect them from making mistakes."

Now in view of that, it's hard for me to understand if that is the policy, why they didn't report this to you?

Secretary MILLER. I think the senior officers you're talking about maybe—I'm just checking.

The CHAIRMAN. Suiter and Ames.

Secretary MILLER. Found out about it in 1978. The others who found out about it were probably not in the chain or did not realize its implication.

I don't know. I agree with you. It is somewhat distressing to me.

The CHAIRMAN. Can you tell us what you know about the United Arab Emirate payments?

Secretary MILLER. I know nothing about them and I don't recall having any knowledge about any helicopter sales or payments to the UAE.

The CHAIRMAN. Now the SEC reports shows that top Bell Helicopter officials, including president Edmund Ducayet, Hans Weichsel, who was Bell's senior vice president, Frank Sylvester, Bell's vice president for international markets, knew from at least 1971 that the commissions paid on military sales from Morocco would be shared with Moroccan Government officials.

About \$100,000 was paid to Bell's Moroccan sales agent in 1974, the SEC said.

Now here's another case where top Bell officials, including Mr. Ducayet, who reported directly to you, knew of questionable payments.

Did you play any role at all in the Morocco sale?

Secretary MILLER. No, sir.

The CHAIRMAN. Did you ever ask any of the officials whether they knew of any payments being made to Morocco?

Secretary MILLER. Well, Senator, that kind of question, the answer is "no." But I'm afraid it's not the usual way to proceed, to list a series of countries and ask someone if they know.

The reverse is usually the way I proceeded. We must see that we have no improper payments and you must inform me if you know of any.

That would be ones in any countries. I don't think I ever specifically asked anyone, do you know about Morocco, do you know about here, do you know about there?

The CHAIRMAN. How do you account for the fact that Mr. Ducayet didn't discuss this with you? Did you mistrust him?

Secretary MILLER. I can't account for that.

The CHAIRMAN. Remember, when you testified last time, you said that you hired trustworthy executives, ones that you could rely on.

Secretary MILLER. I remember that I did so.

The CHAIRMAN. What happened in these cases?

Secretary MILLER. I think that these statements in the SEC report are ones that are new to me. I saw them for the first time last Tuesday.

As I told you, when I read this, I was very distressed. These executives were long serving with Bell before they came to Textron. I believe them to be reliable and I would want to hear their side of the story before I would judge otherwise.

But it did disturb me to read this.

The CHAIRMAN. Let me ask you this: If you were still the head of Textron, what would you do with these people? Would you fire them?

Secretary MILLER. Well, Senator, if the cases of breach of our standards in terms of improper payments were demonstrated to my satisfaction as being correct, I would feel that that was cause for disciplinary action, depending on the degree of involvement and knowledge.

It would include discharge.

The CHAIRMAN. Mr. Secretary, Bell paid \$275,000 and \$200,000 in 1975 and 1976, respectively, to Omani Government officials in connection with the sale of helicopters to that country.

The SEC report presents evidence that Bell officials knew that the sales agent Bell had in Oman was operated by government

officials and that questionable payments to government officials had to be made if the sale was to be completed.

Those Bell officials included D. Mitchell, Hans Weichsel, Bell's senior vice president, Frank Sylvester—Mr. Weichsel and Mr. Sylvester were both senior Bell officials in contact with you.

Did Mr. Mitchell, Mr. Weichsel, and Mr. Sylvester ever discuss with you the questionable payments made in connection with the Omani sale?

Secretary MILLER. No, sir, they did not.

The CHAIRMAN. Did you ever discuss with any of these officials questionable payments made in Oman?

Secretary MILLER. No, sir.

The CHAIRMAN. What do you know about the Oman sale?

Secretary MILLER. I was not familiar with it at all.

The CHAIRMAN. Who did Mr. Weichsel report to?

Secretary MILLER. In the time frame that we're talking about here—

The CHAIRMAN. 1975-76.

Secretary MILLER. Mr. Atkins, the president.

The CHAIRMAN. He was a senior official, right?

Secretary MILLER. Very, yes. He was a senior vice president, as I recall.

The CHAIRMAN. In 1973 and 1974, Bell paid a total of \$40,000 that went to top officials in the government of Sri Lanka in connection with the sale of Bell Helicopters to that country.

The SEC report states that Hans Weichsel, Bell's senior vice president, approved these payments to Sri Lanka and was instructed to approve these payments to the Sri Lanka Government officially.

Weichsel, as I have just said, is a top Bell official with whom you were in contact. Did Weichsel or any other Bell official ever discuss with you the question of payments to Sri Lanka officials?

Secretary MILLER. No, sir, they did not.

The CHAIRMAN. Did you ever discuss with Mr. Weichsel that questionable payment?

Secretary MILLER. No, sir.

The CHAIRMAN. How much contact did you have with Mr. Weichsel?

Secretary MILLER. Mr. Weichsel was quite a senior person at Bell, and I would say that my visits to Bell Helicopter—it's a very large division. Perhaps three times, maybe more times a year or on other contacts. I would see him on business reviews, business sessions that often, and have considerable discussions with him and reviews of business strategy.

He had sort of an overall look at the strategy on product development and overall marketing and was a very key person.

The CHAIRMAN. Now the SEC report says that Bell paid \$60,000 to the Dominican Republic Government officials in 1977 who were responsible for clearing the sale of Bell Helicopters to that country.

D. Mitchell, Bell's sales manager, who reported directly to Mr. Sylvester, Bell's vice president for international marketing, Mr. Sylvester, testified to the SEC that he understood that a payment would have to be made to government officials in connection with the purchase.

Could you tell the committee what you knew about the questionable payment to the Dominican Republic, if anything?

Secretary MILLER. I knew nothing, sir.

The CHAIRMAN. Mr. Sylvester was the head of Bell's international marketing department. What were your contacts with Mr. Sylvester?

Secretary MILLER. Yes, he's the one I mentioned a moment ago.

I would see him less frequently than someone like Hans Weischel. But he would be at a number of our meetings during the year. Not always, because sometimes our meetings would discuss research or engineering or other areas.

But any time he came in to review overall outlook or 5-year plans, the international marketing would always be a part of it. They would have a place in the program, and he would report to and inform me.

I would also see him, if I attended, as I occasionally did, sales conferences or airshows, where we demonstrated our aircraft.

The CHAIRMAN. Would you classify Mr. Sylvester as a senior official?

Secretary MILLER. Yes. Of Bell Helicopter, not of Textron.

He would be a third layer executive. The president would be the top. Then you had some senior vice presidents and he would be reporting to one of those senior vice presidents at a third level.

The CHAIRMAN. Mr. Miller, it's been a long day for you, I'm sure. I must say that your demeanor has been exemplary.

I'm sure it's been very, very painful and difficult for you. But you've been very responsive and I think I've rarely seen a witness who's conducted himself better under tougher circumstances than you have.

And I really mean that.

But there's one fundamental fact, in conclusion, which has come out of this morning's hearings which is uncontested, but which was contested at the original hearing.

No one now contends—or contests, I should say—or questions the fact that bribery did take place. It's not an allegation now; it's a fact.

Not only that, but there was the context in which it occurred. Officials in almost every country, and I'm talking about Bell officials, knew that it was taking place.

Officers in virtually every American company, especially those selling overseas, knew it.

Your company operated both in products where it was most notorious. We all know that there was not only bribery paid by your corporation, but there were bribes paid by Lockheed, Grumman, Boeing, and we could go on and on.

Now you repeatedly said in the past, seven, or I should say as late as your press conference of a week ago today, that senior officers, according to you, did not know it.

It's now clear that senior officers did know it. Bribery took place. It took place in spades. It took place repeatedly in your company.

Therefore, while it is regrettable, it is nonetheless true and beyond question that your original testimony to this committee was incorrect, erroneous, false, misleading.

The real issue is not whether your testimony was erroneous, false, incorrect, or misleading, but whether you knew whether it was false, erroneous, incorrect, and misleading.

That's the issue we're trying to winnow out through these hearings. It's an issue which is exceedingly hard to resolve under the circumstances.

We have a situation, however, where \$5,400,000, at least, was paid in bribes. The 14 bribes were paid, paid in a number of countries—10 countries.

There was a failure to investigate, 11 employees who could cast further light took the fifth amendment. They may well have been unwilling to testify because if they had, it would have disclosed information that would be vital to our consideration.

Some documents were destroyed. And we come to the point that's extraordinarily tough because, on the one hand, you're an official of the greatest importance to our country. You have great authority. It is most important that you be able to operate without operating under a cloud.

But at the same time, we have an obligation to do our best to get all the facts. As you say, you have been investigated by the Securities and Exchange Commission, been investigated by the Justice Department. The Securities and Exchange Commission found nothing against you, although they found very considerable criticism of your corporation under your management.

The Justice Department has not completed their investigation, apparently, of Textron, but they've completed their investigation of you and have said so.

Here, as I said this morning, there is a perfectly colossal conflict of interest, a situation where, with an attorney general of great integrity and toughness and honesty, and certainly Mr. Civiletti has those qualities, nevertheless, it's very hard for the American people, it seems to me, to believe that he can act without a conflict of interest that would make it difficult in this election year for his view, for his position, to be accepted.

So that I feel, under the circumstances, there should be a special independent prosecutor appointed who should have the authority to act on this.

I think this is precisely the kind of situation for which a special independent prosecutor was created. I can't think of a situation where it would be more appropriate.

We have a mountain of circumstantial evidence. We have absolutely no direct evidence involving you.

But I think that the best and most reliable way that we can handle this situation is to have an independent special prosecutor.

Again, I want to commend you on your demeanor and your responsiveness and the way you've conducted yourself under the most trying and difficult and painful circumstances.

Secretary MILLER. Thank you, Mr. Chairman. I appreciate the way in which you've conducted this hearing. I think it has allowed us to use a forum where we can explore objectively the questions that are of concern to me and are of concern to you.

I've learned a lesson. I hope it will serve me well. I shall try to make it serve me well, though I would not like to endorse every

statement made here today in terms of the implications of the facts.

But I recognize the difficulty that you're struggling with and I appreciate your cooperation.

The CHAIRMAN. Thank you very much.

The committee stands adjourned.

[Whereupon, at 4:20 p.m., the hearing was adjourned.]

[Additional information ordered inserted in the record follows:]





## APPENDIX

### JUSTICE DEPARTMENT CONCLUSION

U.S. DEPARTMENT OF JUSTICE,  
CRIMINAL DIVISION,  
*Washington, D.C., November 6, 1980.*

Hon. WILLIAM PROXMIRE,  
*Chairman, Committee on Banking, Housing and Urban Affairs,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: On March 11, 1980, Attorney General Benjamin R. Civiletti responded to your February 13, 1980, request for a special prosecutor to investigate whether Treasury Secretary G. William Miller committed perjury in 1978 before the Senate Banking Committee during hearings on his nomination to be Chairman of the Federal Reserve Board. In the Attorney General's March letter, he recited the history of the Justice Department's investigation into this matter, noting specifically the problems inherent in overseas payments investigations. He further advised you that the Department would complete its investigation with all possible speed and report the results to you in such detail as the rules of grand jury secrecy allowed. The investigation is now complete.

The Department's investigation, insofar as it related to Mr. Miller, focused on five primary allegations:

(1) Whether Mr. Miller committed perjury when he denied knowing that General Khatami was a part owner of Air Taxi, Textron's agent in Iran.

(2) Whether Mr. Miller participated in obstruction of justice in connection with the failure of Textron, Inc. to timely furnish to the Committee a March 1971 memorandum identifying General Khatami as the real interest behind Air Taxi, which memorandum had been subpoenaed by the Committee.

(3) Whether Mr. Miller committed perjury when he testified that he was not aware of any bribery in connection with a sale of helicopters in Ghana.

(4) Whether Mr. Miller participated in obstruction of justice in connection with the destruction of a memorandum by a Textron employee, which memorandum discussed the necessity of paying a bribe in Ghana.

(5) Whether Mr. Miller committed perjury when he testified that Textron did not engage in foreign bribery.\*

All of the individuals who invoked their Fifth Amendment privilege against self-incrimination before the Securities and Exchange Commission have now been granted use immunity and their evidence has been taken.

Further, the Criminal Division lawyers conducting the investigation have followed all relevant leads and their efforts at gathering evidence here and abroad have been completed. Extensive analysis of this evidence was conducted. Every possible theory of prosecution was explored with respect to the facts as developed.

Since March of 1980, twenty witnesses have given evidence, in addition to the thirty-five witnesses who had given evidence previously.

During the course of our exhaustive investigation, no evidence has been developed which substantiates any allegations of criminal conduct by Secretary Miller.

As the Attorney General promised in his letter of March 11, 1980, should you so desire, we will make available to the Committee the investigative record to the extent we are permitted to do so by law. To this end, the Criminal Division is prepared to brief you privately, to the extent permissible under Rule 6(e) of the Federal Rules of Criminal Procedure.

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\* In addition, our inquiry included investigations of possible criminal conduct by a number of Textron and Bell Helicopter employees as well as the corporate entities, in connection with possible charges of perjury, obstruction of justice, and contempt of Congress arising out of the 1978 Senate Banking Committee Hearing, the 1980 Senate Banking Committee Hearings and the Grand Jury proceedings.

I am confident that the thoroughness of the Criminal Division's investigation will allay any concerns you may have had with respect to this matter.

Very truly yours,

PHILIP B. HEYMANN,  
Assistant Attorney General,  
Criminal Division.

[The following excerpts from the earlier hearing before the Senate Banking Committee on the nomination of Mr. Miller, dated February 27 and 28, 1978, are reprinted at the request of Senator Riegle:]

\* \* \* \* \*

#### OPENING STATEMENT OF SENATOR RIEGLE

Senator RIEGLE. Thank you, Mr. Chairman. I was not present when the hearing began this morning and you made your statement, so I would like to just briefly make a comment of my own before addressing some questions to the witnesses if I may.

First, I want to make it clear that I have the highest regard for both the chairman of the committee as well as the professional staff and I think they proceeded with great diligence in pursuing the matters that are before the committee at the present time.

I myself have expressed some reservation and some concern last week that I thought our investigation, while thorough and proper, was beginning to become—and the term I used at the time—was very close to a fishing expedition, and I thought that then and I think now and that in no way however detracts from the facts that others here feel differently about it and feel the fact that these questions have to be pursued really at great length, and I have no objection to that being done, though that doesn't mean that I hold the same opinion.

I think the basic issue that we are facing here and I think we can track this particular issue for additional weeks and months probably because going back and putting the pieces together on the transaction that's a decade old is never an easy thing to do, but I think the basic issue that's before the committee is the question of William Miller's integrity and whether or not he's a person that is honest and is a person who is properly suited by background and capacity to be Chairman of the Federal Reserve.

I have taken a close look at that issue—his personal history, professionally, and his private life, his activities at the community level and other things—and I find it very difficult to find even the beginning of a basis for reaching a judgment that the man would not only be dishonest but would come before our committee and lie. And that really is at the heart I think of what we are endeavoring to do here, is to try to find out if in the end Mr. Miller—I think a man of considerable reputation—has at this point in his career been willing to in effect come here and make false statements in behalf of his nomination to be chairman of the Federal Reserve.

Now that's not the way today's inquiry is being postured, but that's really the basic question—as to whether or not this man is honest and forthright in terms of the representations that he's made to the committee.

I'm really much less interested in the discussion among the people here at the table, although it's interesting, than I am this basic question of the integrity and the honesty of Mr. Miller because after all that's presumably why we are here.

And so far, at least I have not seen nor heard a scrap of information by anybody that suggests that Mr. Miller has not been honest and not been forthright with this committee.

I might say that if I ever find that that's the case, there will be no one on this committee that would be more vigorous in their opposition to his nomination than I would be, but failing that finding, I guess there comes a question in my mind as to how long one is prepared to put forward and leave standing really a profoundly negative presumption about somebody's character and good faith.

It seems to me that after a while it takes something quite substantial to be willing to put forward, even if it's done silently, the presumption that a man basically is a liar and—

The CHAIRMAN. Would the Senator yield?

Senator RIEGLE. I will in just a second—that he would have come here and committed perjury and that's the way I see it. I see that as the question—as to whether or not Mr. Miller has been truthful to us. I happen to believe, based on my best judgment, that he was truthful to us. Nobody can prove that beyond any question whatsoever, but in the end we will have to make our judgment, but that's

the basic judgment that I have reached, barring some clear finding of fact that would in effect set aside an entire work career and professional career of a person who has been active in his community and on the State and national scene for decades.

So I want to make sure that we keep what we're doing here in some kind of perspective because in the end that's the question that seems that we have to come to and resolve because that's really the issue—not whether or not, for example, these particular arrangements did or did not take place and how one reconstructs this history based on the ability of one witness at the table to reconstruct events at that time versus another. I'm not saying they are not important and I'm not saying that I don't feel that it's necessary to track this through and it's not being done in a proper manner, but what I'm saying is that its final relevance in my judgment relates to the issue that is before us, and that's the question about Mr. Miller. It's not a question about Mr. Bell or Mr. Duayet or Mr. Jose or whoever, in my judgment. I think the issue is profoundly a question of Mr. Miller and, of course, I do yield to the chairman.

The CHAIRMAN. May I say to my good friend from Michigan, for whom I have great respect and admiration, that I don't know how in the world this can be characterized as a fishing expedition. In the first place, there was a specific motion by Senator Heinz that we investigate a particular act, and that's entirely what the committee has been confined to.

Now a fishing expedition would be quite different. I call to the attention of the Senator a letter that's been distributed to all members of the committee dated February 22, from the Securities and Exchange Commission Chairman. He points out there are four specific areas in which they are investigating Textron and Miller, including the use of push money, salary contributions and other promotional proxies by another Textron subsidiary, including the instances of overbilling, underbilling and other billing practices employed by several divisions of Textron to accommodate their customers, including with respect to informational regarding numerous proceedings brought by Federal and State governmental authorities regarding alleged employment discrimination on the basis of race, sex, age, religion, and so forth.

Mr. Williams says there could be other inquiries too that they are going to engage in.

Now this committee isn't going into these things. We haven't authorized—at least not so far—we haven't decided that we are going to investigate that at all. There's no fishing expedition here that I can see at all.

Furthermore, there is no presumption by any Senator here—there's certainly been no presumption by the staff—that Mr. Miller is a liar or that we want to prove that he's a liar or anything of kind.

The fact is that we have this information that General Khatami owned an interest in Air Taxi. We have information that this was known to some extent at the time and we have a duty, therefore, to find out what all the facts are and question Mr. Miller on it. Mr. Miller is going to have his day in court tomorrow.

Senator RIEGLE. Mr. Chairman, if I may respond—and then I'll be happy to yield to the Senator from Massachusetts—first of all, I think the chairman knows the great personal regard I have for him so my comments are not to be taken in any light other than that. I have read SEC Chairman Williams' letter and it is true that they are undertaking certain inquiries about Textron, but they are not—and I'm being very careful about the choice of words here—investigating Mr. Miller per se, at least insofar as I know.

The CHAIRMAN. He was the head of Textron. He was the chief executive officer.

Senator RIEGLE. We are also talking to people here who were at Textron who were directly involved in one form or another with the matter we are discussing, but as far as I know there isn't any evidence that I have seen or the committee has assembled—and if there is I would like to hear it now—that ties Mr. Miller, not somebody else but Mr. Miller, to this activity; and I'm just saying in the absence of a shred of fact to that effect—and when he comes and makes assertions that he was not involved—it seems to me that our unspoken assertion here is that we expect at some point that we may find some link that would connect him directly to that transaction.

The CHAIRMAN. Well, there's no fishing expedition. As I say, we have all kinds of oceans to fish in and we are not fishing in them.

Senator RIEGLE. I would agree with the chairman and my exact quotation which was in the Wall Street Journal last week was that I said it had come very close to the point of being a fishing expedition, and what I meant by that and I want to say it again so nobody is confused about it—that is the issue in my judgment here—is the integrity, the honesty, the character of Mr. Miller, and the degree to which this

inquiry or any others that we want to propound finally comes back around as a cross-check on this basic question of Mr. Miller because we are not here to confirm these men as head of the Federal Reserve. We are here to confirm Mr. Miller.

\* \* \* \* \*

Senator RIEGLE. I can be very brief. There are two questions that I'd like to pose to the Textron people here, the people who were with Textron.

Do either one of you, as nearly as you can remember, ever recall getting any indication from Mr. Miller either at the time when he was chief operating officer of the company or when he would be at a lower level than that—any indication from him as to his feelings about bribes or push money or any of these kinds of sort of under-the-table arrangements with people in foreign countries? Did he ever express himself in writing or verbally to either one of you that would give you some clear sense for how he felt about that kind of activity and what his predisposition toward it would be?

Mr. DUCAYET. I'm sure that Mr. Miller at various times and at many times probably has made it quite clear that he will not tolerate and Textron will not tolerate any under-the-table dealings, any shady dealings, any coverup work. We were expected to be the high quality company that they procured. We had good policies at the time.

Senator RIEGLE. Let me just stop you there. I don't think it's enough that you say that you think he said that. In other words, do you know for a fact he said that? Can you recall either a combination of times and ways that he would have said that or is this now a presumption on your part?

Mr. DUCAYET. No, I cannot recall specifically when it was said, but I'm quite sure that at more than one time Mr. Miller has made it quite clear that the policies of Textron would not tolerate such actions.

Senator RIEGLE. Well, do you think to the extent that you got that tone from him—did you think you got the tone when he was saying it one way that he was sort of winking at the same time to let you know, that, well, that was sort of the spoken code that, you know, over and beyond that, if it took a little bit of sort of wheeling and dealing to get a contract that was OK?

Mr. DUCAYET. No. That is exactly the reverse of that.

Senator RIEGLE. What was his reputation within the company? Was it as a hardnosed, straight-line sort of straight-arrow type, or was it that he was a flexible sort of a guy where just about anything that had to go would go?

Mr. DUCAYET. No. Mr. Miller was straight-nosed, if you want to call it that. He would never tolerate deviations or any dealings that were other than the policy of the company.

Senator RIEGLE. Do you know of any situations where he personally or through his involvement turned down a sales opportunity someplace where there was some kind of an under-handed component to it? Do you know of any?

Mr. DUCAYET. I know of no such question ever having been brought to him or his having turned it down.

Senator RIEGLE. Mr. Jose, do you have anything to add to either of those two questions?

Mr. JOSE. I didn't deal directly with Mr. Miller so I wouldn't have been in a position to hear it, but from knowing Mr. Ducayet and Mr. Atkins, there was no question in my mind about the way that we were expected to conduct ourselves and the kind of business arrangements that our company would retain.

Senator RIEGLE. What was Mr. Miller's reputation within the company from your vantage point?

Mr. JOSE. Mr. Miller was not the sort of man who would wink and say something.

Senator RIEGLE. In other words, his reputation was one of being direct and to the point?

Mr. JOSE. Direct and to the point and no funny business.

Senator RIEGLE. I certainly have taken enough time now and I look forward to another chance later.

\* \* \* \* \*

The CHAIRMAN. Senator Riegle.

Senator RIEGLE. Some years ago, I had the opportunity to work in an area called plant and lab accounting coordination for IBM, and one of the functions that I had at that time was to be a part of efforts to carry out certain auditing responsibilities, to try to find out if things that people said were so, were, in fact, so.

And the normal practice that I remember, and I think the practice that would logically apply here, is that in the first instance, when you're trying to figure out if something is right and proper, is you look at the facts of the case. Is there something that sticks out, that looks strange, that looks odd?

If the commission, for example, were an unusually large one in terms of a percent of the sale, if the commission were out of line, if there had not been an act of negotiation to sort of beat down the cost of the commission with the person who had been serving as the agent, if there was a failure of evidence in terms of an outside independent certification of ownership.

But, in this case, if I put myself in your shoes, looking at this particular transaction, the amount wasn't out of line the amount clearly was not out of line as a percentage or in terms of any kind of standard yardstick for commissions of sales of this size.

Secondly, had there been a tough negotiation on the commission? Clearly, there has been. It is obvious, from the history we've heard here, that there was a thorough, tough pressure applied here to keep this commission at a maximum. And percentage-wise 1/10 of 1 percent, it looks to me as if it was.

Thirdly, did you have some independent sense of who the owners were? Yes, you did. There was the independent certification of ownership by Dun & Bradstreet. It turns out that Dun & Bradstreet was misled.

It seems to me if Senator Brooke is correct, that Khatami owned part of Air Taxi secretly, that in the same way that Dun & Bradstreet was misled, it appears to me your own company was misled.

But if that is the case and if, in fact, there was a fraud, there was a fraud on the part of Air Taxi, not on the part of Textron. And that, to me, is the critical issue.

And when we take and we blur that distinction and we take whatever fraud that Air Taxi may have successfully carried off, not just against you but against Dun & Bradstreet, and to then make that serve as, in fact, an indictment of Textron, and we sort of work that along until we start impugning key corporate officers, we find ourselves finally in the situation that we are in. And that is through that kind of purported change of events we can end up drawing some very negative inferences and end up using the language that something is irregular and improper. And I think that is just phony.

In other words, if anybody wants to take the time to put these facts together in the sequence in which they occur, they were neither irregular nor improper, appearing on their fact. And there was substantial evidence that they were, in fact, regular and, in fact, proper.

Now, is one wants to assert that behind all of this that Air Taxi, through a very clever subterfuge, had a partner that was hidden from view, that may very well be so. Senator Brooke is satisfied that that is the case. Then it's interesting to me that Mr. Atkins, your president, based on what is still available to him, is not yet in his own mind convinced that that is so.

Perhaps that is just a difference of opinion, but it seems to me that when you look at the facts that you were being asked to take a look at, and you were doing it for a purpose, it was not that somebody cried out, "Do we have a problem?" As I understand it; you correct me if I'm wrong, it was not that somebody cried out and said, "We have a problem with the payment to Air Taxi."

What happened was you were in the middle of an SEC certification process, and, as a matter of course, it was required for you to go out and do sort of an examination, to take a look at each one of the items that would have to be talked about that would fit that time period that this certification process applies to.

And so you did that, and you went to the people who were involved. And on the fact of it, it all made sense. The amount was appropriate. There had been a tough negotiation. You had an independent verification from Dun & Bradstreet.

Now, how, with all of that information and this being just—this is not the only item we're paying attention to, but other things were going on at the same time—how you are to be expected at that point to somehow have the genius to figure out that even though everything was fine on the face of it that somehow something was not quite right here and that back in Iran Air Taxi, in fact, had a secret partner who somehow was getting a piece of this frankly undersized commission, if one looks at the size of the sale.

Now, I think that is an unreasonable presumption, quite frankly. I think for somebody to expect you to have that kind of sort of sixth sense to spot a possible fraud that had been concealed by Iranians is to ask something that I don't see, quite frankly, the Senate needs.

We as Senators don't have that sort of spectacular insight where we spot things like that where everything is fine and dandy, at least as to appearance on the surface.

The CHAIRMAN. Would the gentleman yield?

Senator RIEGLE. In just a moment, I will.

It's easy for me to understand that the people that have testified here, starting with Mr. Miller, or with Mr. Atkins today, could have great difficulty understanding

why it would be so easy for us to jump to a presumption that somehow everybody was in on the deal of perpetrating some kind of a fraud in this situation, because, frankly, as I look at the whole pattern of facts, it suggests just the reverse to me, and frankly, if the case has to hang to a very large extent on Mr. Bell as a witness, you know then I'm doubly troubled, not because he may not be truthful, but because he is not a disinterested party.

The CHAIRMAN. Would the Senator yield?

Senator RIEGLE. Yes, I will yield to the chairman.

The CHAIRMAN. You see, there is no point in this investigation at all. If you make the assumptions that the Senator from Michigan, as I understand him—and maybe I am unfair to him—makes.

The whole point in making investigations is to determine whether there was anything illegal. You have to inquire and determine whether or not that \$2.95 million payment was illegal.

Now, what does "illegal" mean? What does "improper" mean? Obviously, if it is on the basis that the various witnesses have described they thought it to be, then there is nothing to investigate.

But this was in the context of a letter that I wrote to Mr. Garrett, with which Mr. Soutter said he was familiar and was part of his investigation to investigate questionable payments.

Now, how do you investigate a questionable payment? You find out where the payment went, who got it. Obviously, if it simply goes to three people who are not officials, that is the end of it. But if you're going to conduct an investigation to determine whether it is questionable or not, it seems to me you ought to do more than just interrogate the three top people who were involved in this payment and who themselves have an interest in having the payment legal and proper.

It is hardly an investigation worthy of the name if you stop at that point and then if you don't go through the various documents that we did with the kind of investigation that our staff made in just a few days down there disclosed this.

Senator RIEGLE. I appreciate the point you're making, and let me pursue it, because I think we are right where we need to get to. And that is the question of whether or not it was a questionable payment or rather the appearance, whether there was any probable cause at that time to view this as a questionable payment, as if this was something that would sort of stand out as being out of the ordinary.

And, as I try to apply the test, as we have reconstructed this thing, that I think would flag it for me if I had been sent to do the investigation, if the size had been percentage-wise as a payment, as a commission, on the sale had been inordinately large, that would have been a trigger in my mind. If I had not had an independent verification from somebody like Dun & Bradstreet, that would have been another thing that would have been a red flag in my mind.

If there had not been a protracted period of negotiation, if the company had not been trying to beat down the agent here and reduce the size of the commission, that would be another thing that would stand out as a red flag in my mind.

But all three of those things were present. So, it seems to me that an auditor going in and an investigator going in and looking at this and finding that this package of facts makes sense and was coherent and did not have the appearance of being a questionable payment, that for one to then make sort of the leap of judgment and imagination to imagine that hidden agent is a hidden partner—I mean, I think that really stretches things.

The CHAIRMAN. Well, may I point out that the defense contract audit agency singled out this particular payment as one that they thought was unusual and bore investigation.

They singled it out. They thought it was sufficient. At page 296 of volume 3 of the hearings—

Senator RIEGLE. Well, whatever their particular view and whatever factor they were coming in on, I think what is more significant is what the internal auditor of the company being asked to take a look at this situation in light of the facts that we have just discussed, what is a logical presumption on that person's part?

Let me ask you this. I mean, based upon what he has testified that he knew, what would have flagged it for you? What would have flagged it for somebody on the committee staff at that point? I am just hardpressed to see what it would be.

The CHAIRMAN. Well, in the first place, they themselves—and I'm talking about Mr. Soutter—and Mr. Miller agreed—thought that this should have been investigated.

Senator RIEGLE. It had to be. The SEC requirements, I think, made it necessary that they examine this situation. Is that not correct? I understood that to be the case.

The CHAIRMAN. There was nothing mandatory. They did not have to investigate this if they thought it was a routine that did not require to be investigated. They decided they would. At any rate, they decided that, and I think that although the Senator has his view of that \$2.9 million payment, I have mine, and I think I've made it pretty clear in the course of questioning that I thought it was a payment that did merit inquiry.

Senator RIEGLE. Based on its size?

The CHAIRMAN. Yes, based on its size.

Senator RIEGLE.  $\frac{1}{10}$  of 1 percent?

The CHAIRMAN. Sure. In relation to the volume. Yes, indeed. In relation to the amount of work.

Senator RIEGLE. Well, it's 10 years of time. I mean, there's a buildup to the time that they finally closed the  $\frac{1}{2}$  billion order, and \$2.9 million as a percentage of that—I mean, maybe we just disagree on that, but that seems to me to fall very much within the bounds of reason. In fact, I think it is on the short side.

The CHAIRMAN. It was the largest payment on the largest contract they've ever made.

Senator RIEGLE. Are you suggesting that there were other  $\frac{1}{2}$  billion contracts and situations similar to this where there were smaller commissions paid? I mean, I don't know the history. Perhaps you know of some.

The CHAIRMAN. Well, we just discussed them. I had a \$28 million contract on which \$90,000 was paid.

Senator RIEGLE. But they said that was an altogether different set of case facts, and that is a lot different than a  $\frac{1}{2}$  billion order.

The CHAIRMAN. Well, General Toufanian said that in his judgment the Government of Iran would not pay costs measured as a percentage of sales, even  $\frac{1}{2}$  of 1 percent of a \$100 million transaction, which was  $\frac{1}{5}$  this size. It would be clearly disproportionate to real services and real value to the Government of Iran.

Senator RIEGLE. Well, I think they've also made the point, however, that they felt that there was a legal obligation here, that they have been involved in a contractual relationship for a long period of time, and that they felt they would have to go to court to settle this thing if they were not able to work out an agreement out of court, which they finally did, and the figure was \$2.9 million.

I'm simply saying that that figure, as a percentage of the volume of business, was of a size that would prompt one to say, on the face of it, that this looks phony. I'm just saying that it does not come close to meeting that test, at least in my mind.

If it were 10 percent, or if it were 15 percent, or if there were some other sort of strange nuance; if there had been a negotiation; then I think it would not smell right, and it would not look right. And therefore, I think you would derelict if we did not pursue it, if we did not find out why there had been negotiation, and if we didn't find out why the payment had been excessively large.

But I think within the pattern of the way this whole situation unfolded, I think this falls within the bounds of what an auditor would find to be a reasonable pattern of events.

The CHAIRMAN. Well, Senator Riegle, it all depends on how you look at this. You could argue that what you seem to be implying, that a small bribe isn't that important.

Senator RIEGLE. I'm not saying that whatsoever. I don't think any bribe is justified.

The CHAIRMAN. Well, again, you have to look back and examine what was done, and the judgment was—well, we've been over and over that. Unless you have more questions of the witness, I think we should conclude the hearing.

As the Senator knows, we have a long day coming up again tomorrow.

Senator RIEGLE. I just want to conclude by thanking the chairman for his patience. It is seldom that we disagree on things, and it is painful when we do, because I much prefer to be in agreement with the chairman than in disagreement. And I suspect that will continue to be the case once we get this particular issue resolved.

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#### STATEMENT OF G. WILLIAM MILLER, CHAIRMAN OF THE BOARD, TEXTRON; NOMINEE TO BE CHAIRMAN OF THE FEDERAL RESERVE BOARD

Mr. MILLER. Mr. Chairman and members of the committee, I do want to thank you for giving me this opportunity to be back with you today in order to clarify some of the matters that have arisen.

Let me say that when President Carter invited me to serve in this position, I looked at my personal life and at my business life, and I honestly knew of no circumstances that would in any way embarrass the President or the Senate or the

Federal Reserve or Textron or me or my family. I accepted his invitation on the belief that that was the case.

As you know, the allegations about Air Taxi came as a complete surprise to me. At the previous hearing I testified—and I want to confirm now—that I had no knowledge of any undisclosed ownership by Gen. Khatami in Air Taxi. I also stated then—and I would like to confirm now—that had such ownership existed and been known to me I would not have approved the contractual payments to Air Taxi.

In the course of this committee's investigation, there has been no suggestion that I knew of an undisclosed ownership. In this Air Taxi matter I dealt with James F. Atkins, the president of the Bell Helicopter Division of Textron, and there has also been no suggestion that he knew of any such undisclosed ownership.

In my opinion, Mr. Atkins is a highly competent executive and a person of honor and integrity. I believe that I was fully justified in relying upon him to handle the Air Taxi matter. He has testified here that he had no knowledge or reason to believe that General Khatami had an undisclosed ownership interest. He therefore could not have intended that any of the money paid to Air Taxi would go to General Khatami.

Likewise, at no time did I have any intention that payments to Air Taxi would benefit any military or civilian official of the Iranian Government or that such payments would be for any purpose other than compensation of a legitimate sales representative.

I think the witness this morning confirmed that that has been our policy and it continues to be our policy. It seems to me that I should not reasonably have been expected to discover such an undisclosed ownership under the circumstances. If General Khatami did have an undisclosed interest in Air Taxi, then Mr. Atkins and I have been deceived. Deception by others certainly should not be the basis for impugning the integrity of innocent parties.

A word about Textron. In 1973 I was president of the company serving both as chief executive officer and chief operating officer. There were then about 30 divisions. Bell Helicopter was one. There were 60,000 or more employees operating through about 200 plants and major facilities throughout the United States and in many countries of the world. The company was growing and has continued to grow. Supervision of such an enterprise is a demanding task, and it was necessary for me to delegate substantial responsibilities to corporate group officers and to division presidents. I also relied upon corporate staff.

The performance record of the company has been excellent. Textron endeavors to maintain the highest standards of conduct. This has been a subject discussed at every major management meeting during my 22 years with the company. The subject has been continuously covered at divisional review meetings, at controllers meetings, at executive training programs, and in a variety of other forums. Written statements and guidelines and special memos have been widely circulated. The record of corporate conduct has been good.

As might be expected in a company of such scale and scope, there have been a few instances of shortcomings. In such a large company, I cannot guarantee to this committee that there will not be isolated cases of noncompliance with company policy in the future. Textron employees are dedicated, competent, loyal, honest men and women, but it is inevitable that some individuals will fall short of their responsibilities from time to time.

To assure that Textron maintains high standards, there is a regular process of internal and external audit to verify compliance with company policies. There are also Government contract audits, GAO audits, Internal Revenue audits; we are audited as much as a bank.

For the past 2 years Textron has also required statements from over 1,000 key employees certifying as to the absence of any knowledge of illegal, improper or questionable payments. All these company procedures include as a purpose the detecting and correcting of noncompliance.

Textron management has strived to be diligent to its commitment to excellence. Textron's reputation is important to me, and I feel a great responsibility to its present 65,000 employees and 90,000 shareholders to maintain the company's good standing. I am therefore anxious to assist this committee in any way I can to reach a conclusion on this matter which I feel confident will confirm Textron's good name.

In the process, I hope I will be able to merit your affirmative judgment as to my own qualifications and integrity. Thank you very much.

The CHAIRMAN. Thank you very much, Mr. Miller.

Mr. Miller, when you testified before here the last time, you said, and I quote, "In 1973 or in 1969 before the law or after the law, I would be opposed to paying money to agents, money which goes to government officials buying goods from us."

Now that's an excellent policy. However, let's look at the facts.



First, General Khatami owned Air Taxi. Second, Air Taxi was and is Bell Helicopter's agent in Iran. Third, General Khatami and Air Taxi helped Bell Helicopter get its biggest contract, a minimum of \$500 million. Fourth, responsible management officials at Bell Helicopter were told that Khatami owned Air Taxi. So Bell Helicopter paid \$2.9 million a substantial part of which went to Khatami through Air Taxi.

To me, the facts ring loud and clear.

Senator SCHMITT. Mr. Chairman, will you yield at that point?

The CHAIRMAN. No. To me, the facts ring loud and clear. Textron bribed Khatami. In retrospect, Mr. Miller, do you believe everything you could have or should have done was to guard against improper payment?

Mr. MILLER. Senator, I disagree with everything you said.

The CHAIRMAN. All right. In the first place, General Khatami owned Air Taxi.

Mr. MILLER. I have no knowledge of that. I have heard no testimony and I see no evidence to that effect.

The CHAIRMAN. Have you read the record we have provided here?

Mr. MILLER. Senator, I am not going to defame a dead man. I have no such knowledge.

The CHAIRMAN. Have you had a chance to read the record that we have provided here?

Mr. MILLER. The stack of books? Of course not; no, sir.

The CHAIRMAN. Well, then, how can you make the flat—

Mr. MILLER. I'm here to testify about myself, sir.

The CHAIRMAN. Well, I'm not asking you whether you knew at this point.

Mr. MILLER. I see. Well, Senator, if you know that he was an owner, you know something I don't know. I say that's a statement and I accept it. But I don't know that he was an owner and I do know my company did not bribe anybody. You're saying we bribed General Khatami, and that means that Mr. Atkins or I must have had an intention to do so. Bribery does not exist if somebody surreptitiously obtains money from Textron. A bribe is a payment which must include an intent to influence a decision. I do not believe Mr. Atkins paid money to influence a decision. I know that I did not authorize such a payment or approve it, nor would I do that or condone it at any time, any place, anywhere. So I'm sorry, but I think that you made a conclusive statement which is interesting. It's an interesting speech, but it doesn't give me a question I can answer.

The CHAIRMAN. Well, let's go over these points one by one. I say General Khatami owned Air Taxi. You say you don't know whether he did or not. Is that correct?

Mr. MILLER. I have no knowledge of his ownership. I find nothing in the record of the summary report that would verify it.

The CHAIRMAN. You find nothing in the summary report that would verify that?

Mr. MILLER. I find allegations, sir, but I do not find evidence with which I would be willing to defame a man.

The CHAIRMAN. Would you deny the fact that until 1965 it was official on the official record that General Khatami was an owner of Air Taxi?

Mr. MILLER. Senator, I would say that your report states that, but I have not seen the documentation.

The CHAIRMAN. Well, we have the State Department letter in response to our inquiry.

Mr. MILLER. I have not seen it. If you say he was an owner of record at that time, I don't dispute it.

The CHAIRMAN. Did your company ever check the public records to determine whether or not General Khatami owned Air Taxi during that period of time?

Mr. MILLER. In 1965? I have no knowledge of it.

The CHAIRMAN. During much of that period they were your agent in Iran.

Mr. MILLER. Well, sir, at that time we did practically no business in that part of the world, and my attention was on other matters of current interest and importance. I was not—as I said before—I was not at all aware of the Air Taxi representation before 1965 or after until the 1970's. It became necessary for me to become interested then as business began to develop; it became a matter that would come to the attention of the president of Textron then because of its scale and importance.

The CHAIRMAN. Well, let me go over these points again.

Air Taxi is Bell Helicopter's agent in Iran. Is that correct?

Mr. MILLER. It is. Since 1973, it has not been the sales representative in Iran for government business. It continues to be our sales representative in Iran for civilian helicopters.

The CHAIRMAN. 1973?

Mr. MILLER. I do not believe we have sold any civilian helicopters during that period.

The CHAIRMAN. Would you deny that General Khatami and Air Taxi helped Bell Helicopter get its biggest contract?

Mr. MILLER. Air Taxi was the sales representative that participated and assisted in obtaining the order in 1973 for 489 helicopters, which is among the largest orders we have ever received. I think that we may have had contracts with the U.S. Army that ran to larger numbers over their life.

The CHAIRMAN. Would you deny that responsible management officials at Bell Helicopter were told that Khatami owned Air Taxi?

Mr. MILLER. I have heard testimony that Mr. Jose and Mr. Orpen, who testified here this morning, had heard of that rumor.

The CHAIRMAN. They were told it.

Mr. MILLER. Told it.

The CHAIRMAN. Told it by Attorney Bell.

Mr. MILLER. Sir, someone who tells you something may or may not know the facts himself. The person who told it may have believed it; the person who heard it may not have believed it. I heard the testimony you heard, which says that these gentlemen understood this to be a rumor. I heard Mr. Orpen say this morning that his purpose was to be sure that we had a reputable sales representative in Iran, and that it would be wrong and would not be condoned by the company if there was any ownership or participation from government officials in that sales representative. He said that just a few minutes ago.

The CHAIRMAN. This is more than a cocktail rumor. This was an attorney who came to your office, sir—

Mr. MILLER. My office?

The CHAIRMAN. I beg your pardon. Not your office. Who came to the office of Bell Helicopter in Fort Worth for a business purpose who sat down and talked to some of your officials. They admitted that they heard from Mr. Bell that this was the case. It wasn't a matter of picking this up somewhere or somebody saying maybe this is true, maybe not. He came and made that assertion and he represented the man who was your agent at that time in Iran and he wrote a letter to you—he wrote a letter to Bell officials in which he made this assertion in writing. The document is in the files.

Mr. MILLER. Senator, I have heard the testimony you have heard, and we can all go back and read it. I don't think my purpose should be to interpret testimony before this committee. I think you are able to interpret the testimony.

The CHAIRMAN. When you testified before the committee I asked you about an investigation you had developed and a report about questionable payments. You said, as I recall, and as I understand the record reflects, that you conducted no specific investigation. Later we found that Mr. Soutter had done an internal investigation focused on the \$2.9 million. After the issuance of a subpoena, that document was supplied to the committee. Now why didn't you inform me at your confirmation hearing that Mr. Soutter had conducted an internal investigation on the \$2.9 million payment? Were you fearful that the inadequacy of the investigation might prove embarrassing?

Mr. MILLER. Senator, I may be in error, but I think the investigation you are talking about now was one in 1975, and I think we were talking about 1973 at my confirmation hearing. So I may have been confused, but I had no reason not to inform you and would be delighted to inform you now that Mr. Soutter reconfirmed to me in 1975 that the transaction appeared from his review to be a proper commercial transaction with no indications that he could find of any questionable aspects. I would be happy to confirm it to you here.

The CHAIRMAN. When I asked you about the investigation of questionable payments, did you simply forget that that investigation had been conducted or did you not consider it an investigation?

Mr. MILLER. If your question was about questionable payments in general, I may have misinterpreted it—I certainly apologize if I did not get my time frame correct. I think I said at that time, however, that I was sure I had my attorney look this matter over. I believe I said that, but perhaps I did not.

The CHAIRMAN. Well, we can't find anything in the transcript in your response with respect to 1973.

Mr. MILLER. 1973, sir?

The CHAIRMAN. You just said—

Mr. MILLER. I said I may have had the time frame wrong, but I certainly didn't intend not to inform you. And, as I say, my recollection is that I did inform you that I was sure I had had my attorney check the matter.

The CHAIRMAN. Now in your testimony before this committee you said that the \$2.9 million payment had been through the group vice presidents. It's curious to me that despite three amendments to the contract and the payment of a substantial

commission that was discussed at the highest levels, there were no memos written. It appears to me that great care was taken to see to it on this questionable payment nobody left a paper trail.

Mr. MILLER. I'm not sure that I understand, the first part of your statement about group vice presidents. I don't recall any statement about group vice presidents.

But in any case, let me be perfectly responsive to what I think is the thrust of your question. In running a business we talk on the telephone with our associates. We discuss business matters, we authorize transactions. We have a record of hiring and employing trustworthy executives, and I think it's justified. The written record in Air Taxi would be the agreement. Did I approve that which Mr. Atkins negotiated to pay, \$2.9 million? I say yes; the record of it would be that Mr. Atkins had a signed agreement that confirmed it.

The CHAIRMAN. What puzzles me is this was the biggest payment you made, as I understand it. This was one of the biggest sales, this \$500 million helicopter sale, and I'm puzzled by the fact that although there were three amendments—you amended it three times—one time you cut it down from \$10 to \$6 million and then to 1 percent and then to \$2.9 million—but at no point were there memoranda on this very important series of transactions and agreements.

Mr. MILLER. I don't know what memoranda there should be, Senator. The officer carried out exactly what we agreed to and signed exactly what we agreed to. You know, quite often an attorney will come into my office and say, "We are negotiating an acquisition, and the issue is whether we agree to this;" and I make a decision. The evidence of my decision is what the attorney writes into the contract. I don't know what the purpose would be of my writing a memo saying that I said to write into the contract what is written into the contract. I'm sorry. I'm not familiar with the way the Senate does business, but in the world I work in we have an agreement, we mark it up and put what we want in it, and we type it up—and that's the evidence. I don't know what other evidence you're looking for.

\* \* \* \* \*

The CHAIRMAN. Senator Riegle.

Senator RIEGLE. Thank you, Mr. Chairman.

Mr. Miller, I have a few thoughts that I would like to share with the committee and others here at the outset and until I finish those thoughts I will not yield, although I will be happy to yield after I have completed them with whatever time I have remaining.

Mr. Miller, I think you are one of the best nominees that the administration has put forward and I don't take these proceedings lightly. I have been in the Senate a year and I have had the opportunity to go through other experiences on other committees. I have had the privilege, for example, of sitting on the Judiciary Committee when we were examining the qualifications of Judge Bell to be Attorney General and I was not satisfied and so I voted against his confirmation and spoken against it.

I have done that other times with respect to other nominees here in the Senate. Most recently Mr. Tucker who was a nominee to the Civil Aeronautics Board before the Commerce Committee on which I served, whom I thought clearly was an unsatisfactory nominee and I might say that nomination was withdrawn. It's with seriousness with which I take this new responsibility.

On the other hand, I have been involved in the Congress for a longer time. I spent ten years in the House on various committees and so I have had some experience in trying to go through committee examination processes and evaluating the credibility of witnesses and things of that sort and I must say that I have very deep and strong feelings about the situation that I think has taken place with respect to your nomination. I think in many respects what has happened has been excessive in terms of what has actually transpired, what the facts warranted.

I think your reputation has in effect been damaged. I think unfairly so. Frankly, I am troubled about it and I am not just troubled about it from the point of view of you personally or the point of view of the fact that I think that does not reflect well on this committee, both of which are concerns of mine, but I think there's a bigger issue involved. I think we are at a point where the process we use to try to examine the honesty and capability of high officials who seek to take posts in the Federal Government, who respond to requests to serve, has gotten to a point where it is not doing the job the way it should be done and I'm not exactly sure why it's come to this. I know Watergate clearly has something to do with it. I have watched this situation unfold very carefully and I said to you—I have said publicly and I said to you privately—if I found one shred of evidence to the effect that you were involved in improper or illegal activities or had in any way misled this committee, I not only would not vote for your confirmation, but I would work with a vengeance to prevent it, and I think you and others know that's exactly how I feel.

But I think you have been very badly used by the process we have been following. And the concern I have goes far beyond you. I think it is necessary for us to attract, in larger numbers, good people from the private sector, some from business, others from labor, the professions, what-have-you, to come and take positions of responsibility in the Federal Government.

We are an abysmally run Government. The executive branch of Government is, and this is a pile-up of deficiencies over many many years, almost a model of inefficiency. The Senate, by the way, is not far behind in terms of our own operating procedures.

One doesn't have to look far to find the conditions of bad management, frankly, within our own internal Senate process.

We badly need to attract new talent into the Government. It means going out into other areas, where people of quality and decency have established their reputation as effective performers, who can come into the Government and who for a period of time can serve and hopefully serve with distinction.

And I am pleased that you were willing to accept the call from the President to come and serve as chairman of the Federal Reserve. I think you will do an exceptionally fine job. I think it is a major improvement, frankly, in the Federal Reserve. I mean no disrespect for Arthur Burns, we had disagreements on issues, but I will feel much better, much better, with you in that particular position.

But I think what has happened here, is in effect sort of a minitrial. You have not really been the focus of the trial, I think you have sort of been a central player in the trial, I mean a central character, but I don't think that has really been the point of the exercise, because I think what is happening here is that we have gotten to a point where the process is not really a straightforward process of an effort to have a finding of fact, a civilized discussion and a presumption of innocence until there is some finding of guilt, but I have watched the press accounts very carefully, I have read them, and the press people here in the room know exactly what I am speaking about as well as the other members of the committee.

There hasn't been a single item developed here in the committee that was not first presented in expose fashion in the press ahead of time.

That is where the essential part of the conduct of this sort of trial has taken place.

Now I am not here to pick a fight with the press, because that is not my purpose, and you don't win those fights anyway. But I think it is important for the press to reflect a little bit on the way they are sometimes used in a situation of this sort. Because you are not Robert Vesco, not Bert Lance, not Mr. Tucker, and not a lot of other people whose personal records were highly questionable, and where I think people ought not to have been put forward as nominees, and in some cases when it later developed they ought not to be in government, they were finally denied appointment.

I must say, Mr. Chairman, you know the friendship and regard I have for you, and I just want to make a very personal comment about it, because you were kind enough to allow me to take the chairmanship of the Consumer Affairs Subcommittee of this committee, and I was honored to do so. I knew this was a subcommittee chairmanship you felt very keenly about and I have done the best I could to carry out that responsibility.

I have been honored by the showing of trust and faith that was represented by you in me.

So I feel badly commenting with respect to what I took to be your opening question to Mr. Miller. Because, I must say that I thought it was needlessly provocative. I thought the points were presented in an accusatory fashion. I think built into the way it was phrased was essentially a presumption of wrong-doing or bad faith. I don't think it was fair. I don't think it is a fair representation of how I think you think and work, and I don't think it gives a fair impression to people here in the room, and I don't think it probably gives a fair impression to Mr. Miller.

I think these questions can be tracked down, we can get the answers to them, in the most civilized way.

After all, if Mr. Miller is confirmed, we are going to have to work together as part of this Government. That doesn't mean we are going to agree on each and every issue. That is really not the point. The point here is the fitness to serve and a very careful finding of fact. I don't think that that has to be done in the framework of basically the conduct, in a sense, of a trial, where there is a bill of particulars, that is basically put forward through either leaked information or through questions that are put that you don't have a direct opportunity to answer for some period of time.

And then we finally wind back around, and even when all of the facts are on the table, and I think it is absolutely crystal clear that there has been nothing improper

that Mr. Miller has been involved in and that his nomination is really an exceptionally fine nomination, for anyone to kid themselves and to say that a shadow hasn't been cast is quite incorrect. It has been cast, it was cast I think as a very natural and logical consequence of the way we have been behaving and the way we carried this thing out.

I don't think anybody here ought to kid themselves about the fact that that is what has happened.

The reason I make that point is not because of just yourself or this committee, but I think unless all of us, at least pause to consider the way we are handling this process, I think we are going to do a good deal more damage than we are good.

I am not going to say that there shouldn't be the most rigorous kind of examination of candidates proposed for high public office. I would like it to be more rigorous. But I think there are bounds of fair play and directness and presumptions of innocence until there is some guilt shown that we ought to abide by.

I think that we have not done this in this case nearly as well as we might have. And I think it is sort of an accumulation of a long buildup. But I think it is important for us to reflect on, because while no one else here might think of themselves as some day sitting in your seat, they might be.

But I am concerned because I want other good people to be willing to come forward and sit where you are sitting today and be willing to accept serious assignments in the Federal Government.

I think that is absolutely vitally necessary. I think it is a strategic need and shortfall in the United States today. And to make that process such an ordeal, and a harassing experience, that while you may have the fortitude to stick with it and come through it, is absolutely no guarantee it won't send great numbers of other people who are out involved in other activities running in the opposite direction, because they say, well, who needs this.

So this is why the object lesson is important. I think if we don't take the time to understand what has happened here, we make a great mistake.

I know my time is up, and if it were not, I would have asked you the question of why it was you agreed to take this job. And I ask this in great seriousness, because I think it is important that the public and every member of this committee have an opportunity to hear from you and to reflect carefully upon what your purposes and motives are, why it is that you have agreed to accept this job, if confirmed, what your feelings about it are, what your intentions are, how you would like to carry it out.

I think if there is one question that is most important to have an answer to, I think it is probably that question.

Now in the traffic jam of accusations and other things, that has sort of gotten lost. But on the same point, and my time is up, I would like to pull that out of some of the wreckage and try to get it elevated again, because I think it is part of what is essential to restoring some equity and directness and fairness and elevation to the kind of proceeding this ought to be.

Mr. MILLER. Senator Riegle, the chairman has been kind enough not to give me a time limit. So I might answer your question, because it can be answered very simply.

This Nation has certainly been good to me. From the time of my early days until this time, I have been blessed with progress beyond what I might have expected.

The reason I accepted the assignment is simple: I don't think we can always take; we must also give.

Senator RIEGLE. Thank you. I thank the chairman, by the way, for his patience in allowing me to finish.

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GIBSON, DUNN & CRUTCHER,  
Washington, D.C., February 11, 1980.

Hon. WILLIAM S. PROXMIRE,  
*Chairman, Committee on Banking, Housing, and Urban Affairs,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR PROXMIRE: We have served as counsel to the Special Committee on the Board of Directors of Textron, Inc. which prepared a report dated July 24, 1979, to the Board. The staff report of the Securities and Exchange Commission which was furnished to you and to Senator Long on July 26, 1979, and which has now been printed (on February 8) as an extension of the record of the Banking Committee's 1978 hearings into the nomination of G. William Miller as Chairman of the Federal Reserve Board, contains a page discussing the work of the Special Committee and its report (page 101 of the SEC staff report). It has been called to my attention that page 101 was omitted—no doubt inadvertently—from the version of the staff report

printed by the Committee although reference to it appears in the table of contents. I am calling this to your attention as I know you will want the Committee's record to be complete.

For your information I am also transmitting herewith five copies of the final printed version of the Special Committee's two volume Report. Since both Mr. Miller and a number of the members of the Committee quoted portions of the report during the Committee's hearing last Friday, you may wish to include the entire report in the record of the Committee's proceedings in this matter.

Sincerely,

JOHN F. OLSON.

Enclosures.

IX. INVESTIGATION BY THE SPECIAL COMMITTEE TO THE BOARD OF DIRECTORS OF  
TEXTRON, INC.

In May 1978, the Board of Directors of Textron authorized the creation of a Special Committee to consider an investigation of questionable payments and practices. The Special Committee determined to commence such an investigation and retained the law firm of Gibson, Dunn & Crutcher in July as counsel. Counsel to the Special Committee consulted with the Staff during the course of the Special Committee's investigation. The Special Committee has been helpful to the Staff's investigation and, where appropriate, has received cooperation from the Staff. On July 22, 1979, the Special Committee presented its report of investigation to the Board of Directors of Textron. On July 24, 1979, the Commission received a copy of the final draft of the Committee's report. The Commission has been advised that the Report of the Special Committee is being filed with the Commission as a public document on or before July 27, 1979.

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
*Washington, D.C., February 13, 1980.*

HON. BENJAMIN CIVILETTI,  
*Attorney General of the United States,  
Department of Justice, Washington, D.C.*

DEAR MR. ATTORNEY GENERAL: In January and February 1978 Secretary Miller appeared before the Senate Banking Committee in connection with his nomination to be Chairman of the Federal Reserve Board. As Chairman of the Banking Committee, I am concerned about the possibility that Mr. Miller may have committed criminal perjury before our Committee. Here is why:

Mr. Miller made a series of false and misleading statements to the Committee. We know the statements to be false and misleading simply by comparing them to the complaint of the Securities and Exchange Commission against Textron, its Staff Report and Mr. Miller's own admissions before the Committee recently under oath respecting his 1978 statements.

The purpose of this letter is to transmit to you specific information that Secretary of the Treasury Miller "has committed a violation of any Federal criminal law other than a violation constituting a petty offense" within the meaning of Section 591(a) of the Ethics in Government Act of 1978.

The specific information is as follows:

On January 24, 1978 and on February 28, 1978, Secretary Miller testified before the Committee on Banking, Housing and Urban Affairs on his nomination to be a member (Chairman) of the Federal Reserve Board.

The Committee had received information that in 1973 Textron paid a \$2.9 million commission to its Iranian sales agent, Air Taxi, in connection with the sale of helicopters to the government of Iran and that General Khatami, the head of the Iranian Air Force, had a financial interest in Air Taxi. If General Khatami did have an interest in Air Taxi and if Textron knew of the ownership interest, the \$2.9 million commission payment would have constituted a bribe by Textron to an Iranian government official.

The Committee also had received information that Textron may have paid a bribe to a Ghanaian government official through a Nigerian front in connection with the sale of helicopters.

The Committee was also concerned that overbilling and accommodation payment practices at Textron and payments to Swiss bank accounts were being used to facilitate the payment of bribes to foreign government officials and for other illegal purposes.

Mr. Miller's stewardship of Textron during the period 1960-1978 was relevant to his qualifications to serve as Chairman of the Federal Reserve Board. The Committee endeavored, therefore, to develop a complete record through Mr. Miller's testimony on whether Textron had paid foreign bribes to gain business, and specifically on the Air Taxi, Ghana, overbilling, Swiss account and accommodation payments matters.

In his testimony before this Committee in 1978, Mr. Miller denied that General Khatami had an ownership interest in Air Taxi; denied that Textron knew of General Khatami's ownership of Air Taxi; and denied that he himself knew of General Khatami's ownership interest in Air Taxi.

In his testimony before this Committee in 1978, Mr. Miller was requested to report to the Committee on Textron's sale of helicopters to the government of Ghana and the activities of its agent. Mr. Miller reported to the Committee that he had examined the transaction and although he did not approve of the way it was structured, he did not know of any impropriety.

In his testimony before this Committee in 1978, Mr. Miller repeatedly denied that Textron engaged in the bribery of foreign government officials. Mr. Miller testified that Textron had a policy against foreign bribery and that he was familiar in detail with the operation of Textron and that neither he nor his senior officials knew about or condoned the bribery of foreign officials.

In his testimony in 1978 before this Committee, Mr. Miller denied that there was anything improper or illegal with Textron's overbilling or accommodations payments practices and that Textron made no payments to Swiss accounts for improper purposes.

Based upon the complaint of the Securities and Exchange Commission and its Staff Report and Mr. Miller's own admissions under oath, it appears clear that Mr. Miller's testimony before this Committee in 1978 was false and misleading. Further, there is every good objective reason to believe that Mr. Miller knew his testimony before this Committee in 1978 was false and misleading. Secretary Miller, therefore, may have committed perjury before this Committee in 1978.

The SEC complaint states that General Khatami had an ownership interest in Air Taxi and that General Khatami received \$500,000 of the \$2.9 million paid to Air Taxi by Textron in 1973. The SEC complaint and Report together with information supplied to this Committee show that Textron knew and had every reason to know that General Khatami owned Air Taxi. Officials of Textron who were in contact with and reported to Mr. Miller had knowledge of General Khatami's interest in Air Taxi. Documents in Textron's files showed that General Khatami had an ownership interest in Air Taxi. In fact, General Khatami's ownership of Air Taxi was common knowledge in Iran as testified to by State Department personnel and public source documents including a Commerce Department World Trade Data Report supplied to Textron by the Commerce Department pursuant to Textron's request. These objective facts strongly infer that Mr. Miller had reason to know that General Khatami had an ownership interest in Air Taxi at the time he denied such knowledge before this Committee in 1978.

The SEC complaint and Staff Report show that the sale of helicopters to the government of Ghana was structured to facilitate the payment of a bribe to a Ghanaian government official. Mr. Miller failed to report this fact to the Committee although objective facts strongly indicate he had reason to know that a payoff was made in the Ghana transaction. On January 25, 1978 one day after Mr. Miller first appeared before this Committee and was requested to inquire into the Ghana matter, Textron destroyed a document which revealed that a bribe was paid to a Ghanaian government official. Senior officials at Textron knew that the Ghanaian bribe had been paid. Mr. Miller discussed the Ghana transaction with those officials in connection with his testimony to this Committee on the Ghana transaction. I believe Mr. Miller had reason to know that a bribe was paid by Textron in Ghana. Mr. Miller did not report the true facts to this Committee concerning the Ghana transaction.

Contrary to Mr. Miller's testimony before this Committee in 1978, the SEC complaint and Staff Report set forth a course of conduct at Textron during an eight year period in which Mr. Miller was either the President or Chairman of Textron in which Textron bribed foreign government officials in ten different countries. The facts are clear: under Mr. Miller, Textron had a worldwide policy of bribery of foreign government officials. Mr. Miller's testimony before this Committee in 1978 was that Textron did not engage in foreign bribery. The SEC complaint characterized statements to the same effect made by Mr. Miller to Textron stockholders in 1976 and 1977 as "erroneous and misleading" and without a reasonable basis. Mr. Miller had every reason to know that his testimony to this Committee in 1978 concerning Textron bribes was false and misleading. Senior Textron officials in

direct communication and reporting relationship to Mr. Miller had knowledge of the bribes in foreign countries. Based upon the objective evidence, it is unreasonable to conclude that Mr. Miller did not know of the bribes in foreign countries.

Contrary to Mr. Miller's testimony to this Committee in 1978, the SEC complaint and Report show that overbilling and accommodation payments were used by Textron to facilitate the bribery of foreign government officials and tax fraud by foreign entities in their home countries. Contrary to Mr. Miller's testimony to this Committee, and according to the SEC complaint and Staff Report, Textron made payments to Swiss bank accounts to facilitate the bribery of foreign government officials.

If Mr. Miller knew in 1978 that these statements were false or misleading—that is when he made them—he committed perjury.

Did he know?

There was every opportunity for Mr. Miller to know in 1978 that the statements he made to our Committee were false or misleading. Here's why: Mr. Miller was known to be a vigorous and competent chief executive of Textron who made a practice of knowing the details.

His senior executives—Mr. Miller's subordinates—who reported directly to him—knew—according to the established record—at the time Mr. Miller testified that some of his statements were false.

Did these senior officials tell Mr. Miller before he testified what the truth was about Textron bribery—in any of the fourteen cases of bribery? If they did, Mr. Miller committed perjury before this Committee.

I believe that the facts which I have recited and which are readily available to the Justice Department by comparing Mr. Miller's testimony before this Committee with the SEC complaint and Staff Report make a strong case for the appointment of a special prosecutor under the Ethics in Government Act of 1978 to inquire into whether Secretary Miller committed perjury or obstructed justice before this Committee in connection with his nomination to be a member (Chairman) of the Federal Reserve in 1978.

There are strong indications that Textron engaged in a deliberate policy of obstructing this Committee's function in inquiring into Mr. Miller's qualifications to serve as a member (Chairman) of the Federal Reserve in 1978. Last October the Wall Street Journal published an investigation report which discussed the destruction of documents at Textron as follows: "In anticipation of the Senate (Miller confirmation) hearings, sales managers in the international marketing department now say they were told to look through correspondence files with dealers overseas. The stated purposes was to make sure that nothing in the files could be 'misinterpreted' by Mr. Miller's critics, chiefly Banking Committee Chairman William Proxmire of Wisconsin. To some managers, these instructions meant that the files should be cleaned out". The SEC complaint and Staff Report show that the day after Mr. Miller's first appearance before this Committee a Textron document was destroyed which revealed that Textron had paid a bribe to a Ghanaian government official. On other occasions, Textron's submission of documents to the Committee were timed to stonewall the Committee's effort to get to the bottom of General Khatami's ownership interest in Air Taxi and whether Textron had paid a bribe to the Iranian General.

Textron officials failed to make the Committee aware of the existence of a document relating to an internal inquiry into the \$2.9 million payment to Air Taxi until after the Committee has discovered the existence of the document in accounting work papers of Arthur Young and Company, Textron's accountants, even though the Textron document was called for by the Committee's initial document letter request.

The existence of documents in Textron's possession relating to William French (a Textron sales agent) and his attorney and which were called for by a Committee subpoena were not made known to the Committee until after the Committee found out about the existence of the documents through Mr. French's lawyer, C. Robert Bell of Wichita, Kansas, and made a further request on Textron.

Frank M. Sylvester (a key Textron divisional Vice President for International Marketing) testified under oath that he had no knowledge of General Khatami's influence over military purchases by Iran. Over two weeks later, Textron supplied the Committee with a document which it earlier had failed to turn over pursuant to a Committee subpoena showing that Mr. Sylvester had discussed General Khatami's influence in Iran over military purchases with other Textron employees. The document appears to directly contradict Mr. Sylvester's testimony.

On the morning of the final Committee vote on the nomination of G. William Miller, just prior to the convening of the Committee, Textron tendered documents to the Committee which it said came "into our possession at this last minute" confirm-



ing that public records in Iran showed General Khatami to have been Chairman of Air Taxi.

Furthermore, a March 1971 Textron memorandum which contained evidence that General Khatami owned Air Taxi, and which was discussed by senior officials of Textron was not delivered to this Committee until June 21, 1978, months after Mr. Miller's confirmation as a member (Chairman) of the Federal Reserve.

I believe that the foregoing specific information concerning Secretary Miller satisfies the statutory standard for the appointment of a special prosecutor under the Ethics in Government Act of 1978. In addition, there are overwhelming compelling public reasons for the appointment of a special prosecutor in Secretary Miller's case.

A central purpose of the special prosecutor provisions of the Ethics in Government Act of 1978 is to ensure the public that information concerning wrongdoing by Cabinet level officials forming part of the President's team will be vigorously investigated by someone independent of the President's Cabinet team. The Attorney General is a Cabinet official. And while I have the highest faith in your own personal integrity, the public simply will not be satisfied by a prosecutorial review of the information concerning Secretary Miller unless undertaken by a special prosecutor.

Consider the fact that eleven Textron officials of Textron agents took the Fifth Amendment in the SEC investigation and their testimony was not obtained and the further fact that senior officials of Textron having direct contact with Mr. Miller while he served at Textron and who had knowledge of the bribery of foreign government officials have not as of this date been interviewed by the Justice Department.

Neither the Securities and Exchange Commission nor this Committee can immunize witnesses and conduct an inquiry before a grand jury to learn the whole truth of Secretary Miller's knowledge that his statements to this Committee in 1978 were false and misleading. Only a prosecuting agency like the Department of Justice or a special prosecutor has that kind of power.

But the Department of Justice has a glaring conspicuous conflict of interest. Mr. Miller is in the same administration as the Attorney General. They are fellow cabinet officers. It is an election year. An adverse finding against Mr. Miller by the Attorney General would hurt the Administration, compromise the prospects of the President's continuation office after the next election and possibly bring down the present Attorney General as well as the President.

The difficulty posed by one Cabinet official passing on information relating to the criminal activities of another cabinet official is well illustrated by what has occurred in Secretary Miller's case. The SEC filed its complaint in the Textron matter on January 31. The facts in the complaint together with those in the underlying Staff Report made clear that senior officials of Textron had knowledge of bribery. These officials were in communication with Mr. Miller when he headed Textron. Despite the fact that the Justice Department had written to me on January 14 that its investigation of obstruction of justice before this Committee would take several months to complete and the fact that the senior Textron officials had not been interviewed by the Justice Department, on February 5, 1980 you appeared before the Senate Appropriations Committee and stated that Mr. Miller had no knowledge of foreign bribes. I believe that your conclusion on February 5 was at least premature.

The facts concerning Secretary Miller make a more compelling case for the appointment of a special prosecutor than in the case of Hamilton Jordan where a special prosecutor was appointed pursuant to your request. In the Jordan case you found that although prosecution was not warranted, further investigation could not be ruled out. In Secretary Miller's case not only is further inquiry necessary but prosecution cannot be ruled out. Certainly Secretary Miller's case meets the statutory standard for appointment of a special prosecutor.

It is for precisely this situation for which the office of special prosecutor has been created under the law. Mr. Miller may be guilty of perjury. He may be innocent. But exoneration of Mr. Miller by the Attorney General will not be credible to millions of Americans.

For the reasons I have stated, I believe that a special prosecutor should be appointed under the Ethics in Government Act of 1978 to investigate whether Secretary Miller committed perjury or obstructed justice in his confirmation hearings before the Senate Banking Committee on his nomination to be a member

(Chairman) of the Federal Reserve. I look forward to your prompt reply to this letter.

Sincerely,

WILLIAM PROXMIRE, *Chairman.*

OFFICE OF THE ATTORNEY GENERAL,  
Washington, D.C., March 11, 1980.

Hon. WILLIAM PROXMIRE,  
*Chairman, Committee on Banking, Housing and Urban Affairs,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I am writing in response to your letter of February 13, 1980, requesting that I seek to have a Special Prosecutor appointed under the provisions of the Ethics in Government Act of 1978 to investigate whether Treasury Secretary G. William Miller committed perjury during hearings on his nomination to be a member of the Federal Reserve Board in 1978.

As you know, in early 1978, at the instance of your Committee and others, the Criminal Division opened an investigation to attempt to determine whether or not there was evidence to support perjury or obstruction of justice charges against anyone in connection with these hearings. As we reported in January 1980, our investigation is continuing.

In support of your request, you cite the SEC complaint against Textron filed January 31, 1980, and that agency's staff report. Throughout the course of the SEC investigation, attorneys for the Criminal Division were kept informed of the nature of the material developed by the SEC. They are, as nearly as we can tell, fully familiar with the evidence which formed the foundation for the SEC staff report of July 26, 1979, which is the basis for the recent SEC complaint. Significant evidence in the report was, in fact, made available to the SEC by the Department.

We have reviewed again the SEC staff report and the complaint, as well as the testimony before your Committee during the 1978 confirmation hearings. We have also reviewed your Committee's staff report and have had the attorney in charge of our investigation attend the testimony before your Committee in February. We find nothing from any of these sources which enlarges upon the preliminary view given to you by the SEC in its letter of January 28, 1978, in which Chairman Williams said, "... we have no indication of involvement of Mr. Miller in the activities under investigation." The very same facts you now outline were known to the Senate Finance Committee during its hearing on Mr. Miller's nomination to be Secretary of the Treasury. At that time, Senator Long remarked to Mr. Miller concerning the SEC staff report on the issue of Mr. Miller's knowledge of the foreign bribery: "it does not at any point suggest you knew about it or you approved it." As you took pains to point out, as recently as your Committee's hearings on February 8, 1980,<sup>1</sup> there is nothing in the record before your Committee, the SEC or the Textron Special Committee investigation, either in testimonial or documentary form, linking Secretary Miller to any improper activity in the Textron matter.

The continuing investigation of the Criminal Division has not revealed evidence that Mr. Miller was informed by anyone of improper payments by Textron and Bell Helicopter, or that Mr. Miller learned about such payments in any other way. There is some evidence that certain Textron and Bell Helicopter officials who reported to Mr. Miller were told of information relating to some payments. However, all but two of them have denied under oath any recollection of being told. Of the remaining two, each has testified that he did not believe the information and, in any event, did not tell Mr. Miller.

As in the Lance and Carter Warehouse cases, the transition provision of the statute presently bars appointment of a Special Prosecutor since the grand jury investigation of this matter which was underway prior to the enactment of the Special Prosecutor Act and all the information to which you refer was received prior to the conclusion of the statutory transition period. Section 604(2), 28 U.S.C. 591 note. Accordingly, I must respectfully decline to petition for the appointment of a Special Prosecutor in this matter.

Even if the Ethics in Government Act of 1978 were applicable, I have very serious doubts that specific information sufficient to trigger the Act has been developed indicating that Secretary Miller has violated any criminal law.

<sup>1</sup> "Let me say first and most emphatically that nothing in the record—not the investigation by the Committee staff, and it was a thorough investigation, not the staff investigation by the SEC, not the investigation by the independent directors of Textron—has uncovered any testimony or document linking Secretary Miller to any foreign bribe or the destruction of any record or any other improper activity relating to foreign bribes." (Hearings, Feb. 8, 1980, p. 5).

In view of your concern and that of your Committee, I would like to outline, before closing, the history of our investigative efforts, with particular reference to some of the comments in your letter.

Pursuant to a plea agreement, Textron entered a guilty plea to a felony charge arising out of the Criminal Division's investigation of foreign payments by the company. As in the overwhelming majority of such pre-FCPA cases, no charges against individual officials were filed because the evidence would not support such charges. The plea agreement specifically excluded, among other things, obstruction of justice and perjury which were the subjects of your referral and on which our investigation centers.

It is important to note the necessary factual predicate for possible charges of perjury in the context of this investigation. First, of course, there must be proof of the underlying improper payments in order to demonstrate that the testimony was, indeed, false. Second, and far more difficult, there must be evidence that the witness knew the testimony was false at the time it was given. Admissions by the witness that he subsequently became aware that the testimony was false are not sufficient. The fact that the witness "should have known" is far from adequate proof.

The evidence-gathering process in a foreign payments related case involves seeking evidence abroad both for its own value and as a predicate for detailed questioning of witnesses in the United States. In this connection we have sought, and continue to seek, the assistance of foreign governments in obtaining both testimonial and documentary evidence. To date, requests have been made to four foreign governments. We have sent our lead attorney to Europe in pursuit of this evidence. It is a time-consuming process, especially where, due to the nature of the requests, all cannot be made simultaneously.

Your letter states that "eleven Textron officials or Textron agents" invoked the Fifth Amendment privilege before the SEC and then goes on to state that "senior officials of Textron having direct contact with Mr. Miller \* \* \* and who had knowledge of the bribery of foreign government officials have not as of this date been interviewed by the Justice Department." You then comment that only this Department or a Special Prosecutor can immunize witnesses who invoke the Fifth Amendment privilege. From the above, I infer that you believe that an unjustified failure to immunize persons close to Mr. Miller at Textron has stalled the investigation. That is not accurate.

We, of course, do hesitate to immunize anyone whose guilt we may be able to prove and we like to develop a full factual predicate, including foreign evidence, before questioning key witnesses. But in this case the Fifth Amendment privilege was invoked by only one Textron official and this was on a matter unrelated to the subject of your letter. Also, one Bell Helicopter official refused to testify. The balance of the Fifth Amendment invocations was by sales agents and lower-level employees of Bell Helicopter. Of this latter group, several have been given immunity. I anticipate that virtually all of the persons to whom you refer will be called to testify before the grand jury, and where necessary, their testimony compelled.

In summary, none of the investigation since early 1978 has substantiated any assertion of a criminal violation by Secretary Miller.

Senator, I have tried, within the constraints of Rule 6(e), Federal Rules of Criminal Procedure, to outline for you some of the investigative steps we have taken in this matter in the hope of persuading you that we are meeting our responsibilities as prosecutors. The investigation has taken longer than either of us would like but thorough criminal investigations involving foreign transactions take time. This has proved true in each of our foreign payment cases. However, we anticipate completing the interviews of all witnesses who are amenable to process within the near future. I have directed the Criminal Division to proceed with all possible speed.

If, upon completion of our inquiry, you are dissatisfied with the results, I shall, upon receipt of an appropriate request, make available to the Committee the full investigative record to the extent that I am permitted to do so by law. Meanwhile, should substantial new evidence be developed, please be assured that I will consider the propriety of the matter continuing to be handled in the Department.

I hope that I have been able to allay some of your concerns in this matter.

Very truly yours,

BENJAMIN R. CIVILETTI,  
*Attorney General.*

**REPORT  
OF  
THE SPECIAL COMMITTEE  
OF THE BOARD OF DIRECTORS OF  
TEXTRON INC.**

**Richard T. Baker  
Paul M. Fye  
Webb C. Hayes, III, Chairman**

**GIBSON, DUNN & CRUTCHER,  
*Counsel***

**July 24, 1979**

**VOLUME ONE**

To The Board of Directors  
TEXTRON INC.

July 24, 1979

Submitted herewith is a report of the Special Committee appointed by the Board of Directors on May 31, 1978 and directed by the Board (i) to conduct an investigation to determine the extent and nature of any questionable and illegal payments and practices and (ii) to report its findings to the Board and to the Securities and Exchange Commission ("SEC").

In accordance with the Board's instructions, a copy of this Report will be delivered in the immediate future to the SEC.

Our Report consists of two volumes. Volume One includes four Parts. Part I is a general overview of the Committee's findings. Part II outlines the background of the Committee's appointment and describes the nature and scope of the investigation. Part III presents the Committee's findings as to specific matters. Part IV sets forth the Committee's recommendations, based on its findings, as to actions deemed desirable to insure continued implementation of the business conduct guidelines already adopted by the Board and to prevent the recurrence of past problems identified by the Committee.

Volume Two sets forth details of the Committee's findings and background as to the development of corporate conduct policies at Textron.

The Committee's findings represent the considered judgment of the members of the Committee based on the information obtained during the investigation. The Committee's counsel have advised that they are of the opinion that the Committee's findings are reasonable and fully supported by the evidence which was considered by the Committee. The Committee has unanimously approved this Report and the recommendations it contains.

The Committee acknowledges with appreciation the cooperation it received from Textron's management and the managements of all Textron divisions.

RICHARD T. BAKER  
PAUL M. FYE  
WEBB C. HAYES, III, Chairman

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# **NAMES FREQUENTLY ABBREVIATED IN THIS REPORT**

<b>Agusta</b>	—	Construzioni Aeronautiche Giovanni Agusta, Bell's licensee for Europe and other parts of the world
<b>Arthur Young</b>	—	Arthur Young & Company, Textron's independent auditing firm throughout the period under review
<b>Bell</b>	—	the Bell Helicopter Textron division of Textron Inc.
<b>Bell Aerospace</b>	—	the Bell Aerospace Textron division of Textron Inc.
<b>Committee or Special Committee</b>	—	the Special Committee appointed by the Board of Directors of Textron Inc. on May 31, 1978
<b>Corporate Office</b>	—	the headquarters office of Textron located in Providence, Rhode Island
<b>DOD</b>	—	the United States Department of Defense
<b>DOJ</b>	—	the United States Department of Justice
<b>IRS</b>	—	the United States Internal Revenue Service
<b>Period under review</b>	—	the period 1971 through the date of appointment of the Special Committee, May 31, 1978
<b>SBC</b>	—	the Senate Banking Committee, which held hearings on the nomination of G. William Miller to the Board of Governors of the Federal Reserve System in January-February 1978
<b>SEC</b>	—	the United States Securities and Exchange Commission
<b>Textron, or the Company</b>	—	Textron Inc.

## PART I

## GENERAL OVERVIEW OF THE COMMITTEE'S FINDINGS

The Committee's investigation covered the period January 1, 1971 through May 31, 1978, the date of the Committee's appointment.

The following table summarizes questionable payments and other payments the Committee deemed worthy of note made during the period under review:

<u>Type of Payment</u>	<u>Number of Divisions Involved</u>	<u>Number of Countries Involved</u>	<u>Amount</u>
Domestic political contributions .....	3	—	\$ 975.
Foreign political contributions.....	1	1	200.
Payments to officials of foreign governments as to which Textron employees had direct participation.....	1	8	870,700.
Estimate of amounts received by officials of foreign governments from payments made to Textron dealers or agents which Textron employees knew would be shared in whole or in part with such officials.....	2	6	885,400.
Payment in settlement of commission claims made to the Iranian dealer for the Bell Helicopter Division ("Bell") .....	1	1	2,950,000.

It should be observed that during the period under review Textron's total sales were approximately \$16.3 billion and its total international sales (through December 31, 1977) were approximately \$4 billion.

The Committee considers the last item in the table, namely the \$2.95 million settlement paid in the years 1973-75 to Air Taxi Company, Bell's dealer in Iran, to be a special case not properly included in any of the other categories of payments summarized in the table. The most significant of the circumstances and conclusions relating to this payment are briefly outlined below. Further details are included beginning at page 32 of Volume Two of this Report.

(a) Based on evidence available to the Committee, it is highly probable that General Mohammed Khatemi, the deceased former

Commander of the Iranian Air Force, had a secret financial interest in Air Taxi, or in commissions earned by Air Taxi, during the time Air Taxi acted as Bell's dealer in Iran and the settlement was agreed upon;

(b) There is evidence that in 1966 Mr. Edwin J. Ducayet, then President of Bell, was orally informed that General Khatemi was a part-owner of Air Taxi. Mr. Ducayet has stated that he has no recollection of being so informed and there is no evidence that any such information was transmitted by Mr. Ducayet to his successor, Mr. James F. Atkins, or to anyone else;

(c) In 1967, good and sufficient business reasons existed for replacement of the dealer which had represented Bell in Iran since 1964. In early 1968, Air Taxi was selected as the new dealer by Bell's Vice President for Commercial Marketing, on the recommendation of certain of his subordinates. At the time the selection was made, the Vice President and his subordinates had received information indicating that General Khatemi very likely possessed a financial interest in Air Taxi. In addition, Bell personnel in 1967 ordered a U.S. Department of Commerce report that stated that General Khatemi "reportedly has financial interests in the firm." However, the international marketing function was transferred to a new department in 1969 and the Vice President for Commercial Marketing ceased his involvement in and responsibility for international sales.

(d) During the three years 1968-70, only modest efforts were spent in attempting to develop Bell's international sales. Early in 1971, a lengthy and optimistic report concerning business possibilities in Iran was prepared by a Bell employee based in Brussels (who had traveled to Iran) and circulated to Bell's International Marketing personnel. There is evidence that the report was seen by both Mr. Ducayet and Mr. Atkins, although neither of them recalls it. Referring to Air Taxi, the report states that "the real influence behind the Company is General Khatemi . . . in reality anything that flies he has an 'interest' in."

After giving consideration to all of the foregoing factors and to other pertinent facts and circumstances, the Committee has drawn three conclusions which it believes to be significant in evaluating the conduct of Bell in respect of its Iranian business:

1. On balance, the Committee is of the opinion that those senior officers of Bell who actually negotiated the payment of \$2.95 million

which Bell made to Air Taxi did so without knowledge or belief that General Khatemi had a financial interest in Air Taxi, and that they did not intend or anticipate that part of such payment would go to the General, directly or indirectly.

2. Based on extensive inquiries, the Committee is satisfied that the sale of 489 helicopters to Iran which generated the commission claims settled by the payment to Air Taxi was effected by reason of certain significant and unusual characteristics of the Bell product which made it suitable for the purposes intended. There is no evidence that the sale was made by reason of influence exerted by General Khatemi.

3. There is no evidence that any Bell officer or employee sought to cause General Khatemi to use his influence on the decision to purchase helicopters from Bell. Although because of his background and position General Khatemi was concerned with all aircraft matters in Iran, another Iranian military officer of highest rank had the basic responsibility for that decision. In addition, the Committee found no evidence that any officer of Textron had any information which indicated a possible interest of General Khatemi in Air Taxi.

The Committee is satisfied on the basis of its investigation that no officer of Textron or any of its divisions sought or obtained any personal financial gain in the course of any of the transactions described in this Report. Where employees were involved in questionable activities, the evidence is that they genuinely, albeit mistakenly, believed their activities to be in Textron's best interest.

The questionable activities which were found by the Committee cannot be condoned and are a matter of serious concern for the Board of Directors. However, such activities related to only a few of Textron's 26 divisions. With the exception of minor political contributions made at several divisions and certain transactions involving the Fafnir Division, all payments summarized above related to the international marketing activities by Bell. There was no evidence of impropriety in connection with the overwhelming majority of international transactions and no evidence of a bribe in a domestic transaction.

The Committee made the following additional findings:

- Bell's sales representatives in two countries and a subdealer in another country appear to have been owned by or closely related to

government officials of those countries. In one instance, information came to the attention of two officers of Textron in the years 1975 and 1976 which should have resulted in further inquiry as to the ownership of the representative, but no inquiry was made nor were any other Textron officers made aware of the information. Except for this instance, the Committee found no evidence that any officer of Textron had knowledge prior to the 1978 Senate Banking Committee ("SBC") hearings of any of the questionable activities described in this Report.

- The Committee found that, during the period under review, accommodation payments (that is, payments made at the request of a creditor to a third party or to a location other than the creditor's regular place of business) were made by 14 Textron divisions. Certain other undesirable practices (principally overbilling of foreign customers at a customer's request to establish a credit balance for the customer in the United States) were engaged in by 11 divisions. When these practices, which were not unusual in American business, came to the attention of Mr. G. William Miller, then Chairman and Chief Executive Officer of Textron, the Company issued a directive dated May 12, 1977 prohibiting them. However, in a number of divisions these practices continued for varying and substantial periods. This failure to implement a specific Company directive is a matter of concern for the Board of Directors. The Committee's recommendations, which begin at page 48 of this Report, focus on more effective implementation and monitoring of such policy directives.

- The Committee found that two divisions, Bell and Bell Aerospace, did not maintain documentation as to reimbursement for meal and beverage expenditures for Department of Defense ("DOD") employees and that this practice was not effectively stopped until 1978 at Bell and Bell Aerospace. Senior officers of Textron as well as division officers were aware of the practice.

- The Committee reviewed in detail the internal inquiry which Bell conducted in early 1978 in response to questions raised at the SBC hearings on Mr. Miller's nomination to the Board of Governors of the Federal Reserve System about a 1971 sale of two Bell helicopters to Ghana. The Bell inquiry was the basis of information furnished to the SBC which did not include the fact, known to a number of Bell employees, that a highly questionable payment had been made with Bell's participation in connection with the 1971 sale. The Committee

has concluded that the Bell internal inquiry was impeded by the failure of Bell's International Marketing Department employees and Bell's Treasurer to be forthcoming with the facts and by the deliberate destruction of an important document by Bell's International Sales Manager. Moreover, the inquiries were never completed and were handled in a careless manner. However, the Committee is satisfied that no other Bell officer and no Textron officer either knew of the 1971 payment at the time of the Miller confirmation hearings or knowingly gave incomplete information to the SBC.

- The Committee reviewed the activities of the Textron charitable contributions program and, in particular, examined one large charitable contribution to an institution related to a hospital at which the son of an influential official of a government customer of Bell was a resident. The Committee also reviewed the circumstances of retention and payment of a foreign law firm which advised the Textron employees' pension trust as to a sale of property to a foreign government in which an inactive partner of the law firm was a high official. The Committee found no evidence of impropriety as to either of these matters.

- The Committee found that in general Textron followed sound and appropriate accounting practices, although in some instances questionable transactions were accompanied by inappropriate practices. These instances are described beginning at page 42 of this Report. Neither the questionable payments nor the inappropriate accounting practices found by the Committee had any material effect on Textron financial statements issued during the period under review.

It is important to note that the Committee found a number of instances in which Textron rejected overtures for improper payments. Some of these instances are described beginning at page 36 of this Report. Even more important, the Committee is convinced that Textron's management has historically been and is today committed to a policy of maintaining high standards of business ethics and compliance with the law. During the year that the Committee's investigation and the parallel federal government investigations have been underway, Textron has taken a number of effective steps to implement and enforce that policy. The Committee's recommendations for further steps are intended to build on what is already a solid foundation.



**PART II**  
**THE COMMITTEE'S WORK: SCOPE AND CONDUCT**  
**OF THE COMMITTEE'S INVESTIGATION**

**A. BACKGROUND OF THE COMMITTEE'S APPOINTMENT**

In January 1978 President Carter sent to the United States Senate the nomination of Mr. Miller, then Chairman and Chief Executive Officer of Textron, as a member of the Board of Governors of the Federal Reserve System and indicated that, if Mr. Miller was confirmed, he would be designated as Chairman of the Board. The SBC, under the chairmanship of Senator William Proxmire, conducted hearings on the Miller nomination, beginning on January 24, 1978.

Several questions were raised at the hearings as to the following international marketing activities of Bell: (1) the 1972-73 agreement to pay and subsequent payment of a \$2.95 million settlement in lieu of commissions to Bell's former representative in Iran, Air Taxi Company, and possible ownership of an interest in Air Taxi by General Mohammed Khatemi; (2) the 1971 sale by Bell of two helicopters to its representative, Tropical Aircraft Sales Company, with immediate resale of the helicopters to the Government of Ghana at a price increase of approximately \$300,000; (3) the training of Ugandan helicopter pilots by Bell; and (4) sales of helicopters to Algeria by Bell's Italian licensee, Agusta. (The third and fourth questions were answered to the apparent satisfaction of the SBC and have not been raised subsequently.)

Following the SBC hearing on January 24, the SBC staff conducted additional investigations, including extensive interviews of Bell employees and an examination of documents produced by Bell. The focus of these investigations was upon Bell's sale of helicopters to Iran and its payment of \$2.95 million to Air Taxi.

On February 16, 1978, while the SBC staff was conducting its inquiry, the SEC issued an order of investigation with respect to Textron. A copy of the order is Appendix A to this Report. Chairman Harold M. Williams of the SEC thereafter wrote to the SBC outlining the scope of the SEC's investigation. His letter of February 22, which has been made public, is Appendix B to this Report.

On February 27 and 28, 1978, the SBC hearings on the Miller nomination resumed and additional information was presented with respect to the questions raised in the earlier hearings. On March 2, 1978, the SBC reported favorably on the Miller nomination, and on March 3, 1978, Mr. Miller was confirmed by the Senate.

As a result of the questions raised during the Miller confirmation hearings, the Department of Justice ("DOJ") and the Internal Revenue Service ("IRS") also instituted new or extended existing investigations into certain of Textron's business practices. The DOJ investigation focused on Bell's international marketing practices. The IRS investigation related primarily to Textron's 1973 tax return and in particular the deductions on that return (and on returns for 1974 and 1975) for the payments to Air Taxi and for expenses incurred in providing hospitality to DOD personnel.

Thus, by mid-March 1978, Textron found that it was the focus of ongoing investigations by three separate agencies of the United States government. Yet Textron itself had never conducted a comprehensive inquiry into the matters under investigation or into the broader matters of possible questionable payments and accounting practices.

#### **B. APPOINTMENT AND ORGANIZATION OF THE COMMITTEE**

On May 31, 1978, after reviewing the status of the three pending government investigations, Textron's Board of Directors appointed the Special Committee on the recommendation of the Chairman of the Audit Committee. The Special Committee, which is composed of three non-employee directors of Textron, was given wide powers to investigate all aspects of Textron operations which might have involved questionable payments or related improper accounting practices.

The members of the Committee are:

*Webb C. Hayes, III*, Chairman of the Committee, is Managing Partner of the Washington, D.C. office of the Cleveland and Washington, D.C. law firm of Baker & Hostetler. He became a Director of Textron in April 1970. He is also a Director of the National Bank of Washington.

*Paul M. Fye* has been President of Woods Hole Oceanographic Institution since 1961. He became a Director of Textron in December 1969

and presently serves as a member of the Executive Committee. He is a member of the United States Department of State's Advisory Committees for Ocean Affairs and for the Law of the Sea. He is also a Director of Arthur D. Little, Inc., four mutual funds of the Lord Abbett group, and Development Sciences, Inc.

*Richard T. Baker* has been Consultant to the firm of Ernst & Ernst, certified public accountants, since 1977. He has been associated with Ernst & Ernst since 1940 and was the Managing Partner of that firm from 1964 to 1977. He became a Director of Textron in May 1978. He is also a Director of Anheuser-Busch, Inc., General Electric Company, Hershey Foods Corporation and Louisiana Land & Exploration Company.

The text of the Board's resolution appointing the Committee is contained in Appendix C to this Report. The Board resolution specifies that Textron will not assert the attorney-client privilege with respect to documents and data obtained by the Committee during its investigation.

Immediately after appointment, the Committee retained the law firm of Gibson, Dunn & Crutcher as counsel to the Committee. The Committee then met with counsel and prepared a report to be presented to the Board of Directors at its next meeting. The report outlined the proposed scope of the Committee's investigation and requested supplemental authorizations from the Board. A copy of the Committee's report, which was presented to and unanimously approved by the Board on June 28, 1978, is Appendix D to this Report.

On June 27, 1978, the Committee and its counsel met with the Company's Director of Internal Audit, who briefed the Committee as to preliminary investigative work which had already been undertaken by his staff at several Textron divisions. On the same day, the Committee met with senior representatives of Textron's independent auditors, Arthur Young & Company ("Arthur Young") and received a briefing as to their prior inquiries, the obtaining of employee certifications regarding the absence of questionable payments for the years 1976 and 1977, and matters suggested for investigation by the Committee. The Committee made preliminary arrangements for review of Arthur Young's Textron workpapers and considered other ways in which that firm might assist the Committee in its work.

On June 28, 1978, the Committee and counsel met with the Audit Committee of Textron's Board of Directors and discussed the ways in which the Audit Committee could cooperate with the Special Committee.

Promptly after the Committee's appointment, the Chairman of the Committee and counsel met with the Director of the SEC's Division of Enforcement and the members of his staff responsible for the SEC's pending investigation of Textron. Meetings with the SEC staff have continued at approximately monthly intervals throughout the course of the Committee's investigation.

### C. SCOPE OF THE COMMITTEE'S INVESTIGATION

Under the definition of scope of inquiry approved by the Textron Board, the Committee was directed to inquire into "possible questionable payments" and related improper accounting practices, which were defined as payments to government officials or political candidates; off-balance sheet funds or accounts; incomplete, false or misleading recording of entries on the books and records of Textron; commercial bribery; improper receipt of payments or gratuities by Textron employees; and overbilling, accommodation payments and other practices which were contrary to Textron policies. The Committee's scope of inquiry did not extend to matters other than questionable payments, so defined, and related improper accounting practices. For example, the Committee did not inquire into compliance with equal employment opportunity, environmental, antitrust, anti-boycott, or other laws or regulations, or into Textron's compliance with its reporting obligations under securities or other laws.

Reported incidents of questionable payments by other American companies have usually involved their foreign sales, and the questions raised with respect to Bell during the Miller confirmation hearings related entirely to foreign sales. For these reasons, the Committee paid special attention to the international marketing activities of those Textron divisions which made sales abroad. However, the Committee did not confine its inquiry to foreign transactions. Its questionnaires, interviews and document reviews also sought information as to relevant domestic matters including marketing practices, political contributions and entertainment of United States government officials.

## **D. CONDUCT OF THE INVESTIGATION**

### **1. Staff Assistance**

The Committee appreciates the assistance it received from many persons in performing its investigation.

The primary staff work for the Committee's investigations was carried out by the Committee's counsel, Gibson, Dunn & Crutcher. Other staff work was supervised by counsel.

The Committee called upon the Textron Corporate Office in Providence for significant assistance. Members of the Legal Department helped to schedule interviews and to locate documents and conducted particular inquiries under the direction of the Committee and its counsel. The staff of the Financial Departments assembled and prepared supplemental financial data as to all Textron divisions for analysis by the Committee and provided other assistance, particularly in connection with the Committee's review of accounting practices.

### **2. Questionnaires**

As the first step in its investigation, the Committee prepared a comprehensive form of questionnaire, which was reviewed with representatives of Arthur Young and with the SEC staff. The form of questionnaire is set forth as Appendix E to this Report. The Committee prepared a list of key employees of all Textron divisions based on an analysis of employee compensation data and a review of job descriptions. In late July 1978 questionnaires were mailed to the 1,771 employees on the list with instructions to return responses directly to the Committee. The Committee received 1,691 responses and accounted for all questionnaires not returned (in most instances because the recipient had left Textron's employ). Of the returned questionnaires, 276 contained pertinent information which was reviewed and indexed by the Committee and its counsel, and used as a basis for further inquiries.

Some key employees—notably members of the Corporate Legal Department and Internal Audit staffs—were interviewed by counsel rather than being asked to respond to the questionnaire. Because these employees had extensive indirect knowledge acquired in the course of their duties, the Committee determined that comprehensive interviews would be the most

useful approach. All information accumulated from such interviews was reviewed by the Committee.

### **3. Preliminary Document Review**

In connection with the government investigations of Textron, Textron's outside counsel, Arnold & Porter, had established a Document Depository before the Committee's appointment. The Depository contains hundreds of thousands of documents subpoenaed by one or more federal agencies and many additional documents which have been reviewed for responsiveness to subpoenas. The resources of the Depository and its staff of paralegal assistants were made fully available to the Committee and were used extensively. In addition, the Committee's counsel received, reviewed and organized, by Textron division and by subject, duplicate copies of every document furnished by Textron to the federal agencies. Copies of important documents were furnished to members of the Committee.

### **4. Division Reviews**

Following completion of the foregoing preparatory procedures, the Committee conducted Division Reviews of all Textron operating divisions.\* In the case of Bell, special procedures, described below, were followed. Division Reviews were conducted by teams of Gibson, Dunn & Crutcher lawyers joined, in some instances, by members of the Committee. In each instance, the interview teams took the following steps:

(a) Prepared for the division visit by reviewing the questionnaire responses, cataloging and analyzing all information derived from the preliminary document review and reviewing the detailed historical marketing and financial data for the division assembled by the Textron Financial Departments under the direction of the Committee;

(b) Visited the division's headquarters facility and, in appropriate instances, other division facilities; and

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\* A limited Division Review, consisting of review of questionnaire responses (which indicated no significant concerns) and interviews of key employees, was conducted for Valentine Holdings, a division engaged in the printing business which is based in Australia. The Willco Division in Germany was reviewed by a German-speaking member of the Textron Legal Department under procedures supervised by the Committee's counsel.

(i) Reviewed with division management the process of document production in response to the federal agency subpoenas;

(ii) Independently reviewed significant files at the division offices, with particular emphasis on files related to international marketing activities; and

(iii) Conducted comprehensive interviews of division personnel including, in each instance, senior executive officers, those responsible for financial and marketing management and personnel whose questionnaire responses included information pertinent to the Committee's inquiry.

The Committee's counsel also conducted interviews and document reviews in Europe with respect to all material European operations of Textron divisions.

As a result of the Committee's Division Reviews, some documents were located which, in the Committee's judgment, were relevant to the ongoing SEC investigation. These documents were called to the attention of the Company's outside counsel and made available to the SEC staff.

All told, the Committee's Division Review process, exclusive of its extensive review of Bell, comprised more than 60 days of interviews and document examination at division locations in the United States and abroad. More than 150 separate interviews were conducted at divisions other than Bell.

##### **5. Special Procedures At The Bell Helicopter Division**

The Committee made a particularly comprehensive investigation of Bell because the primary focus of the government investigations and the most serious allegations as to possible questionable practices related to Bell.

At Bell's Fort Worth headquarters, the Committee's counsel conducted more than four weeks of interviews of key employees. In addition, all Bell senior executive officers were interviewed in Fort Worth or in Washington, D.C. with one or more members of the Committee participating in most such interviews. Prior to the interviews, and as they continued, counsel for the Committee reviewed, analyzed and prepared chronological summaries of relevant documents and information obtained from previous interviews.

More than 50 separate interviews were conducted as part of the Committee's inquiry into Bell.

The Committee's counsel also received briefings from members of the SEC staff, Textron's outside counsel and counsel representing several of the officers and employees of Bell. In January 1979 the SEC staff agreed to make available to the Committee and its counsel, with the consent of each witness' counsel, transcripts of testimony of all Bell and other Textron employees questioned by the staff. Most of this testimony related to events at Bell. Approximately 25 transcripts were reviewed by counsel and, in the case of significant witnesses, by all members of the Committee.

#### **6. Interviews Of Non-Employees And Other Procedures**

Former employees of Bell were interviewed in the United States and in Europe as were former employees of certain other Textron divisions, particularly the Shuron Division. Other non-employees were also interviewed, including Bell representatives operating in the Arabian Gulf, the Caribbean, Mexico, Korea and Southeast Asia. Employees of banks and governmental agencies were interviewed. Counsel retained by Textron for particular engagements and litigation relevant to the Committee's inquiries were interviewed, and their files reviewed, with the consent and cooperation of Textron.

Where third parties were unwilling to be interviewed, they often agreed to permit their legal counsel to brief the Committee's counsel or to supply requested documentary information to the Committee through its counsel. Wherever practicable, the Committee sought confirmation of its conclusions from more than one witness or participant.

The Committee's requests for interviews were refused in only a few cases. Two present and two former Bell employees refused to be interviewed, the present employees because of an expressed desire to protect their Fifth Amendment rights. One former employee each of the Bell Aerospace and Fafnir Divisions and the general manager of the former Bell dealer in Iran, Air Taxi Company, refused interview requests. Other Bell employees, including Mr. Frank M. Sylvester, the Vice President-International Marketing, and several members of his staff, agreed to limited interviews only under conditions agreed upon with their counsel but did



respond through their counsel to supplemental questions covering all areas of concern to the Committee.

#### **7. Pertinent Aspects Of The Interview Process**

It must be recognized that the Committee is not a governmental agency and does not have the power to compel testimony or the production of documents. The Committee's interviews were not taken under oath and were not stenographically recorded, although counsel prepared memoranda following each interview. If requested, witnesses and their counsel were given an opportunity to review and comment on such memoranda. The Committee believes these relatively informal procedures, supplemented by the opportunity to review the transcripts of formal testimony of employee witnesses before the SEC staff and by access to all subpoenaed documents, were the most efficacious method of gathering all possible relevant information within reasonable constraints of cost and time.

Persons interviewed by the Committee were notified that information furnished to the Committee would be made available to the SEC and other governmental agencies and were accorded the right to be represented by counsel. Except as noted above, the Committee received full cooperation from all Textron employees and, where counsel were engaged, from their counsel.

#### **8. Special Assistance Provided By Outside Auditors**

Arthur Young, Textron's independent auditors, undertook several special engagements at the direction of the Committee.

First, under instructions prepared jointly by Arthur Young and the Committee, Arthur Young's offices outside the United States which had been significantly employed in Textron audit work conducted a review of workpapers in their possession with respect to the period under review for references relevant to the Committee's inquiry. The resulting extracts from workpapers were indexed, translated into English where appropriate, and made available to the Committee. (Arthur Young had previously made a similar review of workpapers in the United States pursuant to an SEC subpoena and had furnished responsive extracts to the SEC. Copies of those materials were also reviewed by the Committee.)

Second, Arthur Young supervised for the Committee a detailed analysis of foreign representatives' accounts at Textron's Bell, Bostitch, Fafnir, Shuron, Sheaffer Eaton and Talon Divisions, these divisions having been selected by the Committee because of their large amounts of export sales. This analysis resulted in a multiple volume summary of all transactions in representatives' accounts at these divisions during the period under review. This information was of substantial assistance to the Committee in conducting the Division Reviews for these divisions.

In addition to the two specific engagements undertaken for the Committee, Arthur Young responded to questions of the Committee and its counsel on numerous occasions, and permitted the Committee to make a comprehensive review of management letters, field memoranda and other relevant materials prepared by it in connection with its audits of Textron for the period under review.

#### **9. Relations With The SEC Staff**

Throughout its investigation, the Committee and its counsel had frequent contact with members of the SEC staff who were of great assistance to the Committee in suggesting matters for inquiry. However, the findings and recommendations in this Report are those of the Committee, based upon the Committee's own fact-finding process, and arrived at independently of any consultations with the SEC staff or anyone else.

#### **E. THE FACT-FINDING PROCESS**

The Committee's findings are based on a weighing of the evidence obtained by the Committee as a result of its investigations. In order to avoid protracting this Report unduly, the Committee has not set forth the evidence it has considered in detail. It must be recognized, however, that in reaching its findings the Committee has had to resolve conflicts in the evidence, including the testimony of witnesses, and to make the other choices inherent in any fact-finding process. This Report includes summaries of conflicting evidence only in a few instances where a conclusion was particularly important and exceptionally difficult to reach. In all other cases, the Committee's findings are set forth without noting, except here, that they are of necessity the product of judgment.

**F. USE OF NAMES IN THE REPORT**

The Committee has determined not to name countries or persons other than Textron employees involved in questionable transactions described in this Report except where public disclosure has already occurred as a result of the SBC hearings or other matters. As to employees, the Committee has in general named only those relatively senior employees whose actions are of direct concern to the Board of Directors and who had responsibilities for making policy decisions. The Committee believes that it can fully meet its obligations without naming more names and the Committee is concerned that Textron and its employees and others might be exposed unnecessarily to adverse consequences, including potential physical danger to individuals in some cases, if more names were used.

**PART III****SUMMARY OF THE COMMITTEE'S FINDINGS  
AS TO PARTICULAR TRANSACTIONS****A. TEXTRON—AN OVERVIEW**

Since its founding in 1923 as a processor of synthetic yarns, Textron has grown into a diversified company conducting operations through 26 divisions in five groups—Aerospace, Consumer, Industrial, Metal Products and Creative Capital. The “New Textron” was born 26 years ago when its then chief executive officer, Royal Little, became dissatisfied with the cyclical nature of the textile business and conceived the idea of operating a number of unrelated businesses in a single corporation. By 1978 Textron had become one of America's largest corporations with over 70,000 employees and \$3.2 billion in annual sales.

Textron's multimarket concept was developed and refined in three stages: phase I (1953-1959), building a large base of sales through acquisition of leading companies in small or medium-sized industries; phase II (1960-1970), internal growth and refinement of operations coupled with selected acquisitions; and phase III (1970-present). While Textron continued in phase III to emphasize the objectives it had pursued in phases I and II, it also sought to extend these concepts through new initiatives, principally

in the international area. Thus, while the majority of Textron's divisions are presently headquartered in the United States, 18 divisions now have offices or plants abroad and two divisions are based outside the United States.

In 1978 Textron operated 46 plants and had 13,500 employees (19 percent of its work force) outside the United States. Approximately \$1 billion or 31 percent of Textron's total sales in 1978 were either export sales (\$519 million) or sales by operations located outside the United States (\$556 million, including \$58 million represented by the resale of components manufactured in the United States).

Decentralized authority is a central principle of Textron's operations. Each Textron division is a complete, self-sufficient enterprise conducting business under its own name with its own operating officers and management. Division managers have direct responsibility for the division's products and services (including research and development, manufacturing and marketing), and for achieving the performance criteria established by Textron's management.

It is the responsibility of Textron's executive staff at the Corporate Office to provide the centralized coordination and control needed to set overall standards and assure performance in accordance with them. Textron has historically operated with a relatively small Corporate Office staff which presently includes five Group Vice Presidents, who serve a liaison role between the Corporate Office and assigned divisions. Each of these "Group Officers" has responsibility for monitoring the activities of the several divisions in his group and working with division management in areas such as planning, product and market development and capital programs. These Group Officers are the links in a two-way communication system which contemplates that the goals and policies of Textron will be interpreted for and communicated to the divisions, and the plans, progress, needs and problems of the divisions will be communicated to the Corporate Office. They are assisted by Group Controllers who, under the supervision of Textron's Vice President and Controller, provide liaison with the financial officers of each division.

By 1978 this relatively small Corporate Office staff supervised the operations of 26 Textron divisions, many of which had begun developing substantial international markets for the first time in the 1970's. Bell developed the largest volume of export sales, and it is there that the

Committee has found that Textron experienced the greatest problems with questionable payments.

## **B. SUMMARIES OF FINDINGS AS TO FOREIGN SALES OF BELL HELICOPTER**

### **1. Introduction**

Despite its world-wide reputation as a leading helicopter manufacturer, Bell historically made only limited efforts to market its aircraft outside the United States. For many years, the company directed its production capacity toward supplying the United States Army, which has traditionally been Bell's largest customer. Supplying this heavy domestic demand of its major customer traditionally preoccupied the attention of the most senior levels of Bell's management.

By virtue of this preoccupation with domestic military markets, international sales efforts in the 1960's were carried out by a small group of personnel within Bell's Commercial Marketing Department. Bell had no separate international sales department; the small international sales staff reported to Mr. Dwayne Jose, Director of Commercial Marketing, until 1969. Mr. Jose, although experienced in aircraft sales, had no background in international sales and devoted his attention almost exclusively to developing commercial sales in U.S. markets.

Until the late 1960's, Bell's foreign distribution system consisted generally of independent companies in Europe, Latin America and the Far East. These companies were typically engaged as independent representatives on a commission basis, granted an exclusive sales territory and encouraged to develop service facilities, including inventories of spare parts needed to supply Bell aircraft already in operation.

During this period, Bell was not active in such world markets as the Middle East and Africa. Bell's European-based licensee, Agusta, which had extensive helicopter manufacturing facilities in Italy, enjoyed exclusive sales rights with respect to most Bell models throughout these two regions, as well as in some European countries such as Italy and Switzerland.

In 1969 with the decline in U.S. military sales attendant to the winding-down of the Vietnam conflict, Bell's management expanded the company's international marketing efforts. The international sales force was enlarged and organized into a separate International Marketing Department. An experienced international salesman, Mr. Frank M. Sylvester, was brought to Bell from the international division of the Piper Aircraft Company to head the new department.

Following Mr. Sylvester's arrival, Bell's international sales increased rapidly. Bell established dealers in countries where the company had not been represented previously and embarked upon a program to upgrade or replace marginal dealers in other countries where sales had been few or nonexistent. Bell sales personnel called upon dealers more frequently to improve the quality of the dealers' sales and service capabilities.

As part of this program of expansion, a European sales office was established in Brussels in 1970. The Brussels office was headed by an individual who had been one of Mr. Sylvester's colleagues at Piper. The office was staffed with both sales and technical personnel, and, until it was closed in 1975, the Brussels office aggressively pursued sales in markets previously dominated by Bell's competitors, including its licensee, Agusta.

The program of building and streamlining Bell's international distribution system worked effectively. From a modest level of 10 to 15 percent of Bell sales in 1969, international sales grew dramatically during the 1970's to approximately 50 percent of Bell sales in 1978, the percentage increase being due in part to the fall-off in total sales to the United States Army.

As Bell's foreign sales expanded, transactions arose periodically in which Bell personnel perceived that payments to foreign government officials might be required in order to make helicopter sales to foreign governments. No formal policy with respect to such payments was promulgated by Mr. Sylvester or the Bell senior managers to whom he reported. A number of employees in the International Marketing Department have told the Committee that there was a general understanding in the Department that, while Bell should not make questionable payments itself, Bell's dealers, as independent businessmen, could do as they wished with their commissions, including making payments to or sharing commissions with foreign government officials.

The involvement of Bell's own personnel in such questionable transactions took various forms, as will be evident from the next section of this Report which deals with specific questionable payment transactions in several countries. In a number of instances, such personnel were merely aware that a dealer intended to make payments out of commissions to government officials. In other instances, International Marketing Department personnel (1) personally negotiated with government officials or their representatives who were requesting a payment and structured the transaction so that the payment would be funded, or (2) negotiated an arrangement with a dealer whereby the dealer assigned his commissions in advance to third parties, apparently including government officials. On one occasion, International Marketing Department personnel made an advance payment prior to delivery and receipt of payment from the ultimate customer in order to facilitate payments to a person whom Bell personnel assumed would in turn pay government officials. These varying degrees of participation culminated in 1977 in a transaction in which a Bell International Marketing employee admits to having personally carried cash outside the country in order to make a payment directly to a foreign government official. Thus, in some instances the level of involvement of Bell personnel went beyond the passive attitude implied by the philosophy that an independent dealer could do whatever he wanted with his own money.

It would be misleading, however, to conclude that questionable payments were the rule in Bell's foreign marketing activities. The Committee found evidence of questionable payments as to relatively few of Bell's international sales. Indeed, Bell policies discouraged questionable payments in several important respects: Bell management vigorously enforced a policy that the company would not sell aircraft at prices above standard list price, thus preventing a device reportedly used by other firms to fund questionable payments. Nor would Bell pay additional or excessive commissions in response to local sales exigencies, another device sometimes used by others to enable a foreign dealer to more easily fund payments. The evidence is that Bell's commission structure was widely perceived by its sales representatives to be relatively low.

The following segments of this Report deal in summary fashion with the Committee's findings as to individual countries in which Bell's sales or attempted sales involved the possibility of questionable payments. Included

are all countries in which questionable payments were found to have been made and certain other countries where it was deemed important for the Committee's investigation to be outlined in some detail. More detailed information as to each country will be found in Volume Two of this Report.

In the course of its inquiry into Bell international sales transactions, the Committee analyzed files and conducted interviews as to numerous countries other than those covered specifically in this Report. In particular, the Committee examined transactions in Argentina, Brazil, Greece, Kuwait, Japan, Sudan and Taiwan with respect to which questions were raised by information received by the Committee. After a thorough review, the Committee found no basis for concluding that any questionable payment was made by Bell or its dealers in the course of Bell's sales activities in any of these countries.

## 2. Ghana

*The Committee has concluded that in 1971 Bell personnel participated in arranging a transaction which resulted in a payment of \$300,000 requested by a high official of the Ghanaian government in connection with the sale of two Model 212 helicopters.*

The transaction involved Bell's sale of two helicopters through its dealer for West Africa, Tropical Aircraft Sales Company ("Tropical"), to the Ghana Air Force for use in transportation of senior government officials and visitors. In the early stages of the negotiations, Bell personnel, including the then International Sales Manager, learned from the dealer that a payment had been requested by the Ghanaian government official. Bell personnel, including the International Sales Manager, the then Manager of Contract Administration and the Manager of Credits and Financing, then structured the transaction so that the sale would be made to Tropical, with an immediate resale by Tropical to Ghana at an inflated price, which included the amount of the payment to the high government official.

The evidence is that Bell's Treasurer, Mr. Theodore R. Treff, knew in 1971 that a questionable payment would be made. Several employees have testified that, in their judgment, Mr. Sylvester also knew of the payment and documentary evidence indicates that he at least knew that the transaction involved a resale by Bell's dealer above list price. Although a former



employee of Tropical has told the Committee that he was under the impression that Mr. James F. Atkins, then Executive Vice President of Bell, knew of the questionable payment, the weight of the evidence is that the payment was not known to or approved by Mr. Atkins. There is no evidence that any other Bell officer or any officer of Textron knew of the questionable payment.

### 3. Dominican Republic

*The Committee found that in 1977 a Bell Regional Manager personally made two direct payments totaling approximately \$60,000 to a government official of the Dominican Republic. These payments included approximately \$30,000 in cash, which the Regional Manager handcarried outside the United States to the Dominican Republic.*

Bell traditionally had no dealer in the Dominican Republic and made no helicopter sales there until 1976. In that year, Bell sold two Model 205A-1s to the Dominican Republic Air Force. In connection with this sale, a Bell employee has testified that payments were made on two occasions to a government official. These payments were made after the issuance of a Textron directive signed by Mr. Miller dated August 16, 1976 which made it clear that such payments were contrary to Textron policy. The Bell Regional Manager has testified that Mr. Sylvester was made aware that a questionable payment would be made. In addition, the Committee has concluded that several key employees of the International Marketing Department, in addition to the Regional Manager, were aware that payments to one or more government employees were contemplated in connection with the sales to the Dominican Republic, although they were not aware of the method by which the payments were made. The Committee has further concluded that no other Bell officer nor any Textron officer had knowledge of any questionable feature of the transaction.

### 4. Country "A"

*The Committee has concluded that, in the course of the sale of two aircraft to Country A in 1973, Bell made payments to a company that was known or suspected to be a conduit for payments to one or more government officials of Country A.*

In 1973 Bell sold two Model 212 helicopters to the United States government for immediate resale to the government of Country A. A commission of approximately \$100,000 was paid to a Bell representative in Country A whose shareholders, Bell personnel were informed, included government officials in the country with power to influence the purchase of the helicopters.

The evidence is that personnel in Bell's International Marketing Department, including Mr. Sylvester, were aware of the fact that government officials were to share in the commission. In addition, a Bell employee has told the Committee and the SEC staff that Bell's then Chairman, Mr. Edwin J. Ducayet, and Senior Vice President, Mr. Hans W. Weichsel, Jr., were informed that commissions might be shared with a government official of Country A. Neither Mr. Ducayet nor Mr. Weichsel, who have been interviewed by the Committee, recalls receiving any such information. There is no evidence that any other officer of Bell or any officer of Textron was aware of these matters.

#### 5. Country "B"

*The Committee has concluded that, in connection with the sale of aircraft to the government of Country B in 1973, Bell's dealer made a payment which probably went to a foreign government official with the knowledge and participation of Bell International Marketing Department personnel, including Mr. Sylvester. In addition, Bell's International Sales Manager and a Bell Regional Manager were aware that Bell's dealer in Country B employed two other government officials as advisors during the period 1971-77.*

In connection with a 1973 sale to the Air Force of Country B, the Bell Regional Manager assisted the Bell dealer in negotiating a payment of \$29,150 to a person who identified himself as a friend of Country B's Military Attache in Washington, D. C. Although the contract had already been approved by the responsible Air Force officials in Country B, the payment was made in order to obtain the signature of the Attache on the Bell sales contract. The Committee has concluded that all or part of the money probably went to the Attache. Several International Marketing Department employees, including Mr. Sylvester, were aware of and approved this payment which was made by Bell and debited to the dealer's commission account. So far as the Committee has been able to determine no other Bell officers and no officers of Textron were aware of the payment.

In addition, Bell International Marketing Department personnel, including the International Sales Manager and the Regional Manager for the area including Country B, were aware that two Air Force officers of Country B served as advisors to Bell's dealer during the period 1971-1977. The Regional Manager has testified to the SEC staff that he assumed that these officers were being paid by the Bell dealer. He has also said that the International Sales Manager, Mr. Dee E. Mitchell, instructed him to have documents referring to such advisors altered. Mr. Mitchell denies giving such an instruction. The documents were in fact altered.

#### **6. Country "C"**

*The Committee has determined that Bell International Marketing personnel were knowledgeable about and participated in a transaction whereby Bell's dealer assigned approximately \$275,000 in commissions to a relative of the ruler of Country C. The relative was a former government official who continued to carry out governmental functions at the time of Bell's sales.*

In 1974 and 1975, in connection with an \$8 million dollar sale to the government of Country C, Bell's dealer and a subdealer assigned their commissions totalling approximately \$275,000 to a relative of the ruler of Country C. The relative served as the ruler's personal assistant on diplomatic affairs and was a former high government official. This assignment was done with the prior knowledge of Bell International Marketing personnel, including, apparently, Mr. Sylvester. The Committee has found no evidence that any other officer of Bell or any officer of Textron was aware of these facts at the time. However, two months after the transaction, Mr. Weichsel, the Senior Vice President of Bell, was advised by a Bell employee that the Bell dealer had given its commission to an unnamed third party. Mr. Weichsel did not inquire further into the matter.

In addition, it appears that the parent company of the subdealer for Country C was owned, in part, by another high official of the country and members of his family. This fact was known to Mr. Weichsel and Mr. Sylvester. The Committee has found no evidence that any other Bell officer or any Textron officer was aware of this fact. The subdealer was paid commissions of approximately \$200,000.

#### **7. Country "D"**

*In connection with Bell's sales to Country D, the Committee has, after careful review, been unable to determine whether ownership of interests in*

*Bell's dealer by one or more government officials violated any law of Country D or was otherwise improper. The Committee found no evidence of any payments to government officials by Bell or its dealer, other than whatever benefits the government officials enjoyed as owners of the dealer.*

During the period 1971-1977, Bell made several sales to Country D's defense forces. During this time, the Managing Director of Bell's dealer in Country D also served as head pilot for Country D's defense forces. Another officer of the defense forces may also have had a financial interest in the Bell dealer. In addition, the dealer's Chairman served as private secretary to the son of the ruling family of Country D, who was also the senior defense official of both Country D and an organization of states of which Country D is a member. Later, the dealer's Chairman became a senior defense official of the organization of states.

The senior employees in Bell's International Marketing Department, including Mr. Sylvester, were aware of the relationships summarized above when Bell's sales were made. Mr. Weichsel at Bell and two officers of Textron, Mr. Willard R. Gallagher and Mr. Andrew J. Beck, received information in 1975 and 1976 that put them on notice as to some of these relationships. The Committee found no evidence that other officers of Bell or of Textron had knowledge of such matters prior to early 1978.

Counsel in Country D has advised the Committee that mere ownership by a government official of an interest in or receipt of a commission from an organization dealing with the government is not a violation of the laws of Country D or the organization of states. However, receipt of a payment or benefit to influence a governmental decision or the acceptance by a civil servant of compensation for work outside his official duties, unless approved by his supervising minister, may violate certain laws.

The Committee found no evidence of any benefit or payment to a government official in Country D other than the benefits accruing from the financial interests in the dealer which appeared to be well known to the governing authorities of Country D and the organization of states.

#### **8. Country "E"**

*In connection with the 1972 sale of four aircraft to the government of Country E, the Committee found that Bell represented to the United States*

*government that no commissions were being paid to the dealer on the sale but thereafter entered into a consulting agreement with the dealer's key employee under which no additional services were expected. Correspondence from the dealer to Bell indicated that payments were made to the Air Force Commander of Country E and perhaps to a United States Military Attache.*

The 1972 consulting agreement was entered into with a key employee of the dealer as a means of compensating him in the amount of \$39,000 for his marketing efforts in securing the sale. In addition, correspondence in Bell's files from Bell's dealer in Country E during the years 1972-1973 makes what appear to be clear references to questionable payments by the dealer to the Air Force Commander of Country E and a United States Military Attache. The Bell employees who received the correspondence have told the Committee that they are aware of no questionable payments and that the suspicious references in the correspondence likely referred to arrangements for payment of training expenses of Country E personnel.

The Committee interviewed the former key employee of the dealer who was the author of the correspondence. The dealer's employee has told the Committee that in the course of his sales efforts for Bell he paid the travel expenses of and furnished airline tickets to the Commander of the Air Force of Country E but made no other payments of any kind to the Air Force Commander. According to information provided by the employee to the Committee, these expenses reached the level of approximately \$5,000. The employee has also told the Committee that, while a gift was given to the wife of the United States Military Attache, it was of modest value and that no payment was made to the Attache.

Although Mr. Weichsel approved of the consulting agreement, there is no evidence that any Bell officer or any Textron officer was aware of the highly suspicious references to questionable payments in the correspondence from the dealer or of the expense reimbursements and gift which the dealer's employee has stated were made.

#### **9. Country "F"**

*The Committee has determined that Bell employees participated in the making of questionable payments on one or more occasions to government officials in Country F. The payments to one such official amounted to over \$150,000.*

In 1973, in connection with a sale of helicopters to the Air Force of Country F, Bell issued checks totalling \$157,550.50 to an Air Force officer of Country F. These amounts were paid from and debited to the commission account of Bell's dealer. A Bell International Marketing Department employee has stated that he believed at the time that these monies would go to a high government official of Country F who had authority to effect the purchase. The Bell employee has also stated that he was told by the dealer after the fact that the dealer had split a 1975 commission of \$160,000 with the same high official and that small payments to other government officials had been made. The Committee found no evidence that any Bell or Textron officers were aware of any of these questionable payments, before or after the fact.

#### 10. Country "G"

*The Committee found that in 1972 at the request of a dealer Bell made a \$50,000 payment, which was advanced by Bell and charged to the dealer's account, to an individual employed as an advisor by a government-owned enterprise in Country G, in anticipation of the sale of one helicopter to that enterprise.*

Bell International Marketing Department personnel have told the Committee that they assumed that all or part of the \$50,000 payment would be shared by the advisor with one or more officials of the enterprise.

The Committee found no evidence that any Bell officer outside of the International Marketing Department or any Textron officer knew or approved of this transaction.

#### 11. Country "H"

*In its marketing activities in Country H, Bell made a \$1,000 payment to a government official and entered into an arrangement with a company suspected to be serving as a front for the interests of a key government official.*

In 1973, in the course of marketing helicopters for VIP transportation, Bell made a direct payment of \$1,000 to a high-ranking official of Country H out of the dealer's commission account. In the same year, Bell personnel arranged for commissions which would accrue on another prospective sale to be assigned to a company which Bell personnel, including Mr. Sylvester, according to the testimony of his subordinates, suspected was a front for one

or more high-ranking government officials. No payments were in fact made under this arrangement, as the prospective sale did not materialize. No evidence suggests that Bell officers outside the International Marketing Department or officers of Textron knew about either of these transactions.

## 12. Country "I"

*Bell's dealer in Country I has stated that he has furnished gratuities, including small amounts of cash, to government officials of Country I.*

Bell International Marketing personnel were aware that payments or gratuities of some sort were in fact made to government officials by the Country I dealer. Bell also routinely complied with the dealer's requests for accommodation payments, including the furnishing of airline tickets and travel expense money to Country I officials which were charged to the dealer's account with Bell.

Although Bell's dealer for Country I has told the Committee that gratuities, including small amounts of cash, are customary in Country I, the Committee is advised by counsel in Country I that the cash payments and gratuities may well have violated the laws of that country. No evidence was found by the Committee, however, which indicates that the payments made by the dealer were directed at securing or retaining specific business with the government of Country I. There is no evidence that any officer of Bell outside the International Marketing Department or any Textron officer had knowledge of such payments.

## 13. Country "J"

*The Committee found that in connection with a potential sale to the Air Force of Country J in 1973 Bell International Marketing Department employees proposed to Mr. Hans W. Weichsel, Jr., Bell's Senior Vice President, that Bell's dealer in Country J be asked to assign its commission on the sale to a consultant who would be engaged by Bell. The consultant was referred to by a Bell employee as probably the "bagman" of a high government official of Country J.*

Mr. Weichsel rejected the proposal and instructed that commissions be paid only to the established dealer. The International Marketing Department employees interpreted this instruction to mean that Bell's dealer was free to engage the consultant. Accordingly, one of them tried unsuccessfully

to persuade the dealer to give up most of its commission to the consultant in order to conclude the sale. The sale, however, was never consummated as the Air Force refused to do business with Bell's dealer.

#### 14. Country "K"

*Despite suspicious references in correspondence from Bell's dealer, the Committee's investigation failed to yield any evidence that payments to government officials in Country K were made by Bell, either directly or indirectly.*

Although the Committee's attention was drawn to Country K by two communications in Bell's files from a Bell dealer which made references indicating the possibility of questionable actions, a thorough investigation failed to turn up any evidence that any questionable payments were offered or made to officials of the government of Country K by Bell or by any Bell dealer in connection with sales efforts in that country. Apparently no officer of Bell or Textron was aware of either of the communications.

#### 15. Other Countries

##### *(a) Country "L"*

*The Committee found no evidence that questionable payments were offered or made to any government official in Country L.*

Bell delivered in excess of \$10 million of helicopters to the government of Country L in the late 1960's and early 1970's. It paid no commissions to its established dealer in Country L because the helicopters were sold to the United States government for delivery to the government of Country L under the United States government's Grant-in-Aid program. The dealer sued Bell in 1972 for commissions on the sale and was eventually paid \$90,000 in settlement of the case. At one juncture in the settlement phase, Bell's outside counsel for the lawsuit expressed concern that a high military official of Country L was "on the payroll" of the dealer during the relevant period. The Committee made a careful inquiry, including an interview of the outside counsel and review of his records, to determine if there was any basis for this concern or if there was any evidence that the dealer made questionable payments to government officials in Country L. No such evidence, or other factual basis for counsel's concern, was found.



(b) Country "M"

*The Committee has concluded that a payment of \$1,000 was made to the relative of a government official in Country M.*

At the request of its dealer in Country M, in 1972 Bell International Marketing Department personnel helped effect a \$1,000 payment to the wife of a key government official who had responsibilities over an agricultural spraying program which utilized helicopters. In an unrelated transaction in 1971, which did not originate with the Country M dealer, a proposed arrangement calling for payment of a commission to a third party, who in turn contemplated payments to government officials of Country M, was not consummated because the sale was not made. There is no evidence that officers of Bell outside the International Marketing Department or officers of Textron knew or approved of either of these transactions.

(c) Country "N"

*Even though a former dealer has made a charge that Bell's present dealer in Country N shared his commissions with military officers of Country N, the Committee found no evidence to support this charge.*

In 1978 Bell's former dealer in Country N filed an amended complaint in its pending antitrust lawsuit against Bell, alleging that the dealer which replaced it in 1970 was connected with the military of Country N and had shared commissions on sales with military officers of that country's Air Force in order to persuade them to purchase from Bell. A second lawsuit is also pending between Bell and its former dealer. Bell has denied all such allegations. The Committee was able, through counsel, to examine all the litigation files and interview the new dealer. Although the new dealer would not respond to all of counsel's questions concerning his personal affairs, no evidence was found that either Bell or the new dealer paid any bribe to a government official of Country N.

(d) Country "O"

*Despite an unusual pricing arrangement, the Committee found no evidence of improper or questionable conduct in connection with Bell's sales of two helicopters in 1973 to Country O.*

In connection with a 1973 sale to Country O, Bell arranged to provide its dealer with compensation in addition to its regular commission by invoicing the government of Country O at the newly established, higher

price while charging the dealer the previous lower price and crediting the dealer with the difference of \$25,000. Because of these unique circumstances, the Committee inquired carefully into the facts surrounding this sale. No evidence was discovered which would indicate that any questionable payments were made.

## **C. SUMMARIES OF FINDINGS AS TO FOREIGN SALES OF DIVISIONS OTHER THAN BELL HELICOPTER**

### **1. Introduction And Overview**

In order to market approximately \$2.25 billion in goods and services outside the United States from 1971 through 1978, the Textron divisions other than Bell utilized a wide variety of marketing practices. Despite this variety, the Committee found the following factors present at almost every non-Bell division:

1. an absence of company-owned retail outlets;
2. very few "big ticket" items, as contrasted with a multitude of products with moderate retail prices whose profitability depended to a material degree on substantial sales volume;
3. substantial reliance on the sales efforts of non-employee third parties.

The bulk of foreign marketing by these divisions was found to have been handled through one or more of the following methods which do not require an employee sales force:

1. dealers or distributors who purchase products from a division and resell to third parties from their own inventory;
2. agents or representatives who, in return for a percentage fee paid by the division and based upon the sale price charged to the purchaser, either (a) arrange for the purchase and sale of the division's products, or (b) act as a finder in bringing the division into contact with a potential buyer;
3. licensees who pay a royalty to a division for the right to use certain knowledge or equipment and either manufacture the division's products for their own use or manufacture and sell such products to third parties.

In 1978 Textron divisions had relationships with approximately 1,100 international agents and distributors who were engaged in selling Textron products in almost every country in the world.

Transactions of a questionable character which occurred at three divisions, Fafnir, Shuron and Bell Aerospace, are summarized below. Practices of less significance but still of a questionable nature which occurred at six other divisions are noted starting at page 34. More detailed findings as to these matters appear in Volume Two of this Report.

## 2. Fafnir

*The Committee found that the Fafnir Division made substantial sales to a foreign government agency through an agent even though some Fafnir executives had knowledge that the agent was making questionable payments to officials of the purchasing government agency.*

The Fafnir Division is a major manufacturer and distributor of automotive and other bearings and related products. It has production and distribution facilities in Europe as well as in the United States, Mexico and Australia. Between 1972 and 1977 Fafnir's agent in Country P secured sales aggregating in excess of \$3,160,000 to a government controlled enterprise in Country P. Documents located in Fafnir's files and information obtained from employee interviews in the United States and Europe clearly indicate that the agent paid a portion of his commissions to an unidentified government official who was in a position to influence the buying decisions of the state enterprise and that this fact was known to the senior executives of Fafnir in Europe, who had the most frequent contact with this agent. There is substantial evidence that Mr. Hans W. Deutsch, Fafnir's Vice President-International Operations, knew at least by 1976 that there were questionable aspects to Fafnir's arrangement with the agent, including questions as to the legality of Fafnir's having an agent in Country P. There is also evidence that Mr. Thomas E. Sherer, Fafnir's President, should have been aware by 1976 that the agent's activities were questionable. Nevertheless, they failed to bring the matter to the attention of the Textron Corporate Office or to effectively stop dealings with the agent, which continued for at least another year. The Committee found no evidence that the arrangement was known to any officer of Textron.

### 3. Shuron

*The Committee found that in 1977 the Shuron Division used a third party to continue overbilling practices which the Division managers thought were in possible conflict with Textron policies then in effect.*

The Shuron Division manufactures and distributes eyeglass frames and lenses. Its production facilities are in the United States but it makes significant sales through foreign distributors. In 1977 after becoming concerned that its practice of overbilling certain foreign distributors in Country Q at their request might violate Textron policies, Shuron arranged to make sales to foreign distributors at standard Shuron list prices through a United States-based export company. The export company would then resell to the foreign distributors, overbilling as they might request. Based on the understanding that Shuron's involvement would cease upon Shuron's sale to the export company, outside legal counsel issued a favorable opinion on this new arrangement. Textron's Legal Department was neither consulted nor informed of the fact that Shuron had obtained such advice from its counsel. In fact, the export firm carried on no substantial independent operations and Shuron's then Manager-International Operations, who is no longer employed by Shuron, participated in preparing at least two pro forma, overbilled invoices addressed to its distributors in Country Q to be used by the exporter. A single sale eventuated through this means. The practice was discontinued in 1977.

The former Manager-International Operations has stated that he informed Mr. Egil G. Ruud, a Textron Group Vice President, of the use of the export company. Mr. Ruud denies it. There is no other indication that the subject ever came to the attention of Textron's Corporate Office or any Textron officer prior to 1978.

Any Shuron officers who may have had knowledge of the arrangement whereby the pro forma invoices were prepared, with the exception of the Vice President-Marketing who has told the Committee he did not know of the preparation of the pro forma invoices, are no longer employed by Shuron.

### 4. Bell Aerospace

*The Committee found that in 1975 and 1976 Bell Aerospace continued, albeit without success, to pursue a large sale of a new product to a foreign*

*government agency under circumstances where Bell Aerospace personnel received strong indications that questionable payments would be required to make the sale.*

During the mid-1970's, the Bell Aerospace Division was engaged in attempting to effect overseas sales of an important new product, the "Voyageur," a hovercraft which travels over water on a cushion of air. Information received from a representative seeking sales in Country J as to a proposed sale there in 1975 should have alerted Bell Aerospace personnel to the possibility that payments to government officials in Country J were contemplated in connection with the proposed hovercraft sale; however, no inquiry into the matter was made and the representative's commission rates were raised for a time to exceptionally high levels. No sales were made, and the Committee is satisfied that no questionable payment was made.

Although Textron officers were consulted on several occasions regarding the commission levels, the evidence credited by the Committee is that they were not made aware of the information received by Bell Aerospace regarding potential questionable payments. Textron's officers insisted that representations be obtained from Bell Aerospace's representatives in Country J that no such payments would be made.

##### 5. Questionable Practices Of A Less Important Nature

In addition to the incidents of questionable conduct discussed in this Report with respect to the Bell, Bell Aerospace, Fafnir and Shuron Divisions, the Committee obtained information concerning the following questionable practices of a less important nature during its examination of the foreign marketing activities of Textron's divisions. All of these practices were terminated prior to the commencement of the Committee's investigation and none related to sales which were a material portion of the sales of the divisions involved. There is no evidence that any officer of Textron was aware of any of these practices when they occurred.

###### *(a) Inaccurate Invoices*

*Misleading or inaccurate invoices, designed either to eliminate an agent's or customer's need to obtain an import license from a foreign country or to eliminate or reduce the amount of the import duty to be paid on imported products, were provided to agents and customers by employees of the Bridgeport Machines, Gorham, Shuron and Waterbury Farrel Divisions.*

These invoices either failed to mention certain products included in a shipment, mislabeled them, misstated their price, or stated that they were being supplied free of charge. On occasion, to avoid the imposition of import duties on shipments above a minimum size, several small invoices were supplied rather than a single invoice reflecting the entire shipment.

*(b) Sales To Possible Smugglers*

*At the Sheaffer Eaton and Shuron Divisions, products were sold at reduced prices to domestic dealers. Sheaffer Eaton personnel told the Committee that, although they had no certain knowledge, they suspected the dealer of smuggling or facilitating the smuggling of the products into a foreign country. A Shuron employee told the Committee that a Shuron dealer informed him that Shuron products had been smuggled into the same foreign country.*

The prices for these goods were below standard wholesale prices at Shuron because the products were seconds; at Sheaffer Eaton, the dealer secured a reduced price for the products as part of an agreement by which he acquired a plant licensed to make the products in the country into which they were allegedly being smuggled.

*(c) Payment Of Possibly Illegal Commission*

*In connection with a sale of approximately \$300,000 of spare parts to an agency of a foreign government, the Hydraulic Research Division paid a commission to an agent despite the fact that the division believed such a commission to be forbidden under applicable foreign law.*

The commission of approximately \$17,800 was viewed as a "one-time" commission and was applied to an outstanding debt owed to the division by the agent. The agent did in fact perform substantial services to help the division obtain the sale. Further sales to this governmental agency were made directly and without payment of commissions.

*(d) False Documentation*

*At the request of their foreign representatives, the Bridgeport Machines, Fafnir, Shuron and Waterbury Farrel Divisions provided inaccurate documentation to foreign governments on some occasions.*

These documents consisted of inaccurate import declarations, certified price lists which showed distributor export prices which were substantially in excess of the actual prices and documents which understated commissions or

failed to respond accurately to questions concerning commissions which had in fact been paid.

Although most of these practices were engaged in without the knowledge of the executive officers of the divisions involved, there were occasions when such actions were taken with their knowledge. The Committee found no evidence indicating that any officer of Textron was consulted before implementation of any of these practices or was aware of them when they occurred.

#### **D. OCCASIONS ON WHICH TEXTRON DIVISIONS REJECTED REQUESTS FOR QUESTIONABLE PAYMENTS OR FOR OTHER QUESTIONABLE ACTIONS**

*Although the Committee's investigation focused on questionable actions by Textron and its divisions, the Committee found that a number of Textron divisions from time to time during the period under review refused requests for questionable payments or for other questionable actions. These rejected requests range from suggestions that payments be made to government officials to requests to furnish incorrect documents to customers.*

One example of a rejected impropriety occurred in December 1977. A team from Bell Helicopter International ("BHI"), part of Bell, went to Country R to make a presentation to a government corporation as to a proposed training program. The BHI team presented its proposal to military officers who were the senior managers of the corporation. Later a member of the BHI team was approached by an individual who claimed to represent one of the officers. The representative stated that for BHI to obtain the proposed sale, his firm would have to be retained as a consultant and that the consultant would split its fees with the officer. The BHI team members flatly rejected this proposal. BHI informed the minister of the department of government with which it dealt in Country R of the improper proposal and of BHI's policy against such arrangements. BHI's training program proposal was not accepted.

Similarly, in 1972 a Bell International Marketing Department employee rejected a suggestion by an employee of Bell's dealer in Country S that a questionable payment be made in connection with a proposed sale. Shortly thereafter, the employee discontinued working for the dealer.

In 1975 the President of Bell refused a request from the International Marketing Department to appoint a retired United States Air Force officer as Bell's representative in Country T because that officer was known to have a special personal association with the head of the government of the country. Also in 1975, the President of Bell rejected a proposed transaction in another country that would have potentially involved payments to government officials.

In 1975 or 1976, Bostitch management refused a demand for payment from government officials in Country F where Bostitch maintains a manufacturing facility.

Another division of Textron received a request for a questionable payment in connection with a sale to an Eastern European country in 1972. This request was brought to the attention of Mr. Miller and was rejected.

In addition to the foregoing specific instances of requests for direct payments, the Committee found that Textron division personnel have on a number of occasions refused to deal with third parties who indicated that they planned to make questionable payments to others, or expected to receive such a payment from the division. For example, in the early 1970's Bell made sales proposals to the Police Air Wing of Country U rather than to the Interior Ministry because officials of the latter Ministry had, at that time, a reputation for demanding payments.

A second example involved a refusal on the part of Bostitch to enter into an arrangement for sale of products to a United States company for distribution in Country J because the American company stated that bribes were necessary to do business in that country.

A third example concerned Sprague Meter's bid on a contract for a state-owned gas utility in Country Q. Sprague retained a lawyer in Country Q to perform legal services in connection with the bid. The lawyer referred Sprague to an agent in the country who stated that he would assure Sprague's award of the contract in exchange for five percent of the contract price. The agent proposed to pay a portion of the five percent to a member of the state-owned utility's bid judging committee. Sprague's top management rejected the agent's proposal. Sprague did not bid on the contract.

The President of Dalmo Victor, a division of Bell Aerospace, also rejected the use of agents for sales proposals to the governments of



Countries V and W because he feared that the agents would make questionable payments. Dalmo Victor received a contract in Country V without the use of any agent, but Dalmo Victor's President believes that the sale in Country W was lost because of his refusal to approve the use of an agent.

During the course of its investigation, the Committee also discovered instances in which Textron divisions rejected customer requests for false invoicing. These included requests for understating the value of products on invoices to help customers avoid customs duties or inventory taxes, requests for improper dates on invoices, requests for false statements on foreign customs documents in order to conceal the receipt of commissions, and requests for overbilling to hide non-compliance with minimum pricing regulations.

The information obtained by the Committee shows that Textron divisions and Textron's Corporate Office have also refused the following: (1) sales to Rhodesia which would have been in violation of the international sanctions against that country, (2) furnishing of false price lists to customers, (3) political contributions, (4) large gifts (including vacation trips) for customers' employees, (5) large gifts from suppliers, and (6) a requested payment to an important customer in connection with the proposed sale of one division's plant.

#### **E. SUMMARY OF FINDINGS AS TO ACCOMMODATION PAYMENTS AND OVERBILLINGS AS TO FOREIGN SALES**

*During the period 1971 through 1978 fourteen Textron divisions made accommodation payments in substantial amounts and seven divisions effected overbillings with respect to export sales. These practices were prohibited by a Textron directive dated May 12, 1977. The Committee has found that they nevertheless continued at several divisions for substantial periods of time. Neither division managements nor the Textron Corporate Office took sufficient action to assure that the 1977 directive was implemented.*

"Accommodation payments" and "overbillings" were apparently not unusual practices in American business during the period under review and occurred to a significant degree in many Textron divisions. These practices came to the attention of Textron's management early in 1977 in connection

with the 1976 Textron audit. Mr. Miller issued a Textron policy directive on May 12, 1977 to all division presidents stating that such practices were not acceptable in that they had a potential for abuse as methods for avoiding foreign tax and exchange control laws. A copy of the directive is Appendix F to this Report. Accommodation payments and overbillings nonetheless continued to occur at a number of Textron divisions into 1978. The evidence is that such practices have now been terminated at all divisions.

Specific findings as to accommodation payments and overbillings and as to management failures to promptly and effectively implement the May 1977 directive are set forth in Volume Two of this Report.

## **F. SUMMARY OF FINDINGS AS TO SALES PRACTICES WITH RESPECT TO DOMESTIC OPERATIONS**

### **1. Marketing To The U.S. Government**

*During the period under review, both Bell and Bell Aerospace reimbursed their employees for business lunches and dinners provided to DOD personnel. The reimbursement expenditures were properly segregated in special accounts which were not charged to DOD contracts, but the divisions did not retain documentation supporting the reimbursements. Bell and Bell Aerospace were generally aware that DOD regulations, although subject to ambiguity, very likely prohibited DOD employees from accepting such hospitality. The senior officers of Bell, Bell Aerospace and Textron were aware of this practice.*

The practice of not retaining supporting documentation, which is of concern for the Board of Directors, began prior to the period under review at the Bell divisions and was known to and approved by all of the senior officers of both divisions. The practice was apparently instituted to avoid embarrassment to DOD employees. As early as 1968 Textron's senior officers, including Mr. Miller and Mr. Collinson, received memoranda referring to the disallowance of tax deductions for certain of these undocumented expenses. In 1976 the practice of providing such hospitality to DOD personnel was largely curtailed at Bell, although it continued at Bell Aerospace until 1978 when it was finally stopped at both divisions. A full description of these practices is set forth in Volume Two.

Apart from the foregoing, no questionable payments were found in connection with sales by any Textron division to the United States government.

## **2. Marketing To Commercial Customers**

*The Special Committee found few transactions or practices associated with domestic commercial marketing which violated internal Textron policy or were otherwise considered to be questionable.*

The Committee's specific findings as to such matters are set forth in Volume Two of this Report.

## **G. SUMMARY OF FINDINGS AS TO POLITICAL CONTRIBUTIONS**

*During the period 1971 through 1978, the Committee discovered that in isolated instances four Textron divisions made a total of 12 minor political contributions, two of which were made in a foreign country. Political contributions are against Textron policy even if lawful. The contributions aggregated \$1,175. No political contributions were made by the Textron Corporate Office, nor were any officers or employees attached to the Textron Corporate Office reimbursed for political contributions which they may have made.*

The evidence indicates that no Textron corporate officer was aware of any of these contributions, although division officers were aware of each of them. Specific findings as to political contributions are set forth in Volume Two.

## **H. SUMMARY OF FINDINGS AS TO MISCELLANEOUS MATTERS EXAMINED BY THE COMMITTEE**

The Committee carefully reviewed three matters which did not involve possible questionable payments by Textron but which the Committee deemed relevant to this Report. Details as to each of these matters are provided in Volume Two.

### **1. The Sixty Trust: Sale Of Property In Country X**

In 1971 the Sixty Trust, Textron's employee pension trust, retained a law firm in Country X to assist in negotiations for sale of property it owned

to the government of that country. Officers and employees of Textron responsible for administration of the affairs of the trust engaged the law firm with knowledge of the relationship between that firm and a high official of the government of Country X, an inactive partner in the firm, with the expectation that the relationship might benefit the trust in its dealings with the government. Moreover, although Textron employees considered the law firm's fee to be high, they were careful not to offend the law firm and ultimately paid almost the full amount billed. However, the Committee found no evidence that a questionable payment of any kind was made to or for the benefit of any government official in connection with the transaction. The Committee has concluded that the fee charged by the foreign law firm was not unusual and it appears that the foreign government was fully aware of the trust's representation by the law firm. The evidence is that the sale of the property was on terms that were commercially reasonable and fair both to the foreign government and to the trust.

## **2. A Charitable Contribution To A Medical Foundation**

The Committee examined the charitable contributions made during the period under review by the Textron Charitable Foundation Trust, the Company's vehicle for making all substantial charitable contributions. The Committee found no evidence that any charitable contribution was used as a vehicle for a questionable payment and found no evidence of any other impropriety in connection with charitable contributions.

The Committee did, however, examine in great detail the circumstances surrounding a \$100,000 contribution made at the request of Bell to a Medical Foundation, a well-established charitable organization affiliated with a medical school. This inquiry was made because of a possible relationship between the contribution and the admission of the son of a high military official of an important government customer of Bell's to the school's medical residency program. The Committee found no impropriety in connection with the contribution.

## **3. Bell Helicopter's 1978 Inquiry Into The 1971 Sale To The Government Of Ghana**

The Committee reviewed the circumstances surrounding the internal inquiry conducted at Bell in early 1978 into the 1971 sale of two helicopters to Ghana, a subject which was raised during the first day of Mr. Miller's

confirmation hearings before the SBC. The Committee was concerned with Bell's 1978 inquiry for several reasons. First, in its investigation the SEC staff raised serious questions as to the conduct of the inquiry and the accuracy and completeness of the resulting information furnished to the SBC by Bell's Chief Legal Counsel. Second, the Committee concluded that a number of employees of Bell's International Marketing Department, as well as Bell's Treasurer, Mr. Theodore R. Treff, were aware that a payment was made to a high Ghanaian government official by Bell's dealer in the course of the 1971 Ghana sale. This information was not reported to the SBC or to the SEC staff until some weeks after the SBC hearings, when Textron's outside counsel learned of it. Finally, an important document relevant to the internal inquiry was destroyed by Bell's International Sales Manager on the day after questions about the Ghana sale were raised in the Miller confirmation hearings.

After careful review, the Committee has concluded that the Bell inquiry was impeded by the failure of International Marketing Department personnel and Mr. Treff to come forward candidly with the facts known to them about the payment. Moreover, the Committee has concluded that the inquiry, which was never completed, was handled in a careless fashion. The inquiry thus failed to bring to light the critical facts that a payment to a government official was made with the knowledge of several Bell employees, including one and possibly two Bell officers. This mishandling of the inquiry led to the furnishing of incomplete, partially inaccurate reports to the SBC and to the SEC staff.

However, it is the Committee's conclusion that, with the exception of Mr. Treff and possibly Mr. Sylvester, the Vice President-International Marketing, no officer of Bell or of Textron knew of the 1971 payment to the Ghana government official at the time of the 1978 inquiry. The Committee has further concluded that no other officer of Bell nor any officer of Textron engaged in withholding or misrepresenting facts known to him about the 1971 transaction.

#### **I. FINDINGS AS TO ACCOUNTING PRACTICES RELATED TO QUESTIONABLE TRANSACTIONS**

*The Committee found that in general Textron followed sound and appropriate accounting practices. Where questionable transactions did occur,*

*there were related accounting practices which in some instances were not appropriate. These relatively infrequent instances are described below.*

The Committee found several instances of off-book accounts, including a payroll account at a Sprague Meter Division facility in the United States, unbooked "petty cash" checking accounts for several United States branch offices of the Fafnir Division, and a relatively small off-book account which apparently existed at one time at the Milan office of the former WECO Division. The Committee found no evidence that any such accounts were used to make questionable payments. The domestic accounts have been closed or recorded. (Records as to the account maintained by the WECO Division, which was sold in 1978, were not located.)

Certain of the political contributions which the Committee found had been made in violation of Textron policy were reimbursed to employees and not properly recorded as political contributions. The total amount involved was less than \$1,200.

The Committee found no evidence of any secret fund, offshore fund, slush fund or similar unaccounted for asset or source of questionable payments.

As noted elsewhere in this Report, the Committee found a number of instances of overbillings (at eight divisions) and/or inaccurate or "split" invoicing practices including underbillings (at four divisions). In such instances, the invoices for goods sold did not reflect the true price and there was no indication on the face of the invoice that an overbilling or underbilling was involved. As a result, book entries as to sales or revenues were at times overstated or understated. These overstatements or understatements were almost invariably offset by entries to a credit (or debit) account for the customer or dealer or to expense accounts for commissions or selling expenses. Thus, in general, net income was not affected except as to timing and the effect was not material. Nevertheless, the Committee does not approve of overbilling or underbilling practices or of accounting practices which do not correctly record sales or revenues. The Committee notes with approval that Textron management took action to terminate such practices in 1977. However, as noted elsewhere in this Report, implementation of the directive to terminate such practices was not fully effective until 1978.

Textron's Sprague Meter Division billed some utility customers for purchases in advance of shipment in order to accommodate the customers' budgetary constraints. However, no sales were booked with respect to such billings until payment was received or shipment actually made. The Committee notes with approval that the Sprague Division has now been instructed that any such advance billings are to be clearly labeled as such.

As noted in Section III.E. which begins at page 38 of this Volume, a number of Textron divisions made accommodation payments at the request of sales representatives or customers. The Committee has reviewed the accounting procedures used with respect to such payments and has noted that in many instances they were made on oral authorization of the principals of the sales representative or customer and without obtaining any receipt or confirmation from the recipient. Although the Committee has not found any instance where this practice has led to a dispute as to a payment, it is not acceptable from the standpoint of control of disbursements. Pursuant to the Textron directive of May 12, 1977 (Appendix F), accommodation payments by Textron divisions were proscribed. Although accommodation payments were made after that date, the Committee is satisfied that the directive has now been effectively implemented and such payments, and the related lack of recorded authorizations and confirmations of receipt, have ceased.

The Committee considered the practices of the Bell and Bell Aerospace Divisions with respect to recording of expenditures for hospitality furnished to government officials. These practices are summarized beginning at page 39 of this Volume. From an accounting standpoint the Committee was concerned as to the effect of the failure to retain full substantiation for such expenditures on the audit of Textron's financial statements and on the ability of Textron to maintain adequate internal controls. The Committee consulted with Arthur Young, Textron's independent auditors, in regard to these matters. Based on the advice of Arthur Young and its own review, the Committee is of the view that, while the failure to retain full supporting documentation cannot be approved, it did not impede the conduct of the regular audits of Textron's financial statements or affect the validity of the financial statements. The Committee is of the further view that, while the failure to retain full supporting documentation was a weakness in internal accounting controls, the weakness was not material, considering the amounts

involved and the other controls exercised over the expenditures. The Committee notes with approval that the practice of not retaining supporting documentation was substantially curtailed at Bell in 1976 and terminated in 1978 and that the practice of returning supporting documentation to the employees rather than retaining it was terminated at Bell Aerospace in 1978.

The Committee noted a single instance where an employee of the Bell Division was able to obtain large sums of cash which may have been used for an improper purpose. See Section III.B.3 of this Volume beginning at page 22. The Committee notes with approval that Bell has now developed additional internal controls that, if followed, will prevent the recurrence of this breach of accounting safeguards.

The Committee reviewed a number of other accounting practices during its inquiry. Within the scope of the Committee's inquiry, no questionable practices other than those mentioned above were noted.

#### **J. FINDINGS AS TO SENIOR OFFICERS OF TEXTRON**

*No evidence was found that Mr. Miller or any other senior officer of Textron had knowledge or approved of any questionable payment at or before the time it occurred. The evidence is that the senior officers of Textron had generally high standards of ethical business conduct and attempted to communicate those standards to others. However, no specific policy directives as to questionable payments were issued prior to 1976 and, even after that, Textron did not have an effective monitoring program to assure that specific policies were communicated and complied with within the divisions. In its recommendations in Part IV, the Committee has proposed improvements that should be made in the manner in which Textron's corporate policies are formulated and communicated and in follow-up to assure adherence to those policies.*

The federal investigations of Textron were initiated or expanded in response to the SBC hearings on the nomination of Mr. Miller to the Board of Governors of the Federal Reserve System. Mr. Miller's attitude towards, and knowledge of, any questionable practices were thus a critical point in the government investigations and were given similar attention by the Committee. The Committee extended its concern to other senior officers of Textron.



The Committee conducted extensive interviews of Mr. Miller and of presently serving senior Textron officers, including Mr. Joseph B. Collinson, the Chairman and Chief Executive Officer, Mr. Robert P. Straetz, the President, and all other senior corporate officers. All members of the Committee participated with counsel in the interview of Mr. Miller and members of the Committee participated in the interviews of other senior officers, including Messrs. Collinson and Straetz. All SEC and SBC testimony of each officer who had testified before those bodies was carefully reviewed. Documents produced by such officers pursuant to SEC subpoenas and other documents located by the Committee were reviewed. Mr. Miller and each of the senior officers were questioned concerning each incident of questionable conduct at the Textron divisions where there was a possibility that they might have had knowledge of the conduct.

No evidence of knowledge at or before the time of occurrence of any questionable payment was found as to Mr. Miller or any other senior corporate officer of Textron. In particular, there was no evidence that Mr. Miller or any other senior officer of Textron had any knowledge as to any of the following:

- (1) the possibility that General Khatemi had an interest in Air Taxi Company, Bell's agent in Iran, during the period 1971-1973 when Bell made a sale of 489 helicopters to the Government of Iran and made a settlement of \$2.95 million with Air Taxi;
- (2) any of the questionable payments made in connection with Bell international marketing activities as set forth in Section III.B. at pages 18 to 31 of this Volume;
- (3) the political contributions made by several divisions of Textron mentioned at page 40 of this Volume; or
- (4) the transactions at the Fafnir and Shuron Divisions that are described beginning at page 32 of this Volume.

Mr. Miller and several other senior corporate officers did have knowledge of the charitable contribution described at page 41 and of the employment of foreign counsel by the Textron employee pension trust under the circumstances described beginning at page 40. However, the Committee

found no impropriety in either transaction. As to Mr. Miller, the evidence indicates that he had no direct involvement in, and only very general knowledge of, either transaction.

The evidence indicates that Mr. Miller, Mr. Collinson and other senior corporate officers knew of the expense reimbursement practices which were followed by Bell and Bell Aerospace as to meals provided government employees and which are summarized beginning at page 39 of this Volume. The Textron officers considered the practice of paying such expenses to be customary and acceptable so long as only meals and beverages, rather than lavish entertainment, were involved. They understood that the failure to maintain documentation was to prevent embarrassment to DOD personnel. These practices were not effectively curtailed until 1976 at Bell or stopped until 1978 at Bell Aerospace. The senior officers of Textron must share the responsibility for not seeing that they were effectively terminated at least after the DOD, in 1976, reemphasized the importance of not providing any gratuity to DOD employees. The Committee has noted, however, that the practices engaged in by the two Textron divisions were apparently common in the aerospace industry and that the ambiguity of DOD regulations presented difficulties for American contractors seeking to abide by the regulations. In addition, the amounts involved, both in individual instances of hospitality and in the aggregate in any year, were modest.

Questions were raised during the SBC hearings as to the reasonableness of Textron's failure to undertake a comprehensive voluntary questionable payments investigation prior to 1978. The Committee found that the question whether to make such an inquiry had been considered informally prior to 1978 by Mr. Miller and Textron's Board of Directors. Mr. Miller recommended against such an investigation on the ground that it was unnecessary and would be expensive and disruptive, and the Board agreed. It is apparent to the Committee that Mr. Miller's recommendation was based on the fact that, unlike other companies which had undertaken such investigations, no information had come to Textron corporate management's attention that questionable payments had been made by Textron. However, in the Committee's judgment, in the light of the information now available, the decision not to have an investigation was a mistake in judgment.

**PART IV****THE COMMITTEE'S RECOMMENDATIONS**

A short history of the development of Textron's business conduct policies is set forth in Volume Two. That history should be reviewed for additional background information as to the environment to which the Committee's recommendations relate.

**A. INTRODUCTION**

The Committee recognizes and appreciates the decentralized operating philosophy which has been followed by Textron since its first acquisition outside the textile field. Decentralization has produced important benefits for Textron and its shareholders: it has placed responsibility for important entrepreneurial decisions and for profitable, efficient performance directly on the divisions where relevant market and product information is available and response can be prompt; it has made it possible to attract and hold top quality division management; it has thus contributed significantly to Textron's success.

Accordingly, the Committee believes that decentralization should be retained as an operating principle. However, the Committee also believes that the principle of decentralized authority carries with it a particular obligation to assure effective centralized control so that objectives and policies set by the Company are followed and the Company's management and directors are able to meet their obligations to direct the management of the Company's business in the best interests of the Company and its shareholders.

Effective centralized control requires clear communication to the divisions of the policies and objectives of the Company, effective information gathering and feed-back from division management, sound audit functions to monitor performance, and adequate follow-up to assure compliance with corporate policies and objectives.

The Committee's recommendations, which follow, are intended to strengthen essential centralized controls while retaining Textron's traditional principle of decentralized authority.

## B. RECOMMENDATIONS

### 1. Establishing And Communicating Standards Of Business Conduct

Relatively little specific guidance was provided to Textron employees with respect to standards of business conduct prior to 1976. Rather, the Company relied upon its traditions of integrity and ethical business practices and upon general statements as to business standards in its publications and in speeches by senior executives.

A more formal compliance program was undertaken in late 1976 and has since been expanded. In 1978 and 1979, with the adoption and implementation of new Business Conduct Guidelines and significant steps taken to assure education about and compliance with the Foreign Corrupt Practices Act of 1977, Textron now has a generally well-developed compliance program which the Committee believes should be effective.

The Committee commends the progress made to date. The Committee has noted the following areas where it believes further steps should be taken.

#### *(a) Policies Have Been Promulgated Without Sufficient Involvement Of Division-Level Management*

In general, policies are proposed at the Corporate Office with appropriate legal and other expert advice but without involvement of division-level management. The Committee believes that, at times, this process has resulted in policies that have been insufficiently responsive to the operating realities of the divisions. Thus, division management, having had no role in developing the policies, has been less likely to understand and apply them.

When the Business Conduct Guidelines were developed in 1978, significant opportunities were given to division management to comment on early drafts, and the proposals were reviewed in advance with division financial officers. The Committee believes that the Guidelines will be more effective because of this process.

**Recommendation One:** Significant new corporate policies or significant revisions of existing policies should be reviewed in advance of publication with representative members of division management. Where practicable, division management representatives should be

included in a working group or drafting committee designated to propose each policy. Division representation in such processes should include representative financial, operations, marketing or other officers as appropriate to the task in addition to division presidents.

*(b) Policies Have Not Always Been Effectively  
Communicated Within The Divisions*

In general, until the adoption of the Business Conduct Guidelines in 1978, Textron policies were announced by the Corporate Office and communicated primarily to the division presidents and, in some cases, division chief financial officers. Similarly, discussions of Textron policy were normally confined to the separate annual meetings which Textron corporate officers hold with division presidents and division financial executives. Thus, Textron has not had procedures which assure that policies were being effectively communicated to division employees below the most senior management level. Textron also has not had a uniform procedure for assuring that newly-hired division employees are briefed as to Textron's corporate policies. The Committee noted a number of instances in which middle management and lower level employees apparently were not aware of important Textron corporate policies.

**Recommendation Two:** When policies are disseminated, the Corporate Office, with the advice of division management, should determine the appropriate addressees and each addressee should be required to confirm that he has received and read the policy. Normally, all policies should be disseminated at a minimum to all officers of each division and to all management level employees of the accounting, financial, marketing and purchasing departments and to all employees performing contract negotiation, legal or internal audit functions. Major policy statements, such as the Business Conduct Guidelines and the Company's handbook on the Foreign Corrupt Practices Act, should be circulated to all management level employees.

**Recommendation Three:** All newly-hired management level employees should be provided with a standard set of policy materials including the Business Conduct Guidelines and other significant corporate policies and should be required to confirm receipt. (Persons hired for particular positions where additional materials are appropriate should also receive and confirm receipt for the materials appropriate

to their duties. For example, all newly-hired senior managers should receive the Textron Management Guide and all senior accounting and financial personnel should receive the Textron Accounting Manual.)

*(c) Communication Of Policies To The Divisions Has Relied Too Heavily On Written Materials*

With the exception of the annual meeting with division presidents and the annual financial executives conference, where excellent presentations on business conduct standards have been made, the Textron Corporate Office has relied on written communication of policies to division employees. This procedure does not always assure full understanding since there is less opportunity to consider division operating problems and to answer questions and clarify misunderstandings. Further, some people simply understand what they hear better than what they read. In the Committee's view, company-wide seminars would be of particular value to employees engaged in marketing activities who travel frequently and are less likely than other employees to have time to read and study written policies. Occasional seminars at division locations, or at locations convenient to several divisions, should also be considered.

**Recommendation Four:** The Textron Corporate Office should conduct periodic seminar-type programs on corporate policies and business conduct standards for key division employees. In particular, the Committee recommends periodic seminars for key marketing employees of all Textron divisions.

*(d) Employees Of Textron For Whom English Is Not A Native Language Are At A Disadvantage In Understanding Policies And Related Materials Which Are Presently Available Only In English*

As Textron's international operations have grown in importance, the number of employees who do not have facility in English has increased. The Committee noted instances where non-English speaking employees did not fully understand corporate policies. The Audit Committee has also been aware of this problem and has recently made a recommendation for translation of the Business Conduct Guidelines into other languages.

**Recommendation Five:** The Committee endorses the recommendation made by the Audit Committee of Textron's Board of Directors to

**the effect that the Textron Business Conduct Guidelines and other important policies be translated into those languages other than English which are used by a significant number of Textron employees.**

## **2. Oversight Of The Corporate Compliance Program**

The Committee has concluded that, because of the decentralized way in which Textron's business is conducted, it would be of great value to the Company to establish central responsibility for oversight of implementation and monitoring of the Company's program of compliance with corporate policies. The Committee believes that this responsibility should be placed with a single senior-level executive for corporate standards who will have a direct reporting relationship to the Company's Chief Executive Officer and, when appropriate, to the Board of Directors.

This senior executive would review and monitor procedures for preparation and dissemination of corporate policies and would be responsible for coordinating the efforts of all departments of the Corporate Office in preparing policies, determining their distribution and conducting seminars and other educational programs. He would assure adequate participation by division management in the policy-making process and would monitor compliance. In this latter function, the corporate internal audit staff would report to him as well as to the head of Textron's Financial Departments. He would also receive responses to the annual compliance questionnaire and coordinate follow-up with the internal audit staff and the Legal and Financial Departments. Equally important, he should have the responsibility of making periodic field visits to division offices for discussions with division management designed to respond to their questions about corporate policies and to assure himself, the Chief Executive Officer and the Board of Directors that corporate standards of conduct are being understood and implemented. Because the designation of a senior executive for corporate standards is an innovative concept, its effectiveness and continuance of the position should be reviewed periodically by the Board of Directors.

***Recommendation Six:* Textron should designate a senior executive for corporate standards who will have authority and responsibility to monitor Textron's programs of compliance with corporate standards of business conduct. This senior executive should report directly to the Chief Executive Officer and, when appropriate, to the Board of Directors.**

### 3. Control Of International Marketing Activities

#### *(a) Corporate Office Review At Critical Decision Points*

The major instances of deviation from corporate policy identified by the Committee have related to the international marketing activities of two divisions. For this reason, the Committee believes that it is appropriate for Textron to establish additional procedures to assure that such activities are monitored by the Corporate Office on a regular basis.

The Committee believes that the major responsibility for monitoring all division activities should continue to rest with the Textron Group Vice Presidents as to matters of operations and business strategy, and the Group Controllers as to financial and accounting matters. (Group Controllers should, of course, always keep Group Vice Presidents fully briefed as to matters reviewed by the Controllers.)

Group officers can effectively monitor international marketing activities at the following decision points:

- (1) When a decision is made to enter a new market (a country or area of the world) where the division has not previously conducted marketing activities (such a decision normally involves the appointment of a sales representative or the establishment of a direct marketing program);
- (2) When a decision is made to replace a sales representative, or a new agreement is negotiated, or an old agreement is renewed or extended with an existing sales representative; or
- (3) When a special commission or other compensation arrangement is negotiated for a particular transaction or an agreement with a sales representative is modified or amended.

The Committee believes that no decision should be made by a division at any of these decision points without the knowledge and concurrence of the appropriate Group Vice President.

In recent years Textron has required that all foreign sales representative agreements be approved as to form by the Legal Department unless a previously approved form is used. New international marketing agreements have frequently, but not invariably, been submitted to the office of the Vice



President-International for comment and consultation. The Textron Management Guide (Section 11.1) has provided since at least 1974:

“ . . . all proposed operations outside a Division's home country, *including distributorships*, licences or other international business arrangements not in the ordinary course of day-to-day business, require a careful prior review by the Textron Corporate Office.” (Emphasis added.)

These procedures are commendable and have in general served Textron well. However, the Committee has found a number of instances where these procedures were not followed, in that divisions established foreign distributorships or sales representative arrangements without any Corporate Office review, or where the review was limited to matters of legal form without analysis of the substance and possible risks of the proposed arrangement.

The Committee believes that Corporate Office review procedures can and should be strengthened in the international marketing area by putting clear responsibility on the divisions to advise and obtain approval from their respective Group Vice Presidents at each of the decision points mentioned above, and by placing responsibility on the Group Vice Presidents to review carefully each such decision with the division management. Where such review has occurred in the past, problems have been avoided. (References to a “sales representative” include any persons who perform substantial representative functions for Textron which will include some types of distributors and dealers, such as Bell's.)

***Recommendation Seven:*** No division should be permitted to proceed with any of the following actions except with the specific approval of the Group Vice President responsible for the division:

- (a) Make a substantial entry, by opening an office, retaining a sales representative or otherwise addressing a substantial selling effort, to any country or area outside the United States where the division does not presently have such operations.
- (b) Replace an existing sales representative or renegotiate significant terms of an agreement with an existing sales representative.

**(c) Pay or agree to pay a special or additional commission or other compensation, or in any other way deviate from a previously approved standard commission schedule, or otherwise modify or amend a sales representative agreement.**

**Prior to approving any such action, the Group Vice President should be responsible for assuring that the proposal has received review from the appropriate departments of the Corporate Office.**

***(b) Centralized Monitoring Of International Marketing Decisions***

The Committee believes that, in addition to assuring adequate Corporate Office review at critical decision points, the Corporate Office should have an up-to-date data base as to all major international marketing activities of the Company. This base can be an effective resource for the use of Group Vice Presidents, Group Controllers, the Vice President-International and other senior managers who have decision-making or consultation functions.

In one instance, a Textron division retained as a marketing representative a person who had previously performed unsatisfactorily in a similar role for another division and in that role had proposed a questionable transaction which was rejected by the other division. The second division had no knowledge of this relevant history when it hired the representative. A current, central data base as to international marketing should avoid such occurrences in the future.

***Recommendation Eight:*** The senior executive for corporate standards (See Recommendation Six above) should supervise the establishment and maintenance of a central data base at the Corporate Office which will include relevant information as to international marketing activities of Textron divisions. Such information should include a current list of all foreign sales representatives employed by Textron divisions and information as to terminations of and any problems encountered with such sales representatives.

**4. The Audit Committee And The Internal Financial Controls Environment**

Textron's Audit Committee was formed in 1974 but until 1977 did not extend its activities beyond a very general review of the work of Textron's

outside auditors and a review of the annual financial report. Beginning in 1977, the Audit Committee has steadily assumed greater responsibility. The Special Committee is of the view that the Audit Committee is now functioning effectively and that its members are committed to their important responsibilities.

The Committee met on several occasions, both formally and informally, with members of the Audit Committee. The two Committees have reviewed both the functions of the Audit Committee and the procedures that can be implemented to assure that the Audit Committee can continue to perform its functions as effectively as possible.

*(a) Joint Recommendations Which Have Been Adopted*

The Committee and the Audit Committee made the following joint recommendations for implementation without awaiting the Committee's report. These recommendations were communicated to the Chairman of the Board on March 30, 1979 and were adopted by the Board at its next regular meeting on April 25, 1979. The recommendations adopted are:

**Recommendation Nine:** The membership of the Audit Committee has been increased from three to five outside directors.

**Recommendation Ten:** The Board of Directors has adopted a Statement of Objectives, Policies and Functions of the Audit Committee which was prepared in consultation with the Committee. A copy of the Statement as adopted is Appendix G to this Report.

*(b) Additional Recommendations: Internal Audit*

The Committee and the Audit Committee have met jointly with the Company's Controller and its Director of Internal Audit and have reviewed a number of steps taken in the past year, under the Audit Committee's direction, to strengthen the internal audit function. These steps have included the following:

(1) The internal audit staff has been increased from six professionals to eleven. The five additions include two senior auditors with backgrounds in electronic data processing and engineering, one international auditor located in Brussels, and two staff auditors.

(2) A new Textron Accounting Policy was promulgated in August 1978, setting forth procedures to be followed in replying to internal audit reports prepared after division audits by the corporate internal audit staff. The Policy gives the corporate internal audit department responsibility to monitor all open audit recommendation items until they are implemented.

(3) Audit coverage has been expanded to international operations, and the Audit Committee is now regularly reviewing the annual internal audit schedule.

(4) On December 20, 1978, Textron's President, with the approval of the Audit Committee, sent a letter to division Chairmen and Presidents placing greater emphasis on Textron's audit objectives and the methodology for achieving these objectives. The letter specified procedures for increasing the involvement of the Corporate Director of Internal Audit in division internal audit matters. A copy appears as Appendix H to this Report.

(5) On December 28, 1978, the Textron Appraisal Manual was issued to all divisions' chief financial executives for use in ascertaining the effectiveness of existing internal controls. All divisions were required to evaluate their internal controls and report their findings to the Corporate Director of Internal Audit.

The Committee is particularly pleased to note that these important steps have been taken at the initiative of the Audit Committee and Textron management without waiting for the Committee's recommendations. The Committee endorses each of these steps.

The Committee makes the following additional recommendations designed to increase the effectiveness of the internal audit function.

***Recommendation Eleven:*** The internal audit staff should be maintained at a size, and so organized, that it can consistently maintain an audit cycle whereby all divisions, including all substantial operations abroad, are audited by the corporate internal audit staff at least once each three years.

***Recommendation Twelve:*** The internal audit plan for each division audit should include specific procedures for testing foreign sales

representative accounts, expense accounts and other "sensitive" accounts as well as other specific procedures designed to identify transactions, such as accommodation payments, political contributions or questionable payments, which are not in accordance with Textron corporate policy. In particular, substantial commission or discount payments to sales representatives should be audited for conformity to contractual provisions and proper authorization.

*Recommendation Thirteen:* Textron's corporate management, together with the Audit Committee, should promptly evaluate the adequacy of internal audit coverage at each division.

*Recommendation Fourteen:* Each division which has its own internal audit staff should prepare and submit to the Corporate Director of Internal Audit for his approval an annual internal audit plan for the work of the division staff, which should be coordinated with work of the corporate internal audit staff, and the division staff should prepare and submit for similar review a written report on the completion of each phase of its audit work. (This Recommendation has been implemented in part by the letter directive from Textron's President to division Chairmen and Presidents dated December 20, 1978, which is referred to above.)

*Recommendation Fifteen:* Corporate financial management and the Corporate Director of Internal Audit should review the feasibility of establishing regional internal audit offices (similar to the European office in Brussels) where staff auditors can be rotated for tours of several years. This may reduce the burden of travel away from home for staff auditors and make it possible to have continuing contact throughout the year with the divisions audited by each office. On the basis of such a feasibility review, management, in consultation with the Audit Committee, should determine whether to establish such regional offices.

*Recommendation Sixteen:* Corporate financial management should continue to review, and report regularly to the Audit Committee on, the compensation, benefits and opportunities for advancement available to members of the internal audit staff to assure that Textron is recruiting and retaining the best available internal audit staff.

The additional recommendations set forth above have been reviewed with the Audit Committee, which concurs in them.

*(c) Additional Recommendations: Assessments Of The  
Adequacy Of Internal Accounting Controls*

Textron financial management has taken important steps to assure that Textron complies with the accounting controls provisions of the Foreign Corrupt Practices Act of 1977. These steps are summarized in Part G, beginning at page 72 of Volume Two of this Report. The Committee believes that the Company's internal accounting controls today are generally effective and well administered. But the Committee does not see the requirements of effective internal control as static. As standards change and the complexity of Textron's business grows, Textron's program of internal controls must also evolve.

The Committee believes it is important that there be a formal, continuing company-wide program of assessing the adequacy of internal accounting controls. The Committee commends the requirement that each division review, and document its review of, its accounting and control procedures, but the Committee believes that an analysis of controls on a company-wide basis should also be prepared and updated periodically.

Hence, the following recommendations:

***Recommendation Seventeen:*** The Vice President and Controller and the Director of Internal Audit should jointly establish, and the Audit Committee should review and approve, a specific time schedule and plan for completing a company-wide review and a written summary of existing accounting and internal control procedures based on the division reviews now being completed. The summary should be reviewed by the Audit Committee which should report the results to the Board of Directors. Update reviews and reports should be made annually.

***Recommendation Eighteen:*** The proposed amendment to the Action Plan-Accounting Standards which has been prepared by the Vice President and Controller, and reviewed by the Audit Committee and the Committee, which calls for the designation of an Internal Accounting Control Coordinator for each division, should be promptly adopted and implemented.

### 5. Particular Recommendations With Respect To Bell Helicopter

The most serious and pervasive questionable practices disclosed by the Committee's investigation, as well as by the SEC investigation, occurred at Bell. These practices related primarily to export sales of helicopters. Summaries of the Committee's findings as to Bell's international marketing activities are contained in Section III.B. beginning at page 18 above; details appear in Volume Two. Based on these findings, the Committee has concluded that the following specific recommendations should be implemented.

#### *(a) Bell Helicopter's International Marketing Department*

The Committee has concluded that, prior to the 1978 revelations in connection with Mr. Miller's confirmation hearings, the Bell International Marketing Department was not adequately supervised by senior Bell management. The Department on a number of occasions disregarded Textron's corporate policies and on at least one occasion, the situation as to the Dominican Republic described at page 22 above, a Department employee obtained a large sum of cash with which to make a questionable payment. Further, Bell's senior management, including Mr. Atkins and his predecessor, Mr. Edwin J. Ducayet, failed to provide any guidance or instruction to the sales staff as to how to deal with or respond to possibly questionable transactions. Neither Mr. Sylvester, the Vice President-International Marketing, nor Mr. Weichsel, the Senior Vice President of Bell to whom he reported from 1971 until 1977, was adequately sensitive to indications of questionable practices in the International Marketing Department. In addition, Mr. Sylvester, who viewed his role as that of a salesman, was not attentive to the administration of his Department.

The Committee has concluded that Bell should appoint a new head of the International Marketing Department. (This recommendation goes only to the assignment of management responsibilities and is not a disciplinary recommendation.) Mr. Weichsel no longer has supervisory responsibilities for international marketing.

The Committee has further concluded that the reporting relationship between that Department and Bell's senior management should be changed to assure that the President of Bell is fully informed as to the operations of the Department. The Committee has also concluded that for at least the

next two years and thereafter until such time as, in the judgment of Textron's management, the Department is operating in conformity with Textron corporate policies, all Bell export sales transactions should be subject to a semi-annual retrospective review conducted at Bell by the Textron Corporate Office.

***Recommendation Nineteen:*** Bell should appoint a new head of its International Marketing Department.

***Recommendation Twenty:*** The reporting relationships between the International Marketing Department and Bell's senior management should be modified and approved by Textron corporate management so that the President of Bell is able to effectively monitor the operations of that Department on a continuing basis. Textron management should report to the Board of Directors on the reporting responsibilities which are established.

***Recommendation Twenty-One:*** For the next two years and thereafter until Textron management is satisfied that corporate policies are being adhered to, the Textron Corporate Office should conduct semi-annual retrospective reviews of Bell international sales transactions. Such reviews should be conducted at Bell and should include participation of the President of Bell and the head of Bell's International Marketing Department, as well as the key international marketing employees engaged in each transaction.

*(b) Legal Services At Bell Helicopter*

Bell is engaged in a complex, competitive world-wide business in which its most important customers are governments. Bell must have readily available highly competent and broadly experienced legal counsel. Bell has paid too little attention to this requirement in the past.

The Committee has concluded that Bell's Legal Department did not play an effective role in monitoring the activities of the International Marketing Department to assure compliance with the law and with Textron policies. The Committee has concluded that this failure resulted from two causes. First, Bell's senior management has not appreciated the importance of, and insisted upon, legal review that goes beyond simply approving the form of documents to considering underlying risks and potential legal problems. Second, Bell's Legal Department has not included lawyers with



sufficient experience in international legal transactions to give the kind of counsel required.

**Recommendation Twenty-Two:** There should be a reorganization of the Legal Department at Bell. Specifically the Department should include one or more lawyers experienced in international transactions who will be given direct responsibility for working closely with the International Marketing Department on a regular basis and who will have a direct reporting relationship to Bell senior management.

#### **6. Textron Legal Department Liaison With The Divisions**

The Committee has concluded that, in some instances, there has been insufficient communication between the lawyers employed by several of the divisions and the Textron Corporate Office. In other cases, divisions with or without lawyers of their own have sought and acted upon advice from outside counsel without informing the Legal Department in Providence. Division in-house legal counsel have historically reported to division officers and not to the Legal Department at the Corporate Office. Thus, the Legal Department has not been fully answerable for all legal advice given at the division level. The Committee believes that these practices are unsatisfactory and makes the following recommendations:

**Recommendation Twenty-Three:** The senior lawyer employed by each Textron division should report to the Textron Vice President and General Counsel as well as to division management, and hiring, termination, compensation and advancement of the senior lawyer in each division should be determined jointly by the Textron Vice President and General Counsel and the division President.

**Recommendation Twenty-Four:** The Textron Vice President and General Counsel should approve any significant engagement of outside counsel by any division and should be kept fully informed as to any representation undertaken, or advice given, by outside counsel.

**Recommendation Twenty-Five:** The Textron Vice President and General Counsel should conduct, at least annually, a seminar on Textron corporate policies and current matters of legal interest which should be attended by all lawyers employed by the Textron divisions.

#### **7. Disciplinary Recommendations**

The Committee will make confidential recommendations as to discipline of certain Textron employees and certain personnel changes directly to the Textron Board of Directors.

**APPENDICES**

- A. The SEC's Order of Investigation
- B. Letter from Chairman Harold M. Williams of the SEC to the Senate Banking Committee
- C. Text of the Board Resolution Appointing the Committee
- D. Report of the Committee to Textron's Board of Directors, June 28, 1978
- E. The Committee's Questionnaire
- F. Letter to Presidents of Textron Divisions from G. William Miller Dated May 12, 1977 Regarding Standards of Conduct
- G. Statement of Objectives, Policies and Functions of the Audit Committee (April 1979)
- H. Instructions to Division Chairmen and Presidents Regarding Internal Audit Objectives (December 1978)
- I. Letter to Presidents of Textron Divisions from G. William Miller Dated August 16, 1976 Regarding Standards of Conduct
- J. Forms of Statement as to Illegal, Improper or Questionable Payments Used in Connection with 1976 and 1977 Audits
- K. Table of Contents, Textron's Business Conduct Guidelines (November 1, 1978)

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

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In the Matter of	:	
TEXTRON INCORPORATED	:	ORDER DIRECTING PRIVATE
File No. HO-1055	:	INVESTIGATION AND DESIGNATING OFFICERS TO TAKE TESTIMONY

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## I

The Commission's public official files disclose that:

A. Textron Incorporated ("Textron"), a Delaware corporation with its principal place of business in Providence, Rhode Island, has several classes of securities, including common stock, preferred stock and debentures, registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") and has filed with the Commission since at least 1971, annual, periodic and current reports and proxy materials pursuant to the Exchange Act.

## II

Members of the staff have reported information to the Commission which tends to show that:

A. The aforementioned annual, periodic and current reports and proxy materials may contain false and misleading financial statements and false and misleading statements of material facts and may omit to state material facts required to be stated therein and necessary to make the statements therein not misleading concerning, among other things, description of business, summary of operations, financial statements and summarized financial information.

## Appendix A

B. In connection with the above, Textron and other persons have made use of the mails and the means and instrumentalities of interstate commerce.

## III

The Commission, having considered the aforesaid, and deeming such acts and practices, if true, to be in possible violation of Sections 10(b), 13(a) and 14(a) of the Exchange Act and Rules 10b-5, 13a-1, 13a-11, 13a-13 and 14a-9 thereunder, finds it necessary and appropriate and hereby

## IV

ORDERS, pursuant to the provisions of Section 21(a) of the Exchange Act, that a private investigation be made to determine whether the aforesaid person or any other person has engaged or is about to engage in any of the reported acts or practices of similar purport or object, and

IT IS FURTHER ORDERED, pursuant to the provisions of Section 21(b) of the Exchange Act, that for the purposes of such private investigation Richard S. Kraut, Richard J. Morvillo, Eugene I. Goldman, Joyce L. Kramer, Kathleen G. Gallagher, and Jonathan Eisenberg and each of them be and hereby is designated an officer of the Commission and empowered to subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant and material to the investigation, and to perform all other duties in connection therewith as prescribed by law.

By the Commission

George A. Fitzsimmons  
Secretary

/s/ Shirley E. Hollis

By: Shirley E. Hollis  
Assistant Secretary

SEAL

## SECURITIES AND EXCHANGE COMMISSION

Washington, D. C. 20549

February 22, 1978

The Honorable William Proxmire  
 United States Senate  
 Committee on Banking, Housing  
 and Urban Affairs  
 Washington, D. C. 20510

Re: Textron, Incorporated  
 File No. HO-1055

Dear Senator Proxmire:

On February 21, the staff of the Senate Banking Committee requested that we provide the Committee, for purposes of inclusion in the record of its pending proceedings into the nomination of G. William Miller, an indication of the scope of the Commission's inquiry into Textron, Incorporated. As I indicated to you in my letter of February 21, 1978, the Commission authorized an inquiry into this matter to determine, among other things, whether information that was referred to us by the Committee implicated Textron, or any of its subsidiaries or officials in violation of the federal securities laws. As you know, the Committee's information indicated that Bell Helicopter, a wholly-owned subsidiary in Textron's Aerospace Division, paid \$2.95 million over a two year period to Air Taxi, an Iranian sales agent, in connection with the sale in 1975 of 489 helicopters to the government of Iran for \$500 million.

With respect to the remaining areas of the Commission's inquiry I should emphasize that to preserve the integrity of its investigative processes, it is essential that the premature or unwarranted public disclosure of the details of its investigations be avoided. Also, when such disclosures occur, individuals involved, many of whom may in the final analysis be determined to have engaged in no illegal or improper conduct, may have their privacy - and in some cases their safety - jeopardized and markets for securities may be unnecessarily impaired. Accordingly, while we have supplied the Committee's staff a Confidential Memorandum detailing the matters we have currently

Appendix B

under investigation, we are reluctant to provide more than a general outline of those matters in a letter we understand is intended to be made a part of the Committee's public record. Those matters include:

- (a) the remittance of \$300,000 by a Textron subsidiary to an independent foreign sales representative in connection with a \$1.6 million sale of equipment manufactured by that subsidiary to a foreign government entity;
- (b) the use of "push money," salary contributions and other promotional practices by another Textron subsidiary;
- (c) the disclosure of instances of overbillings, underbillings and other billing practices apparently employed by several divisions of Textron, to accommodate their customers in the establishment of questionable funds of cash; and
- (c) the adequacy of Textron's disclosures with respect to information regarding numerous proceedings brought by federal or state governmental authorities regarding alleged employment discrimination on the basis of race, sex, age, religion, etc.

As you can expect, an investigation as comprehensive as the one I have outlined for you involving an entity as complex as Textron, could result in several additional areas of inquiry being undertaken by the staff before the investigation is finally concluded. That is not to suggest, however, that the culpability of any individual or entity can be properly resolved prior to a balanced assessment of the totality of the evidence obtained and a determination whether indications of violative conduct exist and are sufficiently strong and reliable to warrant enforcement action.

As I indicated in my letter to you of February 21, 1978, Textron has not conducted an extensive internal investigation to determine whether it engaged in any unlawful activities in connection with its overseas operations or those of its subsidiaries. Thus, the staff expects that at least four to six months, and perhaps more, will be required to complete the inquiry and to satisfy itself with respect to Textron's activities in various foreign countries.

If you or your staff has further questions on this matter, we shall be happy to attempt to answer them.

Sincerely,

/s/ Harold M. Williams

Harold M. Williams  
Chairman

RESOLUTION OF THE BOARD OF DIRECTORS  
OF TEXTRON, INC.

Adopted May 31, 1978

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RESOLVED: There is established a Special Committee of the Board of Directors, pursuant to Section 4.05 of Article IV of the By-laws of Textron Inc. to conduct and direct an investigation of Textron Inc. and its divisions and subsidiaries to determine the extent and nature of any questionable and illegal payments and practices, and to report its findings to the Board of Directors of Textron Inc. and to the Securities and Exchange Commission; in this connection, this Board of Directors authorizes the Special Committee and its counsel to make available to the Securities and Exchange Commission all documents obtained in the course of its investigation and all other data prepared or received by the Special Committee or its counsel underlying that investigation, it being the intention of this Board that no privilege which this corporation may have will be asserted as to such documents and data;

RESOLVED: Webb C. Hayes, III, Paul M. Fye and Richard T. Baker are appointed to serve as members of the Special Committee of the Board of Directors. Mr. Hayes to serve as Chairman;

RESOLVED: Prior to commencing the investigation, the Special Committee is requested to meet and consider the appropriate scope of and procedures for the investigation;

RESOLVED: The Special Committee be prepared at the meeting of the Board of Directors scheduled for June 28, 1978, to make a preliminary report to the Board of Directors for consideration and approval, including the following:

Appendix C



- (i) the proposed scope of the investigation;
- (ii) a recommendation whether or not the Special Committee should be authorized to make findings and recommendations with respect to possible liability to Textron Inc. of persons who may have participated in questionable payments and practices, and remedies which Textron Inc. should pursue against such persons including present and former officers, directors, employees or agents; and
- (iii) whatever other actions the Special Committee believes to be necessary, desirable and in the best interest of Textron Inc. for the efficient handling and conclusion of the investigation;

RESOLVED: The Special Committee is authorized to retain such law firms, accounting firms and others as it may deem necessary in its opinion to conclude in a prompt and diligent manner the investigation;

RESOLVED: The officers, directors and employees of Textron Inc. and its divisions and subsidiaries be directed to cooperate fully with the Special Committee and such other persons as the Special Committee may retain in the investigation;

TEXTRON INC.

June 28, 1978

TO: Board of Directors  
FROM: Special Committee  
RE: Organization of the Special Committee and Scope of  
Its Inquiry; Supplemental Authorization

I.

Appointment and Purpose of the Committee

At its meeting on May 31, 1978, the Board of Directors appointed a Special Committee to conduct an inquiry of the Company and its divisions and subsidiaries to determine the extent and nature of questionable and illegal payments and practices and to report on such investigation to the Board. Appointed to the Committee were Webb C. Hayes, III, who was designated as Chairman, Dr. Paul M. Fye and Richard Baker, all of whom are non-management directors of the Company.

The Committee was authorized to retain legal counsel and accounting advice and such other advisors and consultants as it deems necessary.

The Board specifically determined that the Company will not assert any privilege against disclosure to the Securities and Exchange Commission ("SEC") of information furnished to the Committee and its legal counsel and other advisors in the course of its inquiry.

Appendix D

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The Board directed the officers, directors and employees of the Company to cooperate fully with the Committee and its advisors.

Subsequent to the Board meeting, each of the members accepted appointment to the Committee.

## II.

### Retention of Counsel

The Committee has retained the firm of Gibson, Dunn & Crutcher as its legal counsel for the investigation. Francis M. Wheat, a senior member of that firm and a former Commissioner of the SEC, will be in charge of the firm's representation of the Committee. He will be assisted by John F. Olson, resident partner in the firm's Washington, D.C. office, and by Richard M. Russo, Kenneth W. Starr and other associates of the firm.

## III.

### Meetings With SEC Staff And Other Counsel

The Chairman of the Committee, Mr. Wheat and Mr. Olson have met with staff members of the SEC's Division of Enforcement and with the Director of the Division, Stanley Sporkin, and have informed the staff of the Committee's appointment and discussed with the staff the scope of the Committee's investigation and its relationship to the SEC's investigation of the Company. The Chairman has agreed that the Committee will periodically inform the SEC staff of the progress of the Committee's work.

The Committee's legal counsel has also met with representatives of Arnold & Porter, counsel for the Company in the SEC investigation, and with lawyers representing certain individual officers and employees of Company divisions, to arrange to obtain from such counsel such information as they can provide for the Committee consistent with their obligations to their clients.

#### IV.

##### Scope of Investigation

The Committee has met to consider the appropriate scope of the investigation to be conducted by it and proposes to the Board the following description of such scope:

1. The investigation will cover the period January 1, 1971 to and including the most recent practicable date.
2. The Committee will attempt to identify, describe and evaluate possible questionable payments or accounting practices. By "possible questionable payments or accounting practices," the Committee means:
  - (a) payments by the Company (either of money or other corporate property) to or for the benefit of any official or employee of any government, of any candidate for political office or political party or of any official or employee of any entity owned or controlled by any government;

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(b) off-balance sheet funds or accounts or other entries or items not recorded on the books of the Company, or recorded in an incomplete, false or misleading manner;

(c) payments by the Company (either of money or other corporate property) to or for the benefit of any officer, employee, owner or other representative of a non-governmental customer or purchaser from the Company for the purpose of improperly influencing any decision with respect to such customer's or purchaser's dealing with the Company.

(d) receipt by any officer, employee or representative of the Company, of any payment or other thing of value from any vendor or supplier to the Company, or any customer or purchaser from the Company, for the purpose of improperly influencing the Company as to its dealings with such vendor, supplier, customer or purchaser;

(e) over-billing, accommodation payments and other billing, invoicing and payment practices which have been or may be subject to abuse.

3. The Committee will exclude from its investigation:

(a) Those matters which may be subjects of the current SEC investigation of the Company but which do not relate to possible questionable payments or accounting practices. For example, the

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Committee will not review questions related to the adequacy of the Company's disclosures as to alleged discriminatory employment practices.

(b) Possible or claimed violations of law by the Company which do not directly relate to possible questionable payments or accounting practices as defined above.

4. The term "the Company" refers to Textron Inc. and its wholly-owned divisions and subsidiaries. Partly-owned enterprises will be included only if they are subject to direct Textron management control.

V.

Future Recommendations

At the conclusion of its investigation, the Committee will make a written report of its findings to the Board of Directors. The Committee expects to summarize its findings as to any possible questionable payments and accounting practices which it identifies and, where possible, to classify each as unlawful, uncertain or lawful.

The Committee will also make any recommendations as to changes in corporate and accounting policies, procedures and practices which it believes are appropriate as a result of its investigation.

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The Committee is of the view that it should also be authorized to make recommendations as to the pursuit of remedies against any present or former officers, directors, employees, agents or other person having a duty to the Company who may have breached their duty by participation in questionable payments or practices. The Committee will make such recommendations only if it determines that it is appropriate to do so, considering both the interests of the Company and the rights of any individuals involved.

The Committee may make interim reports of its findings and may make interim recommendations as to policies, procedures and practices, from time to time prior to the conclusion of its investigation as it deems necessary or appropriate.

The Committee believes that it should be authorized to review and approve the Company's proposed Business Conduct Guidelines before they are submitted to the Board of Directors.

#### VI.

##### Procedures and Methods

The Committee will develop and carry out procedures and methods of investigation as it determines to be required with the assistance of its legal counsel and other advisors.

#### VII.

##### Additional Action Requested of the Board of Directors

In addition to the authorizations given to the Com-

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mittee, and the direction of cooperation given to officers, directors and employees of the Company, at the May 31, 1978 meeting of the Board of Directors, the Committee requests that the Board take the following actions:

1. Approve the scope of the Committee's inquiry as outlined under III. above.
2. Authorize the Committee to develop and implement such procedures and methods of investigation as it deems appropriate.
3. Authorize the Committee to give directions to, and obtain assistance from, the internal audit staffs of the Company and its divisions and subsidiaries in connection with the Committee's inquiry and authorize the internal audit staff to report directly to the Committee in such connection.
4. Authorize the Committee to review and approve the Company's proposed Business Conduct Guidelines before they are submitted to the Board and to make such other recommendations from time to time as to corporate and accounting policies, practices and procedures as it deems appropriate.
5. Authorize the Committee to make any recommendations it deems appropriate as to pursuit by the Company of remedies against present or former officers, directors, employees, agents or other persons who may have breached



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their duty to the Company by participation in  
questionable payments or practices.

Respectfully submitted,

Webb C. Hayes, III, Chairman  
Richard Baker  
Paul M. Fye

TEXTRON INC.

July 14, 1978

EMPLOYEE QUESTIONNAIRE

Dear Textron Employee:

This questionnaire has been prepared under the direction of the undersigned directors of Textron Inc., who have been appointed as a Special Committee by the Board of Directors to conduct a world-wide inquiry into certain activities which may have occurred within Textron, its divisions and subsidiaries. The Committee expects to make the results of its inquiry available to the United States Securities and Exchange Commission.

The questionnaire is being sent directly from the Committee to key employees of the corporate office and all divisions and subsidiaries. To enable us to carry on this inquiry carefully and efficiently, it is vital that your answers be candid and complete.

Important Instructions:

Before answering this questionnaire, please note these important guidelines:

1. The period to be covered is from January 1, 1971, to the date of your response.
2. The term "government official" includes any ruler or member of the ruling family of any nation, and any elected or appointed official, employee or agent of any government or of any corporation or other entity owned or controlled in whole or in part by a government, and any family member, intermediary, nominee, agent or representative of any such person. "Government" includes the government of any nation, including the United States, or of any state, county, city or other political subdivision thereof.
3. The term "questionable payments" includes any gift, bribe, kickback, rebate, political contribution, or similar payment of any kind, direct or indirect, whether made in cash, in property of any kind, or by the use of property.
4. "The Corporation" includes Textron Inc. and all of its divisions and subsidiaries.
5. "Sales representative" includes any distributor, manufacturer's representative, or other sales agent, employed or otherwise engaged by the Corporation to sell its products either in the United States or abroad.

Appendix E

(1)

**PLEASE:**

- (a) Answer each question to the best of your knowledge and belief. If you are not sure of any event, provide the information and indicate you are not sure of it.
- (b) If you have already given all details called for in the answer to a prior question, so indicate and identify the prior question.
- (c) Prepare the answers to this questionnaire on your own as your individual response.
- (d) Refer as needed in preparing your answer to files and records, including your own personal files. If your answer is based on any such file or record, or if you know of the existence of any document which relates to the question or to your answer, please identify it and give its location.
- (e) Do not destroy or alter any records, including any records in your personal files.
- (f) If you have any question regarding the questionnaire, call the Committee's counsel, either John F. Olson or Kenneth W. Starr [202] 862-5500, or Francis M. Wheat, [213] 488-7661.

**PLEASE NOTE CAREFULLY:**

The Company has asked us to advise you that failure of any employee to give full, prompt and completely candid answers to the Committee's questions will be regarded as a serious matter which may call for disciplinary action.

After answering all questions, please date and sign the questionnaire in the spaces provided on the last page and return it to the Committee in the enclosed envelope by August 4, 1978, at the latest.

Your cooperation is appreciated.

Webb C. Hayes III, Chairman  
Richard T. Baker  
Paul M. Fye

Special Committee of  
Textron Board of Directors

QUESTIONNAIRE

(If the spaces below are not sufficient for your answers, please attach additional pages as needed.)

## (Personal Information)

Name:

Present position:

Business address and phone number:

Home address and phone number:

List all other positions which you have held with the Corporation from January 1, 1971, to the present:

<u>Position</u> <u>Held</u>	<u>Approximate Dates</u> <u>Position Held</u>	<u>Location</u>	<u>Division</u> <u>or Subsidiary</u>
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## (Arrangements with Government Officials\*)

1. Are you aware of any questionable payment\* in excess of U.S. \$250 made, directly or indirectly, by the Corporation\* to or for the benefit of, or at the direction of, any government official?\*

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the approximate amount of each such payment, its purpose, the identity of each person making and receiving each such payment, and the date and place where each such payment was made.

2. Have you, or to your knowledge has the Corporation\*, received any request, inquiry, solicitation, or suggestion from any government official\* that a questionable payment\* in excess of U.S. \$250 be made to or for the benefit of any government official\*, whether to obtain a contract, facilitate the transaction of business, or for any other purpose?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the identity of each person making each such request, each person to whom the request was made, the approximate date, the nature of the request, its purpose, and the Corporation's\* response to the request.

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\* This is a defined term. Please see the definitions on page 1 above.

3. Have you participated in or are you aware of any discussions or communications which relate or may relate to questionable payments\* by the Corporation\* to any government official\*?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please describe below as best you can each such discussion or communication, identify the persons involved, the approximate date and place, and where any document or memorandum referring to any such communication or discussion is or may be located.

4. To your knowledge, has the Corporation\* ever employed any person who was at the time of employment a government official\* in any capacity, including but not limited to employment as a sales representative\*?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the identity of each such person, the period of that person's employment, and the nature of that person's duties and activities on behalf of the Corporation\*.

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\* This is a defined term. Please see the definitions on page 1 above.

5. To your knowledge, has the Corporation\* ever entertained or paid the entertainment or travel expenses of any government official\*? (This question does not require information as to an expenditure of less than \$100 U.S. as to any individual person.)

Please check:      Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the nature of each such instance, including the purpose, persons involved, and approximate date of the entertainment or payment, and the amount paid by the Corporation\*.

6. Do you suspect or have you heard that payments of any kind in excess of U.S. \$250 made by the Corporation\* to or for the benefit of any supplier or other person or entity have been channelled to, have been made at the direction of, or have otherwise benefited a government official\*?

Please check:      Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to any such payment, the location, approximate date, and purpose of such payment, and the identity of the persons who made or received such payment.

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\* This is a defined term. Please see the definitions on page 1 above.

7. To your knowledge, has the Corporation\* ever been threatened with a loss of business or other adverse consequence if the Corporation\* did not make payments of any kind to or for the benefit of any government official\*?

Please check:      Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can, including the country, date, and the names of the persons who made and received such threats.

8. To your knowledge, has the Corporation\* ever entered into a contract, sales representation agreement, or other arrangement with any individual, partnership, association, corporation, or other entity in which any government official\* has or had any known or suspected ownership interest, direct or indirect?

Please check:      Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the name of such person or entity, the country in which each such person or entity does business with the Corporation\*, and the nature of all known or suspected ownership interests held by any government official\*.

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\* This is a defined term. Please see the definitions on page 1 above.



9. If you had any knowledge of or suspected any questionable payments\* by the Corporation\*, did you share that knowledge or suspicion or discuss the matter with any officers, directors, or employees of the Corporation\* at any time?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please state below the name of each such person and describe when and where such discussions took place.

10. Do you know of or have you heard of any instance in which the Corporation\* agreed to the structuring of a transaction or arrangement to facilitate or allow any questionable payment\* to be made by any person or entity other than the Corporation\* to a government official\*?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the names of the parties to the transaction, when and where the transaction took place, and the identity of the persons making and receiving any questionable payment\*.

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\* This is a defined term. Please see the definitions on page 1 above.

11. To your knowledge, has the Corporation\* entered into any transaction in which questionable payment\* in excess of U.S. \$250 was to be made, or has been made, by anyone other than the Corporation\* to any government official\*?

Please check:      Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the name of the person or entity with which the Corporation\* was dealing, the name of the country, and the government official\* who received or is suspected of receiving any questionable payment\*.

(Arrangements with Sales Representatives\*)

12. To your knowledge, has the Corporation\* engaged any sales representative\* who had known or suspected business or family relationships with any government\* or any government official\* while the representative was engaged by the Corporation\*?

Please check:      Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the name of each such representative, the country (or countries) in which the representative acted on behalf of the Corporation\* and the name and position of the government official\*.

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\* This is a defined term. Please see the definitions on page 1 above.

13. To your knowledge, has any sales representative\* made any questionable payments\* to any government official\* in connection with the representative's activities on behalf of the Corporation\*?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", for each instance, please give below what details you can as to the name of the representative and the government official\* who received the payment, the reason for the payment, the approximate date, and the name of each officer or employee of the Corporation\* who authorized, directed, approved or knew of such payment.

14. To your knowledge, has the Corporation\* paid any commission or fee to any sales representative\* who you know or suspect did not actually render services on behalf of the Corporation\*, or who, if services were rendered, received payment which was excessive or unusual in relation to services performed?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the name of the representative who received any such commission or fee, the amount of the fee, the approximate date, and why the fee was paid.

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\*This is a defined term. Please see the definitions on page 1 above.

15. Do you know or suspect that any sales representative\* in the course of representing the Corporation\* made any offer of money or any other form of compensation or payment, whether reimbursed by the Corporation\* or not and whether consummated or not, to any government official\*?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the name of the sales representative\*, the country and the circumstances surrounding any such offer.

(Accommodation Payments; Political Contributions; Questionable Commercial Transactions: Overbilling and Other Practices)

16. To your knowledge, has any sales representative\* suggested or directed that commissions or other amounts owed to the representative by the Corporation\* be paid:

a. To any bank account outside of the particular country or countries in which the representative maintained his principal office or engaged in business on behalf of the Corporation; or

b. To any person or entity, regardless of what country, other than the representative?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the name of the representative, the person or entity to whom such payment was made and the account to which such payment was made.

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\*This is a defined term. Please see the definitions on page 1 above.

17. To your knowledge, has any person (including any customer of the Corporation\*) suggested or directed that amounts owed to the customer or such person by the Corporation\* be paid:

a. To any bank account outside of the particular country or countries in which the customer or other person maintained his principal office or engaged in business; or

b. To any person or entity, regardless of what country, other than the customer or other person?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the name of the customer or other person, the person or entity to whom such payment was made and the account to which such payment was made.

18. To your knowledge, has the Corporation\* engaged in billing or otherwise charging a customer at the customer's request an amount in excess of the amount actually owed by that customer or has any customer overpaid the Corporation\* and asked that the excess be held and disbursed to others in accordance with the directions of the customer?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

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\*This is a defined term. Please see the definitions on page 1 above.

If "yes", please identify below to the best of your ability each instance in which such overbilling or overpayment occurred, including the name of the customer, the country, approximate date of the overbilling, the name of the employees who participated in such overbilling or overpayment practices, and describe the method by which such overbilling or overpayment arrangement was accomplished.

19. To your knowledge has the Corporation\* or any sales representative\* of the Corporation\* made or offered to make questionable payments\* to an officer, employee or agent of any company or organization with which the Corporation\* was doing business, in order to obtain favorable treatment or special concessions in securing business from that company, or to pay for favorable treatment already obtained?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the person making the offer or payment, the approximate date, the amount of the offer or payment, and the name of the recipient of any offer or payment

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\*This is a defined term. Please see the definitions on page 1 above.

20. To your knowledge, has the Corporation\* or any sales representative\* of the Corporation\* paid or offered to pay (whether in cash, property, or use of property) any gift in excess of U.S. \$25, or a bribe in any amount, to any person or entity for the purpose of obtaining favorable treatment?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the person making the offer, gift or bribe, the date and amount of the offer, gift or bribe, and the name of the recipient of any such offer, gift or bribe.

21. To your knowledge, has the Corporation\* or any employee of the Corporation\* received, directly or indirectly, any gift in excess of U.S. \$25, bribe, kickback, or similar payment, whether in cash, property or the use of property, from any person or entity, whether domestic or foreign, made for the purpose of obtaining business from, or favorable treatment in connection with, the business of the Corporation\*?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the name of the person or persons who may have received any such payment, the purpose of the payment, and the date and amount of each such payment.

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\* This is a defined term. Please see the definitions on page 1 above.

22. To the extent of your knowledge, list all political contributions or payments made by or on behalf of the Corporation\* to or on behalf of any political candidate, political party, or committee anywhere in the world. For each such contribution, please give below what details you can as to the date, amount and recipient, and state the manner in which each such payment was made.

<u>DATE</u>	<u>AMOUNT</u>	<u>RECIPIENT</u>	<u>MANNER OF PAYMENT</u>
-------------	---------------	------------------	--------------------------

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\*This is a defined term. Please see the definitions on page 1 above.



23. Did you ever receive any direct or indirect reimbursement (including by way of bonus, salary adjustment or allowance) from the Corporation\* or did you ever authorize, direct, approve or know of any reimbursement of any officer, director, employee or sales representative\* of the Corporation\*, for any political contribution to any political party, committee or candidate anywhere in the world?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the date, amount and recipient, and who authorized each such reimbursement.

<u>DATE</u>	<u>AMOUNT</u>	<u>RECIPIENT</u>	<u>PERSON AUTHORIZING REIMBURSEMENT</u>
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24. Did you ever receive or hear of any solicitation or request for a political contribution or charitable contribution to be made by the Corporation\* in connection with any contract or business that the Corporation\* was seeking to obtain or retain?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below what details you can as to the person making the request, the person to whom the request was made, the date of the request, and the Corporation's\* action or response to the request.

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\*This is a defined term. Please see the definitions on p. 1 above.

(16)

25. Do you know or have you heard of any instance in which the Corporation\* was threatened with adverse business consequences, such as loss of a contract, if a charitable contribution or political contribution was not made to any charitable fund, political party, candidate or committee?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please describe below each such instance in as much detail as you can.

(Accounting Practices)

26. Do you know of or have you heard of any instance in which any person engaged in the falsification or manipulation of the Corporation's\* accounting or other financial or legal records?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below such details as you can about each instance.

---

\*This is a defined term. Please see the definitions on page 1 above.

27. To your knowledge, has any payment by the Corporation\* to a sales representative\* or to any government official\* been inaccurately identified and recorded in the Corporation's\* books and records?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below such details as you can about each such instance.

28. To your knowledge, has any political contribution by the Corporation\* not been accurately reflected as such in the Corporation's\* books and records?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give below such details as you can about each such instance.

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\*This is a defined term. Please see the definitions on page 1 above.

29. To your knowledge, has the Corporation\* maintained any cash account or any other account of any kind, either domestic or foreign, which account was not accurately identified and included on the books of the Corporation\*?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please identify each instance in detail below.

30. To your knowledge, have any funds or cash accounts, including off-balance sheet accounts, been maintained by the Corporation\* or on its behalf for the purpose, in whole or in part, of making contributions to political parties, committees or candidates, or questionable payments\* to obtain or retain business in the United States or in any foreign country?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please give such details as you can below about each such instance.

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\*This is a defined term. Please see the definitions on page 1 above.

31. To your knowledge, has any employee or agent of the Corporation\* misused, misstated, erroneously entered charges in, or otherwise manipulated any account of the Corporation\* for the purpose of concealing the true nature of any disbursement being made by the Corporation\*? (Examples would include legal fees, consulting fees, commissions, contributions, promotion fees, advertising expenses or public relations fees, expense accounts, accounts receivable, loans or receipts, insurance premiums, accounts payable, salaries and contract costs.)

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please identify each such instance in detail below.

32. Do you know or have you heard of any instance in which any documents pertaining either to a sales representative\* or to questionable payments\* were altered or destroyed?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", please describe each such instance in detail below.

---

\*This is a defined term. Please see the definitions on page 1 above.

33. Have you identified and given the location of all documents, including personal files, which relate to your answers to the preceding questions?

Please check: Yes \_\_\_\_\_ No \_\_\_\_\_

If not, please identify below the location and nature of all such documents.

\_\_\_\_\_  
(Signature of person responding)

\_\_\_\_\_  
(Please print name of person responding)

DATED \_\_\_\_\_, 1978

\_\_\_\_\_  
\*This is a defined term. Please see the definitions on page 1 above.



G. William Miller  
Chairman

Textron Inc.

May 12, 1977

40 Westminster Street  
Providence, R.I. 02903  
401/421-2800

### Standards of Conduct

#### To Division Presidents, Corporate Officers and Corporate Department Heads:

Last December I asked each key executive to sign a statement as a means of confirming that there were no illegal, improper or questionable payments anywhere within the Textron family. This was part of the effort to fulfill our responsibility to shareholders and employees to conduct Textron's business in accordance with the highest standards of conduct. A review of the statements submitted has verified that there has been no deviation from Textron's standards -- and we can take pride in this fact. The signing of such a statement will now become a normal part of Textron's annual audit.

During the course of this procedure we did receive inquiries concerning Textron's policies in matters of "overbillings" and "accommodation payments". I would like to make it perfectly clear that neither is acceptable.

Overbilling occurs, for example, when a foreign distributor requests a U. S. company to overbill it for products with an understanding that the amount overbilled will be applied to or for the account of the distributor. While it may only lead to the establishment of a credit balance which can later be applied against subsequently purchased products, overbilling has the potential for abuse as a method to evade exchange control restrictions or taxes. Textron's policy is that all invoices must accurately reflect the true sales price and terms of sale.

So-called "accommodation payments" to overseas dealers, distributors or representatives is another area to be avoided. This practice -- where all or part of a commission or discount actually earned is paid, at the request of the customer, in a country other than the country in which

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**TEXTRON**Page Two  
May 12, 1977

the customer is located, or to a designated third party, or is retained on the books and later paid to an individual officer, director or shareholder of the customer -- is contrary to Textron's policy. Such accommodation payments can be used as a method of avoiding taxes or exchange control restrictions and Textron will not be a party to this. All commission payments or other such payments to a customer must be paid directly and regularly to such customer in the country in which it is located or must be periodically used to reduce existing accounts receivable from such customer, unless good business practice (e. g., doubtful credit standing of customer) dictates that the customer always maintain an agreed upon credit balance. Commissions or discounts earned by a corporate entity must not be paid to the individual accounts of its officers, directors or shareholders. In those instances where the customer has multiple places of business or multiple operations, the payment should be made to the entity ordering the product in the country from which the order originated.

I greatly appreciate the attention each of you and your associates have given in the past to maintaining high standards. I will continue to count on your support in the future to be vigilant in meeting our responsibility to insure that the accounts and records of Textron and all its affiliates are complete and accurate and that no illegal, improper or questionable payments of any kind are made or condoned.

Sincerely,



GWM:ryn

cc: Directors  
Chikara Hiruta



Confidential

## TEXTRON

Objectives, Policies and Functions  
of the Textron Audit Committee

April 25, 1979

The Audit Committee has reviewed the enabling resolutions authorizing its establishment in 1974. See Attachment A. On the basis of its experience to date, the Audit Committee recommends for approval by the entire Board of Directors of Textron more detailed objectives, policies and functions of the Audit Committee as set forth below:

Objectives

The objectives of the Audit Committee are:

To assist Textron's Board of Directors in fulfilling its fiduciary responsibilities relating to financial reporting standards and practices,

To determine the adequacy of and promote the continued emphasis on internal financial controls throughout Textron; and

To provide assistance and advice to the Board of Directors in fulfilling its responsibilities relating to auditing and related matters and to facilitate communications among the Board of Directors, the Corporation's internal auditing staff and the Corporation's independent public accountants.

Policies

The following are the primary operating policies of the Audit Committee:

The Audit Committee shall consist of three or more outside members of the Board of Directors. Members of the Audit Committee and its Chairman shall be appointed and serve at the pleasure of the whole Board of Directors.

The Audit Committee shall hold such meetings as it deems necessary but shall meet a minimum of three times per

Appendix G

fiscal year. Minutes of all Committee meetings shall be recorded.

Upon the request of the independent public accountants or the Corporation's Director of Internal Audit, the Chairman of the Audit Committee shall convene a meeting to consider any matters that, in the opinion of either, should be brought to the attention of the Committee, Directors or shareholders.

### Functions

The principal functions of the Audit Committee are:

To review management's recommendation of an independent public accounting firm to audit the books and accounts of the Corporation; to review the engagement of that firm, including fees, scope and timing of audit services and the effect on the independence of such firm of any other services rendered to the Corporation; and to make recommendations as to the retention of that firm for the ensuing year;

To meet with the Corporation's independent public accountants and Corporate management prior to release of the Annual Report to Shareholders to review (a) the conduct of the annual audit (including the Corporation's participation); (b) all significant proposed adjustments to the Corporation's financial statements; (c) their report on the Corporation's financial statements; and (d) choices of acceptable accounting principles to be applied and their impact on the Corporation's financial statements;

To meet privately and separately with the independent public accountants, to make inquiry and to discuss any facts, circumstances or perceptions relating to that firm's relationship with the Corporation;

To meet privately and separately with the internal auditors to make inquiry and to discuss any facts, circumstances and perceptions relating to their responsibilities within the Corporation.

To inquire of and to review the Corporation's policies and procedures with respect to its:

- a. Financial reporting
- b. Business Conduct Guidelines
- c. Financial and accounting controls including the adequacy thereof and deviations therefrom
- d. Resolution of recommendations of independent public accountants
- e. Compliance with the Foreign Corrupt Practices Act.

- f. Other matters that may come to the attention of the Audit Committee;

To review the Corporation's policies and procedures with respect to internal auditing, including (a) the adequacy of its plans and programs, (b) the adequacy of the internal auditing staff, (c) reports issued during the year by the internal auditing staff, and (d) resolution of its recommendations.

To direct, when such Committee deems it necessary or appropriate, the independent public accountants, internal auditors or legal counsel to investigate areas of special concern, including compliance with the Corporation's Business Conduct Guidelines, conflicts of interest and compliance with applicable governmental laws and regulations;

To consider such other matters as may be properly brought before the Committee;

To report periodically to the whole Board of Directors regarding its activities and findings and to make recommendations as shall be necessary and appropriate.

The Committee may delegate functions to its Chairman or other committee members.

Jean Head Sisco  
Chairman, Audit Committee

Attachment A

Enabling resolutions authorizing the establishment of the Audit Committee passed April 24, 1974.

RESOLVED: An Audit Committee is hereby established by the Board of Directors in accordance with Section 4.05 of the By-Laws of the Corporation, the membership of which shall be comprised of not less than three non-employee Directors as may from time to time be appointed by the Board.

RESOLVED. The Audit Committee shall (i) recommend annually the independent certified public accounting firm to conduct the annual audit of the Corporation's accounts, (ii) review with such firm the scope of audit, (iii) review the results of the annual audit, (iv) review and make recommendations to the Board with respect to accounting policies, procedures and controls, and (v) conduct such other reviews and examinations, including consultations with such firm and with management, as the Committee deems appropriate.

RESOLVED: The Audit Committee shall fix its own rules of procedure, and shall meet at such times and places as may be determined by the Committee.



Robert P. Straetz  
President

Texttron Inc.

40 Westminster Street  
Providence, R.I. 02903  
401/421-2800

December 20, 1978

To Texttron Division Chairmen and Presidents:

As the year, 1978, comes to a close, it is a good time for us to reexamine the internal audit function at Texttron.

In 1975, the Corporate Internal Audit function was established by Texttron to examine and evaluate its financial activities as a service to the organization. Today, the internal audit function is three and one-half years old and has made considerable progress in its development.

Placing greater emphasis on Texttron's audit objectives and methodology for achieving these objectives is vital to the continued development of the Corporate Internal Audit function. The "Foreign Corrupt Practices Act of 1977" and the "Standards for the Professional Practice of Internal Auditing" are areas which are indicative of the increasing importance of the internal auditor's responsibilities and demonstrate the need for this greater emphasis.

Accordingly, in 1979 we are directing that the Corporate Internal Audit Department become more regularly involved with Divisions; and to achieve this goal, the following procedures should be followed:

1. The Corporate Director of Internal Audit will annually review with Divisional Management the scope, results and independence of local internal audit functions;
2. Each Division shall furnish to the Corporate Director of Internal Audit a copy of each formal Divisional Internal Audit Department report promptly after issuance; and
3. Each Division shall request approval of the Corporate Director of Internal Audit for all changes to Divisional internal audit staffs.

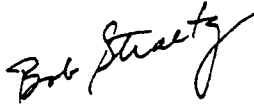
Appendix H

To Textron Division Chairmen and Presidents  
December 20, 1978  
Page Two

The Corporate Director of Internal Audit will use the Division's  
Chief Financial Officer as his contact at the Division.

I appreciate your assistance to see that your Division complies with the guidelines of this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob Stracy".

RPS:dmz

cc: Chief Financial Executives  
Textron Group Officers  
W. J. Ledbetter  
R. A. Van Brocklyn ✓

**TEXTRON**

G. William Miller  
Chairman

Textron Inc.

August 16, 1976

40 Westminster Street  
Providence, R.I. 02903  
401/421-2800

Standards of Conduct: Policy as to  
Representatives, Agents,  
Consultants, Dealers or Distributors

To Presidents of Textron Companies:

It is long-standing Textron policy to do business -- whether as a seller or as a buyer of goods or services -- only on the basis of merit. It is completely unacceptable to seek or obtain business through the use of bribes, kickbacks, lavish entertainment or any other improper payments or favors.

While we know of no unlawful or improper payments within Textron, the number of reported instances of such practices in other companies is ample reminder that we need to be diligent in assuring compliance with our established standards.

The responsibility runs not only to the behavior of Textron employees, but also to the conduct of representatives, agents, consultants or others who act or appear to act on behalf of Textron. In the light of events, we need to reinforce the standards expected of such persons or firms by setting forth express terms in our agreements with them. Accordingly, with every new agreement and each renewal of an existing agreement with a domestic or international agent or representative, by whatever name, each Textron Division, subsidiary or other unit is to require the inclusion of a provision substantially as follows:

"\_\_\_\_\_ represents that it has not and agrees that it will not in connection with the transactions contemplated by this Agreement, or in connection with any other business transactions involving [the Textron unit], make any payment or transfer anything of value, directly or indirectly, (a) to any governmental official or employee, (b) to any officer, director, employee or representative of any actual or potential customer of [the Textron

Appendix I

Page Two  
August 16, 1976

unit], (c) to any officer, director or employee of Textron or any of its affiliates, or (d) to any other person or entity if such payments or transfer would violate the laws of the country in which made or the laws of the United States. It is the intent of the parties that no payments or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance or acquiescence of extortion, kickbacks or other unlawful or improper means of obtaining business. This section shall not, however, prohibit normal and customary business entertainment or the giving of business mementos of nominal value."

The importance of high standards of conduct in business dealings is as important in the United States as in any other country. It would be a mistake to focus concern in this matter only in dealings outside the U. S., so it is expected that the above provision will apply throughout the world.

The concern is of equal importance in the case of a dealer or distributor who may appear to act on behalf of Textron even though actually buying for its own account and reselling at its own risk. The above provision must be included in "dealer" or "distributor" agreements where the other party is actually in the role of a commission agent or sales representative. But the provisions may be omitted if the dealer or distributor (i) is completely independent, (ii) buys and sells strictly for its own account, (iii) is not on a commission or contingent fee basis, and (iv) you know that the relationship is a straight-forward business arrangement. If the role of the dealer or distributor is unclear, it is recommended that the Textron Legal Department be consulted.

It is a great credit to each of you, and to all your associates, that Textron's rapid growth has been accomplished without losing control over our standards. Your cooperation in this effort to improve our procedures will be greatly appreciated. The Textron Legal Department will provide any assistance in interpreting the policy or adapting it to your specific situation.

Sincerely,



GWM:ryn  
cc: Corporate Officers  
Directors



## TEXTRON

Statement as to Illegal, Improper  
or Questionable Payments

This statement is furnished in connection with the preparation of the audit of the accounts of Textron Inc. for 1976.

For the Textron fiscal year ended January 1, 1977 and for the period from January 1, 1977 to date, I am not aware in my Division or unit of, or elsewhere in, Textron of (i) any illegal bribes, kickbacks or other improper or questionable payments having been made to or for the benefit of any person, corporation or government for the purpose of obtaining special concessions or for obtaining other favorable treatment in securing business for the company; (ii) any company funds or property having been made available, directly or indirectly, as political contributions in the United States or elsewhere, or that officers or employees were paid or reimbursed, directly or indirectly, for performing services or incurring expenses in political activities in the United States or elsewhere; and (iii) any company funds, property or transactions which were not reflected or accounted for on the books, records or financial statements of the company.

---

(Date)

---

(Employee signature)

---

(Employee name and title -  
please print)

---

(Division, subsidiary or unit of  
Textron)

Appendix J-1

# TEXTRON

## Statement as to Illegal, Improper or Questionable Payments

This statement is furnished in connection with the preparation of the audit of the consolidated accounts of Textron Inc. for 1977.

For the Textron fiscal year ended December 31, 1977, (or November 30, 1977, in the case of certain consolidated international operations) and for the period from the end of the fiscal year to the current date, I am not aware in my Division or unit of, or elsewhere in, Textron of (i) any illegal bribes, kick-backs or other improper or questionable payments having been made to or for the benefit of any person, corporation or government for the purpose of obtaining special concessions or for obtaining other favorable treatment in securing business for the company; (ii) any company funds or property having been made available, directly or indirectly, as political contributions in the United States or elsewhere, or that officers or employees were paid or reimbursed, directly or indirectly, for performing services or incurring expenses in political activities in the United States or elsewhere; and (iii) any company funds, property, or transactions which were not reflected or accounted for on the books, records or financial statements of the company.

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Employee signature)

\_\_\_\_\_  
(Employee name and title -  
please print)

\_\_\_\_\_  
(Division, subsidiary or unit  
of Textron)

Appendix J-2

**TEXTRON****BUSINESS CONDUCT GUIDELINES**INTRODUCTION

Textron has always sought to conduct its business with honesty and integrity and in accordance with high moral, ethical and legal standards. These Business Conduct Guidelines are issued to communicate this Textron philosophy to all levels of management and other involved employees and to assist them in understanding their responsibilities. The Management Guide continues in effect and its directions should be followed in all applicable situations.

While a conscientious effort has been made to insure that these Guidelines are clear and complete, there will undoubtedly be some points which may be subject to question or are not specifically covered. Any such questions should be referred to internal Division counsel, if any, or directly to the Textron Legal Department before any action is taken.

Every employee whose assigned duties are likely to lead to involvement in or exposure to any of the areas covered by these Guidelines should become completely familiar with the Guidelines and should observe them carefully. It is also the duty of every such employee to communicate the applicable Guidelines to any person or organization within Textron reporting to him.

Joseph B. Collinson  
Chairman

November 1, 1978

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Appendix K

**TEXTRON****BUSINESS CONDUCT GUIDELINES**Explanatory Note

These Guidelines have been prepared as working guides and not as technical legal documents. Thus emphasis has been placed on brevity and readability rather than trying to make them precisely accurate or all-inclusive.

For example, masculine pronouns have been used but the Guidelines are applicable to all employees. Similarly, the term "employee" is used in its broadest sense and refers to every officer and any full or part time employee of Textron. "Textron" refers to Textron Inc., any Division of Textron Inc. and any subsidiary corporation in which Textron Inc. owns, directly or indirectly, more than 50% of the outstanding stock and exercises control over operations. The term "director" refers to directors of Textron Inc. and its subsidiaries who are not also employees. The term "representative" refers to sales agents and others representing Textron who are not employees.

In observance of these Guidelines, as in other business conduct, there can be no substitute for common sense. When applied by competent people with good intent, common sense goes a long way toward handling any situation. In undertaking to read and apply these Guidelines, every employee should apply his common sense with the attitude of seeking full compliance not only with the letter but also with the spirit of the rules presented.

From time to time it will be necessary to make changes in these Guidelines to give recognition to new laws and regulations, new interpretations of existing ones and to take advantage of lessons learned through experience. When revised Guidelines are issued, it will be the duty of each employee who holds a copy of these Guidelines to substitute revised pages as they are sent to him.

November 1, 1978

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**TEXTRON****BUSINESS CONDUCT GUIDELINES**GuidelineNo.**SECTION B - RELATIONS WITH GOVERNMENT****B-1      Payments to Government Officials and Employees      8**

No funds or assets of Textron nor anything else of value shall be paid, loaned, given or otherwise transferred, directly or indirectly, to any federal, state, local or foreign government official or employee or to any entity in which such an official or employee is known to have an interest for the purpose of (1) obtaining, retaining or directing business or (2) affecting the conditions for doing business.

**B-2      Political Contributions      12**

No funds or assets of Textron shall be contributed or loaned, directly or indirectly, to any political party or to the campaign of any person seeking political office, or expended in support of or in opposition to such a party or person anywhere in the world whether or not such action would be legal in the state or country in which it is made.

No facilities of Textron shall be used in the operation of any political campaign.

**B-3      Governmental Reporting Requirements      15**

Textron shall comply with all applicable governmental reporting requirements on an accurate and timely basis and copies of all such filings shall be retained in Textron's files until destroyed in accordance with the applicable established records retention program.

**SECTION C - RELATIONS WITH CUSTOMERS  
AND SUPPLIERS****C-1      Payments to Officers or Employees of Customers  
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No funds nor anything else of value shall be paid, loaned, given or otherwise transferred, directly or indirectly to any owner, officer, employee or agent of a customer or supplier either to secure or retain business or to receive any other favored treatment from the customer or supplier.

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# **TEXTRON**

## **BUSINESS CONDUCT GUIDELINES**

### **Guideline** **No.**

#### **C-2      Gifts and Entertainment      20**

No gifts or entertainment of significant value may be given or received by a Textron employee or any member of his immediate family to or from customers, suppliers, government organizations or anyone in a business relationship. No gift may be offered to influence the business relationship, or be of such value or offered under such circumstances that it may reasonably be perceived to have been made for that purpose. The circumstances and amount of a gift or entertainment otherwise permitted under this Guideline must be customary and lawful in the country where such gifts or entertainment are given.

### **SECTION D - RELATIONS WITH AGENTS, REPRESENTATIVES, DEALERS AND DISTRIBUTORS**

#### **D-1      Relations with Agents and Representatives      26**

Agents and representatives of Textron shall be chosen carefully and shall be (1) required to sign a prescribed statement confirming their agreement to avoid improper payments, (2) compensated fairly and commensurate with the services rendered, and (3) reviewed not less than annually for continued compliance with Textron policy.

#### **D-2      Relations with Dealers and Distributors      29**

Dealers and distributors of Textron shall be chosen carefully to the extent that Textron has the legal right to be selective.

### **SECTION E - COMPLIANCE WITH LAWS**

#### **E-1      Antitrust and Trade Regulation      30**

Textron shall comply fully with all applicable antitrust and trade regulation laws.

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**TEXTRON****BUSINESS CONDUCT GUIDELINES**GuidelineNo.**E-2      Boycotts and Restrictive Trade Practices      32**

Textron will not take any action, directly or indirectly, which will have the effect of furthering or supporting restrictive trade practices (including boycotts imposed by foreign countries against countries friendly to the United States) and, to the extent required by law, will report any request that it do so.

**E-3      Equal Employment      34**

Textron endorses the principle that every individual must have a fair and equal opportunity to achieve that individual's own full potential. Each Textron Division shall take affirmative action to insure that equal employment and advancement opportunity are being provided for all personnel for whom the Division is responsible.

**E-4      Foreign Corrupt Practices Act      36**

Each Textron employee shall be responsible for making certain that:

- (1) None of the actions taken by him or any person or entities for which he has responsibility violate any of the provisions of the Foreign Corrupt Practices Act, and,
- (2) The internal control and recordkeeping requirements of that Act are met by every Textron unit for which he has responsibility.

**E-5      Safety and Health      41**

Management at each Textron location shall provide safe and healthful working conditions for all employees at that location and shall establish practices and procedures to assure that work is conducted in such manner as to continue such conditions.

**E-6      Environmental Protection      42**

Protection of the environment, both inside and surrounding each Textron facility, shall be the direct responsibility of the Textron manager in charge of such facility. Due compliance with applicable national and local regulation of matters relating to the protection of the environment is required.

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**TEXTRON****BUSINESS CONDUCT GUIDELINES**GuidelineNo.

E-7

Securities Transactions and Confidential  
Information

43

No Textron Director or employee (nor member of his immediate family) shall derive any personal gains or assist any third party to derive gain from the possession of material information which is not public.

**SECTION F - INTERNAL OPERATIONS OF  
TEXTRON**

F-1

Accommodation Payments

46

All commissions or other payments due an agent or a customer shall be (1) paid directly to the agent or customer in the country where he earned the payment or in the principal country where he normally conducts business or (2) used to reduce existing accounts receivable from such customer.

F-2

Invoicing and Overpayments

48

All invoices must accurately reflect the true sales price and terms of sale. Payments of amounts in excess of amounts due shall not be accepted.

F-3

Cash and Bank Accounts

51

All bank accounts established and maintained by Textron shall be clearly identified on Textron's books and records and shall be in the name of Textron or one of its subsidiaries.

All receipts by Textron shall be promptly recorded on the books and deposited in Textron bank accounts.

No funds shall be maintained by Textron in the form of cash or other negotiable instruments except to the extent reasonably required for normal business operations.

All cash and bank account transactions shall be handled in such a manner as to avoid any grounds for questions or suspicion.

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**TEXTRON****BUSINESS CONDUCT GUIDELINES**Guideline  
No.**F-4                      Expense Accounts                      53**

All expenses incurred by employees that are to be reimbursed by Textron should be reasonable, accurately accounted for on the Company's books and relate directly to Textron's business needs.

**F-5                      Employee Compensation Practices                      54**

No salary payments or other compensation or benefits shall be paid to any Textron employee in a manner that violates the laws of the United States or the country in which the employee resides or works.

All compensation paid, in whatever form, shall be reported properly on the Company's books and records

**F-6                      Books and Records                      56**

Textron's books and records shall accurately reflect the assets, liabilities, revenues and expenses of the Company. All books and records shall be retained in accordance with established records retention programs.

**SECTION G - COMPLIANCE PROCEDURES AND  
PENALTIES****G-1                      Annual Compliance Report                      58**

Every Textron employee whose assigned duties are likely to involve him in or expose him to any of the areas covered by these Guidelines shall be required to sign and file with the Textron Controller a report:

- (1) certifying that he has read the Guidelines;
- (2) agreeing to comply with them; and
- (3) indicating whether or not he is aware of any violations since the date of his last statement (or the preceding twelve months if no statement was previously filed).

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**TEXTRON****BUSINESS CONDUCT GUIDELINES**Guideline  
No.

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	Special audits for compliance with these Guidelines shall be performed from time to time.	
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	Failure of any Textron employee to comply with these Guidelines shall result in disciplinary action.	

November 1, 1978

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**REPORT  
OF  
THE SPECIAL COMMITTEE  
OF THE BOARD OF DIRECTORS OF  
TEXTRON INC.**

**Richard T. Baker  
Paul M. Fye  
Webb C. Hayes, III, Chairman**

**GIBSON, DUNN & CRUTCHER,  
*Counsel***

**July 24, 1979**

**VOLUME TWO**

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**VOLUME TWO**

This volume of the Report sets forth in greater detail the Committee's factual findings, which are summarized in Volume One. Volume Two consists of seven parts. Part A sets forth additional information with respect to the international marketing activities of Bell; Part B provides further information as to the foreign sales of Textron divisions other than Bell; Part C sets forth the Committee's specific findings as to accommodation payments and overbillings; Part D contains additional information with respect to Textron divisions' domestic operations; Part E sets forth further information as to political contributions; Part F discusses the three additional matters examined by the Committee which are summarized in Part III.H. of Volume One; and Part G describes the historical development of Textron's business conduct policies.

**A. FURTHER INFORMATION AS TO BELL HELICOPTER'S INTERNATIONAL MARKETING ACTIVITIES****1. Introduction**

This Part sets forth more detailed information, including specific findings, as to Bell's international marketing activities. The information is organized by country in the same manner as the summaries in Part III.B. of Volume One.

**2. Ghana**

In 1971 Bell sold two Model 212 helicopters to the Government of Ghana. The transaction was structured in a manner that facilitated a payment of almost \$300,000 to a senior military official of the Government of Ghana.

The transaction began in June 1971 when a Bell salesman attached to the Brussels office met the Ghanaian military official at the Paris Air Show. The official informed the Bell representative of Ghana's interest in purchasing two Model 212 helicopters. Bell International Marketing personnel in Fort Worth were informed of this potential sale, and arrangements were made for Bell's newly-appointed dealer in West Africa, Tropical Aircraft Sales Company ("Tropical"), to make follow-up sales calls in Ghana.

In early July 1971 a Bell employee traveled to Ghana to participate in the sales negotiations. Upon his arrival, the employee was informed by a

Tropical employee that several Bell competitors were likewise seeking to make the sale and that, in order to secure the order, a large payment would have to be made to the Ghanaian official. The next day, the Bell employee and the Tropical employee prepared, on a standard Bell form, a Standard Export Purchase Agreement ("SEPA") for a sale by Bell to the Ghana government at a price of approximately \$1.9 million. This amount exceeded the normal sales price by about \$300,000 in order to provide additional funds for the payment to the government official. The overpricing was accomplished on the SEPA by charging separately for various standard items or accessories ordinarily included in Bell's list price.

On the same day, the Bell employee telexed a message in code to Bell-Fort Worth to the effect that there was competition for the sale from Bell's licensee, Agusta, but that Bell could likely secure the order if the additional payment was made. For security reasons the Bell employee dispatched a Bell technical adviser to Nairobi to telephone the International Marketing Department from that city and provide a full briefing on the sales situation in Accra. The phone call was summarized by a Bell manager in Fort Worth in a memorandum which expressly stated that the perception in Accra was that a payment to a government official was needed to make the sale.\* The Bell manager in Fort Worth responded by telex, stating that the proposal relayed by the technical adviser was unacceptable and that either Agusta or Bell's dealer, Tropical, but not Bell, should proceed with the sale.

Soon thereafter, the Bell employee returned to Fort Worth from Accra, hand-carrying with him the overpriced SEPA. The SEPA was submitted to Mr. Atkins, then Bell's Executive Vice President, who rejected the proposal because it did not conform to the company's standard list price. The reason for the separate pricing of standard items and accessories was not communicated to Mr. Atkins. The Committee found no evidence that Mr. Atkins inquired into this matter.

In discussions which followed between Bell International Marketing Department employees and Tropical personnel, it was decided that Bell would sell the two helicopters at list price to Tropical, which would then resell the aircraft to Ghana at approximately \$300,000 above Bell's list price. Tropical would receive a standard commission and disburse the excess

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\* This memorandum was subsequently destroyed by Bell's International Sales Manager during the course of Bell's internal inquiry into the Ghana sale.



\$300,000 to the Ghanaian government official. A revised SEPA setting forth the standard list price and providing for a sale by Bell to Tropical was drafted and subsequently signed by Bell's Treasurer, Mr. Theodore R. Treff.

The structuring of the Ghana transaction was made known both to an American commercial bank which financed the sale and the United States Export-Import Bank, which issued a guaranty with respect to the Ghana government's obligations. Bell personnel have told the Committee that employees with whom they dealt at both the commercial bank and the Export-Import Bank were aware that a payment would be made to a government official in connection with the transaction. The individuals from the commercial bank and the Export-Import Bank have denied any such knowledge.

A sales contract was then executed in August 1971 by Tropical and the Ghana government at the agreed-upon excess price. For reasons that are not entirely clear, the Ghana government remitted directly to Bell, rather than to Tropical, two cash payments, including the \$300,000 amount to be remitted back to the government official, and executed a series of promissory notes payable to Bell. The cash payments and promissory notes totaled the inflated figure of approximately \$1.9 million.

Due to a technical defect in the promissory notes executed by Ghana, a Bell Regional Manager traveled to Accra, handcarrying a new set of promissory notes with wording acceptable to the Export-Import Bank. In connection with this trip, the Regional Manager carried a letter of authorization, which was signed by Mr. Frank M. Sylvester, Bell's Vice President-International Marketing, and approved by an attorney in Bell's Legal Department.

Upon arriving in Accra, the Regional Manager received a letter from the government official containing instructions for Tropical with respect to the manner in which the questionable payment was to be made. The official requested a cash payment of \$25,000 with the remainder (approximately \$270,000) to be deposited in a designated Swiss bank account. The Regional Manager destroyed the letter, and subsequently relayed the instructions by phone to Tropical personnel. He secured new promissory notes from the Ghana government before returning to Fort Worth.

The cash overpayment from Ghana was disbursed by Bell's Accounting Department by means of a bank wire transfer to a bank account in Florida. In late September 1971 an officer of Tropical's parent company withdrew all funds from the bank account, including \$25,000 in cash and a check in the amount of approximately \$270,000. The officer of Tropical's parent company handcarried these proceeds to Switzerland, where he deposited the check in the Ghanaian government official's bank account. The same officer then transported the cash to Ghana and delivered the \$25,000 to the government official himself, who provided a signed receipt acknowledging the payment. A copy of the receipt was retained in the files of Tropical's parent company and was made available by that company to the Committee.

Based on the statements of various Bell employees, the Committee has concluded that the fact that a payment to a Ghanaian government official would be made was known by Bell's Treasurer, Mr. Theodore R. Treff, and various sales and contract administration personnel in the International Marketing Department. The Committee has been unable to determine with certainty whether Mr. Sylvester knew that a questionable payment was made; however, several employees have testified that, in their judgment, Mr. Sylvester knew that such a payment was involved. Documentary evidence found by the Committee indicates that Mr. Sylvester was at least aware that the transaction involved a sale by Bell and a resale at a higher price.

A former Tropical employee has informed the Committee that in August 1971 he met briefly with Mr. James F. Atkins, Bell's then Executive Vice President, in Fort Worth, along with two Bell employees. He stated that his definite impression at the time was that Mr. Atkins was aware of the proposed questionable payment, although there was no specific discussion or mention of such a payment or a mention of any names. He further stated that Mr. Atkins told him that a decision would be made as to whether or not the sale would go through and that on the following day he was informed by a Bell employee that Mr. Atkins had approved the sale. Neither Mr. Atkins nor either of the two Bell employees recalls any such meeting, and one employee has stated that he believes it is unlikely that any such meeting occurred. The former Tropical employee had no apparent motive not to be truthful and the Committee carefully sought corroboration of his recollections. No written evidence, and no recollection of any other witness of the many interviewed by the Committee as to the Ghana transaction, supported

the former Tropical employee's account or indicated any knowledge of the structuring of the 1971 Ghana transaction on Mr. Atkins' part. There is evidence that Mr. Atkins received written reports to the effect that a sale to Ghana was pending, and the Committee believes it is entirely possible that he had at least a perfunctory courtesy meeting with the former Tropical employee, but the Committee found no evidence, other than the former Tropical employee's impression, that Mr. Atkins had knowledge of the fact that the transaction involved a resale at a higher price or was otherwise suspicious.

The Committee did not find evidence that any other officer of Bell was aware of the payment, and is fully satisfied that no officer of Textron had any knowledge of the payment.

After 1971, Bell made no further sales to Ghana. Although an additional sale was contemplated in 1977, the sale did not materialize. In the proposed sale, a Bell Area Manager was contacted by an Italian national, Mr. N, who claimed to have close connections with Ghana government officials. In discussions between the Area Manager and Mr. N, Mr. N stated that payments to two high-ranking government officials would have to be made. The Area Manager informed Mr. N that any such payments would have to be made out of Mr. N's own money and that Bell would deal only through a dealer. Mr. N agreed and proposed that a dealership agreement be entered into with a company designated by him. An agreement was drafted, signed by Mr. N, and submitted to Bell. The agreement was never signed by Bell. The Area Manager thereafter terminated discussions with Mr. N in late 1977 or early 1978. No sales to Ghana were made as a result of Mr. N's efforts or otherwise.

### **3. Dominican Republic**

The 1976 transaction in the Dominican Republic began with a telephone call from an American businessman to a Bell Regional Manager and his assistant. The businessman asked for Bell's price information on helicopters, which he stated were to be sold to the Dominican Republic Air Force. The businessman expressly informed the Regional Manager that a payment to government officials would be required. These discussions were short-lived, however, and no agreement with the businessman was reached.

Shortly thereafter, Bell received a letter prepared by the Dominican Republic Air Force announcing the appointment of a designated corpo-

ration to represent the Air Force in the purchase of certain helicopters. The Regional Manager then traveled to the Dominican Republic where he met with several government officials to discuss the sale. In the course of those discussions, one government official, Colonel Julian Munoz, told the Regional Manager that the commission on the sale would have to be paid to General Rene Beauchamp, a high ranking official in the Dominican Republic government. The Regional Manager was further informed that payment in cash was preferable but that payment by check to a designated company in the Dominican Republic would also be acceptable.

While in the Dominican Republic, the Bell Regional Manager telephoned Bell's dealer in a nearby territory. He informed the dealer that a sale would be made in the Dominican Republic with the bulk of the commission to be paid to the company which had secured the sale. The dealer was further informed that, since Bell policy required that commissions be paid only to an authorized Bell dealer, the dealer's assistance was needed and that a small commission would be paid to compensate him for his participation. The dealer was not asked to carry on any sales activities. According to the dealer, the Regional Manager instructed him not to communicate with anyone, including Bell personnel, about the sale. The dealer agreed.

The Regional Manager then returned to Fort Worth, where he prepared a trip report which falsely stated that the dealer had set up his appointments in the Dominican Republic. The purpose of the trip report was to provide documentary justification for paying the dealer a commission on the sale. The Regional Manager states that he specifically informed Bell's International Sales Manager that a payment to officials of the Dominican Republic would be required and that the Sales Manager approved going forward with the sale. The International Sales Manager has confirmed to the Committee that he was under the impression that a questionable payment would be made, but that he did not know any specific details.

An amendment to the dealer's agreement with Bell was then prepared granting the dealer one-time authority to make the sale in the Dominican Republic. The amendment was subsequently signed by Mr. Sylvester; however, Mr. Sylvester, through his counsel, has informed the Committee that he was not aware that a questionable payment would be made.

Shortly after the first of the two helicopters was delivered to the Dominican Republic, the Regional Manager directed the dealer to send written instructions to Bell requesting the issuance of two checks, one in the amount of \$2,500 payable to the dealer for his commission and the other, for approximately \$26,000, to be payable to the company designated by Colonel Munoz. The dealer drafted a letter in accordance with these instructions. However, according to the dealer, the Regional Manager telephoned him and instructed him not to send the letter as drafted, but instead to request Bell to make both checks payable to the dealer himself.

Subsequently, the Regional Manager handcarried two checks to the dealer's territory, including a cashier's check in the amount of approximately \$26,000 payable to the dealer. With the dealer's assistance, the Bell Regional Manager attempted to cash the larger check at the dealer's bank but the bank refused to do so. The Regional Manager then obtained a cashier's check, payable to the designated company in the Dominican Republic, and returned to Fort Worth. At a stopover in the United States en route to Fort Worth, he mailed the check to an address in the Dominican Republic.

After delivery of the second helicopter, the Regional Manager telephoned the dealer and asked him to come to Fort Worth to expedite the obtaining of cash, since the prior attempt to secure cash in the dealer's territory had been unsuccessful. The dealer traveled to Fort Worth and accompanied the Regional Manager to a local bank, where they cashed a Bell check made payable to a bank in Fort Worth in the amount of approximately \$34,000. By his account, the Regional Manager placed the money in a briefcase, paid the dealer \$3,000 in cash to cover the latter's commission on the sale and expenses in traveling to Fort Worth, drove the dealer to the airport, and then went to another bank and deposited the cash in a safety deposit box.

Several weeks later, according to the Regional Manager's account, he handcarried the cash in a briefcase to the Dominican Republic. There, he was met at the airport, as previously arranged, by a government employee who took the briefcase from the Regional Manager and shepherded it through customs.

The next day, the Regional Manager was escorted to the office of Colonel Munoz who had initially informed him that a questionable payment would have to be made. The Regional Manager turned the money over to

Colonel Munoz, who, the Regional Manager testified, he understood was acting on behalf of General Beauchamp. Following discussions about possible additional sales, the Regional Manager returned to Fort Worth. No further sales were in fact made to the Dominican Republic.

In addition to the Regional Manager, Bell's International Sales Manager and the Manager of Contract Administration were aware that payments to one or more government officials would be made. The Regional Manager has stated that Mr. Sylvester was, in his opinion, aware that such payments were contemplated. In response to written questions, Mr. Sylvester, through his counsel, has denied any such knowledge or awareness.

The Regional Manager has stated that no one at Bell authorized or knew of his mailing the cashier's check to the Dominican Republic or of his handcarrying cash outside the United States. The Committee found no evidence that any other officer of Bell or any officer of Textron was aware of any actual or contemplated payments to government officials or of any suspicious circumstances in connection with the transaction.

#### 4. Country "A"

In 1971 Country A's Defense Attache in Washington, D.C. approached an employee in Bell's Washington, D.C. office and indicated that Bell might be able to make a sale of helicopters to the government of Country A. The Defense Attache further indicated that he could assist in assuring the consummation of such a sale and that he expected remuneration for his assistance.

The Bell Washington employee has stated that, following this contact with the Attache, he promptly sent a memorandum to Mr. Weichsel, Bell's Senior Vice President, Mr. Sylvester, and another Bell International Marketing Department employee, informing them of the details of his discussions. Although the memorandum has not been found, the International Marketing Department employee recalls receiving it.

The Washington manager further recalls that the International Marketing Department employee advised him that Mr. Weichsel had determined that Bell could not pay the Defense Attache as an agent or representative, but that Bell would accept the Defense Attache's recommendation of a viable company in Country A as a Bell representative. Mr. Weichsel has stated that he recalls very little about the transaction and that he does not recall being informed of any questionable aspect of the sale.

Shortly thereafter, the Bell Washington employee contacted the Defense Attache, who recommended Company One, a firm based outside Country A, as an agent. However, the Washington employee was then informed by Bell personnel in Fort Worth that Company One was unacceptable because the firm was not based in Country A. As a result, the Defense Attache recommended Company Two. At all times, the Washington employee and the International Marketing Department employee assumed that Company One or Company Two would pay the Defense Attache a portion of any commissions received from Bell.

Bell personnel in Fort Worth then requested an employee from Bell's Brussels office to meet with the President of Company Two to evaluate that company as a Bell representative. The Brussels employee did so and reported in writing directly to Mr. Sylvester that Company Two had shareholders who were high government officials of Country A, namely, the Minister of National Defense, the Chief of the Air Force, the Defense Attache, the head of the Police, and others. The Brussels employee further indicated that commissions to Company Two would have to be large enough to satisfy all of the government officials involved. By this time, Bell personnel felt that the sale would involve ten to twelve Model 205 helicopters in a government-to-government Foreign Military Sales ("FMS") transaction.

At the time, DOD had a practice of limiting FMS sales to military rather than commercial equipment. The 205 helicopter was a commercial not a military model. Bell desired to sell the 205 rather than a military model to Country A for several reasons: (1) Bell could provide earlier delivery on the commercial model; (2) Bell would make a greater profit; and (3) there would be a higher commission for Bell's representative. Accordingly, Bell urged the Defense Attache and Company Two to convince the government of Country A to request the commercial model. The then Chairman of Bell, Mr. Edwin J. Ducayet, and the Bell Washington employee met with DOD officials in Washington to convince them that an FMS sale of commercial helicopters should be approved. The Washington employee has recently stated that in conjunction with this meeting he informed Mr. Ducayet of the Defense Attache's possible personal involvement in and remuneration from the potential sale. Mr. Ducayet has told the Committee that he does not recall being so informed. A memorandum transmitting a draft of a representative agreement with Company Two was initialed by Mr. Ducayet.

In addition to the arrangement with Company Two, Bell's International Marketing Department was also approached by representatives of another company in Country A, Company Three, concerning the potential sale. The representatives of Company Three indicated that their company wanted to represent Bell in the sale and that Company Three had greater influence than Company Two. They also indicated that they would handle any necessary payments to government officials. Bell refused to deal with Company Three.

Later, the Brussels employee recommended that Bell enter into an agreement with yet another company, Company Four, which was associated with Company Two, because for "military/political/ shareholding reasons" Company Four would be the preferable representative. Bell therefore entered into a formal dealer's agreement with Company Four, executed on behalf of Bell by Mr. Sylvester, in March 1972. By this time, the government of Country A was also interested in purchasing two Model 212 helicopters, another commercial model. Bell personnel understood that arrangements for commission sharing with the Defense Attache and high government officials remained in effect.

Following political unrest in Country A, a number of government officials were replaced or shifted positions in the latter half of 1972. At least partly as a result of this change, Country A's government decided not to purchase the Model 205s and eventually agreed to buy only the two 212s.

In September 1973 Bell delivered the two helicopters for a total price of \$1,368,358. The commission to Company Four in the amount of \$102,296 was paid to a bank account of a principal of Company Four in Switzerland. Bell International Marketing Department personnel assume, although they do not know, that at least a portion of the commission was to be paid to high government officials of Country A.

The evidence reviewed by the Committee indicates that Mr. Weichsel and Mr. Sylvester received communications indicating the questionable nature of the transaction. There is no evidence that any officer of Textron was aware of the proposed payments to government officials of Country A.



## 5. Country "B"

During the period 1971-1977, Bell made three major sales to agencies of the government of Country B. Bell also made several sales to a commercial helicopter operator in Country B. The Committee has no evidence to suggest that any questionable payments were involved in the commercial sales.

### *A. The 1971 Sale.*

In 1971 Bell sold a Model 212 helicopter to the government of Country B for the use of its President. The presidential pilot, an Air Force officer, had considerable influence over the selection process and, in addition, served as an "advisor" to Bell's dealer. The Bell International Marketing Department employee in charge of sales to Country B did not know and did not ask whether the Air Force officer (of whose function he was aware) was paid by Bell's dealer for his assistance. The Bell employee has stated, however, that he assumed that the advisor was being compensated by the dealer. The Committee has no evidence that anyone, other than this Bell employee, had knowledge of either the dual role played by the officer or of any payments to the advisor.

### *B. The 1972 Sale*

In 1972 the dealer informed Bell personnel of a potential sale of ten helicopters to the Air Force of Country B. After nearly eight months of negotiations, Bell concluded a \$2.9 million sale of six model 205A-1 helicopters to Country B. Commissions of approximately \$225,000 were paid to Bell's dealer.

In its correspondence, the dealer described the 1972 sale by a code name and indicated the dealer's heavy reliance on two "advisors." The advisors have been identified by the Bell employee as an Air Force materials officer and the Air Force officer mentioned in Section 5.A. above. Again, the Bell employee was never specifically told that these advisors would be compensated, but he assumed that they would be.

After the purchase had been approved by Country B's government, the contract was sent to its Military Attache in Washington, who had been designated to sign the contract. The Military Attache, however, delayed signing the contract. The Bell employee thereafter received a phone call

from a person who identified himself as the Attache's "friend." The "friend" stated that he could "cause the contract to continue its normal process" and demanded a commission. The Bell employee informed the caller that Bell would pay commissions only to its dealer and suggested that the "friend" contact the dealer.

The "friend's" attorney met with Bell's dealer in Country B and proposed that the dealer pay the Attache's "friend" two percent of the sales price. Negotiations continued, and Bell's dealer requested that International Marketing personnel communicate with the attorney to settle the amount of the payment. Upon the specific authorization and approval of Bell's dealer, the Bell employee concluded the negotiations on the basis that one percent of the sales price would be paid to the "friend," provided that a fixed date for signing the contract was established. In November 1973, Bell paid \$29,150 to the "friend's" United States-based company and debited that amount to the dealer's account. The balance of the commission was remitted to the dealer.

The Bell employee has stated that Mr. Sylvester was aware of the payment to the "friend". Through his counsel, Mr. Sylvester has stated that he has no recollection of any such awareness. The Committee has no evidence that any other officers at Bell or any Textron officers were aware of the payment.

The Bell employee has further stated that Mr. Sylvester was aware of the use of advisors by Bell's dealer, but the Committee has found no evidence that Mr. Sylvester was aware of their identity or military status. No evidence suggests that any other Bell officers or any Textron officers were aware of the use of advisors or of their identities.

#### *C. Additional Sales To Country B*

In February 1974, Bell's dealer outlined the possibility of a sale of helicopters to Country B's Army. By this time, one of the officers referred to in Section B. above was no longer serving as an advisor to the dealer; however, it was the understanding of the Bell employee that the other Air Force officer was still so serving.

Sales negotiations continued throughout 1975 and 1976. The sale was delayed for internal reasons in Country B but in 1976 Country B finally

approved the purchase of seven 205A-1 helicopters for approximately \$6.4 million. Bell's dealer received commissions of approximately \$250,000 on the sale.

The Committee found no evidence that any questionable payments, other than the possible payment of compensation to the dealer's remaining advisor, were made in connection with this sale. However, in June 1975 Mr. Dee E. Mitchell, Bell's International Sales Manager, apparently became concerned by references to "advisors" in correspondence from Bell's dealer. Testimony is in conflict with respect to what then occurred. The Bell employee with responsibility for sales to Country B has stated that, due to revelations regarding questionable foreign payments at other companies, Mr. Mitchell believed the references might be sensitive and he therefore requested that new letters be obtained which eliminated the words "advisors" or "consultants." Mr. Mitchell disputes this testimony, stating that he directed the Bell employee to have the dealer omit such references in any future communications, not to alter any documents. In June and July 1975, the documents were in fact altered to remove such references by a Bell clerical employee, acting at the direction of the Bell employee with sales responsibility for Country B, and new letters were secured from the dealer.

The Committee has no evidence that anyone other than Mr. Mitchell and several of his subordinates in the International Marketing Department were aware of this alteration and substitution of documents. The Committee believes that it has been able to locate and review the great majority of the original correspondence which made numerous references to "advisors" and "consultants."

#### **6. Country "C"**

In 1973 a defense official of Country C contacted a Bell sales employee in Brussels concerning the purchase of helicopters for the Country C Air Force. In 1974 Bell presented a proposal to Country C for five model 205A-1 helicopters at a total price of approximately \$3.6 million. The sale was negotiated by Bell's dealer for the region, and a contract was signed.

The dealer's territory was then expanded to include Country C. The dealer appointed a subdealer, Company Five, which was a subsidiary of an enterprise owned by the Foreign Minister of Country C and members of his family. The dealer appointed Company Five without first consulting Bell. However, the United States Commercial Attache in Country C had previously recommended Company Five to Bell as a potential dealer, and Bell

personnel were aware that the subdealer was owned by a foreign government official. The Committee was informed that the subdealer received commissions of approximately \$200,000 out of the \$320,000 paid by Bell to the dealer.

In mid-1974, the Brussels-based Bell employee traveled to Country C and learned that there was a potential for an additional sale of several Model 214s to Country C's Department of Defense. A contract was prepared for five Model 214s for which the dealer would receive commissions of approximately \$475,000.

Shortly thereafter, Bell personnel in Brussels learned that there was a possibility that the Air Force of Country C wished to cancel its order for Model 205s, but that the order for the Model 214s should go through.

Within a month, a Bell employee in Fort Worth received a telephone call from an American who identified himself as a friend of the personal assistant to the ruler of Country C ("personal assistant"), and stated that the personal assistant had an interest in the cancellation of the 205 order. Several days later, the same person called again, stating that the government of Country C was considering continuing the Model 205 order due to the influence of the personal assistant, and that the personal assistant was also processing the Model 214 order. In his second call, the caller stated that the personal assistant wanted a commission on the transaction. The Bell employee thereupon told the caller that Bell would pay commissions only to its dealer; the caller suggested that arrangements could be worked out with the dealer. At this point, no Bell employees knew what influence the personal assistant had over purchase decisions, but within a month several Bell employees learned that he was a relative of the ruler, the ruler's personal assistant for diplomatic affairs and a former high government official. They also became aware that his power over purchase decisions was enormous.

Thereafter, the manager of Bell's Brussels office informed Bell's dealer that the personal assistant appeared to be highly important in obtaining the sale and encouraged the dealer to meet with the personal assistant to negotiate and make any necessary arrangements with him. However, Bell employees refused to increase the helicopter price in order to allow an extra commission.

Both the Model 205 and Model 214 sales were ultimately consummated. The Committee was informed that Bell's dealer and subdealer assigned commissions of approximately \$275,000 to the personal assistant.

Several International Marketing Department employees were aware that Bell's dealer and the subdealer had to assign commissions to the personal assistant. Mr. Sylvester received communications both before and after the sale indicating that commissions would be shared by the dealer or subdealer with a person who had influence over the sale. In addition, Mr. Weichsel, Bell's Senior Vice President, was informed several months later by a Bell employee that Bell's dealer had had to give away most of its commissions, but there is no evidence that he was aware of the identity of the recipient. He made no further inquiry into the matter. There is no evidence that any other Bell officers or any Textron officers were aware of the commission assignment arrangements.

#### 7. Country "D"

In 1971 a helicopter pilot ("Pilot") in Country D contacted Bell's Brussels office regarding the purchase of two helicopters for the defense forces of Country D. Bell employees in Brussels were aware, or soon became aware, that Pilot would shortly become the pilot for the son of the ruler of Country D, and that he was to be appointed the head pilot in the defense forces of Country D.

Pilot proposed that he become Bell's dealer in Country D. Employees in Bell's International Marketing Department recommended his appointment to Mr. Sylvester. Mr. Sylvester approved Pilot's appointment, but instructed that any agreement with him would be terminated if he became employed by the government of Country D, unless the government accepted in writing that he could act as Bell's representative at the same time. This instruction was not followed, and no written permission was ever obtained by Bell. However, the son of the ruler, who was also Commander of Country D's defense forces, apparently authorized Pilot's representation of Bell while at the same time serving as head pilot for the defense forces.

Pilot formed Company Six, which became Bell's dealer in Country D. The son of the ruler, whose permission was deemed necessary, authorized its formation and designated a prominent local family as its owners. The names of two brothers from this family appeared on the written author-

ization, but a third brother became Chairman of Company Six (an office he held until June 1978) and apparently shared in the profits of Company Six. This third brother also served as private secretary to the ruler's son who had, by 1972, also become a high defense official in an organization of states of which Country D is a member ("Federation"). Pilot apparently had no ownership interest in Company Six but served as its Managing Director and received a percentage share of the profits. In addition, another officer of Country D's air defense services served as a director of Company Six until 1974, and may have received a share of the profits.

Company Six served as Bell's dealer in Country D and neighboring territories during the entire 1971-1977 period. During this period, Bell sold five helicopters to government agencies in Country D, at an approximate price of \$1,643,320, not including follow-up sales of spare parts. In addition, it sold four helicopters at an approximate price of \$2,713,456 to the defense forces of the Federation. Company Six received commissions of approximately \$132,800 on sales to Country D and \$255,000 on sales to the Federation.

In 1976, the Chairman of Company Six became a high official of the Federation's defense agency, serving as a deputy minister to the son of the ruler of Country D whom he had previously served as private secretary. (As previously indicated, he resigned as Chairman of Company Six in mid-1978.) Subsequent to 1976, Bell sold no helicopters to the Federation, although it made a proposal to do so. Based on the available evidence, the Committee does not believe that the Chairman of Company Six had decision-making power over the purchase of helicopters by the Federation, but he was clearly in a position to have some influence over purchase decisions.

Nearly all Bell International Marketing personnel involved in sales to Country D, including Mr. Sylvester, were aware that Pilot served as Managing Director of Bell's dealer while also serving as head pilot of Country D's defense forces and that the Chairman of Bell's dealer served as a high official of the Federation after 1976.

There is no evidence that any other Bell officers were aware of the dual roles played by Pilot and the Chairman; however, in late 1976, Mr. Weichsel received a letter from Company Six which made reference to the Chairman

by name without identifying his government position. Also in 1975 and 1976, two Textron Vice Presidents, Mr. Willard R. Gallagher and Mr. Andrew J. Beck, received a number of pieces of correspondence which indicated that the same person served simultaneously as Chairman of Bell's dealer and as a high defense official of the Federation. The Committee has concluded that Mr. Gallagher and Mr. Beck should have been aware of the general nature of the relationship between Bell's dealer and the government of the Federation from such correspondence. However, Mr. Gallagher and Mr. Beck have stated to the Committee that they did not focus on the possibility of there being a questionable ownership relationship until early 1978. At that time, additional information as to a possible connection between the dealer and government officials came to the attention of Mr. Beck from a Textron employee traveling in Country D, and the matter was referred to the Textron Legal Department. No further sales have been made through Company Six since 1978. The company apparently terminated operations in 1979.

The Committee has been unable to determine with certainty whether a violation of the laws of either Country D or of the Federation occurred. The Committee has been advised by counsel in Country D that, during the relevant period, there was no legal prohibition against government officials having an ownership or other financial interest in, or receiving a commission from, an enterprise doing business with the government of Country D or the Federation. However, receipt of a payment or benefit by a government official for the purpose of influencing official action, or the acceptance by a civil servant of compensation for work outside his official duties is unlawful. The latter prohibition may, however, be waived with ministerial approval. In interviews with the Committee's counsel, the most recent managing director of the dealer has stated that the relationships of Pilot and the dealer's former Chairman to the dealer were well known to and approved by the governmental authorities of Country D and the Federation and that there was no violation of local law. Because of the close relationship of Pilot and the former Chairman to the governing authorities of Country D and the Federation, it seems likely that ministerial approval was given to the receipt of compensation from the dealer by Pilot and the former Chairman.

#### **8. Country "E"**

Bell made few helicopter sales between 1971 and 1977 in Country E. The limited sales which were made were accomplished through the efforts of

Company Seven which served as Bell's dealer from 1966 until May 1977. The key employee of Company Seven was Mr. L. In May 1977 the territory of Company Eight, already a large Bell dealer in the region, was expanded to include Country E, and Company Seven was terminated as Bell's dealer.

Bell's largest transaction in Country E during the period under review involved the sale in 1972 of four helicopters to the United States government for resale to Country E. Mr. L made a significant effort to promote this sale, which was ultimately effected under the United States government's Grant-in-Aid program. The dealer agreement between Bell and Company Seven had been amended in 1970 to provide expressly that no commissions would be paid on sales of this type. Bell made a written representation to the United States government that no dealer's commissions were being paid on the sale.

Following the sale, however, Bell International Marketing Department personnel attempted to secure compensation for Mr. L under the guise of paying him for a purported in-depth study of Country E's helicopter requirements. The proposed compensation for the study was approximately \$39,000, which was \$8,000 lower than the commission which would otherwise have been payable. No report was in fact prepared by Mr. L, and Bell's Finance Department did not make any payment to him.

Bell personnel thereafter secured the approval of Mr. Weichsel, as Senior Vice President, to enter into a consultancy agreement with Mr. L as a method of compensating him. The agreement provided for total compensation of \$39,000 in exchange for Mr. L's providing certain enumerated future services. In fact, however, the consulting agreement was perceived by International Marketing Department personnel as a method for compensating Mr. L for services already rendered. A Bell Area Manager has stated that Mr. Weichsel was advised that this was the purpose of the consulting agreement.

In connection with the 1972 sale, Mr. L's written communications to International Marketing personnel clearly implied that the dealer had financial arrangements with one or more government officials of Country E



including the Commander of the Air Force. In a handwritten note sent "in strict confidence" by Mr. L to International Marketing from the Air Force Commander's office, Mr. L stated:

"I have made a promise to [the Air Force Commander] which I must keep to the letter. Until I write again to give definite instructions on this please request [Bell's head of Accounts Payable] on my behalf to withhold the credit documentation . . . . And, in any case, please ask him to address all Credit Memos on this deal *personally* to me and not merely marked for my attention." (Emphasis in original).

Several months later, Mr. L informed International Marketing personnel that he had to act "most discreetly" with respect to commissions, as he had "to take care of the personal interests of the government top officials to sustain their continuous interest in Bell Helicopter Company's interests . . ." In another letter, Mr. L stated that the United States Military Attache in Country E was leaving the country and that the Attache expected Mr. L to keep his "promise" before that time. The Attache had apparently been of considerable assistance to the dealer in the course of the helicopter sale.

In interviews with the Committee, International Marketing personnel stated that they had no reason to believe that any questionable payments were made in Country E despite Mr. L's communications. They further stated that references to promises to or other arrangements with the Air Force Commander likely referred to commitments made by Mr. L to provide funds for training Country E pilots.

Mr. L has informed the Committee that he provided airline tickets to the Air Force Commander and arranged for the payment of his travel expenses, but made no other payments to him. According to Mr. L, these amounts aggregated about \$5000 over the years, and were not paid for any improper or unlawful purpose.

Mr. L also stated to the Committee that he gave a gift of modest value to the wife of the United States Military Attache as a memento of her husband's stay in Country E. In addition, Mr. L hosted a farewell party for the Attache at the conclusion of the latter's tour of duty in Country E. But Mr. L has stated that he made no payment of any kind to the Attache.

Finally, Bell made a series of accommodation payments at Mr. L's request. In addition to payments to a named individual in Europe, who Mr. L says is a private citizen, Bell made payments (aggregating \$1,891.14) to two named individuals outside Country E to defray costs which Mr. L characterized as travel expenses for Country E officers and technicians. As a result of the analysis of disbursements from dealers' commission accounts conducted by Arthur Young for the Committee, the Committee has concluded that, in addition to sums payable under the consultancy agreement, Bell disbursed a total of \$20,313.92 in accommodation payments at Mr. L's request.

Within Bell, Mr. Weichsel approved and executed the consultancy agreement with Mr. L. Mr. Weichsel has told the Committee that he does not recall the specifics of the transaction. There is no evidence, however, that Mr. Weichsel or any other Bell personnel outside Bell's International Marketing Department were aware of Mr. L's paying for the travel expenses of officials of Country E or of the gift to the Attache's wife. Nor is there any evidence that any non-International Marketing Department officers or employees were aware of accommodation payments made by Bell at the dealer's request. There is no evidence that any Textron officers were aware of any of these transactions.

#### 9. Country "F"

During the period 1971 through 1977, Bell made many sales to customers in Country F, both governmental and private. Bell's dealer in Country F throughout this period was Company Nine.

##### *A. The 1972-1973 Sale to Country F*

In 1972, Bell made a proposal to the Country F Air Force for the sale of 17 helicopters. Bell International Marketing Department employees and Bell's dealer participated in negotiations for this sale for a number of months. Although agreement appeared to have been reached, there was considerable delay in getting the contract signed. According to testimony of the Bell employee responsible for sales to Country F, Bell's dealer discussed with him the possibility that the high government official with authority to effect the purchase was delaying signing the contract in order to secure a payment.

Shortly thereafter, according to the Bell employee, the dealer was approached by an Air Force officer of Country F, who was the assistant to the high government official. He demanded a payment of \$300,000. The dealer objected to the size of the demand and ultimately arranged to split the commission, amounting to approximately \$240,000, with the high official. The dealer then informed the Bell employee of the arrangement, which he states was approved by the International Sales Manager.

The government of Country F ultimately contracted to purchase five Model 205 helicopters and five Model 206s, which were delivered in 1973. In May 1973 Bell's dealer informed the Bell employee that he and the Air Force officer would be coming to Ft. Worth to pick up commission checks. Upon arrival in Fort Worth, the dealer authorized Bell to debit his commission account and to pay \$109,750 to the officer. A check in that amount was made payable directly to the officer and delivered to him in Fort Worth. A similar procedure was followed later in 1973, when Bell issued a check in the amount of \$47,800.50 to the same officer.

Although the principal of Bell's dealer readily admits that the payments were made, he has told the Committee that the monies were not to be used by the high official, but rather were to be utilized by the Air Force itself. The Committee has been unable to resolve this conflict in the explanations but has concluded that the payments must be treated as questionable.

The payments were authorized by the Bell dealer, a Bell employee responsible for credit matters and by a now retired employee in Bell's Accounting Department. The International Sales Manager was aware that the payments were made. The Committee has discovered no evidence indicating that any Bell officers or any Textron officers were aware or approved of the payments.

#### *B. The 1974 Sale to Country F*

In September or October 1974, Bell contracted to sell five Model 212 helicopters to the Air Force of Country F. Under the contract the purchaser paid \$16,717.35 for living and travel expenses to be incurred by Air Force personnel in connection with their training in Fort Worth. In October 1975 the same Air Force officer who had received the earlier payments requested that a check in the above amount be issued to him and charged to the Air Force's account. The International Sales Manager authorized a check

payable to a representative of the Air Force as a refund of amounts received by Bell under the contract but not expended because the Air Force personnel had paid their own expenses. Bell issued a check payable to the Secretary of Defense of Country F and delivered it to the Air Force officer in Fort Worth. The check was ultimately cashed in Country F, endorsed by the officer. The Committee has no clear evidence that the payment itself was not a legitimate refund, but the fact that the check was delivered to an individual who had previously been the recipient of a questionable payment indicates the possibility that this amount was diverted for questionable purposes. Bell's dealer was not involved in this payment.

### *C. Other Possible Questionable Payments*

Although there is no documentary evidence to support the assertion, the Bell employee responsible for sales to Country F has also stated that the dealer told him, after the fact, that the same high government official received half of the commission of approximately \$160,000 on a 1975 sale. In addition, the Bell employee has said that he was informed by the dealer, after the fact, that the dealer had paid \$5,000 to the chief pilot of a local police force in Country F in connection with a 1977 sale. The Bell employee further states that he was informed by the dealer, after the fact, that a gratuity had been given to the chief pilot for the governor of a political subdivision of Country F following a 1976 or 1977 sale.

The principals of Bell's dealer in Country F have been interviewed by the Committee's counsel. They deny that the payments mentioned above to the Air Force officer were improper and state that they believe that the officer received the money for and accounted for it to the Air Force. In addition, a copy of one of the cancelled checks bears an endorsement which suggests that the check may have been deposited in an account of the Air Force in Country F. The principals of Bell's dealer also deny making any of the payments referred to in the preceding paragraph. Despite these denials, the Committee, relying on the Bell employee's testimony, has treated the payments as questionable.

With the exception of the 1973 payments, there is no evidence that any Bell personnel were aware of any questionable payments by Bell's dealer in Country F prior to the time that they were made. In addition, there is no evidence to suggest that any Bell officer or any Textron officer was aware of any questionable payments in Country F.

#### 10. Country "G"

Until 1976 Bell made few helicopter sales in Country G where markets, although receptive to helicopter use, were traditionally dominated by Bell's domestic and foreign competitors. However, Bell's efforts to penetrate one important segment of the market culminated in 1972 with the sale of one Model 212 to a government-owned company in Country G.

The possibility of this sale was first brought to the attention of the manager of Bell's Brussels office by an individual who was serving at the time as an aviation advisor to the government-owned company. The advisor, who had no previous relationship with Bell, informed the Brussels manager that a sale could be made if Bell would pay the advisor a commission. In ensuing discussions in Fort Worth between the aviation advisor, Bell personnel and a representative of Bell's established dealer for Country G, an arrangement was reached whereby Bell's dealer agreed to pay the aviation advisor \$50,000. That amount, according to Bell's dealer, was to be generated by pricing accessories in a manner that produced additional revenue and was known to Mr. Sylvester.

In subsequent communications from Bell's dealer, Bell personnel were informed that part or all of the amounts to be received by the aviation advisor would probably be shared with one or more officials of the government-owned company. Contrary to Bell's operating procedures, International Marketing Department personnel, in compliance with the dealer's instructions, arranged for an advance payment of commissions to the aviation advisor prior to delivery and payment for the ship. The dealer's communication stated in pertinent part: "[Government officials] in Washington current time and advance of commission requested. Please remit urgent \$50,000 to [aviation advisor's] account [in New York]. He will collect and disburse prior to Ft. Worth visit." This payment was effected by wire transfer to a United States bank, pursuant to a telex from a Bell Regional Manager to the dealer stating: "To keep principals happy and insure smooth consummation this sale and enhance others [Bell] has deviated from policy and advanced amount requested."

Bell's arrangement with the aviation advisor appears to have been a one-time only transaction. Although further helicopter sales were subse-

quently made by Bell in Country G, no evidence was found indicating that any other questionable payment was made, directly or indirectly, by Bell or its dealer in connection with such sales.

Responsibility within Bell for the arrangement rested exclusively with Bell International Marketing Department personnel, as at that time Bell's Accounting Department followed the instructions of International Marketing Department personnel without further authorization. Mr. Sylvester has through his counsel stated that he has no recollection of dealing with the advisor. No evidence was found indicating that the arrangement had been authorized by, or was known to, any other Bell employee or any Textron officer.

#### 11. Country "H"

In the early 1970's, Bell International Marketing Department personnel were actively engaged in marketing several helicopter models to the government of Country H. Following the purchase in 1972 of a Model 212 by an agency of the government for use by the country's head of state, Bell's International Marketing Department personnel attempted to sell additional Model 212s to other administrative agencies for such use.

In 1973 a Bell employee met in Texas with a high-ranking official of Country H to discuss additional Model 212 purchases. Shortly thereafter, Bell personnel issued a check in the amount of \$1,000 payable to the official and pursuant to Bell's dealer's instructions debited the amount from the dealer's account. The check was sent to a hotel in the United States where the official was staying.

The proposed sale of additional Model 212s for use by the head of state did not take place. There is no evidence to suggest that any payments, other than the single \$1,000 payment, were made by Bell to government officials of Country H.

Concurrently with pursuing possible sales of Model 212s, a Bell Area Manager was contacted by an American businessman, who had no previous association with Bell, and who advised the Area Manager about potential sales of approximately ten Model 206B Jet Ranger helicopters to the Air Force of Country H. Pursuant to arrangements made by the United States businessman, the Area Manager traveled to Country H to meet and discuss the sale of Jet Rangers with a high-ranking government official who had responsibilities for defense procurement and a private citizen, who appeared

to have close ties to the country's highest leadership circles. These discussions culminated in an agreement whereby commissions accruing on the sale would be remitted by Bell to a United States company designated by these two individuals ("Company Ten").

Bell's established dealer in Country H agreed to assign any commissions which it might earn on any sales of Jet Rangers in Country H to Company Ten. Company Ten was suspected by Bell sales personnel of acting as a conduit for payments to one or more high-ranking government officials in Country H. It is not known, however, whether any funds that might be paid to Company Ten were in fact intended to be used for private purposes. A Bell employee has told the Committee that a government official of Country H suggested to him that such funds might be used for governmental purposes.

Despite this commission arrangement, the sales effort to the Country H Air Force collapsed for reasons unknown to Bell. No payments of any kind appear to have been made by Bell, either directly or indirectly, to any government official through Company Ten.

The dealer's assignment of commissions to Company Ten was arranged by Bell's Area Manager for the Far East. The arrangement was, according to International Marketing Department employees, approved by the International Sales Manager and known to Mr. Sylvester. In response to written questions, Mr. Sylvester has indicated, however, that he does not recall being aware of the assignment of commissions by the dealer. There is no evidence indicating that any other officer of Bell or any Textron officer knew of or approved the arrangement.

## 12. Country "I"

From modest levels in prior years, Bell's sales in Country I increased substantially in the 1970's through the efforts of its long-established dealer in that country. The dealer's sales efforts culminated in the mid-1970's in the sale of 27 UH-1Hs and eight AH-1J helicopters to the government of Country I in transactions which generated large commission payments to the dealer.

The dealer stated to the Committee's counsel that, consistent with what he says is the custom in Country I, he furnished gratuities, including payments of small amounts of cash, to government officials. At the dealer's

request, Bell disbursed from the dealer's commission account amounts aggregating several hundred dollars to several military officials of Country I, including an official attached to the Embassy in Washington and officials making business trips to the United States. Although the Committee was unable to find reliable evidence as to the amounts involved, the Committee estimates that these amounts did not exceed \$25,000.

In addition to cash gifts and other gratuities, the dealer on various occasions requested Bell to furnish airline tickets to government officials of Country I, and to pay for their motel bills during visits to the United States, charging the amounts to the dealer's commission account. Bell typically complied with such requests, which the dealer on at least one occasion referred to as "sensitive" in nature.

There is no explicit evidence that the dealer shared his commissions on Bell sales with government officials, aside from the gifts and other gratuities described above. In 1973, however, a Bell Area Manager advised the dealer of a statement by an applicant seeking the Bell dealership in Country I that a key government official was unhappy with the dealer because he had not given the official a "big enough piece of the cake." The Area Manager informed the Committee that this reference meant small gratuities and favors which the dealer had furnished to the official, including payment of greens fees on golf outings and frequent entertaining of the official for dinner. The dealer likewise informed the Committee that no questionable payments were made to any government officials, and that the gratuities which were furnished, such as dinners and golf outings, were in keeping with local traditions and custom. However, the Committee received advice from legal counsel in Country I that such gratuities may have violated the laws of Country I.

In connection with commission payments, Bell complied with the dealer's recurring requests for accommodation payments to third parties. Bell personnel also assisted the dealer in maintaining large sums of commissions outside Country I. For example, Bell's Manager of Contract Administration assisted the dealer in opening a local bank account in the Fort Worth area, where the dealer deposited a large commission check. The dealer also instructed Bell personnel not to mention or refer to commissions in the presence of either the dealer's employees or government officials of Country I. These practices were generally known by personnel within the



International Marketing Department; however, Mr. Sylvester has informed the Committee, through his counsel, that he was unaware of any gifts or gratuities having been furnished to Country I officials by the dealer.

### 13. Country "J"

In 1973 personnel in Bell's International Marketing Department, including the manager of Bell's Brussels office, became aware that the Air Force of Country J might have a requirement for two Bell helicopters. Bell had an established dealer in Country J, but information concerning the sale came from a "consultant," who identified himself as a friend of the wife of a high official with power to effect the purchase. The Brussels manager was aware that, in order to conclude an agreement with the proposed "consultant," the dealer would have to assign its commissions to him. The Brussels manager and a Bell Regional Manager were also aware that the dealer's personnel believed the "consultant" to be a conduit for payments to the high official. In addition, these employees were aware that the "consultant" would expect payments to be made at the time the contract was signed, contrary to Bell's normal policy of paying dealers' commissions only after full payment had been received.

The Brussels manager attempted to persuade the dealer to assign its commissions to the proposed "consultant," but the dealer proceeded to make its own proposal to the Air Force. At the same time, the Brussels manager recommended to Mr. Weichsel that Bell employ a "consultant" for this sale, as it was unlikely that the Air Force would be willing to buy from Bell's dealer. Mr. Weichsel determined that Bell would pay no commissions except to its established dealer, adding in a handwritten notation that "what a dealer does with his commission is his business."

As a result, Bell did not enter into an agreement with the "consultant." However, the Brussels manager continued to attempt to persuade Bell's dealer to meet with the "consultant" and to give up most of its commission to the "consultant." In addition, the Brussels manager tried to get the "consultant" to visit Fort Worth to meet with Mr. Weichsel. Neither meeting took place, however. The Air Force of Country J refused to do business with Bell's dealer, and the sale fell through.

In addition to the Brussels manager and the Bell Regional Manager, Mr. Sylvester appears to have had knowledge of certain questionable aspects of the proposed arrangement, as he received telexes referring to the

proposed use of a "consultant" and referring to the "consultant" as a "bagman." He has informed the Committee, however, through his counsel, that he does not recall any such information. A Bell employee has stated that he informed Mr. Weichsel that the consultant had been referred to as a probable "bagman" for a high government official. Mr. Weichsel has told the Committee that he received insufficient information from International Marketing Department personnel to understand the true nature of the consultancy being proposed.

#### 14. Country "K"

As a result of previously limited sales in Country K, Bell replaced its dealer in 1971 and appointed a family-owned company, which had no significant aircraft experience, as its representative. One member of the family controlling the company was related by marriage to a prominent member of the military authority which had responsibility for military procurement in Country K. Under the arrangement, the company was appointed as a subdealer to a Bell dealer in another country which had considerably greater aviation experience.

The arrangement did not prove productive, however, as few sales were thereafter made through the subdealer to Country K's military. Accordingly, Bell's dealer expressed its dissatisfaction with the subdealer's marketing efforts to International Marketing Department personnel in Fort Worth. In a telex to Fort Worth, a representative of Bell's dealer reported to a Bell Area Manager that a major sale proposal had been unsuccessful because the subdealer had not provided in its offer for sufficient payments to government officials.

Pursuant to the dealer's recommendation, Bell shortly thereafter terminated its arrangement with the subdealer and appointed in its place a company affiliated with the dealer. Substantial sales were subsequently made in Country K.

In view of the dealer's statement about the lost sale in Country K, the Committee examined all available documents pertaining to business involving Country K, questioned numerous Bell employees who were or might have been involved in such transactions, and questioned the person who has headed Bell's dealership for many years. Despite the clearly contrary

statement in its communication to Bell, the dealer denied that it had ever made, or was aware that its subdealer had ever offered or made, any payment to government officials in Country K, other than offers of entertainment and offers of reimbursement for travel expenses to air shows. Although the communication casts suspicion on the nature of the dealer's and the subdealer's activities, no evidence was located which indicates that questionable payments were made either directly or indirectly to government officials.

There is no indication that any officer of Bell was aware of the dealer's communications with respect to the possibility of payments to government officials. Bell officers were made aware of the proposed termination of the family-owned subdealer but there is no evidence that the reference to the possibility of payments to government officials was brought to any officer's attention.

## 15. Other Countries

### (a) Country "L"

From 1966 until 1972, Company Eleven served as Bell's exclusive representative in Country L for commercial sales of certain helicopter models. The dealer's original agreement provided that commissions were "to be negotiated." The 1970 dealer's agreement effected a change, similar to those being made at the time in other contracts between Bell and its foreign representatives, to provide that no commissions would be payable on sales under the Military Assistance or Grant-in-Aid programs of the United States government.

While Company Eleven was Bell's dealer, approximately 125 helicopters were ordered by the United States government for delivery to the government of Country L under the Grant-in-Aid program. However, Bell's position was that commissions were not payable on these helicopter sales because United States government policy precluded the inclusion of any element for recovery of international sales expenses (including commissions) in the contract price.

The total purchase price was over \$10 million. The sales were profitable, and it is clear that the dealer was of assistance in connection with the sales.

In 1972 the dealer sued Bell in the United States, claiming commissions at the rate of five percent on helicopter sales of \$28 million, an amount which appears to be substantially in excess of the value of sales actually made. The litigation was settled in 1975 by Bell's payment of \$90,000 to the dealer.

In recommending settlement of the litigation in 1975, Bell's outside counsel for the lawsuit expressed concern to Textron that a high government official may have been "on the payroll" of the dealer during the relevant period and that this fact might surface at trial. Independently of the litigation, a Bell regional manager advised counsel to the Committee that he became suspicious, after Bell refused the dealer's demand for payment and following conversations in 1971 with a high military officer of Country L, that the officer may have had a personal interest in the unpaid commissions.

The Committee considered it important to determine if there was any factual basis for these concerns. After a thorough inquiry which included an interview of the outside counsel and review of pertinent files, the Committee found no evidence of possible payments by the dealer to any government official.

*(b) Country "M"*

Bell's long-standing dealer in Country M is a well-established firm founded by a prominent private businessman. No significant sales, however, have been made in Country M. For the most part, Bell's limited sales have been non-military transactions involving an agency responsible for administering an agricultural spraying program.

In connection with sales for these agricultural programs, the dealer requested a Bell Area Manager to arrange for the transfer of \$1000 from the dealer's account to the wife of an important agricultural agency official. Bell personnel complied with this request.

In addition to the payment to the government official's wife, the dealer in Country M frequently requested Bell to make accommodation payments from the dealer's account. These requests typically took the form of a request that Bell purchase airline tickets and then charge the amounts to the dealer's commission account. On occasion, the dealer also requested letters from Bell that were to set forth false information, which the dealer would then use to obtain permission to leave the country for a particular purpose, such as attendance at an international air show.

In an unrelated incident, Bell's International Marketing Department in Fort Worth received an unsolicited inquiry in 1971 from a European firm for price information concerning Bell's UH-1 helicopters. This marketing lead was communicated to the manager of Bell's Brussels office, who determined that the transaction involved a potential helicopter sale to the government of Country M and that the European firm would require a five percent commission. According to correspondence from the European company, the five percent commission included amounts which would be remitted to Country M government officials.

The Brussels manager thereupon referred the inquiry to Bell's then International Sales Manager in Fort Worth who informed the European firm that Bell already had a dealer, but that Bell's policy "... does not preclude a dealer from sharing a commission with a third party when he deems it appropriate and advisable."

Despite active pursuit of this transaction, no sale was made to the government of Country M. No payments to government officials appear to have been made in connection with this potential sale.

There is no evidence that any Bell or Textron officer knew or approved of the foregoing transactions.

*(c) Country "N"*

A former dealer in Country N brought two lawsuits against Bell in which certain allegations were made that Bell's new dealer in Country N had shared his commissions with military officers of that country. In view of the serious nature of the allegations, the Committee conducted a review of Bell's transactions in Country N. The Committee's counsel was able to arrange for a modification of protective orders that had been entered in discovery proceedings in both of the federal district court lawsuits brought by the former dealer. Pursuant to the modification, the Committee's counsel was permitted to "read, inspect and review pleadings, depositions, and documents on file" in the actions and to interview the new dealer. Although the dealer did not answer all questions about his personal financial affairs,

the Committee's counsel found no evidence of any bribery of government officials of Country N, whether by Bell, the new dealer or anybody under the new dealer's control.

*(d) Country "O"*

In September 1973 Bell delivered two 206B helicopters to the government of Country O. These helicopters were sold to Bell's dealer at a price of \$125,000 each. Prior to delivery, however, Bell's price increased to \$137,500 per helicopter. Bell agreed that it would invoice the government of Country O at the new price, and pay the difference (\$25,000) to the dealer to help offset expenses incurred by the dealer in establishing a new office. The dealer also earned a 7.5 percent commission on the sale.

The payment was approved by the International Sales Manager upon the request of the Regional Manager covering Country O. To the Committee's knowledge, no other International Marketing Department employee was aware of the arrangement. The only other Bell employees involved were in the Accounting Department; these employees complied with a payment request from Bell's Manager of Contract Administration.

The Committee has concluded that the expenses incurred by the dealer were legitimate business expenses, and that no questionable payment was made.

**16. Iran**

Beginning on January 24, 1978, at the hearings before the SBC on Mr. Miller's nomination, and continuing through February 1978, the SBC and its staff examined a large number of witnesses, documents, submissions and affidavits in an attempt to determine (1) whether the then Commanding General of the Iranian Air Force, General Mohammed Khatemi\*, had a secret ownership interest in Bell's Iranian representative, Air Taxi Company, (2) whether officers or key employees of Bell knew of the existence of such an interest (particularly in June 1973 when Bell agreed to pay Air Taxi a settlement of \$2.95 million in lieu of commission claims), and (3) whether Mr. Miller had any knowledge or information concerning any interest of General Khatemi in Air Taxi.

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\* General Khatemi died in a glider accident in 1975.

In light of the intense interest focused upon these questions during and after the SBC hearings, the Committee analyzed the evidence gathered by the SBC in addition to the other evidence available to the Committee.\*

#### **A. *Historical Perspective***

Air Taxi appears to have been formed in 1958 as a Teheran-based fixed-wing air charter company. At the time of its formation, according to Iranian credit reports, Mohammed Khatemi (described as "Commanding Officer of Iranian Airways") was Chairman and one of three shareholders. Subsequent Iranian credit reports and published official notices which were examined by the Committee do not identify Mohammed Khatemi as either a director or shareholder, although one report prepared in the 1962-63 period refers to him as "possibly having an indirect interest" in the firm.

In 1959 Bell engaged Air Taxi as its representative in Iran. Apparently because of negligible sales, Bell terminated this contract in 1963. In 1964 Bell replaced Air Taxi with International Helicopter Consultants ("IHC"). IHC was, in turn, terminated as Bell's representative in late 1967 for the stated reason that its owner, William French, had been barred from entry into Iran two years earlier. Mr. French had previously advised Bell that General Khatemi was responsible for his exclusion from Iran, which Mr. French said had occurred because of his unwillingness to give General Khatemi a substantial share of his profits on sales in Iran.

Following IHC's termination, Air Taxi was again engaged by Bell in early 1968. In the meantime, Mohammed Khatemi had become Commander-in-Chief of the Iranian Air Force. General Khatemi was the husband of the Shah's sister and was widely regarded as a powerful figure in Iran.

During the 1960's the Imperial Government of Iran ("GOI") had purchased helicopters from Agusta, which held an exclusive license from Bell for the sale of certain helicopter models in Iran. According to reports prepared by Bell's employees in the early 1970's, Agusta failed to supply after-sales support deemed satisfactory by the GOI for the Bell-model helicopters already in service in Iran. This apparent failure, coupled with favorable views of Bell aircraft on the part of the United States military

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\*For a number of reasons, including unsettled local conditions, the Committee did not send a representative to Iran to pursue its inquiry there. Mr. Amir Zanganeh, Air Taxi's Managing Director during the relevant period, refused requests to be interviewed. Mr. Zanganeh now lives in Europe.

advisers in Iran, contributed significantly to a favorable market environment for sales by Bell to the GOI.

In 1971 Bell began vigorously to pursue the possibility of a large sale of helicopters to the Iranian Army. In addition to International Marketing Department employees, several senior Bell officials, including Mr. Sylvester and Mr. Atkins (then Executive Vice President) participated in the negotiations. Bell's efforts culminated in late 1972 in a contract for 489 helicopters at a total price of approximately \$500 million. The percentage commission claimed by Air Taxi was fixed at 2.5 percent of the helicopter sales price in August 1972, reduced to 1 percent in October 1972 and ultimately settled in late June 1973 by agreement on a \$2.95 million lump sum settlement which amounted to less than 0.6 percent of the estimated price. The final amount was payable in three approximately equal annual installments. This last agreement canceled Air Taxi's right to any subsequent commissions except as to commercial sales. Thereafter, Bell negotiated contracts with the Iranian government for logistical support, training, and co-production of helicopters aggregating over \$800 million without the use of any Iranian representative or payment of any commission.

**B. General Khatemi's Alleged Interest in Air Taxi**

A number of reports dated in the 1960-1972 period, submitted to the SBC by United States government intelligence agencies (to which reports Bell officers did not have access) indicate that General Khatemi was reputed to be an owner of Air Taxi. In addition, several United States government officials stationed in Iran during the relevant period informed the SBC that they had heard rumors in the 1960's and 1970's of the General's financial interest in Air Taxi. A report by the Economic Counselor of the U.S. Embassy in Teheran states that he was told General Khatemi may have sold his interest in the early 1970's.

Mr. French and his attorney testified to the SBC, and the attorney confirmed to the Committee, that they had been informed and believed that General Khatemi had an ownership interest in Air Taxi, at least during the 1960's.

The testimony indicates that in 1966-67 arrangements were made by which ownership of 51 percent of an Iranian corporation, which would thereafter handle Mr. French's business in Iran and receive the commissions thereon, was transferred to an Iranian nominee. Mr. French's attorney testified that he met with General Khatemi, informed him about the proposed formation of the corporation, and indicated his understanding that the Iranian nominee would hold 51 percent of the shares as a nominee for



certain members of the High Council of Civil Aviation. The attorney said that General Khatemi personally confirmed to him during the meeting that the nominee was speaking for Khatemi. This testimony, which was corroborated by contemporaneous documents, would appear to indicate that General Khatemi had no reluctance about maintaining a hidden economic interest in an aircraft dealer doing business in Iran.

Finally, bank records obtained and made public by the SBC show that Amir Zanganeh, Managing Director of Air Taxi ("Zanganeh"), controlled bank accounts in his own name and in the name of Air Taxi at the First National Bank and Trust Company of Oklahoma City, Oklahoma. He drew checks against these accounts in 1972 and 1973 for substantial sums payable to the original shareholders and directors of Air Taxi, namely, General Khatemi, A. Chafik and N. Jahanbani. Thus, on July 19, 1972 (a month after receiving and depositing into his personal account a commission check for \$244,450 from the Lycoming Division of Avco Corporation) Zanganeh wrote a check against that account for \$66,700 payable to General Khatemi. Checks were also written against the Air Taxi account for \$260,000 payable to General Khatemi, \$150,000 payable to Chafik and \$150,000 payable to Jahanbani. Between the date of the above checks and January 1973, the balance in Zanganeh's personal account grew to \$562,000. On January 27, 1973, he wrote checks on that account in the amounts of \$290,000 payable to General Khatemi, \$131,000 payable to Jahanbani and \$131,000 payable to Chafik. It also appears from the SBC hearing records that Zanganeh and Air Taxi had bank accounts in France and Switzerland to which funds from the Oklahoma bank accounts were transferred. The Committee was unable to obtain records of these accounts. However, the Committee's review of subpoena enforcement records filed by the SEC indicates that the total of all payments by Zanganeh to General Khatemi, by checks drawn against the foregoing bank accounts, approximated over \$1 million. There is no evidence that any Bell officer or employee had any information about these transactions at any time prior to the SBC's investigation.

Several months following his January 1973 payments to the three original owners, Zanganeh and Bell concluded their negotiations and agreed upon the \$2.95 million settlement amount. Zanganeh insisted on having Bell's checks made payable to his order and submitted a document authorizing him to receive such monies on behalf of Air Taxi executed by himself, A. Chafik and F. Eshoo, who certified that they were the holders of 100 percent of the shares of the firm. Bell acceded to this request. The three

checks Zanganeh received from Bell (on or about June 30, 1973, 1974 and 1975) were deposited in the same account on which Zanganeh had *previously* drawn checks in January 1973 payable to General Khatemi, Chafik and Jahanbani.

The Committee concludes on the basis of the foregoing data that, in all likelihood, General Khatemi had a secret ownership or other substantial financial interest in Air Taxi, or in the commissions obtained by Air Taxi, while Air Taxi served as Bell's representative.

***C. Knowledge of Bell Officers As to A Financial Interest of General Khatemi in Air Taxi***

Even assuming General Khatemi had a financial interest in or arrangement with Air Taxi, the question of greater importance to the Committee is what, if anything, Bell employees and officers knew about it.

In order to evaluate the available evidence on this question, it is useful to separate Bell's relations with Air Taxi into two periods: the period prior to 1969 ("first period") and the period 1971-1973 ("second period").

With reference to the first period, it is clear that in late 1966 and in 1967, Mr. Dwayne Jose, Bell's Vice President for Commercial Marketing (who at that time also had charge of international sales) was told by Mr. French on several occasions that Mr. French believed General Khatemi had an ownership interest in Air Taxi. Mr. Jose shared this information with his international marketing staff. One former member of that staff has testified that it was his general understanding that General Khatemi had an interest in Air Taxi. Information from the files of the United States Commerce Department indicates that in late 1967, Bell asked for a report on Air Taxi and such a report was forwarded. The report states that General Khatemi "reportedly has financial interests" in Air Taxi.

Further, Mr. French's attorney remembers a meeting in November 1966 with Mr. Jose and Bell's then President, Mr. Ducayet, in which he related the foregoing information as a prelude to discussing a new Iranian corporation being organized to conduct business in Iran on behalf of International Helicopter Consultants, 51 percent of the stock of which he said was to be owned by Iranians, including General Khatemi. Although neither of the two Bell officers recalls this meeting, they do not deny that it took place. In view of a contemporaneous document referring to this meeting, the Committee believes that it did in fact occur. It is clear that on other occasions, Mr. Jose was informed about the proposed new Iranian corporation and who would own it.

Some months thereafter, Mr. Jose sent three employees who knew the substance of Mr. French's allegations to Iran to look for a new representative to replace Mr. French's firm. These individuals went to Iran with Air Taxi in mind as a likely replacement. They returned with a recommendation to appoint Air Taxi. Shortly thereafter, Mr. French was advised that his contract was terminated primarily on the ground that his inability to obtain Iranian government sanction for his return to that country had impaired his effectiveness. Sales in Iran obtained by Mr. French's company were negligible. In February 1968 Air Taxi was appointed as Bell's dealer.

Mr. Jose's testimony on the foregoing matters, both to the SBC and to the Committee, was confusing at best. He stated that he never really believed Mr. French's story about General Khatemi's interest in Air Taxi. He asserted that he had informed his subordinates that he wanted nothing to do with the proposed arrangements under which a new Iranian corporation, in which General Khatemi was to have an interest, would conduct Mr. French's business in Iran. Nevertheless, his subordinates (who, he said, apparently "never got the message") advised Mr. French's attorney in writing in January 1967 that such arrangements were temporarily authorized until such time as Bell could assess the situation by a visit to Iran. Mr. Jose further testified that one of the matters he asked the three employees who went to Iran in November 1967 to look into was the question whether General Khatemi had an ownership interest in Air Taxi; that they reported back to him that the General had no involvement with Air Taxi; and that he was satisfied with this report. However, there is no evidence that the three employees made any serious effort to inquire into the matter. In fact, one employee told the SBC staff that they were looking for a representative "who had dealings with the royal family."

Mr. Jose's responsibilities for foreign marketing were terminated in 1969 when Frank M. Sylvester was hired to head a new International Marketing Department which he staffed with new people. Prior to that time, foreign marketing had not been regarded as significant to Bell's business. Mr. Jose advised the Committee that he did not pass on any information about possible involvement of General Khatemi in Air Taxi to Mr. Sylvester or to anyone else. A Bell employee has stated that he discussed General Khatemi's financial interest in Iranian aviation matters generally within Bell's International Marketing Department, including perhaps with Mr. Sylvester. The Committee found no evidence (i) that Mr. Atkins, then

Executive Vice President of Bell, had any information about the ownership of or interests in Air Taxi during this first period, or (ii) that Mr. Ducayet gave any information on that subject to Mr. Atkins at any time.

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Very early in the second period (1971-1973) an employee in Bell's newly-opened Brussels office traveled to Iran to review sales possibilities in that country, which had not previously been considered very significant. In mid-March of 1971 he prepared a lengthy trip report in which he enthusiastically described the potential Iranian market. The report describes the business facilities and personnel of Air Taxi and states that "the real influence behind the company is General Khatemi . . . he is not allowed to hold offices outside his military capacity but in reality anything that flies he has an 'interest' in." The organization chart of the Iranian military establishment appended to the trip report shows General Khatemi connected with Air Taxi and a second private firm, Iranian Helicopters, by dotted lines. This document was addressed to Mr. Sylvester but was apparently distributed to several other senior officers. Neither Mr. Ducayet nor Mr. Atkins, then Executive Vice President, recalls the report; however, a former Bell employee who edited the report told the Committee that the report was discussed at a meeting at which both Messrs. Ducayet and Atkins were present, and that both had received copies of the report. The former employee, however, recalls no mention at that meeting of the statement in the report regarding General Khatemi. The ex-employee who authored the report recalls that Mr. Ducayet complimented him for having prepared "an excellent report."

The statements in the report were largely derived, according to the ex-employee who authored it, from the following information and observations: (a) his observation that Zanganeh frequently visited General Khatemi, leading him to believe that the "real influence" behind Air Taxi was the General, (b) the fact that it was rumored in Teheran that in all likelihood the General had a financial interest in a variety of aviation companies, including Air Taxi (although the Bell employee never had any information about the nature or extent of such interest), and (c) the fact that General Khatemi was the Shah's pilot in 1953 when the latter was forced to flee the country and a principal reason why the General had an "interest" in "everything that flies" was the Shah's concern for security and his desire to have someone he completely trusted responsible for all aviation in Iran.

No other document from this period obtained from Bell's files, including correspondence and telex traffic between Bell and Air Taxi (which took on very large dimensions beginning in 1971) suggests that General Khatemi had a financial interest in Air Taxi. The Bell officers principally responsible for negotiation of the 1972 sale to the GOI have told the Committee that they did not know or believe General Khatemi possessed a financial interest in Air Taxi.

Bell was informed in writing as to shareholder interests in Air Taxi on two occasions: by a Dun & Bradstreet report in 1970 which stated that Messrs. Zanganeh, Chafik and Eshoo owned 100 percent of the shares; and by a document executed in May 1973 by Zanganeh, Chafik and Eshoo, who attested that they owned 100 percent of the shares. In neither of these documents was General Khatemi's name mentioned. Mr. Atkins told the Committee and testified before the SBC that prior to May 1973 he personally asked Zanganeh who the owners of Air Taxi were and was advised consistently with the foregoing documents.

Moreover, Air Taxi was in no sense a "shell" which one might suspect had been organized to serve as an indirect conduit for payoffs. It was a well-known air charter firm which owned and operated a substantial number of fixed-wing aircraft and several helicopters, operated extensive hangar and repair facilities and was known to represent several substantial American aircraft companies in Iran. It performed useful services for Bell as its representative.

Bell's officers were clearly under the impression (which is corroborated by the documentary evidence) that although General Khatemi, as Commander of the Air Force, was concerned with all aircraft matters in Iran, the person basically in charge of the procurement decision sought by Bell was General Hassan Toufanian, Vice Minister of War and head of the Military Industrial Organization. Moreover, Bell's sale was made to the Imperial Iranian Army, not the Air Force. Bell's officers sought frequent and direct contact with General Toufanian, his staff and leading army officers. In contrast, their contacts with General Khatemi were infrequent and did not relate specifically to quantities of helicopters to be procured or other details of the procurement. Although it was known that Zanganeh had frequent contact with General Khatemi and kept him informed as to the progress of the helicopter procurement, no evidence was found that anyone at Bell

sought, directly or indirectly, to cause General Khatemi to exert influence or pressure to obtain the sale or sought to have anyone else solicit General Khatemi for the purpose of influencing any official act or decision of the General.

Moreover, and significantly in the Committee's view, under the first amendment to Air Taxi's contract, negotiated shortly before the GOI indicated to Bell the number of helicopters it proposed to purchase, Air Taxi would have received a commission of over \$9.7 million based upon the final number of helicopters. This amount was reduced to approximately \$4.3 million in late 1972 and finally, over the resistance of Air Taxi's Managing Director and in the face of his litigation threats to Bell, to \$2.95 million in 1973. The two Bell officers, Mr. Atkins and Mr. Charles Rudning, who were then principally involved in conducting the final negotiations, told the Committee that Air Taxi's Managing Director at no time prior to or during the negotiations indicated that General Khatemi might have an interest in any payment to Air Taxi, and that there was never any implication that the manner in which the dispute was settled would have a bearing on Bell's future sales in Iran. If such officers had known or believed that General Khatemi had a personal financial interest in the payments to be received by Air Taxi, it seems unlikely to the Committee that they would have attempted through protracted negotiations to settle Air Taxi's claim at substantially less than the figure originally agreed upon and at an amount equivalent to only a fraction of one percent of the total sales price.

Both United States Defense Department officials and General Toufanian were informed that Bell would pay a commission to Air Taxi in connection with the 489 helicopter sale. The Committee found no evidence that the DOD officials or the General made any comment to Bell officers referring to any interest of General Khatemi in Air Taxi. General Toufanian did advise Bell officers that Bell needed no Iranian agent for dealings with his department and ultimately advised Bell that the settlement payments could not be charged to the contract.

The Committee has noted that Bell made subsequent sales to the GOI in excess of \$800 million without employing any representative or paying any commission in Iran.

Finally, the Committee interviewed knowledgeable persons both within and outside Bell and reviewed other information in order to appraise the reasons for Bell's success in concluding the largest single sale of helicopters

in its history. Based on the evidence before it, the Committee is convinced that the sale was made on the basis of the demonstrated superiority of the Bell product for the use required by the GOI and not on the basis of any improper influence. Among others, the Committee interviewed the former United States Ambassador to Iran who was in Teheran at the time the sale was negotiated. It was the Ambassador's opinion that the sale was made strictly on the merits of the product. Moreover, the Ambassador informed the SBC that *he* knew of no connection between General Khatemi (whom he knew well) and Air Taxi. The evidence shows that in the spring of 1972, Bell had "on the shelf" in Fort Worth a helicopter characterized by substantially greater power than any competing design. This new model suited the requirements of the Iranian plateau where substantial elevations are often combined with extremely high ground temperatures. Under these conditions, conventionally powered helicopters are unable to carry more than a fraction of the loads for which they are designed. Bell's new model, physically demonstrated in Iran in August 1972, overcame these problems.

Based on a weighing of all of the evidence before it, the Committee has concluded, on balance, that the senior officers of Bell who negotiated the settlement payment of \$2.95 million to Air Taxi neither intended nor anticipated that part of such payment would go to General Khatemi, directly or indirectly. Moreover, no evidence was found which indicated that any officer of Textron had information at any time which indicated a possible interest of General Khatemi in Air Taxi.

### *C. Other Iranian Transactions*

Subsequent to Bell's entering into its contracts in Iran, a high-ranking Iranian official in Washington requested Mr. Atkins, Bell's President, to furnish helicopter service to the Shah's wife during her 1977 visit with President Ford in Colorado. Mr. Atkins agreed. Bell leased a helicopter from a purchaser, outfitted it and furnished it to the Shah's wife for about one week. The cost to Bell amounted to approximately \$16,000.

In an unrelated incident, in 1974 personnel of Bell Helicopter International ("BHI"), a subsidiary of Textron responsible for pilot and support training programs in Iran, furnished a roundtrip airline ticket from Washington to Iran to an employee of the Iranian Embassy in Washington who was in charge of approving visas for BHI employees. The employee demanded the ticket in the course of what BHI personnel perceived as a deliberate

slowdown by the Embassy in the processing of visa applications. The total cost of the ticket was \$1,480. The purchase was approved by a former officer of BHI; no officer of Bell or Textron knew of it. No other gratuities or payments appear to have been furnished to the Embassy employee.

## **B. FURTHER INFORMATION AS TO FOREIGN SALES OF DIVISIONS OTHER THAN BELL HELICOPTER**

### **1. Introduction**

This Part of Volume Two provides further detail as to the findings which are summarized in Volume One, Part III.C. with respect to international marketing activities of Textron divisions other than Bell.

### **2. Fafnir**

During the period 1972-1977, the Fafnir Division sold approximately \$3,160,000 of ball bearings to a government-controlled enterprise in Country P (the "Enterprise"). All of these sales were arranged by a businessman in Country P (the "Agent") who arranged sales for Fafnir's domestic headquarters as well as for the Fafnir divisions operating in the United Kingdom and France. The Agent received approximately \$465,000 in commissions on sales to the Enterprise between 1972 and 1977.

Fafnir's business relationship with the Agent and the Agent's behavior during that relationship were highly irregular. The special nature of the business relationship is exemplified by the following factors:

1. The Agent's commission rates were unusually high, reaching a peak of almost 18 percent on one sale, in contrast to Fafnir's standard commission rate of 10 percent.
2. The Agent was the only Fafnir foreign sales representative allowed to negotiate his commission rate on a case-by-case basis.
3. The size of certain orders secured by the Agent was unusually large. (The size of one order was increased by the Agent by a factor of ten following discussion of the commissions he might earn, and was later trebled, resulting in an increase of the original order by a factor of thirty.)
4. The Agent required his commission payments to be deposited in a bank account in Luxembourg and explicitly instructed Fafnir never to contact him in Country P.



5. The prices at which Fafnir's products were sold to the Enterprise in transactions in which the Agent participated were above prevailing market prices for competitive products.

6. When the Agent visited Fafnir's headquarters in the United States in 1976, he behaved in an unusual manner, refusing to sign the division's guest book or have his picture taken. This experience gave rise to a handwritten memorandum in June 1976 prepared by Mr. Hans W. Deutsch, Fafnir's Vice President-International Operations, which stated that Fafnir would accept no further orders from the Agent. Fafnir nevertheless continued for more than six months to hold discussions with him regarding possible future business relationships, and continued to process orders previously obtained by the Agent and to pay him commissions for at least a year. European employees of Fafnir have stated to the Committee's counsel that they never received an instruction to stop accepting orders from the Agent.

The evidence is that the Agent was able to secure large orders at prices above prevailing competitive prices because he was paying a portion of each commission he earned on sales to the Enterprise to an official of the government of Country P. A 1973 memorandum written by an employee of Fafnir's facility in the United Kingdom stated that the Agent "freely admits that his 'influence' is based upon payment to a high-ranking government official of an amount equal to 4% of the value of orders over which [the Agent] exercises control." The former Export Manager of Fafnir's United States headquarters is shown as having received a copy of this memorandum. If there was in fact such an arrangement between the Agent and the government official and the four percent rate applied to all orders, the government official would have received approximately \$126,400 in payments from the Agent's commissions from Fafnir.

Although it is clear from their statements to the Committee's counsel, as well as from documents reviewed by the Committee, that several senior employees of Fafnir's operations in Europe were aware of the manner in which the orders of the Enterprise were secured, the Committee has not been able to determine whether any executive officer at Fafnir's domestic headquarters knew prior to 1976 that the Agent was almost certainly making questionable payments to a government official.

Employees of Fafnir's European operations stated that they regularly discussed sales to Country P with Fafnir executives in the United States, who acted as though they were aware of the questionable nature of the Agent's activities. One of the European employees was in the United States at the time of the Agent's visit in 1976 and indicates that at that time he discussed the general nature of the Agent's activities and the possibility of questionable activities by the Agent, without specific knowledge or discussion of how the Agent obtained orders, in meetings with executive officers of Fafnir, including the President, Mr. Thomas E. Sherer, and Mr. Deutsch. However, Mr. Sherer states that he has no recollection of meeting with the Agent in 1976 and was not otherwise aware of any questionable activity. Mr. Deutsch and other Fafnir executive officers in the United States have stated to the Committee that they had no suspicions about the arrangements with the Agent prior to his 1976 visit to the United States, that even then they had only suspicions, and that they first became aware of the 1973 memorandum and other documents indicating the probability of questionable payments in August 1978. By that time, Fafnir had ceased doing business with the Agent, who had apparently lost his influence with the Enterprise. The last commission payment to the Agent was made in November 1977.

The Committee has considered the many unusual aspects of Fafnir's relationship with the Agent in conjunction with (1) the 1973 memorandum which apparently was forwarded to Fafnir's domestic headquarters; (2) the strange behavior of the Agent when he visited the United States in 1976, and the memorandum in response thereto by the Vice President-International Operations; and (3) the discussion which occurred in 1976 at the time of the Agent's visit. On the basis of this evidence, the Committee has concluded that Fafnir's executive officers were or should have been aware, by mid-1976, of the questionable nature of the Agent's activities on behalf of Fafnir, and should have brought the matter to the attention of the Textron Corporate Office.

There is no evidence that any officer of Textron was aware of any aspect of the arrangement with the Agent prior to commencement of the 1978 government investigations of Textron.

### 3. Shuron

The Shuron Division engaged in a number of overbilling transactions. While this alone was not unusual prior to the Textron directive of May 12, 1977 prohibiting such transactions, in one instance a third party was used as a subterfuge to avoid responsibility for overbillings.

From 1974 through 1976, Shuron overbilled two customers in Country Q for eyeglass lenses. Shuron employees have stated to the Committee that they believe that overbillings were requested to enable the customers to comply with minimum pricing requirements imposed by their government and, in all probability, to enable them to accumulate dollars outside Country Q. Shuron accrued the excess billings in a credit account for the benefit of the customers and remitted the overbilled amounts to recipients in the United States and Switzerland at the direction of the customers. In August 1976 Mr. Miller issued a memorandum to all Textron divisions regarding standards of conduct. A copy of this memorandum is Appendix I to this Report. In September 1976 Shuron issued its own "Policy on Standards of Conduct." Shuron's newly hired Manager-International Operations was concerned that the overbilling practice might violate that Policy. He was instructed by Shuron management to consult Shuron's outside legal counsel. Counsel's oral advice was that the overbillings might cause an overstatement of sales on Shuron's books, which would in turn be reflected in Shuron's report to Textron, even though the overage would later be off-set by a charge for the disbursement to the customers of the overbilled amount. Senior management accordingly ordered the overbillings stopped for future orders but allowed current orders to be filled under the overbilling arrangement.

Shuron management personnel, in conjunction with the new Manager-International Operations, then attempted to devise a technique which would avoid Shuron's involvement in overbilling but would enable it to continue to accommodate its Country Q customers. The technique which they developed involved the sale of lenses at Shuron's standard list price to a United States-based export firm which would then resell to the customers, overbilling the customers by agreed amounts. This technique was discussed with Shuron's outside counsel who understood that Shuron's role in the transaction would cease after sale to the exporter at standard prices. Counsel gave written advice to Shuron that this arrangement would not violate United

States law and would not be “‘questionable’ conduct (on the part of Shuron) which might require Textron to disclose the arrangement to the Securities and Exchange Commission.” The new technique was discussed with and approved by the then senior management of Shuron but was not disclosed in any formal communication to the Textron Corporate Office. The Corporate Office Legal Department was not informed of the advice of Shuron’s counsel. There is a conflict in testimony as to whether the Textron Corporate Office was informally advised of use of the technique prior to 1978 when it was disclosed in the course of responding to government investigations. The Manager-International Operations (who is no longer employed by Shuron) states that in the spring of 1977 in conversation with Mr. Egil G. Ruud, Textron’s Group Vice President responsible for Shuron, he informed the latter of the technique. Mr. Ruud denies any such conversation.

In 1977 the Manager-International Operations arranged for Shuron to sell lenses to a small private export company for resale to Shuron customers in Country Q. The president of the export company was also an officer of a freight forwarder which the international manager hoped to use for Shuron international sales. The Shuron manager employed a fictitious name for the export company president because he believed that Shuron’s top management might disapprove the use of the freight forwarding company if they were aware of the connection between the two companies.

At the direction of the Manager-International Operations, the Manager’s assistant prepared pro forma invoices on stationery bearing the letterhead of the export company. These pro forma invoices were to be used by the customers to obtain import licenses. The assistant has told the Committee that the Manager instructed her to sign the pro forma invoices with the fictitious name of the president of the export company. The Manager has stated that Shuron prepared the pro forma invoices for the export company because Shuron had greater familiarity with its products and prices than the export company. Under instructions from the Manager, the assistant also prepared a letter from the Manager to a bank in Country Q which incorrectly stated that Shuron had discontinued the issuance of export price lists and that prices in the future would be as indicated on pro forma invoices. This letter was requested of Shuron by a customer in Country Q.

Although several pro forma invoices were sent by Shuron, and perhaps by the export company, to Country Q customers from March through early May 1977, the documents examined by the Committee indicate that only one order for Shuron products received in late 1976 was handled through the export company. This order was split into several shipments and the export company was invoiced by Shuron in May 1977 at correct prices. Shuron shipped the order directly to the customer in Country Q according to shipping instructions received from the export company. Documents examined by the Committee indicate that the customer paid the export company the overbilled prices as stated on the pro forma invoices and that the export company refunded to the customer the difference between the standard Shuron price and the price paid by the customer, less a commission of four percent of such difference retained by the export company.

When Shuron's senior executives received Textron's May 12, 1977 directive which prohibited overbilling practices, they considered Shuron to be in compliance with its mandate since all Shuron invoices stated correct prices. No additional sales were in fact made to the Country Q customers, or to any other customer, through the export company.

The Manager-International Operations left Shuron's employ in June 1977. Senior executives who were employed in 1977 have since left Shuron's employ except Mr. John V. Quealy, the Vice President-Marketing, who has told the Committee that he had no knowledge of the preparation of pro forma invoices for the export company. The former senior Shuron executives have also indicated that, although they were aware of the procedure of using an export company to make sales where overbillings were requested, they were not aware of the Manager's preparation of any pro forma invoices for the export company.

#### **4. Bell Aerospace**

Over a period of more than a year and a half, Bell Aerospace continued negotiations with one of its agents for a proposed sale in Country J under circumstances where there were indications that a questionable payment was contemplated. No sale was made, and no questionable payment was made.

Prior to 1975 Bell Aerospace did not have a representative for sales of its hovercraft in Country J. During the previous year, "Representative," which during 1975 began to act as the Bell Aerospace representative for

several countries in a part of the world distant from Country J, sought to persuade Bell Aerospace officials of the potential for hovercraft sales in Country J. On April 30, 1975 Representative's agreement with Bell Aerospace was amended to include Country J. No sales were made in Country J, and in February 1977 the agreement was terminated.

In late 1976 Representative's Country J subagent, Mr. AB, stated to a Bell Aerospace employee that the president of Representative had attempted to bribe an official of Country J in connection with a proposal on behalf of Bell Aerospace. In view of this assertion and other aspects of the relationship between Bell Aerospace and Representative, the Committee inquired carefully into the matter. Its findings are outlined below:

(a) During the period when Representative was attempting to persuade Bell Aerospace to include Country J in its territory, its president made several references in letters to Bell Aerospace personnel to the need to make payments to others in order to consummate sales in that country. He never identified the proposed recipients of such payments and was never asked about them by Bell Aerospace officials. Immediately prior to the amendment of the contract with Representative in April 1975, the president of Representative advised that "we might have to add on to total list price to cover others" and, in a separate letter, that "undoubtedly there will be an add-on for [Country J] group." Shortly after the amendment, the president stated that he would need "a 15% add-on for various people responsible," that Representative would "transfer to wherever they instruct to so you people won't be involved in transferring directly for them" and that "this must be kept confidential."

Immediately following this last communication, Bell Aerospace agreed to raise the commission rate to be paid on the sale of the first two hovercraft in Country J from 6 percent to 10 percent and that on spare parts from 10 percent to 15 percent and offered Representative an unusual commission of 15 percent on amounts expended for "operations, maintenance and training" ("OM&T"). After a period of approximately five months (with no sales) the commission rate on spare parts and OM&T was reduced from 15 percent to 10 percent. In December 1975 a new agreement was executed with Representative, eliminating the commissions on OM&T and fixing the commission rate on the first five hovercraft at 10 percent and on the next five hovercraft at 8 percent. In addition, signed statements were obtained from

the president of Representative and Mr. AB to the effect that no commissions would "be paid by Representative or any party acting on its behalf to any government official or employee of the Government of [Country J]."

(b) Mr. Robert S. Ames, the Group Vice President of Textron with responsibility for Bell Aerospace, and Textron's Legal Department were consulted prior to each change in the commission structure. Mr. Miller and other Textron officers participated in a discussion which took place prior to the December 1975 change, and that meeting led to the requirement that the statements described above be obtained. In connection with these discussions, Textron's officers have stated that Bell Aerospace personnel did not bring to their attention any of the communications (referred to in (a) above) from the president of Representative about payments to unidentified other persons. The briefing memorandum prepared for the December 1975 meeting does not reflect any such statements or any other implication of impropriety.

(c) When the first direct allegation of an attempted questionable payment by the president of Representative was made by Mr. AB in late 1976, Bell Aerospace personnel stated that they did not believe it. Mr. AB was at the time attempting to displace Representative as the Country J representative for Bell Aerospace and had been engaged in a continuous effort to discredit Representative's president. Mr. AB never offered any substantiation for his allegation, and efforts by a Bell Aerospace official to obtain information on the subject from the American Embassy in Country J were unproductive. Shortly after Mr. AB made his allegation, Representative was nevertheless terminated. Mr. AB was not engaged to replace Representative, and no sales of hovercraft in Country J were made.

The Committee has concluded that (1) the continued dealings by Bell Aerospace with Representative in the face of its president's written statements about potential payments to third parties without any inquiry to determine if questionable payments were intended beyond obtaining the statements referred to above, and (2) the raising of Representative's commission rate immediately following its expressed need for substantial "add-ons", were exercises of poor judgment on the part of the responsible officers of Bell Aerospace. It was likewise an exercise of poor judgment, in the Committee's view, for Bell Aerospace officials to fail to bring the nature

of the communications of Representative's president squarely to the attention of Textron officers during the several occasions when Representative's commissions were discussed with them.

### **C. SPECIFIC FINDINGS AS TO ACCOMMODATION PAYMENTS AND OVERBILLINGS AS TO FOREIGN SALES**

#### **1. Introduction**

Accommodation payments and overbilling practices were apparently not unusual in American business during the period under review. However, because they were prohibited by Textron directive in May 1977 and are thus against Textron policy irrespective of their legality, and because the Committee had evidence at the outset of its investigation that they had in some cases continued after the 1977 prohibition, the Committee made a detailed inquiry into accommodation payment and overbilling practices during the period under review. Particular emphasis was placed on practices after the May 1977 directive.

As used in this Report, the term "accommodation payment" refers to payment of amounts owed by a Textron division to any foreign representative or dealer where payment is made (1) to any person in cash, or (2) by check or other method of financial transfer payable to a person or entity other than the company name of the representative, or (3) by check payable to the company name of the representative but sent to a location other than the representative's office address, or that of the representative's bank, in the representative's home office country or the country where services which generated a commission from a Textron division were performed.

The concept of "accommodation payment" can also include any payment that is not made to the representative (or to his bank) in the foreign country where he performed services for a Textron division. Thus, delivery of a check payable to the company name of the representative to the representative's principal at the United States office of a Textron division would involve the making of an accommodation payment. Such an expansive definition of "accommodation payment" seems to have been intended by Mr. Miller's directive of May 12, 1977 proscribing such payments. The Committee, however, determined not to include such payments in its definition since to do so would have greatly complicated, if



not made impossible, a reasonably accurate analysis of the dollar amounts of accommodation payments at the Textron divisions during the period under review.

The term "overbilling" as used in this Report refers to the practice whereby a company invoices a purchaser of its products in an amount exceeding the true amount owed by the purchaser, with the understanding that the amount overbilled will be applied to or for the account of the purchaser.

Overbilling and related practices as to domestic sales of Textron divisions are discussed in Part C.3. below.

It appears that Textron officers first became aware of significant accommodation payment and overbilling practices as to export sales as a result of the 1976 audit by Arthur Young. Prior to this audit, knowledge of such practices by Textron officers was limited to isolated instances in which it was discovered that a newly acquired division of Textron had been making accommodation payments and/or engaging in overbillings prior to acquisition. In those cases, such practices appear to have been ended shortly after their discovery.

The 1976 audit disclosed that Sheaffer Eaton and Talon S.A., the Swiss branch of the Talon Division, had made accommodation payments and overbilled a number of foreign customers. The matter was brought to the attention of Textron's Audit Committee at its February 1977 meeting. An investigation by Textron personnel into both divisions' dealings with foreign customers was ordered by Mr. Ronald Van Brocklyn, Textron's Vice President and Controller, and Mr. Thomas D. Soutter, Textron's Vice President and General Counsel. The inquiry covered the five-year period ending January 1, 1977 and, in some cases, extended to years prior to 1972.

The report of this investigation led Mr. Miller to issue the Textron policy directive dated May 12, 1977 to all division presidents (Appendix F) which stated flatly that accommodation payments and overbillings are

unacceptable. The issuance of this policy directive succeeded in ending most, but certainly not all, accommodation payment and overbilling practices.

## 2. Accommodation Payments

No evidence was found indicating that accommodation payments were made at nine Textron divisions. Fourteen divisions, however, did make accommodation payments during the period 1971 through 1978 in an approximate aggregate amount of \$17,405,000\*. Approximate amounts for each of the fourteen divisions are given below:

<u>Division</u>	<u>Amount</u>
Bell Aerospace .....	\$ 77,000
Bell .....	13,012,000
Bostitch .....	53,000
Bridgeport Machines .....	320,000
(Adcock Shipley Division)	
Fafnir .....	1,321,000
Homelite .....	61,000
Hydraulic Research .....	64,000
Sheaffer Eaton .....	679,000
Shuron .....	182,000
Spencer Kellogg .....	237,000

\* Portions of the accommodation payments reflected in this figure were made in foreign currencies such as Belgian Francs and Deutsche Marks. Conversions into United States Dollars were made using the foreign exchange rates prevailing at noon on January 31, 1977. Data obtained from Textron employees may have been based on several other conversion dates.

Dollar amounts could not be ascertained in all accommodation payment situations due to incomplete records and the departure from Textron of employees who were knowledgeable with respect to individual accommodation payment situations. The Committee does not consider these unascertained amounts to be significant.

<u>Division</u>	<u>Amount</u>
Sprague Meter .....	73,000
Talon .....	456,000*
Waterbury Farrel .....	619,000
WECO .....	251,000

All accommodation payments made by the divisions appear to have been made at the request of their foreign representatives, dealers or customers. The greatest number of such requests appeared to have come from representatives located in Brazil, Iran, Chile, Iraq, Lebanon, Libya and Italy.

The Committee's study showed that recipients of accommodation payments fell into several categories. Many accommodation payments were made to bank accounts held under the company name of a foreign representative or under the name of the principal or owner of the representative. Such accounts were frequently located in the United States although payments were also made to bank accounts in Switzerland as well as other countries. In some cases, a check would be made payable directly to the principal or owner of a foreign representative. Individuals who were recipients of accommodation payments were found, in some instances, to be relatives of the owners of foreign representatives. Payments were also made to third party individuals whose identity and/or relationship to the foreign representatives could not be ascertained.

Accommodation payments were also made to freight forwarders employed by foreign representatives, to creditors of foreign representatives and to foreign representatives' affiliated companies or branch offices located in countries distant from the representatives' principal offices.

A careful examination was made to determine, to the extent feasible, the approximate dollar amounts and approximate dates of accommodation payments made after the issuance of the Textron directive on May 12, 1977. The approximate total appears to be \$2,566,000\*\*. Approximate totals by division are set forth below together with the approximate date on which such payments ceased to be made:

\* This figure was derived in part from overbilled amounts which supplied the credit balances from which accommodation payments were made. Swiss secrecy laws prevented a determination of whether all overbilled amounts were used to make accommodation payments at Talon S.A. (Mendrisio, Switzerland). Accordingly, this amount may be overstated.

\*\* Dollar amounts could not be ascertained in all identified instances of such payments after May 12, 1977. The Committee does not consider these unascertained amounts to be significant.

<u>Division</u>	<u>Amount</u>	<u>Payments Ceased</u>
Bell Aerospace .....	\$ 10,000	June 1977
Bell .....	2,287,000	September 1978
Bridgeport Machines .....	4,000	October 1977
Hydraulic Research .....	27,000	December 1978
Sheaffer Eaton.....	45,000	March 1978
Shuron.....	31,000	December 1977
Spencer Kellogg.....	25,000	August 1977
Sprague Meter.....	30,000	November 1977
Talon .....	3,000	November 1977
Waterbury Farrel.....	95,000	May 1978
WECO.....	9,000	January 1978

Why did payments continue following a reasonable period for dissemination of the directive? In most instances, the reason appears to be that the division presidents who received the directive, or members of senior management to whom copies were sent (and who may have been unaware that accommodation payments were a regular practice in their divisions), restricted its circulation to a few senior people. In such cases, the statement of policy did not reach lower-level employees involved in international marketing, accounts payable, record keeping and check writing who actually effected such payments. Senior management in these divisions can be faulted for failing to make adequate inquiries within their divisions to ascertain the facts. In a few instances, management did make inquiries into accommodation payments from commissions payable accounts but failed to extend the inquiry into other areas such as requests for accommodation payments by suppliers of goods to the division.

Further, until government investigators focused attention on the problem in early 1978, the Textron Corporate Office made no systematic effort to determine whether the policy against accommodation payments was being observed by the divisions. The Corporate Office too readily assumed that if the policy was issued it would be implemented.

Textron employees advised the Committee of a number of reasons for accommodation payments that had been expressed by Textron's customers. Where the request was for payment to the United States bank account of the representative, the stated reason was often to establish funds in the United States which could be used to defray expenses of future visits to the United States by the principal, owner or employees of the representative. Foreign currency restrictions, it was stated, frequently prevented such persons from taking sufficient funds out of their respective countries to pay for trips to the United States. Accommodation payments were also made at the request of representatives who were concerned about political instability in their home countries, as for example during certain periods in Lebanon and Chile. On such occasions, and on others, it was asserted that mail deliveries in the home country were unreliable and the checks were frequently lost. Accommodation payments to the representatives' creditors in the United States or in foreign countries were often requested as a matter of convenience to the representative, who might spend substantial time away from his home country. On occasion, it was known to Textron employees that the representative intended to use the monies paid to him in the United States to make investments here or in other stable countries.

The Committee has concluded that the practice of accommodation payments has now ended at all Textron divisions.

### 3. Overbillings

The Committee found no evidence of overbilling practices at most Textron divisions; however, overbillings totalling approximately \$1,358,000 appear to have been effected at seven Textron divisions during the period 1971 through 1978.\* By division, the approximate amounts were:

\* Portions of the overbillings reflected in this figure were made in foreign currencies such as Belgian Francs and Deutsche Marks. Conversions into United States Dollars were made using the foreign exchange rates prevailing at noon on January 31, 1977. Data obtained from Textron employees may have been based on several other conversion dates.

Dollar amounts could not be ascertained in all overbilling situations due to incomplete records and the departure from Textron of employees who were knowledgeable with respect to individual overbilling situations. In addition, the structures of some transactions made the ascertainment of overbillings extremely difficult.

<u>Division</u>	<u>Amount</u>
Fafnir.....	\$276,000
Gorham .....	10,000
Homelite .....	100,000
Sheaffer Eaton .....	255,000
Shuron .....	151,000
Talon .....	543,000
WECO .....	23,000

It appears that all overbillings were made at the request of foreign customers or representatives.

The May 12, 1977 directive succeeded in ending most overbilling practices at Textron divisions. Only approximately \$10,000 was overbilled after distribution of the directive.

Textron employees indicated that they had been given the following reasons for overbilling requests by foreign representatives: In most instances, the reason was stated to be a desire on the part of representatives to establish credit balances in the United States which could be used to defray expenses of visits to the United States by the owner or employees of the foreign representative. In some instances, foreign representatives indicated that their desire for a credit balance on the books of a Textron division was prompted by political instability in their own countries. Frequently, foreign representatives requested that accommodation payments be made from the credit balances established as a result of overbillings.

In isolated instances, foreign representatives requested overbillings because of special import restrictions in their native countries. For example, a foreign representative located in Japan requested that it be charged for items that were provided by the Textron division at no charge. This request was made because, according to the representative, Japanese law required that all shipments into Japan be accompanied by an invoice reflecting the value of the shipment. In another situation, two South American distributors requested overbillings to avoid paying a 100 percent import duty which was imposed as a penalty on all goods whose prices fell below a legal minimum price for imports.

#### **D. ADDITIONAL INFORMATION WITH RESPECT TO DOMESTIC OPERATIONS**

##### **1. Marketing To The United States Government: Hospitality Expenses**

During the period under review, Armed Services Procurement Regulations prohibited government contractors from charging hospitality expenses against government contracts. For this reason, special accounts for the expenses which were not to be charged to contracts were created in the 1960's at Bell (Account 7122) and Bell Aerospace (Account 429) against which DOD hospitality expenses were charged. These special accounts were also occasionally used for expense reimbursement for entertainment of foreign customers, including representatives of foreign governments. The establishment of special accounts to assure segregation of expenses not chargeable to contracts was perfectly appropriate. However, in order to avoid possible embarrassment to recipients of such hospitality, no documentation or substantiation of expenses charged against these special accounts was retained, contrary to the procedures established for other expense accounts maintained by Bell and Bell Aerospace. This is a matter of concern for the Board of Directors.

At Bell, after a supervisor approved an expense report with receipts and documentation of the names of the people entertained and the nature of the entertainment, the receipts and documentation were discarded prior to forwarding the expense report to the accounting department. At Bell Aerospace, the receipts and documentation were returned for retention to the employee submitting the expense report.

Officers and employees at Bell and Bell Aerospace indicated awareness of directives issued by the DOD to its personnel prohibiting the acceptance of "gratuities" and "entertainment" from government contractors. However, these officers and employees explained that (1) such directives were universally ignored by American companies engaged in government contracts, (2) the directives were ambiguous with respect to whether they precluded such hospitality items as ordinary lunches and dinners, (3) the directives were addressed to DOD personnel and not to government contractors, and (4) DOD personnel frequently acted as though they expected not to have to pick up the tab for lunch or dinner.

In his testimony before the Congressional Joint Committee on Defense Production in 1976, former Deputy Secretary of Defense William Clements

conceded that DOD regulations had not been adequately circulated to DOD employees and that the regulations were ambiguous. In an effort to more effectively enforce these regulations, Mr. Clements wrote to government contractors, including Textron, asking their cooperation in complying with the spirit of the DOD directives. However, the directives continued to be ambiguous with respect to the propriety of providing business lunches and dinners. Accordingly, such hospitality continued to be provided by Bell and Bell Aerospace. The Committee cannot refrain from noting the difficulties this ambiguity presented for those American defense contractors who sought to honor the DOD regulations.

The Committee found that unsubstantiated expenses charged against the special account at Bell Aerospace from 1971 through 1977 ranged from approximately \$39,000 to approximately \$60,000 per year. At Bell these amounts ranged from approximately \$33,000 to approximately \$61,000 per year, from 1971 through 1975. The amounts decreased dramatically at Bell to approximately \$8,000 and \$2,000 in 1976 and 1977, respectively, partly as the result of an instruction by Mr. Atkins to curtail such expenditures following Mr. Clements' statements. In 1978 Textron instructed Bell and Bell Aerospace to cease providing business meals and any other hospitality not clearly permitted by DOD regulations to DOD personnel, and the special accounts at Bell and Bell Aerospace were closed.

Counsel for the Committee reviewed at random a number of monthly reimbursements from these special accounts and did not discover any unreasonably large amounts which might indicate questionable payments. Based upon the degree of hospitality that was provided to DOD personnel, the Committee has determined that it was not of a magnitude that would evince an intent to influence DOD personnel to give favorable treatment to Bell or Bell Aerospace.

Inasmuch as the tax treatment of the amounts charged to the special accounts at Bell and Bell Aerospace is covered in the currently pending IRS investigation of Textron's 1973 tax returns, the Committee has not treated that subject here. The Committee has noted, however, that between 1968 and 1974, Textron's Tax Department prepared annual memoranda discussing tax audit adjustments and the reasons therefor. These memoranda were distributed to certain Textron officers, including Messrs. Miller and Collinson in most instances, and to Textron's outside tax counsel and Arthur Young. These memoranda indicated that certain expenses associated with



hospitality for government employees had been disallowed as tax deductions due to lack of substantiation.

Mr. Miller and Mr. Collinson have told the Committee that they were generally aware of the practice of not retaining full substantiation for such hospitality expenses, but that they did not have specific discussions on the subject. Both noted that the amounts involved were relatively small.

## **2. Findings As To Domestic Commercial Marketing Practices Generally**

The Committee found relatively few marketing practices as to domestic commercial customers that violated Textron policy or were otherwise questionable.

### *(a) Transactions Inconsistent With Textron Policy Or Otherwise Questionable*

Since approximately 1965 the Talon Division, at the request of one of its customers, has regularly overbilled franchisees and branch stores of that customer in small amounts for supplies ordered directly by such franchisees and branch stores. Under this arrangement, the franchisees and branch stores paid the customer directly, and the division billed and received payment from the customer at the correct prices. It is estimated that the overbillings did not exceed \$250,000 in any one year.

On occasion, a buyer for a customer of a manufacturing firm lacks the authority to purchase items exceeding a given spending limit. In such cases, it is not unusual for the buyer to request that, in lieu of a single invoice for the price of an item (which would exceed his spending limit), the manufacturer prepare several invoices aggregating the full purchase price, each of which is within the buyer's spending limit. The Shuron and Camcar Divisions engaged in this practice, each with respect to a single customer. In one of these instances, a single order for a facility of the United States Navy was involved.

Several divisions provided important customers with entertainment which exceeded Textron guidelines for "normal business meals" and with occasional gifts which exceeded the \$25 gift limit set by Textron guidelines. Prior to the end of 1974, four divisions, Burkart Randall, CWC Castings, Fafnir and Sprague Meter, financed occasional vacation trips or outings within the United States and to Bermuda for division customers. Three divisions, CWC Castings, Fafnir and Talon, sponsored outings for custom-

ers' employees after 1974. CWC Castings also maintained a lodge in Northern Michigan where customers were entertained. The lodge was closed in 1974. The evidence is that the aggregate cost of such activities did not exceed \$20,000 per year per division and that the foregoing practices were terminated by mid-1978.

*(b) Other Sales Practices Noted By The Committee*

The Committee is advised that a common practice exists among domestic retail chain stores whereby the chain's regional or home office requests a supplier to overbill the chain's local stores and remit the overbilled amount to the regional or home office for advertising or related purposes. One effect, and perhaps one purpose, of the practice appears to be to conceal from the local store the true cost of merchandise ordered, thereby inhibiting price reductions by the local store.\*

The Talon Division overbilled Sears, Roebuck & Co. in this manner until the end of 1978 and continues to overbill another customer in this manner. The overbilled amount is recorded as a receivable each month (or quarter); during the following month (or quarter), a refund is given to the home office of the customer, and this refund is credited to accounts receivable. Thus, the net sales for the division are correct except for small timing variations which result from the fact that a month or quarter elapses before the receivables are credited with current overbilled amounts.

Three other divisions, Spencer Kellogg, Sheaffer Eaton and Gorham, engaged in the following variations of this practice at the request of domestic chain store customers:

(1) One division overcharged the customer at a stipulated rate, placed the overbilled amount in a reserve account, and periodically refunded the overcharges to the customer. An accounting entry was initially made to accounts receivable at the overbilled price. The overbilled amount was then entered as "promotional expenses," and accounts receivable were credited with this liability. Thus, the division's net sales records reflected the correct sales price.

(2) One division gave a so-called "warehouse allowance" to the local store to induce the local store to make its purchases in bulk. At the request of the local store's home office, the division withheld one percent of this allowance (which would otherwise have been credited to the local store) and paid it to the home office.

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\* Reference is made to an article describing this practice with respect to Sears, Roebuck & Co. which appeared in *The Wall Street Journal* for December 27, 1978.

(3) One division sent the customer, at the request of its buyer, invoices which showed an inflated per item price together with a "discount" for advertising equal to the inflated amount. The net invoice charge did not involve any overbilling. This practice enabled the buyer to accumulate an advertising "budget" within his department.

The foregoing procedures do not involve the potential for evasion by Textron's customers of applicable tax or currency control laws.

### **3. "Push Money" Payments**

"Push money" refers to several types of incentive payments commonly offered by a manufacturer or distributor to a retailer or his employees to encourage sales of the manufacturer's or distributor's products.

Seven divisions of Textron had so-called "push money" payment programs from 1971 through 1978. In late 1977 the SEC's initial inquiry into Textron's activities evidenced interest in this practice; accordingly, the Committee requested Textron's Legal Department to look into it carefully. The Legal Department has determined that none of these programs constituted unfair trade practices under Federal Trade Commission regulations or was otherwise unlawful, and the Committee and its counsel, after review by counsel of materials prepared for the Committee by Textron's Legal Department, are satisfied that this conclusion is correct.

## **E. ADDITIONAL INFORMATION AS TO POLITICAL CONTRIBUTIONS**

The following discussion sets forth detailed information as to the small amount (\$1,175) of political contributions found by the Committee to have been made during the period under review in violation of Textron policy. Information is also included as to two contributions, one by the CWC Castings Division and one by the Valentine Holdings Division, which were not political contributions of the type prohibited by Textron policy and regulated by law.

From 1975 through 1977, the Gorham Division reimbursed several officers and employees who had made a total of four political contributions aggregating \$500 to state and local officials of a northeastern state and of

\$100 to one recipient who could not be identified by the Committee, but who the available evidence indicates was probably also a local or state official. The requisitions for reimbursement were signed by a Vice President of Gorham and approved by another Vice President. The contributions were made by the purchase of tickets for political dinners or cocktail parties at a price of \$100 to \$200 per ticket. Each contribution was charged on Gorham's books as a "confidential welfare distribution." All of the contributions to state and local officials were contrary to local law, because the recipients were not informed as to the true contributor. These contributions did not violate federal law.

In 1974 an officer of the Fafnir Division made a \$100 political contribution to the reelection campaign of a United States Senator. This officer was reimbursed by Fafnir through the "miscellaneous" category of a travel expense form. The contribution was made at the request of the then President of Fafnir. The contribution was unlawful under applicable federal law, but did not violate state law.

The National Motor Castings Operations of the CWC Castings Division made a \$100 contribution in 1976 to the Industrial Michigan Political Action Committee, a trade association group which includes a political action committee. Although the President of the division has no recollection of this contribution, the manager of the National Motor Castings Operations stated that he received the division President's approval of the contribution. This contribution was in fact used by the recipient for trade association purposes and was not deposited in the political action committee account of the recipient. Therefore, the contribution was not a political contribution and was not illegal under applicable state or federal laws.

Bell Aerospace and Bell each had a political action committee during 1971 and for approximately 10 months in 1972. These political action committees were funded by voluntary payroll deductions from certain executives of the divisions. The Federal Election Campaign Act of 1971 became effective in April 1972 and set forth reporting and other requirements for political action committees.

On March 28, 1972, Textron issued guidelines concerning political activities by Textron and its employees. These guidelines stated that "payroll deduction plans should not be used for political fundraising." Thus,

apparently because of the new law and the Textron guidelines, both divisions dissolved their political action committees in late 1972.

Shortly thereafter, several employees of Bell Aerospace formed their own political action committee with membership open to all division employees and to non-employees. Contributions were made directly by division employees and others, and the division did not make any payroll deductions for such contributions. This political action committee was dissolved in March 1975.

Although the Committee did not conduct an exhaustive examination of these political action committees, the Committee did question employees at Bell and Bell Aerospace as to their operation and made a general review of available records. The Committee found no evidence that Textron violated any federal laws in connection with the operation of the political action committees.

From 1971 through 1973, a Vice President of Bell made three contributions totalling \$175 to a local political citizens association in a southwestern state. At the time the contributions were made, the officer was told that the recipient was a charitable, not a political organization. Later the officer learned that the recipient made political contributions with its funds. In 1972 the officer also made a \$100 contribution to the political campaign of a gubernatorial candidate in the southwestern state. These contributions were made in the officer's name, and he was thereafter reimbursed by Bell. Another Bell employee authorized the reimbursement of these contributions. The contributions were to local and state candidates and thus did not violate federal law. The \$100 contribution did violate applicable state laws, and the other contributions may have done so.

In 1974 the Talon Division of Textron Canada made \$100 contributions to each of two Canadian political parties. These contributions were legal under Canadian law and were approved by an officer of the division prior to his receipt of the 1974 Textron Management Guide containing the directive against corporate political contributions.

The Valentine Holdings Division made a \$400 contribution in 1976 for a dinner given by the mayor of an Australian city to honor a visiting government official. This contribution was authorized by a senior officer of the division. The division's Group Director of Finance has informed the

Committee that the contribution was for a civic rather than a political affair. The division and the Committee have been advised by local counsel that, even if the contribution were for a political function, the contribution would have been lawful under Australian law.

The Committee saw no evidence of any pattern or practice with respect to the political contributions it found, nor did the Committee find any evidence of any fund or off-book account having been maintained to facilitate the making of such contributions. To the contrary, the political contributions that were made appear to have been relatively isolated instances.

The Committee learned that, unlike many United States corporations, Textron refused to make a political contribution to the 1972 presidential election campaign even though Textron's then Chairman was personally and insistently solicited for such a contribution by a high-ranking campaign official.

#### **F. ADDITIONAL INFORMATION AS TO MISCELLANEOUS MATTERS EXAMINED BY THE COMMITTEE**

##### **1. The Sixty Trust: Sale Of Property In Country X**

As a result of information which came to the Committee's attention from questionnaire responses and preliminary interviews, the Committee conducted a detailed inquiry into the circumstances of employment by the Textron employee pension trust, the Sixty Trust (the "Trust"), of a law firm in Country X to assist in negotiations for the sale of the Trust's property located in Country X to the government of that country.

In the course of its inquiry into this sale transaction, the Committee and its counsel (1) reviewed all correspondence between Textron employees acting on behalf of the Trust, the law firm in Country X and an American lawyer who was retained to assist with the matter (and who recommended the law firm); (2) interviewed all Textron employees who were significantly involved with the negotiations for sale of the property or the Trust's relationship with the law firm; (3) interviewed the American lawyer referred to above; and (4) interviewed Country X's Ambassador to the United States.

In the 1950's, the Trust purchased a major piece of improved property in the downtown area of the capital city of Country X (the "Property"). The Property was held by a corporation incorporated in Country X ("Property Company"), all of the stock of which was owned by the Trust. By 1970 the Property was being operated by the Trust at a substantial loss. During the period 1950-1970, the Trust was represented in Country X by a well-established local law firm which had a good working relationship with the colonial government. By 1970 Country X received a measure of independence, and a parliamentary government had assumed power. In 1973 Country X became an independent nation.

In March 1971, after terminating business operations at the Property, the Textron officers responsible for management of the Trust considered various options including sale of the Property in its improved condition and demolition of the improvements and sale of the underlying land. A sale of the property for \$3 million was negotiated; however, the prospective buyer canceled the transaction prior to closing.

Senior management officials at Textron knew of an American lawyer who had close personal contacts with members of the new government of Country X. The Trust retained him for consultation. The lawyer advised that any plans for the Property should be discussed with the government because of the Property's prime location and its status as something of a historical landmark. He also advised that representation by the Trust's existing law firm, with its close ties to the former colonial government, might be impolitic.

After visits to Country X by a senior Textron executive, it was determined to proceed with demolition of the improvements on the Property and construction of a shopping area. However, by late 1971 it was clear that the government of Country X was reluctant to give the necessary approvals for demolition. The American lawyer was again consulted. On his advice, a new firm of lawyers was retained in Country X. The founding partner of this firm, listed as "inactive" at the time of the firm's retention and throughout its representation of the Trust, was and is a high government official of Country X. He became Minister of Finance shortly after the sale of the Property was agreed to but before the transfer of title occurred. The active partner of the firm was a respected lawyer in Country X. The inactive partner's spouse, although not then admitted to the Bar, was active as a senior clerk in the administration of the firm's affairs.

The newly retained law firm represented the Trust in negotiations with the government of Country X, which resulted in the execution in December 1972 of an agreement by the government to purchase the Property for \$2 million. Negotiations were carried out primarily with the Ministry of Finance and the Attorney General. At the time, the Finance Minister was responsible to the government of Country X but the Attorney General was still an appointee of the colonial government.

Although there were negotiations as to the amount of the down payment, there was no dispute as to the \$2 million price initially offered by Textron. Under the final agreement, the government delivered to the Trust's subsidiary, Property Company, a down payment of \$375,000 and a 10-year mortgage note secured by the Property for the balance of the purchase price.

In January 1973 the law firm in Country X submitted a bill of \$65,000 for its services in connection with the sale negotiations. The Textron employee directly responsible for those negotiations thought the bill was excessive and proposed, as an alternative, that the law firm be paid approximately \$28,000 at once with a \$52,000 balance to be paid in monthly installments over the next ten years and five months. Evidence obtained by the Committee as to normal legal fees in Country X for such a transaction indicates that the fee was not excessive. There is evidence, however, from correspondence and memoranda, that the Textron employee was of the view that a deferred fee arrangement would help assure prompt payment by the government of the mortgage installments.

After initially rejecting the proposal, and specifically objecting to any assumption that it should be a guarantor of the government payments, the law firm agreed to accept immediate payment of \$60,000 in legal fees plus a retainer of \$4,000 per year for assistance in maintaining corporate records and filing required returns for Property Company and for any needed assistance with respect to the note payments. The Committee found no evidence that there was ever any default, or threat of default, with respect to the note payments. The Committee found no evidence that approvals or similar governmental actions, other than routine exchange control licenses, were required in order to repatriate the note payments to the Trust.

It is clear, however, from correspondence between Textron employees and the American lawyer that both perceived that the close relationship between the law firm and the high government official of Country X was



helpful at least in a general, nonspecific way and further perceived that no action should be taken that would antagonize the law firm. The inactive partner in the firm was specifically referred to in one letter as having the ability to "control . . . disbursements" in his capacity as Minister of Finance.

In July 1974 the American lawyer negotiated an agreement with the law firm for discontinuance of the annual retainer payments from the Trust. No further annual payments were made, and the law firm has continued to handle the corporate record-keeping and reporting requirements for Property Company on a basis of being reimbursed for its out-of-pocket expenses only.

Payments on the mortgage note from the government of Country X are current.

The Property is currently being utilized for park and government office uses, although the main building on the Property remains vacant. The Committee is advised by Country X's Ambassador to the United States that the government of Country X has made purchases of other, similar properties.

## **2. A Charitable Contribution To A Medical Foundation**

In April 1974 at the request of Bell, the Textron Charitable Trust Foundation pledged \$100,000 to a well-established, tax exempt medical foundation in the United States ("Medical Foundation"). In January 1974 the son ("Son") of a high military official of a foreign government, which was an important customer of Bell, was accepted as a medical resident at the teaching hospital ("Hospital") associated with a medical school supported by the Medical Foundation.

In light of these facts, the Committee conducted an exhaustive inquiry into the circumstances surrounding Textron's gift to the Medical Foundation to determine whether there was anything improper about that gift. The facts are briefly summarized as follows:

In July 1973 Son began a "rotating" general internship at another hospital in the United States. Bell had no connection with this internship.

Early in his general internship, Son decided to specialize in obstetrics and gynecology and applied to the hospital where he was an intern and to

the Hospital for a residency in that specialty. Son's applications were unsuccessful because at both hospitals such residencies were reserved for interns already specializing in that field.

In October or November 1973 Son called Mr. Atkins, the President of Bell, whom he knew from previous social acquaintance, and asked for his help in seeking admission to the specialized residency program. Mr. Atkins met with the president of the Medical Foundation later that month.

At that meeting Mr. Atkins told the president of the Medical Foundation that he knew Son's father through various Bell business transactions and could vouch for Son's integrity and character. Mr. Atkins further stated that he would appreciate the president's assistance in support of Son's application. The Medical Foundation president informed Mr. Atkins that, although he had nothing to do with admissions decisions, he would call the head of the medical school. The Medical Foundation president also stated that such a call would have little, if any, effect on the admissions process. Thereafter, various telephone calls ensued between the Medical Foundation president and the president of the medical school, and between the latter and the chairman of the OB-GYN Department of the Hospital.

At a second meeting between Mr. Atkins and the Medical Foundation president in December 1973, the president informed Mr. Atkins that Son would be a strong candidate if any opening developed at the Hospital. The president also stated that he was engaged in raising funds for the Medical Foundation, pointed out that the work of the Medical Foundation was beneficial to Bell employees and expressed his hope that Bell would consider making a contribution to the Foundation. He added, however, that there was no link between a contribution by Bell and the assistance he had rendered with respect to Son's residency application.

In December 1973 an opening developed in the residency program at the Hospital. Son, as the only qualified applicant who had not made other arrangements by that time, was selected for the residency.

In March 1974 Mr. Atkins asked the Trust to approve the contribution of \$100,000 over three years to the Medical Foundation. Mr. Atkins' application was processed by Textron's Contributions and Administrative Committees with little discussion. Members of the Administrative Committee were advised by Mr. Ames, the Senior Vice President of Textron

responsible for Bell, that Son held a position at a hospital with which the Medical Foundation was affiliated. The Administrative Committee minutes, which recorded approval of the gift, were reviewed and approved by the Executive Committee of Textron's Board of Directors and by the full Board at their next meetings but made no reference to Son or to the Hospital's relationship to the Medical Foundation.

The gift was paid in three installments as scheduled.

In 1974 the Medical Foundation received total contributions from all donors in excess of \$1.5 million; in 1975, in excess of \$2 million; and in 1976, in excess of \$1.9 million. Bell has not requested approval of any further contributions to the Medical Foundation. The \$100,000 pledge was the largest pledge made by Textron to a single charitable organization during the period under review, although annual contributions equal to or exceeding the annual payments on that pledge have been made to other charities.

Son satisfactorily completed his residency at the Hospital. The testimony of all persons interviewed is that, although Son's father was aware that Mr. Atkins had assisted Son with a recommendation in connection with obtaining his residency, neither Son nor his father was ever made aware of Textron's contribution to the Medical Foundation.

Mr. Atkins has informed the Committee that he advised Mr. Miller sometime in late 1973 that he had spoken to the Medical Foundation in an effort to help Son secure a residency. He also stated that in a conversation in mid-December 1973, he advised Mr. Miller and Mr. Ames both that Son's application was pending and that Textron might want to consider making a contribution to the Medical Foundation. According to Mr. Atkins, Mr. Miller replied that the possible contribution should be handled on its own merits and kept separate from the subject of Son's residency. Mr. Miller recalls Mr. Atkins mentioning that he spoke for Son on the residency application but does not recall the mid-December conversation nor any other conversation concerning both the residency application and the contribution.

### **3. Bell Helicopter's 1978 Inquiry Into The 1971 Sale To The Government Of Ghana**

The possibility of a questionable transaction in connection with the 1971 sale of two helicopters to Ghana was raised by Senator Proxmire at the

Miller confirmation hearings on January 24, 1978. Both Textron and Bell officers promptly contacted Bell personnel in Fort Worth and directed that an inquiry be made into the transaction.

This inquiry resulted in a short report on the Ghana sale, which was drafted by Mr. Dee E. Mitchell, the International Sales Manager of Bell, on January 25, 1978, and reviewed by Mr. Frank M. Sylvester, the Vice President-International Marketing. The report was incomplete and, in certain aspects, incorrect. The report failed to address specifically the issue whether an improper payment had been made and failed to identify a key document which Mr. Mitchell has since stated he destroyed during the course of reviewing pertinent files. Upon its completion, the report was furnished to Bell's Vice President-Administration, Mr. Gainor J. Lindsey, and its Chief Legal Counsel, Mr. George Galerstein. No requests for clarification or follow-up were made.

Independent of the preparation of Mr. Mitchell's report, Mr. Atkins, upon being advised of the Ghana allegations, directed the Internal Audit Department on January 27, 1978, to investigate the transaction. After briefly questioning several Bell employees about the sale, on the same day he also requested Bell's outside counsel in Fort Worth to conduct an inquiry into the transaction. Mr. Galerstein, as Chief Legal Counsel, was to coordinate those inquiries.

The head of Bell's Internal Audit Department completed his investigation early the following week and prepared a handwritten draft report. A shortened, typed version of the handwritten report, which omitted significant details, was then prepared at the suggestion of Mr. Theodore R. Treff, the Treasurer of Bell. Although the recollections of involved employees differ substantially, the evidence is clear that Mr. Galerstein was provided with one and perhaps both versions of the Internal Audit Department's report no later than February 2, 1978. The report summarized documents contained in the Ghana files, but like the International Marketing Department's report, did not address Senator Proxmire's allegation specifically.

Despite Mr. Atkins' request, Bell's outside counsel did not conduct a complete inquiry into the Ghana sale. On January 30, 1978 two attorneys from the firm engaged in preliminary document review at the Bell plant and, as a prelude to conducting interviews of involved employees, requested Mr.

Galerstein in writing to furnish them with copies of various documents. Mr. Galerstein, who at the time he received the request was preoccupied with the SBC staff's inquiry into the Iranian sale, failed to comply with this request. In addition, he failed to give outside counsel copies of either the Internal Audit Department report or Mr. Mitchell's report. No interviews or additional document review were conducted, and no report was ever prepared by outside counsel. In March 1978, with the commencement of the several government investigations of Textron and the retention by Textron of outside counsel to advise as to such investigations, Mr. Galerstein and Bell's outside counsel decided there was no point in pursuing the inquiry.

In mid-February 1978, in preparation for the second round of SBC confirmation hearings on the Miller nomination, Mr. Soutter, Textron's Vice President and General Counsel, requested Mr. Galerstein to furnish him a report on the 1971 sale to Ghana. In response to this request, Mr. Galerstein submitted to Mr. Soutter a copy of the Internal Audit Department's report. Mr. Galerstein thereafter drafted, along with Mr. Soutter, a letter to the SBC which addressed, among other things, the Ghana transaction. The letter tracked in large measure the Internal Audit report, and in addition stated that no Bell officer was aware of or participated in the transaction. This was erroneous. In explanation of the error, Mr. Galerstein told the Committee that the two officers he had questioned, Mr. Atkins and Mr. Sylvester, had denied any knowledge of any questionable payment in the 1971 transaction and that the signature of Mr. Treff, Bell's Treasurer, on the SEPA which would have indicated that he may have had relevant information was impossible to recognize.

The SBC staff did not make any further inquiry into the Ghana transaction.

In late February 1978, on the last day of his testimony before the SBC, Mr. Miller characterized the Ghana sale as a strange transaction which he would not have approved. He criticized the way in which the sale was handled and stated that the transaction should have been brought to his attention. The principal basis for Mr. Miller's testimony was the typed version of the Internal Audit report, which Mr. Soutter had furnished to him a few days previously.

After careful review, the Committee has concluded that Bell International Marketing Department personnel withheld critical facts about the Ghana sale from the Vice President-Administration, Mr. Lindsey, and from Mr. Galerstein. The Committee has further concluded that Mr. Galerstein's performance was unsatisfactory in that he did not recognize the seriousness of his failure to interview or question knowledgeable personnel at Bell and of his failure to respond promptly to the request for documents by Bell's outside counsel in Fort Worth. Bell's outside counsel were thereby not able to proceed with their analysis, despite the obvious questions as to the 1971 transaction which were left unanswered by the incomplete report that Mr. Galerstein passed on to Textron. However, the Committee found no basis for imputing to Mr. Galerstein any knowledge of, or conscious design to cover up, the payment to a government official which was made in connection with the 1971 Ghana transaction or to otherwise deceive or mislead anyone.

While Bell's President failed to follow up to ensure that the inquiries he initiated were thoroughly conducted, the Committee has concluded that Mr. Atkins did not engage in an attempt to keep the critical facts about the sale from coming to light. The Committee is further satisfied that neither Mr. Miller nor any other officer of Textron had any knowledge, or reasonably could be expected to have had any knowledge, of the 1971 Ghana transaction, other than the information set forth in the Internal Audit Department report on the basis of which Mr. Miller testified at his confirmation hearings. That report, although leaving obvious unanswered questions, came to the attention of the Textron Corporate Office only a short time before the final Miller confirmation hearings when the focus of the SBC inquiry was on other matters. Mr. Miller recognized the unanswered questions in his testimony before the SBC.

## **G. A SHORT HISTORY OF THE DEVELOPMENT OF TEXTRON BUSINESS CONDUCT POLICIES**

### **1. The Period 1971-1975**

In 1971 the primary source of guidance with respect to standards of conduct and ethics was the Textron Management Guide ("TMG"), which was issued in 1969 as a replacement for the Textron Administrative Practices Manual.

The 1969 TMG provided employees with guidance on a wide range of questions arising in day-to-day operations. In the area of standards of conduct, it addressed certain conflicts of interest which might be faced by employees, stating that Textron expected "the individual loyalty of its employees at all levels to be of the highest standards of law and ethics." The 1969 TMG also (1) warned employees against acceptance of gifts and gratuities from any party doing or seeking to do business with Textron; (2) stated that Textron did not make contributions to political parties or candidates; and (3) urged compliance with all applicable laws. The TMG did not specifically address other important ethical questions which arise in domestic and international business transactions. The 1974 version of the TMG which, with supplements, is currently in use addresses the problems covered in the original TMG in a more concise and authoritative manner, but similarly fails to provide specific guidance with respect to such topics as illegal, improper or questionable payments. These defects have been remedied in the Business Conduct Guidelines adopted in late 1978.

During the 1971-1975 period, Mr. Miller circulated memoranda to and made speeches before Textron division presidents and key employees which emphasized and supplemented the guidance provided in the TMG. For example, in a letter which was sent each year to division presidents on the subject of "gifts and gratuities," Mr. Miller reiterated the TMG's restrictions on the receipt of gifts and added that it was "as important that we refrain from making gifts that may be misinterpreted as it is that all Textron personnel forego receiving any items of value." Similarly, in his speech at Textron's April 1972 management meeting, Mr. Miller urged the demonstration of Textron's ability to meet challenges "by not sinking to the lowest common denominator, but to meet them by standing firm and sticking to principles that we can defend against any question and any challenge."

The first Textron internal inquiry that specifically addressed questionable payments occurred in 1975, and was informal and limited as to both scope and purpose. In connection with normal due diligence work preceding Textron's public sale of debt securities, Mr. Soutter, Textron's General Counsel, inquired into the possibility of questionable payments to foreign representatives. He first determined, through conversations with Messrs. Miller, Collinson and Ames, that these officers knew of no questionable payments or political contributions with corporate funds. He next reviewed the offshore operations of the Textron divisions and concluded that agents'

fees and commissions were not a significant factor in the business of any division except Bell. He determined that "the only significant commission paid by Bell" was the \$2.95 million settlement paid to Air Taxi (described in more detail in Section A.16 of this Volume of the Report). He questioned Mr. Miller as to his knowledge of the payment, and then he and Mr. Ames met with three senior Bell officers to discuss the payment and obtained further details from several other Bell employees.

Mr. Soutter then made oral reports to Mr. Miller and to counsel for the underwriters of the Textron offering. He prepared a draft report (never put in final form) which outlined Bell's relationship with Air Taxi and the negotiation of Air Taxi's commission. The report concluded that Mr. Soutter found no suggestion in the course of his inquiry that the commission was paid for any unlawful or questionable purpose. His report also states that he was informed that none of the principals of Air Taxi were known or believed by the Bell officers whom he interviewed to be Iranian government officials. He concluded that the commission payment was not unreasonable or improper.

Following this inquiry, Mr. Miller, in consultation with Mr. Soutter, determined that no further investigation was required. This decision was made even though other leading American companies had made disclosures of questionable payments and Senator Proxmire and others had suggested that all major U.S. defense contractors should disclose any questionable payments or practices in foreign sales. Neither the underwriters of the 1975 Textron debt offering nor their counsel indicated a desire for further inquiry as part of their own due diligence.

Other initiatives were taken at the division level. For example, at Bell, Mr. Atkins has stated that he attempted to monitor the activities of the employees reporting to him and to make certain that they conformed to broad Textron policy. In addition to forwarding Mr. Miller's communications to many of his key employees, Mr. Atkins issued directives of his own in an attempt to standardize dealings with foreign representatives and to make certain that no unacceptable entertainment of DOD personnel took place. After October 1, 1973, Mr. Atkins required that his personal approval be obtained before Bell engaged a foreign representative or consultant. He permitted the use of consultants in lieu of or in addition to established representatives or dealers only in rare instances and only with substantial



justification. In 1976 Bell had substantially curtailed expenditures related to provision of mealtime hospitality to DOD personnel.

## 2. The Period 1976-1978

Beginning in 1976, Textron's Corporate Office not only began to address specific concerns in the domestic and international marketing area, but required certain specific actions to be taken, which were aimed at controlling the activities of representatives and dealers and monitoring the activities of employees. In the first six months of 1976, Corporate Office personnel wrote to division presidents regarding DOD restrictions on the entertainment of its personnel and federal prohibitions which restrict compliance with the Arab boycott of Israel. Speeches made at Textron's February 1976 management meeting specifically addressed foreign bribery and stated that, even in developing countries, Textron should only do business on its own terms. Mr. Miller's speech at that meeting contained the following comments regarding agents and consultants:

"Textron will pay fair compensation to independent auditors, attorneys, professional consultants, sales representatives, and sales agents. It will not, however, permit any scheme to channel or cover up improper payments. Textron will not permit any fees, commissions or other payments which go beyond fair compensation. We should not and will not bury our heads in the sand and ignore the obvious implications that payments over and above fair compensation are for some questionable purposes. We shall in substance, as well as in form, keep Textron above any criticism."

During the latter half of 1976, Textron began a specific questionable payments compliance program. In August 1976 Mr. Miller wrote to division presidents informing them that prescribed language must be included in all new or renewal agreements with foreign representatives, dealers and consultants. (See Appendix I.) The suggested provision required a representative to state that he had not made and would not make certain types of questionable payments.

In December 1976, in conjunction with Textron's annual audit, approximately 1,100 key employees were asked to sign individually a "Statement as to Illegal, Improper or Questionable Payments" indicating that the employee was unaware of any questionable practices in the areas of bribes,

kickbacks, other improper payments, prohibited political contributions or off-book accounts. (See Appendix J-1.) This was the first company-wide attempt by Textron to uncover the existence of such practices, although Mr. Collinson had specifically requested that procedures to identify questionable practices be included in the audit work for the previous year (1975) and emphatically expressed his disappointment that Arthur Young had not included such procedures.

The form of statement used in 1976 grew out of further discussions with Arthur Young and requested information only as to the single year 1976. This procedure was apparently used because the statements were solicited in conjunction with the annual audit and were therefore cast in the format of "representation letters" obtained by independent auditors from employees of companies being audited on an annual basis. In addition, employees were simply asked to sign statements asserting that they were unaware of improper practices; they were not requested to provide information regarding any knowledge they might have had of the existence of such practices. Although employees who were in fact aware of the questionable payments described in Volume One, Part III of this Report could have contradicted the statement's negative assertion and indicated such awareness, none did.

During the course of their 1976 audit, Textron's independent auditors discovered certain unusual billing and payment practices involving several foreign customers of two divisions, Sheaffer Eaton and Talon. Textron personnel conducted an investigation into dealings with these customers covering the five-year period ending January 1, 1977. The findings were memorialized in a report dated July 19, 1977, which was prepared by Textron's Legal Department for the Audit Committee of Textron's Board of Directors. The investigation determined that during this period approximately \$400,000 in overbillings and accommodation payments had been made by the two divisions to at least eight customers. It also determined that all such transfers of funds had been properly recorded in the financial records of the two divisions and that the overbilling and accommodation payment practices had been terminated at the two divisions prior to the conclusion of the investigation. Other divisions were not reviewed. The report prepared for the Audit Committee concluded that no officer or director of Textron knew of or condoned such practices.

As a result of this discovery of overbilling and accommodation payment practices and of several inquiries received by the Corporate Office from

divisions in conjunction with the completion of the 1976 year-end statements, Mr. Miller wrote a letter on May 12, 1977 to all division presidents, corporate officers and corporate department heads instructing them that overbilling and accommodation payment practices were unacceptable. (See Appendix F.) Until the Committee's investigation, however, no systematic attempt was made to verify that such practices had in fact been terminated within a reasonable time following Mr. Miller's letter, and such practices were not eliminated in all divisions until December 1978.

Textron officers continued to emphasize the policy against questionable payments in speeches to key employees of Textron divisions. For example, in his speech to Textron's financial executives conference in June 1977, Mr. Soutter stated in part:

"[W]e cannot permit an agent to bribe anyone, with Textron's money or his own, in connection with any business involving Textron. We must be suspicious, especially when the amount of the commission is large. We must demand the same high standards from our agents — we deal with crooks at our peril — and if we have reason to suspect that bribes are being paid, we have a duty to try and find out and/or terminate our relationship.

"And under no circumstances will the argument that 'that's the way business is done in country X' be a justification. . . . [E]ven if it were true, we don't do business that way. We'll give up the business."

In November 1977 approximately 1,700 employees were again asked to execute statements substantially identical in form to those circulated in December 1976, and limited to the year being audited. (See Appendix J-2.) Although the form of the statement was still phrased negatively, approximately forty employees altered the form to indicate that they were aware of accommodation payment and overbilling practices. However, the employees and officers of Bell who were directly involved in or knowledgeable concerning the questionable payments described in Volume One, Part III of this Report again returned signed statements indicating that they were unaware of any questionable practices, thus indicating that the annual statement procedure alone was not adequate to detect violations of corporate policy.

### **3. Programs To Assure Compliance With The Foreign Corrupt Practices Act**

Since adoption of the Foreign Corrupt Practices Act ("FCPA") in December 1977, Textron has made extensive efforts to assure compliance with the FCPA's financial accounting controls and corrupt practices provisions. These efforts can be separated into two parts: (1) educating division personnel regarding the requirements of the FCPA and the importance which Textron places on compliance with those requirements, and (2) mandating that certain procedures be adopted, reports be prepared and compliance statements be executed.

The educational efforts consisted of speeches made before, and memoranda circulated to, division executives by members of the Corporate Office staff. The Textron Legal Department and Controller's Office are presently engaged in the preparation of a guide to compliance with the FCPA in booklet form for wide distribution to key Textron employees.

The Corporate Office also circulated material prepared by Textron's independent auditors regarding compliance with the FCPA, increased the involvement of the internal audit staff in divisional audits and prepared a manual designed to assist divisions in evaluating the effectiveness of their internal controls. In addition, Textron altered its lines of financial reportability to establish a more direct line of communication between division and Corporate Office personnel and informed division executives that it is their responsibility to report deviations from accounting policies directly and immediately to the Corporate Office.

Textron also implemented a compliance program under the accounting controls provisions of Section 102 of the FCPA. Under this program, an annual compliance certificate must be completed by the chief financial executive of each division. In this certificate, the financial executive is required to certify that certain specified actions have been taken and that the internal accounting controls of his division provide reasonable assurance that the objectives of the internal accounting controls provisions of the FCPA are met. In addition, pursuant to the Corporate Office's direction, division presidents filed reports with the Corporate Office in June 1978 indicating the steps they had taken to assure compliance with the accounting controls provisions of the FCPA.

As an additional safeguard, a written explanation of the FCPA has been forwarded to all foreign representatives and dealers whose services are utilized by Textron divisions. Each has been asked to agree to make no payments in violation of the FCPA and has been requested to provide information as to whether any government official has an ownership interest in the representative or dealership. Textron also now requires the inclusion in its representative and dealership agreements of a clause stating that the representative or dealer is familiar with the FCPA and will not violate its provisions, and requires execution of an annual statement by such persons regarding the absence of violations of the FCPA.

#### **4. Development Of The Business Conduct Guidelines**

Upon its formation, the Committee recommended to Textron officers that a comprehensive guide to corporate conduct be developed and adopted. A considerable amount of work in this direction had already been done by Mr. William J. Ledbetter, now Textron's Executive Vice President-Finance and Administration, the Audit Committee of the Board of Directors, and Mr. Soutter and his staff. The first draft of a set of Business Conduct Guidelines was submitted to the Committee for its comments in July 1978. The Committee and its counsel made extensive comments on the draft. Following the revision of the draft and the implementation procedures incorporated in it to the satisfaction of the Committee, and pursuant to the Committee's recommendation, the Guidelines were adopted by Textron's Board of Directors in October 1978. The table of contents of the Business Conduct Guidelines, which summarizes each of its provisions, is attached to this Report as Appendix K.

The Guidelines consolidate and amplify previous policy statements regarding acceptable methods of transacting domestic and international business and combine this material with a thorough treatment of relevant questions previously addressed in the Textron Management Guide. All of the significant problem areas identified in this Report (including payments to government officials, political contributions, entertainment expenditures, accommodation payments and overbillings) are addressed in the Guidelines. In addition, many other topics, such as boycotts and restrictive trade practices, compliance with antitrust laws, compliance with the FCPA, avoidance of conflicts of interest and the unacceptability of cash or off-book

accounts, are the subject of guideline requirements. Included within the Guidelines are important provisions requiring the monitoring of compliance and the imposition of penalties for failure to comply. The Guidelines provide for annual circulation to all key employees of compliance forms which call for specific representations as to compliance with the Guidelines and give an opportunity to note exceptions. These compliance forms were first circulated to Textron's employees in December 1978, and the responses have been reviewed by the Textron Controller's Office and Legal Department, Textron's outside auditors and by the Committee.

#### **5. Additional Steps In Conjunction With Outside Auditors**

Textron's Controller's Office and Arthur Young have recently taken several steps to assure that the work of Textron's outside auditors is appropriately focused on possible questionable payments. Arthur Young's Textron audit plan for 1978 specifically discussed the FCPA and instructed field audit teams to be alert to possible violations and to review the procedures followed by the divisions in circulating annual compliance reports in the new form required by the Business Conduct Guidelines. In addition, supplemental field memoranda as to division internal controls were required of Arthur Young field audit personnel and reviewed by the Controller's Office prior to completion of the audit. Further, the Textron Controller instituted field audit closing conference calls for each division audited by Arthur Young. Division financial officers, local Arthur Young representatives and senior Arthur Young audit personnel participated in these conference calls and specifically addressed questions relating to questionable payments and FCPA compliance to local audit staffs. The Committee is advised that these procedures will be continued in future audits.

WILLIAM PROXMIER, WIS., CHAIRMAN  
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## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
 URBAN AFFAIRS

WASHINGTON, D.C. 20510

KENNETH A. MC LEAN, STAFF DIRECTOR  
 M. DANNY WALL, MINORITY STAFF DIRECTOR  
 MARY FRANCES DE LA PAVA, CHIEF CLERK

October 30, 1979

The Honorable Benjamin Civiletti  
 Attorney General  
 Department of Justice  
 Washington, D. C. 20530

Dear Mr. Attorney General:

Last year, I wrote the Justice Department twice asking for an investigation into whether Textron-Bell or any of its employees had violated Federal criminal statutes. I made those requests after the Committee on Banking, Housing and Urban Affairs learned that evidence had been destroyed and that documents were discovered that had not been turned over pursuant to a subpoena and that appeared to contradict sworn testimony given the Committee. I am enclosing copies of those letters.

Last week, the Wall Street Journal published an article that discussed the strategy Textron-Bell followed last year to deny the Committee important information that it knew the Committee was interested in or had subpoenaed. This is the first time that the Committee has learned that the company was engaging in what appears to be a deliberate coverup policy. The withholding and destruction of documents can no longer be explained away as isolated instances or the result of actions undertaken by overzealous employees. I am enclosing a copy of the Wall Street Journal article.

The newspaper's disclosures come as no surprise. The Securities and Exchange Commission, in a report to the Committee last July, laid out in great detail actions by the company and its officials to withhold information from the Committee at the time that it was conducting its investigation in January and February of 1978. In one case, the SEC report said that certain Textron-Bell documents belatedly discovered by the company contradicted testimony given to the Committee by certain executives. One memorandum, written in 1971, disclosed that the Chief of the Iranian Air Force was the "real influence"


behind an Iranian sales agent retained by Textron-Bell. It also had been seen by top Textron-Bell officials. The company did not turn it over to the Committee until long after the Committee's investigation had been concluded. That failure denied the Committee a key piece of evidence that would have opened up important new areas of investigation and would have greatly affected the testimony certain Textron-Bell witnesses would have given to the Committee. According to the Commission's report, Frank Sylvester, one of the officials who received that memo, "testified before the Committee staff in February 1978 and denied any knowledge of any link between Khatami (the Iranian Air Force Chief) and Air Taxi (the Iranian sales agent). After the discovery of the memo, Sylvester refused to testify before the SEC staff by invoking the fifth amendment privilege".

The SEC report also recounts in great detail Textron-Bell's efforts to mislead the Committee about a payoff that the company made in connection with the sale of helicopters to Ghana. The report examines contradictions between the testimony of several Textron-Bell officials and raises the possibility that high-level company executives may have been involved in the attempted cover-up. For the Committee, the upshot was that another crucial line of investigation had been blocked by the company's actions.

I am enclosing a copy of the SEC report on the 1971 memo and the Ghana payment.

In view of the serious additional evidence contained in the SEC report and the Wall Street Journal article, I would like to renew my earlier requests that the Justice Department investigate whether company officials violated any criminal statutes in responding to the Committee's inquiries. I would expect to receive a substantive report from your Department within 90 days.

Sincerely,

  
William Proxmire  
Chairman



[From The Wall Street Journal, Oct. 24, 1979]

CONTINUING PROBE—NEW EVIDENCE APPEARS IN SEC INVESTIGATION OF PAYOFFS BY  
TEXTRON

COMPANY FILES WERE ALTERED TO HIDE PAYMENTS; LIST OF RECIPIENTS LENGTHENS

## A Big Check for Col. Gomez

(By Jerry Landauer, Staff Reporter of The Wall Street Journal)

Fort Worth, Texas—Margaret Hernandez, a secretary for the Bell Helicopter division of Textron Inc., was unusually busy in early 1976. At the command of her superiors in Bell's international-marketing department, Miss Hernandez was removing and revising confidential correspondence indicating payoffs by Bell to sell helicopters in Latin America. These files were identified by the code name "White Rose."

Specifically, the White Rose files mentioned officers in the air force of Colombia who were acting as "advisers" or "consultants" to Bell's dealer in Bogota. One officer who got paid for providing inside information about his government's military-procurement plans worked at the Colombian Embassy in Washington.

First, Miss Hernandez removed a dozen or so letters and telegrams from the Bell dealer, whom she identifies as Antonio Angel. She also removed copies of English translations that had been circulated to headquarters executives here. Then she replaced the discarded Spanish documents with a fresh, backdated set provided by Mr. Angel. These didn't mention "advisers" or "consultants." And to make the White Rose files appear complete again, she retranslated the phony Spanish documents into English.

## WARDING OFF INVESTIGATIONS

One reason for these secretive maneuvers was to protect the company against the probability of a U.S. government investigation—several other aerospace concerns already were under scrutiny for making questionable foreign payments. Textron subsequently did become the target of several federal investigations, especially after President Carter chose company Chairman G. William Miller to head the Federal Reserve Board early last year. During Mr. Miller's confirmation hearings, allegations were leveled that Bell had made payoffs in Iran and Ghana. Mr. Miller testified that he knew nothing about foreign bribery, and he was overwhelmingly confirmed by the Senate. Last July, he was named Secretary of the Treasury.

Now, evidence is surfacing that the doctoring of the White Rose files (which never came up during any of Mr. Miller's confirmation hearings) was but one of several efforts within Bell over a period of years to hide traces of payoffs abroad. Other countries were involved besides Iran and Ghana, and the cover-up continued even after Mr. Miller took over as head of the Fed. Company officials say they have testified about many of these matters to the Securities and Exchange Commission, which has been investigating Textron for the past 20 months. SEC officials refuse to discuss the case. But some at Textron expect the agency to issue a complaint soon. The company itself is withholding comment until the SEC investigation is concluded.

## CLAIMS OF INNOCENCE

There isn't any indication that Mr. Miller, working far away at Textron headquarters in Providence, R.I., knew about the questionable goings-on at Bell. But while they were occurring, he was repeatedly asserting Textron's innocence of payoffs.

For example, just a few weeks after Miss Hernandez doctored the White Rose files, Mr. Miller addressed shareholders at Textron's annual meeting. "We will live by the highest standards," he assured, "and I can tell you that so far as we know, there have been no payments that are illegal, or any payments that are improper, anywhere throughout the company."

In 1977, Mr. Miller went further, although Textron at that time hadn't conducted an in-house investigation, as scores of other companies had, to discover and stamp out questionable practices. "We know of no case in Textron where there have been any improper payments, illegal payments," he told the annual meeting that year. "We've made a survey of the company. . . . I think we should all feel proud of shareholders and directors and officers."

Mr. Miller didn't explain that the company survey covered just one year, 1976. Nor did he mention, as Textron has subsequently reported, that "employees were simply asked to sign statements asserting that they were unaware of improper practices; they were not requested to provide information regarding any knowledge they might have had of the existence of such practices."

## SOME UNEXPLAINED INCIDENTS

Here at Bell Helicopter, largest of Textron's 26 divisions, no one who participated in or suspected bribery abroad gave any information for the survey. The details of most payments remain locked in files such as the White Rose correspondence or in the recollections of those who participated.

For example:

—An officer in the Mexican air force, Col. Enrique Gomez, once traveled to Fort Worth to pick up a check for \$150,000. A Bell employe who watched the transaction says his superiors knew that Col. Gomez worked for Gen. Solitro Beltran, chief of the Mexican air force. Gen. Beltran approved an order for 10 Bell helicopters.

—In Jamaica, Bell sacked its sales agent, David Nunes. On the recommendation of a senior officer in the Jamaican defense forces, the company hired a reserve officer, Andrew Bogle, who at times performed special duties for the minister of national security. Mr. Bogle sold helicopters to the defense forces from his home and, like Col. Gomez from Mexico, he came to Fort Worth for his commissions; Bell complied with his instructions never to send checks to Jamaica.

—In pushing a \$10 million sale to the armed forces of a North African country, believed to be Morocco, Bell's Washington office allowed an officer attached to the country's embassy to pick the overseas dealer in Morocco who would get and "redistribute" sales commissions. Correspondence describes the dealer as a "front man" for a high defense official.

—Bell's dealer in Ceylon once rushed a letter to Fort Worth saying he needed commissions in advance, to pay government officials, including Air Force Commander Patrick Mendis. But the helicopters that Bell intended to sell were being financed by the U.S. Defense Department, requiring Bell to certify that it wasn't paying commissions. To slip around this certification, the company hurriedly signed a consulting agreement with Brown & Co., the dealer in Ceylon. It then routed payoffs disguised as consulting fees through banks in Europe. Whether Mr. Mendis got any money isn't known.

—In 1976, Bell transferred about \$500,000 to a Swiss account so that a company dealer in the Persian Gulf could, as he put it "honor my long-standing commitments." In one sheikdom, Bell's dealer was owned at least in part by officials in the ministry of defense.

—In the Philippines, Bell contemplated payoffs through its dealer to a high official. "Arrived just in time to sign commissions and to eliminate Brand X," a Bell salesman cabled from Manila. The salesman was alluding to a competitor.

## THE COMPANY'S ANALYSIS

Some or perhaps most of the bribes paid by Bell, or paid by Bell dealers with the knowledge of the company, were extorted rather than volunteered. And more often than not, the company resisted payoff demands. Moreover, in comparison to the tens of millions of dollars ladled into foreign purses by other aerospace concerns such as Lockheed Corp., the payments by Bell appear relatively small.

"It would be misleading to conclude that questionable payments were the rule in Bell's foreign-marketing practices," says a report issued last July by a special committee of the Textron board. "The committee found evidence of questionable payments as to relatively few of Bell's international sales."

But the company report doesn't identify places where payments were made, except the Iranian and Ghanaian episodes previously disclosed. Last July, Textron also pleaded guilty to violating currency laws in bribing a government official in the Dominican Republic.

"I know my company didn't bribe anybody!" Mr. Miller had declared at the Senate hearings in 1978. He evidently was unaware of the cover-up at Bell Helicopter to make such statements appear accurate.

## FEAR OF SEN. PROXMIRE

In anticipation of the Senate hearings, sales managers in the international-marketing department now say they were told to look through correspondence files with dealers overseas. The stated purpose was to make sure that nothing in the files could be "misinterpreted" by Mr. Miller's critics, chiefly Banking Committee Chairman William Proxmire of Wisconsin. To some managers, these instructions meant that the files should be cleaned out.

One sales manager, George Gonzalez, actually searched the White Rose files, ostensibly to detect signs of improper activity that should be reported to superiors. Naturally he found nothing suspicious; Miss Hernandez, his secretary, had done her job well.

Then a subpoena arrived from the Senate committee demanding all information in the files about Bell's relationship with Gen. Mohammed Khatemi, former chief of the Iranian Air Force. The committee was investigating reports that Gen. Khatemi was a secret owner of a Tehran sales agency to which Bell paid \$2.9 million as commissions on a \$500 million helicopter sale to Iran in the years 1973 to 1975.

#### HANS WEICHSSEL'S FILES

Bell supplied reams of material, and at the hearing Bell and Textron officials said they didn't have any knowledge that the Iranian commander owned part of the sales agency. But Bell didn't produce a U.S. Commerce Department trade report stating that Gen. Khatemi "reportedly has financial interests" in the Tehran agency. According to the Commerce Department, the report was sent to Fort Worth, on request, two or three months before Bell hired the sales agency. The document can be read as putting the company on notice that commissions paid to the sales agency might flow in part to the influential general.

The people at Bell who were responsible for providing subpoenaed information also were slow to search the files of Senior Vice President Hans Weichsel, who often handled foreign-marketing matters. Mr. Weichsel's files contained an "eyes-only" trip report identifying Gen. Khatemi as the "real influence" behind the sales agency. The document wasn't supplied to the Senate panel until after Mr. Miller had been confirmed. And when Textron disclosed its existence, certain executives in Fort Worth scurried for cover.

One, Frank Sylvester, vice president for international marketing, had told the Senate committee under oath that he didn't know about or even suspect Gen. Khatemi's ownership interest. But after discovery of the confidential trip report, he decided against reiterating his denial. Instead, associates confide, Mr. Sylvester invoked Fifth Amendment privileges against self-incrimination in testimony to the SEC's enforcement staff.

John Carberg, a Textron spokesman, says the company can't answer questions about foreign payments until the SEC's investigation is over.

#### DESTROYING SOME EVIDENCE

Another foreign payment that wasn't confirmed until after the Senate vote on Mr. Miller's nomination involved a \$300,000 kickback to a general in Ghana in connection with a helicopter sale. During the confirmation hearings, George Galerstein, Bell's chief legal officer, prepared a statement for the Senate Banking Committee—"No officer of Bell was involved with or aware of the transaction"—that several other executives knew to be plainly false.

Sen. Proxmire mentioned the possibility of a kickback in Ghana at the start of the hearings. He asked Mr. Miller to look into the transaction and to report back "as fully as you can." Mr. Miller didn't inquire personally, but Textron requested information from Bell. The following May, Textron reported that a Bell executive had destroyed a memorandum dealing with the Ghana payment.

Here's what happened, according to company officials:

Dee Mitchell, a 25-year-veteran at Bell, knew that a payoff had been made. He spotted a revealing memo in the correspondence files on the day after Sen. Proxmire questioned Mr. Miller. Mr. Mitchell destroyed the memo; as he later confided to associates, the document was embarrassing. Three managers who reported to Mr. Mitchell also read the memo, and at least one knew it had been torn up. All three men kept silent. Textron says it didn't discover the existence or destruction of the memo until May, seven months after Mr. Miller had been sworn into office.

#### TEXTRON PROFIT EASED ON SLIGHT SALES RISE DURING THIRD QUARTER

(By a Wall Street Journal Staff Reporter)

Providence, R.I.—Textron Inc. third quarter net income slipped 1% on a 1% sales increase. Nine-month earnings rose 3% on an 8% sales gain.

Third quarter net income fell to \$41.1 million, or \$1.09 a share, from \$41.7 million, or \$1.11 a share. Sales increased to \$801.3 million from \$794.6 million.

Nine-month earnings rose to \$126.1 million, or \$3.35 a share, from \$122.8 million, or \$3.27 a share. Sales increased to \$2.51 billion from \$2.32 billion.

Foreign currency translations resulted in a gain of \$100,000 in the third quarter and a loss of \$700,000 in the nine months, compared with a loss of \$900,000 and a gain of \$3.9 million, respectively, in the year-earlier periods.

In addition, Textron said it reached an agreement in principle with 13 banks for a \$150 million two-year line of credit that can be extended. Interest will be at the prime rate or limited to  $\frac{3}{4}$ ths of 1 percentage point above the London interbank borrowing rate, as the company chooses, it said.

Textron attributed the third quarter drop in net income to declines at several divisions serving consumer and automotive markets, a strike at Connecticut plants settled late in the quarter and changing increasing costs generated by inflation against current income. Strong demand for machine tools and an improved product mix in the aerospace group helped earnings, however, the company said.

Textron said full-year net will "compare favorably" with year-earlier figures, but declined to say whether it would top the \$168.1 million, or \$4.47 a share, a year ago. Sales will be up from 1979's \$3.23 billion, the company said.



**United States Department of Justice**

ASSISTANT ATTORNEY GENERAL  
CRIMINAL DIVISION  
WASHINGTON, D.C. 20530

Honorable William Proxmire  
Chairman, Committee on Banking,  
Housing and Urban Affairs  
United States Senate  
Washington, D. C.

Dear Mr. Chairman:

We have received your letter to the Attorney General dated October 30, 1979, in which you renew your earlier requests that the Justice Department investigate whether officials of the Textron Corporation may have violated criminal statutes in connection with hearings held last year before the Committee on Banking, Housing and Urban Affairs. Since receiving your initial requests dated May 10, 1978 and June 26, 1978, we have been conducting an investigation into the matter. As Deputy Assistant Attorney General John C. Keeney indicated in his telephone conversation with you on October 30, 1979, an investigation of this type is particularly difficult and time consuming in that it involves obtaining evidence from witnesses outside the United States who are not subject to grand jury subpoena.

We are examining the testimony of all the witnesses before the Committee in order to determine whether or not we can develop a prosecutable case of perjury or obstruction of justice against any individual. As Mr. Keeney has already indicated, by January 15, 1980, even if the investigation is not then complete, we will inform you of the status of the case.

If I can be of any further assistance in this matter, please do not hesitate to contact me.

Sincerely,

Philip B. Heymann  
Assistant Attorney General  
Criminal Division

Honorable William Proxmire  
Chairman  
Committee on Banking, Housing  
and Urban Affairs  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is in response to your request in October, 1979 for a status report on the Textron-Bell Helicopter investigation. The investigation concerns possible obstruction of justice and perjury violations which may have occurred during the Banking Committee's hearings on the nomination of G. William Miller to be a member of the Board of Governors of the Federal Reserve.

The investigation is continuing. With respect to any possible obstruction of justice during the Committee's inquiry into a Bell Helicopter sale in Ghana in 1971, we are approaching the final stages of our investigation. With respect to the Committee's inquiry in Iran and possible perjury which may have occurred during this inquiry, certain international investigative steps have been taken and another remains pending approval of the foreign country involved. As you may know, such international investigative steps often take several months to complete with no guarantees of success. Consequently, it may be several more months before the investigation will be concluded.

As soon as these remaining investigative steps have been completed, the Department of Justice will be in a position to evaluate the merits of the case. The Department will keep your office advised as to any final decisions in this matter.

Sincerely,

John C. Keeney  
Deputy Assistant Attorney  
General  
Criminal Division